

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM OCONEE COUNTY

Court of Common Pleas

Hon. R. Lawton McIntosh, Circuit Court Judge

Appellate Case No. 2024-000739

Dorothy Pierce . . . . . Appellant,

V.

Jerry Edwards, Edwards Group Holdings, Inc., Edwards Printing, Richard Hunt McDuff; MJM Law, LLC; Riley Morningstar; The Journal Newspaper; Hal Welch.. . . . Respondents.

**MEMORANDUM IN SUPPORT OF APPELLANT'S RETURN TO RESPONDENTS'**  
**MOTION TO DISMISS**

The Appellant, Dorothy Pierce, proceeding Pro se, respectfully submits this Memorandum in Support of the Return to Respondents' Motion to Dismiss. The Appellant initially filed a Return on June 10, 2024, labeled, Appellant’s motion to Dismiss Respondents’ Moton to Dismiss and subsequently, the court directed the Appellant to file a motion to accept the late filing, which was promptly done. This Motion is still pending a determination before this court. However, the initial Return could not comprehensively address the Respondents' Motion to Dismiss as the Appellant had not been served with a copy of the said motion until June 26, 2024. This memorandum aims to supplement the initial filing with additional arguments and evidence.

## STATEMENT OF FACTS

1. The Appellant is a self-represented litigant and, as such, is not subject to the electronic service provisions that may apply to attorneys within South Carolina. All proper notifications to a pro se litigant, as per South Carolina Appellate Court procedures, must be effected either in person or by traditional mail service. Service by electronic mail is not an acceptable method of service for pro se litigants who have not consented to such form of service or availed themselves of online filing options.
2. Appellant appealed the immediately appealable Interlocutory September 1, 2023, order in this matter from the Circuit Court under case under 2022-CP-3700182 to the South Carolina Court of Appeals; Appellate Case No. 2023-0015516. While this appeal was pending, the Circuit Court scheduled a hearing on the Motion for Summary Judgment for March 14, 2024. During the motion hearing, the Appellant argued that the hearing and decision should be postponed pending a determination on the interlocutory appeal. However, the court denied the Appellant's request, and proceeded to hear the matter and issued a determination thereby violating her due process rights and committing procedural errors.
3. The court proceeded to grant the Respondents' Motion for Summary Judgment despite several critical issues. The Respondents had withheld evidence, admitted to a lack of an attorney-client relationship, and acknowledged drafting the defamatory articles in collaboration with the author. These actions not only constituted procedural irregularities but also undermined the fairness of the judicial process and violated the Appellant's right to due process. Consequently, the court's decision to grant summary judgment under these circumstances further compounded the procedural errors and due process violations against the Appellant.
4. On March 20, 2024, the Circuit Court of Oconee County, Tenth Judicial Circuit, entered a Form 4 containing a Statement of Judgment which granted the Attorney Respondents' Motion for Summary Judgment ("MSJ"). This order had ended Appellant's case against the respondents in the Circuit Court. The Form 4 further directed the Attorney Respondents' counsel to draft a formal order.
5. The Respondents purport that they prepared this draft order on March 26, 2024; however, the Appellant was never served with the draft, contrary to the requirements of the South Carolina Rules of Civil Procedure mandating that all draft orders be provided to parties for review

before submission to the judge. In their June 26, 2024, filing, Respondents now admit that they did not share a copy of the draft order with the Appellant. This act was willful and fraudulent in their endeavor to conceal the contents of the order, which was drafted with several gross misrepresentations of facts. The judge signed this order with all the misrepresentations and without the Appellant's review of the facts. The omission of service deprived the Appellant of the opportunity to review the draft for inaccuracies and address any misrepresentations made by the Respondents concerning trial proceedings and evidence.

6. The Appellant filed a timely Notice of Appeal on March 29, 2024, in response to the Form 4 ruling entered by the Oconee County Court of Common Pleas on March 20, 2024. The Form 4 directed the preparation of a formal order by Attorney Respondents' counsel, and it contained a Statement of Judgment indicating the grant of the Attorney Respondents' Motion for Summary Judgment. It is within the scope of the court to treat a Form 4 as a final order, should it sufficiently address all claims and issues and leave nothing further to be decided or performed by the lower court.
7. The Respondents Purport that a final order was entered on April 2, 2024, by the Circuit Court granting the Motion for Summary Judgment (MSJ). The Appellant asserts she was not served with this final order. She did not receive any copy from the Respondents or the court. The Respondents have admitted to not providing both a draft copy and the final order to the Appellant. This failure constitutes a significant violation of procedural due process under Rule 5 of the South Carolina Rules of Civil Procedure, which mandates that all draft orders be served on all parties for review prior to submission to the judge. Under South Carolina law, the deadline to file a Notice of Appeal commences upon receipt of the final order. The Respondents have failed to provide any proof of service of either the draft or the final order to the Appellant. Consequently, the Appellant maintains that the requisite service to start the appeals deadline clock has not occurred.
8. The legal implications are severe. By not serving the draft order, the Respondents deprived the Appellant of the opportunity to review and contest any inaccuracies or misrepresentations within the order. This contravenes procedural rules and undermines the Appellant's right to a fair hearing and due process as guaranteed by the Fourteenth Amendment and the South Carolina Constitution. The final order, containing several misrepresentations, was entered without the Appellant's knowledge or ability to challenge its content, exacerbating the due

process violations. The Respondents' actions show a willful disregard for legal requirements, intending to conceal critical information and prejudicing the Appellant's ability to defend her rights effectively. Given these violations, the Appellant seeks to vacate the final order and requests a rehearing to ensure due process and procedural fairness.

