

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

The Honorable Crystal M. Rookard, Administrative Law Judge

2024-ALJ-17-0420-CC
Appellate Case No. 2026-000734

MPC Harden, LLC d/b/a 5 Points Saloon, Respondent,

v.

South Carolina Department of Revenue, Respondent,

and

Coley Frank Adams, Intervenor-Appellant.

MPC HARDEN, LLC’S MOTION TO SEAL FINANCIAL RECORDS

Respondent MPC Harden, LLC, d/b/a 5 Points Saloon, respectfully moves pursuant to Rule 41.1, SCRCF, *Ex parte Capital U-Drive-It, Inc.*, 369 S.C. 1, 630 S.E.2d 464 (2006), *Davis v. Jennings*, 304 S.C. 502, 405 S.E.2d 601 (1991), and the South Carolina Supreme Court’s April 15, 2014 Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings, for an order maintaining under seal certain non-public financial records of MPC Harden that were sealed by the Administrative Law Court (“ALC”) and designated by Appellant for inclusion in the appellate record.

This motion is necessary because the Court of Appeals denied Appellant’s motion to seal without prejudice after finding that Appellant failed to make the showing expressly required by

Rule 41.1. See Ex. 1, Order Denying Appellant’s Motion to Seal Without Prejudice, Aug. 12, 2026. Rather than cure the deficiencies identified by the Court, Appellant has taken the position that responsibility for obtaining continued protection now rests with MPC Harden. See Ex. 2, Email Correspondence Regarding Continued Sealing, Aug. 14, 2026. MPC Harden therefore supplies the analysis Rule 41.1 requires so that Appellant’s procedural failure—and decision not to cure it—does not result in public disclosure of MPC Harden’s proprietary financial information.

The requested relief is narrow. MPC Harden seeks only to protect detailed point-of-sale reports reflecting its food, beer, and liquor sales, the percentages of those categories relative to overall sales, and testimony revealing those figures. Public versions may redact those specific figures while corresponding unredacted materials remain available to the Court and the parties under seal.

The procedural history bears directly on Appellant’s present unwillingness to cure the deficiencies identified by this Court. Appellant compelled production of MPC Harden’s confidential financial information; Appellant first moved to seal this information before the ALC; Appellant obtained an order sealing it; Appellant later stipulated that the information remained sealed; Appellant insisted that the information be preserved for his anticipated appeal; and Appellant again moved this Court to seal it. See Ex. 3, June 19, 2026, Appellant’s Consent Motion to Seal Financial Records. After the Court denied that motion without prejudice for failure to comply with Rule 41.1, however, Appellant declined to cure the deficiencies identified by the Court and shifted responsibility for obtaining continued protection to MPC Harden. Ex. 2.

MPC Harden now supplies the analysis necessary to protect information Appellant consistently treated as confidential until required to cure the deficiencies in his appellate motion.

Factual and Procedural History

During the underlying contested licensing proceeding, Appellant sought discovery concerning MPC Harden's food and alcohol sales in an effort to advance his contention that MPC Harden was not sufficiently engaged in the preparation and serving of meals. Following an order granting in part Appellant's motion to compel, MPC Harden produced detailed internal financial information, including monthly point-of-sale reports reflecting sales revenue broken down among food, beer, and liquor and the corresponding percentages of those categories relative to overall sales.

On September 8, 2025, Appellant moved the ALC to seal MPC Harden's financial records. See Ex. 4, September 8, 2025, Intervenor's Motion to Seal. Appellant specifically identified point-of-sale reports reflecting MPC Harden's sales revenue broken down by food, beer, and liquor, together with the corresponding percentages of those categories relative to overall sales. Ex. 4 at 2. Appellant also sought protection for MPC Harden's Rule 30(b)(6) deposition because it addressed the same financial records and sales data. *Id.* Appellant invoked SCALC Rule 6(B)(4) and proposed that unredacted materials remain under seal while corresponding redacted versions remained available for public review. *Id.* at 2–3. Thus, before this appeal, Appellant affirmatively represented that the financial information he had obtained from MPC Harden warranted protection from public disclosure.

On September 11, 2025, the ALC granted Appellant's motion. See Ex. 5, September 11, 2025, Administrative Law Court Order Granting Motion to Seal. The ALC identified the point-of-sale reports, the sales figures reflected in those reports, and related Rule 30(b)(6) testimony. Ex. 5 at 1–2. Relying on SCALC Rule 6(B)(4), the ALC expressly found that the documents “should be filed under seal” and required confidential materials to be maintained in both a redacted copy

for public view and an unredacted copy under seal. *Id.* at 2. The confidentiality of these records therefore did not rest merely on an agreement among counsel; the ALC made an express judicial determination that the materials warranted protection.

The issue arose again during the September 23, 2025 merits hearing. See Ex. 6, September 23, 2025, Hearing Transcript Excerpts. At the outset, the ALC prohibited testimony concerning MPC Harden's food and alcohol sales, the percentages of those sales, and other proprietary financial information. Ex. 6 at 8. Appellant nevertheless sought to preserve that information for purposes of challenging the ALC's ruling on appeal. *Id.* at 10–12 (Appellant seeking preservation of the sales figures and related evidence for appellate review of the motion-in-limine ruling). The parties agreed that the motion-in-limine testimony, transcript, and exhibits could be designated in the appellate record subject to the ALC's existing sealing order. *Id.* at 9.

The ALC then specifically raised whether the parties had ensured that the information would remain under seal. Appellant stipulated that the sales reports and records were sealed. *Id.* at 13 (Appellant stipulating that the sales reports and records were under seal). The ALC likewise expressed concern that MPC Harden's proprietary information and specific financial figures not be available for public consumption. *Id.* The parties proceeded on that understanding while preserving Appellant's right to seek appellate review.

The ALC ultimately granted MPC Harden's motion in limine and excluded Appellant's evidence and argument concerning MPC Harden's food-to-alcohol sales percentages and statutory meal-service theory. See Ex. 7, December 31, 2025, Final Order of the Administrative Law Court, at 2 n.4; Ex. 6 at 8. The ALC's final licensing decision rested on the suitability evidence, the lack of probative evidence connecting MPC Harden to the concerns raised by Appellant, the Department's determination that the licensing requirements were satisfied, and the conditions

imposed through the Restriction Agreement. Ex. 7 at 4, 6–7. Accordingly, the public does not need MPC Harden’s specific financial figures to understand the basis of the ALC’s final decision. Those figures are part of the appellate record principally because Appellant seeks review of the ruling that excluded them.

MPC Harden does not publicly disclose the financial information at issue and treats its sales figures, sales-category percentages, and related point-of-sale data as confidential in the ordinary course of its business. The information reveals details concerning MPC Harden’s revenue composition and commercial performance that are not otherwise publicly available.

On June 19, 2026, Appellant filed a Consent Motion to Seal Financial Records in this Court. Ex. 3. That motion acknowledged that the records contain non-public financial information, that MPC Harden regards the information as commercially sensitive, that the ALC had previously sealed the records, and that the parties consented to continued protection. Appellant’s motion thus continued the position Appellant had taken throughout the proceedings below—that MPC Harden’s financial information should not be publicly disclosed.

The motion, however, did not satisfy Rule 41.1. This Court denied it without prejudice after identifying Appellant’s failure to explain why sealing was necessary, why less drastic alternatives were inadequate, and how the factors required by Rule 41.1 supported sealing. Ex. 1 (denying Appellant’s motion without prejudice for failure to make the showing required by Rule 41.1). Appellant has elected not to supplement, amend, or renew the motion. Instead, Appellant now takes the position that MPC Harden must seek any further protection for the records. Ex. 2, August 14, 2026, Email Correspondence Regarding Continued Sealing.

MPC Harden therefore files this motion to provide the Rule 41.1 showing Appellant omitted and to ensure that Appellant’s procedural failure—and decision not to cure it—does not

result in public disclosure of financial information that Appellant himself sought to seal, the ALC ordered sealed, and the parties preserved for Appellant's appeal under an express expectation of confidentiality.

Argument

South Carolina recognizes a strong presumption of public access to judicial records, but that presumption is not absolute. Rule 41.1 expressly balances public access against the need to protect "truly private or proprietary information from public view." Rule 41.1(a), SCRCP.¹ A party seeking sealing must identify the materials with specificity, explain why sealing is necessary and why less drastic alternatives are inadequate, and address the factors set forth in Rule 41.1(b). See Rule 41.1(b), SCRCP.² MPC Harden satisfies this standard. The information at issue consists of internal point-of-sale reports and related testimony revealing MPC Harden's sales revenue, the division of that revenue among food, beer, and liquor, and the percentages represented by those categories. Those figures disclose the internal revenue composition and commercial performance of a privately held business. They are not publicly disclosed, are maintained as confidential in the ordinary course of MPC Harden's business, and became available to Appellant only through compulsory discovery.

¹ See *Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings*, Appellate Case No. 2013-002681 (S.C. Sup. Ct. Apr. 15, 2014) (requiring a party seeking to seal materials in an appellate court to file an appellate motion to seal even when the lower court or administrative tribunal previously sealed the materials, and directing that the standards set forth in *Ex parte Capital U-Drive-It, Inc.*, 369 S.C. 1, 630 S.E.2d 464 (2006), and *Davis v. Jennings*, 304 S.C. 502, 405 S.E.2d 601 (1991), govern such requests). The Order further directs the appellate clerk to treat the materials as sealed while the motion to seal is pending.

² Because the materials at issue have already been filed with this Court by Appellant and are part of the appellate record, MPC Harden does not separately re-file those same materials with this Motion. Instead, MPC Harden identifies them with specificity herein and requests that the existing unredacted versions remain under seal.

The record confirms the proprietary nature of the information. Appellant moved to seal the records below. Ex. 4. The ALC agreed and expressly ordered that the materials remain under seal. See Ex. 5. Appellant later stipulated that the sales reports and records were sealed. Ex. 6 at 13. The ALC likewise expressed concern that MPC Harden's proprietary information and specific financial figures not be available for public consumption. *Id.* Appellant then sought continued sealing of the same information in this Court. Ex. 3. The character of the information did not change because Appellant failed to provide the analysis required by Rule 41.1 in support of his appellate motion.

Sealing is necessary because disclosure of the actual figures would reveal non-public commercial information that MPC Harden has consistently maintained as confidential. Once those figures are placed on a publicly accessible electronic docket, the disclosure cannot realistically be undone. That concern is not speculative. In *Capital U-Drive-It*, the Supreme Court recognized that once a sealed court file is opened and the information released, a later appellate remedy is unlikely to repair the harm caused by an improper disclosure. 369 S.C. at 8, 630 S.E.2d at 468. The same problem exists here. The information reveals MPC Harden's revenue composition and commercial performance, and its disclosure would provide competitors and other commercial actors with financial information about MPC Harden's business that is not otherwise publicly available. Once disclosed, that information could be obtained, retained, and redistributed, and later sealing could not restore its confidentiality.

MPC Harden does not, however, seek wholesale sealing of the appeal or of documents that can reasonably remain public. The appropriate remedy is targeted redaction. Public versions may disclose the existence and nature of the financial records, the legal arguments concerning those records, the ALC's rulings, the issues presented on appeal, and this Court's disposition. Only the

proprietary financial figures themselves need protection, with corresponding unredacted materials maintained under seal.

The factors identified in Rule 41.1(b) likewise favor the limited protection MPC Harden requests. The first two factors—the need to ensure a fair adjudication and the need to promote witness cooperation—are not the principal considerations here, but both support continued protection. MPC Harden produced the information through compulsory discovery, and the information was addressed through its Rule 30(b)(6) testimony. Allowing compelled proprietary information to become public because of a procedural deficiency in another party’s sealing motion would undermine the fair administration of discovery involving sensitive business information and discourage full cooperation when such information is sought.

The parties’ reliance on an expectation of confidentiality weighs substantially in favor of sealing. Appellant himself sought the original sealing order; the ALC granted it; Appellant later stipulated that the sales reports and records remained sealed; and the ALC expressly stated its concern that MPC Harden’s proprietary information and specific financial figures not be made available for public consumption. Exs. 4–6. The materials were then preserved for appellate review on that understanding. This is therefore not an effort to impose confidentiality after information has already been treated as public. The expectation of confidentiality has existed throughout the litigation and has been repeatedly acknowledged by Appellant and the ALC.

The public or professional significance of the litigation does not require disclosure of MPC Harden’s specific financial figures. The public can evaluate the licensing dispute, the ALC’s rulings, Appellant’s appellate arguments, and this Court’s eventual disposition without knowing MPC Harden’s precise revenue figures or the percentages attributable to particular categories of sales. Indeed, the ALC excluded those figures and resolved the licensing dispute without relying

on them. Exs. 6–7. Conversely, the harm from disclosure is concrete and irreversible: the records reveal non-public information concerning the revenue composition and commercial performance of a privately held business, and once those figures are publicly accessible they may be copied, retained, and disseminated regardless of any later sealing order.

Finally, both the availability of alternatives to sealing and the public interest favor the narrowly tailored relief requested here. MPC Harden does not ask the Court to remove the underlying dispute, the parties’ arguments, or the ALC’s rulings from public view. Redacted versions can remain publicly available while only the specific proprietary figures are withheld and corresponding unredacted materials remain under seal. That approach preserves meaningful public access to the judicial proceeding while protecting the precise information whose disclosure would destroy the confidentiality interest at issue.

The procedural history should not be lost on this Court. Appellant sought these records, compelled their production, moved to seal them, obtained an order sealing them, stipulated that they remained sealed, insisted that they be preserved for appellate review, and then moved this Court to continue that protection. Exs. 3–6. When this Court denied that motion without prejudice and identified the deficiencies in Appellant’s Rule 41.1 showing, Appellant elected not to cure them. Exs. 1–2. That unexplained change in position is difficult to reconcile with Appellant’s repeated prior representations that the records warranted protection. It should not determine whether MPC Harden’s proprietary financial information becomes public.

Conclusion

For the foregoing reasons, MPC Harden respectfully requests that the Court grant this Motion, order that the proprietary financial information identified herein remain under seal in unredacted form, permit appropriately redacted versions of those materials to remain available for

public review, and direct that the materials continue to be treated as sealed while this Motion is pending.

Respectfully submitted,

s/ John R. Alphin

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s/ Whitney Boykin Harrison

Whitney Boykin Harrison
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Aug 18 2026

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

The Honorable Crystal M. Rookard, Administrative Law Judge

Appellate Case No. 2026-000734

MPC Harden, LLC d/b/a 5 Points Saloon,Respondent,

v.

