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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas, Ninth Judicial Circuit
Hon. Dale E. Van Slambrook, Circuit Court Judge
Hon. T.J. Rode, Circuit Court Judge

Appellate Case No. 2026-001122
Underlying Case No. 2025-CP-10-03716

Colonial Savings, F.A.,
Respondent,
v.
Elizabeth M. Dimler and Oak Bluff Homeowners Association, Inc.,
Defendants, of which Elizabeth M. Dimler is the Petitioner.

PETITION FOR WRIT OF CERTIORARI TO THE COURT OF APPEALS PURSUANT TO RULE 242, SCACR

FILING FEE STATUS: Motion and Affidavit to Proceed In Forma Pauperis and to Waive the Rule 242(c) Filing Fee Filed Contemporaneously

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Petitioner Elizabeth M. Dimler, appearing sui juris, respectfully petitions this Court pursuant to Rule 242, SCACR, for a writ of certiorari to review the September 8, 2026 Order of the Court of Appeals dismissing Appellate Case No. 2026-001122 and the October 20, 2026 Order denying rehearing. Petitioner files contemporaneously a Motion and Affidavit to Proceed In Forma Pauperis and to Waive the Rule 242(c) Filing Fee.

QUESTIONS PRESENTED

I. Whether the Court of Appeals erred in dismissing the appeal on grounds that included an allegedly untimely Rule 240 cure where the appellate record shows that, within the ten-day period specified by the Court of Appeals' May 28, 2026 deficiency letter, Petitioner filed both a Rule 240 Motion to Amend and an amended Notice of Appeal substantially conforming to Form 1, and the Court of Appeals acknowledged receipt on June 2, 2026.

II. Whether the Court of Appeals erred in dismissing the appeal without addressing the legal effect of Petitioner's documented timely tender of her Rule 59(e) motion, where the Charleston County Clerk of Court refused to accept the filing because of a preexisting filing restriction, notwithstanding this Court's decisions holding that a clerk's filing duty is ministerial and that legal defects in a filing are for a judge, not the clerk, to determine.

III. Whether the Court of Appeals erred in dismissing the entire appeal without separately determining the appellate effect of the distinct timelines governing the January/February sanctions orders, the March 27, 2026 substitution order, and the June 24, 2026 order disposing of the Rule 59(e) motion, where the dismissal order did not identify which procedural ground controlled as to each challenged order.

IV. Alternatively, if the March 27 and June 24 orders were interlocutory and not presently appealable, whether the dismissal should be without prejudice to later appellate review of those

preserved rulings after an appealable final judgment and should not be construed as an adjudication of foreclosure merits that the circuit court expressly stated were not addressed.

STATEMENT OF THE CASE

This petition concerns the procedure by which Petitioner's appeal was dismissed. It presents only the procedural questions preserved in Petitioner's Rule 221 rehearing petition and does not ask this Court to adjudicate the unresolved merits of the underlying foreclosure.

CRITICAL PROCEDURAL CHRONOLOGY

1. March 27, 2026 - The circuit court entered the order substituting Selene Finance LP as plaintiff.

2. April 1, 2026 - Petitioner personally tendered her Rule 59(e), SCRCP motion to the Charleston County Clerk of Court. The Clerk declined to accept the filing because of the preexisting $500 bond/attorney-signature filing restriction.

3. April 2, 2026 - Petitioner filed a Notice of Attempted Filing and Service documenting the April 1 tender and refusal.

4. April 5, 2026 - Petitioner's Rule 59(e) materials were delivered to the Charleston County Clerk by certified mail, before the April 10 deadline asserted by Petitioner.

5. May 28, 2026 - The Court of Appeals issued a deficiency letter directing Petitioner, within ten days, to file a Rule 240 motion to amend and an amended Notice of Appeal substantially conforming to Form 1.

6. June 2, 2026 - Within the cure period, Petitioner submitted both the Rule 240 Motion to Amend and the Form 1 Amended Notice, expressly stating they were submitted to cure the May

28 deficiencies. The Court of Appeals replied the same day: "The Court has received your filing. A stamped copy is attached for your records."

7. June 24, 2026 - The circuit court entered an order disposing of the Rule 59(e) matter. The order expressly stated that the broader foreclosure merits were "specifically not addressed by the Court."

8. July 1, 2026 - Petitioner submitted a Second Amended Notice of Appeal addressing the June 24 disposition.

9. July 16, 2026 - Respondent moved to dismiss the appeal on multiple procedural grounds directed to different filings and orders.

10. September 8, 2026 - The Court of Appeals dismissed the appeal without identifying which asserted procedural ground, or combination of grounds, controlled dismissal of each challenged order.

11. September 8, 2026 - Petitioner sought rehearing under Rule 221, SCACR, raising the June 2 cure, the Rule 59(e) filing/refusal issue, the separate appellate timelines, and the interlocutory alternative.

