

STATE OF SOUTH CAROLINA  
IN THE COURT OF COMMON PLEAS

**RECEIVED**

FEB 03 2023

**SC Court of Appeals**

Appeal from Florence County  
Court of Common Pleas

The Honorable H. Steven Deberry, IV, Circuit Court Judge for Common Pleas

Appellate Case No.: 2022-001006

Wendy Lynch & Rebecca White Lynch, .....Respondents,

v.

Elizabeth Langley .....Appellant.

**INITIAL BRIEF OF APPELLANT**

James R. Snell, Jr. (SCBAR No.: 72663)  
Law Office of James R. Snell, Jr., LLC  
123 Harmon Street  
Lexington, South Carolina 29072  
(803) 359-3301  
(800) 537-6249 (facsimile)  
*jamesnell@snelllaw.com*

Counsel for the Appellant

**TABLE OF CONTENTS**

Table of Contents .....i

Table of Authorities .....iii

Statement of the Issues on Appeal .....vi

Statement of the Case .....1

Statement of Facts .....4

Standard of Review .....5

Arguments

I. THE TRIAL COURT ERRED IN OVERRULING APPELLANT’S MOTION FOR DIRECTED VERDICT AND/OR MOTION FOR JUDGEMENT NOTWITHSTANDING THE VERDICT AS TO THE CAUSE OF ACTION OF CIVIL CONSPIRACY .....10

II. THE TRIAL COURT ERRED IN OVERRULING APPELLANT’S MOTION FOR DIRECTED VERDICT AND/OR MOTION FOR JUDGEMENT NOTWITHSTANDING THE VERDICT AS TO THE CAUSE OF ACTION OF INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS .....14

III. THE TRIAL COURT ERRED IN ALLOWING THE VERDICT FORM TO BE SENT TO THE JURY WITHOUT SEPARATING ACTUAL AND PUNITIVE DAMAGES FOR EACH SEPARATE CAUSE OF ACTION, IN SO THAT THE DAMAGES AWARDED FOR EACH INDIVIDUAL CAUSE OF ACTION COULD NOT BE DISTINGUISHED FROM THE OTHER CAUSES OF ACTION .....17

IV. THE TRIAL COURT ERRED IN ALLOWING THE VOICEMAIL MESSAGE LEFT FOR RESPONDENT BY ATTORNEY ERIC POSTON (A.K.A. DUCATI JAMES) BE ADMITTED INTO EVIDENCE, WHEN THE VOICEMAIL MESSAGE WAS BOTH HEARSAY AND MORE PREJUDICIAL THAN PROBATIVE .....18

V. THE TRIAL COURT ERRED IN ALLOWING THE USE OF THE WORD “KILL” IN REFERENCE TO THE ALLEGEDLY DEFAMATORY STATEMENT BY APPELLANT THAT RESPONDENT “TRIED TO SEND DADDY TO HEAVEN EARLY” WHEN THE WORD “KILL” WAS BOTH MORE PREJUDICIAL THAN PROBATIVE AND OVERSTEPPED THE JURY’S FACT-FINDING ROLE OF DETERMINING THE MEANING OF THE AMBIGUOUS STATEMENT TO DETERMINE IF IT WAS OR WAS NOT DEFAMATORY IN NATURE .....22

Conclusion .....24

## TABLE OF AUTHORITIES

### Cases

<u>Adams v. G.J. Steel &amp; Sons, Inc.</u> , 320 S.C. 274, 465 S.E.2d 84 (1995) .....	7
<u>Allegro, Inc. v. Scully</u> , 418 S.C. 24, 791 S.E.2d 140 (2016) .....	5, 6, 7, 10, 11, 16
<u>Campbell v. Christian</u> , 235 S.C. 102, 110 S.E.2d 1 (1959) .....	5
<u>Collins Entertainment, Inc. v. White</u> , 363 S.C. 546, 611 S.E.2d 262 (Ct.App. 2005) .....	6
<u>Corder v. Champion Road Mach. Int’l Corp.</u> , 283 S.C. 520, 324 S.E.2d 79 (Ct.App. 1984) .....	15
<u>Day v. Kilgore</u> , 314 S.C. 365, 444 S.E.2d 515 (1994) .....	17, 22-23
<u>Elam v. S.C. Dep’t of Transp.</u> , 361 S.C. 9, 602 S.E.2d 772 (2004) .....	5, 16
<u>Erickson v. Jones Street Publishers, LLC</u> , 368 S.C. 444, 629 S.E.2d 653 (2006) .....	5, 7
<u>Fleming v. Rose</u> , 350 S.C. 488, 567 S.E.2d 857 (2002) .....	14-16
<u>Ford v. Hutson</u> , 276 S.C. 157, 276 S.E.2d 776 (1981) .....	14-16
<u>Gattison v. S.C. State College</u> , 318 S.C. 148, 456 S.E.2d 414 (Ct.App. 1995) .....	6, 14
<u>George v. Fabri</u> , 345 S.C. 400, 548 S.E.2d 868 (2001) .....	7
<u>Golini v. Bolton</u> , 326 S.C. 333, 482 S.E.2d 784 (Ct.App. 2007) .....	5
<u>Goodwin v. Kennedy</u> , 347 S.C. 30, 552 S.E.2d 319 (Ct.App. 2001) .....	22
<u>Hanahan v. Simpson</u> , 326 S.C. 140, 485 S.E.2d 903 (1997) .....	7
<u>Harrison v. Thornborough</u> (1714) 10 Mod. 196, 88 Eng.Rep 691 .....	22
<u>Hinkle v. Nat’l Cas. Ins. Co.</u> , 354 S.C. 92, 579 S.E.2d 616 (2003) .....	6
<u>The Huffines Co., LLC v. Lockhart</u> , 365 S.C. 178, 617 S.E.2d 125 (Ct.App. 2005) .....	7
<u>Hurd v. Williamsburg Cnty.</u> , 363 S.C. 421, 611 S.E.2d 488 (2005) .....	6
<u>Jinks v. Richland Cnty.</u> , 355 S.C. 341, 585 S.E.2d 281 (2003) .....	7
<u>Jones v. Rivers</u> , 5 S.C.L. (3 Brev.) 95 (1812) .....	22

