

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM RICHLAND COUNTY  
In the Administrative Law Court

The Honorable Crystal M. Rookard, Administrative Law Judge

RECEIVED

OCT 14 2025

SC Court of Appeals

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Appellate Case No. 2025-001876

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Orangeburg County Assessor ..... Respondent,

v.

Rekha Bali Haribabu and Thiyagarajhan Vasudevan ..... Appellants.

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**Reply to Appellants' Return to Motion to Dismiss  
And Return to Appellants' Motion to Remand**

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The Orangeburg County Assessor (Respondent), through undersigned counsel, hereby files the following Reply to Appellants Return to Motion to Dismiss and Return to Appellants' Motion to Remand. The Appellants admit that a mistake was made in failing to file a motion for reconsideration, but argue that dismissal is too harsh a sanction in absence of a showing of bad faith or dilatory conduct. As such, the Appellants request that the Court remand this case to the Administrative Law Court (ALC) to allow the Appellants to file a motion for reconsideration. While the Respondent agrees that there is no showing of bad faith or dilatory conduct herein, South Carolina statutory and case law does not support such a remedy.

**I. Clarification of the date of enactment to SCALC Rule 29(D) requiring the filing of a motion for reconsideration prior to the filing of an appeal.**

The date of enactment of the change to SCALC Rule 29(D) requiring that a motion for reconsideration be filed prior to appeal was incorrectly stated in the Respondent's Motion to Dismiss as being April 15, 2025. In actuality, it was first enacted a year earlier, on April 11, 2024, and was placed in SCALC Rule 29(D)(4). After the April 11, 2024 amendment, SCALC Rule 29(D)(4) read:

The time for appeal for all parties shall be stayed by a timely motion for reconsideration, and shall run from receipt of an order granting or denying such motion. **Furthermore, prior to filing a notice of appeal from the decision, a party must file a motion for reconsideration.** If no order is filed regarding the motion, the time for appeal shall begin to run thirty (30) days from the date the motion is deemed denied pursuant to subsection (D)(2).

*Emphasis Added.*

A year later, on April 15, 2025, the motion for reconsideration requirement was moved from subparagraph 4 of SCALC Rule 29(D) to a more prominent position in the introductory paragraph of that rule, where it now resides. It now reads as follows:

Any party may move for reconsideration of a final decision of an administrative law judge in a contested case. **A party must file a motion for reconsideration prior to filing a notice of appeal and must state with particularity the points supposed to have been overlooked or misapprehended by the Court.** A motion for reconsideration is subject to the grounds for relief set forth in Rule 59, SCRCF, as follows: ...

*Emphasis Added.*

Thus, the Appellants had from April 11, 2024 until August 7, 2025, the date of issuance of the ALC's final decision, to become aware of this requirement - a period of sixteen months. This is an ample period to become acquainted with the ALC rules and have knowledge of this requirement.

**II. SCALC Rule 29(D)(1) provides a ten-day deadline for filing a motion for reconsideration, with no provision for extensions, exceptions, or grace periods. That deadline expired August 17, 2025 for the Appellants. As such, there is no authority to now allow the Appellants to go back and rectify their omission.**

In both versions of SCALC Rule 29(D) stated above, motions for reconsideration are mandatory prior to filing a notice of appeal in contested cases before the ALC. SCALC Rule 29(D) goes on to establish an absolute timing requirement for filing motions for reconsideration, stating that such must be filed “[w]ithin ten (10) days after notice of the final decision concluding the matter before the administrative law judge”. The rule provides no exceptions, extensions, or grace periods for this deadline. It explicitly states that the time for appeal for all parties shall be stayed by a timely motion for reconsideration, emphasizing that only timely motions serve to toll appeal deadlines.

South Carolina courts have consistently held that similar 10-day deadlines are absolute and non-extendable. In Overland, Inc. v. Nance, the Supreme Court of South Carolina emphatically stated that the ten-day deadline in Rule 59(e) is an absolute deadline and that a trial court does not have the power to alter or amend a final order if more than ten days passes and no Rule 59(e) motion has been served. Overland, Inc. v. Nance, 423 S.C. 253, 256, 815 S.E. 2d 431, 433 (2018). The court further held that a trial court does not have any power to grant the moving party an extension of time in which to file a Rule 59(e) motion. *Id.* See also Ackerman v. 3-V Chemical, Inc., 349 S.C. 212, 562 S.E. 2d 613 (2002) and Leviner v. Sonoco Products Company, 339 S.C. 492, 530 S.E.2d 127 (2000). Thus, South Carolina law explicitly establishes that procedural deadlines serve important functions of finality and judicial efficiency. Further Overland v. Nance, *supra.*, demonstrates the court’s commitment to strict deadline enforcement regardless of substantive merit considerations.

The Appellants are long beyond the mandatory time frame of August 17, 2025 for the filing of a motion for reconsideration. SCALC Rule 29 establishes clear timing requirements without exceptions and Overland v. Nance, *supra.*, confirms that courts lack authority to extend such deadlines. Accordingly, a remand for this purpose would be improper and would serve no purpose.