South Carolina Department of Revenue,Respondent,

and

Coley Frank Adams,Intervenor-Appellant.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that, on August 18, 2026, I have served Respondents' Motion to Seal Financial Records at the email addresses listed below pursuant to Rule 262(c)(3), SCACR and Section (d)(1) of the South Carolina's Supreme Court's August 25, 2021 order (Order No. 2021-08-25-02):

rah@harpootlianlaw.com
arh@harpootlianlaw.com
jluther@scalc.net
dana.krajack@dor.sc.gov

s/ John R. Alphin

John R. Alphin,
Attorney for Respondent

J. P. STROM, JR., P.A.
MARIO A. PACELLA*
JOHN R. ALPHIN
AMY E. WILLBANKS
BAKARI T. SELLERS
ALEXANDRA BENEVENTO
KENNEDY EZEKIEL

*ALSO ADMITTED IN GA AND NY



6923 N TRENHOLM ROAD, STE 200
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P: 803-252-4800
F: 803-252-4801
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Aug 18 2026
SC Court of Appeals

August 18, 2026

Via Electronic Mail

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
1220 Senate Street
Columbia, South Carolina 29201

Re: *MPC Harden, LLC, v. SCDOR and Coley Frank Adams*
Appellate Case No. 2026-000734

Dear Ms. Kitchings:

Enclosed please find Respondent's Motion to Seal Financial Records along with the corresponding proof of service. A check for the filing fee is being delivered via courier to the Court. Should you have any questions or concerns, please do not hesitate to contact our office at (803) 252-4800.

Thank you in advance for your attention and consideration in this matter.

Sincerely,

s/John R. Alphin

John R. Alphin, Esquire
Strom Law Firm, LLC

Enclosure

cc: Mr. Jason Luther (via email)
 Mr. Dana Krajsck (via email)
 Mr. Richard Harpootlian (via email)
 Mr. Andrew Hand (via email)

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Aug 18 2026

SC Court of Appeals

Exhibit 1

The South Carolina Court of Appeals

MPC Harden, LLC. d/b/a 5 Points Saloon, Respondent,

v.

South Carolina Department of Revenue, Respondent,

and

Coley Frank Adams, Intervenor, Appellant.

Appellate Case No. 2026-000734

ORDER

On July 9, 2026, Respondent MPC Harden, LLC d/b/a 5 Points Saloon (Respondent MPC Harden) filed a motion to dismiss, arguing the appeal was moot because the challenged 2024-2026 liquor-by-the-drink license had been issued to Respondent MPC Harden by the South Carolina Department of Revenue and Respondent MPC Harden's 2026-2028 license had been renewed without protest. Appellant filed a return, opposing the motion. Respondent MPC Harden did not file a reply.

After careful consideration, Respondent MPC Harden's motion to dismiss is denied without prejudice to Respondent MPC Harden briefing mootness in its initial brief.

On June 19, 2026, Appellant filed a consent motion to seal financial records. However, the motion does not comply with Rule 41.1(b) of the South Carolina Rules of Civil Procedure, which requires the moving party to state the reasons why sealing is necessary, explain why less drastic alternatives to sealing will not afford adequate protection—particularly with respect to the deposition and transcript documents—and address the following factors:

- (1) ensuring the parties' right to a fair trial or hearing;
- (2) the need for witness cooperation;
- (3) the reliance of the

parties upon expectations of confidentiality of the proceeding; (4) the public or professional significance of the proceeding; (5) the perceived harm to the parties from disclosure; (6) why alternatives other than sealing the documents are not available to protect legitimate private interests; and (7) why the public interest, including, but not limited to, the public health and safety, is best served by sealing the documents.

See also Ex parte Capital U-Drive-It, Inc., 369 S.C. 1, 12, 630 S.E.2d 464, 470 (2006). After careful consideration, Appellant's consent motion to seal is denied without prejudice.

Wish Carter

J.

FOR THE COURT

Columbia, South Carolina

cc:

Richard A. Harpootlian, Esquire

Andrew R. Hand, Esquire

Jason Phillip Luther, Esquire

Dana Robert Krajack, Esquire

John R. Alphin, Esquire

Whitney Boykin Harrison, Esquire

FILED
Aug 12 2026

Exhibit 2

From: [Andrew Hand](#)
To: [John Alphin](#); [Whitney Harrison](#)
Cc: [Denesha Staley](#); [Dick Harpootlian](#); jluther@scalcn.net; Dana.Krajack@dor.sc.gov; holli@harpootlianlaw.com; [Info](#); [State Filing](#); [Amy Starr](#); jason.p.luther@gmail.com; courtorders@dor.sc.gov
Subject: RE: MPC Harden, LLC v. SCDOR 2026-000734
Date: Friday, August 14, 2026 11:05:36 AM

John,

We already filed our motion and the basis of it was precisely what you outlined below—that the ALC ordered this information sealed and that order should continue in effect as the law of the case unless and until this Court rules otherwise. This Court has now ruled otherwise, and if the Respondent wishes to have this information sealed, I think the onus is on you to file a motion to seal your client’s records or a motion to reconsider. Consistent with our position at the ALC, if you file such a motion, we will not oppose it.

Andrew

From: John Alphin <jalphin@stromlaw.com>
Sent: Friday, August 14, 2026 10:57 AM
To: Whitney Harrison <wharrison@mcgowanhood.com>
Cc: Andrew Hand <arh@harpootlianlaw.com>; Denesha Staley <dstaley@sccourts.org>; Dick Harpootlian <rah@harpootlianlaw.com>; jluther@scalcn.net; Dana.Krajack@dor.sc.gov; [Holli Miller](mailto:holli@harpootlianlaw.com) <holli@harpootlianlaw.com>; [Info](#) <info@harpootlianlaw.com>; [State Filing](#) <statefiling@stromlaw.com>; [Amy Starr](#) <astarr@mcgowanhood.com>; jason.p.luther@gmail.com; courtorders@dor.sc.gov
Subject: Re: MPC Harden, LLC v. SCDOR 2026-000734

Ms. Staley:

The redacted information was previously sealed by Order of the Administrative Law Court and is highly confidential business information. We would respectfully asked that Mr. Hand refile his Motion to Seal and bring it into compliance with the Court’s Rule on sealing.

John Alphin
Strom Law Firm, LLC
6923 N. Trenholm Rd.
Columbia, SC 29206
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www.stromlaw.com
(803)252-4800

On Aug 14, 2026, at 10:40, Whitney Harrison <wharrison@mcgowanhood.com> wrote:

Warning – This email originated outside the Strom Law email system!

Ms. Staley,

The material that was being redacted is information tied to my client, Respondent. I'm currently on medical leave. We will be getting back with the court on this but for the time being, please do not place the unredacted version on public c track.

Thank you.

Whitney
Sent from my iPhone

On Aug 14, 2026, at 10:33 AM, Andrew Hand
<arh@harpootlianlaw.com> wrote:

Ms. Staley,

We agree.

Thank you,

Andrew

From: Staley, Denesha <dstaley@sccourts.org>
Sent: Friday, August 14, 2026 10:21 AM
To: Andrew Hand <arh@harpootlianlaw.com>; Dick Harpootlian <rah@harpootlianlaw.com>; jalphin@stromlaw.com; Whitney Harrison <wharrison@mcgowanhood.com>; jluther@scalcn.net; dana.krajack@dor.sc.gov
Cc: Holli Miller <holli@harpootlianlaw.com>; Info <info@harpootlianlaw.com>; statefiling@stromlaw.com; astarr@mcgowanhood.com; jason.p.luther@gmail.com; courtorders@dor.sc.gov
Subject: RE: MPC Harden, LLC v. SCDOR 2026-000734

If all parties agree, the unredacted version filed on 06/19/2026 is sufficient.

From: Andrew Hand <arh@harpootlianlaw.com>
Sent: Wednesday, August 12, 2026 2:38 PM
To: Staley, Denesha <dstaley@sccourts.org>; Dick Harpootlian <rah@harpootlianlaw.com>; jalphin@stromlaw.com; Whitney Harrison

<wharrison@mcgowanhood.com>; jluther@scalcn.net;
dana.krajack@dor.sc.gov

Cc: Holli Miller <holli@harpootlianlaw.com>; Info
<info@harpootlianlaw.com>; statefiling@stromlaw.com;
astarr@mcgowanhood.com; jason.p.luther@gmail.com;
courtorders@dor.sc.gov

Subject: RE: MPC Harden, LLC v. SCDOR 2026-000734

***** EXTERNAL EMAIL:** This email originated from outside the organization. Please exercise caution before clicking any links or opening attachments. ***

Ms. Staley,

Thank you for sharing the Court's order with us. I note that when we filed our initial brief on June 19, we submitted both redacted and unredacted copies of the brief pursuant to our motion to seal. Would the Court like for us to re-submit the unredacted version, or will that brief simply be filed into the public record now that the Court has ruled on that issue? We're happy to proceed however the Court prefers on this issue. For reference, the file-stamped copy of our unredacted brief is attached here.

Very respectfully,

Andrew Hand
Attorney for Appellant

From: Staley, Denesha <dstaley@sccourts.org>

Sent: Wednesday, August 12, 2026 9:24 AM

To: Dick Harpootlian <rah@harpootlianlaw.com>; Andrew Hand
<arh@harpootlianlaw.com>; jalphin@stromlaw.com; Whitney Harrison
<wharrison@mcgowanhood.com>; jluther@scalcn.net;
dana.krajack@dor.sc.gov

Cc: Holli Miller <holli@harpootlianlaw.com>; Info
<info@harpootlianlaw.com>; statefiling@stromlaw.com;
astarr@mcgowanhood.com; jason.p.luther@gmail.com;
courtorders@dor.sc.gov

Subject: MPC Harden, LLC v. SCDOR 2026-000734

Good morning,

Attached please find correspondence from the South Carolina Court

of Appeals.

PLEASE DO NOT RESPOND TO THIS EMAIL.

Send **ALL** correspondence to ctappfilings@sccourts.org **only**. Any parties not included in this email will receive the attached correspondence via US Mail.

<image001.jpg>

Denesha M. Staley
Senior Appeals Specialist
South Carolina Court of Appeals
1220 Senate Street
Columbia, SC 29201
Filings: ctappfilings@sccourts.org
Phone: (803) 734-1890

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# Exhibit 3

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**Jun 19 2026**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM THE ADMINISTRATIVE LAW COURT

The Honorable Crystal M. Rookard, Administrative Law Judge

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v.

South Carolina Department of Revenue,

Respondent,

and

Coley Frank Adams,

Intervenor-Appellant.

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**CONSENT MOTION TO SEAL  
FINANCIAL RECORDS**

---

Appellant Coley Frank Adams hereby respectfully requests that he be permitted to file under seal certain of Respondent MPC Harden, LLC's ("Saloon") financial records produced in discovery in this case, and also to file a redacted version of his brief that references Saloon's financial data. The basis for this motion is as follows:

1. This is an appeal from the South Carolina Administrative Law Court concerning the South Carolina Department of Revenue's denial of Respondent Saloon's liquor-by-the-drink license and the ALC's subsequent decision to grant Respondent's license pursuant to certain conditions. Appellant, who was an intervenor in the proceedings below, appealed from the ALC's Final Order and Order Denying Motion for Reconsideration on March 20, 2026.

2. During the contested case proceeding before the ALC, Saloon produced certain records reflecting point-of-sale data and tabulations of its revenues broken down by categories of products sold. Saloon produced these records intending them to be confidential because they reflect non-public financial data that Saloon considers commercially sensitive. Adams did not challenge Saloon's assertion of confidentiality, and on September 11, 2025, the ALC ordered those records sealed.

3. Adams seeks to include these sales reports in the record on appeal in this case, along with the deposition transcript of Saloon's Rule 30(b)(6) witness wherein these sales reports were made exhibits and discussed by the witness, as well as the transcript of the September 10, 2025 hearing on Saloon's motion *in limine* where these records were likewise discussed and made exhibits. Adams likewise seeks to reference that data in his initial brief for the Court's consideration.

4. Given that the ALC has already ordered these records sealed, Adams files this motion in an effort to adhere to the lower court's rulings. Adams respectfully submits that these records ought to continue to be sealed unless and until this Court rules otherwise, and that Adams should be permitted to submit these records under seal and to file a redacted version of his brief that removes references to Saloon's sales data.

5. The undersigned counsel has conferred with counsel for both Respondents concerning this request. Respondents consents to the relief requested herein.

WHEREFORE, Appellant respectfully requests that he be permitted to include the above-referenced records in the record on appeal in this case under seal, and further requests that he be permitted to file a redacted version of his initial brief that removes references to Saloon's sales data.

Respectfully submitted,

s/ Richard A. Harpootlian

Richard A. Harpootlian, SC Bar No. 2725

Andrew R. Hand, SC Bar No. 101633

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*Attorneys for Appellant Coley Frank Adams*

June 19, 2026

Columbia, South Carolina

**RECEIVED**

**Jun 19 2026**

**SC Court of Appeals**

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South Carolina Department of Revenue,

Respondent,

and

Coley Frank Adams,

Intervenor-Appellant.

**CERTIFICATE OF SERVICE**

I, Holli Miller, paralegal to Richard A. Harpootlian, P.A., located at 1410 Laurel Street, Columbia, South Carolina 29201, hereby certify that on June 19, 2026, did serve, via email, the following document to the below counsel:

Document: Appellant's Motion to Seal

Served: John R. Alphin  
Strom Law Firm, LLC  
6923 N. Trenholm Road, Suite 200  
Columbia, South Carolina 29206  
jalphin@stromlaw.com

Whitney B. Harrison  
McGowan Hood Felder & Phillips  
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---

Holly Miller

# Exhibit 4

**STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT**

MPC Harden, LLC d/b/a 5 Points Saloon,

Petitioner,

vs.

South Carolina Department of Revenue,

Respondent,

and

Coley Frank Adams,

Intervenor.

C/A No.: 24-ALJ-17-0420-CC

**MOTION TO SEAL**

Intervenor Coley Frank Adams (“Intervenor”) hereby moves to seal certain of Petitioner MPC Harden, LLC’s (“Petitioner” or “Saloon”) financial information included in, and attached as exhibits to, his supplement to his response in opposition to Petitioner’s Motion in Limine filed on April 24, 2025.