<u>LaMotte v. Punch Line of Columbia, Inc.</u> , 296 S.C. 66, 370 S.E.2d 711 (1988).....	10
<u>Lingard v. Carolina By-Products</u> , 361 S.C. 442, 605 S.E.2d 545 (Ct.App. 2004).....	6
<u>McMillan v. Oconee Mem’l Hosp., Inc.</u> , 367 S.C. 559, 626 S.E.2d 884 (2006).....	10
<u>McSwain v. Shei</u> , 34 S.C. 25, 402 S.E.2d 890 (1991).....	15
<u>Paradis v. Charleston Cnty. Sch. Dist.</u> , 433 S.C. 562, 861 S.E.2d 774 (2021).....	10
<u>Parrish v. Allison</u> , 376 S.C. 308, 656 S.E.2d 382 (Ct.App. 2007).....	5, 6, 7
<u>Peoples Fed. Sav. &amp; Loan Ass’n of S.C. v. Res. Planning Corp.</u> , 358 S.C. 460, 596 S.E.2d 51 (2004).....	10
<u>Pye v. Estate of Fox</u> , 369 S.C. 555, 633 S.E.2d 505 (2006).....	11
<u>S.C. Dep’t of Transp. v. First Carolina Corp. of S.C.</u> , 372 S.C. 295, 641 S.E.2d 903 (2007).....	7
<u>Sims v. Giles</u> , 343 S.C. 708, 541 S.E.2d 857 (Ct.App 2001).....	6
<u>Small v. Pioneer Mach., Inc.</u> , 329 S.C. 448, 494 S.E.2d 835 (Ct.App. 1997).....	7
<u>State v. Burroughs</u> , 328 S.C. 489, 492 S.E.2d 408 (Ct.App. 1997).....	6
<u>State v. Fennell</u> , 340 S.C. 266, 531 S.E.2d 512 (2000).....	5, 13
<u>State v. Garner</u> , 389 S.C. 61, 697 S.E.2d 615 (Ct.App. 2010).....	7, 8-9, 20-21
<u>State v. Hugher</u> , 339 S.C. 439, 529 S.E.2d 721 (2000).....	8
<u>State v. LaCoste</u> , 347 S.C. 153, 553 S.E.2d 464 (Ct.App. 2001).....	5, 8, 13
<u>State v. Long</u> , 325 S.C. 59, 480 S.E.2d 62 (1997).....	6
<u>State v. Rice</u> , 375 S.C. 302, 352 S.E.2d 409 (Ct.App. 2007).....	7, 20-21
<u>State v. Varvil</u> , 338 S.C. 335, 526 S.E.2d 248 (Ct.App. 2000).....	8
<u>State v. Vick</u> , 384 S.C. 189, 682 S.E.2d 275 (Ct.App. 2009).....	8-9, 20-21, 23
<u>State v. Williams</u> , 321 S.C. 327, 468 S.E.2d 626, cert. denied, --- U.S. ---, 117 S.Ct. 230, 136 L.Ed.2d 161 (1996).....	6
<u>Steinke v. S.C. Dep’t of Labor, Licensing &amp; Reg.</u> , 336 S.C. 373, 520 S.E.2d 142 (1999).....	6

Strange v. S.C. Dep’t of Highways & Pub. Transp., 314 S.C. 427, 445 S.E.2d 439 (1994).....6  
Swinton Creek Nursery v. Edisto Farm Credit, ACA, 334 S.C. 469, 514 S.E.2d 126 (1999).....6

Townes Assoc., Ltd. V. City of Greenville, 266 S.C. 81, 221 S.E.2d 773 (1976).....5

Wardlaw v. Peck, 282 S.C. 199, 318 S.E.2d 270 (Ct.App. 1984).....22

Welch v. Epstein, 342, S.C. 279, 536 S.E.2d 408 (Ct.App. 2000).....7

Wright v. Sparrow, 298 S.C. 469, 381 S.E.2d 503 (Ct.App. 1989).....15

**Statutes**

S.C. Code Ann. §62-1-308(i).....5

**Other Authorities**

15A C.J.S. Conspiracy §1(1) (2012).....11

4 James Lockhart, *Cause of Action for Civil Conspiracy*, Cause of Action §4 (2d ed. 1994).....10

J. Kaye, *Libel and Slander – Two Torts or One?* 91 L.Q.R. 524, 527 (1975).....22

Francis M. Burdick, *Conspiracy as a Crime and as a Tort*, 7 Colum. L. Rev. 229 (1907).....10

§46 Restatement (Second) of Torts.....14

Rule 40(j), SCRCPP.....1

Rule 801, SCRE.....18, 20-21

Rule 802, SCRE.....18

Rule 803, SCRE.....20-21

## STATEMENT OF ISSUES ON APPEAL

- I. Did the Trial Court err in overruling Appellant's Motion for Directed Verdict and/or Motion for Judgment Notwithstanding the Verdict as to the cause of action of Civil Conspiracy?
- II. Did the Trial Court err in overruling Appellant's Motion for Directed Verdict and/or Motion for Judgment Notwithstanding the Verdict as to the cause of action of Intentional Infliction of Emotional Distress?
- III. Did the Trial Court err in allowing the Verdict Form to be sent to the Jury without separating actual and punitive damages for each separate cause of action, in so that the damages awarded for an individual cause of action cannot be distinguished from the other causes of action?
- IV. Did the Trial Court err in allowing the voicemail message left for Respondent by Attorney Eric Poston (A.K.A. Ducati James) be admitted into evidence, when the voicemail message was both hearsay and more prejudicial than probative?
- V. Did the Trial Court err in allowing the use of the word "kill" in reference to the allegedly defamatory statement by Appellant that Respondent "tried to send Daddy to Heaven early," when the word "kill" was both more prejudicial than probative and oversteps the Jury's fact-finding role of determining the meaning of the ambiguous statement to determine if it was or was not defamatory in nature?

## STATEMENT OF THE CASE

James Marion Lynch died testate on February 9, 2013, leaving a Last Will and Testament dated May 11, 2012. The Last Will and Testament left his daughters Wendy Lynch and Elizabeth Lynch Langley as Personal Representatives of his Estate. This action was commenced by Wendy Lynch filing a Summons and Complaint in the Florence County Court of Commons Pleas on February 7, 2016. The case was initially removed from the docket by court order dated February 7, 2018, pursuant to Rule 40(j), SCRPC. Plaintiff filed a Motion to Restore on February 6, 2019. The case was restored by court order filed April 17, 2019. This matter was brought to trial before a jury and the Honorable H. Steven Deberry, IV on April 25, 2022.

This case comes about after the death of Mr. Lynch who passed away on February 9, 2013 after a battle with brain cancer. Mr. Lynch was in and out of the hospital leading up to his passing, which ultimately led up to the claims and familial disputes that came before the Circuit Court. The case in court has been pending for about nine (9) years and the lawsuit that came before the Common Pleas Court of Florence County was brought about half way through this time. The suit was brought about by Respondent Wendy Lynch against Appellant Elizabeth Langley and co-Defendant Rebecca White for Civil Conspiracy, Defamation, Abuse of Process, and Intentional Infliction of Emotional Distress. Respondent Wendy Lynch and her trial attorneys argued that the statements of Appellant Elizabeth Langley and co-Defendant Rebecca White regarding Respondent Wendy Lynch for having “tried to send Daddy to Heaven early”, as well as their actions of filing complaints to DSS for elder abuse and the nursing board regarding Respondent Wendy Lynch’s nursing license, that Respondent Wendy Lynch suffered emotional distress and was defamed by her sisters by and through their abuse of the system.