9. Respondent's attorney claims they sent a copy of an email containing a motion to dismiss to the court and copied the Appellant on May 22, 2024. This unclear email was first seen by the Appellant in Respondent's reply to the Appellant's motion to dismiss their motion. The email was sent by an unknown person with whom the Appellant had no prior interactions and does not meet the threshold for proper service. The Appellant suspects the email may have been delivered to the spam folder, as it was the first interaction from Ms. Kimberly K. Cooper. The Appellant did not notice any such email mentioning the electronic service of a motion to dismiss the Appellant's case, especially from someone with whom the Appellant had never done business before. Respondents admit that the Appellant did not consent to any electronic service from them both in the Lower Court and the Court of Appeals. Respondents' attorneys are new to the case and had no interactions via email with the Appellant. They cannot provide any evidence that they sought the Appellant's consent to accept electronic filing in the matter before the South Carolina Court of Appeals, nor can they provide any evidence that they sought the Appellant's consent for any service in the Lower Court since their first dealing as new lawyers was on appeal.
10. In their June 26, 2024, filing with this honorable court, Respondents' lawyers claim that the Appellant had used electronic notice before in the lower court. However, the Respondents conceal the fact that the previous lawyers had also failed to seek the Appellant's consent for electronic mail, and when the Appellant complained about it, they started sending copies to the Appellant via regular mail.
11. Under most jurisdictions, including South Carolina, the rules of civil procedure require explicit and ongoing consent for electronic service. Rule 5(b)(2)(E) of the South Carolina Rules of Civil Procedure, for instance, stipulates that electronic service requires consent by the party to be served. When there is a change in representation, previous consents provided to the former lawyer do not automatically transfer to the new lawyer. Each attorney or law firm handling the case needs to secure their own consents and establish clear communication

protocols. Additionally, consents provided in one court, such as a lower court, do not necessarily apply to proceedings in a different court, like the Court of Appeals. Each court's procedural rules may have different requirements for service and consent, and these must be adhered to separately.

12. The new lawyers for the Respondent should seek fresh consent from the Appellant for electronic service in the new court to ensure compliance with procedural rules and avoid any potential disputes about the validity of service. All consents should be documented in writing to provide clear evidence that proper procedures were followed, and that the Appellant was aware and agreed to the terms of electronic service. Without obtaining fresh consent from the Appellant, the new lawyers for the Respondent cannot rely on the previous consent given to a former lawyer in a different court if any consent was ever given. Proper procedural steps must be followed to ensure that service requirements are met and that the Appellant's rights to due process are protected.
13. On May 24, 2024, the Appellant received a piece of mail from Kimberly K. Cooper, a paralegal employed by the attorney representing the Respondents. This correspondence mistakenly included an order denying a motion for continuance issued in a separate legal matter concerning the Respondents' attorney's clients—an order entirely unrelated to the Appellant's case. The Appellant had no previous interactions with Ms. Cooper, whose employer was newly appointed to the Respondents' legal team on April 19, 2024. This document was the second and final one received from the Respondents, with the initial document being an order approving a change of counsel. Due to the nature of the document, which did not pertain to her and originated from an unknown individual within the context of Appellant's legal matters, the Appellant chose not to take any action in response. Respondents now admit to sending appellant a different mail that did not include the Motion to dismiss.
14. Significantly, the Respondents have failed to serve the Appellant with the pivotal documents in her own appeal process, specifically neglecting to provide the Appellant with a copy of the Motion to Dismiss her Appeal, as well as the draft and the final order following the Motion for Summary Judgment. This oversight constitutes a failure in the service process essential for advancing the proceedings and respecting the Appellant's right to due process.

15. In their June 26, 2024, filing, Respondents argue that the Appellant's deadline to file a return to the Motion to Dismiss (MTD) was Monday, June 3, 2024, and claim that the Appellant filed an untimely motion on June 10, 2024. They assert that the Appellant knew of the MTD on May 31, 2024, but failed to explain the delay in filing her response. This argument is entirely misleading. While the Appellant did receive information about the filing of a motion to dismiss, she was never served with an actual copy of the motion. Without the actual motion, it was impossible for the Appellant to formulate a proper response or adhere to the stated deadlines. The Respondents' failure to serve the motion is a significant procedural violation, akin to their previous concealment of the draft order to secure a lower court order based on misrepresentations. The Appellant's request for a Motion to Accept Late Filing is a direct result of these procedural deficiencies and should not be construed as neglect on her part but rather as a necessary step to address the Respondents' ongoing disregard for proper legal procedures.
16. The Appellant expected to be served with a copy of the Motion to Dismiss upon receiving information about it. However, ten days passed without receiving the motion. Consequently, the Appellant immediately filed a Motion to Dismiss the Respondent's Motion to Dismiss for lack of service. It was only on June 26, 2024, that the Appellant received a copy of the Motion to Dismiss, accompanied by the Respondents' reply to her motion. Therefore, the Appellant has not missed any filing deadlines. Furthermore, the South Carolina Court of Appeals granted the Appellant ten days to file a Motion to Accept Late Filing, as it is standard practice for the Court of Appeals to allow litigants the opportunity to rectify deficiencies in their filings.
17. In their June 26, 2024 reply to Appellant's motion to Accept Late filing, Respondents have admitted several key points that directly impact the validity of their Motion to Dismiss Appeal and support the Appellant's position. They acknowledge that the physical mail sent to the Appellant inadvertently contained the wrong document, constituting non-service of critical legal documents and depriving the Appellant of her right to due process. Additionally, Respondents confirm that the Appellant did not consent to electronic service, yet they relied on email service in violation of Rule 5 of the South Carolina Rules of Civil Procedure. Furthermore, Respondents admit to procedural missteps in serving the draft order and subsequent documents crucial to the Appellant's case, highlighting a lack of proper notice