12. October 20, 2026 - The Court of Appeals denied rehearing.

On March 27, 2026, the circuit court entered an order substituting Selene Finance LP as plaintiff. Petitioner attempted to challenge that ruling by a Rule 59(e), SCRCP motion and thereafter through appellate review.

On May 28, 2026, the Court of Appeals issued a deficiency letter directing Petitioner, within ten days, to file a motion to amend the Notice of Appeal pursuant to Rule 240, SCACR, and an amended Notice of Appeal substantially in the form of Form 1. On June 2, 2026, Petitioner

transmitted both documents, expressly identified them as the Rule 240 motion and Form 1 amended notice submitted to cure the May 28 deficiencies, and received the Court of Appeals' written acknowledgment: "The Court has received your filing." (Pet. Reh'g Ex. C at 1-5; Pet. Reh'g at 1-2.)

Separately, following the March 27 substitution order, Petitioner personally tendered a Rule 59(e) motion to the Charleston County Clerk of Court on April 1, 2026. The Clerk declined to accept the motion because of a previously imposed $500 bond/attorney-signature filing restriction. Petitioner filed a Notice of Attempted Filing and Service on April 2, 2026 and also sent the Rule 59(e) materials by certified mail; delivery was reflected on April 5, 2026. Judge T.J. Rode later ordered the Rule 59 materials filed while expressly leaving timeliness, propriety, and merits to the judge who entered the March 27 order. (Pet. Reh'g Ex. D at 1-2; Pet. Reh'g Ex. E at 1-3; Pet. Reh'g at 2-3.)

On June 24, 2026, Judge Dale E. Van Slambrook considered and denied the Rule 59(e) motion. The order stated that Petitioner's broader arguments concerned "the merits of the case which were specifically not addressed by the Court" and that the substitution ruling was confined to the narrow grounds germane to substitution. Petitioner then sought to add the June 24 disposition to the pending appeal. (Pet. Reh'g Ex. F at 1-3; Pet. Reh'g Ex. G at 1-8; Pet. Reh'g at 3-4.)

On July 16, 2026, Respondent moved to dismiss. The Court of Appeals' September 8, 2026 Order recited Respondent's asserted grounds: improper notice format, untimely motion to amend, untimeliness as to certain orders, and interlocutory status. The Court then stated: "After careful consideration, we grant the motion to dismiss." The order did not identify which ground controlled as to which challenged order. (Sept. 8, 2026 Order at 1; Pet. Reh'g Ex. A at 1.)

Petitioner timely sought rehearing under Rule 221, SCACR. The rehearing petition specifically asked the Court of Appeals to recognize the June 2 cure reflected in its own record, address the documented Rule 59(e) filing attempt, separate the distinct procedural timelines, and alternatively clarify that any dismissal based on interlocutory status was without prejudice to later review after final judgment. (Pet. Reh'g at 1-5.) On October 20, 2026, the Court of Appeals denied rehearing. (Oct. 20, 2026 Order Denying Rehearing at 1.)

REASONS FOR GRANTING CERTIORARI

Rule 242(b), SCACR, authorizes certiorari for special and important reasons. This petition presents such reasons because the dismissal implicates binding Supreme Court authority governing a clerk's ministerial duty to accept filings, because the Court of Appeals' own acknowledgment is material to one asserted dismissal ground, and because the dismissal order did not identify how multiple procedural grounds applied to distinct orders with distinct timelines. Review is warranted to resolve those procedural questions without adjudicating the foreclosure merits.

The petition therefore presents a confined appellate-procedure question: whether dismissal of the entire appeal may stand where the appellate court's own record documents timely compliance with its cure directive, the record documents a timely attempt to tender a Rule 59(e) motion that the clerk refused to accept, and the dismissal order does not identify which distinct procedural ground controlled as to each challenged order.

ARGUMENT

I. THE JUNE 2, 2026 FILING COMPLIED WITH THE COURT OF APPEALS' MAY 28 CURE DIRECTIVE.

Rule 203(e), SCACR, requires a notice of appeal to be substantially in the prescribed form. After identifying deficiencies, the Court of Appeals' May 28 letter directed Petitioner to cure them

within ten days by filing a Rule 240 motion to amend and an amended notice substantially conforming to Form 1. Petitioner filed both on June 2, 2026. Her transmittal identified each document by name and stated that they were submitted to cure the May 28 deficiencies. The Court of Appeals acknowledged receipt the same day. (Pet. Reh'g Ex. C at 1-5; Pet. Reh'g at 1-2.)

The September 8 dismissal order nevertheless recited Respondent's contention that a motion to amend was not timely filed as required by the deficiency letters. The order did not reconcile that contention with the June 2 filing and the Court's written acknowledgment. (Sept. 8, 2026 Order at 1.)

The issue presented is narrow: whether dismissal may rest on an asserted failure to timely cure when the appellate court's own record reflects that the ordered Rule 240 motion and amended notice were submitted within the cure period and acknowledged as received. The June 2 cure question must be decided from the actual filing record and separately from any distinct question concerning the appealability or timeliness of other orders.

