**STATE OF SOUTH CAROLINA**
**ADMINISTRATIVE LAW COURT**

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| Matthew DeNapoli and Lindsay DeNapoli,<br><br>Petitioners,<br><br>v.<br><br>Charleston County Assessor,<br><br>Respondent. | Docket No. 25-ALJ-17-0156-CC<br><br>**ORDER DENYING MOTION TO RECONSIDER** |

This matter is pending before the South Carolina Administrative Law Court ("ALC" or "Court") pursuant to a request for contested case hearing filed by Matthew DeNapoli and Lindsay DeNapoli ("Petitioners") against the Charleston County Assessor ("Respondent"). In their request for a contested case hearing, Petitioners contend Respondent improperly denied their refund requests for four-percent legal residence classification with respect to property located at 918 Casseque Province in Charleston County, South Carolina.

Respondent filed a motion for summary judgment on December 19, 2025. Respondent contends that Petitioners' request for a refund or credit in this case is time-barred. Petitioners filed a variety of motions which resulted in, among other things, an extended discovery period and production of certain documents by Respondent. Petitioners have also made a number of recent filings, some of which further delayed resolution of the motion for summary judgment. However, the Court issued an order on April 3, 2026, granting Respondent's motion for summary judgment.

Petitioners filed a motion to alter or amend this order on April 11, 2026 and filed a supplemental memorandum in support of their motion on April 13, 2026. Respondent filed its opposition to the motion on April 15, 2026 and the motion to reconsider is now ripe for decision. Petitioners submitted a reply the following day.[1]

[1] Petitioners' April 16, 2026 submission will not be considered for two reasons. First, the Administrative Law Court rules do not authorize a reply to a response to a Petition for Rehearing. *Compare* Rule 7(B), SCALCR ("[a]ny party may file a written response to the motion within ten (10) days of the service of the motion unless the time is extended or shortened by the administrative law judge; provided, however, if a party opposes the motion, the party must file a written response. Any party may file a written reply within five (5) days of the service of a response, unless otherwise ordered by the administrative law judge. Failure of a party to timely file a response may be deemed a consent by that party to the relief sought in the motion or petition") *with* Rule 29(D)(1), SCALCR ("[w]ithin ten (10) days after notice of the final decision concluding the matter before the administrative law judge, a party may move for reconsideration

## DISCUSSION

### I. Standard of Decision

Motions to reconsider rulings made in a contested case before the Administrative Law Court are governed by Rule 29(D), SCALCR. Rule 29 provides in pertinent part that:

> 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, SCRCP . . .

*Id.* Rule 29 therefore expressly incorporates by reference Rule 59, SCRCP. A Rule 59(e) motion not only serves as a vehicle to request the trial court "alter or amend the judgment," but also as a vehicle to seek "reconsideration" of issues and arguments. *Elam v. S.C. Dep't of Transp*., 361 S.C. 9, 21, 602 S.E.2d 772, 778 (2004).

### II. Discussion

Petitioners contend that the Court misapprehended the facts or law in the following respects:

1. Failure to Decide Threshold Issues. Petitioners argue that the Court was required to decide certain "threshold" issues before reaching Respondent's argument that

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of the decision. The opposing party may file a response to the motion within ten (10) days of the filing of the motion.") Our rules expressly authorize a reply to a response to a motion for motions generally but omit such authorization in the context of a Petition for Rehearing. The reason for this difference lies in the fact that, with respect to a Petition for Rehearing, the Court must generally rule on such a petition within thirty days, *see* Rule 29(D)(2), SCALCR. Were extended briefing permitted in such circumstances, it would be very difficult for the Court to comply with this requirement. Second, Petitioners' reply memorandum raises new arguments which were not contained in its initial motion to reconsider. For example, it attacks the Court's statement that the motion for summary judgment was ripe for decision after the close of discovery and completion of briefing. It also states that it was improper for the Court to grant summary judgment without providing formal clarification of its prior order. To the extent that Petitioners attempt to raise new arguments in support of reconsideration in their April 16, 2026 submission, these arguments are untimely. Rule 29, SCALCR require that any motion to reconsider be made within ten days. The Court issued its order on April 3, 2026. As a result, Petitioners had until April 13, 2026, to file a motion to reconsider. While the initial motion was timely, arguments made for the first time in the April 16, 2026 submission are not. Permitting an untimely argument in a reply brief would handicap Respondent, as again, further briefing is not permitted. Accordingly, the Court will not consider Petitioner's reply memorandum. *See, e.g., In re Ditech Holding Corp.,* No. 19-10412 (JLG), 2025 WL 3118909, at *6–7 (Bankr. S.D.N.Y. Nov. 6, 2025) ("Second, the Reply improperly raises new arguments in the context of a motion for reconsideration. 'Arguments raised for the first time in reply briefs are waived.'"); *In re Firestar Diamond, Inc.*, 654 B.R. 836, 897 n.47 (Bankr. S.D.N.Y. 2023); *see also Smith v. Wells Fargo Bank, N.A.*, 666 F. App'x 84, 88 (2d Cir. 2016) (holding that arguments first made in a reply brief are waived); *Chaney v. Local 32BJ SEIU*, No. 23-3652, 2025 WL 1938701, at *6 n.4 (S.D.N.Y. July 15, 2025); *RL 900 Park LLC v. Ender*, No. 18-12121, 2020 WL 70920, at *4 (S.D.N.Y. Jan. 3, 2020) (declining to consider arguments raised for the first time in supplemental filing submitted after deadline).