On July 9, 2025, the Court issued an order granting in part Intervenor’s motion to compel certain of Petitioner’s financial information bearing on the issue of the volume of Petitioner’s food sales relative to its alcohol sales. At the conclusion of the order, the Court directed that “Petitioner shall provide a confidentiality order to Intervenor regarding any information it believes to be proprietary to the business and that contains confidential and trade secret information.” The order further directed that, “[i]f these documents are filed with the Court, they shall comply with SCALC Rule 6.”

To date, Petitioner has not provided Intervenor with a proposed confidentiality order. However, Petitioner has informed Intervenor that it does seek to designate these records as



confidential. Thus, given the Court's directions in its July 9 order and anticipating that Petitioner will move to make these records confidential, Intervenor files this motion to seal that information, is filing a redacted version of its supplement that omits Petitioner's financial records and information, and is submitting an unredacted version of the supplement to the Court for *in camera* review pursuant to SCALC Rule 6.

More particularly, the records that Intervenor seeks to seal are a series of reports from Petitioner's point-of-sale system showing, among other figures, its sales revenue broken down by food, beer, and liquor, along with corresponding percentages of those categories relative to its overall sales. The reports are generated on a monthly basis and span from August 2022 through June 2025. They are attached as Exhibit A to Intervenor's supplement. Further, on August 27, 2025, Intervenor took the Rule 30(b)(6) deposition of Petitioner, wherein Petitioner confirmed that these reports and the figures contained therein are a true and accurate reflection of Petitioner's sales figures. A transcript of that deposition is attached to Intervenor's supplement as Exhibit B. Because Petitioner's deposition concerned mostly its financial records and sales data, Intervenor seeks to seal that transcript as well in its entirety.

SCALC Rule 6(B)(4) provides that "[a]ny person filing a document with the court should exercise caution in including other sensitive personal data in the filings, such as . . . individual financial information, [or] proprietary or trade secret information . . . ." It further provides that, "[u]pon motion by the person filing the document, a party, or an affected nonparty, the court may order the unredacted documents to be sealed and order the person to file the redacted versions for public view."

While Petitioner has not yet submitted a proposed confidentiality order for this information, it has signaled its intention to do so, and Intervenor believes that it is the kind of information to

which courts typically provide confidentiality protection. Given the Court's directive in its July 9 order, Intervenor anticipates that the Court will indeed provide confidential protection to this information; thus, Intervenor is filing a redacted version of its supplement which omits this information, and submitting an unredacted version of its supplement to the Court for *in camera* review. This will allow the Court to review the unredacted information both in its consideration of this motion to seal and Petitioner's motion in limine, but will shield this information from public view until such time as the Court has made its ruling about the confidential nature of this information.

WHEREFORE, Intervenor respectfully requests that the Court permit Intervenor to file under seal an unredacted copy of its supplement to his response in opposition to Petitioner's motion in limine which contains certain of Petitioner's financial data and information, and to file a redacted version of that supplement into the public record which omits this information

Respectfully submitted,



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*Attorneys for Intervenor Coley Frank Adams*

September 8, 2025  
Columbia, South Carolina.

# Exhibit 5

**STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT**

MPC Harden, LLC, d/b/a 5 Points Saloon,

Petitioner,

v.

South Carolina Department of Revenue,

Respondent,

and

Coley Frank Adams,

Intervenor.

Docket No. 24-ALJ-17-0420-CC

**ORDER**

This matter is before the South Carolina Administrative Law Court pursuant to a request for contested case hearing filed on December 12, 2024, by MPC Harden, LLC, d/b/a 5 Points Saloon (Petitioner), challenging the South Carolina Department of Revenue's (Department) denial of an on-premises beer and wine permit, and a business liquor by the drink license renewal pursuant to sections 61-4-525 and 61-6-1825 of the South Carolina Code (2022).<sup>1</sup> On February 6, 2025, Protestant Coley Frank Adams (Intervenor) filed a Motion to Intervene, which this Court granted on March 6, 2025. On April 14, 2025, Intervenor filed a Motion to Compel Discovery. On April 24, 2025, Petitioner filed a Motion in Limine. The Court held a motions hearing on June 3, 2025 where the parties agreed to present their arguments with respect to only the Motion to Compel. The Motion to Compel was granted in part on July 9, 2025.

Thereafter, the Intervenor filed a Motion to Seal (Motion) on September 8, 2025. The Court held a subsequent motions hearing on Petitioner's Motion in Limine on September 10, 2025. At the motions hearing, neither Respondent nor Petitioner objected to the Motion. The Motion set forth that certain portions of financial information provided by Petitioner should be designated as confidential. Specifically, Intervenor seeks to seal:

a series of reports from Petitioner's point-of-sale system showing,  
among other figures, its sales revenue broken down by food, beer,

---

<sup>1</sup> On July 9, 2024, Petitioner submitted a renewal application with the Department for its on-premises beer and wine permit, and business liquor by the drink license. The South Carolina Law Enforcement Division conducted a standard investigation of the location and found that the location met the statutory requirements for licensure. The Department indicated they would have issued the permit and license but for the public protest submitted by Coley Frank Adams.



and liquor, along with corresponding percentages of those categories relative to its overall sales. . . . Further, on August 27, 2025, Intervenor took the Rule30(b)(6) deposition of Petitioner, wherein Petitioner confirmed that these reports and the figures contained therein are a true and accurate reflection of Petitioner's sales figures.

At the motions hearing, the Court granted the Motion via a bench ruling prior to certain exhibits being entered into evidence. However, the Court now takes the opportunity to expand upon its ruling. Rule 6(B)(4) of the Rules of Procedure for the Administrative Law Court (SCALC Rules) provides that “[a]ny person filing a document with the court should exercise caution in including other sensitive personal data in the filings, such as . . . individual financial information, [or] proprietary or trade secret information . . .” This rule further provides that the Court may “order the unredacted documents to be sealed and order the person to file the redacted versions for public view.” Upon careful review and consideration of the Motion, the Court finds the documents should be filed under seal. As such, for information the parties seek to designate as confidential, parties shall provide a redacted copy for public view and an unredacted copy under seal for Court review. Parties shall continue to comply with SCALC Rule 6 for documents made under seal.

**IT IS THEREFORE ORDERED** that the Motion is **GRANTED**.

**AND IT IS SO ORDERED.**

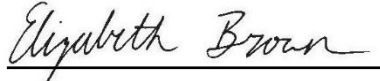
---

The Honorable Crystal M. Rookard  
South Carolina Administrative Law Judge

September 11, 2025  
Columbia, South Carolina

**CERTIFICATE OF SERVICE**

I, Elizabeth Brown, hereby certify that I have 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).



Elizabeth Brown  
Judicial Law Clerk

September 11, 2025  
Columbia, South Carolina

# Exhibit 6

OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT DIVISION  
Docket No. 24-ALJ-17-0420-CC

MPC Harden, LLC, d/b/a )  
Five Points Saloon, )  
 )  
Petitioner, )  
 )  
v. )  
 )  
South Carolina Department of )  
Revenue, )  
 )  
Respondent. )  
----- )

**ADMINISTRATIVE HEARING**

\*\*\*\*\*

**Tuesday, September 23, 2025**  
10:02 a.m. - 11:33 a.m.

The hearing before the Honorable Crystal M. Rookard was taken at the Edgar A. Brown Building, 1205 Pendleton Street, Suite 224, Columbia, South Carolina, on the 23rd day of September, 2025 before M. Sean Cary, Court Reporter and Notary Public in and for the State of South Carolina.



**CREEL COURT REPORTING, INC.**  
1230 Richland Street / Columbia, SC 29201  
(803) 252-3445 / [contact@creelreporting.com](mailto:contact@creelreporting.com)

**APPEARANCES****John Alphin, Esquire****Whitney Harrison, Esquire**

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**Dana Krajack, Esquire**

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**Andrew Hand, Esquire****Holli Miller, Esquire**

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Co-Counsel for Protestant

**Also Present:**

Frank Adams, Protestant  
Erica Preston, Law Clerk  
Max Minnillo, clients  
Connor Hobbs, clients



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## EXHIBITS

(All exhibits were marked prior to the hearing and introduced as follows.)

|                                                |           |
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| <b>Protestant's Exhibit Number 1 . . . . .</b> | <b>47</b> |
| (Protest Form)                                 |           |
| <b>Petitioner's Exhibit Number 3 . . . . .</b> | <b>30</b> |
| (Restriction Agreement)                        |           |

## STIPULATIONS

It is stipulated and agreed that this hearing is being taken pursuant to the rules of the Administrative Law Court and the South Carolina Rules of Civil Procedure.



1 CALL TO ORDER:

2 **THE COURT:** As everyone knows, I am Crystal M.  
3 Rookard. I'm the judge assigned to this  
4 matter. And today is Tuesday, September 23rd,  
5 2025. It is 10:02 a.m. And for the record,  
6 we're handling the matter of MPC Harden, LLC,  
7 doing business as Five Points Saloon, correct?

8 **MR. KRAJACK:** Yes, Your Honor.

9 **THE COURT:** Docket number 24 ALJ 17 0420 CC. Okay.  
10 I have a few things I want to go over,  
11 housekeeping matters, before we get officially  
12 started. We are officially started, but I want  
13 to do some housekeeping things. I just wanted  
14 to make sure, for the record, are the parties  
15 in agreement that the beer and wine permit has  
16 been granted?

17 **MR. ALPHIN:** It has been granted, Your Honor. It's  
18 already been renewed.

19 **THE COURT:** Okay. And if so, were there any  
20 stipulations attached to it?

21 **MR. ALPHIN:** There are. The Five Points Agreement  
22 was executed, which applies to all -- most of  
23 the restaurants in Five Points.

24 **THE COURT:** And that Five Points Agreement, is that  
25 based on that Settlement Agreement from 2021



1 with the 17 stipulations?

2 **MR. ALPHIN:** It's been redone a little bit, but yes,  
3 ma'am.

4 **THE COURT:** If you don't mind, for this particular  
5 matter, I would like to have a copy of it, if  
6 that's okay? Because I was not on notice until  
7 I read -- well, I think someone alluded to it  
8 at one point, but I didn't remember hearing it  
9 when I read the draft order. It was a footnote  
10 that brought it, sort of clear, brought it to  
11 my attention. So I just wanted to make sure I  
12 was clear. And you don't have to do it today,  
13 Mr. Alphin. I just want to make sure I have a  
14 copy for the record.

15 **MR. ALPHIN:** Yes, Your honor.

16 **THE COURT:** Just me being nitpicky, new judge kind  
17 of thing. It's probably neither here or there  
18 because y'all are on notice of it, but if I  
19 read something, I don't know what that is, let  
20 me -- let me read that, okay?

21 **MR. ALPHIN:** I have copies of them right here, if  
22 you'd like, Your Honor. I can hand them up.

23 **THE COURT:** It's no rush. It's no rush. Just, if  
24 you flag it at some point when there's a break,  
25 if you hand it up, we'll be happy to make



1           copies for you.

2       **MR. ALPHIN:** Yes, ma'am. And I also have a copy of  
3           their new license as well for the beer and  
4           wine, for the record.

5       **THE COURT:** Very good. Very good. And so just to  
6           be clear for the record, today we're only  
7           dealing with the liquor by the drink license,  
8           correct?

9       **MR. KRAJACK:** That's correct, Your Honor.

10      **MR. ALPHIN:** Yes, Your Honor.

11      **THE COURT:** And since I hate to say it, I'm  
12           assuming, but I'm assuming that when you looked  
13           at the initial protest, there was not a check  
14           the box on the beer and wine? Was it that  
15           simple?

16      **MR. ALPHIN:** Correct, Your Honor.

17      **MR. HAND:** That's correct, Your Honor. I have  
18           copies of it for the Court.

19      **THE COURT:** Okay. And you don't have to search for  
20           it, Mr. Hand. My questions are somewhat  
21           leading.

22      **MR. HAND:** Sure.

23      **THE COURT:** But I just wanted to make sure I was  
24           clear because I didn't want to become hopeful  
25           that you all had come to some sort of



1 settlement agreement. And that's why that was  
2 emphasized in the order. Has there been any  
3 further settlement discussions among the  
4 parties to attempt to resolve this?

5 **MR. HAND:** No, Your Honor.

6 **THE COURT:** One can -- as far as the petitioner's  
7 motion in limine, I have made a decision, and  
8 I guess it's clear that I did not do -- I did  
9 not respond to either one of your orders. But  
10 I would like to take a few minutes to talk to  
11 the attorneys. If you could walk back to my  
12 chambers, I really would appreciate it.

13 **MR. HAND:** Yes, Your honor.

14 **MR. ALPHIN:** Yes, Your Honor.

15 (Off the record from 10:06 a.m. to 10:19 a.m.)

16 **DECISION ON MOTION IN LIMINE:**

17 **THE COURT:** I'm going to deal with the motion in  
18 limine. First of all, the petitioner's motion  
19 is granted in part with -- and I have some  
20 specific parameters to go along with it.  
21 First, and I guess I just want to be clear,  
22 even though we're granting it, it should be  
23 clear, but I want to make sure I put it on the  
24 record. There'll be no testimony about the  
25 proprietary business information. It's not



1           allowed. For the sake of clarification, this  
2           means the food and alcohol sales and the  
3           percentages of food and alcohol sales are not  
4           allowed. Second, I want to be absolutely  
5           certain that we are not discussing any  
6           proprietary business information, financial  
7           information of Five Points Saloon. There'll be  
8           no discussion regarding that. And then,  
9           because I'll stop there. Second, of course,  
10          intervener can testify to what he or she knows  
11          from direct observation, subject to timely  
12          objections and cross-examination. And of  
13          course, the department can introduce evidence,  
14          as it sees fit, regarding the liquor by the  
15          drink license in relation to its statutory  
16          authority. Are there any responses from the  
17          parties?

18       **MR. HAND:** No, Your Honor. We would just ask, that  
19               as part of these proceedings, we, I understand  
20               the Court's ruling, we be permitted to do a  
21               proffer for this information just for recall  
22               purposes.

23       **MR. ALPHIN:** That information's already in the  
24               record from their motion, the motion in limine  
25               hearing, so that's already on the record for



1 the purposes of appeal. So they shouldn't need  
2 to proffer it at all.

3 **THE COURT:** We'll be in recess for 10 minutes.  
4 Everyone, thank you for your patience. This is  
5 a lot of lawyer wrangling and you're all up and  
6 down, up and down. But thank you for your  
7 patience.

8 **(Off the record from 10:22 a.m. to 10:38 a.m.)**

9 **THE COURT:** Okay. All right, gentlemen, what do you  
10 have for me?