and opportunity for the Appellant to review and challenge these documents. These admissions underscore significant procedural errors, including the improper service of the draft and final orders, which deprive the Appellant of the opportunity to review and challenge them, rendering any subsequent orders based on this draft moot. Such procedural defects justify dismissing the Respondents' Motion to Dismiss Appeal. Therefore, the Respondents' Motion to Dismiss Appeal must be stricken, and the Appellant's Motion to Accept Late Filing should be granted to ensure fairness and justice in the proceedings.

18. Therefore, the Respondents' assertion that the appeal is untimely and should be dismissed lacks merit, as the Appellant's time to appeal has been inaccurately measured due to the Respondents' failure to properly serve the necessary documents.

### **FACTUAL BACKGROUND**

19. This appeal centers around a defamatory articles orchestrated and drafted by respondents, Fraudulent claims of attorney-client privilege during litigation to willfully to conceal evidence from discovery, contentious violations of discovery proceedings, judicial errors, submission of draft orders to the court without Appellant's review, Judicial bias and an improper motion for summary judgement heard and granted while appellant's appeal on immediately appealable interlocutory orders was pending in south Carolina court of appeal, all of which cumulatively restricted the Appellant's substantive rights under the law.
20. Over the course of several months, from August 2021 through May 2022, Respondent Richard Hunt McDuff systematically abused his professional ties with respondent Jerry Edwards—who presides over both Edwards Group Holdings Inc. and its unaffiliated counterpart, Oconee Publishing Inc., the entity behind the Journal Newspaper respondents. Despite the clear corporate separation, with Oconee Publishing being an independently operated, employee-owned firm, McDuff manipulated these connections for his own nefarious purposes.
21. Alongside respondent Riley Morningstar, a journalist at the Journal, McDuff conspired to orchestrate and issue a series of targeted publications replete with defamatory statements aimed directly at tarnishing the reputation of the Appellant. In the role of a shadow editor, McDuff orchestrated the entire process from behind the scenes—furnishing sensitive and false information, and curating content for the intended slander. McDuff not only supplied materials for these publications but also actively managed the logistics behind sourcing

material for the stories, personally providing contact details for potential interviewees and coordinating interviews.

22. This calculated dissemination of information was aimed to benefit Respondent McDuff himself as Appellant had filed a lawsuit against him in the circuit court and separate dealings with respondents' other clients Jared Adam Pierce and Gregory Alan Pierce, in an unrelated matter, thereby seeking to influence the outcome of ongoing legal contentions. McDuff's actions, therefore, were not in the performance of his professional duties to Edwards Group Holdings Inc. but were rather self-driven maneuvers intended to shield himself from litigation and to assist his work for another client, exploiting established relationships to pursue this agenda. These articles were subsequently published by the Journal Newspaper across both its print and online platforms.
23. Not only did Respondent McDuff create a list of contacts for these interviews, but he also orchestrated the participation of his own clients separate from Edwards Group Holdings Inc., namely Jared Adam Pierce and Gregory Alan Pierce, to be interviewed by Respondent Riley Morningstar of the Journal Newspaper.
24. Further highlighting his direct involvement, McDuff himself participated in an interview, contributing his perspective as an active party with a vested interest in the narrative, rather than in his capacity as an attorney withheld from discovery. His active role in the dissemination process—affording material, orchestrating interviews, and adding his own commentary—established him as a principal architect in the defamation campaign against Appellant Dorothy Pierce. McDuff's conduct demonstrates a clear deviation from his official responsibilities as a legal representative of Edwards Group Holdings Inc., revealing a personal agenda focused on influencing public opinion and legal battles concerning his clients. It should be noted that Journal Respondents withheld the interview with McDuff and did not produce it.
25. By blurring the lines between personal vendettas and professional decorum, Respondents have shielded their conduct behind the nonexistent sanctuary of attorney-client privilege. Their central participatory role, distinct from any legal responsibilities, illuminates a stark conflict driven by personal ambition that lies far astray from the rightful execution of any legal duties.

