

RECEIVED

Oct 22 2026

SC Court of Appeals

**THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

Appellate Case No. 2026-001883

JOEL D. BARBER,

Appellant,

v.

SOUTH CAROLINA DEPARTMENT OF LABOR, LICENSING AND REGULATION, REAL
ESTATE COMMISSION,

Respondent.

Appeal from the South Carolina Administrative Law Court

Chief Administrative Law Judge Ralph King Anderson III

ALC Docket No. 26-ALJ-11-0068-AP

**APPELLANT’S RETURN OPPOSING RESPONDENT’S MOTION TO DISMISS
AND MEMORANDUM OF AUTHORITIES**

Appellant Joel D. Barber, appearing pro se, opposes Respondent's October 14, 2026 Motion to Dismiss under Rule 240(e), SCACR. He requests denial of the motion and continuation of this appeal. The alleged September briefing default results from omitting Rule 263(a)'s weekend provision. The remaining grounds dispute the merits of issues expressly raised in the Initial Brief; they do not establish that the appeal presents no reviewable question or that the challenged rulings were left unchallenged.

The attached documents support this Return under Rule 240(c) and (e). References to the Initial Brief and the ALC orders use their original page numbers. The September postal documents concern compliance in this Court; they are not offered as new evidence of the contents of the separate May 20 mailing to the ALC.

I The September 14 briefing was timely under Rule 263

Respondent identifies August 14, 2026 as the date Appellant served the Notice of Appeal and September 14, 2026 as the date he served the Initial Brief and designation. Motion, Ground I. Even accepting Respondent's proposed thirty-day starting point under Rule 208(a)(1), its conclusion that September 14 was late is incorrect.

Rule 263(a), SCACR, excludes the triggering day and extends a deadline falling on Saturday, Sunday, or a qualifying holiday to the next qualifying day. Excluding August 14, day thirty was Sunday, September 13, 2026. The deadline therefore continued through Monday, September 14, 2026. This calculation applies the prescribed period; it does not request an extension or reinstatement.

The Initial Brief's certificate of service is dated September 14, 2026, as is the designation's certificate. Ex. B at 22; Ex. C at 3. The USPS acceptance receipt records two mailings on September 14 at 3:50 p.m. One tracking number, 9405530109355598549322,

matches the shipping-history detail identifying the South Carolina Court of Appeals, P.O. Box 11629, Columbia, South Carolina 29211-1629 as the recipient. Ex. A. The acceptance receipt, rather than the earlier label-printing date, corroborates the September 14 mailing.

Rule 262(a)(2), SCACR, treats a document properly filed by United States mail, with sufficient postage, as filed on the mailing date, subject to exceptions inapplicable to an initial brief. Under Rule 262(c), service by mail is complete upon mailing. These provisions and Rule 263(a) answer the timeliness ground; September 14 is within the deadline calculated from Respondent's own dates.

Respondent's jurisdictional authorities address timely service of a notice of appeal: *USAA Property & Casualty Insurance Co. v. Clegg*, 377 S.C. 643, 661 S.E.2d 791 (2008), and *Lemmons v. Macedonia Water Works, Inc.*, 431 S.C. 186, 847 S.E.2d 471 (Ct. App. 2020). They do not displace Rule 263(a) when calculating a briefing deadline. Because the asserted default is not established, Rule 208(a)(4) and reinstatement under Rule 260 supply no basis for the requested dismissal.

II The appeal presents reviewable issues within the statutory standard

Appellant accepts his duty to provide a sufficient Record on Appeal and the limits of Rule 210(h), SCACR. He also recognizes that this Court may not substitute its judgment for the ALC's on the weight of factual evidence. S.C. Code Ann. § 1-23-610(B). But the same statute permits review for legal error, clearly erroneous findings on the whole record, and abuse of discretion, and expressly permits remand when warranted. § 1-23-610(B)(d)-(f). A motion cannot eliminate those grounds of review merely by characterizing the entire appeal as a request to reweigh evidence.

The Initial Brief raises a legal question concerning SCALC Rule 4(B)'s mailing provision and the rehearing order's statement that the court could not deem a document filed if it was never received. Ex. B at 9-13; Ex. E at 2. Appellant acknowledges that he must establish what was mailed and that the ALC rejected his account. The appellate issue includes whether the ALC applied the correct filing rule when evaluating that dispute. The Initial Brief separately challenges the exercise of discretion under SCALC Rule 38. Ex. B at 16-20. Neither issue disappears simply because the order also contains an adverse factual finding.

The designation identifies the amended dismissal order, rehearing order, rehearing motion with affidavit and exhibits, July 7 response and supporting materials, and relevant correspondence. Ex. C, items 2-4, 7-8, and 12-14. The rehearing order itself discusses the affidavit, photographs, and filing dispute. Ex. E at 1-2. This Return does not ask the Court to accept a new account of the May package or to resolve a disputed fact from a designation alone.

The postal records identified in the amended dismissal order are attached as Exhibit F. The receipt records mailing on May 20, 2026 at 4:33 p.m.; the matching Court-package tracking records USPS possession that afternoon and delivery on May 26 at 9:43 a.m. Ex. F; Ex. D at 2. These records support the package-mailing and delivery timeline. They do not, by themselves, resolve the disputed contents, and Appellant does not ask the Court to treat them as conclusive proof of those contents.

A designation is not the completed Record on Appeal. Rule 210(a)-(c), SCACR, supplies the separate timing and content requirements for that Record; Rule 208(b)(4) permits initial briefs to cite original source pages before record pagination. Further, Rule 240(b) stays the time limits for perfecting an appeal while a motion to dismiss is pending. Respondent identifies no separate expired Record deadline in this motion. Appellant remains responsible for assembling

the required Record from material presented below. The present attachments support the motion response and do not replace that obligation.

Respondent may argue that the completed record ultimately fails to establish reversible error. That merits position does not establish that legal and discretionary review is unavailable. Appellant requests that those issues be considered under § 1-23-610(B) on the proper Record, with remand only if that standard is met.

III The Initial Brief expressly challenges the alternative grounds

Appellant acknowledged that the sixty-four-page ALC brief did not satisfy the page limit and other formal requirements. Ex. B at 8. He did not concede that those defects required dismissal with prejudice or that denial of an opportunity to correct them was proper. SCALC Rule 38 authorizes a discretionary adverse disposition for noncompliance; its exercise remains subject to § 1-23-610(B)(f).

The Initial Brief expressly challenges the Rule 38 ruling and denial of correction at pages 16-19. It addresses the page limit, signature, caption, contact information, supporting authorities, record references, and proof of service. It also addresses the defects in the separate stay request at pages 17-18. Those arguments ask whether dismissal and refusal to allow a corrected brief were a permissible exercise of discretion; they do not ask for exemption from procedural rules.

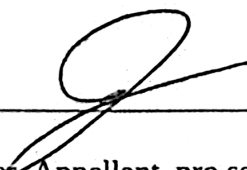
The abandonment ruling is also expressly challenged. Section III.D, at pages 19-20, addresses both the ALC's alternative abandonment ruling and its alternative discussion of the agency decision. Section III.E, at page 20, challenges the denial of rehearing. Ex. B. Appellant recognizes that the ALC considered and rejected his position. Exs. D-E. His appellate contention is that the rejection involved legal and discretionary error, including refusal to permit a conforming brief; the success of that contention remains for this Court to decide.

The fact that Respondent disagrees with these arguments does not make the rulings unchallenged. Nor does Appellant's acknowledgment of a defect concede the propriety of every consequence imposed for it. Ground III therefore does not establish its premise that Appellant identified no error in the alternative determinations. The Court should address the challenges actually presented rather than dismiss on that premise.

Requested relief

Appellant respectfully requests that the Court deny Respondent's October 14, 2026 Motion to Dismiss and permit this appeal to proceed under the applicable rules and any scheduling directions the Court issues. This Return seeks a ruling on the dismissal motion; the appellate relief requested from the ALC orders remains set out in the Initial Brief.

Respectfully submitted,



Joel D. Barber, Appellant, pro se

964 Bluffview Drive

Myrtle Beach, South Carolina 29579

Telephone: (843) 655-2979

Email: joelbarberrealestate@gmail.com

Date: 10/20/26

CERTIFICATE OF SERVICE

Appellate Case No. 2026-001883

I certify that on 16/20, 2026, I served a true and correct copy of the foregoing Appellant's Return Opposing Respondent's Motion to Dismiss and Memorandum of Authorities, together with all attached Exhibits A through F, upon counsel for Respondent by depositing the same in the United States Mail, properly addressed with sufficient first-class postage prepaid, as follows:

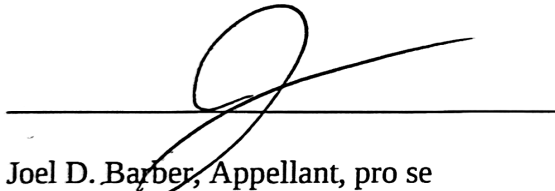
Katherine (Kate) D. Landess

Office of Disciplinary Counsel

South Carolina Department of Labor, Licensing and Regulation

P.O. Box 11329

Columbia, South Carolina 29211-1329


Joel D. Barber, Appellant, pro se

964 Bluffview Drive

Myrtle Beach, South Carolina 29579

Telephone: (843) 655-2979

Email: joelbarberrealestate@gmail.com

INDEX OF SUPPORTING DOCUMENTS

Appellate Case No. 2026-001883

Exhibit A September 14, 2026 USPS acceptance receipt (2 pages), followed by USPS shipping-history label detail for tracking number 9405530109355598549322 (3 pages). The USPS account number is redacted except for its last four digits.

