

State of South Carolina  
**Workers' Compensation Commission**

**RECEIVED**  
FEB 11 2026  
SC Court of Appeals

**APPELLATE PANEL DECISION AND ORDER**

**COMMISSION PANEL:** The Honorable R. Michael Campbell, II, The Honorable T. Scott Beck, The Honorable Aisha Taylor

SCWCC File No.: 2412890

Bobby Ledwell,

Claimant,

v.

Arauco North America Inc., a/k/a Flakeboard America Limited,

Employer,

and

Sentry Casualty Company,

Carrier,

Defendants.

---

**AFFIRMED**

---

Hearing held virtually on September 15, 2025  
Per notice timely and properly served upon all Parties of Interest.

Appearances: Preston F. McDaniel, Esquire, of McDaniel Law Firm  
appeared on behalf of Claimant/Appellant.

Nicolas L. Haigler, of Robinson Gray Stepp & Laffitte,  
L.L.C. appeared on behalf of Defendants/Respondent.

Court Reporter: Amber Scarborough, Creel Court Reporting, Inc.  
1230 Richland Street, Columbia, SC 29201  
(803) 252-3445, contact@creelreporting.com

Filed: December 3, 2025



## I. STATEMENT OF THE CASE

This claim involves an accident on July 31, 2024, involving injuries to the claimant's right middle and right ring fingers. A safety violation was admittedly committed by the claimant during the accident. The claimant contends that he is nonetheless entitled to temporary total disability ("TTD") benefits pursuant to Section 42-9-260 of the South Carolina Workers' Compensation Act ("the Act"). The defendants argue that the claimant is not entitled to TTD benefits pursuant to *Pollack v. Southern Wine and Spirits of America*, 405 S.C. 9, 747 S.E.2d 430 (2013), because he was terminated for cause as a result of the safety violation, and light duty employment could have otherwise been provided to the claimant.

When this case was before the single commissioner, counsel for the claimant reserved the right to object to the submission of defendants' APA pages 18 and 19. Additionally, counsel for the claimant withdrew claimant's APA pages 18-20.

A hearing was held before the single commissioner on December 10, 2024, and on April 22, 2025, the commissioner issued an order stating that while the claimant did sustain compensable injuries to his right middle and right ring fingers, the claimant was not entitled to TTD benefits because the defendant-employer could have accommodated the claimant's light duty restrictions if it were not for claimant's termination for cause.

On May 21, 2025, the claimant appealed the single commissioner's order, claiming that the commissioner misinterpreted and misapplied *Pollack* in denying TTD benefits to the claimant. Additionally, claimant argued that the single commissioner should have recused herself from the case, as she was the attorney of record on the *Pollack* case that was cited as precedent.

A hearing was held before the appellate panel on September 15, 2025. We affirm the single commissioner's April 22, 2025 order.

## II. SINGLE COMMISSIONER FINDINGS OF FACT AND CONCLUSIONS OF LAW

The verbatim findings of fact and conclusions of law in the appealed order of the single commissioner are as follows:

### Single Commissioner Findings of Fact

1. Claimant filed a Form 50 seeking a finding of compensability of his injury which occurred July 31, 2024, when he injured his right middle and right ring fingers. He is seeking TTD benefits and medical treatment from the date of the accident and continuing until he reaches MMI.
2. Defendants accepted the claim for medical treatment for the claimant's right middle and right ring fingers but have denied TTD benefits because the employer would have had light duty work available for this Claimant, but for the fact that he violated company policy and was consequently terminated.
3. The claimant was treated at Scotland Memorial Hospital ER on July 31, 2024, to August 1, 2024. He is noted to have a laceration to his third and fourth digits on the right. The x-ray of his right hand revealed a tiny nondisplaced fracture along distal aspect of the fourth and distal phalanx. A compression dressing was applied. He was released to return to work on August 3, 2024. (Claimant's APA pp. 1-17).
4. An Employee Incident Statement dated July 31, 2024, was completed by Steve Britt, wherein Britt notes the claimant was called to repair the rip cut saw when he reached around the beam and the blade cut the claimant's fingers on the date of accident at 10:10. (Claimant's APA p. 61; Defendants' APA p. 20).

