

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Supreme Court**

South Carolina Electric & Gas Co., Respondent,

v.

Anson Construction Co., Inc., Petitioner.

Appellate Case No. 2015-001456

ON WRIT OF CERTIORARI TO THE COURT OF APPEALS

Appeal from Charleston County
J. C. Nicholson, Jr., Circuit Court Judge

Memorandum Opinion No. 2017-MO-003
Heard January 11, 2017 – Filed March 1, 2017

REVERSED AND REMANDED

Everett A. Kendall, II, of Sweeny, Wingate & Barrow,
P.A., and James Eric Cavanaugh, both of Columbia, for
Petitioner.

John A. Massalon and I. Ryan Neville, both of Wills
Massalon & Allen, LLC, of Charleston, for Respondent.

PER CURIAM: We granted a writ of certiorari to review the court of appeals' decision¹ affirming the circuit court's grant of summary judgment to Respondent South Carolina Electric and Gas Co. Having carefully reviewed the record, we are firmly persuaded there is a genuine issue of material fact regarding the terms of the parties' contract. Because of this factual dispute, the entry of summary judgment was improper. *See, e.g., Cunningham v. Helping Hands, Inc.*, 352 S.C. 485, 491, 575 S.E.2d 549, 552 (2003) ("Summary judgment is appropriate only if there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law." (citations omitted)); *cf. Zurich Am. Ins. Co. v. Tolbert*, 387 S.C. 280, 283, 692 S.E.2d 523, 524 (2010) ("Summary judgment should be denied where the non-moving party submits a mere scintilla of evidence." (citing *Hancock v. Mid-South Mgmt. Co.*, 381 S.C. 326, 330, 673 S.E.2d 801, 803 (2009))). The court of appeals' decision is therefore reversed and this case is remanded to the circuit court for trial.

REVERSED AND REMANDED.

BEATTY, C.J., KITTREDGE, HEARN, JJ., and Acting Justices Clifton Newman and Edward W. Miller, concur.

¹ *S.C. Elec. & Gas Co. v. Anson Constr. Co.*, Op. No. 2015-UP-248 (S.C. Ct. App. filed May 13, 2015).