26. Furthermore, Respondents' attempts to conceal their actions behind a non-existent attorney-client privilege are both deceptive and baseless. Their collaboration in orchestrating the defamatory campaign against the Appellant was a separate and independent act, distinct from any professional legal duties or responsibilities that the Respondents might have had.
27. In July 2021, the Appellant began advertising her business, American Pharma Machinery (DBA Queen Industries), in the Upstate Journal, receiving positive community feedback. However, this success was abruptly halted when Respondent Richard Hunt McDuff, exploiting his relationship with the Journal Respondents, orchestrated a cessation of her advertisements without notice after recognizing her in the ads. McDuff admitted to discussing her advertising with Jerry Edwards, linking her to probate proceedings and influencing Edwards to stop the ads, causing a decline in customer engagement and potential revenue. This incident highlights McDuff's significant influence and deliberate strategy to harm the Appellant's reputation and business interests, including inappropriate communications with her employees, defaming her, manipulating customers to file baseless charges, and sending defamatory emails to the presiding judge.
28. Appellant filed a lawsuit against the Respondents on March 17, 2022.
29. On January 27, 2023, the court held a hearing regarding Discovery disputes and subsequently issued an order on February 13, 2023, outlining specific directives for the involved parties in this legal matter. Appellant had just given birth to her child on January 18, 2023. All parties knew this. Judge Sprouse's order stipulated the following:
  - a. The Appellant must furnish all records within her possession relevant to her damages claim and a comprehensive witness list to the Defense Counsel within a fifteen (15) day period.
  - b. The Appellant is granted the right to supplement her discovery responses if she retains an expert witness.
  - c. The Respondent is required to provide privilege logs for any evidence marked as privileged in response to Appellant's discovery requests within thirty (30) days. Subsequently, the Court will conduct an in-camera review of the contested items.
  - d. Acknowledging potential constitutional concerns regarding press freedom due to Appellant's discovery requests to the Seneca Journal, Counsel for the Journal will only need to inform the Court if responding to a specific request would

necessitate revealing a confidential source. The source's identity will not be compelled for disclosure.

- e. The Appellant's Motion for a Temporary Injunction is DECLINED. The Court has determined, as a matter of law, its lack of jurisdiction to restrain a newspaper from publishing an article, except under narrow circumstances recognized by the U.S. Supreme Court. Additionally, the Appellant has an adequate legal remedy by pursuing substantial monetary damages as stated in her complaint.
- f. The proposed Protective Order, discussed by Counsel during the hearing, must be submitted to the Court, along with the Appellant's suggested modifications, within fifteen (15) days.
- g. All other provisions specified in this Court's Scheduling Order will continue to remain fully effective.

30. Accordingly, Judge Sprouse directed the Appellant to supply all records pertinent to her damages claim and a complete witness list to Defense Counsel within fifteen (15) days. Conversely, the Respondent was instructed to furnish privilege logs for any evidence they designated as privileged in their responses to Appellant's discovery requests within thirty (30) days. Notably, the Appellant had a 15-day window to produce all relevant materials, whereas the Respondents had 30 days to provide documents they had possessed for months. Exploiting this timing disparity, the Respondents leveraged the court's inclination to file sanctions against the Appellant. Although allotted 30 days to submit documents for in-camera review, the Respondents submitted these materials two days beyond the stipulated 30-day period.

31. Prior to this ruling, Appellant, on January 09, 2022, had amended her interrogatories to the Attorney Respondents and provided additional evidence before the January 2022 hearing. Respondents' attorney lied to the court that they had not received any response from Appellant.

32. On February 16, 2023, three days after the order, the Appellant furnished an amended list of witnesses to the Respondents, including names of employees allegedly contacted by Respondent McDuff. It's incorrect that the attorney Respondents claimed to the court, in their unfounded motion for sanctions, that the Appellant hadn't supplied this list.

33. On March 3, 2023, the Appellant, dealing with new baby and other delivery complications, requested more time from the Respondents to compile the list of damages. The journal Respondents responded by stating they'd already filed a motion for sanctions, done without consulting the Appellant, in bad faith, and in violation of SC Rule 11. Notably, this motion was filed two days after the court-ordered deadline, highlighting the Respondents' pettiness. Although the journal Respondents pledged to withdraw the sanctions upon the Appellant submitting preliminary evidence for her damage claims, this was, as usual, a false assurance.
34. Following this, on March 8, 2023, the Appellant submitted all records in her possession as mandated by the court, accompanied by a spreadsheet, first to the court and then to all Respondents. However, despite the Appellant presenting preliminary damages, the Respondents objected to withdrawal and persisted with their baseless motion for sanctions, well aware of the Appellant's compliance with the order.
35. In their frivolous motion, the journal Respondents falsely claimed that the Appellant hadn't fulfilled the document submission requirement. However, the Appellant adhered to the Judge's order despite being granted significantly less time by the court—specifically, 15 days, compared to the Respondents' 30-day timeline, which was double the Appellant's duration. The Respondents consistently evaded providing substantial responses to the Appellant's discovery requests, objected to all inquiries, and largely ignored the Appellant's emails seeking supplementary responses to discovery requests.
36. The Frivolous Respondents repetitively raised resolved issues in previous motions to compel as if they were unresolved to further discredit the Appellant to the court.
37. Simultaneously, the Respondents were directed in the same order to submit all their documents for an in-camera review within 30 days, starting February 13, 2023. However, they filed these documents on March 15, 2023, a day after the deadline. Despite this delay, the Appellant didn't immediately file sanctions against them, exhibiting a lack of pettiness. Although the Respondents had a 30-day window to produce these documents for review, they failed, while the Appellant met the requirement within the stipulated 15 days.
38. On March 15, 2023, McDuff and his attorneys and the Journal Respondents and their attorneys submitted a fraudulent pleading to the Court of Common Pleas. They aimed to conceal the production of emails exchanged between McDuff and Morningstar under the guise of a nonexistent attorney-client privilege. Both McDuff and Morningstar separately

asserted, through their respective attorneys, the existence of an attorney-client relationship when no credible evidence supported such a claim.