5. An Employee Incident Statement dated July 31, 2024, was completed by Chris Howard, wherein Howard notes the incident occurred on July 31, 2024, at 10:10. Howard and Britt finished their work on the rip saw. Thereafter, they noticed an ongoing issue with the pressure beam and called the claimant to evaluate the issue. When the claimant leaned over to look inside the cylinder column he cut his fingers on the saw blade. (Claimant APA pg. 62, Defendants' APA p. 21).
6. A photo of the subject machine and incident report was prepared on July 31, 2024. (Claimant's APA p. 63).
7. The claimant was evaluated by Dr. Smid on August 1, 2024. It is noted that the claimant sustained lacerations of the tip of right ring and right long fingers. It is noted that the claimant had a fair amount of bleeding. ER X-rays show a small bony fragment noted at the tip of the ring finger as well as soft tissue defect. It is noted that the claimant is right hand dominate. A portion of the skin and pulp tissue is missing from the ulnar aspect of the long finger as well as the radial aspect of the distal ring finger. Both the FDS and FDP tendons are noted to be intact with the lesser digits. In the Assessment portion of the report, it is noted the claimant has fingertip injuries to right long and ring fingers with no exposed bone. Treatment recommendations note the wounds would be irrigated and dressed and the claimant can return to work with left hand work only. (Claimant's APA pp. 38-42 and Defendants' APA pp. 1-3).
8. The claimant and Benita Rhynes exchanged text messages regarding his return to work and suspension related to the subject incident on August 2, 2024. (Defendants' APA p. 12).

9. David Gunnells sent an email to Benita Rhymes dated August 5, 2024. The claimant told Gunnells at the emergency room that he had screwed up and did not lock out the machine prior to beginning work. (Defendants' APA p. 17).
10. The Incident Summary concludes the Claimant did not Lock Out Tag Out prior to beginning work on the machine. (Defendants' APA p. 18).
11. A Corrective Action form was completed on August 5, 2024, which confirms the claimant's termination as the result of his failure to Lock Out Tag Out. The form also notes prior disciplinary action as follows: March 6, 2023-coaching due to job performance issues; May 26, 2022-warning Lock Out Tag Out violation. (Defendants' APA pp. 13-15).
12. Written notice of the claimant's termination was made by letter dated August 5, 2024, from the employer to the claimant stating that he was terminated effective August 5, 2024. The claimant was also notified of his termination via telephone call with Bonita Rhymes and David Gunnells of the employer on August 5, 2024. During that telephone conversation the claimant was told that the reason for his termination was his failure to Lock Out Tag Out the machine which was a safety violation. (Claimant's APA pp. 57-60; H.T. p. 72).
13. The claimant was evaluated by Dr. Smid on August 8, 2024. It is noted that the claimant was there for a follow up of laceration/amputation of the tips of the right long and ring fingers. The claimant is noted to be doing well. Daily dressing changes and range of motion exercises to keep fingers from getting stiff are recommended. The claimant was released from his job. Long and ring fingers show open wounds and there is no exposed bone. There is noted to be a very small amount of serous drainage, but no evidence of eschar at this point. Recommendations include daily dressing changes and range of motion

finger exercises and continue work restrictions. (Claimant's APA pp. 37-38 and Defendants' APA pp. 4-5).

14. The claimant was evaluated by Dr. Smid on August 15, 2024. It is noted that the claimant was doing quite a bit better and using non-adhesive dressing. It is noted that the claimant had decreased sensation of the radial aspect of the ring finger and ulnar aspect of the long finger and that the distal wounds are doing nicely. There is noted to be some early granulation tissue forming. It is noted that the claimant had good motion of the DIP as well as PIP joint, and no evidence of drainage within the wounds. Dr. Smid's recommendations are to continue work restrictions. (Claimant APA pp. 35-36 and Defendants' APA pp. 6-7).
15. The claimant was evaluated by Dr. Smid on September 5, 2024. A referral was made to OT. It is noted that the claimant could return to work with no use of right hand/arm and left-handed duty only. It is noted that the claimant continued to improve but his fingers are on the volar surfaces. Dr. Smid notes the wounds were healing nicely, and a small amount of eschar is noted. (Claimants' APA pp. 30-34 and Defendants' APA pp. 8-11).
16. The claimant attended OT on September 24, 2024. It is noted that the claimant had lacerations to the right MF and RF and snatched his arm back resulting in right shoulder and elbow pain. It is noted that the claimant had severe hypersensitivity to right MF and right, and is very guarded with his right hand, elbow, and shoulder swelling. (Claimant's APA pp. 48-56).
17. The claimant was evaluated by Dr. Smid on October 3, 2024. It is noted that tissue wise the claimant continued to improve. Recommendations include a referral to occupational therapy to desensitize and increase digital range of motion. It is noted that the claimant

