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SC Court of Appeals

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

APPELLATE PANEL DECISION AND ORDER

COMMISSION PANEL: The Honorable Cynthia C. Dooley, The Honorable Melody L. James,
The Honorable Gene McCaskill

SCWCC File No.: 1824334

Daniel Hayden,

Claimant,

v.

Riverside Transport, Inc.,

Employer,

and

First Liberty Insurance Corporation,

Carrier,

Defendants.

AFFIRMED IN PART, REVERSED IN PART

On Remand from the Court of Appeals

Filed:

July 10, 2026

I. STATEMENT OF THE CASE

The parties were heard by Commissioner Aisha Taylor on January 5, 2023 in Columbia, South Carolina to determine the issues set forth on the Claimant's Form 50. Specifically, the Claimant sought a determination of his entitlement to permanency to his back. The Defendants argued that, per his employment contract, the Claimant was provided workers' compensation benefits through an Arkansas workers' compensation claim, and that he is not entitled to any further benefits in South Carolina. The Defendants also argued that the Claimant did not satisfy the requirements of S.C. Code Ann. § 42-15-10, as he was not hired, injured, or employed in South Carolina. Further, the Defendants denied that the Claimant had established a claim with the South Carolina Workers' Compensation Commission within two years after the August 20, 2018 incident. The Defendants also contend that the Claimant had a pre-existing condition under S.C. Code Ann. § 42-9-35. Finally, Defendants contend the Claimant suffered an intervening accident which breaks the chain of causation and relieves the Defendants of further responsibility. If the claim were found compensable, the Defendants requested a credit for all benefits paid through the Arkansas workers' compensation claim. On January 25, 2023, Commissioner Taylor issued the Decision and Order of the Single Commissioner.

In an action before the South Carolina Court of Appeals heard on October 7, 2025 and filed December 10, 2025, Claimant raised two issues on appeal from an Appellate Panel decision filed on August 16, 2023. Specifically, the Claimant argued that the Workers' Compensation Commission erred in admitting certain evidence and further argued that the Commission erred in finding Claimant failed to present sufficient evidence of a compression fracture in his spine. The first issue was affirmed, and the second issue was reversed and remanded.

The purpose of this Order is to address on remand whether the Claimant had a pre-existing condition and whether sufficient evidence exists to support compensability for aggravation of that condition where the employer, rather than the Claimant raised the issue.

II. ISSUES ON APPEAL

Within the statutory period, the Claimant filed a Form 30 Application for Review in the case setting forth his reasons, copies of which were furnished to all parties prior to oral argument before the Appellate Panel on March 13, 2023. Such, together with all documentary evidence, has been delivered by oral argument to the individual members of the Appellate Panel and has since been under study and consideration.

In his Form 30 Application for Review, the Claimant questioned whether the Single Commissioner erred in determining the Claimant did not file his workers' compensation claim within two years of the date of accident and was therefore barred; whether the Single Commissioner erred in concluding the Claimant was not entitled to pursue a workers' compensation claim in South Carolina; whether the Single Commissioner erred in concluding that the Claimant was not entitled to benefits for loss of use of the spine; and whether the Single Commissioner erred in admitting into evidence Defendants' Exhibit B.

At the Appellate Hearing, during oral argument, Claimant argued that he filed a claim with the South Carolina Workers' Compensation Commission within two years of the date of incident. He further argued that his employment was located in South Carolina and, pursuant to *Holman v. Bulldog Trucking Company*, he is entitled to pursue a claim in South Carolina. He argued that he is entitled to an award for permanency to the back based on the August 7, 2019 report from Dr. Donald Johnson, who assigned 13% whole person impairment/17% lumbar spine

impairment. Finally, he argued that the Single Commissioner erred in admitting Defendants' Exhibit B, as they were hearsay and there was not a foundation laid to prove their authenticity or accuracy.