Exhibit B Initial Brief of Appellant, dated September 14, 2026, including its certificate of service (22 pages).

Exhibit C Rule 209 Designation of Matter to Be Included in the Record on Appeal, dated September 14, 2026, including its certificate of service (3 pages).

Exhibit D August 6, 2026 Amended Order of Dismissal, including certificate of service (4 pages).

Exhibit E August 6, 2026 Order Denying Motion for Rehearing, including certificate of service (5 pages).

Exhibit F May 20, 2026 USPS mailing receipt and matching USPS tracking confirmation of delivery on May 26, 2026 (3 pages).

The supporting documents follow this index. References in the Return to the Initial Brief or an ALC order use the original document's page numbers. Consecutive packet numbers appear in the bottom margin.



UNITED STATES POSTAL SERVICE.

NORTH MYRTLE BEACH
621 6TH AVE S
NORTH MYRTLE BEACH, SC 29582-9998
www.usps.com

09/14/2026

03:50 PM

TRACKING NUMBERS

9405 5301 0935 5598 5493 39 ✓
9405 5301 0935 5598 5493 22

TRACK STATUS OF ITEMS WITH THIS CODE
(UP TO 25 ITEMS)



TRACK STATUS BY TEXT MESSAGE

Send tracking number to 28777 (2USPS)
Standard message and data rates may apply

TRACK STATUS ONLINE

Visit <https://www.usps.com/tracking>
Text and e-mail alerts available

PURCHASE DETAILS

Product	Qty	Unit Price	Price
---------	-----	------------	-------

Prepaid Mail	1		\$0.00
Columbia, SC 29211			
Weight: 0 lb 5.60 oz			
Acceptance Date:			
Mon 09/14/2026			
Tracking #:			
9405 5301 0935 5598 5493 39			

Prepaid Mail	1		\$0.00
Columbia, SC 29211			
Weight: 0 lb 5.60 oz			
Acceptance Date:			
Mon 09/14/2026			
Tracking #:			
9405 5301 0935 5598 5493 22			

Grand Total: \$0.00

TO REPORT AN ISSUE
Visit <https://email.usps.com>

Mon 09/14/2026
Tracking #:
9405 5301 0935 5598 5493 22

Grand Total: \$0.00

TO REPORT AN ISSUE
Visit <https://emailus.usps.com>

All hazardous labels/markings on reused
boxes MUST be completely
removed/obliterated if they no longer
match the contents.

PREVIEW YOUR MAIL AND PACKAGES
Sign up for FREE at
<https://informedelivery.usps.com>

Looking for a new opportunity? Join a team
that delivers! The Postal Service is
actively hiring for full and part-time
positions. To learn more visit us at
www.usps.com/careers

All sales final on stamps and postage.
Refunds for guaranteed services only.
Thank you for your business.

Customer Service
1-800-ASK-USPS
(1-800-275-8777)

Agents do not have any additional
information other than what is provided on
USPS.com.

Tell us about your experience.
Go to: <https://postalexperience.com/Pos>
or scan this code with your mobile device,



or call 1-800-410-7420.

UFN: 456410-0582
Receipt #: 840-52900432-3-11278769-1
Clerk: 85



Shipping History

New Label

Order History Dashboard

< [Back to Order Details](#)

Label # [9405530109355598549322](#)

Delivery Status

Tracking Number
[4202921116299405530109355598549322](#)

Delivered

View Tracking History ▼

Terms

Acceptance Cutoff
09/14/2026
12:00 AM

Scheduled date
09/17/2026
12:00 AM

Feedback

Get Online Assistance
Chat Now!

Details

Account Number

****2264

Return Address

JOEL BARBER
964 BLUFFVIEW DR
MYRTLE BEACH, SC, 29579-5246
joelinvests@gmail.com

Delivery Address

Clerks Office
SOUTH CAROLINA COURT OF APPEALS
PO BOX 11629
COLUMBIA, SC, 29211-1629

Package

Flat Rate Envelope

Service Type

Priority Mail®

Order Number

[01A0980D-44ED-763A-9A04-9AACD9FF0060](#)

Transaction Type

LABEL

Payment Method

AMEX-1005

Payment Status

Account Charged

Service Type	Price
Priority Mail® Flat Rate Envelope	\$11.12
Insurance	Free
USPS Tracking®	Free
<hr/>	
Label Total	\$11.12

More Actions ⓘ

[USPS Tracking](#)

[Ship Again](#)

Need Help? ⓘ

[File An Insurance Claim](#)

[Request a Refund](#)

[Request A Service Refund](#)

Timestamp	Message
<hr/>	
9/12/2026 11:56 PM	Setting Payment
<hr/>	
9/12/2026 11:57 PM	Getting Payment
<hr/>	
9/12/2026 11:59 PM	LABEL PRINTED: LETTER

**THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

Appellate Case No. 2026-001883

JOEL D. BARBER,

Appellant,

v.

**SOUTH CAROLINA DEPARTMENT OF LABOR, LICENSING AND
REGULATION, REAL ESTATE COMMISSION,**

Respondent.

Appeal from the South Carolina Administrative Law Court

Chief Administrative Law Judge Ralph King Anderson III

ALC Docket No. 26-ALJ-11-0068-AP

INITIAL BRIEF OF APPELLANT

Joel D. Barber, Appellant, pro se

964 Bluffview Drive

Myrtle Beach, South Carolina 29579

(843) 655-2979

joelbarberrealestate@gmail.com

TABLE OF CONTENTS

STATEMENT OF ISSUES ON APPEAL	4
STATEMENT OF THE CASE	4
STATEMENT OF FACTS RELEVANT TO THE ISSUES	6
SUMMARY OF ARGUMENT	8
ARGUMENT	9
I. The ALC’s Rule 4(B) analysis used an erroneous receipt premise; under the Rule, the dispositive question is whether the Brief was deposited in the mail.	9
II. The finding that the Appellant’s Brief was not in the May 20 package was clearly erroneous on the whole record, or at minimum required remand for further fact-finding.	13
III. Dismissal with prejudice and denial of rehearing were an abuse of discretion where the defects were curable, Respondent had actual notice, and lesser corrective measures were available.	16
CONCLUSION AND RELIEF REQUESTED	20
CERTIFICATE OF SERVICE	22

TABLE OF AUTHORITIES

CASES

Chapman v. S.C. Dep't of Soc. Servs., 420 S.C. 184, 801 S.E.2d 401 (Ct. App. 2017)	10-12, 18
Gordon v. Busbee, 367 S.C. 116, 623 S.E.2d 857 (Ct. App. 2005)	19
McComas v. Ross, 368 S.C. 59, 626 S.E.2d 902 (Ct. App. 2006)	16, 18
Paschal v. Price, 380 S.C. 419, 670 S.E.2d 374 (Ct. App. 2008), aff'd, 392 S.C. 128, 708 S.E.2d 771 (2011)	11-12, 18
Small v. Mungo, 254 S.C. 438, 175 S.E.2d 802 (1970)	18
Trowell v. S.C. Dep't of Pub. Safety, 384 S.C. 232, 681 S.E.2d 893 (Ct. App. 2009)	12

STATUTES AND RULES

S.C. Code Ann. § 1-23-610(B)	9, 13, 15-16
Rule 3(B), SCALCR	16
Rule 4(B), SCALCR	4-5, 8-12, 14-15, 20-21
Rule 37, SCALCR	4-5, 8, 17, 19-20
Rule 38, SCALCR	4-5, 9, 16-20
Rule 40(B), SCALCR	20

STATEMENT OF ISSUES ON APPEAL

1. Did the Administrative Law Court err in its Rule 4(B), SCALCR, analysis by stating that a document could not be deemed filed if it was “never received,” where Rule 4(B) makes mailing an independent filing event and the disputed factual question was whether Appellant’s Brief was actually included in the properly addressed May 20, 2026 mailing?

2. Was the ALC’s finding that Appellant’s Brief was not included in the May 20, 2026 Court package clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record, including Appellant’s sworn affidavit, timestamped photographs, contemporaneous email identification of the Brief, USPS proof, the Court’s May 26 receipt confirmation, and Respondent’s acknowledged receipt of the same Brief?

3. Did the ALC abuse its discretion under Rule 38, SCALCR, by dismissing the appeal with prejudice and denying rehearing instead of permitting a corrected Rule 37-compliant brief where the Brief was timely served on Respondent, Respondent answered its merits, the defects identified by the ALC were curable, and no prejudice to Respondent from correction was shown?