complained of pain in his shoulder and burning sensation along medial aspect of his right elbow. The claimant had a MRI of his right knee on August 17, 2024 which showed a meniscal knee injury. It is noted that the claimant had surgery on the knee in January 2024. The Impression portion of the report notes: 1) subacute insufficiency fracture of the medial femoral condyle; 2) partial medial meniscectomy with progressed tearing of the posterior horn; 3) edema along the MCL may relate to reactive changes or grade 1 sprain; 4) mild patellar tendinosis; 5) lateral patellar tilt; 6) moderate knee joint effusion; and 7) small Baker cyst. The Plan portion of the report notes: OT for function and desensitization and continue work restrictions. (Claimant's APA pp. 24-28).

18. The claimant attended OT on October 18, 2024. It is noted that the claimant was trying to bend and use the right upper extremity but had continued tenderness with the right MF/fingernail after trimming it. He also complained of chronic right shoulder pain. He reported severe pain and needles within right MF and RF, but able to grasp and grip phone and text using right hand/digits at times. (Claimant's APA pp. 43-44). The claimant also attended OT on October 24, 2024. (Claimant's APA pp. 45-47).
19. The claimant attended OT on October 24, 2024. (Claimant's APA pp. 45-47).
20. The claimant was evaluated by Dr. Smid on October 28, 2024. The claimant reported a worsening of pain and paresthesia involving long finger and right finger and small finger and pain along the right elbow as well as right shoulder. He reported that he sustained the right elbow and right shoulder injuries as he was trying to pull his fingers away from the machine. Dr. Smid notes slightly more edema within the right digits and that the tips of the long finger and right fingers are healing nicely though the claimant was quite hypersensitive in this area. It is noted that the claimant does not like those areas to be

touched. He is noted to have pain in the volar aspect of the right hand as well as pain at the olecranon and the lateral epicondyle on the right side. Dr. Smid's recommendations include OT Hand therapy and neurodiagnostic of right upper extremity and continuation of the return-to-work restrictions of no use of right hand/arm, left-handed duty only. (Claimant's APA pp. 21-23, 29, 42f-42i).

21. The employer's General Safety Rules subsection (f) dictate that an employee must Lock Out Tag Out a machine prior to beginning repairs. (Defendants' APA pp. 13-15).
22. According to the Rip Saw Amps as interpreted by David Gunnells at the Hearing, the saw was in motion at the time of the accident on July 31, 2024, at 22:10. (Defendants' Exhibit 1, submitted at trial; H.T. 90-94).
23. Benita Rhynes testified the claimant's physical restrictions which limit him to use of only the left arm could have been accommodated by the defendant-employer had he not been terminated for violation of the company's lockout safety policy. (H.T. pp. 75-76). As such, I find the claimant is out of work due to his termination for cause, not his work-related injury.
24. In my opinion, the Supreme Court's decision in *Pollack v. Southern Wine & Spirits of America* applies to the facts of this case and, upon review of the record as a whole, specifically the medical evidence and investigation documentation provided by the employer along with the hearing testimony, I find that the Claimant is not entitled to TTD benefits in this case. The Claimant clearly violated Lock Out Tag Out rules and had been warned about this previously. The claimant admitted to this fact in his testimony, which was corroborated by the witnesses for the defendant-employer. Moreover, the fact the employer would have light duty work for this Claimant but for his termination for cause

has not been contradicted by the claimant. This finding of fact is based upon the greater weight and preponderance of the evidence.

#### Single Commissioner Conclusions of Law

1. Pursuant to § 42-1-130, the claimant was a covered employee at the time in question; and under § 42-1-140, the defendant employer was a covered employer.
2. Pursuant to § 42-1-160 the claimant sustained compensable injuries to his right middle and right ring fingers.
3. Pursuant to § 42-9-260, the claimant is entitled to TTD benefits only if he is out of work due to a reported work-related injury.
4. Pursuant to *Pollack v. Southern Wine and Spirits of America*, 405 S.C. 9, 747 S.E.2d 430 (2013) the claimant is not entitled to TTD benefits. The defendant-employer could have accommodated the claimant's light duty restrictions but for his termination for cause and, as such, the claimant is not out of work due to a work-related injury.