The Defendants argued that the Single Commissioner correctly ruled that the claim was barred due to the Statute of Limitations, as a Form 50 alleging an August 20, 2018 date of accident was not filed with the South Carolina Workers' Compensation Commission within two years of the date of accident. They further argued that the Single Commissioner correctly ruled that the Claimant was not hired, injured, or employed in South Carolina. Defendants argued that, had the Claimant met his burden to prove entitlement to file a claim in South Carolina, he received proper benefits through an Arkansas workers' compensation claim and is not entitled to any further benefits. They sought credit for any benefits paid in Arkansas should the Commission award the Claimant permanency to the back. Finally, the Defendants argued that the Single Commissioner was within her authority to admit Defendants' Exhibit B into evidence, as its contents were relevant, material, and not unduly repetitious.

The South Carolina Court of Appeals affirmed in part, reversed and remanded in part, directing the South Carolina Workers' Compensation Commission to make detailed findings of fact and conclusions of law on whether the 2016 injury rose to the level of a pre-existing condition, and, if it did not, proceed to analyze whether the 2018 injury standing alone was compensable.

The Form 30 is contained within the Commission file.

The Appellate Panel AFFIRMS IN PART AND REVERSES IN PART the Single Commissioner's Decision and Order and enters the following Findings of Fact, Conclusions of Law, and Order as its own.

III. AUGUST 16, 2023 DECISION OF THE APPELLATE PANEL

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

August 16, 2023 Appellate Panel Findings of Fact

1. The Commission file becomes part of the record with the exception of self-serving declarations and unstipulated medical reports.
2. The Claimant signed a Position Statement upon his hire on June 24, 2014 on which he agreed that he understood that he “was hired in the State of Arkansas, and that should I sustain an on the job injury that has been deemed compensable, that I will be covered under the State of Arkansas. This applies should I reside in a different state or if the accident occurs in a different state.” (Defendants’ Exhibit D, p. 66).
3. Following the August 20, 2018 incident, the Claimant received 13 weeks of temporary total disability benefits, was assigned a 7% whole person impairment rating related to his back, and received 31.43 weeks of permanency through an Arkansas workers’ compensation claim. (Defendants’ Exhibit B, p. 59).
4. Defendants’ Exhibit B was properly admitted into evidence by the Single Commissioner. The South Carolina Workers’ Compensation Commission is an “agency” within the meaning of S.C. Code Ann. § 1-23-330, and thus is subject to the Administrative Procedures Act. As stated in § 1-23-330, “[i]rrelevant, immaterial, or unduly repetitious evidence shall be excluded. Except in proceedings before the Industrial Commission the rules of evidence as applied in civil cases in the court of common pleas shall be followed.” The Single Commissioner was within her authority when she determined that the documents included in Exhibit B are relevant and admissible.

5. The Claimant satisfied the requirements of S.C. Code Ann. § 42-15-10, as his employment was located in South Carolina and the Claimant lived in South Carolina, where his truck was located. The greater weight of the evidence shows that he originated trips out of Lexington, South Carolina and his pay was based on mileage from his residential location in South Carolina. This finding is based, in part, on *Holman v. Bulldog Trucking Co.*, 311 S.C. 341, 482 S.E.2d 889 (S.C. Ct. App. 1993).

6. The Claimant is not time barred from filing a claim in South Carolina under S.C. Code Ann. § 42-14-50. The Commission file reflects a Form 50 Notice of Claim filed on February 12, 2020.

7. There is insufficient evidence regarding an aggravation of a pre-existing condition as the Claimant did not request benefits pursuant to that status and there is not enough medical evidence regarding the Claimant's 2016 back injury. Additionally, the Claimant was able to return to work following his 2016 back injury. (Hrng. Tr., p. 34).

8. There is insufficient medical evidence in the record to find the Claimant sustained a superseding and intervening accident in October of 2021.

9. All claims for benefits are denied.

August 16, 2023 Appellate Panel Conclusions of Law

1. Under S.C. Code Ann. § 42-15-10, the Claimant satisfied the statutory requirements related to being employed in South Carolina. His assent to the terms of the June 24, 2014 Position Statement does not disturb this conclusion. See S.C. Code Ann. § 42-1-620 (1962, as amended) ("No agreement by an employee to waive his rights to compensation under this title shall be valid.").

2. Under S.C. Code Ann. § 42-15-40, the Claimant timely filed the claim within two years after the date of the accident.

3. Under S.C. Code Ann. § 42-15-60, the Defendants are not responsible for, and the Claimant is not entitled to, any past or future medical benefits.