Petitioners' claim for a refund was untimely. They contend that their case is more properly considered to be a protest of an unlawful revocation rather than a mere refund claim and that, when the Court determined the refund claim was untimely, it deprived Petitioners of the opportunity to be heard on the question of whether a lawful revocation ever occurred and whether strict statutory notice and procedure were followed;[2]

2. Reliance on Defective Notice and Late-Raised "Sufficient Notice Theory." Petitioners assert that the Court erred in treating a Reassessment Notice issued in September 24, 2015, as "sufficient notice." According to Petitioners, this theory was first mentioned after the close of discovery and Petitioners were not given a fair opportunity to rebut this theory.
3. Overlooking Extrinsic Fraud, Spoliation, and Unclean Hands. Petitioners take issue that any alleged fraud, spoliation, or unclean hands could not have prevented timely filing in the years for which Petitioners seek refunds because the alleged conduct occurred in 2025, years after the claims were required to be filed. They contend that the conduct should be viewed as having occurred continuously since 2015 and that they cannot be charged with knowledge of a revocation which was never sent.
4. Refusal to Consider Threshold Claims as Civil Matters. Petitioners take issue with the Court's conclusion that it has no authority to decide civil matters. They argue that such a ruling is inconsistent with the Court's prior discovery order allowing discovery of evidence on an "entitlement to four-percent legal residence classification." They declare that the Court must decide all issues necessary to resolve the agency action, including whether the revocation was void ab initio for failure to follow the statutory revocation procedure.

[2] Petitioners cite S.C. Code Ann. §§ 12-60-2510, 12-60-1730, and 12-43-220(c) as the statutory provisions which require written "notice of revocation" of the 4% exemption. Petitioners have maintained throughout this case that the Respondent was required to send a written notice to Petitioners that the 4% ration had been discontinued in addition to the property tax assessment. The Court did not reach this question because it ruled that Petitioners' claim for an additional refund was untimely. Had the Court reached this argument on the merits, it would have rejected the argument. The Court can find no language in any of the statutes cited by Petitioners would require any sort of separate "notice of revocation." Section 12-60-2510 and 12-60-1730 merely describe the necessity of sending a tax assessment and the requirement that the assessment include a statement about appeal rights. There is no dispute in this case that assessments were annually provided. Section 12-43-220(c) likewise contains no requirement to send a written "notice of revocation." It addresses the circumstances under which a property owner is entitled to receive a four percent ratio.

Respondent counters generally that the Court has already addressed these arguments and Petitioners' motion simply seeks to rehash old arguments. The Court will discuss Petitioners' contentions below.

**I. Failure to Decide Threshold Issues**

Petitioners contend that their case is more properly considered to be a protest of an unlawful revocation rather than a mere refund claim. They argue that when the Court granted Respondent's motion for summary judgment, it failed to address certain threshold issues, including whether Respondent overcame a presumption that Petitioners were entitled to the 4 percent ratio and whether Respondent's conduct in returning Petitioners to the 6 percent ratio was an ultra vires act. According to Petitioners, such threshold/jurisdictional issues must be resolved before the Court can address the statute of limitations. Petitioners state that the Court's failure to do so constitutes reversible error.

Petitioners' argument evidences a fundamental misunderstanding of this proceeding. This case is a refund proceeding. It is undisputed that the claim filed by Petitioners with Respondent on April 16, 2024 which ultimately led to decision Petitioners currently contest was filed on a form entitled "4% LEGAL RESIDENCE EXEMPTION – REQUEST FOR REFUND." The form states:

> **S.C. Code Ann. §12-43-220(c)(3)** provides that taxpayers may apply for a refund of property taxes overpaid if the property was eligible for the 4% Legal Residence Exemption, Taxpayers must establish that the property in question was in fact their legal residence and where they were domiciled for the time period in question. *The refund is limited to two years by* **S.C. Code Ann. § 12-54-85(F).**

(bold emphasis in original, emphasis via italics added). It also states:

> As taxpayer for the above-referenced property, *I request a refund of taxes* for the difference between the property tax bill previously paid at 6% and the amount that would have been billed if the property had been qualified for the 4% Legal Residence Exemption. *I understand that the refund cannot exceed two property tax years*. I further certify that I have occupied the property listed above as my legal residence/domicile since the date provided. I understand that the burden of proof for *eligibility for the refund* is on me as taxpayer and I will provide proof to establish that the property in question was in fact my legal residence.

