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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

The Honorable Alison R. Lee
Circuit Court Judge

Appellate Case No. 2025-002536
Court of Appeals Op. No. 6121 (Sept. 17, 2025)

South Carolina Workers' Compensation Commission, ... Petitioner,

v.

WestPoint Home, LLC..... Respondent.

WESTPOINT HOME'S RESPONSE TO AMICUS BRIEF

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November 16, 2026

TABLE OF AUTHORITIES

Cases

James v. Anne's Inc., 390 S.C. 188, 701 S.E.2d 730 (2010) 1

Matthews v. E.I. du Pont de Nemours & Co., No. 4:16-cv-02934-RBH, 2018 U.S. Dist. LEXIS 193735 (D.S.C. Nov. 13, 2018) 1

Statutes

S.C. Code Ann. § 42-11-70 1

Rules

Rule 213, SCACR 1

RESPONSE TO THE ASBESTOS VICTIMS' AMICUS FILING

This appeal presents three core questions, and the Asbestos Victims' amicus filing addresses none of them. The Court must decide whether the Court of Appeals correctly held that the South Carolina Workers' Compensation Commission improperly drew down and retained WestPoint Home's deposit that was posted pursuant to a Bankruptcy Court order; that South Carolina Code § 42-11-70 is a statute of repose; and that the Commission owes WestPoint Home interest on that deposit, including prejudgment interest.

The Amicus filing instead asks whether the Workers' Compensation Act's exclusivity provision bars a tort suit by a worker whose compensation claim has lapsed, and it acknowledges that this question is "distinct" from the actual issues presented. **Amicus Br. 3**. Rule 213, SCACR, provides that an amicus brief "shall be limited to argument of the issues on appeal as presented by the parties." A brief directed to a question the parties have not raised cannot help the Court decide the issues before it. *See James v. Anne's Inc.*, 390 S.C. 188, 194, 701 S.E.2d 730, 733 (2010) (finding amici "can argue only the issues that were raised by the parties").

Because the Amicus filing's question is not presented in this appeal, that brief has no part in resolving this dispute.[1] The Court should disregard it accordingly.

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[1] To the extent the Court finds the Amicus filing's issue relevant, Judge Harwell thoroughly addressed the Amicus's issue in *Matthews v. E.I. du Pont de Nemours & Co.*, No. 4:16-cv-02934-RBH, 2018 U.S. Dist. LEXIS 193735, at *21–26 (D.S.C. Nov. 13, 2018). WestPoint Home has cited *Matthews* throughout its filings before this Court, as it squarely answers the question regarding how Section 42-11-70 addresses untimely workers' compensation claims.

Respectfully submitted,

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