IV. DECISION OF THE APPELLATE PANEL ON REMAND

Appellate Panel's Findings of Fact on Remand

1. The Commission file becomes part of the record with the exception of self-serving declarations and unstipulated medical records.

2. It is stipulated that the Claimant's average weekly wage was \$1,245.03 with a corresponding compensation rate of \$830.06.

3. Claimant signed a Position Statement upon his hire on June 24, 2014, on which he agreed that he understood that he "was hired in the State of Arkansas, and that should I sustain an on the job injury that has been deemed compensable, that I will be covered under the State of Arkansas. This applies should I reside in a different state or if the accident occurs in a different state. (Defendants' Exhibit D, p. 66).

4. Following the August 20, 2018 incident, the Claimant received 13 weeks of temporary total disability benefits, was assigned a 7% whole person impairment rating related to his back, and received 31.43 weeks of permanency through an Arkansas workers' compensation claim. (Defendants' Exhibit B, p. 59).

5. Defendants' Exhibit B was properly admitted into evidence by the Single Commissioner. The South Carolina Workers' Compensation Commission is an "agency" within the meaning of S.C. Code Ann. § 1-23-330, "[i]rrelevant, immaterial, or unduly repetitious evidence shall be

excluded. Except in proceedings before the Industrial Commission the rules of evidence as applied in civil cases in the court of common pleas shall be followed.” The Single Commissioner was within her authority when she determined that the documents included in Exhibit B are relevant and admissible.

6. The Claimant satisfied the requirements of S.C. Code Ann. § 42-15-10, as his employment was located in South Carolina and the Claimant lived in South Carolina, where his truck was located. The greater weight of the evidence shows that he originated trips out of Lexington, South Carolina and his pay was based on mileage from his residential location in South Carolina. This finding is based, in part, on *Holman v. Bulldog Trucking Co.*, 311 S.C. 341, 482 S.E.2d 889 (S.C. Ct. App. 1993).

7. The Claimant is not time barred from filing a claim in South Carolina under S.C. Code Ann. § 42-15-40. The Commission file reflects a Form 50 Notice of Claim filed on February 12, 2020.

8. There is insufficient evidence of a pre-existing condition. The Claimant was involved in an incident that resulted in middle back pain on November 25, 2016 (Def. APA 7, p. 22; Def. APA 1, p. 1-2) and no physician opined as to an aggravation of a pre-existing condition in the alternative. Further, the record reflects that Claimant presented to work the day following the 2016 incident. (Hrng. Tr., p. 34). Therefore, the evidence in the record is insufficient to find that the 2016 injury rose to the level of a pre-existing condition.

9. Since we find there was no pre-existing condition to be aggravated or to aggravate a subsequent injury, we turn our attention to whether the August 20, 2018 incident standing alone is a compensable injury by accident under the S.C. Workers’ Compensation Act.

10. It is undisputed that Claimant sustained an injury by accident to his back arising out of and in the course and scope of his employment with Defendants on August 20, 2018 when he slipped while exiting his truck. It is further undisputed that the injury occurred in Colorado, his employer was located in Arkansas, and Claimant resided in and was dispatched from South Carolina.

11. We find Claimant was entitled to bring a claim in South Carolina and has a compensable claim for benefits under the South Carolina Workers' Compensation Act.

12. However, it is undisputed that Claimant brought a claim for benefits under the Arkansas Workers' Compensation Act, received all causally-related medical treatment for the August 20, 2018 injury, and received 13 weeks of temporary disability and 31.43 weeks of permanent partial disability.

13. Based on the 13% whole person impairment rating derived from a 17% regional impairment rating to the lumbar spine from Dr. Johnson, as well as Claimant's testimony and other medical evidence on the record, we find that Claimant is entitled to a disability rating of 17% to the back and permanent partial disability.

14. Pursuant to S.C. Code Ann. § 42-9-30, we find that a 17% disability rating to the back at the Claimant's stipulated compensation rate of \$830.06 corresponds to an award of \$42, 333.06. The Defendants are entitled to a credit for all benefits previously paid under the other state's workers' compensation system and shall be responsible for the difference.