*Id.* (underline in original, emphasis via italics added). Petitioners were granted a refund for two years but the Charleston County Board of Assessment Appeals also concluded, as the

application states numerous times, that no refund beyond two years was permitted. It stated:

> *Decision of the Board*
>
> *The Charleston County Board of Assessment Appeals concurred with the Charleston County Assessor, as representative of the Tax Refund Committee. Per established South Carolina law, only two year's refund is allowed.*

(April 29, 2025 Decision) (emphasis in original).

It is possible to consider arguments similar to those raised by Petitioners regarding an entitlement to a 4% legal residence exemption during the two year period in which refunds are permitted, but because no refund beyond two years is allowed, and there is no dispute that the additional refund Petitioners seek in this contested case is a refund of more than two years, consideration of such arguments is largely irrelevant.[3] The Court sees no basis on which to reconsider its previous ruling in this regard.

**II. Reliance on "Sufficient Notice Theory"**

Petitioners also argue that the Court's order erroneously adopts Respondent's sufficient notice theory. The Court understands Petitioners' reference to a "sufficient notice theory" to mean the Respondent's position that the September 2015 provisional approval letter adequately apprised Petitioners of the need to submit additional documentation to continue to receive the 4 percent legal residence exemption. Petitioners maintain that this theory should be stricken from the case for a number of reasons, including the fact that, according to Petitioners, this theory was first advanced after the close of discovery.

Petitioners' argument in the instant motion, however, mischaracterizes the Court's prior order. The Court did not rule on Petitioners' motion to strike this argument and it did not accept or reject the Respondent's sufficient notice theory. The Court reached no conclusion whatsoever regarding the effect of the September 2015 reassessment notice. The Court did refer in passing to the Notice of Classification, Appraisal & Assessment of Real Estate Tax sent to Petitioners for the year 2015. This document, however, is not the provisional approval letter. It is notice from the

[3] To be clear, the Court's order granting summary judgment should not be taken as a ruling that Petitioners were not entitled to a 4% legal residence exemption in the years in question in this case. The Court concluded only that Petitioners' claim for a refund was limited to two years.

County to Petitioners regarding the new appraised value of their home in connection with the 2015 statutorily mandated quadrennial reassessment.[4]

**III. Extrinsic Fraud, Spoliation, and Unclean Hands**

Petitioners take issue that any alleged fraud, spoliation, or unclean hands could not have prevented timely filing in the years for which Petitioners seek refunds because the alleged conduct occurred in 2025, years after the claims were required to be filed. They contend that the conduct should be viewed as having occurred continuously since 2015 and that they cannot be charged with knowledge of a revocation which was never sent.

This argument, however, is not the argument presented in Petitioners' cross motion for summary judgment. That motion listed each instance of alleged fraud, all of which occurred in 2025, long after the expiration of the two-year claim window for the refunds sought in this contested case.

**IV. Refusal to Consider Threshold Claims as Civil Matters**.

Petitioners take issue with the Court's conclusion that it has no authority to decide civil matters. They argue that such a ruling is inconsistent with the Court's prior discovery order allowing discovery of evidence on an "entitlement to four-percent legal residence classification." They declare that the Court must decide all issues necessary to resolve the agency action, including whether the revocation was void ab initio for failure to follow the statutory revocation procedure.

First, as previously discussed, it was not necessary to decide all issues raised by Petitioners, including whether the revocation of the 4 percent exemption was void. Such an issue could be reached by the Court in a case where the refund sought falls within the two-year claim window. It is immaterial to a claim which was not timely pursued during the two-year claim period. Even if the 2015 revocation were determined to be void, the Court could not grant Petitioners relief because their refund claim for the years in question was untimely.

Second, the Court reiterates that "[t]he [ALC] is limited in authority to resolving issues of administrative law. The [ALC] has no authority to decide civil matters nor to award monetary damages in cases. Likewise, the [ALC] is not a criminal tribunal." Randolph R. Lowell, *The Contested Case Before the ALC, in South Carolina Administrative Practice & Procedure* at 169 (2d ed., S.C. Bar 2004). The Administrative Law Court has a narrow scope of inquiry and cannot

[4] This document appears at pp. 88-89 of the PDF version of Petitioners' Emergency Motion to Compel Discovery.

consider civil matters even when such matters are related to the controversy before the Administrative Law Court. *See id.* To the extent that Petitioners seek injunctive relief or monetary relief beyond a mere refund, the Court lacks the authority and ability to adjudicate those claims.

**ORDER**

Accordingly, **IT IS THEREFORE ORDERED** that Petitioners' Motion to Reconsider is **DENIED.**

**AND IT IS SO ORDERED.**

The Honorable Robert L. Reibold
Administrative Law Judge

April 29, 2026
Columbia, South Carolina

**CERTIFICATE OF SERVICE**

I, Jared Thompson, hereby certify that I have on this date served this order upon all parties to this cause by depositing a copy hereof in the United States mail, postage paid, or by electronic mail, to the address provided by the party(ies) and/or their attorney(s).



Jared Thompson
Judicial Law Clerk

April 29, 2026
Columbia, South Carolina