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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

J. Derham Cole, Circuit Court Judge

Unpublished Opinion No. 2026-UP-196
(S.C. Ct. App. filed April 29, 2026)
Appellate Case No. 2026-001580

MECO, Inc. of Augusta. ....
Respondent,

v.

Alex Sayed a/k/a Arshad M. Sayed a/k/a Arshed Sayed; NEPA Ventures LLC; NEPA Trading & Investments, LLC..
Petitioners.

RETURN TO PETITION FOR WRIT OF CERTIORARI

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August 17, 2026
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(COUNTER) QUESTION PRESENTED

1. Did the South Carolina Court of Appeals correctly hold there was a genuine issue of material fact as to when the three-year statute of limitations accrued since MECO filed its lawsuit within three years of the last date MECO performed work under the Contract?

STATEMENT OF THE CASE

I. FACTUAL BACKGROUND

Respondent MECO, Inc. of Augusta ("MECO") entered into a written contract ("Contract") with Alex Sayed ("Petitioner Sayed") on May 8, 2018, for MECO to provide and install gas station equipment at the Westar Travel Plaza in Cowpens, South Carolina. (R. pp. 139–44.) Petitioner NEPA Ventures, LLC owned the real estate where the Westar Travel Plaza is located, and Petitioner NEPA Trading & Investments, LLC obtained financing to pay MECO for the improvements. (R. p. 49:3–11.)

The Contract provided that "[c]ontractor will furnish Owner an invoice at the end of each week for the value of materials stored and/or for the value of work completed to date. Owner shall pay for same within thirty (30) days of invoice date or completion of project." (R. p. 139.) During the construction, Petitioner Sayed requested that MECO perform additional work at Westar that was not covered under the original contract. (R. pp. 20; 259.)

Despite Sayed's refusal to make progress payments, MECO continued to work on the project until September 21, 2019, and sent its last two invoices to Petitioners on September 26, 2019. (R. pp. 154–55.) However, MECO has not received all amounts it is due. (R. p. 179.) In December 2019, MECO filed a Statement and Notice of Mechanic's Lien which provided that

MECO last furnished work/material on September 21, 2019, and included the updated contract price with change orders as one lump sum. (R. pp. 177–81.)

In August 2019, after MECO sent an email about Petitioners' lack of payment, Petitioner Sayed claimed he could withhold payment to MECO under the contract because of the work being "incomplete." (R. p. 194 ("i think u r overreacting, till date the job u had undertaken is incomplete").) In other words, Sayed claimed that he did not have to pay until MECO finished its work under the Contract. In fact, Sayed refused to allow his financing company to pay MECO in September 2019, claiming that "the job was not up to satisfaction." (R. pp. 270-271.) Petitioners repeated this claim in their pleadings, contending that MECO "fail[ed] to fully perform the work under the Contract." (R. p. 36.) Petitioners did not, as they claim (see Petitioners' Br. at p.6 n.2), consider the project complete for payment purposes in May 2019.

Viewing the evidence in the light most favorable to MECO, MECO did not complete its work under the contract until September 2019. Therefore, MECO's complaint, filed on August 23, 2022, was timely. Any evidence that MECO's claims accrued earlier does no more than create a dispute of fact, which must be resolved by a jury, not the court at summary judgment. The Court of Appeals' decision reversing summary judgment was correct and should not be disturbed.

II. PROCEDURAL HISTORY

MECO filed its Complaint on August 23, 2022, alleging claims for breach of contract, quantum meruit, and promissory estoppel. (R. pp. 17–23.) Petitioners moved for summary judgment, arguing that MECO's claims were time-barred. (R. pp. 74–77.) Along with other contentions, MECO argued in the trial court that "the work was not even complete until September 21, 2019" and thus Petitioners payment obligations "could not possibly have been breached in August because Plaintiff was still doing work at Westar." (R. p. 132.) The trial court heard argument from counsel and entered a Form 4 Order granting summary judgment on November 2, 2023. (R. pp. 2–7.) A more detailed order was then entered on November 27, 2023. (R. pp. 8–16.)