Appellate Panel's Conclusions of Law on Remand

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

1. Under S.C. Code Ann. § 42-15-10, the Claimant satisfied the statutory requirements related to being employed in South Carolina. His assent to the terms of the June 24, 2014 Position Statement does not disturb this conclusion. *See* S.C. Code Ann. § 42-1-620 (1962, as amended) (“No agreement by an employee to waive his rights to compensation under this title shall be valid.”)

2. Under S.C. Code Ann. § 42-15-40, the Claimant timely filed the claim within two years after the date of the accident.

3. Under S.C. Code Ann. § 42-15-10, “If an employee shall receive compensation damages under the laws of any other state, nothing contained in this section shall be construed to permit a total compensation for the same injury greater than that provided in this title.”

4. A prior filing and receipt of workers’ compensation benefits in another state does not estop, bar, or preclude the injured employee from subsequently seeking benefits before the South Carolina Workers’ Compensation Commission, provided the jurisdictional requirements of § 42-15-10 are satisfied. *See Price v. Horton Motor Lines*, 201 S.C. 484 (1942).

5. Based on the 13% whole person impairment rating derived from a 17% regional impairment rating to the lumbar spine from Dr. Johnson, as well as Claimant’s testimony and other medical evidence on the record, we find that Claimant is entitled to a disability rating of 17% to the back and permanent partial disability.

6. Pursuant to S.C. Code Ann. § 42-9-30, we find that a 17% disability rating to the back at the Claimant’s stipulated compensation rate of \$830.06 corresponds to an award of \$42,333.06. The Defendants are entitled to a credit for all benefits previously paid under the other state’s workers’ compensation system and shall be responsible for the difference. *See Price v. Horton Motor Lines*, 201 S.C. 484 (1942) (The Commission “gave full credit to the insurance carrier for

all benefits paid to respondents under the Georgia Act, and also for all hospitalization and medical bills paid thereunder").

7. Under S.C. Code Ann. § 42-15-60, the Defendants are not responsible for, and the Claimant is not entitled to, any past or future medical benefits.

ORDER

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

IT IS HEREBY ORDERED that Claimant sustained a compensable injury by accident to his back arising out of and in the course of his employment with Defendants and is entitled to 17% permanent partial disability to the back in the amount of \$42,333.06;

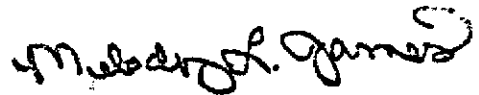
IT IS FURTHER ORDERED that Employer/Carrier are entitled to a credit for all benefits paid under the Arkansas Workers' Compensation Act;

IT IS FURTHER ORDERED that no further benefits are due and no hearing costs are assessed in this instance.

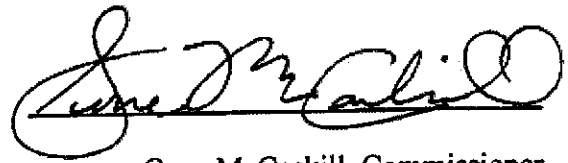
AND SO IT IS ORDERED.



Cynthia C. Dooley, Commissioner



Melody L. James, Commissioner

A handwritten signature in black ink, appearing to read "Gene McCaskill", written over a horizontal line.

Gene McCaskill, Commissioner

Date

Columbia, SC

Order Served via email:

D. Alan Westerlund, Jr. Luzuriaga Mims, LLP awesterlund@lmlawllp.com	Frank Anthony Barton Attorney At Law, PA bartonf@hotmail.com
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CERTIFICATE OF SERVICE

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

By Eugenia Hollmon on July 10, 2026

**BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION
WCC FILE NO: 1824334**

Daniel P. Hayden,)
Employee/Claimant,)
)
v.)
Riverside Transport, Inc.,)
Employer,)
and)
)
Liberty Mutual Ins. Co.,)
Insurer,)
Defendants.)