STATEMENT OF THE CASE

This appeal concerns the Administrative Law Court’s dismissal of an administrative appeal before the merits of the underlying agency decision were adjudicated in a conforming appellate briefing process. On February 9, 2026, the South Carolina Department of Labor, Licensing and Regulation, Real Estate Commission entered a final order revoking Appellant Joel D. Barber’s real-estate license and imposing civil penalties totaling \$15,000. Appellant sought review in the Administrative Law Court. The ALC appeal was commenced on March 4, 2026, assigned on March 6, 2026, and the Department filed the Record on Appeal on April 20, 2026. Am. Order of Dismissal at 1.

Under Rule 37(A), SCALCR, Appellant's principal brief was due thirty days after the Record on Appeal was filed; the ALC identified May 20, 2026 as the due date. The ALC later found that the package it received from Appellant on May 26 did not contain the Appellant's Brief. Respondent, however, had received Appellant's Brief and later filed a response addressing the arguments in it. Am. Order of Dismissal at 1-2 & n.2.

On July 16, 2026, the ALC dismissed the appeal with prejudice under Rule 38, SCALCR. On July 28, 2026, Appellant filed a Motion for Rehearing, to Vacate Order of Dismissal, and for Leave to File a Corrected Conforming Brief. The motion identified the Rule 4(B) mailing issue, supplied a sworn affidavit and contemporaneous documentary evidence concerning the May 20 package, and expressly acknowledged that the sixty-four-page copy later supplied to the ALC did not comply with the thirty-page limit and other formal requirements. On August 6, 2026, the ALC amended the dismissal order to correct the package-receipt date from May 27 to May 26. Rehearing Mot. at 1-7; Barber Aff. at 9-10; Am. Order of Dismissal at 1.

On August 6, 2026, the ALC denied rehearing. The dismissal and rehearing issues were decided on written submissions; no evidentiary hearing or oral argument was conducted in the ALC on those issues. The ALC held that the evidence did not establish that the Brief was in the May 20 package, rejected Appellant's Rule 4(B) argument, and concluded that the Brief was in any event nonconforming. Order Denying Rehearing at 1-4. Appellant served and mailed his Notice of Appeal to this Court on August 14, 2026. Notice of Appeal at 1-2. The present appeal challenges the dismissal and denial of rehearing. Appellant does not ask this Court in this appeal to decide the underlying disciplinary merits; he asks that the dismissal be vacated and that the ALC appeal be restored for merits review under a conforming briefing schedule.

STATEMENT OF FACTS RELEVANT TO THE ISSUES

The filing dispute arose from a physical filing package mailed on the day the Appellant's Brief was due. The record assembled on rehearing contains several contemporaneous pieces of evidence created before any dispute existed over the package's contents.

First, on May 20, 2026, Appellant communicated with the ALC law clerk about filing. The law clerk advised that the Court would use the postmarked date on the envelope to determine the filing date. Later that same day, Appellant wrote in the same thread: "Attached please find the USPS receipt/postmark and proof of mailing for the Appellant's Brief filed today in Docket No. 2026-ALJ-11-0068-AP." Rehearing Mot. at 2; Ex. A at 12-15. The statement was made on the deadline and before the package's contents became disputed.

Second, Appellant's sworn affidavit states that he personally assembled two filing packages, one for Respondent and one for the ALC. As to the ALC package, he swore that the Appellant's Brief was the top packet secured by a gold binder clip and that the Motion to Stay was directly beneath it, secured by a black binder clip. He further swore that photographs were taken before the package was closed and mailed and that no document was removed, replaced, or substituted after the photographs were taken. Barber Aff. ¶¶ 2-8, at 9.

Third, the photographs display the Court's Priority Mail box, its address to the Administrative Law Court, and multiple clipped packets inside the box. The photographs were captured at approximately 4:24 p.m. on May 20. The USPS receipt is time-stamped approximately nine minutes later, and the tracking history reflects USPS possession at approximately the same time. Rehearing Mot. Ex. B at 16; Ex. C at 17; Ex. D at 18-21; Barber Aff. ¶¶ 6-8, at 9.

Fourth, USPS tracking reflects delivery to the ALC on May 26, 2026. After tracking showed delivery, Appellant asked in the existing email thread whether the “appellate filing materials” had been received. The ALC law clerk responded that afternoon, with Respondent’s counsel copied, “We received them today!” Rehearing Mot. at 2; Ex. A at 12-15. The Amended Order likewise recognizes May 26 as the date the Court received Appellant’s package. Am. Order of Dismissal at 1.

Fifth, after the ALC’s June 26, 2026 letter stated that the Court had not received Appellant’s Brief and requested a response, Appellant transmitted a written response by email and fax on July 2, 2026, together with the May 20 USPS mailing receipt, May 26 USPS delivery confirmation, and the May 26 ALC receipt-confirmation email. On July 6, 2026, the ALC law clerk advised Appellant that fax and email submissions were not considered filed and that documents had to be mailed or hand-delivered with an original signature. The ALC’s July 16 Order states that on July 7, 2026, Appellant submitted a response alleging he had served and filed his Brief by mail on May 20, 2026, and it identifies the supporting materials submitted with that response. July 2-6 Correspondence; Order of Dismissal at 2.

Sixth, the ALC’s dismissal order states that Respondent informed the Court it had received Appellant’s Brief, and Respondent filed a merits response addressing Appellant’s arguments. Am. Order of Dismissal at 1-2 & n.2. Thus, there was no dispute that Appellant had prepared and transmitted a Brief to the opposing party. The dispute was whether the corresponding Brief was included in the package mailed to the ALC.

The ALC resolved that factual dispute against Appellant. On rehearing, the Court compared the photographs to the materials in its file and focused on differences in binder clips, concluding the photographs did not establish that the Brief was in the box when mailed. Order

Denying Rehearing at 1-2. Appellant does not ask this Court to determine how the Brief later came to be absent from the ALC file. His position is narrower: the whole-record evidence of what was deposited in the mail must be evaluated under Rule 4(B)'s actual filing standard, and the absence of the Brief from the file after receipt cannot itself substitute for proof of what the package contained at mailing.

Appellant also does not dispute that the sixty-four-page copy later supplied to the ALC failed to conform to Rule 37's page limit and certain formal requirements. His rehearing motion expressly acknowledged those deficiencies and asked for ten days to file a corrected, no-more-than-thirty-page brief containing the required docket number, signature, contact information, authority, record references, conclusion, and proof of service. Rehearing Mot. at 1, 5-7. The ALC declined that request and left the dismissal with prejudice in place. Order Denying Rehearing at 2-4.

SUMMARY OF ARGUMENT

The dismissal should be reversed for three related reasons. First, Rule 4(B), SCALCR, defines filing by delivery or proper mailing. The rehearing order nevertheless stated that the Court could not deem a document filed if it was "never received." As a statement of filing law, that premise is inconsistent with Rule 4(B), which makes mailing an independent filing event. That does not eliminate Appellant's burden to establish what was mailed. The controlling factual question is whether the Appellant's Brief was actually included in the properly addressed May 20 package. If it was, Rule 4(B) deems it filed as of mailing.

Second, the finding that the Brief was not in that package cannot be separated from the whole record. Appellant supplied a sworn account identifying the Brief as the top clipped packet, photographs taken minutes before mailing, a same-day email expressly identifying the mailing as

the Appellant's Brief, USPS acceptance and delivery records, the Court's same-thread confirmation that the appellate filing materials had been received, and Respondent's receipt and merits response. The ALC relied principally on a later comparison of binder clips and the Brief's absence from its file. On this record, the conclusion is clearly erroneous or, at minimum, requires remand for focused fact-finding under the correct Rule 4(B) standard rather than dismissal with prejudice.

Third, Rule 38 says the ALC "may" dismiss; it does not make dismissal with prejudice automatic. Appellant sought correction, not exemption. Respondent had the Brief and answered it. The page-limit, signature, caption, contact, and proof-of-service defects identified by the ALC were capable of correction. South Carolina decisions repeatedly caution against allowing curable procedural defects to extinguish substantive review where a lesser measure can enforce the rules without unfairness. Because the ALC treated a curable briefing problem as a complete forfeiture of the underlying appeal, and because its decision rested in part on an erroneous reading of Rule 4(B), the dismissal and rehearing denial should be vacated.

ARGUMENT

I. THE ALC'S RULE 4(B) ANALYSIS USED AN ERRONEOUS RECEIPT PREMISE; UNDER THE RULE, THE DISPOSITIVE QUESTION IS WHETHER THE BRIEF WAS DEPOSITED IN THE MAIL.

