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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appellate Case No. 2026-001231

Appeal from Charleston County Court of Common Pleas

Case No. 2023-CP-10-00524

The Honorable Jennifer B. McCoy, Circuit Court Judge

CRAIG L. PETERKIN,

Appellant,

v.

MICHAEL HOLT d/b/a LIBERTY SERVICES, HOMESERVE USA REPAIR MANAGEMENT CORP., and JOHN DOE,

Defendants,

of which MICHAEL HOLT d/b/a LIBERTY SERVICES is the Respondent.

APPELLANT'S REPLY TO RESPONDENT'S OPPOSITION TO MOTION FOR EMERGENCY REMEDIATION

INTRODUCTION

Respondent's Opposition continues a pattern that has characterized this litigation from its inception: seizing upon alleged procedural defects by a pro se Appellant while ignoring the substantive statutory violations that Respondent has never denied.

Respondent attempts to reframe Appellant's Motion as seeking narrow, "specific" relief — installation of a "point-of-source water heater." This mischaracterizes Appellant's request. Throughout these proceedings, Appellant has consistently sought elimination of the unsafe indoor/outdoor/indoor PEX repiping that Respondent installed without permits, that triggered a Stop Work Order, and that Respondent himself admitted caused the damage.

No court has ever reached the merits of Appellant's claims. No order has ever addressed the statutory violations. And critically, Respondent has made zero remediation efforts in the seven years since his defective, unpermitted work damaged Appellant's home.

ARGUMENT

I. RESPONDENT MISCHARACTERIZES APPELLANT'S RELIEF — APPELLANT HAS CONSISTENTLY SOUGHT ELIMINATION OF THE UNSAFE REPIPING

Respondent isolates the phrase "point-of-source water heater" as if Appellant's Motion seeks narrow, novel relief never previously requested. This is misleading.

Respondent's semantic gamesmanship ignores basic industry terminology. A "point-of-source" water heater is simply the modern industry term for what was previously called a "tankless" water heater — a compact unit installed at the location where hot water is needed, eliminating the need for water to travel through extended piping. The

terminology has evolved; the technology and purpose have not. Respondent's attempt to recharacterize this as novel relief is disingenuous.

More importantly, the point-of-source solution was first identified when Appellant refused to assist Respondent in further destroying Appellant's home by removing the copper pipes from the second floor. Respondent's proposed "remedy" would have compounded the damage. The point-of-source water heater was identified as the sensible alternative — a solution that would eliminate the dangerous indoor/outdoor/indoor PEX configuration without requiring additional destruction of Appellant's property. This is not novel relief; it is the same remediation Appellant has sought from the beginning, refined to prevent further harm.

Indeed, Appellant sought this remedy from the very beginning. In January 2020, Respondent's own company, Liberty Services, stated it "didn't do that type of work" — referring to tankless water heater installation. In February 2020, McAtee Plumbing similarly declined to install a tankless water heater. Appellant has pursued this remediation solution since the damage first occurred. Respondent cannot now claim this relief was "overlooked" or is being raised "for the first time on appeal" when Respondent himself refused to provide it seven years ago.

Throughout this litigation, Appellant has sought remediation of the defective plumbing work — specifically, elimination of the dangerous indoor/outdoor/indoor PEX repiping configuration that Respondent installed without required permits in January 2020. The "point-of-source" reference is one potential remedy for the ongoing unsafe condition; it is not a new claim.

The core issue has never changed: Respondent performed unpermitted work that violated S.C. Code § 40-11-110, caused property damage documented by a government-issued Stop Work Order, and has never been remediated.

The permit violation was — and remains — the tort foundation of this case. Respondent's violation of S.C. Code § 40-11-110(A)(13) by performing plumbing work without the required permit constitutes negligence per se. [See Tr. 5-6-26 at 13 (Respondent's admission: "Did you obtain a building permit from the city?" — "No.").] The statute exists to protect homeowners like Appellant from exactly this type of harm: unlicensed, uninspected work that causes property damage and creates ongoing safety hazards. Every argument Respondent raises — about procedural rules, about "point-of-source" terminology, about what was or was not "raised below" — is a distraction from this undisputed statutory violation that no court has ever addressed on the merits.

