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January 14, 2026

VIA EMAIL

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
1220 Senate Street
Columbia, SC 29201
ctappfilings@sccourts.org

RECEIVED
Jan 14 2026
SC Court of Appeals

Re: *Sherica Powell, Respondent v. Jolly Ehiabi, Anagkaso, LLC, DBA Anagkaso Logistic, The South Carolina Ports Authority and Randy David Anderson, Defendants*
AND
The South Carolina Ports Authority, Appellant v. American Millennium Insurance Company, Third-Party Defendant
Appellate Case No. 2026-000075

Dear Madam Clerk:

Please be advised that the Notice of Appeal for the above-referenced matter was filed with the Georgetown County Clerk of Court on January 14, 2026. Attached please find the filed copy. This letter is sent in response to the letter from clerk Catherine S. Harrison dated January 14, 2026.

Thank you for your attention to this matter. Please let me know if you have any questions or concerns.

Sincerely,

Burr & Forman LLP



Nicholas C.C. Stewart

NCCS/tn

Enclosure

cc: Toyya Brawley-Gray, Esquire (toyya@brawleygraylaw.com)
G. Troy Thames, Esquire (tthames@wjcblaw.com)
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SC Court of Appeals

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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GEORGETOWN COUNTY
Court of Common Pleas

David P. Caraker, Jr., Circuit Court Judge

Case No. 2025-CP-22-00086

Sherica Powell,.....

Respondent,

v.

Jolly Ehiabhi, Anagkaso, LLC DBA
Anagkaso Logistic, The South Carolina
Ports Authority and Randy David Anderson,...

Defendants,

The South Carolina Ports Authority.....

Third Party Plaintiff

v.

American Millennium Insurance Company.....

Third Party Defendant

of which,

The South Carolina Ports Authority is.....

Appellant.

NOTICE OF APPEAL

Appellant The South Carolina Ports Authority (“Appellant”) appeal the order of the Honorable David P. Caraker, Jr. entered on October 13, 2025 (the “Order”) and the order of the Honorable David P. Caraker, Jr. entered on December 29, 2025 (the “Order on Motion to Reconsider”). Appellant received written notice of entry of the Order on October 13, 2025, and served and filed a timely motion to reconsider the Order on October 23, 2025. Appellants received written notice of entry of the Order on Motion to Reconsider on December 29, 2025.

BURR & FORMAN LLP

s/ Nicholas C. C. Stewart

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January 13, 2026
Charleston, South Carolina

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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GEORGETOWN COUNTY
Court of Common Pleas

David P. Caraker, Jr., Circuit Court Judge

Case No. 2025-CP-22-00086

Sherica Powell,..... Respondent,

v.

Jolly Ehiabhi, Anagkaso, LLC DBA
Anagkaso Logistic, The South Carolina
Ports Authority and Randy David Anderson,... Defendants,

The South Carolina Ports Authority..... Third Party Plaintiff

v.

American Millennium Insurance Company..... Third Party Defendant

of which,

The South Carolina Ports Authority is..... Appellant.

PROOF OF SERVICE

Pursuant to Rule 262(c)(3), SCACR, and Order No. 2024-04-24-01(d), I certify that I have served the Notice of Appeal on all counsel of record by electronic mail to the Respondent’s counsel of record utilizing counsel’s primary email address listed in the Attorney Information System, on January 13, 2026, as follows:

- (1) Toyya Brawley Gray at toyya@brawlyegraylaw.com;

- (2) G. Troy Thames at tthames@wjcblaw.com;
- (3) Mary – Alden Smith at masmith@wjcblaw.com;
- (4) Alicia N. Bolyard at abolyard@rlattorneys.com

BURR & FORMAN LLP

s/ Nicholas C. C. Stewart

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*Attorneys for Appellant The South Carolina Ports
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January 13, 2026
Charleston, South Carolina

EXHIBIT
A

STATE OF SOUTH CAROLINA)
COUNTY OF GEORGETOWN)
)
Sherica Powell,)
)
Plaintiffs)
)
vs.)
Jolly Ehiabhi, et al.,)
)
Defendants)