11 **MR. HAND:** I believe we've come to an understanding.  
12 We had asked to do the proffer, but I believe  
13 we're going to stipulate on the record that  
14 everything from the motion in limine hearing  
15 is, can be properly designated.

16 **MR. ALPHIN:** It's properly preserved and can be  
17 designated in the final record.

18 **MR. HAND:** Okay. And including the testimony, the  
19 transcript and the exhibits that were offered  
20 into evidence subject to the ---

21 **MR. ALPHIN:** --- the sealed order that you've  
22 already issued ---

23 **MR. HAND:** --- that they'd be understood.

24 **THE COURT:** Okay, so this is my concern. My concern  
25 is one, I -- we -- I've read the case law. My



1           folks have pulled it for me. I understand  
2           you're attempting to preserve the record for  
3           the appeal.

4   **MR. HAND:** Yes, Your Honor.

5   **THE COURT:** And you both have stipulated to it. My  
6           concern is making a ruling on the record. My  
7           -- and I'm not saying this is final, I don't  
8           know if we need to go back to chambers or not.  
9           My primary concern is the numbers with  
10          proprietary information about this business, I  
11          do not think there's any business being part of  
12          the record. I get your argument about the  
13          percentages, but I am concerned about that  
14          becoming a part of this record because I do not  
15          think that's the matter before me. It almost  
16          is forcing this Court to get into a  
17          constitutional argument about the statutes, and  
18          that's really my concern. What do you ---

19   **MR. HAND:** Your Honor, I don't -- I think the  
20          numbers, the data, it's just information. And  
21          of course, we had our substantive arguments at  
22          the motion in limine hearing. I think part of  
23          what we would be appealing from would be the  
24          order on the motion in limine. And in order  
25          for an appellate Court to review that ruling,



1           they would need to have that information that  
2           was submitted into the record in the motion in  
3           limine hearing.

4       **THE COURT:** I get that, but don't they need to have  
5           an actual ruling from me saying what I just  
6           said, that the information is excluded? And  
7           then you're appealing my decision to exclude  
8           the information. So it's almost as if you have  
9           to proffer it. And I think you're both trying  
10          to be helpful in stipulating on the record so  
11          that we can just move on from this. But from  
12          a technical perspective, I think it's my  
13          decision that's being appealed, not the  
14          decision that you both are making for me, in  
15          essence, by stipulating it, if I'm clearly  
16          hearing both parties.

17       **MR. HAND:** I think it would be the Court's decision  
18          that we would be appealing, but part of the  
19          record of that decision, I think what we would  
20          be appealing is both the ruling on the motion  
21          in limine and the final order that the Court  
22          issues. I guess, theoretically, they could be  
23          part of the same order. I've seen that done  
24          before. And then part of the record on appeal  
25          would be the information and the exhibits we



1 submitted in support of the motion in limine,  
2 which would include the sales figures, the  
3 testimony that was offered at the hearing. And  
4 before we get too far away from it, I believe  
5 we're also going to stipulate that the  
6 financial records that were submitted into  
7 evidence during the motion in limine hearing  
8 are authentic. I mean that otherwise I'd have  
9 to get Mr. Minnillo on record to authenticate  
10 it.

11 **MR. ALPHIN:** And he said all that in his 30(b)(6)  
12 testimony, so I think all that's preserved as  
13 well. And I think the transcript of this  
14 hearing will be part of the record as well, so  
15 your order of granting the motion in limine  
16 will be part of the record, and I think that's  
17 all that they need for purposes of the  
18 appellant record.

19 **THE COURT:** Okay. I just, I want to be very precise  
20 about this and not expand. My intent is to  
21 keep this narrow in scope, and I don't want to  
22 inadvertently expand it into some -- into  
23 arguments that I was not contemplating, unless  
24 those are proven through testimony today. And  
25 so that really is my concern. Has there been



1           any discussion between the parties about making  
2           sure it's under seal? I'm just ---

3   **MR. HAND:** We stipulate that the sales reports and  
4           records provided are under sealed.

5   **MR. ALPHIN:** And Your Honor has already issued an  
6           order on September the 11th sealing all those  
7           materials.

8   **THE COURT:** And I appreciate that reminder. I just,  
9           I'm just really concerned again, that the  
10          proprietary information of this business and  
11          the specific numbers should not be available  
12          for public consumption.

13   **MR. ALPHIN:** And we'll make sure that on appeal that  
14          they are also under seal for the appellate  
15          Court.

16   **THE COURT:** Sure.

17   **MS. HARRISON:** Your Honor, because you already have  
18          issued an order on sealing it, that the Court  
19          of Appeals or the Supreme Court would honor for  
20          sealing. And so if we were in a situation  
21          where you had not sealed, we would potentially  
22          have to have another discussion. But because  
23          you've already made that decision, the  
24          appellate Court will honor that space. And so  
25          that portion is preserved and no issue with



1           that. And I agree with both Mr. Alphin and Mr.  
2           Hand that any type of motion in limine  
3           materials that were already put forth by the  
4           Court is something that would properly be in a  
5           record on appeal. That being said, I think  
6           that your concern about it staying near  
7           certainly would be a position that I think, I'm  
8           free to say from our side, we would be taking  
9           on if they were to appeal that issue. We would  
10          be saying you would analyze the situation in a  
11          narrowly tailored way, and we would be saying  
12          that the Court shouldn't be expanding beyond  
13          the narrow tailoring without like giving more  
14          argument to something that hasn't been done  
15          yet. But I hear your concern and I think that  
16          this transcript will reflect that concern along  
17          with any order, if that's something that you so  
18          chose to continue.

19       **THE COURT:** Thank you all. I just wanted to be very  
20          careful about my rulings in this particular  
21          record. So finally, we can move on from all of  
22          that. Is there anything else?

23       **MR. HAND:** Your Honor, I wonder if -- I think we  
24          stopped you when you were talking about your  
25          ruling. So I understand that there was, the



1 motion was, you know, I think you said it was  
2 granted in part, and you ruled that there's to  
3 be no testimony or evidence introduced in this  
4 hearing about the percentage of sales. I  
5 wonder if there was anything else from the  
6 ruling that, you know, about the standing or  
7 authority argument or anything else we would  
8 need to be aware of going into the hearing  
9 today.

10 **THE COURT:** As far as the intervener standing, or,  
11 I'm confused. Can you give me a little bit  
12 more, please.

13 **MR. HAND:** I just wondered if there was any -- the  
14 motion in limine covered a couple of topics.  
15 I just wondered if there was anything  
16 additional from the Court's order other than  
17 excluding the percentage of sales at this time?  
18 They had made an argument that we didn't have  
19 the ability to raise these arguments in the  
20 first instance because it's an issue of  
21 statutory compliance. We argued otherwise. I  
22 didn't know if the Court was prepared to rule  
23 on that or if that was just going to be part of  
24 the final order.

25 **THE COURT:** I'm -- my inclination is to hear the



1 testimony today. I -- from my perspective, the  
2 intervener is in the boat or in the car, as Ms.  
3 Harrison has argued. Once I accepted the  
4 intervener into this matter, I do think there's  
5 a narrow scope on what the intervener can  
6 present, but that would be subject to any  
7 objections today. I think I would just want to  
8 go ahead and hear what the intervener has to  
9 say without getting too much into my specific  
10 concerns as we discussed in chambers. I really  
11 don't want to taint the witnesses on my  
12 thoughts. But I don't have, I decline. I  
13 don't have anything further. That's the  
14 extent of my analysis for the motion in limine.  
15 Just to be clear, my concern is that there's no  
16 testimony about the proprietary today,  
17 proprietary business information, and that  
18 means no food/alcohol sales and no percentage  
19 of food/alcohol sales are not allowed. And so  
20 in essence, I think I'm answering your  
21 question.

22 **MR. HAND:** I believe so, Your Honor. So just, I  
23 want to make sure my witness doesn't get  
24 outside the bounds of the Court's ruling. He  
25 can testify about this issue, generally, why



1           it's important to him and the impact on him and  
2           the community. We're just not offering him the  
3           record, the numbers, the figures.

4   **THE COURT:** From my perspective, and I don't want to  
5           argue the case for you, Mr. Alphin, but for  
6           those records, how would he testify to it? I  
7           mean how literally would he know? Now, he can,  
8           of course, testify to his direct observations,  
9           but he literally wouldn't know any numbers  
10          unless someone showed him some numbers and say,  
11          hey, testify to this.

12   **MR. HAND:** That's correct, Your Honor.

13   **THE COURT:** And so I don't see how he could. I  
14          mean, I don't know how the witnesses for Mr.  
15          Alphin will testify and what they will say, but  
16          unless Mr. Adams has some direct observation --  
17          -

18   **MR. HAND:** Yes, Your Honor, I think he can share his  
19          experience as a member of the neighborhood.

20   **THE COURT:** And of course he can testify that and  
21          he'll be subject to objections and cross-  
22          examination from the parties, and I don't -- I  
23          hope I'm being clear on this.

24   **MR. HAND:** I understand the Court, Your Honor.

25   **THE COURT:** And if you disagree throughout this, of



1 course you're -- please object. I'll be happy  
2 to entertain those objections.

3 **MR. HAND:** Thank you, Your Honor.

4 **THE COURT:** Mr. Alphin, is there anything, did you  
5 have anything based on this ---

6 **MR. ALPHIN:** No, Your Honor.

7 **THE COURT:** --- discussion?

8 **MR. ALPHIN:** We understand. I do think the parties  
9 have agreed to, subject to the Court's approval  
10 of course, waive openings and just have Mr.  
11 Adams testify first, if that meets with the  
12 Court's approval.

13 **THE COURT:** Oh, yes, that's fine. Take care of  
14 something for me so I don't have too much heavy  
15 lifting today. Mr. Adams. So, Mr. Hand, I  
16 give you the floor.

17 **MR. HAND:** Intervener calls Mr. Coley Frank Adams to  
18 the stand.

19 **COURT REPORTER:** Please raise your right hand?

20 **MR. ADAMS:** (Witness complies.)

21 **COURT REPORTER:** Do you solemnly swear or affirm the  
22 testimony you're about to give will be the  
23 truth, the whole truth and nothing but the  
24 truth, so help you God?

25 **MR. ADAMS:** I do.



1     **COURT REPORTER:**    Would you please state your full  
2                            name for the record?

3     **MR. ADAMS:**    Coley Franklin Adams.

4     **COURT REPORTER:**   Thank you, sir.

5     **THE COURT:**    Good morning, sir.

6     **MR. ADAMS:**    Good morning.

7     **COLEY FRANKLIN ADAMS,**   having been duly sworn,  
8                            testifies as follows:

9     **MR. ADAMS - DIRECT EXAMINATION BY MR. HAND:**

10    Q:    Good morning, Mr. Adams.    Could you please  
11           state your, you already did it, your full name  
12           for the record?

13    A:    Coley Franklin Adams.

14    Q:    And where do you live, Mr. Adams?

15    A:    I live on Edisto Avenue in Wells Garden.

16    Q:    And how close is -- tell us where is Edisto  
17           Avenue and Wells Garden?

18    A:    Wells Garden is to the so- -- directly to the  
19           south of Five Points, and my residence is  
20           approximately half a mile from the contested  
21           area.

22    Q:    The contested area being Five Points?

23    A:    Five, well, good point.    Yes, I'm about three  
24           city blocks from Five Points.    And actually,  
25           Five Points was once part of Wells Garden.



1 Q: Yeah, describe, what is Wells Garden, this  
2 neighborhood that you're a member of?

3 A: Wells Garden is a architecturally protected  
4 neighborhood directly to the south of Wells --  
5 of Five Points. It was created in 1912 when  
6 the Columbia Development Company went to city  
7 council and made them an offer of 80 acres of  
8 undeveloped land that they agreed to put in  
9 streets, sidewalks, water and sewer, according  
10 to city specifications and plans, unlike the  
11 other subdivisions that had grown up outside  
12 the city limits. This was the last infill, so  
13 to speak, of Columbia. It was a -- the  
14 brainchild of Edwin Wells, (cough), excuse me,  
15 Edwin Wells Robertson, who, among his other  
16 accomplishments, he founded, the forebearer of  
17 South Carolina Electric and Gas, and he  
18 persuaded the Army to make Fort -- Camp Jackson  
19 a permanent Army installation. So he's also  
20 considered the father of Fort Jackson. He was  
21 very instrumental in development of downtown  
22 Columbia. The Beringer Building, which is  
23 opposite the State House on Main Street, was  
24 developed and built by him, as was the arcade.  
25 Wells Garden was intended to be a rather



1 exclusive neighborhood. Edwin Wells Robertson  
2 had bought up all these hydroelectric dams to  
3 sell electricity to the newly being brought  
4 into Columbia textile mills. Well, he had  
5 excess electricity, so he built a trolley  
6 system, replacing the old mule-driven or pulled  
7 trolley wagons with, at that time, modern  
8 electric trolley lines. And Wells Gardens'  
9 cachet was that it had its own exclusive Wells  
10 Garden route, so you didn't have to ride  
11 through Shandon, or half a dozen area -- other  
12 neighborhoods to get to and from downtown. And  
13 you could -- it came about every hour on the  
14 hour or every half hour on the hour. But to  
15 the point, one of the -- part of the land, at  
16 that time, Wells Garden was recognized as its  
17 most northern border was Green Street. They  
18 had no plans to develop that area because it  
19 was a malaria-infested area swamp. And one of  
20 the things they did to enhance the ability to  
21 price their houses in Wells Garden was to drain  
22 that swamp by building a culvert and deeding it  
23 to the city. And that culvert allowed the  
24 eventual development of Well -- of Five Points.  
25 So even though Wells Garden no longer is



1 associated with Five Points, it always has  
2 been. After World War II, for instance, there  
3 was very patriotic fervor in this community.  
4 And they had patriotic parades, basically, at  
5 the drop of a hat. And one of those, they  
6 always would start near the State Capitol. And  
7 I've got the newspaper accounts say that they  
8 would -- the parade would meander through the  
9 neighborhoods and then arrive at the World War  
10 II Memorial in Wells Garden, which is right  
11 inside on Saluda Avenue off of Blossom. But  
12 Wells Garden has been viewed the success in the  
13 prosperity of Five Points as very essential to  
14 its continued well-being.