II. THE ISSUE WAS RAISED BELOW — RESPONDENT'S "FIRST TIME ON APPEAL" ARGUMENT IS FALSE

Respondent argues that Appellant raises this issue "for the first time on appeal." The record proves otherwise.

On January 18, 2025 — while Case No. 2023-CP-10-00524 was pending in the trial court — the PEX line catastrophically failed. That same day, Appellant emailed all defense counsel, including Respondent's counsel Kerry Koon and Alexander Tesoriero, with the case number in the subject line:

> "This is occurring now and I'm about to incur an economic burden when I place a call for emergency repair service going into the annual cold wave. What do you suggest?"

Attached was video evidence of the active pipe failure. Defense counsel was on notice. The issue was raised during the litigation. Respondent cannot now claim this was "overlooked" or "not raised below."

What was "overlooked" was the trial court's failure to ever address the issue — not Appellant's failure to raise it.

Respondent grossly mischaracterizes Appellant's memorandum. Appellant's statement that the issue "was intended for trial but overlooked" referred to the trial court's rushed dismissal that denied Appellant the opportunity to fully develop the evidence — not to any failure by Appellant to raise the issue. The full context makes this clear: "The trial court's rushed dismissal after a single-day bench trial (despite Appellant's jury demand) denied Appellant the opportunity to fully develop this evidence." Respondent's selective quotation inverts the meaning and should be rejected.

The trial court's conduct confirms that Appellant was denied a meaningful opportunity to present his case. During Appellant's examination of Respondent, Judge McCoy interrupted, interjected, or redirected Appellant's questioning no fewer than thirty times.

[See Tr. 5-6-26 at 26-64.] These constant interruptions — many of which cut off Appellant mid-question or prevented him from establishing critical facts about Respondent's unpermitted work, the Stop Work Order, and the resulting damage — effectively destroyed Appellant's ability to develop the record. Under these circumstances, Respondent cannot credibly argue that any issue was "overlooked" by Appellant when it was the trial court's own conduct that prevented full presentation.

III. RESPONDENT CONTINUES A PATTERN OF EXPLOITING PROCEDURAL TECHNICALITIES WHILE IGNORING SUBSTANTIVE VIOLATIONS

Respondent's Opposition exemplifies a litigation strategy employed throughout this case: attack Appellant's procedural compliance while never addressing the substantive statutory violations.

Consider what is undisputed:

- Respondent performed plumbing work without required permits — a violation of S.C. Code § 40-11-110(A)(13);

- The City of Charleston issued a Stop Work Order citing "damage throughout the house";

- Respondent admitted the damage was caused by his work;

- Respondent has undertaken zero remediation efforts in seven years;

- No court has ever reached the merits to order relief.

Instead of addressing these facts, Respondent argues about whether Appellant cited Rule 240(c)(2) or Rule 241(c). This Court should not reward procedural gamesmanship that allows a statutory violator to escape accountability while a pro se homeowner's property remains damaged.

This pattern of procedural gamesmanship is documented throughout the record. Defense counsel repeatedly claimed they did not understand Appellant's claims, yet never once requested clarification:

1. August 15, 2024 Hearing: Defense counsel stated, "Based off the pleadings, I have a difficult time understanding what is being alleged." [Transcript, August 15, 2024, Page 15]

2. August 15, 2024 Hearing: Defense counsel further stated, "The elements, let alone facts to establish it, are not pled." [Transcript, August 15, 2024, Page 16]

3. October 15, 2024 Hearing: Defense counsel again stated, "At this point, we're trying to struggle to figure out what exactly these alleged causes of action even are in order to form a defense to them." [Transcript, October 15, 2024, Page 14]

Despite three separate assertions of confusion, defense counsel never:

• Asked Appellant to clarify the claims

• Moved for a more definite statement under Rule 12(e)

• Submitted interrogatories requesting identification of legal theories

• Contacted Appellant to request clarification

All clarifying questions were posed by the Court, not defense counsel.