Due to the brain tumors of Mr. Lynch, the trial attorney for Appellant Elizabeth Langley argued it was reasonable for Appellant to believe that her father was not capable of making a Last Will and Testament and that Mr. Lynch was under undue influence due to the severity of his condition. Appellant Elizabeth Langley's trial attorney further argued that it is because of her concern for her father and his Estate that she filed several disputes in the court in order to preserve her father's intentions for his Estate and respect the advice of her family. Prior to this lawsuit, Appellant exercised her right to contest the validity of Mr. Lynch's Last Will and Testament on these grounds. Upon appeal of the probate ruling by Respondent, the appellate courts declined to sanction Appellant and transferred the probate case out of Florence County. Due to the COVID-19 pandemic, as well as motions filed by Respondent and the Personal Representative of the Estate, that case is still pending in Charleston County.

It is through Respondent Wendy Lynch's complaint that this matter was put forth in the Florence County Court of Common pleas and then tried before a jury and the Honorable H. Steven Deberry, IV from April 25<sup>th</sup> to 29<sup>th</sup> of 2022. Following the conclusion of the trial, the Court filed the Jury Verdict on May 6, 2022. The Court ordered through the Statement of Judgement, finding in favor of Respondent Wendy Lynch against Appellant Elizabeth Langley in the amount of \$60,000.00 in actual damages and \$250,000.00 in punitive damages, as well as in favor of Respondent Wendy Lynch against co-Defendant Rebecca White in the amount of \$40,000.00 in actual damages and \$250,000.00 in punitive damages. Additionally, Appellant Elizabeth Langley and co-Defendant Rebecca White were no longer to have any contact with Respondent Wendy Lynch and her son, Donald Jordan and co-Defendant Rebecca White was no longer to have any contact with Casea David pertaining this case. Following the Judgement, Trial Counsel for Appellant Elizabeth Langley, Mr. David Rigney, filed a Notice of Motion and Motion for New

Trial on May 9, 2022 based on the fact that the evidence presented at trial was insufficient to support civil conspiracy, the Jury Verdict Form only provided one space for the Jury to state the amount of damages awarded, and that there was insufficient evidence to support the amount of damages awarded to the plaintiff. The Common Pleas Court of Florence County ordered on July 5, 2022 that the Motion for New Trial filed on behalf of Appellant Elizabeth Langley was denied and the Court found there was sufficient evidence to support the Jury's Verdict.

Appellant timely filed her Notice of Appeal on July 18, 2022 by and through her counsel, Attorney James R. Snell, Jr.

## STATEMENT OF FACTS

This matter arises out of a dispute regarding the Last Will and Testament of James Marion Lynch. Respondent Wendy Lynch, Appellant Elizabeth Langley, and Rebecca White are the three adult daughters of the decedent. Respondent Wendy Lynch filed suit against her sisters, Appellant Elizabeth Langley and co-Defendant Rebecca White for Civil Conspiracy, Defamation, Abuse of Process, and Intentional Infliction of Emotional Distress.

James Marion Lynch died on February 9, 2013 after a battle with brain cancer. Prior to his death, he issued a will naming Respondent Wendy Lynch and Appellant Elizabeth Langley as co-personal representatives of his estate. Proceedings in the probate court became contested.

Wendy Lynch filed a Summons and Complaint in the Florence County Court of Commons Pleas on February 7, 2016. This case was tried before a jury from April 25 to April 29, 2022. The jury returned a verdict in favor of Respondent Wendy Lynch against Appellant Elizabeth Langley in the amount of \$60,000 in actual damages and \$300,000 in punitive damages for Defamation Per Se, Civil Conspiracy, Intentional Infliction of Emotional Distress, and Abuse of Process. The jury also returned a verdict in favor of Respondent Wendy Lynch against against co-Defendant Rebecca White in the amount of \$40,000 in actual damages and \$250,000 in punitive damages for Defamation, Civil Conspiracy, Intentional Infliction of Emotional Distress, and Abs. This appeal followed.

## STANDARD OF REVIEW

“The circuit court, court of appeals, or Supreme Court shall hear and determine the appeal according to the rules of law.” S.C. Code Ann. §62-1-308(i); *see Golini v. Bolton*, 326 S.C. 33, 482 S.E.2d 784 (Ct.App. 2007); *see also Campbell v. Christian*, 235 S.C. 102, 110 S.E.2d 1 (1959). “In an action at law, on appeal of a case tried by a jury, the jurisdiction of the appellate court extends merely to the correction of errors of law, and a factual finding by a jury will not be disturbed unless a review of the record discloses that there is no evidence that reasonably supports the jury’s findings.” *Parrish v. Allison*, 376 S.C. 308, 656 S.E.2d 382, 387 (Ct.App. 2007), *citing Erickson v. Jones Street Publishers, LLC*, 368 S.C. 444, 464, 629 S.E.2d 653, 663 (2006); *see Townes Assoc., Ltd. v. City of Greenville*, 266 S.C. 81, 221 S.E.2d 773 (1976).

The standard of review towards an appeal with regards to a motion for directed verdict and/or motion notwithstanding the verdict is that “[w]hen appealing a trial court’s ruling on a motion for directed verdict and/or motion notwithstanding the verdict, ‘[T]his Court applies the same standard as the trial court and views the evidence and all reasonable inferences in the light most favorable to the nonmoving party.’” *Allegro, Inc. v. Scully*, 418 S.C. 24, 632, 791 S.E.2d 140, 144 (2016), *quoting Elam v. S.C. Dep’t of Transp.*, 361 S.C. 9, 28, 602 S.E.2d 772, 782 (2004).

“[I]n ruling on a motion for a directed verdict, the trial court considers the existence of evidence rather than its weight, and if there is any direct or substantial circumstantial evidence tending to prove the defendant’s guilt or from which his guilt may be logically deduced, the cause should be submitted to the jury.” *State v. LaCoste*, 347 S.C. 153, 162, 553 S.E.2d 464 (Ct.App. 2001), *citing State v. Fennell*, 340 S.C. 266, 270, 531 S.E.2d 512, 514 (2000). “In ruling on motions for directed verdict or judgment notwithstanding the verdict, the trial court is required to

view the evidence and the inference that reasonably can be drawn therefrom in the light most favorable to the party opposing motions. The trial court must deny the motions when the evidence yields more than one inference or its inference is in doubt.” Steinke v. S.C. Carolina Dep’t of Labor, Licensing & Reg., 336 S.C. & Reg., 336 S.C. 373, 386, 520 S.E.2d 142, 148 (1999); *see* Hurd v. Williamsburg Cnty., 363 S.C. 421, 611, S.E.2d 488 (2005); *see also* Hinkle v. Nat’l Cas. Ins. Co., 354 S.C. 92, 96, 579 S.E.2d 616, 618 (2003); *see also* Collins Entertainment, Inc. v. White, 363 S.C. 546, 611 S.E.2d 262 (Ct.App. 2005); *see also* Lingard v. Carolina By-Products, 361 S.C. 442, 446, 605 S.E.2d 545, 547 (Ct.App. 2004).