39. The cover sheet accompanying the privilege logs, submitted by the attorney Respondents for in-camera review by Judge Sprouse, alleged that the information within the emails was related to pre-publication review of facts for a Journal article regarding Ms. Pierce and legal advice on completing a FOIA request. In this document, the Respondents specifically assert that Morningstar was McDuff's client from August 18, 2021, to May 3, 2022. The Journal Respondents sought to withhold correspondence between Respondent McDuff and Riley Morningstar dated August 13, 2021. However, Morningstar vehemently denies having any knowledge or acknowledgment of McDuff acting as his attorney during this period.
40. Moreover, during a deposition, Riley Morningstar explicitly stated that respondent McDuff did not review any of the articles before their publication, undermining the claimed attorney-client relationship or legal advice sought prior to publication. Additionally, it was evident that McDuff significantly contributed content for the stories while holding an extraordinarily conflicted position, raising serious ethical concerns about his involvement.
41. The Appellant requested documents and evidence demonstrating the legal representation, such as retainer agreements or legal contracts, from the Respondents. However, the Respondents objected to providing this proof. Despite the objection, the Respondent failed to substantiate the existence of attorney-client privilege before Judge Sprouse.
42. Appellant complied with the court's order by submitting records and a spreadsheet but faced an unjustified motion for sanctions from the Respondents.
43. Respondents misrepresented Appellant's cooperation with discovery, despite her compliance and provision of evidence within the given timeline.
44. Appellant asserts full cooperation in discovery, complying with orders despite an unequal timeline compared to Respondents.
45. On March 22, 2023, Judge McIntosh held a hearing on sanctions against the Appellant, overlooking the Appellant's compliance and rights outlined in the court order. It should be noted that the February order was issued by Judge Sprouse and the sanctions on orders of Judge Sprouse were heard by Judge McIntosh. Judge McIntosh had no prior understanding of the motions to compel and the order of Judge Sprouse. Appellant asked for continuance, but Judge McIntosh denied it. The appellant further filed a motion for change of venue after

seeing all the catastrophe that awaited and the unfairness of the court towards her, but it was further denied. Appellant contends the court's failure to examine all evidence and unjust imposition of sanctions despite her full compliance and right to supplement discovery answers according to Judge Sprouse's order dated February 13, 2023.

46. Additionally, the Court ruled correspondence between Respondent McDuff and Morningstar as privileged, a point contested by the Appellant regarding the absence of an attorney-client relationship and the misuse of this privilege in defamatory publications. Riley Morningstar stated there was no attorney-client privilege with McDuff.
47. On April 4, 2023, Judge McIntosh granted the Respondent's motion for sanctions. The court directed the Appellant to provide all information regarding alleged damages, along with a complete witness list, by April 23, 2023. This included responding comprehensively to various discovery requests from both Journal Respondents and Attorney Respondents. Failure to comply would result in limitations to the identified witnesses and evidence to the March 22, 2023, hearing.
48. On April 24, 2023, the Appellant fully complied with the April 4, 2023 order, amending responses to the discovery requests of the Journal Respondents. Additional evidence supporting the case was submitted voluntarily, accompanied by further evidence designated for subsequent filings on the Record of Appeal.
49. Despite this full compliance, on September 01, 2023, the court issued an erroneous ruling on the Appellant's motion to reconsider. The ruling constrained the Appellant's evidence to that before March 22, 2023, limiting the proof of damages to three documents from the March hearing. This constraint is unjust, especially given the Appellant's submission of crucial documents on April 24, 2023, in adherence to the sanctions order.
50. Additionally, the court restricted the Appellant from presenting further evidence despite an incomplete discovery deadline. While the Respondents had the freedom to submit documents at their discretion, the Appellant was already barred from introducing additional evidence and witnesses, which the Respondents possessed.
51. Under Judge Sprouse's order dated February 13, 2023, the Appellant retained the right to supplement her evidence for damages when she retained an expert witness, contrasting Judge McIntosh's decision of September 01, 2023, to confine evidence to before March 22, 2023, disregarding the allowance to supplement evidence concerning damages.

