

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF LEXINGTON) THE ELEVENTH JUDICIAL CIRCUIT

Therese A. Johnson,) Civil Action No.: 2025CP3205386

Plaintiff,)

v.)

Barnyard of Columbia Holdings, LLC,)

Defendant.)

NOTICE OF NOTICE OF APPEAL

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Oct 19 2026

SC Court of Appeals

Pursuant to Rule 203(d)(1)(B), SCACR, Defendant respectfully files a copy of its Notice of Appeal, which was both served on counsel for the Plaintiff and filed in the Court of Appeals on October 19, 2026.

Respectfully submitted,

SWEENY, WINGATE & BARROW, P.A.

s/Christy Mahon

Mark S. Barrow, SC Bar No.: 7821
Christy E. Mahon, SC Bar No.: 15975
Sweeny, Wingate & Barrow, P.A.
Post Office Box 12129
Columbia, SC 29211
(803) 256-2233

ATTORNEYS FOR DEFENDANT

Columbia, South Carolina

October 19, 2026

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Oct 19 2026

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas

The Honorable D. Shawn Graham, Circuit Court Judge

Case No. 2025-CP-32-05386

Therese A.
Johnson.....Respondent,

v.

Barnyard of Columbia Holdings,
LLC.....Appellant.

NOTICE OF APPEAL

Barnyard of Columbia Holdings, LLC appeals the order of the Honorable D. Shawn Graham, striking part of its Answer, and the denial of its timely Motion to Reconsider, Alter or Amend pursuant to SCRCP 59(e). Appellant received written notice of entry of the order denying Defendant's Motion to Reconsider, Alter or Amend pursuant to SCRCP 59(e) on September 21, 2026.

October 19, 2026

s/Christy E. Mahon
Mark S. Barrow, SC Bar No.: 7821
Christy E. Mahon, SC Bar No.: 15975
Sweeny, Wingate & Barrow, P.A.
1515 Lady Street
Columbia, South Carolina 29201
(803) 256-2233
Attorneys for Appellant

Counsel of Record:

G. Randall McKay, Esquire
McKay Injury Law Firm
1204 Lexington Ave., Suite 1-A
Irmo, SC 29063

Andrew A. Aun, Esquire
Aun Law, P.A.
690-C Columbiana Dr.
Columbia, SC 29212

Attorneys for Respondent

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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY
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The Honorable D. Shawn Graham, Circuit Court Judge

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Therese A.
Johnson.....Respondent,

v.

Barnyard of Columbia Holdings,
LLC.....Appellant.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on Respondent by depositing a copy of it in the United States Mail, postage prepaid, on October 19, 2026 and via electronic transmission, addressed to the attorneys of record, listed as follows:

G. Randall McKay, Esquire
McKay Injury Law Firm
1204 Lexington Ave., Suite 1-A
Irmo, SC 29063

Andrew A. Aun, Esquire
Aun Law, P.A.
690-C Columbiana Dr.
Columbia, SC 29212

Attorneys for Respondent

I further certify that all parties required by Rule to be served have been served.

October 19, 2026

SWEENY, WINGATE & BARROW, P.A.

s/Christy E. Mahon

Mark S. Barrow, SC Bar 7821

Christy E. Mahon, SC Bar 15975

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Attorneys for Appellant



SWEENEY WINGATE & BARROW P.A.

October 19, 2026

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Oct 19 2026

SC Court of Appeals

Reply to: Main Office
Christy E. Mahon
(803) 256-2233 x7157
cem@swblaw.com

VIA EMAIL: ctappfilings@sccourts.org AND VIA HAND DELIVERY

Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
1015 Sumter Street
Post Office Box 11629
Columbia, South Carolina 29202

RE: Johnson v. Barnyard of Columbia Holdings, LLC
Civil Action No.: 2025CP3205386
Our File: 5658-16668

Dear Ms. Kitchings:

Enclosed please find the Notice of Appeal, Proof of Service in connection with the above-referenced matter, and a copy of the Orders to be challenged on appeal, in regard to the above-referenced matter which I am hereby filing electronically. Kindly file the same and return a clocked-in copy of each to the undersigned via return email. My firm's check in the amount of \$250.00 as the filing fee will be hand-delivered to the Court.

The enclosed documents have been served upon Respondent's counsel today via email and first-class mail as indicated in the Proof of Service.

Thank you for your assistance, and should you have any questions, please do not hesitate to contact me.

Yours truly,

SWEENEY, WINGATE & BARROW, P.A.


Christy E. Mahon

CEM/mha
Enclosures

VIA ELECTRONIC TRANSMISSION AND FIRST CLASS MAIL

cc: G. Randall McKay, Esquire
Andrew A. Aun, Esquire

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

Therese A. Johnson

Plaintiff,

vs.

Barnyard of Columbia Holdings, LLC

Defendant.

IN THE COURT OF COMMON PLEAS

Case Number: 2025CP3205386

**ORDER DENYING MOTION FOR
RECONSIDERATION****RECEIVED****Oct 19 2026****SC Court of Appeals**

This matter is before the Court on Defendant's Motion for Reconsideration pursuant to Rule 59(e) SCRCPP ("the Motion"), which was timely filed on September 1, 2026. The Motion asks this Court to alter, amend, or reconsider its Form 4 that struck certain defenses filed August 13, 2026.