II. THE CLERK'S REFUSAL TO ACCEPT THE RULE 59(e) MATERIALS IMPLICATES THIS COURT'S BINDING CLERK-DUTY PRECEDENT.

In Miller v. State, 377 S.C. 99, 102, 659 S.E.2d 492, 493 (2008), this Court held that it is not within a clerk of court's authority to refuse to perform a filing duty because the clerk believes a filing lacks legal merit or is untimely. In Barnes v. State, Appellate Case No. 2020-001360, Order No. 2021-06-03-01 (S.C. Sup. Ct. June 3, 2021), this Court reaffirmed that clerks have a ministerial duty to docket filings despite perceived procedural defects and that legal questions concerning a filing are reserved for a judge.

The rehearing record shows that Petitioner tendered a Rule 59(e) motion on April 1, 2026 and that the Charleston County Clerk declined to accept it because of the existing filing restriction.

Petitioner documented the tender on April 2 and also transmitted the Rule 59(e) materials by certified mail, with delivery reflected on April 5. Judge Rode later ordered the materials filed but expressly did not adjudicate timeliness. (Pet. Reh'g Ex. D at 1-2; Pet. Reh'g Ex. E at 1-3; Pet. Reh'g at 2-3.)

Under Miller and Barnes, the clerk's role was ministerial. The legal effect of Petitioner's April 1 tender and April 5 delivery was therefore a judicial question. Because the timeliness of appellate review of the March 27 substitution order was tied to the Rule 59(e) filing, the Court of Appeals could not treat that timeline as resolved without addressing the legal effect of the documented tender and refusal under this Court's precedent.

Petitioner does not ask this Court to excuse a jurisdictional deadline or create a special rule for self-represented litigants. She asks this Court to apply its existing rule that a clerk may not decide the legal sufficiency or timeliness of a filing by refusing to accept it.

III. THE DISTINCT PROCEDURAL TIMELINES REQUIRED SEPARATE ANALYSIS.

Respondent's dismissal motion raised multiple grounds directed to different procedural events: the form of the Notice of Appeal; compliance with the May 28 deficiency letter; timeliness of appellate review of the January/February sanctions orders; and the asserted interlocutory character of the March 27 substitution and June 24 reconsideration orders. The September 8 order recited those grounds but did not identify which ground applied to which order. (Sept. 8, 2026 Order at 1; Pet. Reh'g at 3-4.)

The rehearing petition expressly separated those timelines. It acknowledged that the January/February sanctions orders presented a distinct appellate-timing question and argued that any defect concerning those earlier orders did not determine the timeliness of review of the March 27 or June 24 orders. It also identified the June 24 order as a separate procedural event entered after the Rule 59(e) proceedings. (Pet. Reh'g at 2-4.)

The entire appeal was dismissed without an order identifying the controlling procedural basis as to each ruling. That matters because the asserted grounds are legally distinct and lead to different consequences. A defect in appellate review of an earlier sanctions order does not, without separate analysis, dispose of a later substitution order or a later order disposing of Rule 59(e) relief. Review is warranted so the distinct timelines are analyzed separately and according to the actual record.

Separate analysis is necessary because the consequences are not interchangeable: an untimely appeal from one earlier order does not establish untimeliness as to a later order; a cured notice defect is not an unresolved notice defect; and interlocutory status calls for preservation for later review rather than an adjudication of the underlying merits.

IV. IF THE MARCH 27 AND JUNE 24 ORDERS WERE INTERLOCUTORY, DISMISSAL DOES NOT ADJUDICATE THE UNRESOLVED FORECLOSURE MERITS.

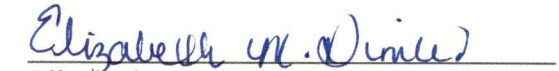
Petitioner preserved this alternative position in the rehearing petition. She asked that, if the March 27 substitution order and June 24 reconsideration order were deemed interlocutory and not presently appealable, dismissal be without prejudice to later appellate review following an appealable final judgment. (Pet. Reh'g at 3-5.)

The June 24 circuit-court order expressly stated that the broader foreclosure merits had been "specifically not addressed." (Pet. Reh'g Ex. F at 1-3.) The present Rule 242 petition therefore does not present Article 3 enforcement status, the Note and Mortgage transfer history, Rule 17 issues, Rule 19 issues, accounting disputes, or other unresolved foreclosure merits for decision. Those matters remain preserved for the circuit court and, if necessary, appellate review after an appealable final judgment.

CONCLUSION

Petitioner respectfully requests that this Court grant the Petition for Writ of Certiorari, review the September 8, 2026 dismissal and October 20, 2026 denial of rehearing, vacate the dismissal to the extent it rests on a procedurally incorrect or undifferentiated basis, and remand for separate consideration of the preserved procedural questions as to each challenged order. Alternatively, if the March 27 and June 24 orders are interlocutory, Petitioner requests clarification that dismissal is without prejudice to later appellate review following an appealable final judgment and does not adjudicate the unresolved foreclosure merits.

Respectfully submitted,



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