15 Q: And how long have you lived in the Wells Garden  
16 neighborhood?

17 A: Two decades.

18 Q: And is that, did you move into the house you  
19 live in now two decades ago?

20 A: Yes, sir.

21 Q: Okay. And what is your address on Edisto?

22 A: 408 Edisto.

23 Q: Okay. And does Wales Garden have a  
24 neighborhood association?

25 A: Yes, it does.



1 Q: Are you involved in the association?

2 A: Very much so.

3 Q: Tell us about your involvement in that  
4 association.

5 A: Well, my beginning involvement was what they  
6 call the street rep, which is just to talk to  
7 your neighbors and talk to the neighborhood  
8 association. But I eventually became vice  
9 president and served about four years as  
10 president, and then in a year as immediate past  
11 president. And now I am the, quote, historian,  
12 and they've asked me to be a liaison with the  
13 students and the landlords and the university.

14 Q: And what do you do in your role as that liaison  
15 with the students and the university and the  
16 landlords?

17 A: Well, it's an evolving one, sir. And  
18 basically, I'm trying to get everybody together  
19 and discuss the advantages of working together  
20 to get better student behavior by trying to get  
21 the landlords more involved so that ideal would  
22 be we would not call the police to solve,  
23 basically, a civil issue. Right now, if you  
24 want to report a wild party of 4 or 500 kids  
25 throwing things and yelling, you have to call



1 the police. It would be a lot better, we  
2 think, if the landlords would instruct their  
3 tenants and, as well as the code enforcement  
4 people would agree, that we could all work  
5 together and get a meeting of minds, rather  
6 than -- create a little community here, rather  
7 than being at war with each other from time to  
8 time.

9 Q: And my point in asking you these questions, it  
10 sounds like from your involvement in the  
11 neighborhood association, you have occasion to  
12 be concerned with, to think about the sorts of  
13 things that are happening in Five Points and  
14 its impact on the Wales Garden community. Is  
15 that fair?

16 A: That is very much true. I think we've worked  
17 with Harpoot- -- Dick Harpootlian to, in his  
18 initial move to curb the number of bars in Five  
19 Points. And I think it went from like 22 down  
20 to 7 or 8.

21 Q: When you say we, you're talking about members  
22 of the Wales Garden community?

23 A: As well as other surrounding neighborhoods.

24 Q: How often do you visit the Five Points  
25 district, Mr. Adams?



1 A: Daily.

2 Q: And what do you go there for?

3 A: Well, I'm either passing through or I go to  
4 Walgreens for my drugstore activity. I either  
5 go down to the Food Lion to buy groceries or I  
6 pop into the Good Books or I eat lunch at,  
7 maybe, Mr. Friendly's, or the last couple  
8 places I've been to was Bar None and also Luna  
9 Kitchen, and I've eaten burgers across the  
10 street, was is it, John Brown's. I sound like  
11 I'm a walking testimony for advertising for  
12 Five Points, but there are a lot of wonderful  
13 places down there to go to.

14 Q: Right. Can you tell me about some of the --  
15 you talked a little bit about it, but the way  
16 that -- what happens in Five Points impacts  
17 you, the Wells Garden neighborhood, the other  
18 members of that community?

19 A: Well, we all have a vested property interest in  
20 our own particular circumstance. But as a  
21 community, we look at Five Points. If it's  
22 vibrant and growing and full of people, full of  
23 shoppers, full of diners, full of party people,  
24 all working together in harmony, that's very  
25 good for our neighborhood. Were it to be the



1           opposite and Five Points become to degenerate  
2           into basically a shot -- \$3 shot to get  
3           inebriated or puked place, we don't think  
4           that's the highest and best use. We do think  
5           that they're -- we're very concerned that Five  
6           Points remain an entertainment district, but  
7           also a shopping district.

8       Q:   And can you describe, as specifically as you  
9           can, some of the issues that you've seen happen  
10          from, you know, students drinking in Five  
11          Points and the manner in which they drink in  
12          Five Points and then the impact that it's had  
13          on the community?

14      A:   Well, it's improved a lot. I think UBER has a  
15          lot to do with it. But we used to have  
16          migrations of college students in -- walking in  
17          and back from Five Points. Going to Five  
18          Points was not an issue. Coming back, they're  
19          -- some of them had difficulty locating their  
20          address and would bang on our doors thinking  
21          that it was their home. Or they would litter  
22          our yards with various beer cans and liquor  
23          bottles or whatever. We would find articles of  
24          clothing. We would -- we've had at least two  
25          instances where we've had unclad females in the



1       -- where they had come into our neighborhood,  
2       and we don't know how they got -- lost their  
3       clothes, but one was found on the -- the young  
4       lady went to get up and go get her paper one  
5       morning, and she found this naked girl there  
6       lying on her porch. And she said, pardon me,  
7       can I help you? And the gal just said, oh, I,  
8       grabbed a few things and took off. And the  
9       other one was right down the street from me at  
10      the corner of Edisto and Wheat one night. A  
11      young lady was undressed and passed out. But  
12      we've had numerous cases of people banging on  
13      doors, being, you know, at 2:00, 3:00 o'clock  
14      in the morning. And in fact, there were two  
15      situations where neighbors of mine were very,  
16      very frightened by the frequency of the banging  
17      and the intensity, that they sat there with  
18      loaded pistols or shotguns and were prepared to  
19      defend their premises and their families.  
20      Thankfully, the police arrived in time and that  
21      ended that. But we do have a boisterous group  
22      of people that we relish in a way. They bring  
23      vitality to our neighborhood. They add color.  
24      They add a joy to be that we admire. A lot of  
25      young people walking, running, bicycling,



1 walking their dogs. But Five Points to us is  
2 our northern border. We were very involved  
3 when there was a discussion to -- there was an  
4 issue that eventually resolved itself with  
5 Walgreens being built instead of a condo and  
6 parking garage that I was not part of. That  
7 was about the time I came on board. But we've  
8 been involved in many, many instances, and we  
9 have neighbors who have had businesses down in  
10 Five Points and so we've supported those. And  
11 the Gourmet Shop was once owned by one of our  
12 residents, neighbors. The place called  
13 Portfolio, which is now out of business, but  
14 was a, I don't know what you would call it, but  
15 my wife always brightened up every time we  
16 walked in there, but it was full of pretty  
17 things and all that. And then we -- and  
18 Blossom, the Flower Shop, is currently owned by  
19 one of our neighbors.

20 Q: So you spend a lot of time in Five Points,  
21 which is fair to say, it's an important part of  
22 how you spend your time in this community?

23 A: Right, and we also liaison with the Five Points  
24 Association.

25 Q: Are you familiar with an establishment in Five



1 Points called the Five Points Saloon?

2 A: I am.

3 Q: And how are you familiar with that?

4 A: Just by walking by it.

5 Q: I mean you've had a chance to -- yeah, I think  
6 you said you're in Five Points, basically,  
7 every day. Is that right?

8 A: I have tried to get into it a couple times for  
9 an early beer or whatever, but it, supposedly,  
10 I thought was opening at 4:00 and it was always  
11 locked. But I'd peer in and it didn't appear  
12 to be a place I would be particularly  
13 interested in going to.

14 Q: Did you actually try to go recently to visit  
15 Five Points Saloon?

16 A: I did.

17 Q: When was that, do you remember?

18 A: Sometime last week to a couple of days.

19 Q: Yeah.

20 A: Brenda and I went down and it was closed.

21 Q: When did you go?

22 A: When?

23 Q: What time?

24 A: About, oh, excuse me, it was about 5:00  
25 o'clock.



1 Q: And did you try to go back again later?

2 A: We went down and had some chicken wings at  
3 Jake's, excuse me, Bar None, and then we walked  
4 back down and it was still not open.

5 Q: Can you remember what time it was that you got  
6 there?

7 A: About 6:00 o'clock.

8 Q: Okay. I'd like to show you an exhibit. This  
9 has been pre-marked, I think it's Exhibit 3,  
10 but I'm going to introduce as the first one.

11 **(Protestant's Exhibit Number 3 was introduced into**  
12 **the record at this time.)**

13 A: Okay.

14 **MR. HAND:** Would the Court like a copy?

15 **THE COURT:** Yes, please. Thank you sir.

16 **MR. HAND:** Thanks, Your Honor.

17 Q: Mr. Adams, do you recognize this document?

18 A: Yes, sir, I do.

19 Q: What is it?

20 A: It is a Protest Form that I signed in July.

21 Q: That's your signature there, signature where it  
22 says signature of the protester?

23 A: Yes, sir, it is.

24 Q: Okay. If you flip to the second page, it says,  
25 state the specific reasons why you're



1 protesting the application or renewal. And  
2 then there's some information there about why  
3 you're protesting the renewal of this  
4 establishment's liquor license. Is that  
5 correct?

6 A: Yes, sir.

7 Q: And you don't have to read all that, but can  
8 you just sum that up for us, what is the  
9 position you're taking?

10 Q: Well it, our feeling is these are not  
11 restaurants, they're bars. They do not serve  
12 food.

13 **MR. ADAMS:** Am I okay?

14 **THE COURT:** Yes, sir.

15 **MR. ADAMS:** Okay.

16 A: They -- they are -- if they are serving food,  
17 they're serving them outside the normal  
18 southern time frame for having supper, which  
19 would be anywhere from 5:30 or 6:00 to 7:00,  
20 7:30. And they tend to be, basically, focused  
21 more on selling of alcohol than of meeting the  
22 statutory requirement to have ---

23 **MR. ALPHIN:** Your Honor, this is getting into what  
24 we were talking about before. These aren't his  
25 observations. He's going on a diatribe about



1           what Your Honor's ruling in.

2       **MR. HAND:**       He could testify about his own  
3       observations.       I think he said he's had  
4       observations. He has gone by the ---

5       **MR. ALPHIN:**   He testified he's never been inside.  
6       He's never been in the establishment. He said  
7       he went at 5:00 o'clock.       The hours of  
8       operation after 6:00 o'clock.       So he's  
9       testified, on the record, that he's never even  
10      been in the establishment to know what --  
11      whether or not any of these things are true or  
12      not.

13      **MR. HAND:**       The statute requires that they serve  
14      meals at normal meal times and he's talking  
15      about the fact that he's observed them not  
16      being open during normal hours.

17      **THE COURT:**   I agree with Mr. Alphin, it's sustained.  
18      So let's move on from there.

19      **MR. ADAMS:**    Okay.

20      **THE COURT:**   To the degree I allowed you to say it  
21      without him objecting, it's, basically, you  
22      were just reiterating what you put in your  
23      protest.

24      **MR. HAND:**    And that's what I thought he was doing  
25      for you.       He was protesting the record.    I



1           didn't think he was actually giving any  
2           testimony.

3   **THE COURT:**   And so that's why when Mr. Hand looked  
4           at me, I said that was fine, but it wasn't a  
5           door open for you to go even further.

6   **MR. ADAMS:**   No, it was locked.

7   **THE COURT:**   Both at the -- yes, both ways.   My  
8           theoretical door and my hypothetical door and  
9           in this instance, so you need to limit your  
10          testimony.   I agree with Mr. Hand -- Mr.  
11          Alphin.   I've made my ruling.   So follow the  
12          instruction of your lawyer and be a little bit  
13          more precise, okay?

14   **MR. ADAMS:**   Thank you.

15   **THE COURT:**   Mr. Hand?

16   Q:   The protest that you submitted as a -- I mean  
17          we all have a copy of it here.   Is it fair to  
18          say it's focused on the statutory requirement  
19          that a place that serves liquor by the drink be  
20          engaged, primarily and substantially, in the  
21          preparation and serving of meals?

22   A:   Yes, sir.

23   Q:   Okay.   Why did you protest this?   Why -- what  
24          do you care if these businesses or restaurants  
25          or their bars, what does that have anything to



1 do with you?

2 A: Well, again, we believe that if you are a  
3 business, you should operate within the  
4 statutory requirements of that business. And  
5 if you're not, then we feel like you should not  
6 be permitted to continue on.

7 Q: And what about the character of that kind of  
8 business as well? I mean ---

9 MR. ALPHIN: Your Honor, he's trying to do it a  
10 different way. I have no problem with him  
11 reading his protest on the record, but outside  
12 of that, we're going far afield.

13 MR. HAND: What I want him to describe, Your Honor,  
14 is just the ---

15 THE COURT: Now you can't say what you want him to  
16 describe it and then he says it. That's a bit  
17 leading. Just be careful. Go ahead and make  
18 your argument, but be careful.

19 MR. HAND: Okay.

20 THE COURT: You're not stating, putting words in his  
21 mouth.

22 MR. HAND: Okay, I certainly don't want to do that.

23 Q: I believe I asked you ---

24 THE COURT: I need to rule on the objection. So if  
25 you're going to -- what's your argument as far



1 as, he just made an objection. He didn't say  
2 the magic words, but that's basically what he's  
3 doing. And I want to make a ruling because I'm  
4 concerned about the record. What do you say to  
5 his argument?

6 **MR. HAND:** About -- I think that what I say is, I'm  
7 -- what I'm doing is having Mr. Adams describe  
8 why he filed his protest, why he cares about  
9 this issue, about them being substantially  
10 engaged in the preparation of food. I  
11 understood from the Court's ruling that that  
12 was ---

13 **THE COURT:** So this continuous objection, I'm  
14 assuming, will come up again. I agree with Mr.  
15 Alphin. So I'm sustaining his objection. Keep  
16 your testimony to what your question is. I get  
17 your question. You can answer that question,  
18 but you need to be really careful. You may  
19 have heard me say at the outset, this is a  
20 narrow scope that I'm looking at, and I do not  
21 want to inadvertently open this door to go down  
22 this road of you testifying to something that  
23 you really don't have knowledge of.

24 **MR. ADAMS:** That's why I keep looking over at you  
25 when I talk.



1     **THE COURT:** I know, not just because I look so nice  
2           today. So we need to kind of relax a little  
3           bit and make sure you listen to your attorney,  
4           answer the question asked. When he makes an  
5           objection, you're going to have to stop, which  
6           I really respect that you are, in deference to  
7           the Court. But I want to caution you about  
8           testifying against only your direct  
9           observation. And I've made my ruling.

10    **Q:** Besides the issue, you know, you being  
11       concerned about people complying with the law,  
12       if a business is a restaurant versus a bar in  
13       Five Points, why do you care about that?  
14       What's the importance of it to you?