“Motions for directed verdict or JNOV should be denied if the evidence yields more than one reasonable inference or its inference is in double.” Allegro at 32, 791 S.E.2d 140, 144, *citing* Strange v. S.C. Dep’t of Highways & Pub. Transp., 314 S.C. 427, 429-30, 445 S.E.2d 439, 440 (1994). “[A] motion for JNOV may be granted only if no reasonable jury could have reached the challenged verdict.” Gattison v. S.C. State College, 318 S.C. 148, 456 S.E.2d 414 (Ct.App. 1995). “If, when viewed in the light most favorable to the [non-moving party], there is any direct or substantial circumstantial evidence which reasonably tends to prove the guilt of the accused, refusal by the trial court to direct a verdict is not error.” State v. Burroughs, 328 S.C. 489, 492 S.E.2d 408 (Ct.App. 1997), *citing* State v. Long, 352 S.C. 59, 480 S.E.2d 62 (1997); *see* State v. Williams, 321 S.C. 327, 468 S.E.2d 626, cert. denied, --- U.S. ---, 117 S.Ct. 230, 136 L.Ed.2d 161 (1996).

“When the evidence yields only one inference, a directed verdict in favor of the moving party is proper.” Parrish at 338, *citing* Swinton Creek Nursery v. Edisto Farm Credit, ACA, 334 S.C. 469, 477-78, 514 S.E.2d 126, 130 (1999); *see* Sims v. Giles, 343 S.C. 708, 714, 541 S.E.2d 857, 860 (Ct.App. 2001). “However, if the evidence as a whole is susceptible for more than one

reasonable inference, a jury issue is created and the motion should be denied.” Id., *citing* Jinks v. Richland Cnty., 355 S.C. 341, 345, 585 S.E.2d 281, 283 (2003); *see* Adams v. G.J. Steel & Sons, Inc., 320 S.C. 274, 277, 465 S.E.2d 84, 85 (1995); *see also* The Huffines Co., LLC v. Lockhart, 365 S.C. 178, 187, 617 S.E.2d 125, 129 (Ct.App. 2005).

“When ruling on a motion for summary judgment or directed verdict in a defamation action, the court must review the evidence using the same substantive evidentiary standard of proof the jury is required to use in a particular case.” Id. at 387, *citing* Erickson at 464, 629 S.E.2d at 663; *see* George v. Fabri, 345 S.C. 400, 451-52, 548 S.E.2d 868, 874-75 (2001). “The issue must be submitted to the jury whenever there is material evidence tending to establish the issue in the mind of a reasonable juror.” Id. at 388, *citing* Hanahan v. Simpson, 326 S.C. 140, 149, 485 S.E.2d 903, 908 (1997). “Yet this rule does not authorize submission of speculative, theoretical, and hypothetical views to the jury.” Id., *citing* Small v. Pioneer Mach., Inc., 329 S.C. 448, 461, 494 S.E.2d 835, 842 (Ct.App. 1997).

The standard of review towards an appeal with regards to a trial court’s ruling on an objection, the issue is only preserved for the purposes of appeal if it is raised at trial and ruled on by the trial judge. State v. Garner, 389 S.C. 61, 697 S.E.2d 615, 617 (Ct.App. 2010), *citing* S.C. Dep’t Transp. v. First Carolina Corp. of S.C., 372 S.C. 295, 301, 641 S.E.2d 903, 907 (2007). “An appellate court will reverse trial court’s ruling only if no evidence supports the ruling below.” Allegro at 32, 791 S.E.2d at 144, *citing* Welch v. Epstein, 342 S.C. 279, 300, 536 S.E.2d 408, 418 (Ct.App. 2000). “The trial court abuses its discretion when the ruling based on an error of law or factual conclusion that is without evidentiary support.” Garner at 617, *citing* State v. Rice, 375 S.C. 302, 314, 352 S.E.2d 409, 415 (Ct.App. 2007).

With appellate issues pertaining to ruling on the permissibility of whether or not specific words or phrases may be used by either party to a claim, “[r]ulings...are within the trial court’s sound discretion and will not be disturbed on appeal absent an abuse of that discretion resulting in prejudice to the complaining party.” LaCoste at 160, *citing State v. Hugher*, 339 S.C. 439, 453, 529 S.E.2d 721, 728-29 (2000); *see State v. Varvil*, 338 S.C. 335, 340, 526 S.E.2d 248, 251 (Ct.App. 2000). “[I]mproper admission...constitutes reversible error only when the admission causes prejudice.” State v. Vick, 384 S.C. 189, 199, 682 S.E.2d 275, 280 (Ct.App. 2009). “Such error is deemed harmless when it could not have reasonably affected the result of the trial, and an appellate court will not set aside a conviction for such insubstantial errors.” Id. “An insubstantial error is harmless when guilt is proven by competent evidence such that no other rational decision could be reached or when the evidence is merely cumulative of other evidence.” Garner at 618, *citing State v. Vick*, 384 S.C. 189, 199-200, 682 S.E.2d 275, 280 (Ct.App. 2009).

With appellate issues pertaining to rulings on allowing hearsay evidence to be entered into evidence at trial, “Rulings on the admissibility of evidence are within the trial court’s sound discretion and will not be disturbed on appeal absent an abuse of that discretion resulting in prejudice to the complaining party.” LaCoste at 160, *citing State v. Hugher*, 339 S.C. 439, 453, 529 S.E.2d 721, 728-29 (2000); *see State v. Varvil*, 338 S.C. 335, 340, 526 S.E.2d 248, 251 (Ct.App. 2000). “[I]mproper admission of hearsay testimony constitutes reversible error only when the admission causes prejudice.” Vick, at 199, 682 S.E.2d at 280. “Such error is deemed harmless when it could not have reasonably affected the result of the trial, and an appellate court will not set aside a conviction for such insubstantial errors.” Garner at 168, *citing State v. Vick*, 384 S.C. 189, 199, 682 S.E.2d 275, 280 (Ct.App. 2009). “An insubstantial error is harmless when guilt is proven by competent evidence such that no other rational decision could be reached or

when the evidence is merely cumulative of other evidence.” Id. at 168, *citing* State v. Vick, 384 S.C. 189, 199-200, 682 S.E.2d 275, 280 (Ct.App. 2009).

