

APPELLANT'S REPLY TO RESPONDENT'S RETURN IN OPPOSITION

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

James M. Harley, Appellant

v.

South Carolina Department of Employment and Workforce;
Bradshaw Automotive Group, Inc., Respondents

Appellate Case No. 2024-001795

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Feb 11 2026

SC Court of Appeals

APPELLANT'S REPLY TO RESPONDENT'S RETURN IN OPPOSITION

INTRODUCTION

Respondent's Return in Opposition misstates the relief requested, mischaracterizes the procedural posture, and fails to address the controlling rule: **Rule 210(c), SCACR**, which expressly authorizes supplementation and correction of the Record on Appeal when material is omitted "by error or accident." Appellant has fully cured the omission, served all parties, and placed the case in proper posture for appellate review.

Respondent's request for dismissal is therefore moot, unsupported by law, and contrary to the interests of justice.

I. Respondent Misstates the Relief Requested — Appellant Seeks Only to Supplement the Record Now, and Seeks Conditional Leave to Amend Once Counsel Is Retained

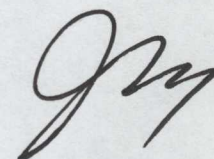
Respondent incorrectly asserts that Appellant seeks to amend his initial brief immediately. Appellant's motion does **not** request immediate amendment. Instead, Appellant seeks:

1. **Immediate supplementation and cure of the Record on Appeal under Rule 210(c);** and
2. **Prospective, conditional leave to amend the initial brief once legal counsel is retained**, so that counsel may refine, correct, and professionally present the issues based on the now-complete record.

Appellant has diligently sought South Carolina counsel but has been unable to secure representation due to cost. Conditional leave avoids unnecessary future motion practice and ensures the Court receives the most accurate and professionally prepared briefing.

II. Rule 210(c), SCACR Squarely Authorizes Supplementation and Correction

Rule 210(c) provides:



“The appellate court may permit correction or supplementation of the Record on Appeal when anything material is omitted by error or accident.”

The omission here was:

- inadvertent,
- caused by documented medical impairment,
- promptly cured upon recovery, and
- non-prejudicial.

The omitted material is the **certified administrative record** relied upon by the Administrative Law Court. Respondent does not dispute its authenticity, completeness, or relevance.

This is precisely the situation Rule 210(c) was designed to address.

III. South Carolina Law Strongly Favors Decisions on the Merits

Dismissal is disfavored where:

- the defect is curable,
- the omission has been corrected, and
- the opposing party suffers no prejudice.

Appellant’s cure promotes judicial efficiency and ensures the Court has the full record necessary to decide the case on its merits.

IV. Respondent’s Reliance on Pro Se Case Law Is Misplaced

Respondent cites general principles about pro se litigants. Appellant has complied with all procedural requirements:

- The omission was accidental.
- Appellant was undergoing invasive medical procedures during the filing period.
- The complete record was located and filed immediately upon recovery.
- All parties were served by mail, consistent with Rule 262(c).

Rule 210(c) does not distinguish between represented and pro se litigants.

V. Respondent’s Argument Regarding Email Service Is Irrelevant to the Motion and Misstates the Record

Respondent argues that Appellant should not be permitted to serve documents by email. But Appellant **did not rely on email service** for the record or the motion. The Certificate of Service shows service **by mail**, fully compliant with Rule 262(c).

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This argument is a distraction and should be disregarded.

VI. Respondent Suffers No Prejudice and Identifies None

Respondent does not claim:

- the record is inaccurate,
- the record is incomplete,
- the record is altered, or
- the record is unfamiliar.

Respondent's only argument is that the omission occurred before being cured. But Rule 210(c) exists precisely because omissions sometimes occur, and the rule provides a mechanism to correct them.

VII. Conditional Leave to Amend Should Be Granted Once Counsel Is Retained

Appellant has been actively seeking legal counsel. Once retained, counsel will need to:

- refine legal arguments,
- correct formatting and citations,
- ensure proper reference to the now-complete record,
- and present the issues professionally.

Granting conditional leave now avoids unnecessary future motion practice and promotes judicial efficiency.

VIII. Appellant Should Be Permitted to Serve Documents by Email Because Denying Email Service Imposes an Unreasonable Burden on Interstate Legal Participation

Appellant is a **licensed member of the Bar of the District of Columbia**, and although appearing pro se, remains an officer of a United States jurisdiction's bar. Appellant may soon transition to **retirement status** in the District of Columbia, which will further limit his ability to rely on in-state procedural privileges and make efficient, modern service methods essential.

Denying email service to Appellant — while permitting electronic service among South Carolina attorneys — imposes a discriminatory and unnecessary burden on interstate legal participation. States may not impose procedural barriers that unduly burden interstate participation in litigation or create protectionist disadvantages for out-of-state practitioners.

Appellant has diligently attempted to retain South Carolina counsel but has been unable to do so due to cost. Appellant may therefore need to retain **out-of-state counsel** admitted pro hac vice. Requiring out-of-state counsel to serve documents



exclusively by physical mail — while in-state counsel may serve electronically — imposes a disparate burden that serves no legitimate state interest.

Permitting Appellant to serve documents by email:

- imposes no prejudice on Respondents,
- promotes judicial efficiency,
- aligns with modern practice, and
- avoids unnecessary burdens on interstate legal participation.

The United States Constitution prohibits states from erecting procedural barriers that unduly burden interstate commerce or restrict the ability of out-of-state legal professionals to participate in judicial proceedings. Courts have long recognized that states may not impose protectionist or exclusionary burdens on out-of-state practitioners. See **Delaware State Bar Ass'n v. Alexander**, 386 A.2d 652 (Del. 1978) (holding that state-imposed restrictions on legal participation implicate constitutional limits and cannot be used to exclude or burden out-of-state practitioners).

Modern Commerce Clause analysis reinforces this principle. As legal scholarship explains, states may not impose procedural requirements that “burden interstate participation in litigation” or create “barriers to out-of-state legal activity.” *Interstate Commerce Versus State Interest: Personal Jurisdiction, Registration as Consent, and the Commerce Clause*.

Here, Appellant has diligently attempted to retain South Carolina counsel but has been unable to secure representation due to cost. Appellant may need to retain **out-of-state counsel** admitted pro hac vice. Requiring out-of-state counsel to serve documents exclusively by physical mail — while in-state counsel may serve electronically — imposes a **disparate, protectionist burden** that violates the Commerce Clause’s prohibition on discriminatory state regulation of interstate professional activity.

Permitting Appellant to serve documents by email:

- imposes no prejudice on Respondents,
- promotes judicial efficiency,
- aligns with modern practice, and
- avoids unconstitutional discrimination against out-of-state legal participation.

Accordingly, Appellant respectfully requests that the Court authorize email service in this case.

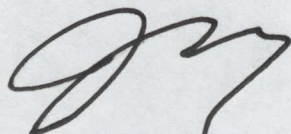
CONCLUSION

Appellant respectfully requests that the Court:

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1. Grant leave to supplement and cure the Record on Appeal under Rule 210(c), SCACR;
2. Accept the complete administrative record already filed and served;
3. Grant conditional leave to amend the initial brief upon entry of counsel;
4. Authorize email service;
5. Deny Respondent's request for dismissal; and
6. Reset briefing deadlines as necessary.

Respectfully submitted,



James M. Harley
Appellant, Pro Se
February 2nd, 2026

10/12