The trial court found that MECO sent its last invoice under the contract in February 2019 and demanded all sums due in this lawsuit on August 8, 2019, so MECO's claims were time-barred. (R. p. 14–15.) That ruling ignored the evidence that MECO was still performing work in September 2019. (See, e.g., R. pp. 132 (MECO's argument to the trial court that work was ongoing in September 2019), 194 (Sayed's statement in August 2019 that "the job u had undertaken is incomplete"), 270-271 (Sayed refusing to allow financing company to release payment in September 2019 because the job was not up to satisfaction), & 177 (MECO's Notice of Mechanic's Lien evidencing work last performed on the project on September 21, 2019).) Despite evidence that MECO's claims did not accrue until September 2019, the trial court granted summary judgment, holding that MECO's claims were time-barred. (R. p. 8-16.)

MECO filed its Notice of Appeal on November 7, 2023, and filed an Amended Notice of Appeal on December 4, 2023, after the entry of the Court's November 27, 2023, order. (R. pp. 202–03, 211–12.) The Court of Appeals issued an unpublished opinion on April 29, 2026. MECO v. Sayed, No. 2026-UP-196 (Ct. App. filed Apr. 29, 2026). The Court of Appeals reversed summary judgment, correctly holding that there was a genuine issue of material fact because "the breach or discovery may have occurred after [Petitioner] failed to pay all outstanding invoices by MECO's demand date, thirty days after MECO issued two additional invoices for additional work it performed, or upon completion of the project." Id. Petitioners then filed a petition for rehearing which the Court of Appeals denied in its order dated June 18, 2026.

(Sayed Pet., reh’g denied (June 18, 2026).) Petitioners filed their Petition for Writ of Certiorari on July 17, 2026. Petitioners contend 5 questions are presented to this Court, but all are resolved by whether there are disputes of fact about when MECO’s cause of action accrued—a question the Court of Appeals correctly answered in the affirmative, reversing summary judgment.

ARGUMENT

The Court of Appeals correctly held that genuine issues of material fact about when MECO’s cause of action accrued prevent summary judgment. The contract provided that payment shall be due “within thirty (30) days of invoice date *or completion of project.*” (R. p. 139 (emphasis supplied).) MECO last completed work on the project in September 2019. (R. p. 177–78.) Petitioners have failed to pay MECO for its services. (R. p. 179.) Based on the language of the contract alone, a jury could find that the statute of limitations began to run on or before August 8, 2019 (i.e., within 30 days of invoices being issued), or when MECO’s performance under the contract was complete. Viewing “the evidence and all inferences which can be reasonably drawn therefrom . . . in the light most favorable to [MECO],” a genuine issue of material fact exists as to when MECO’s claims accrued. Hedgepath v. Am. Tel. & Tel. Co., 348 S.C. 340, 354–55, 559 S.E.2d 327, 335 (Ct. App. 2001). Summary judgment is improper, and this issue should be submitted to the jury. Id. at 355, 559 S.E.2d at 335. The Court of Appeals’ decision correctly recognized this and should not be disturbed.

Petitioners’ contentions that the Court of Appeals erred are wrong, and no special or important reasons, see Rule 242, SCACR, exist that warrant certiorari here.

I. The Court of Appeals correctly applied South Carolina contract interpretation principles here.

The Court of Appeals correctly applied contract interpretation principles in holding a dispute of fact exists about when MECO's claims accrued. "The cardinal rule of contract interpretation is to ascertain and give legal effect to the parties' intentions as determined by the contract language." McGill v. Moore, 381 S.C. 179, 185, 672 S.E.2d 571, 574 (2009) (citation omitted). "Where the contract's language is clear and unambiguous, the language alone determines the contract's force and effect." Id. (citation omitted).

But a contract is deemed "ambiguous when its terms are reasonably susceptible of more than one interpretation." S. Atl. Fin. Servs., Inc. v. Middleton, 349 S.C. 77, 81, 562 S.E.2d 482, 484 (Ct. App. 2002) (citation omitted). Here, the contract provides that payment is due "within thirty (30) days of invoice date or completion of project." (R. p. 139.) And "where a contract is not clear, or is ambiguous and capable of one or more constructions, what the parties really intended, as a matter of fact, should be submitted to a jury." Garrett v. Pilot Life Ins. Co., 241 S.C. 299, 305, 128 S.E.2d 171, 174 (1962). That is precisely the situation here; the payment provision is "capable of being understood in more than one way," and thus the parties' intent with respect to that provision "should be determined by a jury." HK New Plan Exch. Prop. Owner I, LLC v. Coker, 375 S.C. 18, 24, 649 S.E.2d 181, 184 (Ct. App. 2007).