15    **A:** I think it has to do with, for lack of a better  
16       word, aesthetics. It has to do with the proper  
17       civic operation of an entertainment district.  
18       If you want to be an entertainment district,  
19       you need to be wary of your boundaries. And I  
20       think one of the fundamental issues is that  
21       bars are fine if they serve food and as  
22       restaurants. Restaurants are fine to sell  
23       liquor if they comply with the state laws. And  
24       our observations are that our attempts to enter  
25       these premises during, what I would call,



1 normal supper time area and they're closed  
2 indicates to me that they're not very much  
3 interested in serving food. Whereas if you  
4 went across the street and went up to Ricky, I  
5 mean, Mr. Friendly's, you'd find him gearing up  
6 at 5:30 for an evening rush and you'd find  
7 Saludas doing the same. You'd find Goats  
8 putting together his appetizer menu. You'd  
9 find Home Team Barbecue working hard. You'd  
10 find the Publiko working. I mean those, if  
11 you're going to buy food at nighttime or  
12 evening or afternoon, you pretty well expect  
13 that someplace will be open at 5:00, 5:30 for  
14 your business, because that's a table that they  
15 can turn over. But if you, if the doors are  
16 locked, it seems to me that they're not a  
17 restaurant per se.

18 Q: And the fact that they're, in your view, not a  
19 restaurant, what impact does that have on the  
20 Wells Garden community as you see it? You  
21 talked a little bit about it.

22 A: Well, if it's just a bar, and if it's primarily  
23 serving young people ---

24 **MR. ALPHIN:** Your Honor, he's trying to get back  
25 into the same language ---



1     **THE COURT:**   He is.

2     **MR. ALPHIN:**   --- we talked about before that's been  
3                   prohibited.

4     **THE COURT:**   And so he's made his objection, your  
5                   response?

6     **MR. HAND:**    I think he's describing, generally, the  
7                   impact of this kind of business model on the  
8                   neighborhood, Your Honor.  I'm just trying to  
9                   get him to explain the, why he's here or why  
10                  he's brought this protest, why he has a vested  
11                  interest himself in this issue.

12    **MR. ALPHIN:**   And he can do that without getting into  
13                   the specifics he's trying to get into now.

14    **THE COURT:**   And I agree.  So for the record, I'm  
15                   sustaining his objection.  I see you're trying  
16                   to get there, but we need to move on from it.

17    **MR. HAND:**    Thank you.

18    **THE COURT:**   I think it's asked and answered what he  
19                   generally thinks the impact is.  At least I  
20                   heard it, the aesthetics and the proper civic  
21                   operation and be wary of your boundaries.  I  
22                   think we probably need to move on.

23    **MR. HAND:**    Thank you, Your Honor.

24    **Q:**           The protest is in front of you, Mr. Adams.  Do  
25                   you stand by that today?



1       A:     Yes, sir.

2       Q:     No further questions, Your Honor.

3       **THE COURT:**   Thank you.   Mr. Alphin, your witness.

4       **MR. ADAMS - CROSS-EXAMINATION BY MR. ALPHIN:**

5       Q:     How are you doing today, sir?

6       A:     Very good, sir.

7       Q:     Thank you for being here today.   When you moved  
8             to your neighborhood in 2005, were these  
9             restaurants already in Five Points?

10      A:     Just about everything down there seems to have  
11             changed hands.       So you might have an  
12             establishment that was in operation then with  
13             the same name, but it may not be under the same  
14             ownership.

15      Q:     But you do agree with me that a number of these  
16             establishments, as you're calling them, I call  
17             them restaurants, were already there when you  
18             moved to the neighborhood?

19      A:     Many of them.

20      Q:     Okay, thank you.   And you mentioned that  
21             there's wild parties in your neighborhood,  
22             correct?

23      A:     Yes.

24      Q:     And that's in your neighborhood.   That has  
25             nothing to do with what's going on in Five



1 Points. Do you agree with that?

2 A: No.

3 Q: Okay, tell me why.

4 A: Most of these wild parties tend to be students  
5 who have gone down to Five Points, gotten a  
6 buzz, and they come back at closing time and --  
7 -

8 Q: And you've observed that, personally?

9 A: I've called cops on it several times, yeah.

10 Q: But you've actually been in Five Points at 2:00  
11 a.m. and watched somebody walk from Five Points  
12 to a neighborhood party? You've done that  
13 personally?

14 A: No, but ---

15 Q: I think all I'm asking for is the no.

16 A: Okay.

17 **MR. HAND:** I think he's permitted to explain his  
18 answer.

19 **THE COURT:** I -- I'll ---

20 **MR. ALPHIN:** He's already said he didn't observe it.  
21 So anything he's going to say, but, it's just  
22 going to be speculation about how it might have  
23 happened. He has no personal knowledge.

24 **MR HAND:** We don't know what he's going to say. I  
25 think it'd be nice to hear what his basis is.



1     **THE COURT:**       I would agree, but with some  
2                   limitations. So I'm sustaining the objection.  
3                   Mr. Adams, tread carefully.

4     **MR. ADAMS:**    Okay. Will do.

5     **THE COURT:**    Okay?

6     **MR. ADAMS:**    Well ---

7     **THE COURT:**    Because -- okay, but tread carefully,  
8                   sir.

9     A:     Well, so as I previously said, at one time or  
10            another we had observed the neighborhood people  
11            coming inebriated, heading up the hill from  
12            Five Points. And there were people passed out  
13            and there was clothing scattered about and  
14            there was partying and yelling and fighting and  
15            everything else.

16    Q:     And do you have any evidence to suggest that  
17            any of those events took place of anything that  
18            happened at my clients place of business?

19    A:     No, sir, I do not.

20    Q:     Are you aware that as a result of the previous  
21            protest that there was a number of stipulations  
22            that were entered. Are you familiar with those  
23            stipulations?

24    A:     No, sir.

25    Q:     Okay. No further questions, Your Honor.



1     **THE COURT:** Any from you? Do you have any re-cross?

2     **MR. HAND:** No, Your Honor.

3     **THE COURT:** I only have one question.

4     **MR. ADAMS:** Yes, ma'am. Yes, Your Honor.

5     **MR. ADAMS - QUESTIONS FROM THE JUDGE:**

6     Q: It doesn't bother me. Maybe I should be that  
7       formal, but I know you're being respectful. It  
8       doesn't bother me in the least. Just to be  
9       clear, you have attempted to go to this  
10      establishment three times?

11    A: At least, yes, ma'am.

12    Q: Three times. Okay, that's my only question.

13    **THE COURT:** And then one other question, not one  
14       other question, one other point. Did, Mr.  
15       Krajack, did you have any questions for this  
16       witness?

17    **MR. KRAJACK:** No, Your Honor.

18    **THE COURT:** I just wanted to be mindful of the  
19       department's presence. I, based on that one  
20       question, the lawyers may have questions.

21    **MR. HAND:** I don't have any questions, Your Honor.

22    **THE COURT:** Okay.

23    **MR. ADAMS - RECROSS-EXAMINATION BY MR. ALPHIN:**

24    Q: Those three attempts were all before 6:00  
25       o'clock, correct?



1 A: In that neighborhood. It could have been 6:30,  
2 could have been 5:30.

3 Q: Perfect. Thank you.

4 **THE COURT:** If there's no other questions for this  
5 witness, Mr. Adams.

6 **MR. ADAMS:** Thank you, ma'am.

7 **THE COURT:** You may step down.

8 **MR. ADAMS:** Thank you, Your Honor.

9 **THE COURT:** Thank you, sir. Did you have anything  
10 that you need ---

11 **MR. HAND:** I don't believe so, Your Honor. We, of  
12 course, prior to the Court's ruling, we would  
13 have called Mr. Minnillo, but I believe there's  
14 an agreement stipulation on the record that the  
15 sales figures that were submitted are -- what  
16 I would need to do is authenticate them, but if  
17 there's an agreement that those sales figures  
18 are authentic and in the record, then I don't  
19 need to call Mr. Minnillo.

20 **MR. ALPHIN:** I think the Rule 30(b)(6) deposition  
21 that's already part of the record speaks for  
22 itself.

23 **THE COURT:** All right. Mr. Alphin, was there  
24 someone you were going to put up today?

25 **MR. ALPHIN:** I think the department needs to tell



1           the Court that they would have met all the  
2           licensing requirements but for the public  
3           protest, and then I'll be happy to call my one  
4           witness, and then we'll be good to go.

5   **THE COURT:** If that's not a leading comment, I don't  
6           know what else it is.

7   **DEPARTMENT'S STATEMENT:**

8   **MR. KRAJACK:** Well, Your Honor, as the pre-hearing  
9           statement, as the department's determination  
10          clearly reflected, the department's position  
11          is, we would have issued or renewed this liquor  
12          by the drink license but for the protest.

13   **THE COURT:** Thank you, sir.

14   **MR. ALPHIN:** I'll call my client, Max Minnillo,  
15          please. We'll keep this very brief, Your  
16          Honor.

17   **THE COURT:** Okay. Follow the instruction of the  
18          Court reporter, sir.

19   **COURT REPORTER:** Do you solely swear or affirm the  
20          testimony you're about to give will be the  
21          truth, the whole truth and nothing but the  
22          truth, so help you God?

23   **MR. MINNILLO:** I do, sir.

24   **COURT REPORTER:** Would you please state your full  
25          name for the record?



1 MR. MINNILLO: Max Minnillo.

2 COURT REPORTER: Thank you, sir.

3 THE COURT: Mr. Alphin, your witness.

4 MR. ALPHIN: Thank you, Your Honor.

5 MR. MINNILLO - DIRECT EXAMINATION BY MR. ALPHIN:

6 Q: How long have you been a resident of South  
7 Carolina?

8 A: I became a resident in 2012 ---

9 Q: Okay.

10 A: --- I believe.

11 Q: And how long have you been in the military?

12 A: Since 2007.

13 Q: And you're familiar with the ABL rules?

14 A: Yes, sir.

15 Q: As part of the prior case that we had, was  
16 there a stipulation that was entered in to  
17 resolve that?

18 A: I'm sorry, can you say that again?

19 Q: As part of the prior case back in 2021, was  
20 there a stipulation that was entered in to it?

21 A: A stipulation, yes.

22 Q: Are you familiar with that stipulation?

23 A: Yes.

24 Q: Okay. And that requires you to have scanners?

25 A: Yes, sir.



1 Q: And cameras?

2 A: Yep.

3 Q: And a number of other things. I'll show you  
4 the restriction agreement, enter that into the  
5 record.

6 **MR. ALPHIN:** May I approach, Your Honor?

7 **THE COURT:** Of course. I'm sorry, I was writing.

8 **MR. ALPHIN:** That's my fault, Your Honor, I  
9 apologize.

10 Q: Are you familiar with that agreement?

11 A: Yes.

12 Q: Does that agreement bear your signature?

13 A: Probably. Yes, it does.

14 Q: And that was entered in 2024?

15 A: Yes, sir.

16 Q: And that's the revised agreement?

17 A: Yes, sir.

18 Q: And that's the agreement y'all are operating  
19 under currently, correct?

20 A: Correct.

21 **MR. ALPHIN:** No further questions, Your Honor.

22 **THE COURT:** Thank you.

23 **MR. ALPHIN:** Oh, one thing.

24 **THE COURT:** Yes, sir.

25 **MR. ALPHIN:** Move that be admitted as Exhibit 1,



1           please, Your Honor.

2       **THE COURT:**   Is there any objection?

3       **MR. HAND:**    I don't think so.

4       **MR. ALPHIN:**   That's the only copy I have.    I  
5           apologize.

6       **MR. HAND:**    It's okay.

7       **THE COURT:**   We have to make copies.

8       **MR. ALPHIN:**   No objection. I have a copy.

9       **MR. KRAJACK:**   No objection.

10      **THE COURT:**    Since there is no objection, that  
11           exhibit is admitted.

12      **(Petitioner's Exhibit Number 1 was introduced into**  
13      **the record at this time.)**

14      **THE COURT:**    And is that exhibit number ---

15      **MR. ALPHIN:**    1, Your Honor.

16      **THE COURT:**    1.

17      **MR. ALPHIN:**    Thank you.

18      **THE COURT:**    Mr. Hand, you're witness.

19      **MR. HAND:**    Your Honor, I just want to make sure,  
20           just so there's not objections, that I  
21           understand the boundaries of what we're doing  
22           here, no numbers. I am going to ask him some  
23           questions about food offerings and things like  
24           that, that he ---

25      **MR. ALPHIN:**    I think that was part of our motion in



1           limine, but as of Your Honor's ruling  
2           obviously.

3   **MR. HAND:** It was part of the motion in limine. I  
4           just, I wasn't sure if that portion of it had  
5           been ruled on yet or not. I was going to ask  
6           him a question about it.

7   **THE COURT:** Well, let's revisit ---

8   **MR. HAND:** It'll be pretty brief too, Your Honor.

9   **THE COURT:** Smart lawyering. I did not specifically  
10          say, offering of food.

11   **MR. HAND:** But if that was what the Court intended.

12   **MR. ALPHIN:** I understood Your Honor's ruling to  
13          narrow the scope down and exclude that whole  
14          area of their statutory arguments as to the  
15          service, preparation and service of food and  
16          what he's going to attempt to do. I would  
17          surmise is do it a different way.

18   **THE COURT:** Under a different wording.

19   **MR. HAND:** Yes. Well, and let me, just to make it  
20          sound less like trickery. There are other ---

21   **THE COURT:** At least on the record, right?

22   **MR. HAND:** Certainly. No, there are other  
23          requirements under this bona fide engaged  
24          primary substantially.

25   **THE COURT:** But I think it's getting us back to the



1 whole -- getting outside my narrow scope.

2 **MR. HAND:** If the Court has excluded any evidence  
3 about compliance with the requirement that they  
4 be bona fide primarily and substantially  
5 engaged in the preparation and serving of  
6 meals, then I understand the Court's ruling.  
7 If that wasn't the scope of the Court ruling,  
8 I just ---

9 **THE COURT:** That is the scope of the Court's ruling.

10 **MR. HAND:** Thank you, Your Honor.

11 **THE COURT:** And my attempt is to keep this narrow  
12 scope. And I, you know, I commend you for  
13 trying to get it -- go there, but I don't,  
14 that's my decision.

15 **MR. HAND:** I understand the Court's ruling and I  
16 have no questions for this witness, Your Honor.  
17 Thank you.

18 **THE COURT:** Thank you.

19 **MR. ALPHIN:** No follow-up questions, Your Honor.

20 **THE COURT:** Do you have any questions?

21 **MR. KRAJACK:** No questions, Your Honor.

22 **THE COURT:** Have you ever testified in Court before?