#### **III. ISSUES ON APPEAL**

1. Did the commissioner err as a matter of law by incorrectly applying and construing *Pollack*?
2. Did the hearing commissioner violate the Judicial Code of Ethics by not recusing herself from this case for having been an attorney of record in the *Pollack* case?

#### **IV. DECISION OF THE APPELLATE PANEL**

##### Appellate Panel's Findings of Fact

1. Claimant filed a Form 50 seeking a finding of compensability of his injury which occurred July 31, 2024, when he injured his right middle and right ring fingers. He is seeking TTD benefits and medical treatment from the date of the accident and continuing until he reaches MMI.
2. Defendants accepted the claim for medical treatment for the claimant's right middle and right ring fingers but have denied TTD benefits because the employer would have had light duty work available for this Claimant, but for the fact that he violated company policy and was consequently terminated.
3. The claimant was treated at Scotland Memorial Hospital ER on July 31, 2024, to August 1, 2024. He is noted to have a laceration to his third and fourth digits on the right. The x-ray of his right hand revealed a tiny nondisplaced fracture along distal aspect of the fourth and distal phalanx. A compression dressing was applied. He was released to return to work on August 3, 2024. (Claimant's APA pp. 1-17).
4. An Employee Incident Statement dated July 31, 2024, was completed by Steve Britt, wherein Britt notes the claimant was called to repair the rip cut saw when he reached around the beam and the blade cut the claimant's fingers on the date of accident at 10:10. (Claimant's APA p. 61; Defendants' APA p. 20).
5. An Employee Incident Statement dated July 31, 2024, was completed by Chris Howard, wherein Howard notes the incident occurred on July 31, 2024, at 10:10. Howard and Britt finished their work on the rip saw. Thereafter, they noticed an ongoing issue with the pressure beam and called the claimant to evaluate the issue. When the claimant leaned over to look inside the cylinder column he cut his fingers on the saw blade. (Claimant APA pg. 62, Defendants' APA p. 21).

6. A photo of the subject machine and incident report was prepared on July 31, 2024. (Claimant's APA p. 63).
7. The claimant was evaluated by Dr. Smid on August 1, 2024. It is noted that the claimant sustained lacerations of the tip of right ring and right long fingers. It is noted that the claimant had a fair amount of bleeding. ER X-rays show a small bony fragment noted at the tip of the ring finger as well as soft tissue defect. It is noted that the claimant is right hand dominant. A portion of the skin and pulp tissue is missing from the ulnar aspect of the long finger as well as the radial aspect of the distal ring finger. Both the FDS and FDP tendons are noted to be intact with the lesser digits. In the Assessment portion of the report, it is noted the claimant has fingertip injuries to right long and ring fingers with no exposed bone. Treatment recommendations note the wounds would be irrigated and dressed and the claimant can return to work with left hand work only. (Claimant's APA pp. 38-42 and Defendants' APA pp. 1-3).
8. The claimant and Benita Rhynes exchanged text messages regarding his return to work and suspension related to the subject incident on August 2, 2024. (Defendants' APA p. 12).
9. David Gunnells sent an email to Benita Rhymes dated August 5, 2024. The claimant told Gunnells at the emergency room that he had screwed up and did not lock out the machine prior to beginning work. (Defendants' APA p. 17).
10. The Incident Summary concludes the Claimant did not Lock Out Tag Out prior to beginning work on the machine. (Defendants' APA p. 18).
11. A Corrective Action form was completed on August 5, 2024, which confirms the claimant's termination as the result of his failure to Lock Out Tag Out. The form also notes

prior disciplinary action as follows: March 6, 2023-coaching due to job performance issues; May 26, 2022-warning Lock Out Tag Out violation. (Defendants' APA pp. 13-15).