While Petitioners argue that invoices were due within 30 days of issuance, Petitioners' conduct shows that they intended for payments to be due at project completion. During the parties' course of dealing, Petitioners invoked completion of MECO's work as a precondition to payment. Petitioner Sayed refused to pay MECO in August 2019 after stating the project was "incomplete." (R. p. 194. ("i think u r over reacting, till date the job u had undertaken is incomplete.").) And Sayed refused to allow his financing company to pay MECO in September

2019, claiming the work was not done up to satisfaction. (R. pp. 270-71.) In other words, Petitioners have always contended that they could wait until MECO's work was complete to pay for it.

That interpretation of the payment terms in the Contract comports with South Carolina law. In the case of "construction contracts, the statute of limitations generally begins to run when the work is completed." Republic Contracting Corp. v. S.C. Dep't of Highways & Pub. Transp., 332 S.C. 197, 212, 503 S.E.2d 761, 769 (Ct. App. 1998). "Only in rare circumstances does it run against a contractor's claim for payment before completion of the contract." Id. Here, MECO last furnished work and material on September 21, 2019, meaning that the project was not complete until September 2019. (R. p. 152–55.) The Court of Appeals thus correctly acknowledged that there are disputes of fact about whether MECO's cause of action accrued (1) when Petitioners failed to pay invoices after MECO's demand, (2) thirty days after MECO's last invoices, or (3) "upon completion of the project." See MECO v. Sayed, No. 2026-UP-196 (Ct. App. filed Apr. 29, 2026).

Petitioners argue that South Carolina does not recognize the continuing breach theory, citing Poly-Med, Inc. v. Novus Sci. Pte. Ltd., 437 S.C. 343, 346, 878 S.E.2d 896, 897 (2022). But the Court of Appeals did not rely on the continuing breach theory in reversing summary judgment. Instead, it reasoned "the breach or discovery may have occurred after [Petitioners] failed to pay all outstanding invoices by MECO's demand date, thirty days after MECO issued two invoices for additional work it performed, ***or*** upon completion of the project." MECO v. Sayed, No. 2026-UP-196 (Ct. App. filed Apr. 29, 2026) (emphasis supplied). But as was the case in Poly-Med, "resolution of the dispute is not controlled by whether South Carolina has adopted the continuing breach doctrine, but rather by a determination of what the contracting parties intended." 437 S.C. at 354, 878 S.E.2d at 901–02. And given the ambiguity in the Contract's payment terms and Petitioner's own conduct suggesting that they did not intend to pay until the work was complete, the parties' intent is a factual issue for jury determination. See, e.g., HK New Plan, 375 S.C. at 24, 649 S.E.2d at 184.

Petitioners' reliance on Brewer v. Brewer, 242 S.C. 9, 129 S.E.2d 736 (1963) and K & A Acquisition Group, LLC v. Island Pointe, LLC, 383 S.C. 563, 682 S.E.2d 252 (2009), is unpersuasive. Both of those cases involve interpreting a statute, not a contract. Statutory interpretation cannot be left to a jury, but that is exactly what the law prescribes when a contract is ambiguous. When a contract provision is subject to more than one interpretation, "determination of the parties' intent is then a question of fact for the jury." Hawkins v. Greenwood Dev. Corp., 328 S.C. 585, 592, 493 S.E.2d 875, 879 (Ct. App. 1997).

Petitioners' citation to Martin v. Carolina Water Serv., Incl., 280 S.C. 235, 312 S.E.2d 556 (Ct. App. 1984) does not change the outcome either. That case provides only that the word "or" may be a disjunctive or coordinating conjunction, see id., it does not suggest that the payment provision of the subject Contract was unambiguous.