52. Furthermore, on September 24, 2023, the Appellant provided Federal Tax returns as additional evidence after she agreed to release them during discovery in August 2023 to substantiate damages. Tax returns are privileged and may not be automatically discovered.
53. The Respondents' counsel misrepresented facts by claiming the Appellant did not provide documents or engage in discovery, constituting Fraud Upon the court by Respondents. This false claim led to sanctions being unfairly pursued without complying with South Carolina rules of civil procedures, warranting action against the opposing counsel.
54. Appellant appealed the September 1, 2023, order to the South Carolina Court of Appeals under Appellate Case No. 2023-0015516. While this appeal was pending, the Circuit Court scheduled a hearing on the Motion for Summary Judgment for March 14, 2024. During the motion hearing, the Appellant argued that the hearing and decision should be postponed pending a determination on the interlocutory appeal. However, the court denied the Appellant's request, thereby violating her due process rights and committing procedural errors.
55. The court proceeded to grant the Respondents' Motion for Summary Judgment despite several critical issues. The Respondents had withheld evidence, admitted to a lack of an attorney-client relationship, and acknowledged drafting the defamatory articles in collaboration with the author. These actions not only constituted procedural irregularities but also undermined the fairness of the judicial process and violated the Appellant's right to due process. Consequently, the court's decision to grant summary judgment under these circumstances further compounded the procedural errors and due process violations against the Appellant.
56. The South Carolina Court of Appeals granted the Respondents' Motion to Dismiss on May 6, 2024. Subsequently, the Appellant has filed a motion to reconsider this decision.

## **ARGUMENT**

### **I. APPELLANT IS A PRO SE LITIGANT AND IS NOT SUBJECT TO THE ELECTRONIC SERVICE PROVISIONS**

57. The Appellant, Dorothy Pierce, is a self-represented litigant (pro se litigant) and, as such, is not subject to the electronic service provisions that apply to attorneys within South Carolina.

According to South Carolina Appellate Court procedures, proper notifications to a pro se litigant must be effected either in person or by traditional mail service. Service by electronic mail is not acceptable for pro se litigants who have not consented to such form of service or availed themselves of online filing options. This fundamental requirement ensures that pro se litigants are fully informed of all proceedings and documents, safeguarding their right to due process.

58. **South Carolina Rules of Civil Procedure, Rule 5(b)(1)**: Rule 5(b)(1) specifies that service upon a party represented by an attorney is made upon the attorney unless otherwise ordered by the court. It also details acceptable methods of service, emphasizing personal delivery or mail for unrepresented parties (pro se litigants), unless consent for electronic service is explicitly given; **South Carolina Rules of Civil Procedure, Rule 5(b)(2)(E)**: This rule provides that service by electronic means is permitted only if the party to be served consents in writing. For pro se litigants, without such consent, electronic service does not fulfill the service requirement.
59. In this case, the Appellant only received service on June 26, 2024. The service of the draft order and final orders was not effected at all. This failure to properly serve the Appellant violates the fundamental principles outlined in the South Carolina Rules of Civil Procedure and established case law, which emphasize the necessity of proper service to ensure due process. The Respondents' actions demonstrate a disregard for these procedural requirements, resulting in significant prejudice to the Appellant.

## **II. RESPONDENTS DID NOT SERVE DRAFT ORDER ONTO APPELLANT IN WILLFUL AND DIRECT VIOLATION OF RULE 5(B)(3)**

60. On March 20, 2024, the Circuit Court of Oconee County granted the Attorney Respondents' Motion for Summary Judgment and directed them to draft a formal order. The Respondents prepared this draft order by March 26, 2024, but intentionally failed to serve it on the Appellant, violating South Carolina Rules of Civil Procedure that mandate all draft orders be shared with all parties for review. This failure deprived the Appellant of the opportunity to review and address inaccuracies in the draft. Instead, the Respondents submitted the draft order directly to the judge, aiming to bypass the Appellant's right to scrutinize and challenge

its content, thereby including falsehoods in the order to favor their position and undermining the integrity of the judicial process.

61. The Appellant contends that the final order, allegedly entered on April 2, 2024, was drafted by the Respondents in bad faith. This contention is supported by several critical points demonstrating the Respondents' intention to include falsehoods in the order and their deliberate attempt to bypass the Appellant's right to scrutinize and challenge the order before it was signed by the judge.
62. In their June 26, 2024, filing, the Respondents admitted to not sending a copy of the draft order to the Appellant for review. This failure to serve the draft order is a clear violation of the South Carolina Rules of Civil Procedure, which require that all parties be given the opportunity to review and address any inaccuracies in draft orders before they are submitted to the judge. The court should strike the Respondents' Motion to Dismiss immediately due to this procedural breach, which undermines the Appellant's right to due process and the integrity of the judicial process.
63. **Rule 5(b)(3) of the South Carolina Rules of Civil Procedure** mandates that any party providing a proposed order, findings of fact, conclusions of law, or other papers to the court for consideration in any pending matter must serve the same on all counsel of record simultaneously and by the same means. This rule ensures that opposing counsel have the opportunity to review and comment on proposed orders before they are signed, thereby promoting transparency and fairness in judicial proceedings.
64. Despite this clear requirement, the Respondents did not serve the draft order on the Appellant, constituting a willful and direct violation of Rule 5(b)(3). This omission deprived the Appellant of the opportunity to review the draft for inaccuracies and challenge any misrepresentations, undermining the integrity of the judicial process.
65. The Appellant argues that this failure to serve the draft order was intentional, aimed at preventing her from identifying and objecting to falsehoods within the document. The draft order prepared by the Respondents contains several intentional misrepresentations and inaccuracies aimed at benefiting the Respondents while prejudicing the Appellant's case. These misrepresentations include, but are not limited to, false statements regarding the trial proceedings and the evidence presented. The inclusion of these falsehoods was a deliberate

attempt by the Respondents to secure an unfair advantage and to mislead the court regarding the true nature of the case: subsequently:

- a) The final order was drafted in bad faith, including several inaccuracies intended to mislead the court.
  - b) The Respondents failed to serve the draft order on the Appellant, violating the requirement for simultaneous service to all counsel of record.
  - c) By not serving the draft order, the Respondents deprived the Appellant of her right to scrutinize and challenge the content, thereby undermining procedural fairness and due process.
  - d) The Respondents' conduct demonstrates a deliberate attempt to circumvent judicial scrutiny, raising questions about their adherence to ethical standards in legal proceedings.
66. The Respondents' failure to serve the draft order on the Appellant in compliance with Rule 5(b)(3) constitutes a serious procedural violation. This action prevented the Appellant from exercising her right to review and contest the order, undermining the fairness of the judicial process. The Appellant seeks appropriate remedial action from the court to address this violation and ensure adherence to due process and procedural fairness.