MOTION FOR RECONSIDERATION

The Claimant Daniel Hayden does respectfully request the Appellate Panel reconsider, amend, and correct its Order issued on July 10, 2026, for the following reasons:

Claimant is primarily concerned the Order appears to conclude or find Claimant was fully paid for temporary total benefits for 13 weeks and fully paid permanency payments of 31.43 weeks. In fact, the payments claimed by Defendants totaled only \$24,657.13. (The amount of payments claimed by Employer are shown on Page 59 of the Defendants' APA Submission.) The total amount due under SC law for those 44.43 weeks at the undisputed workers compensation rate of \$830.06 would total \$36,879.56. Allowing credit to the Employer for a total of 44.43 weeks at the Arkansas rate would cause a shortage of compensation to the Claimant in the amount of \$12,222.43. Claimant would request a clarification and amendment of the Order to show the Claimant is entitled to receive full compensation for 13 weeks of temporary total compensation and 51 weeks of permanency at the full compensation rates due under SC law prior to the reduction of any payments made under the Arkansas law. Therefore, Claimant should be entitled to payment for 64 weeks of compensation payments at \$830.06 for a

total of \$53,123.84, before the actual claimed payments of \$24,657.13 under the Arkansas laws are deducted, for a remaining amount due of \$28,466.71.

Importantly, the need for clarification is clearly shown by Defendants' interpretation of the current Order, as shown by the email attached as Exhibit A, wherein the Defendants take the position they owe nothing further to the Claimant.

Claimant does also request reconsideration and amendment of the Order on the following grounds:

1. Claimant respectfully submits the Findings in the Order incorrectly determined Defendant's Exhibit B was admissible. The Exhibit was clearly hearsay, there was no corroborating evidence, and in person testimony of the Claimant contradicted the purported payments claimed by Defendants.
2. The Claimant further submits the Findings in Paragraph 4 of the Order incorrectly determine amounts paid under Arkansas law and an impairment to the back in the amount of 7% as there was no credible or admissible evidence submitted to support those findings.
3. The Claimant also submits the Findings in Paragraph 12 of the Order incorrectly finds the conclusions contained therein are undisputed. The evidence showed the Claimant filed no claim under the Arkansas Act and did not receive the full weekly payments he was entitled to under SC law.
4. The Claimant further submits the Findings in Paragraph 14 of the Order incorrectly determine the Defendants are entitled to credit for payments made under Arkansas law because such payments were not proven and no request for setoff was plead by Defendants.

5. The Claimant further submits the Conclusions of Paragraph 6 of the 14 Order incorrectly determine the Defendants are entitled to credits for prior payments.
6. The Claimant further submits the Conclusions of Paragraph 7 of the Order incorrectly determines the Claimant is not entitled to any additional medical benefits.

CONCLUSION

Claimant requests the Full Panel reconsider its findings detailed above pursuant to *Rhame v. Charleston County School District*, 412 S.C. 273, 772 S.E.2d 159 (2015), to clarify exactly what amount is currently due Claimant, and to amend the other findings and conclusions as set forth above.

Respectfully submitted,



Frank A. Barton
The Barton Law Office
Post Office Box 2637
Lexington, South Carolina 29071
COUNSEL FOR CLAIMANT-APPELLANT

Lexington, South Carolina
July 14, 2026

I certify no AI program was used in the preparation of this Motion.

Lexington, South Carolina
July 14, 2026

A handwritten signature in black ink, appearing to read "F.A. Barton", written over a horizontal line.

Frank A. Barton
The Barton Law Office
Post Office Box 2637
Lexington, South Carolina 29071
COUNSEL FOR CLAIMANT-APPELLANT

Frank,

The Full Commission Decision and Order indicates in Conclusion of Law No. 6, that the Defendants are entitled to a credit for all benefits previously paid under the other state's workers' compensation system and shall be responsible for the difference. It cites Price v. Horton Motor Lines in which the Commission "gave full credit to the insurance carrier for all benefits paid to respondents, under the Georgia Act, and also for all hospitalization and medical bills paid thereunder." The carrier paid a total of \$42,998.32 in the Arkansas claim between temporary, permanent, and medical benefits. That is more than the \$42,333.06 amount which represents 17% to the back. Based on the Order, the Claimant is not entitled to any additional money.