At bottom, Petitioners' essential contention is that the parties' Contract is unambiguous and capable only of the interpretation—and thus the statute of limitations began to run 30 days after issuance of each individual invoice. That ignores the plain language of the Contract (that payment could be due then "or upon completion of the project") and the requirement that evidence and inferences be construed in MECO's favor at summary judgment. Particularly given South Carolina law that the limitations period for a contractor's claim for payment does not generally run until the contractor's work is complete, see Republic Contracting, 332 S.C. at 212, summary judgment was improper.

II. The South Carolina Court of Appeals correctly applied the precedent governing accrual and the discovery rule.

For contract actions, South Carolina applies the discovery rule. See Maher v. Tietex Corp., 331 S.C. 371, 377, 500 S.E.2d 204, 207 (Ct. App. 1998). "[A] breach of contract action accrues not on the date of the breach, but rather on the date the aggrieved party either discovered the breach, or could or should have discovered the breach through the exercise of reasonable diligence." Id. (citation omitted). Applying an objective standard, the facts here don't point to a single, undisputed moment of notice. As the Court of Appeals held, there are three possible accrual dates, with one being completion of the project. MECO v. Sayed, No. 2026-UP-196 (Ct. App. filed Apr. 29, 2026). Each of these dates corresponds to different factual findings regarding when the breach occurred or when MECO knew or should have known of the breach. Petitioner's August 7, 2019, email, claiming the project was incomplete, followed by MECO's performance of additional work until September 2019 and issuance of new invoices, created a genuine dispute regarding whether MECO reasonably believed the payment obligations had matured. The Court of Appeals properly recognized that "[i]f there is conflicting evidence as to whether a claimant knew or should have known he or she had a cause action, the question is one for the jury." Kagan v. Simchon, 429 S.C. 516, 528, 839 S.E.2d 106, 112 (Ct. App. 2020) (citation omitted). And, again, "the statute of limitations generally begins to run when the work is completed." Republic Contracting, 332 S.C. at 212. In light of this principle, there is at least a dispute of fact as to when the statute accrued on MECO's claims for payment.

III. The South Carolina Court of Appeals correctly applied the precedent governing summary judgment.

The Court of Appeals correctly reversed summary judgment, because there is (at minimum) a genuine dispute as to when payment was due. At the summary judgment stage, the "court does not weigh conflicting evidence with respect to a disputed material fact." Allwin, 426

S.C. at 11, 825 S.E.2d at 712 (citing S.C. Prop. & Cas. Guar. Ass'n v. Yensen, 345 S.C. 512, 518, 548 S.E.2d 880, 883 (Ct. App. 2001)). "It is the duty of the court, on a motion for summary judgment, not to try issues of fact, but only determine whether there are genuine issues of fact to be tried; and, once having found that triable issues exist, must leave those issues for determination at trial." Thomas Sand Co. v. Colonial Pipeline Co., 349 S.C. 402, 408, 563 S.E.2d 109, 112 (Ct. App. 2002) (citing Spencer v. Miller, 259 S.C. 453, 456, 192 S.E.2d 863, 864 (1972)).

The contract itself provides for two different accrual dates: "within (30) days of invoice date or upon completion of the project." (R. p. 139.) Petitioners contend that MECO completed the project no later than April or May, and the record can support no other inference. (Pets.' Br. at 9-10.) But MECO continued working on the project until September 2019. (R. pp. 177-178.) A jury could infer from that evidence that the project was not complete until September 2019.

At the same time, Petitioners' conduct during the parties' course of dealing contradicts their current claims about when payment was due. (See R. p. 194 (Sayed refusing to make payments because "i think u r overreacting, till date the job u had undertaken is incomplete.").
Rather than demonstrate that the Court of Appeals erred, the parties' disagreements about when work was complete and when payments should have been made are fact disputes that demand jury resolution. The Court of Appeals' decision correctly acknowledges this and reverses summary judgment so that a jury can decide whether Petitioners or MECO are correct.

IV. The South Carolina Court of Appeals did not expand the limited doctrines for revival of time-barred claims.

Contrary to Petitioners' assertions, the Court of Appeals did not "revive" any claims and did not label any claim "time-barred." Instead, the Court or Appeals found disputes of fact about the accrual date of MECO's claims and expressly remanded the case for a jury to determine "when MECO's cause of action accrued" in the first instance. MECO v. Sayed, No. 2026-UP-196 (Ct. App. filed Apr. 29, 2026).