IN THE COURT OF GENERAL SESSIONS
FOR THE 15TH JUDICIAL CIRCUIT

Case #: 2025CP2200086

RECEIVED
Jan 13 2026
SC Court of Appeals

**ORDER DENYING MOTION TO
DISMISS**

THIS MATTER came before the court on September 25, 2025, upon Defendant South Carolina Ports Authority’s (“SCPA”) Motion to Dismiss. The Motion was based upon SCPA’s position that, because Plaintiff settled with Jolly Ehiabhi, Anagkaso, LLC, Randy Anderson, and SCPA pursuant to a settlement agreement, or Covenant Not to Execute, SC Code § 15-78-70(d) bars further action in this case. Both sides were represented by counsel, and both sides submitted material to the court for its review. Upon hearing arguments from counsel, and reviewing associated materials and case law, the court finds the following:

I. Brief Facts as Alleged

On or about January 24, 2023, Defendant Randy Anderson was driving a tractor-trailer northbound on County Line Road in Georgetown County, South Carolina when he allegedly collided with the rear of a vehicle being operated by Delores Holloway, who was stopped in traffic going northbound. Plaintiff Powell was a passenger in Holloway’s vehicle at the time of the collision. Anderson allegedly hit Ms. Holloway’s vehicle with such force that it hit a vehicle in front of it operated by Rene Lazarus, who then collided with a vehicle in front of her operated by LaTonya Spivey. The tractor operated by Anderson was owned by Anagkaso. The chassis and

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container used by Anagkaso was owned or under the control of the South Carolina Ports Authority (“SCPA”).

II. The Settlement Agreement

Anagkaso, LLC and the SCPA had an agreement referred to as the Chassis Interchange Agreement, wherein the responsibilities of the parties were outlined. In addition to other matters, the agreement provided that Anagkaso was to indemnify the SCPA “from and against any and all direct and third-party suits, losses, fines, penalties, damages, claims, injuries including death, damage to property, damage to or loss any Chassis, other demands and liabilities of every nature, including reasonable attorney’s fees, arising directly or indirectly from or in connection with Anagkaso’s possession, use, condition, or operation of the Chassis, including actions or claims for negligence or strict liability in tort, with the exception of any liability for that portion of loss or damage resulting from the negligence or intentional acts or omissions of SCPA or its employees.” Moreover, Anagkaso was to list SCPA as an additional insured on its policy.

In this case, there was one settlement document to consider. It had been executed on October 19, 2024. The settlement document included all of the named defendants, including SCPA, in its terms. It appears from the terms of the settlement that American Millenium Insurance Company, who insured all named defendants, has exhausted its policy limits in the settlement of this matter, and a related matter with another plaintiff, Holloway.

III. Tort Claims Act

The Tort Claims Act (TCA) is found in South Carolina Code of Laws §§ 15-78-10, *et seq.* Relevant to this matter, § 15-78-70(d) states, “A settlement or judgment in an action or a settlement of a claim under this chapter constitutes a complete bar to any further action by the claimant against an employee or governmental entity by reason of the same occurrence.” The issue in this matter

is whether the settlement by an independent insurance company serves as a settlement under the Tort Claims Act, such that the settlement acts as a bar to any further action by the plaintiff.

IV. Law and Analysis

In the case of *Wade v. Berkeley County*, Wade, a motorist, was struck by a county-owned vehicle driven by Pierce, a county employee. See generally *Wade v. Berkeley County*, 348 S.C. 224, 559 S.E.2d 586 (2002). Wade sued Pierce and eventually settled with him on a Covenant Not to Execute. *Id.* at 226. Wade then sued Berkeley County. *Id.* The County moved for Summary Judgment, claiming the Covenant barred the claim against the County. *Id.* The trial judge granted Summary Judgment. *Id.* On appeal, the Court of Appeals reversed, holding that the Covenant was not a settlement as contemplated by the TCA, and therefore, Wade was not barred from pursuing his claim. *Id.* at 226-27.