**III. Failure to timely file a motion for reconsideration deprives the ALC of jurisdiction to consider the motion.**

SCALC Rule 29 notes that a motion for reconsideration made after a notice of appeal has been filed is untimely because jurisdiction then resides with the Court of Appeals. This jurisdictional transfer is significant because it prevents the administrative tribunal from entertaining untimely motions after appellate proceedings have commenced. South Carolina case law supports this in numerous decisions holding that the filing of a notice of appeal divests the trial court of jurisdiction over matters affected by the appeal. See Stokes-Craven Holding Corp. v. Robinson, 416 S.C. 517, 532, 787 S.E. 2d 485, 493 (2016); Jackson v. Speed, 326 S.C. 289, 311, 486 S.E. 2d 750, 761 (1997); Gattis v. Murrells Inlet VFW No. 10420, 353 S.C. 100, 112, 576 S.E. 2d 191, 197 (2003). More specifically, the cases of Ackerman v. 3-V Chemical, Inc., 349 S.C. 212, 562 S.E. 2d 613 (2002) and Leviner v. Sonoco Products Company, 339 S.C. 492, 530 S.E.2d 127 (2000) have held that failure to timely file a motion for reconsideration or a motion to alter or amend deprives the court of jurisdiction to consider the motion.

This principle promotes judicial economy and prevents parties from circumventing appellate deadlines through strategic filing of remand requests. Further, allowing the ALC to hear motions for reconsideration after an appeal is filed could create conflicting orders between the ALC and the Court of Appeals, thereby creating confusion and additional litigation.

**IV. There is no statutory authority to remand a case to the ALC for the purpose of rectifying a party's failure to comply with clear procedural deadlines.**

The South Carolina Administrative Procedures Act provides limited authority for courts to remand cases to administrative agencies. Specifically, S.C. Code Ann. § 1-23-380(4) (Supp. 2025) allows remands as the court considers necessary in cases of alleged irregularities in procedure before the agency, not shown in the record, and established by proof satisfactory to the court.

This remand provision requires three specific conditions: (1) alleged irregularities in procedure; (2) not shown in the record; and (3) established by proof satisfactory to the court. A missed deadline for filing a motion for reconsideration fails the first and second requirements. The deadline expiration is not a procedural irregularity but rather a documented failure of a party to comply with established procedural requirements. Further, the timing of filings is clearly shown in the record.

A broader remand authority under S.C. Code Ann. §1-23-610(B) (Supp. 2025) allows courts to affirm, remand, reverse or modify the ALC's decision if substantive rights of the appellant have been prejudiced because the administrative findings, conclusions, or decisions are... made upon unlawful procedure. However, this provision applies to procedural errors committed by the ALC, not to a party's failure to comply with clear procedural deadlines.<sup>1</sup>

Based upon the above authorities, there is no statutory basis for a remand to the ALC in this circumstance. In addition, the Court's indulgence of such a request would undermine the authority of the procedural deadlines imposed by the ALC rules and would create unpredictable procedural standards.

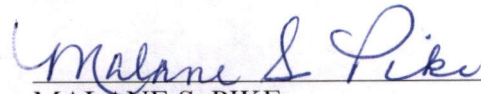
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<sup>1</sup> This provision is mirrored in S.C. Code Ann. §1-23-380(5) (Supp. 2025).

## CONCLUSION

For all the reasons cited above, the Respondent respectfully requests that this Court deny the Appellants' motion for a remand to the ALC for the purpose of filing a motion for reconsideration.

Respectfully submitted,



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ATTORNEY FOR RESPONDENT

ORANGEBURG COUNTY ASSESSOR

October 14, 2025

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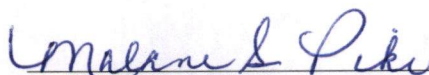
v.

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PROOF OF SERVICE

I, the undersigned attorney for the Respondent, hereby certify that the Reply to Appellants' Return to Motion to Dismiss and Return to Appellants' Motion to Remand in the above referenced matter was served on the following counsel of record today via U.S. Mail, postage paid at the address listed below:

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Date: October 14, 2025

**MALANE S. PIKE**

Attorney at Law

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October 14, 2025

The Honorable Jenny Abbot Kitchings  
Clerk, South Carolina Court of Appeals  
P.O. Box 11629  
Columbia, South Carolina 29211

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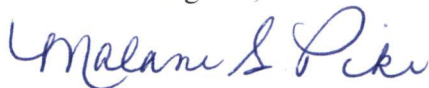
RE: Orangeburg County Assessor v. Rekha Bali Haribabu and Thiyagarajhan Vasudevan  
Appellate Case No. 2025-001876

Dear Ms. Kitchings:

Enclosed for filing please find the Respondent's Reply to Appellants' Return to Motion to Dismiss and Return to Appellants' Motion to Remand along with a Proof of Service in the above referenced matter.

If you have questions or require additional copies, please feel free to contact me at (803) 622-1493.

With kind regards,



Malane S. Pike  
Attorney for Respondent

cc: John D. 'Jay' Elliott  
Post Office Box 607  
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Enclosure