Meanwhile, Appellant raised the permit violation in both 2024 hearings. On August 15, 2024, Appellant stated: "There was none. That's a clear violation. It is a requirement that you have a work permit." [Transcript, August 15, 2024, Page 19] On October 15, 2024, Appellant again referenced "his violation of not having a work permit." [Transcript, October 15, 2024, Page 6]

Respondent never disputed the factual claim that no permit was obtained. Defense counsel's only response was to argue that S.C. Code § 40-11-110 "is not a remedy to be brought in court" — a statutory interpretation argument, not a factual dispute. [Transcript, August 15, 2024, Page 15]

It was not until the May 6, 2026 bench trial — nearly two years after Appellant first raised the permit violation — that Respondent finally disputed the permit requirement. Under oath, Holt testified: "No, no, no, no. Not all plumbing work requires a permit. You are incorrect. You read that -- you understand that entirely wrong. Repairs don't require all that. New construction, yes." [Transcript, May 6, 2026, Page 32] Holt further testified that the work was merely a "repair" and that permit statutes did not apply to him because he held an "unlimited commercial plumbing license." [Transcript, May 6, 2026, Page 35]

Judge McCoy accepted this testimony despite Appellant's evidence that:

• City of Charleston Building Code 105.1 requires a permit for the plumbing work performed [Transcript, May 6, 2026, Page 66]

• A FOIA response confirmed no permit exists for the work [Transcript, May 6, 2026, Page 66]

• Respondent never produced any permit or documentation showing compliance with Title 40 [Transcript, May 6, 2026, Page 7]

When Appellant objected that Holt's answer was nonresponsive, the Court stated: "Mr. Peterkin, I'm not sure -- he absolutely responded to the question" and "that applies to new construction, not repairs. He did respond." [Transcript, May 6, 2026, Pages 32-33]

IV. NO COURT HAS EVER REACHED THE MERITS — RESPONDENT HAS ESCAPED SUBSTANTIVE REVIEW

Respondent argues this Motion improperly seeks "a decision on the merits." But Appellant has never received a decision on the merits in any forum.

- Peterkin I (State Court): Dismissed on procedural grounds. No findings on liability or damages.

- Peterkin II (Federal Court): Dismissed in 48 hours on res judicata — without reaching the merits.

- Peterkin III (Federal Court): Dismissed on res judicata — without reaching the merits.

- This Appeal: Pending.

At no point has any court:

- Made findings regarding Respondent's permit violations;

- Addressed the Stop Work Order;

- Ordered remediation;

- Required Respondent to repair the damage he caused.

Respondent has successfully avoided substantive review through procedural maneuvering. This Motion seeks to prevent further harm while this appeal proceeds.

V. RESPONDENT HAS MADE ZERO REMEDIATION EFFORTS IN SEVEN YEARS

Since January 2020, Respondent has done nothing to remediate the damage caused by his unpermitted work:

- No repairs;

- No inspections;

- No permits obtained;

- No communication regarding remediation;

- No good-faith effort of any kind.

Meanwhile, Appellant's home remains in a damaged, unsafe condition. The January 18, 2025 pipe failure — which Appellant documented and reported to counsel immediately — is a direct consequence of Respondent's unrepaired, defective work.

Respondent's Opposition asks this Court to deny emergency relief while Respondent continues to do nothing. This Court should not countenance such a result.

The contrast is stark: Appellant has received more South Carolina Supreme Court Administrative Order violations from Respondent's counsel than remediation offers from Respondent. Defense counsel violated Administrative Order 20220506-04(d) — which prohibits electronic service on a self-represented litigant without written consent — in October 2024 and again in October 2025. Yet in seven years, Respondent has never once offered to remediate the damage caused by his unpermitted work.

Respondent's failure to remediate is compounded by his shifting excuses. For years, Respondent blamed Appellant for the lack of remediation. In a January 2023 letter, Respondent claimed: "Mr. Peterkin refused us access to complete the project" and stated that "per the LLR by not allowing us access and this alone he has no case." [See ROA (Holt Reply, Jan. 25, 2023).] But at trial, Respondent finally admitted the truth: HomeServe directed him not to return. When asked directly, "And did you not finish the job solely because your contracting party, HomeServe, instructed you not to?" Respondent answered: "That's correct." [See Tr. 5-6-26 at 54.] Respondent also testified: "HomeServe is the one that told me not to come back to your house" and "HomeServe told me. That's why I never came back to your house." [See Tr. 5-6-26 at 31-32.]