The State Supreme Court held that the Covenant was, in fact, a settlement agreement. *Id.* at 228. The County further argued that the phrase “under this chapter” only modifies “settlement of claim,” not “settlement or judgment in an action.” *Id.* The Court held that “this chapter” is defined as the “South Carolina Tort Claims Act.” *Id.* at 229. Accordingly, it went on to say, the phrase “under this chapter” means within the South Carolina Tort Claims Act. *Id.* Using the rules of statutory construction, the Court found that § 15-70-70(d) is ambiguous because it is unclear what phrase “under this chapter” modifies. *Id.* Ultimately, the Court concluded that “the General Assembly intended ‘under this chapter’ to modify both a ‘settlement or judgment in an action’ and a ‘settlement of a claim.’” *Id.* “Consequently, to invoke the provisions of § 15-78-70(d), there must be a settlement or judgment in an action under the Act or a settlement of a claim under the Act.” *Id.* at 230. The Court ultimately held that Wade’s settlement was not an action “under this chapter,” and therefore did not invoke the provisions of § 15-78-70(d). *Id.*

In the case at bar, a private insurance carrier settled with a Plaintiff. As part of the agreement between one of its insureds and another entity, its insured agreed to indemnify that other entity, and make it an additional insured under its policy. SCPA, being that additional named insured, was properly added to the Covenants or settlement agreements with the Plaintiff, Ms. Powell. The settlement, however, was pursuant to an indemnity agreement between two parties, and by a private insurance company, thus not under the Tort Claims Act. Therefore, the settlement was not one “under the Act.” Because of this, further action against the SCPA is not barred by statute. Therefore, SCPA’s Motion to Dismiss is respectfully denied.

IT IS SO ORDERED.

13 October 2025

The Honorable David P. Caraker, Jr.
Resident Judge, 15th Judicial Circuit



Georgetown Common Pleas

Case Caption: Sherica Powell VS Jolly Ehiabhi , defendant, et al

Case Number: 2025CP2200086

Type: Order/Dismissal

IT IS SO ORDERED

s/ David P. Caraker, Jr.

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EXHIBIT
B

STATE OF SOUTH CAROLINA)
COUNTY OF GEORGETOWN)
)
Sherica Powell, et al.,)
)
Plaintiffs,)
)
vs.)
)
Jolly Ehiabhi, et al.,)
)
Defendants.)
The South Carolina Ports Authority,)
)
Third-Party Plaintiff,)
)
vs.)
)
American Millennium Insurance Company,)
)
Third-Party Defendant.)

IN THE COURT OF GENERAL SESSIONS
FOR THE 15TH JUDICIAL CIRCUIT

Case #: 2025CP2200086

**ORDER DENYING MOTION TO
RECONSIDER**

RECEIVED
Jan 13 2026
SC Court of Appeals

This matter comes before the Court on two motions filed by Defendant South Carolina Ports Authority (“SCPA”) pursuant to Rule 59(e), SCRCP: (1) a Motion to Reconsider the Court’s Order denying SCPA’s Motion to Dismiss; and (2) a Motion to Reconsider the Court’s Order staying American Millennium Insurance Company’s Motion to Dismiss SCPA’s Third-Party Complaint. The Court has reviewed the motions, the record, and the applicable law, and finds no basis to alter its prior rulings.

I. Legal Standard

The decision to grant or deny a motion under Rule 59(e), SCRCP, lies within the sound discretion of the trial court. *Pollard v. Cnty. of Florence*, 314 S.C. 397, 402, 444 S.E.2d 534, 536 (Ct. App. 1994). Rule 59(e) motions may be granted to correct a clear error of law or to prevent

manifest injustice and allows a court to correct its own errors before appellate review. *Pacific Ins. Co. v. Am. Nat. Fire Ins. Co.*, 148 F.3d 396, 403 (4th Cir. 1998).