V. All issues were properly preserved for review.

It is true that "an issue cannot be raised for the first time on appeal, but must have been raised to and ruled upon by the trial judge to be preserved for appellate review." Wilder Corp. v. Wilke, 330 S.C. 71, 76, 497 S.E.2d 731, 733 (1998) (citation omitted); see also Rule 210(c), SCACR. But that is irrelevant here, as Petitioners' contentions that MECO raised its arguments for the first time on appeal are wrong.

Before the trial court, MECO argued that summary judgment was improper because there was conflicting evidence "as to when [MECO] discovered, or should have discovered, its causes of action against [Petitioners] for not paying [MECO]." (R. p. 123.) MECO pointed to "issu[ance] [of] invoices (on a net-30 basis) that were due on September 26, 2019," and "[MECO's] prior lien" which "is evidence that [MECO] last did work at Westar on September 21, 2019." (R. p. 124.) Therefore, MECO argued, the "prior lien compared with [MECO]'s testimony and [MECO]'s invoices due September 26 are all conflicting evidence of when [MECO] finished work at Westar and when [MECO] discovered, or should have discovered, its causes of action against [Petitioners]—which of course is a material fact." (R. p. 124.) As MECO argued in its memorandum in opposition to summary judgment in the trial court, because "the work was not even complete until September 21, 2019, Defendant's payment obligations for the work [MECO] did at Westar could not possibly have been breached in August." (R. p. 132.) The trial court rejected this argument. (R. p. 14–15 ("It is clear from [the emails] that as of [August 8, 2019], MECO's cause of action for payment of the past due invoices had accrued.").)

In holding that there was a genuine issue of material fact regarding when the statute of limitations accrued for the breach of contract action, the Court of Appeals merely agreed with MECO's principal argument: that the disputed evidence could support a finding that the statute of limitations did not accrue until the project was complete, in September 2019. That has been MECO's argument since the case was pending in the trial court. (See R. p. 132.) This argument was presented below and rejected by the trial court; thus, it was properly preserved for appeal.

VI. There are no "special and important reasons" to grant the petition for writ of certiorari.

This Court grants petitions for certiorari only when there are "special and important reasons" to justify review. Rule 242, SCACR; see also Haggins v. State, 377 S.C. 135, 136, 659 S.E.2d 170 (2008) ("This court has held that it will grant certiorari to the Court of Appeals 'only where special reasons justify the exercise of that power.'") (citing In re: Exhaustion of State Remedies in Criminal and Post-Conviction Relief Cases, 321 S.C. 563, 471 S.E.2d 431 (2007)). Petitioners do not identify, and there do not exist, special and important reasons for this Court to disturb the Court of Appeals' judgment here.

The following, while neither controlling nor fully measuring the Supreme Court's discretion or power to grant review in general, indicate the character of reasons which will be considered on appellate review: (1) whether there are novel questions of law; (2) whether there is a dissent in the decision of the Court of Appeals; (3) whether the decision of the Court of Appeals is in conflict with a prior decision of the Supreme Court; (4) whether substantial constitutional issues are directly involved; and (5) whether a federal question is included and the decision of the Court of Appeals conflicts with a decision of the United States Supreme Court. Rule 242, SCACR. None of these reasons apply here. Whether disputes of fact about when MECO's claim accrued prevent summary judgment presents no novel question of law. There was no dissenting opinion in the Court of Appeals, the Court of Appeals' opinion is not in conflict with an earlier decision of the Supreme Court, and no constitutional issues or federal questions are involved. The Court of Appeals correctly applied the standard for summary judgment, and properly reversed the trial court's erroneous failure to consider all the evidence about when MECO's claims may have accrued. A jury, not a court, must resolve those factual disputes. Petitioners' dissatisfaction with that outcome does not warrant granting their petition and disturbing the Court of Appeals' correct decision under Rule 242, SCACR.

CONCLUSION

For these reasons, Respondent respectfully requests that this Court deny the Petition for Writ of Certiorari.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing "*RETURN TO PETITION FOR WRIT OF CERTIORARI*" was served electronically via E-Mail upon the following counsel of record, this 17th day of August, 2026. I further certify that this Return to Petition for Writ of Certiorari complies with Rule 242, SCACR.

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