23 **MR. MINNILLO:** Another protest I had to, Your Honor.

24 **THE COURT:** But you weren't on, you weren't sitting  
25 up there for five minutes like today, were you?



1     **MR. MINNILLO:** No, it was a little longer. It was a  
2                   little longer.

3     **THE COURT:** Well, we appreciate your time. Somewhat  
4                   anti-climactic today. So you're excused, sir.

5     **MR. MINNILLO:** Thank you, ma'am. Thank you, Your  
6                   Honor.

7     **THE COURT:** So is there -- is the SLED officer still  
8                   or is he ---

9     **MR. ALPHIN:** No, I -- we let her go, Your Honor.

10    **THE COURT:** Very wisely, Mr. Alphin. Was there  
11                  anything else, gentlemen?

12    **MR. ALPHIN:** No, Your Honor.

13    **MR. HAND:** No, Your Honor.

14    **THE COURT:** Other than -- do you need a few minutes  
15                  for closing or are you ready to go?

16    **MR. ALPHIN:** I think we can -- I'm ready unless he  
17                  needs a couple minutes.

18    **MR. HAND:** Sure.

19    **THE COURT:** Mr. Krajack, are you going to have  
20                  anything that you want to say in closing?

21    **MR. KRAJACK:** I don't need any additional time, Your  
22                  Honor.

23    **THE COURT:** Even though we really kind of didn't  
24                  even go into openings, but I think we're okay  
25                  with that today. Anything you want to -- need



1 to consider, I'd really like to hear it now.

2 **MR. HAND:** Yes, Your Honor.

3 **THE COURT:** Mr. Alphin.

4 **CLOSING STATEMENTS:**

5 **MR. ALPHIN:** Thank you, Your Honor. I think the  
6 record in this matter is clear. They seek  
7 renewal of liquor by the drink license. They  
8 would have been issued but for the public  
9 protest. As the testimony bore out in the case  
10 today, it was all opinions and generalities.  
11 He even testified he'd never even seen somebody  
12 leave to come to the neighborhood. So anything  
13 about suitability, I think, has been properly  
14 presented, and Taylor would prevent -- or would  
15 dictate issuance of the license over the  
16 objection of the intervener. Thank you, Your  
17 Honor.

18 **THE COURT:** And Mr. Alphin, how do you think it  
19 plays the beer and wine was clearly taken care  
20 of before today and how that impacts the  
21 suitability argument as to the liquor ---

22 **MR. ALPHIN:** Yes, ma'am.

23 **THE COURT:** --- by the drink.

24 **MR. ALPHIN:** To issue either one, either the permit  
25 or the license liquor -- liquor by the drink



1 license or the beer and wine permit, both  
2 require suitability of the location. And since  
3 they waived the requirement as it relates to  
4 suitability of the location for the beer and  
5 wine license, our argument is, they basically  
6 said the license is suitable. If you look at  
7 the protest itself, it never mentions the word  
8 suitable. It talks about statutory and  
9 constitutional requirements. It has nothing to  
10 do with suitability. Some of his testimony  
11 today could be viewed as pointing to  
12 suitability, but there is no direct evidence  
13 that ties anything that happens at my client's  
14 establishment to anything that he's talking  
15 about in his neighborhood. So I appreciate  
16 Your Honor's question.

17 **THE COURT:** Mr. Hand?

18 **MR. HAND:** I think we've pretty well preserve the  
19 arguments, Your Honor. I think I would depart  
20 from Mr. Alphin a little bit. Whether or not  
21 you call our argument a suitability one, I  
22 think that certainly it was the intent of our  
23 protests to raise this issue about the meal  
24 service requirement. I think whether one  
25 characterizes that as a suitability argument or



1 not, I don't think it's material. I think  
2 what's important is, you know, their compliance  
3 with that statute. I would say Mr. Adams did  
4 share his experience why this issue affects him  
5 and why he was interested enough to bring this  
6 protest in the first instance. And other than  
7 that, Your Honor, I would just, I would  
8 incorporate the arguments that we've made. I  
9 understand the Court's ruling. We incorporate  
10 the arguments we made at the motion in limine  
11 hearing for the Court's consideration and I  
12 think we're good there.

13 **THE COURT:** And so, Mr. Hand, Mr. Adams, the adverse  
14 impact as to him individually, he's here more  
15 to speak as to the whole community and not  
16 necessarily a direct impact to him?

17 **MR. HAND:** I think he's here to speak as a member of  
18 the community, Your Honor. And I think he's  
19 here to speak about something -- it's just one  
20 person's story. We could have a whole slew of  
21 people come in here and talk about their own  
22 experience and the, really how much of what  
23 happens in the Wells Garden neighborhood  
24 depends upon what happens in Five Points.  
25 They're right next to each other. In that way



1 I think, you know, Mr. Adams is a protestant  
2 here, but he's sort of an exemplar witness that  
3 way. His story that he told, you could get  
4 that a hundred different ways from different  
5 people. And so that's why we offered him and  
6 that's why he filed his protest, Your Honor.

7 **THE COURT:** Thank you, sir. Mr. Krajack?

8 **MR. KRAJACK:** As I've already stated, Your Honor,  
9 the department's position is, but for the  
10 protest, we would have renewed this license.  
11 I would point out that during the course of the  
12 proceedings, previously we had a SLED agent,  
13 Kirkland Turzo, who testified that after the  
14 protest was filed SLED went out, looked at it,  
15 met the restaurant requirements in SLED's  
16 opinion. And therefore, you know, the  
17 department still has the position, and is of  
18 the position, that the applicant has met the  
19 licensing requirements. And of course, we  
20 would refer further to the department's brief  
21 in 18 that was submitted as part of the record.  
22 So that's the reason why we feel the petitioner  
23 meets those licensing requirements. Thank you.

24 **THE COURT:** Thank you, Mr. Krajack. And have the  
25 parties, I guess I'm wondering, and obviously



1 I haven't made a final decision, and I will  
2 after I give this some thought, but the  
3 stipulations as to the beer and wine that has  
4 already been granted, we'll make sure that gets  
5 into the record, correct? A copy of that?

6 **MR. ALPHIN:** Yes, ma'am, and they've agreed to  
7 operate under the stipulations. Even if the  
8 liquor by the drink license is renewed ---

9 **THE COURT:** Okay.

10 **MR. ALPHIN:** --- those same stipulations would  
11 apply. It applies to all their licenses at  
12 that establishment.

13 **THE COURT:** All right. Thank you, everyone.

14 **MR. ALPHIN:** Thank you, Your Honor.

15 **THE COURT:** I really appreciate your patience and  
16 all of the kind of going back and forth and  
17 discussing these issues. But I wanted to make  
18 sure we had an appropriate record and  
19 everything has been preserved to the degree  
20 that they have their right to appeal or you  
21 have your right to appeal, once I make my  
22 decision. Is there anything else?

23 **MR. HAND:** I have one question, Your Honor. And to  
24 that, the same vein, I wonder if the Court --  
25 certainly the Court will be issuing a final



1           order in this matter. I wonder if the Court  
2           will also be either, incorporating that order,  
3           or separately doing a written order on the  
4           motion in limine so that we could appeal from  
5           that?

6       **THE COURT:** And I'm glad you said that. I haven't  
7           made my final decision. I mentioned that in  
8           passing in the, in chambers. I will be  
9           probably closer to what I'm going to do now  
10          that I've heard everything, but we'll find out  
11          in the upcoming days.

12       **MR. HAND:** Thank you.

13       **THE COURT:** So let's talk about draft orders. I  
14          think you all have enough to create one if you  
15          needed to. What's some time frames for the  
16          final order, draft orders from the party.

17       **MR. HAND:** Oh, for proposed orders?

18       **THE COURT:** Yes, I'm sorry, proposed orders. I'm so  
19          used to saying drafting chambers proposed  
20          orders, 30 days?

21       **MR. ALPHIN:** I think the parties can work on that.  
22          If you want to give us some guidance at some  
23          point as to what you would like the final  
24          ruling to say, we can at least coordinate on  
25          language for the final ruling. But happy to



1 draft competing proposed orders, whatever Your  
2 Honor deems appropriate.

3 **THE COURT:** Yeah, you probably could work together.  
4 We can do that by e-mail with my law clerk.

5 **MR. ALPHIN:** Yes, your honor.

6 **THE COURT:** And so you want to play it by ear as far  
7 as the timing?

8 **MR. ALPHIN:** I think whenever it works for Your  
9 Honor, we're happy to make work.

10 **MR. HAND:** I wonder if, given the Court's rulings,  
11 we can certainly draft a proposed order.  
12 There's not a whole lot for me to say. I  
13 wonder if it would make sense, maybe a schedule  
14 for, if they have an objection, the petitioners  
15 coming up with a proposed order and then  
16 allowing us to chime in. That might be the  
17 most sensible way to do it, Your Honor.

18 **MR. ALPHIN:** We're happy to do that, Your Honor.

19 **THE COURT:** And we'll be flexible because sometimes  
20 I'll get a wild hair and then we'll all start  
21 writing and it gets taken care of. So let's  
22 communicate by e-mail over the next few days.  
23 I'm being ambitious now, and then the staff  
24 will remind me you have another hearing  
25 tomorrow and we'll have to deal with that.



1     **MR. HAND:**   We'll be back with you tomorrow.

2     **THE COURT:**   Yes.   So let's play by ear after this  
3                   hearing.    I think I do have some basic  
4                   framework that I always like to see in orders,  
5                   but I need to hear everything and think about  
6                   it and converse with the staff.  And then we'll  
7                   make the final decision.  So how about you guys  
8                   just press pause for now?  And then we'll  
9                   follow it by e-mail if I -- because I guess I  
10                  want you both to coordinate something and  
11                  submit it over the next two to three weeks.  
12                  Depending on my schedule, it may actually be 30  
13                  days.

14    **MR. HAND:**   Thank you, Your Honor.

15    **THE COURT:**   But we'll see.  We'll play it by ear.  
16                   I'm open and I'm willing to work with you.  I  
17                   understand you all have a lot on your plate, so  
18                   I don't want to add any burden to your already  
19                   busy schedules.

20    **MR. HAND:**   To help with preparation for tomorrow,  
21                   Your Honor, that we heard the motion in limine  
22                   jointly, would the ruling you made today apply  
23                   to the case tomorrow as well?

24    **THE COURT:**   Let's do that on the record tomorrow.

25    **MR. HAND:**   Yes, Your Honor.



1     **THE COURT:** I think that's a bit premature. And if  
2             I start down that road, Mr. Hand will have his  
3             arguments and then we might be here another  
4             hour or two ---

5     **MR. HAND:** Yes, Your Honor.

6     **THE COURT:** --- which would be perfectly fine, but  
7             I'm sure that everyone ---

8     **MR. KRAJACK:** But it is almost lunchtime, Your  
9             Honor.

10    **MR. HAND:** I would never, I would never hold the  
11            Court up.

12    **THE COURT:** No, I have a tendency not to eat on  
13            these days, but my staff doesn't always agree  
14            with that type of thing. So I don't want to,  
15            I don't want to burden them based on my eating  
16            habits. If there's nothing else?

17    **MR. HAND:** Nothing else from us, Your Honor.

18    **THE COURT:** All right. Thank you, everyone. I  
19            appreciate your time and everyone's respectful  
20            while conducting themselves. Thank you, Mr.  
21            Adams. I appreciate that.

22    **(There being no further questions or discussion, the**  
23    **hearing concluded at 11:33 a.m.)**



### **CERTIFICATE**

This is to certify that the within hearing consisting of fifty-nine (59) pages, is a true and correct transcript of the testimony given by said witnesses after being duly sworn; said hearing was reported by the method of Stenomask with Backup.

I further certify that I am neither employed by nor related to any of the parties in this matter or their counsel; nor do I have any interest, financial or otherwise, in the outcome of same.

IN WITNESS WHEREOF I have hereunto set my hand and seal on December 8, 2025.



M. Sean Cary  
Court Reporter

Notary Public for South Carolina  
My Commission Expires: May 2, 2033



**CREEL COURT REPORTING, INC.**  
1230 Richland Street / Columbia, SC 29201  
(803) 252-3445 / [contact@creelreporting.com](mailto:contact@creelreporting.com)

# Exhibit 7

**STATE OF SOUTH CAROLINA  
ADMINISTRATIVE LAW COURT**

MPC Harden, LLC, d/b/a 5 Points Saloon,

Petitioner,

v.

South Carolina Department of Revenue,

Respondent,

and

Coley Frank Adams,

Intervenor.

Docket No. 24-ALJ-17-0420-CC

**ORDER**

**APPEARANCES:** For Petitioner: John R. Alphin, Esquire and  
Whitney B. Harrison, Esquire  
For Respondent: Dana R. Krajack, Esquire  
For Intervenor: Richard A. Harpootlian, Esquire and  
Andrew R. Hand, Esquire

**STATEMENT OF THE CASE**

This matter is before the South Carolina Administrative Law Court (ALC or Court) pursuant to a request for contested case hearing filed on December 12, 2024, by MPC Harden, LLC, d/b/a 5 Points Saloon (Petitioner). Petitioner challenged the denial issued by the South Carolina Department of Revenue (Department) of on-premises beer and wine permit (Permit), and a business liquor by the drink license (License) renewal pursuant to sections 61-4-525 and 61-6-1825 of the South Carolina Code (2022).<sup>1</sup> The Permit was later granted by the Department as only the License was protested.<sup>2</sup>

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<sup>1</sup> Specifically, section 61-4-1825(B) provides: "Upon receipt of a timely filed protest, the department shall determine the protestant's intent to attend a contested hearing before the Administrative Law Court. If the protestant intends to attend a contested hearing, the department may not issue the permanent permit but shall forward the file to the Administrative Law Court."

<sup>2</sup> The protest form, admitted into evidence, verified that the license and/or permit being protested was on the renewal of the liquor by the drink license for Petitioner.



Prior to a hearing on the merits of this matter, the Protestant Coley Frank Adams (Intervenor), filed a Motion to Intervene, which this Court granted on March 6, 2025.<sup>3</sup> Subsequently, Petitioner filed a Motion in Limine to exclude Intervenor from offering evidence it received following a Motion to Compel granted by this Court. Petitioner's Motion in Limine sought to exclude Intervenor from offering evidence or argument that (1) Petitioner is not "primarily engaged in the preparation and serving of meals," and (2) Petitioner's food-to-alcohol sales percentages.<sup>4</sup> The Court held a hearing on the Motion in Limine on September 10, 2025.