## ARGUMENTS

### **I. The Trial Court erred in overruling Appellant’s Motion for Directed Verdict and/or Motion for Judgment Notwithstanding the Verdict as to the cause of action of Civil Conspiracy.**

Civil conspiracy has a long history of uncertainty, both in its elements and in its proper application. Paradis v. Charleston Cnty. Sch. Dist., 433 S.C. 562, 861 S.E.2d 774, 775 (2021). “The elements of civil conspiracy are not always defined in exactly the same way.” 4 James Lockhart, *Cause of Action for Civil Conspiracy*, Cause of Action §4, at 530 (2d ed. 1994). The widely accepted definition of civil conspiracy is “[a] combination between two or more persons to accomplish a criminal or unlawful purpose, or some purpose not in itself criminal or unlawful by criminal or unlawful means, subjects the confederates to criminal prosecution; and, if injury ensues to an individual therefrom, it subjects them to a civil action by their victim.” Francis M. Burdick, *Conspiracy as a Crime and as a Tort*, 7 Colum.L.Rev. 229 (1907).

In the State of South Carolina, civil conspiracy is held as “a combination of two or more persons joining for the purpose of injuring and causing [omitted] damage to the plaintiff.” McMillian v. Oconee Mem’l Hosp., Inc., 367 S.C. 559, 564, 626 S.E.2d 884, 886 (2006) (word “special” omitted due to the recent ruling in Paradis v. Charleston Cnty. Sch. Dist., 433 S.C. 562, 861 S.E.2d 774 (2021)). Notably, “[a] plaintiff need not allege an unlawful act to state a cause of action; lawful acts may become actionable as a civil conspiracy if the objective is to ruin or damage the business of another.” Allegro, at 32, 791 S.E.2d at 144, *citing* LaMotte v. Punch Line of Columbia, Inc., 296 S.C. 66, 70, 370 S.E.2d 711, 713 (1988). “Conspiracy may be inferred from the very nature of the acts done, the relationship of the parties, the interests of the alleged conspirators, and other circumstances.” Peoples Fed. Sav. & Loan Ass’n of S.C. v. Res. Planning

Corp., 358 S.C. 460, 470, 596 S.E.2d 51, 57 (2004). “The difference between civil conspiracy and criminal conspiracy is that in criminal conspiracy the agreement or conspiracy is the gravamen of the offense, but in civil actions the conspiracy is not the gravamen of the charge, but may be both pleaded and proved as aggravating the wrong of which plaintiff complains, the gravamen of the tort being the damage resulting to plaintiff from an overt act done pursuant to the common design.” 15A C.J.S. Conspiracy §1(1) (2012). The primary factor in regards to a cause of action of civil conspiracy is that the purpose of a civil conspiracy is to injure the plaintiff. Allegro at 32, 418 S.E.2d at 144, *citing* Pye v. Estate of Fox, 369 S.C. 555, 567, 663 S.E.2d 505, 511 (2006).

At no point in the trial does Respondent show that Appellant and co-Defendant acted in conjunction with each other with the intent to injure Respondent. At no point are the allegedly defamatory statements shown to come from both Appellant and co-Defendant as part of a plan to injure Respondent, as opposed to a joint interest in looking out for the best interest of their father’s Estate and his memory. At no point is Respondent able to show that Appellant and co-Defendant acted together with “the objective...to ruin or damage the business of [Respondent].” Id., *citing* LaMotte at 70, 370 S.E.2d at 713.

The most tangible thing Respondent is able to point to as part of a civil conspiracy between the two, is co-Defendant White’s use of the word “we”. Transcript pg. 240, lines 10-19; Transcript pg. 241, lines 10-19; Transcript pg. 258, lines 21-25 and pg. 259, line 1. Co-Defendant uses the word “we” when cross-examining the Personal Representative of their father’s Estate regarding distribution of funds and that his dealing with the two women gave him the impression that they were “singing from the same sheet of music” in regards to what should happen with regards to the Estate. Transcript pg. 24, lines 10-19; Transcript pg. 241, lines 10-19. In Respondent’s questioning of Appellant regarding her co-Defendant’s use of the word “we” in reference to court

filings, Appellant denied any collusion between herself and co-Defendant. Transcript pg. 258, lines 21-25 and pg. 259, line 1. It is important to also point out the fact that Appellant had legal representation through the trial and preceding case, whereas co-Defendant was pro se, thus would have had no say in what Appellant's attorney filed with the court and would likely have only seen the documents after they had already been filed with the court.

At no time during the trial does Respondent offer any proof that Appellant and her co-Defendant conspired together or colluded to injure Respondent, nor does either party admit to doing so. No evidence was offered or testimony given to show that Appellant and her co-Defendant made any of the defamatory statements in question together as part of a plan to injure Respondent. Respondent, at best, is only able to show that Appellant and co-Defendant independently held the same ideas and opinions about Respondent's actions and character.

While Respondent alleges that Appellant and her co-Defendant reported Respondent to DSS in efforts to ruin her reputation, Respondent is unable to establish who actually made the report to DSS for elder abuse, much less that it was Appellant and co-Defendant did so as part of a conspiracy. Transcript pg. 314, lines 11-20; Transcript pg. 315, lines 13-25 and pg. 316, line 1; Transcript pg. 317, lines 14-25 and pg. 318, lines 1-12; Transcript pg. 321, lines 11-14. Additionally, Respondent alleges that Appellant and co-Defendant reported Respondent to the nursing board in attempts to have Respondent lose her nursing license, they are only able to establish at trial that someone else, who was not named as a party to this suit or alleged to have been part of Appellant or co-Defendant's civil conspiracy, was the person to make that complaint. Transcript pg. 340, lines 2-20.

“[I]n ruling on a motion for a directed verdict, the trial court considers the existence of evidence rather than its weight, and if there is any direct or substantial circumstantial evidence

tending to prove the defendant's guilt or from which his guilt may be logically deduced, the cause should be submitted to the jury." LaCoste at 162, *citing State v. Fennell*, 340 S.C. 266, 270, 531 S.E.2d 512, 514 (2000). When no evidence, whether direct or substantially circumstance evidence is presented to show a civil conspiracy occurred, the trial court must rule favorably as to Appellant's motion for directed verdict and/or motion for judgment notwithstanding the verdict as to the issue of civil conspiracy. Id., *citing State v. Fennell*, 340 S.C. 266, 270, 531 S.E.2d 512, 514 (2000).

**II. The Trial Court erred in overruling Appellant’s Motion for Directed Verdict and/or Motion for Judgment Notwithstanding the Verdict as to the cause of action of Intentional Infliction of Emotional Distress.**

The cause of action of intentional infliction of emotional distress were first adopted in South Carolina in the case of Ford v. Hutson, which adopted the language of the Restatement of Torts’ definition of intentional infliction of emotional distress. Ford v. Hutson, 276 S.C. 157, 162, 276 S.E.2d 776, 778 (1981); §46 Restatement (Second) of Torts. “One who by extreme and outrageous conduct intentionally or recklessly causes severe emotional distress to another is subject to liability of such emotional distress.” §46 Restatement (Second) of Torts.