12. Written notice of the claimant's termination was made by letter dated August 5, 2024, from the employer to the claimant stating that he was terminated effective August 5, 2024. The claimant was also notified of his termination via telephone call with Bonita Rhynes and David Gunnells of the employer on August 5, 2024. During that telephone conversation the claimant was told that the reason for his termination was his failure to Lock Out Tag Out the machine which was a safety violation. (Claimant's APA pp. 57-60; H.T. p. 72).
13. The claimant was evaluated by Dr. Smid on August 8, 2024. It is noted that the claimant was there for a follow up of laceration/amputation of the tips of the right long and ring fingers. The claimant is noted to be doing well. Daily dressing changes and range of motion exercises to keep fingers from getting stiff are recommended. The claimant was released from his job. Long and ring fingers show open wounds and there is no exposed bone. There is noted to be a very small amount of serous drainage, but no evidence of eschar at this point. Recommendations include daily dressing changes and range of motion finger exercises and continue work restrictions. (Claimant's APA pp. 37-38 and Defendants' APA pp. 4-5).
14. The claimant was evaluated by Dr. Smid on August 15, 2024. It is noted that the claimant was doing quite a bit better and using non-adhesive dressing. It is noted that the claimant had decreased sensation of the radial aspect of the ring finger and ulnar aspect of the long finger and that the distal wounds are doing nicely. There is noted to be some early granulation tissue forming. It is noted that the claimant had good motion of the DIP as well as PIP joint, and no evidence of drainage within the wounds. Dr. Smid's

recommendations are to continue work restrictions. (Claimant APA pp. 35-36 and Defendants' APA pp. 6-7).

15. The claimant was evaluated by Dr. Smid on September 5, 2024. A referral was made to OT. It is noted that the claimant could return to work with no use of right hand/arm and left-handed duty only. It is noted that the claimant continued to improve but his fingers are on the volar surfaces. Dr. Smid notes the wounds were healing nicely, and a small amount of eschar is noted. (Claimants' APA pp. 30-34 and Defendants' APA pp. 8-11).
16. The claimant attended OT on September 24, 2024. It is noted that the claimant had lacerations to the right MF and RF and snatched his arm back resulting in right shoulder and elbow pain. It is noted that the claimant had severe hypersensitivity to right MF and right, and is very guarded with his right hand, elbow, and shoulder swelling. (Claimant's APA pp. 48-56).
17. The claimant was evaluated by Dr. Smid on October 3, 2024. It is noted that tissue wise the claimant continued to improve. Recommendations include a referral to occupational therapy to desensitize and increase digital range of motion. It is noted that the claimant complained of pain in his shoulder and burning sensation along medial aspect of his right elbow. The claimant had a MRI of his right knee on August 17, 2024 which showed a meniscal knee injury. It is noted that the claimant had surgery on the knee in January 2024. The Impression portion of the report notes: 1) subacute insufficiency fracture of the medial femoral condyle; 2) partial medial meniscectomy with progressed tearing of the posterior horn; 3) edema along the MCL may relate to reactive changes or grade 1 sprain; 4) mild patellar tendinosis; 5) lateral patellar tilt; 6) moderate knee joint effusion; and 7) small

- Baker cyst. The Plan portion of the report notes: OT for function and desensitization and continue work restrictions. (Claimant's APA pp. 24-28).
18. The claimant attended OT on October 18, 2024. It is noted that the claimant was trying to bend and use the right upper extremity but had continued tenderness with the right MF/fingernail after trimming it. He also complained of chronic right shoulder pain. He reported severe pain and needles within right MF and RF, but able to grasp and grip phone and text using right hand/digits at times. (Claimant's APA pp. 43-44). The claimant also attended OT on October 24, 2024. (Claimant's APA pp. 45-47).
  19. The claimant attended OT on October 24, 2024. (Claimant's APA pp. 45-47).
  20. The claimant was evaluated by Dr. Smid on October 28, 2024. The claimant reported a worsening of pain and paresthesia involving long finger and right finger and small finger and pain along the right elbow as well as right shoulder. He reported that he sustained the right elbow and right shoulder injuries as he was trying to pull his fingers away from the machine. Dr. Smid notes slightly more edema within the right digits and that the tips of the long finger and right fingers are healing nicely though the claimant was quite hypersensitive in this area. It is noted that the claimant does not like those areas to be touched. He is noted to have pain in the volar aspect of the right hand as well as pain at the olecranon and the lateral epicondyle on the right side. Dr. Smid's recommendations include OT Hand therapy and neurodiagnostic of right upper extremity and continuation of the return-to-work restrictions of no use of right hand/arm, left-handed duty only. (Claimant's APA pp. 21-23, 29, 42f-42i).
  21. The employer's General Safety Rules subsection (f) dictate that an employee must Lock Out Tag Out a machine prior to beginning repairs. (Defendants' APA pp. 13-15).