Standard of Review

Review of the ALC's order is governed by S.C. Code Ann. § 1-23-610(B). This Court may reverse or remand when the ALC decision is affected by an error of law, is clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record, or is arbitrary, capricious, or characterized by abuse of discretion. S.C. Code Ann. § 1-23-610(B)(d)-

(f). Construction of the governing procedural rule presents a question of law. See *Chapman v. S.C. Dep't of Soc. Servs.*, 420 S.C. 184, 188-92, 801 S.E.2d 401, 403-06 (Ct. App. 2017) (reversing where administrative review elevated form over substance and added a filing requirement not imposed by the governing law).

A. Rule 4(B) fixes filing by delivery or mailing, not by later docket presence.

Rule 4(B), SCALCR, states in direct terms that “[t]he date of the filing is the date of delivery or the date of mailing.” It further provides that a document is deemed filed by “depositing the document in the U.S. mail, properly addressed to the Court, with sufficient first class postage attached.” Rule 4(B), SCALCR. The Rule therefore separates the filing act from later internal processing. A party invoking filing by mail must prove what document was deposited, that it was properly addressed, and that the mailing requirements were satisfied; but the Rule does not say the filing date depends upon later scanning, docketing, routing, or continued physical presence in the Court’s file.

That text matters because the parties did not dispute that Appellant deposited a properly addressed Court package in the United States Mail on May 20 and that the ALC received the package on May 26. Am. Order of Dismissal at 1; Rehearing Mot. Exs. B-C at 16-17. The disputed fact was the package’s contents. Once that dispute arose, Rule 4(B) required a determination of whether the Brief was among the documents deposited in the mail on May 20. The later state of the Court’s file was evidence relevant to that question, but it was not the legal definition of filing.

B. The rehearing order applied a different legal rule.

The rehearing order rejected Appellant’s Rule 4(B) position on the ground that “the Court could never deem something filed that is never received.” Order Denying Rehearing at 2. As a

statement of the filing rule, that formulation is incomplete. Rule 4(B) provides two independent filing events—delivery or mailing—and specifically deems a document filed by depositing it in the U.S. mail, properly addressed to the Court, with sufficient first-class postage. The Rule therefore does not make physical receipt of the document a prerequisite when filing is accomplished by mail.

The distinction is not semantic. If a litigant properly deposits a document in the United States Mail and the evidence establishes that the document was in the mailed package, Rule 4(B) fixes the filing date at mailing even if a later intake or docketing dispute arises. Conversely, if the factfinder determines that the Brief was not actually in the package, Rule 4(B) provides no relief because the Brief itself was never deposited in the mail. Thus, the legal rule does not decide the factual dispute; it identifies the correct factual question: what was deposited in the May 20 mailing?

C. Paschal and Chapman support enforcing filing requirements without adding new forfeiture conditions.

South Carolina appellate decisions have rejected procedural constructions that transform ministerial or curable defects into loss of substantive review when the governing law does not impose the added condition. In *Paschal v. Price*, 380 S.C. 419, 439-42, 670 S.E.2d 374, 385-87 (Ct. App. 2008), *aff'd*, 392 S.C. 128, 708 S.E.2d 771 (2011), a timely notice of appeal was returned by the clerk because it lacked a civil cover sheet. This Court declined to allow the cover-sheet defect to defeat the appeal, emphasizing that the governing appeal statutes did not make the cover sheet a filing requirement and recognizing the ministerial nature of the defect.

Chapman applied the same substantive principle in an administrative setting. There, a timely written grievance conveyed the same substantive information later placed on the agency's

preferred form. The Court of Appeals reversed because the decision below elevated form over substance and effectively added a requirement beyond the governing statute and regulation. 420 S.C. at 189-92, 801 S.E.2d at 404-06. Paschal and Chapman do not excuse compliance with valid rules. They demonstrate that courts should apply the filing rule that actually exists, not an additional forfeiture condition created after the fact.

Trowell v. South Carolina Department of Public Safety is especially instructive. There, this Court reversed an administrative timeliness ruling where the agency's interpretation effectively created an unwritten service rule that was not contained in the governing procedure and operated as an overly harsh procedural trap. 384 S.C. 232, 236-37, 681 S.E.2d 893, 895-96 (Ct. App. 2009). Trowell did not involve Rule 4(B), but its principle applies here: an administrative tribunal may enforce the filing rule actually adopted; it should not add a receipt condition that the text of the rule does not contain.

Here, Rule 4(B) expressly identifies mailing as filing. The ALC was entitled to determine whether the Brief was in the package. But that factual determination should be made under Rule 4(B)'s mailing standard, without treating later nonreceipt as a separate filing prerequisite. Paschal and Chapman do not excuse compliance with valid filing rules; they support applying the governing rule as written rather than adding a forfeiture condition the rule does not contain.

D. The Rule 4(B) issue was preserved and warrants reversal or remand.

Appellant expressly raised this point in the Motion for Rehearing. Rehearing Mot. at 4-5. The ALC expressly rejected it. Order Denying Rehearing at 2. The issue is therefore preserved. Because the rehearing order's Rule 4(B) analysis used an erroneous receipt premise while dismissal turned on a disputed package-content question, the appropriate remedy is to vacate the dismissal and remand for application of Rule 4(B) according to its text. If this Court concludes

the existing record establishes that the Brief was in the May 20 package, it should direct the ALC to deem the Brief filed as of May 20 and proceed under a corrected briefing schedule. At minimum, the matter should be remanded for focused fact-finding on the package contents under the proper legal standard.

II. THE FINDING THAT THE APPELLANT’S BRIEF WAS NOT IN THE MAY 20 PACKAGE WAS CLEARLY ERRONEOUS ON THE WHOLE RECORD, OR AT MINIMUM REQUIRED REMAND FOR FURTHER FACT-FINDING.

Standard of Review

Under § 1-23-610(B), this Court does not substitute its judgment for the ALC as to the weight of the evidence on questions of fact. The Court may, however, reverse or remand when a decision is “clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record,” is affected by an error of law, or is arbitrary, capricious, or characterized by abuse of discretion or a clearly unwarranted exercise of discretion. S.C. Code Ann. § 1-23-610(B)(d)-(f).

A. The evidence of the package contents was contemporaneous, cumulative, and mutually corroborating.

The rehearing record contained direct sworn evidence from the person who assembled the package. Appellant swore that the Brief was the gold-clipped top packet in the ALC box, that the Motion to Stay was immediately beneath it, that the photographs depicted the package immediately before mailing, and that he did not remove, replace, or substitute any document after the photographs were taken. Barber Aff. ¶¶ 2-8, at 9. That testimony addressed the precise factual issue in dispute.

The affidavit was corroborated by evidence created contemporaneously with mailing. On May 20, before any dispute existed, Appellant told the ALC that the USPS receipt was proof of mailing for “the Appellant’s Brief filed today.” Rehearing Mot. at 2; Ex. A at 12-15. The photographs were captured at approximately 4:24 p.m.; USPS accepted the package minutes later at approximately 4:32-4:33 p.m. Exs. B-D at 16-21. The timing materially reduces the possibility that the photographed filing set and the mailed filing set were unrelated.

Appellant does not rely on the May 20 email itself as the filing event. The email is contemporaneous evidence of what he identified as being placed in the United States Mail that day; Rule 4(B)’s mailing provision is the asserted filing mechanism.

The delivery side of the chain also corroborates the mailing account. USPS tracking shows delivery on May 26. Appellant then asked, in the same filing thread, whether the “appellate filing materials” had been received. The law clerk replied, with Respondent’s counsel copied, “We received them today!” Rehearing Mot. at 2; Ex. A at 12-15. The Court later amended its dismissal order to recognize May 26 as the receipt date. Am. Order of Dismissal at 1.

Finally, Respondent had Appellant’s Brief and responded to its substance. Am. Order of Dismissal at 1-2 & n.2. That fact does not by itself prove what was inside the ALC’s box, but it strongly corroborates Appellant’s sworn explanation that matching filing sets were assembled for both recipients on May 20. It also confirms that this case is not one in which no brief existed, no opposing party received it, or no substantive appellate position was communicated.

B. The ALC’s binder-clip comparison did not reconcile the whole evidentiary chain.

The rehearing order focused on a discrepancy between the binder clips visible in the photographs and the clipped materials later present in the Court’s file. Order Denying Rehearing

at 1-2. That observation was relevant evidence, but the order did not explain why it outweighed the direct affidavit, the same-day identification of the mailing as the Appellant's Brief, the minutes-apart photographs and USPS acceptance, the May 26 receipt confirmation in the existing thread, and Respondent's receipt of the Brief.

Nor is the issue resolved merely by observing that the Brief was absent from the Court's file when the Court later examined it. The absence establishes the file's later contents. It does not, standing alone, establish the contents of a sealed package at the moment of mailing. Rule 4(B) makes that earlier moment legally significant. To use later absence as conclusive proof of nonmailing effectively reproduces the legal error discussed in Issue I.

Appellant is not accusing court personnel of misconduct and does not ask this Court to decide why the documents later differed. The record may permit more than one inference as to what occurred. But where dismissal with prejudice turned on a disputed physical-filing question, the ALC was required to reconcile the whole record under the correct legal standard. Its order did not meaningfully address why the contemporaneous chain was insufficient beyond the later clip comparison and absence of the Brief from the file.