The implications are clear: Respondent blamed Appellant for years based on a false narrative, the SCLLR complaint was dismissed based on this false narrative, and Respondent never made any independent effort to remediate the damage caused by his unpermitted work. Even after HomeServe's instruction, nothing prevented Respondent from contacting Appellant, offering to remediate, or taking any remedial action whatsoever. He chose to do nothing for seven years.

This is yet another iteration of Respondent's "Three Stooges" defense — a pattern of bumbling, contradictory positions unsupported by evidence. Respondent claims certain conversations occurred or did not occur regarding remediation options, yet Respondent has no witness to corroborate his shifting accounts and has not produced transcripts to support his version of events. Appellant, by contrast, has a witness. Respondent's uncorroborated assertions about what was or was not discussed should be given no weight.

The lack of meaningful engagement became even more glaring after HomeServe's entry into this litigation in November 2024. HomeServe arrived with a motion onslaught: a Partial Motion to Dismiss, an Answer with thirty-five affirmative defenses, crossclaims against Holt, a Motion for Judgment on the Pleadings in January 2025, discovery demands, and opposition memoranda. [See ROA (HomeServe filings, Nov. 2024–Mar. 2025).] Yet through all of this procedural warfare, neither Respondent nor HomeServe made any effort to address the underlying issue — the unsafe, unpermitted plumbing that remains in Appellant's home. The litigation machinery churned, but remediation remained at zero.

VI. THE COURT HAS AUTHORITY TO PRESERVE THE STATUS QUO AND PREVENT IRREPARABLE HARM

Rule 241(c), SCACR, authorizes relief to preserve appellate jurisdiction and prevent issues from becoming moot. This Court also possesses inherent authority to issue orders necessary to preserve the status quo and prevent irreparable harm pending appeal.

The unsafe plumbing condition:

- Results directly from Respondent's admitted conduct;

- Was documented and raised during trial court proceedings;

- Continues to cause ongoing harm;

- Risks becoming moot through further property deterioration.

Emergency remediation is necessary to prevent irreparable harm while this appeal is decided on the merits — something that has never happened in any forum.

Respondent's dismissive characterization of this Motion as "merely a request for a decision on the merits" is offensive and should be rejected. This is not "merely" anything. This is a homeowner whose property was damaged by unpermitted work seven years ago, who has lived with unsafe plumbing conditions ever since, who watched a pipe catastrophically fail in January 2025, and who has received nothing — not a single repair, not a single inspection, not a single good-faith communication — from the contractor who caused the damage and admitted causing it. To reduce this to "merely a request" trivializes the ongoing harm and insults the very purpose of emergency relief.

Appellant does not seek a merits determination — Appellant seeks what any court should provide when a party faces continuing, documented harm caused by admitted misconduct: interim relief to prevent further damage while the appeal proceeds. That Respondent views this as "merely a request" reveals the same indifference that has characterized his conduct for seven years. The Court should not share that indifference.

CONCLUSION

Respondent's Opposition rests on two false premises: (1) that Appellant seeks narrow, novel relief not previously requested, and (2) that the issue was not raised below. Both are contradicted by the record.

The truth is simpler: Respondent performed unpermitted work, caused documented damage, admitted responsibility, and has done nothing to repair it for seven years.

Respondent now asks this Court to deny emergency relief based on procedural technicalities while Appellant's home remains unsafe.

Appellant respectfully requests that this Court:

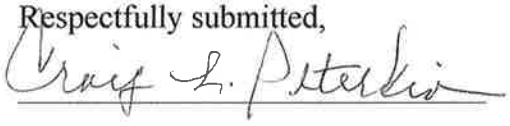
1. DENY Respondent's Opposition;

2. GRANT Appellant's Motion for Emergency Remediation;

3. ORDER Respondent to eliminate the unsafe indoor/outdoor/indoor PEX repiping configuration and remediate the damage caused by his unpermitted work;

4. Grant such other relief as the Court deems just and proper.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I certify that on September 26, 2026, I served a copy of this Reply by first-class U.S. Mail, postage prepaid, and by email, on:

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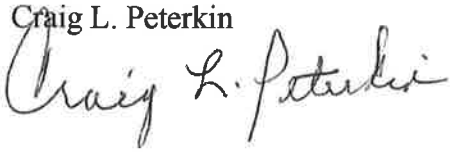
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