### **III. VIOLATION OF SCRCP RULE 5(B)(3) AUTOMATICALLY INVALIDATES THE ALLEGED FINAL ORDER DATED APRIL 02, 2024.**

67. The Respondents have admitted on the record to not providing both a draft copy and the final order to the Appellant in violation of **SCRCP Rule 5(b)(3)**.
68. Given the procedural violations and the Respondents' bad faith actions, the alleged final order signed on April 2, 2024, is procedurally invalid. The Respondents' failure to serve the draft order on the Appellant and their direct submission of the draft to the judge without providing an opportunity for review constitute significant breaches of procedural rules and due process. These violations render the final order procedurally defective and invalid.
69. The substantive content of the final order is also invalid due to the inclusion of intentional misrepresentations and falsehoods by the Respondents. The order inaccurately reflects the trial proceedings and the evidence presented, designed to mislead the court and secure an

unjust advantage for the Respondents. As such, the order is not only procedurally invalid but also substantively flawed and should be rendered moot.

IV. **APPELLANT DID NOT CONSENT TO ELECTRONIC SERVICE FROM RESPONDENTS' NEW ATTORNEYS**

70. Under most jurisdictions, including South Carolina, the rules of civil procedure require explicit and ongoing consent for electronic service. Rule 5(b)(2)(E) of the South Carolina Rules of Civil Procedure, for instance, stipulates that electronic service requires consent by the party to be served.
71. When there is a change in representation, previous consents provided to the former lawyer do not automatically transfer to the new lawyer. Each attorney or law firm handling the case needs to secure their own consents and establish clear communication protocols. In this case, Appellant did not provide consent to the previous lawyers and they failed to serve appellant several time until appellant called them out to the court.
72. Consents provided in one court, such as a lower court, do not necessarily apply to proceedings in a different court, like the Court of Appeals. Each court's procedural rules may have different requirements for service and consent, and these must be adhered to separately.
73. In this instant case, Respondent's attorney claims they sent an email to the court and copied the Appellant on May 22, 2024. This unclear, one line email with no specified recipient was first seen by the Appellant in the Respondent's reply to the Appellant's motion to dismiss their motion. The email was sent by an unknown person with whom the Appellant had no prior interactions and does not meet the threshold for proper service. The Appellant suspects the email may have been delivered to the Spam folder, as it was the first interaction from Ms. Kimberly K. Cooper. The Appellant did not notice any such email mentioning the electronic service of a motion to dismiss the Appellant's case, especially from someone with whom the Appellant had never done business before.
74. On May 24, 2024, the Appellant received a piece of mail from Kimberly K. Cooper, a paralegal employed by the attorney representing the Respondents. This correspondence mistakenly included an order denying a motion for continuance issued in a separate legal matter concerning the Respondents' attorney's clients—an order entirely unrelated to the

Appellant's case. The Appellant had no previous interactions with Ms. Cooper, whose employer was newly appointed to the Respondents' legal team on April 19, 2024. This document was the second and final one received from the Respondents, with the initial document being an order approving a change of counsel. Due to the nature of the document, which did not pertain to her and originated from an unknown individual within the context of the Appellant's legal matters, the Appellant chose not to take any action in response.

75. The new lawyers for the Respondent should have sought consent from the Appellant for electronic service in the new court to ensure compliance with procedural rules and avoid any potential disputes about the validity of service. All consents should be documented in writing to provide clear evidence that proper procedures were followed, and that the Appellant was aware and agreed to the terms of electronic service. Respondents admit to not seeking appellant's consent for electronic service. Appellant has no interest in emailing with the respondents due to their constant harassing. Without obtaining fresh consent from the Appellant, the new lawyers for the Respondent cannot rely on any previous consent if any was given to a former lawyer in a different court. Proper procedural steps must be followed to ensure that service requirements are met and that the Appellant's rights to due process are protected.

V. **APPELLANT COULD NOT RESPOND TO MOTION TO DISMISS  
WITHOUT ACTUAL COPY OF MOTION**

76. In their latest Return filed on June 26, 2024, Respondents now argue that Appellant was aware of the Motion to Dismiss in a letter from the Court of Appeals on May 31, 2024. However, being aware of a motion which was not served upon the Appellant does not immediately require the Appellant to respond. To respond to a Motion to Dismiss, one must know the grounds for dismissal, which are only contained in the actual Motion to Dismiss.