II. Motion to Reconsider Denial of SCPA's Motion to Dismiss

In its October 13, 2025 Order, the Court denied SCPA's Motion to Dismiss after concluding that the October 19, 2024 covenant not to execute did not constitute a settlement "under the South Carolina Tort Claims Act" such that S.C. Code Ann. § 15-78-70(d) would bar Plaintiff's claims against SCPA. The Court concluded that "The settlement...was pursuant to an indemnity agreement between two parties, and by a private insurance company, thus not under the Tort Claims Act." *See* October 13, 2025 Order.

SCPA now claims that the Court erred in concluding that the covenant not to execute was not a settlement "under the South Carolina Tort Claims Act" for purposes of S.C. Code Ann. § 15-78-70(d). No memorandum in opposition appears to have been filed in response to SCPA's Motion to Reconsider the denial of its Motion to Dismiss.

As the Court noted in its Order, *Wade v. Berkeley County* makes clear that § 15-78-70(d) applies only where there is a settlement or judgment under the Act. *Wade v. Berkeley County*, 348 S.C. 224, 559 S.E.2d 586 (2002). Here, the record reflects that the settlement was funded and executed by a private insurer. While SCPA was named as an insured and/or covenantee in the settlement document, that fact alone does not convert an insurance settlement into a settlement "under the Act." The Court further rejects that a settlement becomes one "under the South Carolina Tort Claims Act" merely because a governmental entity is named as a covenantee and/or insured. To hold otherwise would allow any settlement, so long as a governmental entity is named, to operate as a statutory bar, regardless of whether the governmental entity actually settled a Tort Claims Act claim.

Accordingly, SCPA has not shown that the Court misconstrued *Wade*, misconstrued § 15-78-70(d), or committed a clear error of law. Although SCPA was a named defendant at the time the covenant not to execute was executed, the settlement itself must be entered pursuant to the Tort Claims Act, which did not occur here.

III. Motion to Reconsider Stay of AMIC's Motion to Dismiss

Additionally, this Court entered an order staying AMIC's Motion to Dismiss the Third-Party Complaint pending resolution of the federal declaratory judgment action. SCPA contends the stay must be reconsidered because (1) Deferring to the federal action violates SCPA's sovereign immunity and Eleventh Amendment protections; and (2) Rule 12(b)(8), SCRPC, requires this Court to proceed because the state action was filed first. The Court finds no error in its decision to stay the proceedings.

First, the stay did not decide SCPA's liability, waive sovereign immunity, or rule on the merits of the federal action. Instead, the stay was intended to avoid duplicative litigation and the risk of inconsistent rulings on related issues. Further, this Court's stay does not decide upon any of SCPA's claims or defenses.

Second, the Court is not persuaded that Rule 12(b)(8) requires dismissal or prevents a stay. Rule 12(b)(8), SCRPC, governs dismissal based on a pending action; it does not strip this Court of its authority to stay proceedings where appropriate. Although SCPA filed its Third-Party Complaint one day before AMIC filed the federal action, the two actions are not the same. The federal action seeks a declaration regarding insurance coverage and includes additional parties and issues not fully presented in the state third-party action. Thus, one case seeks affirmative relief while the other seeks declaratory relief. Under these circumstances, the Court has discretion to stay the proceedings in the interest of judicial economy and avoid potentially inconsistent rulings.

Finally, the Court finds no merit in the argument that the stay violates the Eleventh Amendment. A temporary stay pending resolution of related issues does not subject SCPA to a constitutional violation of judicial power.

IV. Conclusion

After reconsideration of the record and the parties' arguments, the Court finds that SCPA has not demonstrated a clear error of law or fact, nor shown that reconsideration is necessary to prevent manifest injustice.

Accordingly, both:

1. SCPA's Motion to Reconsider the Order Denying its Motion to Dismiss, and
2. SCPA's Motion to Reconsider the Order Staying AMIC's Motion to Dismiss

are hereby **DENIED**.

It is so ordered.



Georgetown Common Pleas

Case Caption: Sherica Powell , plaintiff, et al VS Jolly Ehiabhi , defendant, et al

Case Number: 2025CP2200086

Type: Order/Other

IT IS SO ORDERED

s/ David P. Caraker, Jr.

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