The elements required to recover for a claim of intentional infliction of emotional distress are as follows:

a plaintiff must establish

- (1) the defendant intentionally or recklessly inflicted severe emotional distress or was certain or substantially certain that such distress would result from his conduct;
- (2) the defendant’s conduct was so extreme and outrageous that it exceeded all possible bounds of decency and must be regarded as atrocious and utterly intolerable in a civilized community;
- (3) the actions of the defendant cause the plaintiff’s emotional distress; and
- (4) the emotional distress suffered by the plaintiff was so severe that no reasonable person could be expected to endure it.

Fleming v. Rose, 350 S.C. 488, 537, 567 S.E.2d 857 (2002), *citing Ford* at 778. “The majority of cases finding outrageous conduct generally require hostile or abusive encounters or coercive and oppressive conduct.” Id.

While the conduct alleged to have occurred may reasonably be deemed hurtful, it was believed to be truthful by Appellant and Appellant's conduct certainly does not rise to the level of the "hostile or abusive encounter or coercive and oppressive conduct" required to show intentional infliction of emotional distress. Id. Past case law has upheld only the most extreme and outrageous cases, actions that shock the conscience, as rising to the level of intentional infliction of emotional distress. See Ford v. Hutson, 276 S.C. 157, 276 S.E.2d 778 (1981); see also Wright v. Sparrow, 298 469, 381 503 (Ct.App. 1989). The South Carolina Supreme Court has previously upheld that forcing an employee to perform physical exercises in front of their co-workers for the sole purpose of pointing out their incontinence issues for embarrassment and humiliation rises to the level of intentional infliction of emotional distress. McSwain v. Shei, 34 S.C. 25, 402 S.E.2d 890 (1991). The South Carolina Supreme Court has also upheld that a client threatening and verbally assaulting their real estate agent for over two years, including entering their home without permission to verbally berate her in front of guests, rises to the level of intentional infliction of emotional distress. Ford v. Hutson, 276 S.C. 157, 276 S.E.2d 778 (1981). While these are only a few examples, this certainly highlights the fact that one defamatory statement that was never spoken directly to Respondent does not rise to the level of intentional infliction of emotional distress. Corder v. Champion Road Mach. Int'l Corp., 283 S.C. 520, 324 S.E.2d 79 (Ct.App. 1984).

The fourth and final element that must be shown to prove a cause of action for intentional infliction of emotional distress is that "the emotional distress suffered by the plaintiff was so severe that no reasonable person could be expected to endure it." Fleming at 537, citing Ford at 162, 276 S.E.2d at 778. Respondent, when speaking about damages in regards to the issue of intentional infliction of emotional distress during closing arguments, stated "There's no medical bills, no counseling. They don't get a discount because Wendy Lynch is tough. They don't get a discount

because Wendy Lynch is Jimmy Lynch's daughter. And she don't run and get medical bills all the time. She don't run to get put on anti-depressant. She suffered through it for nine years." Transcript pg. 1013, lines 19-24. Respondent is making the argument that she is tough enough to have endured the conduct so severe that it rises to the level of intentional infliction of emotional distress for nine years without a single doctor's visit or any psychiatric treatment because she is simply "tough". *Id.* However, the law requires that the conduct be so extreme that no reasonable person can endure it. *Fleming* at 537, *citing Ford* at 162, 276 S.E.2d at 778. If Respondent, a reasonable person, can endure it without being able to point to a single harm they suffered as a result of Appellant's actions, then Appellant's actions do not rise to the level of intentional infliction of emotional distress. Transcript pg. 1013, lines 19-24; *Fleming* at 537, *citing Ford* at 162, 276 S.E.2d at 778.

When Respondent, in their own closing arguments, highlights that their case does not meet the final element required to prove intentional infliction of emotional distress, then Appellant's Motion for Judgment Notwithstanding the Verdict must be granted. Transcript pg. 1013, lines 19-24. Even in the light most favorable to the non-moving party, the Motion Notwithstanding the Verdict must be granted when the non-moving party makes statements in their own closing arguments highlighting a failure to meet an element of the issue of intentional infliction of distress. *Allegro* at 32, 791 S.E.2d at 144; *see Elam* at 28, 602 S.E.2d at 782. For the Trial Court to have done otherwise is an err in the law.

**III. The Trial Court erred in allowing the Verdict Form to be sent to the Jury without separating actual and punitive damages for each separate cause of action, in so that the damages awarded for each individual cause of action could not be distinguished from the other causes of action.**

The verdict forms submitted to the jury in this particular case only distinguished between actual and punitive damages for each of the defendants. The verdict forms did not distinguish damages in any way between the individual causes of actions. Should this court find that the trial court erred in failing to grant the motion for directed verdict and/or motion for judgment notwithstanding the verdict as to the issues of either civil conspiracy or intentional infliction of emotional distress, this court must grant a new trial for all issues at trial.

Without making this ruling, the court faces an inability to distinguish which actual and punitive damages were awarded to each of the causes of actions. Without making this ruling, the court would be forced to attempt to read into the minds of the jurors to determine which value the jury placed on each of the causes of actions for both actual and punitive damages against Appellant.

As it is well established within the role of the Court of Appeals not to do so oversteps the Jury's role of fact-finder, the Court is faced with no choice but to grant a new trial for all causes of action in this case. Day v. Kilgore, 314 S.C. 365, 444 S.E.2d 515 (1994).

**IV. The Trial Court erred in allowing the voicemail message left for Respondent by Attorney Eric Poston (A.K.A. Ducati James) be admitted into evidence, when the voicemail message was both hearsay and more prejudicial than probative.**

Hearsay is well known as “a statement, other than one made by the declarant while testifying at trial or hearing, offered into evidence to prove the truth of the matter asserted.” Rule 801(C), SCRE. One of the many exceptions to the hearsay rule, or more specifically that an out-of-court statement offered for the truth of the matter asserted that is considered not hearsay falls under the admission of a party-opponent. Rule 801(D), SCRE. Hearsay statements may be categorized as non-hearsay if:

The statement is offered against a party and is

(A) the party’s own statement in either an individual or representative capacity, or

(B) a statement of which the party has manifested an adoption or belief in its truth,

or

(C) a statement by a person authorized by the party to make a statement concerning the subject, or

(D) a statement by the party’s agent or servant concerning a matter within the scope of the agency or employment, made during the existence of the relationship, or

(E) a statement by a coconspirator of a party during the course and in furtherance of the conspiracy.

Rule 801(D)(2), SCRE. “Hearsay is not admissible except as provided by these rules or by other rules prescribed by the Supreme Court of this State or by statute.” Rule 802, SCRE.

During the testimony of Respondent, a voicemail message from Appellant’s former attorney Eric Poston (A.K.A. Ducati James) was played for the jury, after objections from Respondent on

the grounds of hearsay were overruled. Transcript pg. 684, line 21; Transcript pg. 671, lines 6-19; Transcript pg. 674, lines 16-22. While the voicemail message was not transcribed by the court reporter (it was only recorded as “A voicemail message was played in open court.”), the testimony offered by Respondent made it clear that the voicemail was of a “life threatening” nature to the Respondent. Transcript pg. 684, line 21; Transcript pg. 684 lines 9-14. The Trial Court overruled the Respondent’s hearsay objection on the grounds of a party-opponent being bound by the statements of their attorney. Transcript pg. 682, lines 5-12. Attorney Poston was not a testifying witness and was not made available to corroborate that the voicemail was left by him. Transcript pg. 675, lines 20-22.