After reviewing the applicable law and considering arguments raised in the Motion, the court is unable to discover any material fact or principle of law that has either been overlooked or disregarded and further finds no error of law or fact not appropriately considered. Therefore, the Motion to Alter, Amend, or Reconsider is DENIED.

First, the Court notes that its earlier ruling struck the defenses without prejudice. This makes the Court's order far less drastic than Defendant contends.

Rotec Servs., Inc. v. Encompass Servs. Inc., 359 S.C. 467, 473, 597 S.E.2d 88, 884 (Ct. App. 2004) plainly supports the Court's earlier striking of the Defenses at issue here. There, the South Carolina Court of Appeals wrote:

Rule 8(b), SCRCPP, requires that a defendant provide a statement "in short and plain terms [of] the facts constituting his defenses to each cause of action asserted." The Rule further mandates that a pleading contain "ultimate facts" rather than "evidentiary facts" to state a cause of action. *Watts v. Metro Sec. Agency*, 346 S.C. 235, 240, 550 S.E.2d 869, 871 (Ct.App.2001). "Ultimate facts fall somewhere between the verbosity of evidentiary facts and the sparsity of 'legal conclusions.'" *Id.* The trial court's decision to strike a defense as insufficiently pled will not be disturbed absent an abuse of discretion. *Slack v. James*, 356 S.C. 479, 482, 589 S.E.2d 772, 774 (Ct.App.2003).

In asserting the defense of privilege, Encompass's allegation in its answer reads in its entirety: "Defendant pleads the affirmative defense of privilege." This statement alone is purely a legal conclusion and clearly falls below the standard mandated by Rule 8. Therefore, we find no abuse of discretion in the trial court's striking this defense

Here, the stricken defenses are written in essentially the same boilerplate language as the stricken privilege defense in *Rotec*. That is to say, these defenses are not a short and plain statement of the facts as Rule 8(b) requires, but instead are bare legal conclusions.

The Court understands the Defense's concerns regarding the potential waiver of these defenses. However, the Court notes that grants for leave to amend are strongly encouraged and leave shall generally be granted freely. *Patton v. Miller*, 420 S.C. 471, 489-90, 804 S.E.2d 252, 261-62 (2017). Thus, the Court is not persuaded that Defense's concerns regarding waiver allows them to plead defenses in a manner that does not comply with Rule 8(b)'s plain requirements.

Pursuant to the discretion afforded by Rule 59 and *Pollard v. County of Florence*, concludes that a hearing is not necessary to rule on the Motion. *See* Rule 59(f), SCRCP (stating a Rule 59(e) motion "may in the discretion of the court be determined on the briefs filed by the parties without oral argument"); *see also Pollard*, 314 S.C. 397, 401-02, 444 S.E.2d 534, 536 (Ct. App. 1994) (holding there was "no merit in Pollard's assertion that the circuit court committed reversible error in denying her motion to alter or amend the judgment under Rule 59(e) SCRCP, without first conducting a hearing or allowing [the parties] 'to fully brief' the issues raised in [the] motion").

AND IT IS SO ORDERED

September 16, 2026

Judge D. Shawn Graham



Lexington Common Pleas

Case Caption: Therese A. Johnson VS Barnyard Of Columbia Holdings, Llc
Case Number: 2025CP3205386
Type: Order/Other

So Ordered

**Judge D. Shawn Graham, Circuit
Court Judge, 11th Judicial Circuit**

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF Lexington
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2025CP3205386

Therese A. Johnson
PLAINTIFF(S)

Barnyard Of Columbia Holdings, Llc
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED (*CHECK REASON*):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled);
☐ Other
- ☐ **ACTION STRICKEN (*CHECK REASON*):** ☐ Rule 40(j), SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (*CHECK APPLICABLE BOX*):**
☐ Affirmed; ☐ Reversed; ☐ Remanded;
☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☒ See attached order (formal order to follow) ☐ Statement of Judgment by the Court:

This matter was before the Court on 8/12/2026 on Plaintiff's Motion to Strike four of Defendant's pleaded affirmative defenses: (1) statute of repose, (2) statute of limitations, (3) equitable estoppel, and (4) unclean hands. The Plaintiff's Motion is GRANTED. This Court orders that the pleaded defenses of statute of repose, statute of limitations, equitable estoppel, and unclean hands are stricken without prejudice and until such time as the Defendant may sufficiently plead them in a manner that otherwise complies with the South Carolina Rules of Civil Procedure.

If a more formal order is necessary, the prevailing party shall submit a proposed order within 10 days in accordance with Rule 5(b) (3).

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 08/13/2026 .

RECEIVED

Oct 19 2026

SC Court of Appeals

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.



Lexington Common Pleas

Case Caption: Therese A. Johnson VS Barnyard Of Columbia Holdings, Llc
Case Number: 2025CP3205386
Type: Order/Electronic Form 4

So Ordered

**Judge D. Shawn Graham, Circuit
Court Judge, 11th Judicial Circuit**