After proper notice, the Court held a hearing on the merits on September 23, 2025, at the ALC in Columbia, South Carolina. Counsel for Petitioner, John R. Alphin and Whitney B. Harrison; Counsel for the Department, Dana R. Krajack; and Counsel for the Intervenor, Richard A. Harpootlian and Andrew R. Hand; were present along with representative for Petitioner, Max Minnillo, and Intervenor, Coley Frank Adams. Petitioner's one witness and the Intervenor testified at the hearing. The Department did not call any witnesses and stated but for the protest it would have granted the License.<sup>5</sup>

### **FINDINGS OF FACT**

Having observed the witnesses and exhibits presented at the hearing and taking into consideration the burden of persuasion of Petitioner, Respondent, and Intervenor, the Court makes the following Findings of Fact:

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<sup>3</sup> The basis of the motion was that Intervenor had filed a protest to the renewal of Petitioner's liquor by the drink license which caused the denial of that license, and he wished to intervene in this case to press his position and conduct discovery "regarding the availability and frequency of food service at Petitioner's establishment, as well as the volume of food sales relative to the volume of alcohol sales." Intervenor's protest likewise asserted that Petitioner's establishment did not comply with either the statutory or constitutional requirement that a liquor by the drink license holder be "engaged primarily and substantially in the preparation and serving of meals." See S.C. Const. art. VIII-A; S.C. Code Ann. § 61-6-1610. Notably, during the hearing on the merits, the Intervenor did not provide any specific testimony as to food service and he testified he had not been inside the establishment.

<sup>4</sup> Petitioner filed this motion to prevent Intervenor from introducing any arguments or evidence relating to this issue arguing that the determination of compliance with this requirement falls squarely within the investigative authority delegated to the South Carolina Law Enforcement Division and the enforcement authority statutorily and solely vested in the Department. The Court heard arguments from all parties on this issue and granted Petitioner's motion at the hearing finding that such a determination is an enforcement issue exclusive to the Department and, pursuant to the holding of the Court of Appeals in *S.C. Dep't of Revenue v. Sandalwood Social Club*, not a private right of action to be prosecuted or enforced by citizens bringing a claim under the Department of Revenue's regulatory scheme. See *Sandalwood*, 399 S.C. 267, 731 S.E.2d 330 (Ct. App. 2012).

<sup>5</sup> In the Court's oral ruling on the Motion in Limine, the Court noted the Department was permitted to introduce evidence that fell within the regulatory authority of the Department.

### **License Application**

Petitioner is seeking the renewal of its License for the business located at 812 Harden Street, Columbia, South Carolina. Petitioner is a limited liability company whose members include Max Minnillo (Minnillo). Petitioner applied for the renewal of its License on July 9, 2024. On July 22, 2024, the Department issued a denial notice based upon the valid public protest. Petitioner timely challenged the denial on October 10, 2024. Subsequently, on November 19, 2024, the Department issued its final determination finding that Petitioner's renewal application should be denied. The Department determined the location met all the statutory requirements for licensure, thus the only remaining issue in dispute are the public protests filed pursuant to section 61-6-1825.

### **Suitability of Location and Intervenor's Concerns**

The proposed location for the License is currently operating as a restaurant known as 5 Points Saloon. The proposed location currently holds a Permit and is seeking to renew its License. 5 Points Saloon had one principal testify at the hearing, Minnillo. Minnillo testified as to the policies and compliance efforts of 5 Points Saloon. Minnillo testified that he, as the owner, entered into an agreement in 2021 as to both the Permit and the License granted to Petitioner. As part of this agreement 5 Points Saloon must have forensic identification card scanners, cameras, along with a number of other things. Minnillo signed a new agreement on May 6, 2024, entitled the "Voluntary Agreement as to License/Permit Conditions and Restrictions" (Restriction Agreement), and these stipulations are attached to the Permit, and he indicated the same stipulations would attach to the License, should it be granted. The Restriction Agreement revised the agreement entered into in 2021 and includes updated stipulations and conditions.<sup>6</sup> Minnillo indicated that 5 Points Saloon is currently operating under the 2024 revised agreement with respect to its Permit.

Intervenor, who currently resides in Richland County, testified that he currently lives in close proximity to Five Points. Adams testified to his observations and concerns about the community in general, along with general comments regarding Petitioner, its location, and broader safety concerns related to college aged students consuming alcohol and the havoc in his

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<sup>6</sup> The Restriction Agreement contains fifteen (15) stipulations and conditions including: using an effective identification system to clearly identify if each person admitted to the premises is of age to drink alcohol, scanning the identification of every person entering the premises, maintaining security camera footage for a rolling seven (7) day period, working with law enforcement to encourage compliance walk-throughs, and if 5 Points Saloon advertises, a substantial portion of its advertising must be devoted to food. The Restriction Agreement further provides for enhanced penalties should any of the terms be violated.

neighborhood that ensues. He testified regarding his belief that there is a significant neighborhood disruption linked to alcohol sales at this location and other locations in the Five Points area. On cross examination, Adams was unable to tie a single incident he complained about directly to any action or inaction of the Petitioner. The Intervenor testified regarding the general history of the Five Points District, his visits to certain businesses in the area such as the pharmacy and the post office, but he could not testify as to his direct experience with 5 Points Saloon. He indicated he attempted to visit the establishment prior to the hearing but has not gone inside the establishment. In fact, he visited the establishment outside of its hours of operation.

It is clear that the Intervenor's concerns are sincere, as he indicated the sale of alcohol at this establishment could have an adverse impact on the area in general. However, the Court notes that law enforcement did not provide a protest in this matter nor was any law enforcement present at the hearing to testify against the renewal of the License. Furthermore, if the sale of alcohol is conducted and operated as set forth in the Restriction Agreement the Court finds that the proposed location for the License is suitable. Moreover, if a significant change occurs as a result of Petitioner receiving this License, the location would no longer be suitable, and the community and/or the Department could properly bring an action to prohibit the renewal of Petitioner's License. Additionally, the Restriction Agreement provides for ramifications should Petitioner not abide by the conditions. Specifically, the Restriction Agreement provides that a violation of any of the 15 stipulations and conditions "shall be deemed a violation of the permit and license."

### **CONCLUSIONS OF LAW**

Based upon the foregoing Findings of Fact, the Court concludes the following as a matter of law:

The Court is vested with jurisdiction over this case. S.C. Code Ann. §§ 1-23-600 (2005 & Supp. 2025) and 61-2-260 (2022). Specifically, section 61-2-260 grants the ALC the authority to hold contested case hearings in matters governing alcoholic beverages. S.C. Code Ann. § 61-2-260. "[T]he issuance or granting of a license to sell beer or alcoholic beverages rests in the sound discretion of the body or official to whom the duty of issuing it is committed . . ." *Palmer v. S.C. Alcoholic Beverage Cntrl. Comm'n*, 282 S.C. 246, 248, 317 S.E.2d 476, 477 (Ct. App. 1984); see also S.C. Code Ann. § 61-2-80 (2022). Further, the weight and credibility assigned to evidence presented at the hearing is within the province of the trier of fact. *S.C. Cable Television Ass'n v. S. Bell Tel. & Tel. Co.*, 308 S.C. 216, 222, 417 S.E.2d 586, 589 (1992). The trier of fact, who

observes a witness, is in the best position to judge the witness' demeanor and veracity and to evaluate the credibility of his testimony. *Woodall v. Woodall*, 322 S.C. 7, 10,471 S.E.2d 154, 157 (1996); *Wallace v. Milliken & Co.*, 300 S.C. 553, 556, 389 S.E.2d 448, 450 (Ct. App. 1990). Additionally, the standard of proof in administrative proceedings is a preponderance of the evidence unless otherwise specified. S.C. Code Ann. § 1-23-600(A)(5) (Supp. 2025); *see also Anonymous v. State Bd. of Med. Exam'r*, 329 S.C. 371, 375, 496 S.E.2d 17, 19 (1988). "A preponderance of the evidence is evidence which convinces the fact finder as to its truth." *Pascoey v. Wilson*, 416 S.C. 628, 640, 788 S.E.2d 686, 693 (2016) (citing *Gorecki v. Gorecki*, 387 S.C. 626, 633, 693 S.E.2d 419, 422 (Ct. App. 2010)). An applicant for a beer and wine permit has the burden of proving it meets all the statutory requirements for licensure. 48 *C.J.S. Intoxicating Liquors* § 186 (November 2025 Update) (citations omitted).

### **Suitability of Location and Intervenor's Concerns**

Articles 4 and 6 of Title 61 of the South Carolina Code (2022 & Supp. 2025) generally set forth the requirements for the issuance of a beer and wine permit and liquor license. A license for the sale and consumption of beer, wine, and liquor is not a contract or property right. *Feldman v. S.C. Tax Comm'n*, 203 S.C. 49, 26 S.E.2d 22, 25 (1943). Rather, it is a privilege granted in the exercise of the State's police power to be used and enjoyed so long as the holder complies with the restrictions and conditions governing them. *Id.* In South Carolina, the requirements for beer and wine permits are set forth in section 61-4-520 of the South Carolina Code (2022), and the requirements for liquor licenses are separately set forth in section 61-6-1820 of the South Carolina Code (2022).

An alcohol beverage permit or license may be denied if the proposed location is not suitable. *See Schudel v. S.C. Alcoholic Beverage Control Comm'n*, 276 S.C. 138, 276 S.E.2d 308 (1981). A suitable location is not statutorily defined, but broad discretion is vested in the trier of fact to determine the fitness or suitability of a proposed location requesting a permit. *See Fast Stops, Inc. v. Ingram*, 276 S.C. 593, 281 S.E.2d 118 (1981). Regarding the suitability of the location, the Court may consider any evidence that shows adverse circumstances of the location as to determining whether a proposed location is suitable. *Kearney v. Allen*, 287 S.C. 324, 326, 338 S.E.2d 335, 337 (1985); *Palmer*, 282 S.C. at 249, 317 S.E.2d at 478 (citing *Smith v. Pratt*, 258 S.C. 504, 189 S.E.2d 301 (1972)). The determination of whether a proposed location is suitable involves various considerations related to the nature and operation of the proposed business as

well as its impact on the surrounding community. *Kearney*, at 326-27, 338 S.E.2d at 337; *Schudel*, 276 S.C. at 138, 276 S.E.2d at 308. “The determination of suitability [of location] is not solely a function of geography. It involves an infinite variety of considerations related to the nature and operation of the proposed business and its impact on the community wherein it is to be situated.” *Kearney*, at 326-27, 338 S.E.2d at 337 (citation omitted).

Qualifying members of the public may formally object to the issuance of a liquor by the drink license by tendering a valid protest to the Department. S.C. Code Ann. §§ 61-4-1825 (2022); *see also* S.C. Code Regs. 7-201 (2011). The mere fact a permit or license is protested, however, is not a sufficient reason, by itself, to deny an application. *See* 48 C.J.S. *Intoxicating Liquors* § 194 (November 2025 Update). Rather, in the absence of a sufficient reason to deny the application, “[a]n applicant who meets, or complies with, the statutory requirements is entitled to the issuance of a license or permit. . .” *Id.* Thus, “[g]ood cause must be shown for the denial of a license.” *Id.* “A license may properly be refused where a statutory ground for refusal exists, provided there is a reasonable basis for believing in its existence . . .” *Id.* Additionally, in making its determination, the Court must consider whether the testimony in opposition to the granting of a permit or license is based on opinions, generalities, and conclusions, or whether the case is supported by facts. *See Smith v. Pratt*, 258 S.C. 504, 508, 189 S.E.2d 301, 302 (1972); *see also Taylor v. Lewis*, 261 S.C. 168, 171, 198 S.E.2d 801, 802 (1973).

### **Conclusion**

While it is clear the Intervenor’s concerns are sincere, the Intervenor did not establish sufficient evidence to deny Petitioner’s renewal application. His concerns, broadly speaking, are premised on the position that the renewal of the License will exacerbate the concerns and issues raised. The Court is respectful of the Intervenor’s concerns; however, the Intervenor’s testimony was largely opinionated and unsubstantiated. *See Smith*, 258 S.C. at 508, 189 S.E.2d at 302. Although the Intervenor expressed concerns with the issuance of the License, he did not provide the Court with sufficient reason or factual support to deny the application. The Intervenor failed to show that he had any direct interaction with this establishment. In this instance, without probative evidence to show that this location is unsuitable, there is no sufficient legal basis for the Court to deny the issuance of the License. Notably absent from the record is evidence of any criminal activity or reports from SLED. The strain upon law enforcement’s ability to adequately

protect the community is a factor in evaluating a permit. *Moore v. South Carolina Alcoholic Beverage Control Com'n*, 308 S.C. 160, 417 S.E.2d 555 (1992).

Moreover, the Department did not make a determination that the location was unsuitable and reiterated at the hearing but for the protest it would have granted the License. In sum, Petitioner meets the statutory requirements for holding a liquor by the drink license. There is no reasonable good cause for denial. Furthermore, the evidence admitted did not reflect that the issuance of the License for 5 Points Saloon would be detrimental to the general welfare of the community or adversely affect the public interest. *See Kearney*, 287 S.C. at 327, 338 S.E.2d at 337.

The Court is authorized to grant the issuance of a permit and may likewise place restrictions or conditions on the permit or license. *See Feldman v. S.C. Tax Commission*, 203 S.C. 49, 26 S.E.2d 22 (1943). The arguments proffered do not constitute a sufficient basis upon which to deny Petitioner's renewal application. However, the Court does find it necessary to reiterate that the License shall be operated in a manner consistent with the Restriction Agreement. The Restriction Agreement and its accompanying conditions are necessary to ensure that the location continues to be suitable and to assuage the concerns of the Intervenor.

### **ORDER**

**IT IS THEREFORE ORDERED** that the Department shall **GRANT** Petitioner's renewal application for its liquor by the drink license for its business located at 812 Harden Street, Columbia, South Carolina, subject to the conditions set forth in the Restriction Agreement.

**AND IT IS SO ORDERED.**

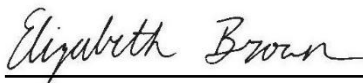
December 31, 2025  
Columbia, South Carolina

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The Honorable Crystal M. Rookard  
South Carolina Administrative Law Judge

**CERTIFICATE OF SERVICE**

I, Elizabeth Brown, hereby certify that I have 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).



Elizabeth Brown  
Judicial Law Clerk

December 31, 2025  
Columbia, South Carolina