

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

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APPEAL FROM SUMTER COUNTY  
Court of Common Pleas

The Honorable W. Jeffrey Young, Circuit Court Judge

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Opinion No.: 2017-UP-229 (S.C. Ct. of App. filed May 31, 2017)  
Tracking No.: 2017-001956

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Arrowpoint Capital Corporation/Arrowood Indemnity Co., Carrier, Respondent

v.

South Carolina Second Injury Fund, Petitioner

[In re: Joe Mathis, Employee/Claimant

v.

Yuasa Exide, Incorporated, Employer]

**RECEIVED**

OCT 24 2017

**S.C. SUPREME COURT**

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**MOTION TO DISMISS PETITION FOR WRIT OF CERTIORARI**

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MCANGUS GOUDELOCK & COURIE, LLC  
Vernon F. Dunbar, SC Bar No. 7836  
Ashley R. Forbes, SC Bar No. 100813  
Post Office Box 2980  
55 East Camperdown Way, Suite 300 (29601)  
Greenville, South Carolina 29602  
(864) 239-4000

Attorneys for Respondent Arrowpoint Capital  
Corporation

This matter is currently pending before this Court on a Petition for a Writ of Certiorari filed by Petitioner South Carolina Second Injury Fund. Petitioner South Carolina Second Injury Fund is represented by Latonya Edwards, Esquire, and Respondent Arrowpoint Capital Corporation is represented by Vernon F. Dunbar, Esquire and Ashley R. Forbes, Esquire. Respondent hereby moves this Honorable Court for an Order Dismissing the Petition for Writ of Certiorari the following grounds.

1. By Order dated May 31, 2017, the Court of Appeals appropriately found that Respondent had met the required elements for reimbursement from the South Carolina Second Injury Fund pursuant to S.C. Code Ann. § 42-9-400. (Unpublished Opinion No. 2017-UP-229) The Court of Appeals denied the Second Injury Fund's Petition for Rehearing on August 18, 2017. (Exhibit 1.)
2. Petitioner filed its Petition for Writ of Certiorari on September 21, 2017. Petitioner served counsel for Respondent the same day by placing the Petition in U.S. Mail. (Exhibit 2.) This Petition was not timely.
3. Pursuant to Rule 242(c), SCACR, "[a] petition for writ of certiorari *shall* be served on opposing counsel and filed with proof of service with the Clerk of the Court of Appeals and the Clerk of the Supreme Court within thirty (30) days after the petition for rehearing or reinstatement is finally decided by the Court of Appeals." (emphasis added) Respondent notes the language in the rule is mandatory.
4. Using the computation of time method in Rule 263, SCACR, the last day for filing the Petition for Writ of Certiorari would be September 18, 2017. Petitioner filed the Petition 3 days later on September 21, 2017.
5. Respondent is unaware of any request for extension of time or motion for leave to file out

of time that was submitted by Petitioner.

6. Respondent is further unaware of any other provision which would have extended the time for filing past thirty days. Pursuant to Rule 263, SCACR, “[n]o additional time shall be allowed after service by mail or upon a statutory agent. Rule 6(e), SCRCR, is not applicable to these rules, and no additional time shall be allowed by reason of service by mail or upon a statutory agent.” Moreover, Respondent is mindful of the Supreme Court’s September 14 Order, in which September 8, September 11, September 12, and September 13 were declared statewide “holidays” for the purpose of Rule 263. (2017-09-14-03.) However, this order is inapplicable to the instant matter, as the last day of the period did not fall on one of these holidays. In addition, the period of time prescribed was not less than seven (7) days, such that these holidays would have been excluded from computation under Rule 263.
7. Respondent further notes that it is without knowledge as to whether Petitioner appropriately filed an Appendix pursuant to Rule 242(e), SCACR. Respondent was not copied on any such correspondence accompanying the filing of the Appendix.

Based upon the aforementioned errors, Respondent respectfully moves this Honorable Court to enter an order dismissing the Petition for Writ of Certiorari.

Respectfully submitted,



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MCANGUS GOUDELOCK & COURIE, LLC

Vernon F. Dunbar, SC Bar No. 7836

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Post Office Box 2980

55 East Camperdown Way, Suite 300 (29601)

Greenville, South Carolina 29602

(864) 239-4000

Attorneys for Respondent Arrowpoint Capital  
Corporation

# Exhibit 1

# The South Carolina Court of Appeals

Arrowpoint Capital Corporation/Arrowood Indemnity  
Co., Carrier, Appellant,

v.