During discussion of Appellant’s hearsay objection, the Trial Court noted, “And I find that this testimony is hearsay. It’s an out-of-court statement made by an individual that’s not here.” *Id.* Furthermore, the Trial Court stated “I don’t know of any exception to it being admissible unless – Ms. McLaughlin, I’ve just never considered a statement by an attorney as the same as a statement by an individual or their client.” Transcript pg. 675, lines 22-25.

Appellant testified that she was no longer represented by Attorney Poston at the time that the voicemail message was left, a point that was also raised by Appellant in regards to the hearsay objection. Transcript pg. 256, lines 16-18; Transcript pg. 682, lines 14-18. In fact, Appellant testified that prior to the time of the voicemail being left on Respondent’s phone, she had stopped by Attorney Poston’s office to pick up her legal file, presumably to give to her new attorney, thus terminating any attorney-client relationship between Appellant and Attorney Poston prior to Attorney Poston making that phone call to Respondent. Transcript pg. 256, lines 16-18.

For a hearsay statement that was not spoken directly by a party opponent to be admitted into evidence as a non-hearsay statement, the statement must be made by a representative of the party-

opponent in their representative capacity, by a person authorized by the party to make a statement concerning the subject, by the party's agent concerning a matter within the scope of the agency or employment during the existence of that relationship, or by a co-conspirator. Rule 801(D)(2)(A), SCRE; Rule 801(D)(2)(C)-(E), SCRE. At the time that the voicemail was left on Respondent's phone, Attorney Poston had been fired by Appellant. Transcript pg. 256, lines 16-18. Attorney Poston was no longer within a representative capacity regarding Appellant's legal matters in any manner. Rule 801(D)(2)(A), SCRE; Transcript pg. 256, lines 16-18. At no time during the trial, was Respondent able to show that Appellant authorized Attorney Poston to leave the voicemail message on Respondent's phone.

At the time that the voicemail message was left on Respondent's phone, Attorney Poston has been fired, and was thus no longer the Appellant's agent. *Id.*; Rule 801(D)(2)(D), SCRE. Furthermore, an attorney leaving a threatening voicemail message on the opposing party's phone is clearly not within the scope of the attorney-client relationship or agency between Appellant and Attorney Poston. Rule 801(D)(2)(D), SCRE. Furthermore, Attorney Poston was not named a co-conspirator to the civil conspiracy cause of action in this case. Rule 801(D)(2)(E), SCRE. At no point were exceptions to the hearsay rule raised by Respondent in reference to Appellant's hearsay objection to admission of this piece of evidence, nor do any hearsay exceptions apply. Rule 803, SCRE.

"The trial court abuses its discretion when the ruling based on an error of law." *Garner*, at 67; *Rice* at 314, 352 S.E.2d at 415. With no exception to hearsay applicable to this particular voicemail message, the Trial Court's ruling was that of an error of law. The question becomes whether or not the admission of the voicemail message into evidence is harmless error. Reversible

error is only present when the admission of evidence causes prejudice that would have reasonably affected the result of the trial. Vick at 199, 682 S.E.2d at 280.

The prejudicial effect on a jury hearing a threatening voicemail left by a former attorney of Appellant is certainly enough to affect the outcome of the jury's verdict given the deplorable nature of the voicemail itself, especially when left by an attorney, whom juries expect to live up to the highest of standards. To present such material to a jury showing the deplorable actions of Appellant's former attorney can only be construed as a direct reflection of the Appellant. To rule that a voicemail message of this nature, which had no material value to the claims regarding the actions Appellant or co-Defendant and met no non-hearsay rules or hearsay exceptions of the South Carolina Rules, is far more prejudicial than probative and is a clear error in law by the Trial Court. Rule 801, SCRE; Rule 803, SCRE.

V. **The Trial Court erred in allowing the use of the word “kill” in reference to the allegedly defamatory statement by Appellant that Respondent “tried to send Daddy to Heaven early,” when the word “kill” was both more prejudicial than probative and overstepped the jury’s fact-finding role of determining the meaning of the ambiguous statement to determine if it was or was not defamatory in nature.**

As this is a defamation per se action, the words of the defamatory statement must be “taken in their natural sense as they would be understood by the hearer”. Wardlaw v. Peck, 282 199, 203, 318 270, 273 (Ct.App. 1984); see Harrison v. Thornborough, (1714) 10 Mod. 196, 88 Eng.Rep. 691; see also Jones v. Rivers, 5 S.C.L. (3 Brev.) 95 (1812). Meaning, the words that alleged to be defamatory must be presented to the jury with the necessarily contextual information surrounding the defamatory statement, but nothing more. Goodwin v. Kennedy, 347 S.C. 30, 41, 552 S.E.2d 319 (Ct.App. 2001). Defamation per se differs from ordinary defamation in that the defamatory statement is that “of an imputation of the criminal act, of unfitness for one’s office or trade, or of a loathsome disease.” Wardlaw at 209, 318 S.E.2d at 277, citing J. Kaye, *Libel and Slander – Two Torts or One?* 91 L.Q.R. 524, 527 (1975). Defamatory statements that are determined to be defamation per se creates a presumption of damages, rather than requiring the plaintiff prove the damages element of defamation. Id.

Under the law, the defamatory statement of “tried to send Daddy to heaven early” should have been the only statement presented to the jury, leaving it in their fact-finding authority to determine whether or not the statement was defamatory in nature. Goodwin at 41. Additionally, the word “kill” being allowed by the Trial Court to be used multiple times throughout the trial by

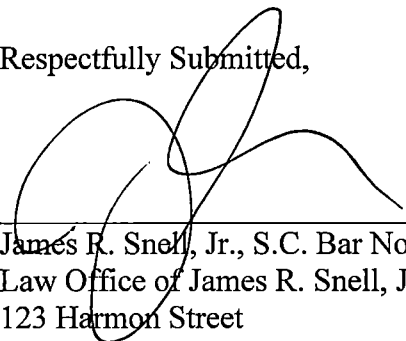
Respondent negates the existing law and takes the fact-finding role away from the jury. Day v. Kilgore, 314 S.C. 365, 444 S.E.2d 515 (1994).

Furthermore, the use of the word “kill” through the trial in reference to the allegedly defamatory statement, is far more prejudicial than probative. The question becomes whether or not the admission of the voicemail message into evidence is harmless error. Reversible error is only present when the admission of evidence (or in this case, permission by the Trial Court for Respondent to use a particular word) causes prejudice that would have reasonably affected the result of the trial. Vick at 199, 682 S.E.2d at 280. The prejudicial effect on a jury hearing the word “kill” used over and over throughout the course of the trial in reference to the allegedly defamatory statement is certainly enough to affect the outcome of the jury’s verdict given that the black-and-white conclusion as to the meaning of the statement presented to the jury negates the jury’s fact-finding ability to determine for themselves the meaning of the statement and to then determine whether or not the statement was defamatory in nature. Id.