D. Alan Westerlund, Jr. • Partner
Luzuriaga Mims, LLP
Attorney and Civil Court Mediator
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SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION
WCC File No.: 1824334

Daniel Hayden,	)	
	)	
Claimant,	)	CERTIFICATE OF SERVICE
	)	
vs.	)	
	)	
Riverside Transport Inc.,	)	
	)	
Employer,	)	
And	)	
	)	
Liberty Mutual Insurance Company,	)	
	)	
<u>Insurer.</u>	)	

The undersigned does hereby certify one copy of the **CLAIMANT'S MOTION FOR RECONSIDERATION** was served in the foregoing action by regular mail on July 14, 2026, to the following address:

D. Alan Westerlund, Jr., Esquire
1156 King Street
Charleston, South Carolina 29403



July 14, 2026
Lexington, S.C.


Frank A. Barton

South Carolina Workers' Compensation Commission
1333 Main Street, Suite 500
P.O. BOX 1715
Columbia, SC 29202-1715
(803) 737-5723



WCC File #: 1824334
Carrier File #: _____
Carrier Code #: _____
Employer FEIN #: _____

Claimant's Name: Daniel P. Hayden Employer's Name: Riverside Transport, Inc.
Address: _____ Address: _____
City: _____ State: _____ Zip: _____ City: _____ State: _____ Zip: _____
Home Phone: () - _____ Work Phone: () - _____ Insurance Carrier: _____
Preparer's Name: _____ Law Firm: _____ Preparer's Phone #: () - _____

THIS MATTER was heard before the South Carolina Workers' Compensation Full Commission in Judicial Conference. The Commissioners considered the matter and ordered the matter handled in the following manner:

I. DISPOSITION

☐ **Administrative Appeal.** This action came before the Commission on Appeal of an Administrative Order. The appeal is:

- ☐ Dismissed as Interlocutory
- ☐ Set for Oral Argument before the:
 - ☐ Hearing Commissioner
 - ☐ Jurisdictional Commissioner
 - ☐ Full Commission.

See Section II for additional information.

☒ **Motion.** This action came before the Commission on a Motion for Reconsideration. The pending motion is:

- ☐ Granted
- ☒ Denied *Let to Panel*
- ☐ Dismissed
- ☐ Remanded for Hearing before the:
 - ☐ Hearing Commissioner
 - ☐ Jurisdictional Commissioner
- ☐ Preserved for Hearing before the:
 - ☐ Hearing Commissioner
 - ☐ Jurisdictional Commissioner
 - ☐ Full Commission.
- ☐ Other

See Section II for additional information.

☐ **Appeal.** This action came before the Commission on Appeal from a Single Commissioner Decision & Order. The issues have been heard and a decision rendered. See Section II for additional information. This matter is hereby:

☐ Remanded to take such action and enter an Order consistent with the Commissions' directive. (**CHECK APPLICABLE BOX**):

☐ Remanded to the Panel as indicated below

_____ James	_____ Coggiola	_____ Byrd
_____ Beck	_____ Campbell	
_____ Dooley	_____ McCaskill	

- ☐ Remanded to the Hearing Commissioner
- ☐ Remanded to the Hearing Commissioner to settle the record
- ☐ Remanded to the Jurisdictional Commissioner
- ☐ Other: _____
- ☐ Oral Argument to be held by the ☐ Panel or ☐ En Banc

The South Carolina Court of Appeals

Daniel P. Hayden, Claimant, Appellant,

v.

Riverside Transport, Inc., Employer, and First Liberty
Insurance Corporation, Carrier, Respondents.

Appellate Case No. 2026-001797

ORDER

After careful consideration, Appellant's motion to hold this appeal in abeyance is denied. This matter is dismissed without prejudice pursuant to *Hudson v. Hudson*, 290 S.C. 215, 349 S.E.2d 341 (1986). Appellant may disregard this Court's letter dated September 2, 2026. The remittitur will be sent as provided by Rule 221(b) of the South Carolina Appellate Court Rules.

FOR THE COURT

BY


CLERK

Columbia, South Carolina

cc:

Frank Anthony Barton, Esquire
David Alan Westerlund, Jr., Esquire

FILED
Sep 08 2026