South Carolina Second Injury Fund, Respondent.,

[In Re: Joe Mathis, Employee/Claimant,

v.

Yuasa Exide, Incorporated, Employer]


Appellate Case No. 2014-002212

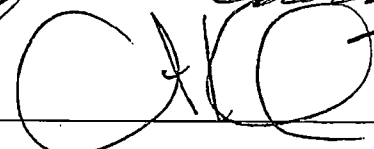
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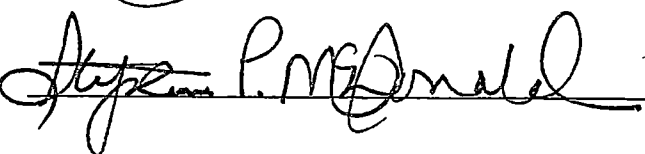
## ORDER

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After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.

  
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C.J.

  
\_\_\_\_\_  
J.

  
\_\_\_\_\_  
J.

Columbia, South Carolina

**FILED**

August 18, 2017

cc:

Vernon F. Dunbar, Esquire

Latonya Dilligard Edwards, Esquire

Ashley R. Forbes, Esquire

The Honorable W. Jeffrey Young

# **Exhibit 2**

**DILLIGARD EDWARDS, LLC**

**3790 FERNANDINA ROAD SUITE 103  
COLUMBIA, SOUTH CAROLINA 29210**

**WWW.DILLIGARDEDWARDS.COM**

**LATONYA DILLIGARD EDWARDS † \*  
LATONYA@DILLIGARDEDWARDS.COM**

**(803) 750-2214 (PHONE)  
(803) 750-2377 (FAX)**

**† ALSO LICENSED IN NORTH CAROLINA  
\*CERTIFIED CIRCUIT COURT MEDIATOR**

September 21, 2017

Daniel E. Shearouse, Clerk of Court  
Supreme Court of South Carolina  
Post Office Box 11330  
Columbia, South Carolina 29211

Re: Arrowpoint Capital Corp. v. SC Second Injury Fund  
Unpublished Opinion No. 2017-UP-228 (S.C. Ct. App. Filed May 31, 2017)  
[Joe Mathis v. Yuasa Exide, Inc.]

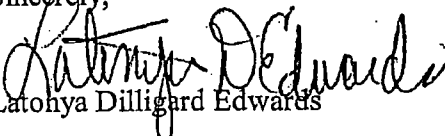
Dear Mr. Shearouse:

Enclosed herewith please find for filing the original and six (6) copies of South Carolina Second Injury Fund's Petition for a Writ of Certiorari, along with Proof of Service.

By copy of this letter, I am notifying Carrier's attorney, the South Carolina Court of Appeals, and the South Carolina Workers' Compensation Commission of this communication to your office.

Thank you for your assistance and cooperation with this matter. Should you require any additional information, please do not hesitate to contact me directly.

Sincerely,

  
Latonya Dilligard Edwards

LDE/emb  
Enclosures

cc: Vernon F. Dunbar, Esquire (w/encls.)  
Ashley R. Forbes, Esquire (w/encls.)  
The Honorable Jenny Abbott Kitchings, South Carolina Court of Appeals Clerk (w/encls.)  
Amy Bracy, SCWCC Judicial Director (w/encls.1)

THE STATE OF SOUTH CAROLINA  
In the Supreme Court

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APPEAL FROM SUMTER COUNTY  
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Unpublished Opinion No. 2017-UP-228 (S.C. Ct. App. Filed May 31, 2017)

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Arrowpoint Capital Corp/Arrowood Indemnity Co.,.....Respondent,

v.

South Carolina Second Injury Fund,..... Petitioner.