**CONCLUSION**

For the foregoing reasons, Appellant respectfully submits that this Court should reverse the Trial Court verdict and resubmit the case back to the Florence County Court of Common Pleas for a new trial.

Respectfully Submitted,



---

James R. Snell, Jr., S.C. Bar No.: 72663  
Law Office of James R. Snell, Jr., LLC  
123 Harmon Street  
Lexington, South Carolina 29072  
(803) 359-3301  
(803) 567-6249 (facsimile)  
*jamesnell@snelllaw.com*

Attorney for Appellant

Lexington, South Carolina  
February 3, 2023

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM FLORENCE COUNTY  
Court of Common Pleas

H. Steven Deberry IV, Circuit Court Judge for Common Pleas

Common Pleas Case No.: 2019CP2101042

Wendy Lynch and Rebecca White Lynch,

Respondent,


v.

Elizabeth Langley,

Appellant.

**RULE 208 CERTIFICATION**

The undersigned hereby acknowledges that the Initial Brief of the Appellant complies with Rule 208 SCACR.



James R. Snell, Jr., Esq.  
Attorney for the Appellant  
Law Office of James R. Snell, Jr., LLC.  
123 Harmon Street  
Lexington, SC 29072  
(803) 359-3301  
(800) 567-6149 (facsimile)

February 3, 2023  
Lexington, South Carolina

**RECEIVED**  
FEB 03 2023  
SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM FLORENCE COUNTY  
Court of Common Pleas

H. Steven Deberry IV, Circuit Court Judge for Common Pleas

Common Pleas Case No.: 2019CP2101042

Wendy Lynch and Rebecca White Lynch,

Respondent,

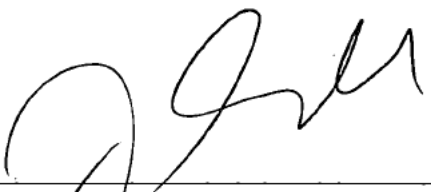
v.

Elizabeth Langley,

Appellant.

**RULE 267 CERTIFICATION**

The undersigned hereby acknowledges that the Initial Brief of the Appellant and the Appellant's Designation of Matter to be Included in the Record on Appeal complies with Rule 267 SCACR.



---

James R. Snell, Jr., Esq.  
Attorney for the Appellant  
Law Office of James R. Snell, Jr., LLC.  
123 Harmon Street  
Lexington, SC 29072  
(803) 359-3301  
(800) 567-6149 (facsimile)

February 3, 2023  
Lexington, South Carolina

**RECEIVED**  
FEB 03 2023  
SC Court of Appeals

**RECEIVED**

FEB 03 2023

SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM FLORENCE COUNTY  
Court of Common Pleas

H. Steven Deberry IV, Circuit Court Judge for Common Pleas

Common Pleas Case No.: 2019CP2101042

Wendy Lynch and Rebecca White Lynch,

Respondent,

v.

Elizabeth Langley,

Appellant.

**PROOF OF SERVICE**

I hereby certify that I have served a copy of the *Initial Brief of Appellant* and the *Appellant's Designation of Matter to be Included in the Record on Appeal* in this case on the Appellant, Elizabeth Langley; David E. Rigney who is the Common Pleas Attorney for the Appellant; Holly Palmer Beeson who is attorney to Ervin Bond, which is another party to the case; Kathy R. Schillaci, Joseph M McCulloch, Jr., and Patrick James McLaughlin who are the Common Pleas attorney's for the Respondent Wendy Lynch; Jessica Lerer Fickling who is the attorney to Colette Senseney, which is another party to the case; and Rebecca White Lynch other Respondent, by depositing a copy of it in the United States mail, postage prepaid, on February 3, 2023, addressed to the following:

**David E. Rigney**  
1500 Highway 17 North Suite 212  
Surfside Beach, SC 29575

**Holly Palmer Beeson**  
Post Office Box 11329  
Columbia, SC 29211

**Kathy R. Schillaci**  
Post Office Box 11623  
Columbia, SC 29211

**Joseph M. McCulloch, Jr.**  
Post Office Box 11623  
Columbia, SC 29211

**Patrick James McLaughlin**  
Post Office Box 13057

**Jessica Lerer Fickling**  
6923 N. Trenholm Road

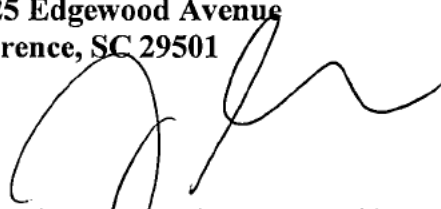
**Florence, SC 29504**

**Rebecca White Lynch  
434 Wayside Drive  
Winston Salem, NC 27107**

February 3, 2023  
Lexington, South Carolina

**Columbia, SC 29206**

**Elizabeth Langley  
1225 Edgewood Avenue  
Florence, SC 29501**

A handwritten signature in black ink, appearing to read 'James R. Snell, Jr.', written over a horizontal line.

---

James R. Snell, Jr., Esq.  
Attorney for the Appellant  
Law Office of James R. Snell, Jr., LLC.  
123 Harmon Street  
Lexington, SC 29072  
(803) 359-3301  
(800) 567-6149 (facsimile)



LAW OFFICE OF  
**JAMES R. SNELL, JR.**  
LLC

February 3, 2023

**RECEIVED**

FEB 03 2023

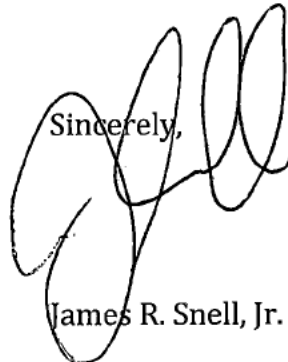
**SC Court of Appeals**

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

**Re: Elizabeth Langley vs. Wendy Lynch & Rebecca White Lynch  
Appellate Case No.: 2022-001006**

Dear Ms. Kitchings,

Enclosed for filing please find enclosed an original and one copy of the Initial Brief of the Appellant and an original and one copy of the Designation of Matter to be Included in the Record on Appeal. Also enclosed is an original and copy of the Proof of Service. Should you have any questions concerning this information, please contact our office.

Sincerely,  
  
James R. Snell, Jr.

cc: David E. Rigney, Esq.  
Holly Palmer Beeson, Esq.  
Kathy R. Schillaci, Esq.  
Joseph M. McCulloch, Jr., Esq.  
Patrick James McLaughlin, Esq.  
Jessica Lerer Fickling, Esq.  
Rebecca White Lynch  
Elizabeth Langley