C. At minimum, remand for focused fact-finding is preferable to affirming a merits-ending dismissal on an unresolved intake dispute.

The Court of Appeals need not reweigh the evidence to grant relief. If it concludes that the ALC's ultimate factfinding cannot be sustained on the existing record under § 1-23-610(B) (e), it may reverse. If it concludes that the evidentiary conflict requires additional factfinding, § 1-23-610(B) expressly authorizes remand for further proceedings. A narrow remand could permit the ALC to determine, under Rule 4(B), whether the Brief was included in the May 20 package, giving appropriate weight to the sworn affidavit and contemporaneous documentary chain.

That remedy is especially appropriate because the procedural consequence was not a minor docket correction. The finding ended Appellant's administrative appeal with prejudice and prevented the ALC from conducting merits review of an agency order revoking a professional license and imposing \$15,000 in penalties. Where the decisive fact is the contents of a mailed box and the record contains substantial contemporaneous evidence on both mailing and receipt, merits-ending dismissal should not rest on an unreconciled intake discrepancy.

**III. DISMISSAL WITH PREJUDICE AND DENIAL OF REHEARING WERE AN
ABUSE OF DISCRETION WHERE THE DEFECTS WERE CURABLE, RESPONDENT
HAD ACTUAL NOTICE, AND LESSER CORRECTIVE MEASURES WERE
AVAILABLE.**

Standard of Review

Rule 38, SCALCR, entrusts the choice of sanction to the ALC by providing that an administrative law judge "may dismiss an appeal or resolve the appeal adversely" for noncompliance. South Carolina appellate authority treats dismissal as a severe sanction and recognizes the relevance of prejudice and less drastic alternatives when reviewing a discretionary dismissal. See *McComas v. Ross*, 368 S.C. 59, 62-63, 626 S.E.2d 902, 904-05 (Ct. App. 2006). Section 1-23-610(B)(f) likewise authorizes reversal or remand for a decision characterized by abuse of discretion or a clearly unwarranted exercise of discretion.

A. Rule 38 authorized discretion; it did not compel dismissal with prejudice.

Rule 38's operative word is "may." The ALC therefore had authority to enforce its briefing rules, but it also had discretion to choose a remedy proportionate to the problem. Rule 3(B), SCALCR, separately permits enlargement of time for good cause except where otherwise

prohibited. And the Notes to Rule 38 recognize that, although pro se litigants remain responsible for compliance, an administrative law judge may make reasonable efforts to assure fairness.

The dismissal order nevertheless described dismissal as a “harsh result” while stating that the Court was “constrained by the rules and legal precedent.” Am. Order of Dismissal at 3. That formulation is difficult to reconcile with Rule 38’s discretionary text. The rules authorized dismissal, but they did not make dismissal with prejudice the inevitable response to every briefing defect. The ALC was required to exercise judgment as to remedy.

B. Appellant asked to cure the defects, and Respondent had already received and answered the Brief.

On rehearing, Appellant did not ask the ALC to accept a sixty-four-page nonconforming brief. He acknowledged the page-limit and formal defects and requested ten days to submit a corrected brief of no more than thirty pages with the required docket number, signature, contact information, authorities, record references, conclusion, and proof of service. Rehearing Mot. at 1, 5-7. That request would have enforced Rule 37 rather than excused it.

The practical prejudice from allowing correction was minimal. Respondent had already received the Brief and filed a response addressing Appellant’s arguments. Am. Order of Dismissal at 1-2 & n.2. Respondent therefore had actual notice of the issues and an opportunity to answer them. A corrected brief could have narrowed the issues and conformed the presentation to Rule 37 without depriving Respondent of any procedural protection.

The ALC also cited deficiencies in the separate Motion to Stay. Rehearing Order at 2-3. Those deficiencies could support refusal to consider that motion until corrected. They did not require extinguishing the underlying administrative appeal. Treating defects in a collateral stay

request as additional justification for dismissal with prejudice compounded rather than cured the disproportionality.

C. South Carolina law favors merits disposition over forfeiture for curable procedural defects.

South Carolina appellate courts have repeatedly cautioned that dismissal is a severe procedural sanction. In *Small v. Mungo*, the Supreme Court explained that procedural rules should be reasonably applied to facilitate the orderly disposition of litigation on the merits, and although dismissal for failure to proceed was warranted there, dismissal with prejudice was not. 254 S.C. 438, 442-44, 175 S.E.2d 802, 804 (1970).

McComas similarly recognized that dismissal for failure to prosecute is generally associated with factors such as personal responsibility, prejudice to the opposing party, a history of deliberate delay, and whether a less drastic sanction would be effective. 368 S.C. at 63, 626 S.E.2d at 904-05. Those Rule 41 cases do not control Rule 38 mechanically, but the proportionality principle is instructive where Rule 38 itself confers discretion and the chosen sanction permanently terminates appellate review.

Paschal and Chapman reinforce the same policy in filing contexts. Paschal refused to permit a ministerial cover-sheet defect to defeat a timely administrative appeal. 380 S.C. at 439-42, 670 S.E.2d at 385-87. Chapman reversed an administrative decision that elevated form over substance where the timely filing conveyed the required substantive notice. 420 S.C. at 189-92, 801 S.E.2d at 404-06. Those decisions do not eliminate deadlines or formatting rules; they support correction rather than forfeiture where the governing framework permits it and the opposing party is not unfairly prejudiced.

Gordon v. Busbee reinforces that remedial principle. The Court of Appeals reversed a dismissal where a verified complaint supplied the information required to present a probate claim even though the claimant did not use the particular probate form urged by the opposing party; requiring the redundant form would have elevated form over substance. 367 S.C. 116, 120–21, 623 S.E.2d 857, 859–60 (Ct. App. 2005). Gordon did not excuse a substantive deadline, and Appellant likewise does not ask to excuse Rule 37. He asks to enforce the rule through a corrected conforming brief rather than extinguish the administrative appeal where Respondent had the brief, answered it, and identified no prejudice from correction.

The circumstances here favor correction. Appellant mailed a package on the deadline; contemporaneously identified the filing as his Appellant's Brief; the Court confirmed receipt of appellate filing materials; Respondent obtained the Brief and answered it; and Appellant later submitted sworn and documentary evidence concerning the disputed package contents. He expressly offered to replace the nonconforming copy with a Rule 37-compliant brief. The ALC identified no prejudice to Respondent that a corrected filing would cause.

D. The ALC's alternative abandonment and merits observations do not make the Rule 38 error harmless.

The dismissal order stated that, even if the Brief were considered timely and properly filed, the Court would consider only the first thirty pages and viewed issues in those pages as abandoned for lack of supporting authority. Am. Order of Dismissal at 2-3 & n.3. The rehearing order further stated that the nonconforming brief was deficient and expressed an alternative view that the agency decision was supported by substantial evidence. Order Denying Rehearing at 3-4.

Those alternative observations do not answer the remedy Appellant actually requested. Appellant did not seek an order treating the sixty-four-page copy as a conforming Rule 37 brief.

He sought leave to replace it with a corrected brief complying with the page limit and authority requirements. Rehearing Mot. at 1, 5-7. If Rule 38 discretion should have been exercised to permit correction, then abandonment based on the defects of the superseded nonconforming copy cannot make refusal to permit a conforming filing harmless.

Nor does the ALC's summary alternative merits observation substitute for the merits review that the dismissed appeal was supposed to receive. This Court need not decide the underlying Commission issues now. The appropriate appellate remedy is to restore the ALC appeal so those issues can be presented in a conforming brief, answered in the ordinary course, and adjudicated under the statutory standard of review.

E. Denial of rehearing perpetuated the same legal and discretionary errors.

Rule 40(B), SCALCR, required Appellant to identify the points overlooked or misapprehended before appealing. He did so: the rehearing motion squarely raised Rule 4(B), the contemporaneous filing evidence, Rule 38 discretion, the lack of prejudice to Respondent, and the request for a corrected brief. Rehearing Mot. at 1-7. The ALC addressed and rejected those points. Order Denying Rehearing at 1-4. Because the denial retained the erroneous Rule 4(B) receipt premise and again refused a lesser corrective remedy, the rehearing order should be vacated together with the dismissal.

CONCLUSION AND RELIEF REQUESTED

Appellant respectfully requests that this Court reverse and vacate the July 16, 2026 Order of Dismissal as amended on August 6, 2026, and the August 6, 2026 Order Denying Motion for Rehearing, and remand the case to the Administrative Law Court with instructions to restore the administrative appeal and permit Appellant to file a corrected Rule 37-compliant brief within a reasonable time set by the ALC.

Alternatively, if this Court concludes that the existing record does not permit a definitive determination of the May 20 package contents, Appellant requests that the dismissal be vacated and the matter remanded for focused fact-finding on whether the Appellant's Brief was included in the properly addressed package deposited in the United States Mail on May 20, 2026, applying Rule 4(B) according to its text. After that determination, the ALC should exercise Rule 38 discretion in light of the curable nature of the briefing defects, Respondent's actual receipt and merits response, and the availability of less drastic corrective measures.