22. According to the Rip Saw Amps as interpreted by David Gunnells at the Hearing, the saw was in motion at the time of the accident on July 31, 2024, at 22:10. (Defendants' Exhibit 1, submitted at trial; H.T. 90-94).
23. Benita Rhynes testified the claimant's physical restrictions which limit him to use of only the left arm could have been accommodated by the defendant-employer had he not been terminated for violation of the company's lockout safety policy. (H.T. pp. 75-76). As such, we find that the claimant is out of work due to his termination for cause, not his work-related injury.
24. In our opinion, the Supreme Court's decision in *Pollack v. Southern Wine & Spirits of America* applies to the facts of this case and, upon review of the record as a whole, specifically the medical evidence and investigation documentation provided by the employer along with the hearing testimony, we find that the Claimant is not entitled to TTD benefits in this case. The claimant clearly violated Lock Out Tag Out rules and had been warned about this previously. The claimant admitted to this fact in his testimony, which was corroborated by the witnesses for the defendant-employer. Moreover, the fact the employer would have light duty work for this claimant but for his termination for cause has not been contradicted by the claimant. This finding of fact is based upon the greater weight and preponderance of the evidence.

#### Appellate Panel's Conclusions of Law

Based on the foregoing findings of fact, the undersigned commissioners make the following conclusions of law:

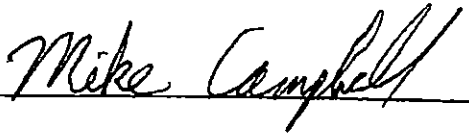
1. Pursuant to § 42-1-130, the claimant was a covered employee at the time in question; and under § 42-1-140, the defendant employer was a covered employer.
2. Pursuant to § 42-1-160 the claimant sustained compensable injuries to his right middle and right ring fingers.
3. Pursuant to § 42-9-260, the claimant is entitled to TTD benefits only if he is out of work due to a reported work-related injury.
4. Pursuant to *Pollack v. Southern Wine and Spirits of America*, 405 S.C. 9, 747 S.E.2d 430 (2013) the claimant is not entitled to TTD benefits. The defendant-employer could have accommodated the claimant's light duty restrictions but for his termination for cause, and, as such, the claimant is not out of work due to a work-related injury.
5. Additionally, we find that the hearing commissioner did not need to recuse herself due to having been the attorney of record on a cited case. Her knowledge of and involvement with the cited precedent does not have any prejudicial effect on her ruling in the present case.

### **ORDER**

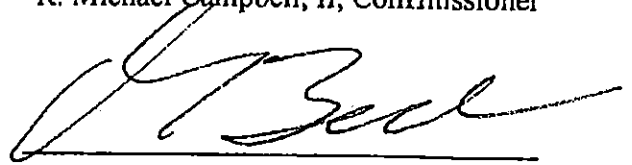
Based on the preceding findings of fact and conclusions of law,

**IT IS HEREBY ORDERED** that the claimant sustained compensable injuries to his right middle and right ring fingers. However, the claimant is not entitled to TTD benefits because the defendant-employer could have accommodated the claimant's light duty restrictions but for his termination for cause.

**AND SO IT IS ORDERED.**

  
\_\_\_\_\_

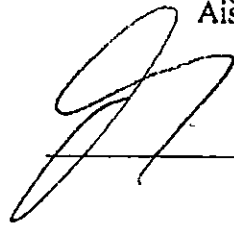
R. Michael Campbell, II, Commissioner

  
\_\_\_\_\_

T. Scott Beck, Commissioner

  
\_\_\_\_\_

Aisha Taylor, Commissioner

  
\_\_\_\_\_ Date

Columbia, SC

**Order Served via email:**

<p>Nicolas L. Haigler Robinson Gray Stepp &amp; Laffitte <a href="mailto:wsstavrou@wicblaw.com">wsstavrou@wicblaw.com</a> <a href="mailto:cmcato@wicblaw.com">cmcato@wicblaw.com</a></p>	<p>Andrea C. Roche Williams and Roche <a href="mailto:andrea@williamsandroche.com">andrea@williamsandroche.com</a></p>
--	--

**CERTIFICATE OF SERVICE**

This is to certify that the undersigned has on this date served a copy of this order in the above entitled action upon all parties to this case by sending an electronic copy hereof by electronic mail addressed to the attorneys for said parties; or if there is an unrepresented party(ies), by depositing a copy hereof, postage paid in the United States mail, first class, addressed to the unrepresented party(ies) and to the attorney(s) for the represented party(ies).

***By Eugenia Hollmon on December 3, 2025***