[In Re: Joe Mathis, Employee/Claimant,

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Yuasa Exide, Incorporated, Employer)

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**PROOF OF SERVICE**

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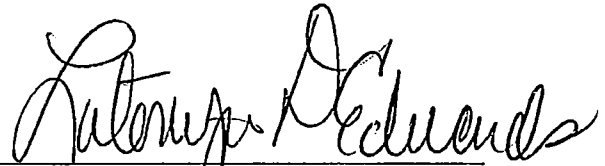
The undersigned employee of Dilligard Edwards, LLC, Attorney for the Petitioner, does hereby certify that service of the **PETITION FOR A WRIT OF CERTIORARI** to The South Carolina Supreme in the above-captioned matter was made upon counsel of record for Respondent, Arrowpoint Capital Corporation/Arrowood Indemnity Co., and the South Carolina Workers' Compensation Commission, by placing same in the United States mail, first class postage prepaid, at the below listed addresses clearly indicated on said envelope on this 21<sup>st</sup> day of September, 2017, as follows:

Vernon F. Dunbar, Esquire  
McAngus Goudelock & Courie, LLC  
Post Office Box 2980  
Greenville, South Carolina 29602

Ashley R. Forbes, Esquire  
Attorney at Law  
5 Britton Way  
Greenville, South Carolina 29615

The Honorable Amy Bracy, Judicial Director  
South Carolina Workers' Compensation Commission  
Post Office Box 1715  
Columbia, South Carolina 29202-1715

The Honorable Jenny Abbott Kitchings  
Clerk of Court, South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211



Latonya Dilligard Edwards, Esquire  
Dilligard Edwards, LLC  
3790 Fernandina Road, Suite 103  
Columbia, South Carolina 29210  
S.C. Bar#: 14593  
(803) 750-2214 (telephone)  
(803) 750-2377 (facsimile)

ATTORNEY FOR PETITIONER

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

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APPEAL FROM SUMTER COUNTY  
Court of Common Pleas

The Honorable W. Jeffrey Young, Circuit Court Judge

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**PROOF OF SERVICE**

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I certify that I have served the Respondent's Motion to Dismiss South Carolina Second Injury Fund's Petition for Writ of Certiorari on the attorney of record for South Carolina Second Injury Fund, by depositing a copy of it in the United States Mail, postage prepaid, on the 23rd day of October, 2017 addressed to:

Latonya D. Edwards, Esquire  
Dilligard Edwards, LLC  
Attorney for South Carolina Second Injury Fund  
3790 Fernandina Road, Suite 103  
Columbia, South Carolina 29210

The Honorable Daniel E. Shearouse, Clerk of Court  
Supreme Court of South Carolina  
Post Office Box 11330  
Columbia, South Carolina 29211

October 23, 2017



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Vernon F. Dunbar, Esquire, SC Bar No. 7836  
Ashley R. Forbes, Esquire, SC Bar No. 100813  
McAngus, Goudelock & Courie LLC  
Post Office Box 2980  
55 East Camperdown Way, Suite 300 (29601)  
Greenville, South Carolina 29602  
(864) 239-4000  
Attorneys for Respondent

SOUTH CAROLINA SUPREME COURT

APPELLATE CASE NO: 2017-001956

JOE MATHIS,

Employee,

Claimant,

vs.

YUASA EXIDE, INC.,

Employer,

AND

ARROWPOINT CAPITAL CORP,

Carrier,

Defendants.

**CERTIFICATE  
OF  
SERVICE**

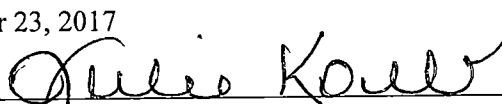
The undersigned certifies that she is an employee at MCANGUS GOUDELOCK & COURIE, and that she has served, on the date set forth below, a copy of the document described below, in the above entitled action to the following persons, pursuant to Rule 67-211 of the South Carolina Workers' Compensation Commission, by depositing a copy of same in the United States Mail, postage prepaid, addressed to:

TO: The Honorable Daniel E. Shearouse  
Supreme Court of South Carolina  
P.O. Box 11330  
Columbia, South Carolina 29211

Latonya D. Edwards  
Dilligard Edwards, LLC  
3790 Fernandina Rd., Suite 103  
Columbia, South Carolina 29210

DOCUMENT: Motion to Dismiss the Petition for a Writ of Certiorari

DATE OF MAILING: October 23, 2017

  
Julie Kolb

Legal Assistant to Ashley R. Forbes, Esquire

**RECEIVED**

OCT 24 2017

SUPREME COURT