Respectfully submitted,

s/ Joel D. Barber

Joel D. Barber, Appellant, pro se

964 Bluffview Drive

Myrtle Beach, South Carolina 29579

Telephone: (843) 655-2979

Email: joelbarberrealestate@gmail.com

September 14, 2026

CERTIFICATE OF SERVICE

I certify that on September 14, 2026, I served a true and correct copy of the foregoing Initial Brief of Appellant and the accompanying Rule 209 Designation of Matter to Be Included in the Record on Appeal upon counsel for Respondent by United States Mail, first-class postage prepaid, and by electronic mail, addressed as follows:

Katherine Landess

Office of General Counsel

South Carolina Department of Labor, Licensing and Regulation

P.O. Box 11329

Columbia, South Carolina 29211

katherine.landess@llr.sc.gov

s/ Joel D. Barber

Joel D. Barber, Appellant, pro se

**THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

Appellate Case No. 2026-001883

**JOEL D. BARBER,
Appellant,**

v.

**SOUTH CAROLINA DEPARTMENT OF LABOR, LICENSING AND
REGULATION, REAL ESTATE COMMISSION,
Respondent.**

Appeal from the South Carolina Administrative Law Court
Chief Administrative Law Judge Ralph King Anderson III

ALC Docket No. 26-ALJ-11-0068-AP

**APPELLANT’S DESIGNATION OF MATTER TO BE INCLUDED IN THE RECORD
ON APPEAL**

Pursuant to Rule 209, SCACR, Appellant Joel D. Barber designates the following matter to be included in the Record on Appeal:

I. ORDERS TO BE INCLUDED IN THE RECORD ON APPEAL

1. Administrative Law Court Order of Dismissal dated July 16, 2026.
2. Administrative Law Court Amended Order of Dismissal dated August 6, 2026.
3. Administrative Law Court Order Denying Appellant’s Motion for Rehearing dated August 6, 2026.

II. MOTIONS AND FILINGS RELATING TO DISMISSAL AND REHEARING

4. Appellant’s Motion for Rehearing, to Vacate Order of Dismissal, and for Leave to File a Corrected Conforming Brief, filed July 28, 2026, together with the Affidavit of Joel D. Barber and Exhibits A–D.
5. Respondent South Carolina Department of Labor, Licensing and Regulation, Real Estate Commission’s brief filed June 22, 2026.
6. Appellant’s Motion to Stay, submitted to the Administrative Law Court on July 7, 2026.

7. Appellant's July 7, 2026 response to the Court's inquiry regarding filing and service of the Appellant's Brief, together with the USPS mailing receipt, USPS tracking confirmation, May 26, 2026 ALC receipt-confirmation email, and the sixty-four-page copy of Appellant's Brief.
8. The Administrative Law Court's June 26, 2026 letter to the parties regarding receipt of Appellant's Brief, including the certificate of service.

III. PROCEDURAL FILINGS AND CORRESPONDENCE BEFORE DISMISSAL

9. Appellant's initiating Notice of Appeal filed with the Administrative Law Court on March 4, 2026.
10. Respondent's April 20, 2026 filing of the Record on Appeal, including the February 9, 2026 Final Order of the South Carolina Real Estate Commission, to the extent necessary to establish the procedural background of the ALC appeal.
11. The Administrative Law Court's Notice of Assignment dated March 6, 2026.
12. Appellant's Brief dated May 20, 2026, the sixty-four-page brief later supplied to the Administrative Law Court and addressed in the dismissal and rehearing proceedings.
13. The complete May 20–May 26, 2026 email thread between Appellant and Law Clerk Stephanie Perez concerning filing method, the Court's use of the postmarked date, proof of mailing of Appellant's Brief, delivery of the appellate filing materials, and the May 26 confirmation, "We received them today!"
14. The July 2–July 6, 2026 correspondence concerning transmission and filing of Appellant's response to the June 26 letter, including the Court's July 6 instruction concerning an original mailed or hand-delivered filing.

I certify that this designation contains no matter which is irrelevant to this appeal.

s/ Joel D. Barber

Joel D. Barber, Appellant, pro se

964 Bluffview Drive

Myrtle Beach, South Carolina 29579

Telephone: (843) 655-2979

Email: joelbarberrealestate@gmail.com

September 14, 2026

CERTIFICATE OF SERVICE

I certify that on September 14, 2026, I served a true and correct copy of the foregoing Appellant's Designation of Matter to Be Included in the Record on Appeal upon counsel for Respondent by United States Mail, first-class postage prepaid, and by electronic mail, addressed as follows:

Katherine Landess

Office of General Counsel

South Carolina Department of Labor, Licensing and Regulation

P.O. Box 11329

Columbia, South Carolina 29211

katherine.landess@llr.sc.gov

s/ Joel D. Barber

Joel D. Barber, Appellant, pro se

RECEIVED

Aug 20 2026

SC Court of Appeals

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Joel D. Barber,	)	Docket No. 26-ALJ-11-0068-AP
	)	
Appellant,	)	
	)	
v.	)	AMENDED ORDER OF DISMISSAL ¹
	)	
South Carolina Department of Labor,	)	
Licensing and Regulation, Real Estate	)	
	)	
Respondent.	)	
	)	
	)	

This matter is before the South Carolina Administrative Law Court (Court) pursuant to an appeal filed by Joel D. Barber (Appellant) on March 4, 2026. Appellant appeals the February 9, 2026 decision of the South Carolina Department of Labor, Licensing and Regulation, Real Estate Commission (Department) in which the Department revoked his real estate license and issued a civil penalty of five thousand (\$5,000) dollars for each violation for a total of fifteen thousand (\$15,000) dollars.

Appellant then filed a Notice of Appeal with this Court. The case was assigned on March 6, 2026. On April 20, 2026, the Department filed the Record on Appeal. Then, on May 26, 2026, the Court received a binder of documents from Appellant. On June 4, 2026, the Department filed a response to Appellant's Motion to Stay and, on June 8, 2026, Appellant filed a reply. However, the Court had not previously received a Motion to Stay from Appellant. As a result, the Court sent an email to the parties inquiring about the filing of the Motion to Stay. However, Appellant did not respond to the Court's email.²

¹ This order has been amended to correct a clerical mistake. Rule 67, SCALCR ("clerical mistakes in orders ... may be corrected by the administrative law judge at any time of their own initiative or on the motion of any party").

² The Court notes that Appellant eventually submitted a Motion to Stay on July 7, 2026. However, the document did not include a docket number, an original signature or contact information for Appellant. Rule 6, SCALCR (providing that all documents filed with the Court shall contain an original signature and contain caption, docket number, and name, address, phone, and email of the person who prepared the document). Additionally, Appellant did not include the required filing fee nor a proof of service. Rule 4(B), SCALCR (providing any document filed with the Court shall be accompanied by a proof of service of such document...); Rule 7, SCALCR (providing that all motions must be accompanied by a filing fee as provided in Rule 71); see Rule 34, SCALCR (providing all motions shall comply with Rule 7); Rule 71(D), SCALCR (providing the schedule of filing fees for Motions that are filed with the Court). Since the Motion was not properly filed, it will not be considered by the Court.

FILED

08/06/2024

SC Admin. Law Court

Thereafter, on June 22, 2026, the Department filed its brief. While the Department addresses arguments made by Appellant, the Court did not receive a copy of Appellant's brief. Therefore, the Court sent a letter to the parties requesting both provide a response informing the Court whether Appellant served his brief on the Department and this Court. On July 7, 2026, Appellant submitted a response, alleging he filed his brief by mail on May 20, 2026.³ Included with his response were copies of a USPS mailing receipt dated May 20, 2026, tracking information showing delivery on May 26, 2026, a copy of an email from the Court on May 26, 2026, indicating receipt of documents and, a copy of a sixty-four (64) page document titled Appellant's brief.

Importantly, Rule 37(A) of the Rules of Procedure for the Administrative Law Court (SCALC Rules) provides, in relevant part: "[t]he party first noticing the appeal shall file an original and one copy of its brief with the Court within thirty (30) days after the filing of the Record on Appeal." Rule 38, SCALCR, further provides, in relevant part, "[u]pon motion of any party, or on its own motion, an administrative law judge may dismiss an appeal or resolve the appeal adversely to the offending party for failure to comply with any of the rules of procedure for appeals."

Here, the Record on Appeal was filed on April 20, 2026; therefore, Appellant's brief was due on or before May 20, 2026. While the Court received documents from Appellant on May 26, 2026, those documents did not include an Appellant brief. Moreover, the brief that Appellant subsequently provided on July 7, 2026, exceeded the thirty-page limitation and did not contain a docket number, an original signature, contact information for Appellant or, proof of service. See Rule 6, SCALCR (listing required content for documents filed with the Court); see Rule 37(B), SCALCR ("Each brief shall contain: 5. a proof of service of the brief on all parties of record) (emphasis added); Rule 37(A), SCALCR ("[t]he principal briefs shall not exceed thirty (30) pages and the reply brief shall not exceed ten (10) pages.").⁴

³ The Department submitted a response on July 7, 2026, stating that it had received Appellant's brief on May 20, 2026.

