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May 15 2026

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA
PROCUREMENT REVIEW PANEL
Willie D. Franks, Chairman

Appellate Case No. 2026-000914
Case No. 2025-5

In Re: Haren Construction, Co., Inc.

Project No. P24-6052-PG Beaufort-Waddel Mariculture Maturation Ponds Maintenance – Re-Bid

Paragon Inc. of South Carolina, LLC, Chief Procurement Officer, State Fiscal Accountability Authority, and South Carolina Department of Natural Resources,

of which Paragon Inc. of South Carolina, LLC and Chief Procurement Officer, State Fiscal Accountability Authority are the Appellants/Respondents, South Carolina Department of Natural Resources is the Respondent/Appellant, and Haren Construction Co., Inc. is the Respondent.

**SCDNR RESPONSE IN OPPOSITION TO PARAGON’S MOTION
FOR ENLARGEMENT OF TIME¹**

The South Carolina Department of Natural Resources (“Department” or “SCDNR”) submits this Response in Opposition to Paragon Inc. of South Carolina, LLC’s (“Paragon”) Motion for Enlargement of Time to File Return to SCDNR’s Motion to Strike Return. Consistent with the Department’s pending Motion to Dismiss and Motion to Strike, the Department does oppose Paragon’s motion and asks that the Court deny it in full.

¹ The Department has maintained below and now before this Court that this appeal should be dismissed for lack of jurisdiction and does not intend to waive that position. However, to the extent the Court does not dismiss this action before deciding the other pending motions, the Department provides this response in the alternative and subject to its jurisdictional objections.

Paragon's Motion for Enlargement of Time stems from the Department's Motion to Strike Paragon's Return to the Department's Motion to Dismiss, which is rooted in Rule 240, SCACR. More specifically, Rule 240(e) prescribes a deadline for filing of a return and warns of the consequences of untimely responses.

(e) Return to Motion. Any party opposing a motion or petition *shall have ten (10) days from the date of service thereof to file a return* with the clerk and serve on all parties a copy of the return; provided, however, that a return to a petition for rehearing may only be filed if permitted under Rule 221(a). The court may in its discretion enlarge or limit the time for filing the return. The provisions of Rule 240(c) shall apply to a return. *Failure of a party to timely file a return may be deemed a consent by that party to the relief sought in the motion or petition.*

Rule 240(e), SCACR (emphasis added). Paragon submits three arguments to the Court as a basis for accepting its late filing.

First, Paragon argues the return was "filed within 48 hours of the claimed deadline, and good cause exists for enlargement." As presented in the Department's Motion to Strike, the Court's rules are clear that the deadline runs from service. Paragon's motion admits it was served with the Department's Motion to Dismiss through counsel on April 25, 2026. Thus, the deadline for filing and serving a return was May 5, 2026 pursuant to the Court's rules and is not an ambiguous "claimed deadline." Likewise the legal distinction between the date of service and date of filing are perfectly clear under Rule 263, SCACR, and do not support Paragon's attempt to blur the two. Paragon has provided no legal authority to show that missing the deadline by two days is excusable or constitutes good cause. Similarly, Paragon's claims for good cause are not support by legal authority or persuasive facts. Unfortunately, attempting to shift blame for the missed deadline to a legal assistant overlooks the foundation that counsel of record is the person upon whom service is made and is professionally responsible for anyone serving in a support capacity. *See* Rules 240 and 262, SCACR, and Supreme Court Order re: Methods of Electronic Filing and Service under

Rule 262 of the South Carolina Appellate Court Rules (As Amended April 24, 2024) and Rule 407, SCACR (Rules of Professional Conduct Rules 5.1 and 5.3).

Next, Paragon claims the Department “will suffer no prejudice from acceptance of Paragon’s return.” Underlying this assertion, Paragon seeks to rescue itself by pointing to the Chief Procurement Officer (CPO) filing a timely return and otherwise suggesting Paragon is entitled to brief the Court on the Department’s jurisdictional challenge. The actions of the CPO have no bearing on Paragon’s compliance with the Court’s rules. The CPO timely filed a return to which the Department has timely filed a reply and the Department’s Motion to Dismiss is ripe for a determination by the Court. Simply stated, all other parties in this appeal are observing the Court’s rules and deadlines and should not suffer further delay due to Paragon’s delinquency. Rule 240(e) warns that “[f]ailure of a party to timely file a return may be deemed a consent by that party to the relief sought in the motion or petition” so there is no basis for Paragon to claim it is entitled to file a return late. Finally, Paragon’s claim that the Department’s reservation of a right to file a reply suggests this matter is not time sensitive. The Department is entitled to timely reply under the Rule 240(f) and has asked the Court in advance to respect and affirm that. As manifest in the Department’s filings, the Department is eager to complete the renovation of the Waddell Mariculture facility and this protracted appeal is gravely delaying that important public project.

Paragon’s final argument is that “judicial economy and complete briefing” justify its late return being accepted. Contradicting its prior representation that “[t]he CPO’s Return raises substantially the same arguments as Paragon’s Return,” Paragon now claims it “has a distinct perspective on the jurisdictional issues that complements but does not duplicate the CPO’s return.” (Paragon Motion to Enlarge pp. 3-4). Paragon has provided no legal basis for this claim, makes internally contradictory representations to the Court, and should not be rewarded for delinquency

where the CPO timely filed a return and Rule 240(e) warned Paragon of the consequence of untimely filing. The Department does believe in judicial economy and timely observance of deadlines that will aid the Court and parties in expeditiously resolving appeals.

As a closing point, the Department will note that although Rule 240, with Rule 263, provide an avenue for a party to seek additional time for filing a return, Paragon did not seek an extension prior to the deadline passing and simply has not demonstrated an adequate basis for permitting the late filing of its return. Accordingly, the Department asks that Paragon's motion to enlarge be denied.

Respectfully submitted,
s/ Van Whitehead

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PROOF OF SERVICE

I certify that I have served the SCDNR's **Response in Opposition to Paragon's Motion for Enlargement of Time** upon counsel for all parties and the South Carolina Procurement Review Panel in the above captioned matter by sending a copy by email to each attorney listed below on May 15, 2026.

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