⁴ Even if the brief was properly filed and timely submitted to the Court, the Court would not consider any arguments past page 30. Additionally, while Appellant included the standard of review, the first thirty pages provide no other citation to legal authority to support the conclusory assertions set forth therein. See SCALC Rule 37(B)(3) (brief shall include issues to be argued and discussion and citation of authority); see *Potter v. Spartanburg School Dist.* 7, 395 S.C. 17, 24, 716 S.E.2d 123, 127 (Ct. App. 2011) ("An issue is deemed abandoned if the argument in the brief is not supported by authority or is only conclusory."). Ordinarily in such situations, the Court would consider Appellant to have abandoned his issues. See *Potter v. Spartanburg School Dist.* 7, 395 S.C. 17, 24, 716 S.E.2d 123, 127 (Ct. App. 2011) ("An issue is deemed abandoned if the argument in the brief is not supported by authority or is only conclusory."); *Medical Univ. of South Carolina v. Arnaud*, 360 S.C. 615, 620, 602 S.E.2d 747, 750 (2004) (finding

Accordingly, because Appellant has failed to comply with several of the Court's Rules of Procedure, including the failure to timely file his brief, this matter is dismissed *sua sponte*.⁵ Rule 38, SCALCR. While the Court recognizes the harsh result of this decision, it is constrained by the rules and legal precedent in this State. See *McClain v. Ingram*, 314 S.C. 359, 444 S.E.2d 512 (1994).

ORDER

IT IS THEREFORE ORDERED that this appeal is therefore **DISMISSED WITH PREJUDICE**.

AND IT IS SO ORDERED.



Ralph King Anderson, III
Chief Administrative Law Judge

August 6, 2026
Columbia, South Carolina

that issues raised by the appellant were deemed abandoned because the arguments on those issues were conclusory); *State v. Hill*, 394 S.C. 280, 297, 715 S.E.2d 368, 377 (Ct. App. 2011) (considering a citation to a case "without any analysis whatsoever as to how or why [it] applies" insufficient to preserve an issue on appeal, and thus rendering that issue abandoned on appeal). To the extent an argument is not addressed herein, it is therefore, deemed abandoned. *Equivest Fin., LLC v. Ravenel*, 422 S.C. 499, 506, 812 S.E.2d 438, 441 (Ct. App. 2018) ("When a party provides no legal authority regarding a particular argument, the argument is abandoned and the court will not address the merits of the issue.").

⁵ Although Appellant filed this appeal *pro se*, he is required to abide by the procedural rules to the same extent as an attorney. SCALC Rule 8(A) ("A party proceeding without legal representation shall remain fully responsible for compliance with these Rules and the Administrative Procedures Act."); see *State v. Burton*, 356 S.C. 259, 265 n.5, 589 S.E.2d 6, 9 n.5 (2003) (holding a *pro se* litigant who knowingly elects to represent himself "assumes full responsibility for complying with substantive and procedural requirements of the law"); *Goodson v. American Bankers Ins. Co. of Florida*, 295 S.C. 400, 403, 369 S.E.2d 687, 689 (Ct. App. 1988) ("Lack of familiarity with legal proceedings is unacceptable and the court will not hold a layman to any lesser standard than is applied to an attorney.").

CERTIFICATE OF SERVICE

I, Stephanie Armada, 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).



Stephanie Armada
Judicial Law Clerk

August 6, 2026
Columbia, South Carolina

SC Court of Appeals

Appellant's original brief. See Rule 37(A), SCALCR (setting forth rules for filing of briefs). Indeed, the photographs attached to Appellant's Motion do not portray an Appellant brief.³ Additionally, the contents of the package received by the Court do not coincide with the contents shown in the photographs. Specifically, the package received by the Court only included one black binder clip, not four as shown in Appellant's photographs.

Compliance with Rule 4(B), SCALCR

Even so, Appellant asserts that since the filing date is the date of mailing, the brief's absence does not establish nonfiling for purpose of compliance with Rule 4(B) of the Rules of Procedure for the South Carolina Administrative Law Court (SCALCR). In addition, Appellant cites to *Paschal v Price*, 380 S.C. 419, 670 S.E.2d 374 (Ct. App 2008), to support the contention that precedent cautions against allowing ministerial intake or docketing procedures to defeat an otherwise timely appeal. At the outset, Appellant's argument is nonsensical. Certainly, the Court could never deem something filed that is never received. Moreover, in *Paschal* although the notice of appeal was **timely received** by the circuit court, it was not accepted by the court because it was missing a Civil Cover Sheet which, notably, is not required by statute. Conversely here, not only is an Appellant's brief required but, more importantly, Appellant did not timely provide an Appellant's brief to the Court. Rule 37(A) ("The party first noticing the appeal **shall file an original of its brief** with the Court within thirty (30) days after the filing of the Record on Appeal." (emphasis added)).

Compliance with Court's Rules

Appellant, however, argues that since Rule 38, SCALCR, is discretionary, the Court should allow him to correct his brief, as opposed to dismissing his case. However, in this case, Appellant has repeatedly disregarded this Court's Rules. Indeed, the Court gave Appellant more than one chance to correct his filings. First, the Court sent an email to Appellant on June 9, 2026, informing

May 26, 2026. While Appellant acknowledges that this discrepancy does not establish the contents of the package, he asserts that it "reinforces the need to review the intake, scanning, routing, and docket history before dismissal with prejudice is allowed to stand." However, the Court's reference to May 27, 2026 was merely a clerical error. In fact, the Order of Dismissal goes on to state twice that it received Appellant's package on May 26, 2026. Nonetheless, the Court has amended the Order of Dismissal to correct that clerical error. Rule 67, SCALCR ("clerical mistakes in orders ... may be corrected by the administrative law judge at any time of their own initiative or on the motion of any party").

³ Appellant contends his original brief was on top of the binder bound by the gold binder clip along with his Motion to Stay which further asserts was bound by the black binder clip. Notably, as provided in the Court's Order of Dismissal, Appellant's Motion to Stay was not included in the package. Indeed, the Court did not receive Appellant's Motion to Stay until July 7, 2026. Nonetheless, the Motion was not properly filed, so, the Court did not consider it.

him that it had not received his Motion to Stay. However, the document that he subsequently filed did not include a docket number, an original signature or contact information for Appellant, proof of service, or the requisite filing fee. *See* Rule 6, SCALCR (providing that all documents filed with the Court shall contain an original signature and contain caption, docket number, and name, address, phone, and email of the person who prepared the document); Rule 4(B), SCALCR (providing any document filed with the Court shall be accompanied by a proof of service of such document...); Rule 7, SCALCR (providing that all motions must be accompanied by a filing fee as provided in Rule 71); *see* Rule 34, SCALCR (providing all motions shall comply with Rule 7); Rule 71(D), SCALCR (providing the schedule of filing fees for Motions that are filed with the Court). The Court also sent Appellant a letter on June 26, 2026, requesting he inform the Court within ten days whether he served a brief. Nevertheless, here again, Appellant failed to timely comply with the Court's request. Significantly, this Court's rules are not mere technicalities but provide the parties and this Court with an orderly mechanism to facilitate appellate review.

Prejudice

Yet still, Appellant argues the Court should consider his arguments because the Department was not prejudiced since it received and filed a response to his brief. However, even if the Court considered Appellant's brief, the outcome would not change. Indeed, this matter was also dismissed because Appellant's brief was woefully deficient. Specifically, it not only exceeded the thirty-page limitation, but it did not contain a docket number, an original signature, contact information for Appellant or, proof of service. *See* Rule 6, SCALCR (listing required content for documents filed with the Court); *see* Rule 37(B), SCALCR ("Each brief **shall contain**: 5. a proof of service of the brief on all parties of record) (emphasis added); Rule 37(A), SCALCR ("[t]he principal briefs shall not exceed thirty (30) pages and the reply brief shall not exceed ten (10) pages."). Additionally, while Appellant included the standard of review, the first thirty pages provide **no other citation to legal authority** to support the conclusory assertions set forth therein. *See* Rule 37(B)(3), SCALCR (brief shall include issues to be argued and discussion and citation of authority); *see Potter v. Spartanburg School Dist.* 7, 395 S.C. 17, 24, 716 S.E.2d 123, 127 (Ct. App. 2011) ("An issue is deemed abandoned if the argument in the brief is not supported by authority or is only conclusory."). Thus, even if Court considered Appellant's brief, the Court finds his arguments were abandoned. *See, e.g., Equivest Fin., LLC v. Ravenel*, 422 S.C. 499, 506, 812 S.E.2d 438, 441 (Ct. App. 2018) ("When a party provides no legal authority regarding a particular

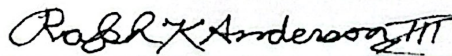
argument, the argument is abandoned and the court will not address the merits of the issue.”); *State v. Hill*, 394 S.C. 280, 297, 715 S.E.2d 368, 377 (Ct. App. 2011) (considering a citation to a case “without any analysis whatsoever as to how or why [it] applies” insufficient to preserve an issue on appeal, and thus rendering that issue abandoned on appeal); *see, e.g., Potter v. Spartanburg School Dist. 7*, 395 S.C. 17, 24, 716 S.E.2d 123, 127 (Ct. App. 2011) (“An issue is deemed abandoned if the argument in the brief is not supported by authority or is only conclusory.”).

Finally, even if the Court were to consider Appellant’s improper brief in its entirety, the only issues that were supported by legal authority were challenges to the sufficiency of the evidence. However, a review of the Record shows that the Department’s decision is supported by substantial evidence. *Friends of the Earth v. Pub. Serv. Comm’n of S.C.*, 387 S.C. 360, 366, 692 S.E.2d 910, 913 (2010).

Conclusion

While reinstatement of an appeal can occur upon good cause shown, Appellant has failed to show good cause to vacate the Court’s July 16 Order of Dismissal. *See* Rule 260, SCACR. Indeed, Appellant has repeatedly failed to comply with the Court’s Rules. *See* Rule 38, SCALCR (providing an administrative law judge may resolve an appeal adversely to a party who fails to comply with the rules of procedure for appeals, including the failure to comply with time limits provided by the rules). In addition, the Court need not consider the merits of the issues set forth in the belatedly filed Appellant’s brief, as the arguments were abandoned. *Equivest*, 422 S.C. at 506, 812 S.E.2d at 441; *Potter*, 395 S.C. at 24, 716 S.E.2d at 127; *State v. Hill*, 394 S.C. at 297, 715 S.E.2d at 377. Accordingly, the Court concludes Appellant’s Motion must be denied.

IT IS THEREFORE ORDERED that Appellant’s Motion for Rehearing is **DENIED**.
AND IT IS SO ORDERED.

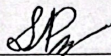


Ralph King Anderson, III
Chief Administrative Law Judge

August 6, 2026
Columbia, South Carolina

CERTIFICATE OF SERVICE

I, Stephanie Armada, 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).



Stephanie Armada
Judicial Law Clerk

August 6, 2026
Columbia, South Carolina



NORTH MYRTLE BEACH
621 6TH AVE S
NORTH MYRTLE BEACH, SC 29582-9998
www.usps.com

05/20/2026

04:33 PM

TRACKING NUMBERS

9505 5127 2976 6140 9579 54
9505 5127 2976 6140 9579 78

TRACK STATUS OF ITEMS WITH THIS CODE
(UP TO 25 ITEMS)



TRACK STATUS BY TEXT MESSAGE

Send tracking number to 28777 (2USPS)
Standard message and data rates may apply

TRACK STATUS ONLINE

Visit <https://www.usps.com/tracking>
Text and e-mail alerts available

PURCHASE DETAILS

Product	Qty	Unit Price	Price
Priority Mail®	1		\$14.95
Columbia, SC 29210			
Weight: 4 lb 2.40 oz			
Expected Delivery Date			
Tue 05/26/2026			
Tracking #:			
9505 5127 2976 6140 9579 54			
Insurance			
Up to \$100.00 included			
Total			\$14.95
Priority Mail®	1		\$24.80
Med FR Box			
Columbia, SC 29201			
Flat Rate			
Expected Delivery Date			
Tue 05/26/2026			
Tracking #:			
9505 5127 2976 6140 9579 78			
Insurance			
Up to \$100.00 included			
Total			\$24.80
Grand Total:			\$39.75
Credit Card Remit			\$39.75
Card Name: AMEX			
Account #: XXXXXXXXXXXX1005			
Approval #: 807513			
Transaction #: 975			
AID: A000000025010801			
AL: AMERICAN EXPRESS			
PIN: Not Required			
Chip			

TO REPORT AN ISSUE

Visit <https://email.usps.com>

All hazardous labels/markings on reused boxes MUST be completely removed/obliterated if they no longer match the contents.

TO FILE AN INSURANCE CLAIM

Visit <https://www.usps.com/help/claims.htm>

PREVIEW YOUR MAIL AND PACKAGES

Sign up for FREE at
<https://informedelivery.usps.com>

Looking for a new opportunity? Join a team that delivers! The Postal Service is actively hiring for full and part-time positions. To learn more visit us at www.usps.com/careers

All sales final on stamps and postage. Refunds for guaranteed services only. Thank you for your business.

Customer Service
1-800-ASK-USPS
(1-800-275-8777)

Agents do not have any additional information other than what is provided on usps.com.

Tell us about your experience.
Go to: <https://postalexperience.com/Pos>
or scan this code with your mobile device.



or call 1-800-410-7420.

UFN: 456410-0582
Receipt #: 840-52900432-1-11995080-2
Clerk: 31

Track Packages
Anytime, Anywhere

Get the free Informed Delivery® feature to receive
automated notifications on your packages

Learn More

Tracking Number:

9505512729766140957978

Copy

Add to Informed Delivery

Remove X

Latest Update

Your item was delivered to the front desk, reception area,
or mail room at 9:43 am on May 26, 2026 in COLUMBIA,
SC 29201.

Get More Out of USPS Tracking:

USPS Tracking Plus®

Delivered

Delivered, Front Desk/Reception/Mail Room

COLUMBIA, SC 29201
May 26, 2026 9:43 AM

Out for Delivery

COLUMBIA, SC 29201
May 26, 2026 6:10 AM

Arrived at Post Office

COLUMBIA, SC 29201
May 25, 2026 8:15 AM

Arrived at USPS Facility

COLUMBIA SC PROCESSING CENTER
May 25, 2026 5:44 AM

Departed USPS Facility

COLUMBIA SC PROCESSING CENTER
May 25, 2026 5:25 AM

Arrived at USPS Facility

COLUMBIA SC PROCESSING CENTER
May 24, 2026 6:23 PM

Arrived at USPS Facility

CHARLOTTE NC DISTRIBUTION CENTER
May 22, 2026 6:08 PM

Departed Post Office

NORTH MYRTLE BEACH, SC 29582
May 20, 2026 5:24 PM

USPS in possession of item

NORTH MYRTLE BEACH, SC 29582
May 20, 2026 4:32 PM

Hide Tracking History

Feedback

[What Do USPS Tracking Statuses Mean?](#)

Text & Email Updates





NORTH MYRTLE BEACH
621 6TH AVE S
NORTH MYRTLE BEACH, SC 29582-9998
www.usps.com

05/20/2026 04:33 PM

TRACKING NUMBERS
9505 5127 2976 6140 9579 54
9505 5127 2976 6140 9579 78

TRACK STATUS OF ITEMS WITH THIS CODE
(UP TO 25 ITEMS)



TRACK STATUS BY TEXT MESSAGE
Send tracking number to 28777 (2USPS)
Standard message and data rates may apply

TRACK STATUS ONLINE
Visit <https://www.usps.com/tracking>
Text and e-mail alerts available

PURCHASE DETAILS

Product	Qty	Unit Price
Priority Mail® Columbia, SC 29210 Weight: 4 lb 2.40 oz Expected Delivery Date Tue 05/26/2026 Tracking #: 9505 5127 2976 6140 9579 54 Insurance Up to \$100.00 included	1	\$14.95
Total		\$14.95
Priority Mail® Med FR Box Columbia, SC 29201 Flat Rate Expected Delivery Date Tue 05/26/2026 Tracking #: 9505 5127 2976 6140 9579 78 Insurance Up to \$100.00 included	1	\$24.80
Total		\$24.80
Grand Total:		\$39.75
Credit Card Remit Card Name: AMEX Account #: XXXXXXXXXX1005 Approval #: 807512 Transaction #: 975 AID: A00000025010801 AL: AMERICAN EXPRESS PIN: Not Required		\$39.75

TO REPORT AN ISSUE

Visit <https://email.usps.com>

All hazardous labels/markings on reused boxes MUST be completely removed/obliterated if they no longer match the contents.

TO FILE AN INSURANCE CLAIM

Visit <https://www.usps.com/help/claims.htm>

PREVIEW YOUR MAIL AND PACKAGES

Sign up for FREE at
<https://informedelivery.usps.com>

Looking for a new opportunity? Join a team that delivers! The Postal Service is actively hiring for full and part-time positions. To learn more visit us at www.usps.com/careers

All sales final on stamps and postage.
Refunds for guaranteed services only.
Thank you for your business.

Customer Service

1-800-ASK-USPS

(1-800-275-8777)

Agents do not have any additional information other than what is provided on usps.com

Tell us about your experience
Go to: <https://postalexperience.com/PS>
or scan this code with your mobile device.



or call 1-800-410-7420.

UPN: 456410-0582
Receipt #: 040-52900432-1-11995080-2
Clerk: 31