77. This critical document was not served upon the Appellant even by the time of the Appellant's filing on June 10, 2024. As a result, the Appellant filed her motion to dismiss the Respondents' Motion to Dismiss, citing lack of service and the failure to provide any copy of the Motion to Dismiss. Without the actual motion and its specified grounds for dismissal, the

Appellant was unable to formulate an appropriate and informed response, underscoring the fundamental importance of proper service in ensuring due process.

VI. **RESPONDENTS HAVE ADMITTED TO NOT SERVING APPELLANT WITH CRITICAL DOCUMENTS**

78. The Respondents have admitted several key points that directly impact the validity of their Motion to Dismiss Appeal and support the Appellant's position:

- a. **Non-Service of Critical Documents:** Respondents acknowledge and admit that the physical mail sent to the Appellant inadvertently contained the wrong document. This mistake constitutes non-service of critical legal documents. Proper service is a cornerstone of judicial proceedings, ensuring all parties have the opportunity to be informed and respond appropriately. The failure to serve the correct documents deprives the Appellant of her right to due process and undermines the fairness of the proceedings.
- b. **Lack of Consent for Electronic Service:** Respondents confirm that the Appellant did not consent to electronic service, yet they relied on email service despite the Appellant's pro se status. According to Rule 5 of the South Carolina Rules of Civil Procedure, proper service methods must be followed to ensure due process. The reliance on unauthorized electronic service is a clear violation of procedural rules and further invalidates the Respondents' actions.
- c. **Procedural Missteps in Serving Draft and Final Orders:** Respondents admit to procedural missteps in serving the draft order and subsequent documents crucial to the Appellant's case. This admission is significant because it highlights the lack of proper notice and opportunity for the Appellant to review and challenge these documents. Such procedural errors directly impact the validity of the judicial proceedings and the Appellant's ability to defend her rights.

79. The Respondents' admissions highlight significant procedural errors, including the failure to serve the draft order and the final order properly. Under South Carolina law, proper service is a fundamental requirement to ensure due process. The Respondents' failure to serve the draft order to the Appellant deprived her of the opportunity to review and challenge it, rendering any subsequent orders based on this draft moot. This procedural defect alone justifies

dismissing the Respondents' Motion to Dismiss Appeal. These admissions by the Respondents underscore the fundamental procedural errors that have occurred in this case. The improper service and failure to follow due process principles have compromised the Appellant's rights and the integrity of the judicial proceedings. Therefore, the Respondents' Motion to Dismiss Appeal must be stricken, and the Appellant's Motion to Accept Late Filing should be granted to ensure fairness and justice in the proceedings.

VII. **RESPONDENTS WILLFULLY AND REPEATEDLY FAILED TO SERVE APPELLANT**

80. It is clear and indisputable that the Respondents have failed to serve the Appellant with the pivotal documents in her own appeal process, specifically neglecting to provide the Appellant with a copy of the Motion to Dismiss her Appeal, as well as the draft and the final order following the Motion for Summary Judgment. This oversight constitutes a failure in the service process essential for advancing the proceedings and respecting the Appellant's right to due process.
81. **Bakala v. Bakala, 576 S.E.2d 156 (S.C. 2003):** This case establishes that there is a presumption of receipt of mailings, but this presumption can be rebutted by evidence of procedural irregularities and improper service. In this case, the procedural irregularities and improper service by the Respondents, as admitted by them, rebut the presumption of receipt.
82. **Stokes v. Spartanburg Regional Medical Center, 382 S.C. 10, 674 S.E.2d 434 (2009):** This case emphasizes the necessity of proper service for due process and how procedural errors can impact the validity of judicial proceedings. The procedural errors committed by the Respondents in serving the Appellant have compromised the validity of the proceedings and her due process rights.
83. **Rule 5, South Carolina Rules of Civil Procedure:** This rule mandates that all pleadings subsequent to the original complaint, motions, and other papers be served upon each of the parties. Proper service methods are essential to ensure all parties have the opportunity to respond appropriately. The Respondents' failure to adhere to Rule 5 further supports the Appellant's position that her due process rights were violated, necessitating the acceptance of her late filing.

## **VI. APPELLANT'S APPEAL HAS MERIT AND A STRONG LIKELIHOOD OF SUCCESS**

84. The Appellant's appeal is well-founded and demonstrates a compelling likelihood of success. This case is marked by significant procedural violations, bad faith actions by the Respondents, and substantial errors in the lower court's decisions that have severely prejudiced the Appellant's ability to present her case. The Appellant's appeal centers around a dispute marked by alleged defamation, improper claims of attorney-client privilege, contentious discovery proceedings, and judicial errors, all of which cumulatively restricted the Appellant's substantive rights under the law. The following points highlight the merit and the strong likelihood of success in the Appellant's appeal:

### **A. THE TRIAL COURT ERRED IN GRANTING SUMMARY JUDGMENT DESPITE GENUINE ISSUES OF MATERIAL FACT**

The Appellant contends that the trial court erred in granting the Respondents' Motion for Summary Judgment, as there were clear genuine issues of material fact that precluded such judgment. According to South Carolina Rule of Civil Procedure 56(c), summary judgment is appropriate only when "the pleadings, depositions, answers to interrogatories, and admissions on file, together with affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." In *Café Assocs., Ltd. v. Gerngross*, the court emphasized that the burden is on the moving party to demonstrate the absence of any genuine issue of material fact (305 S.C. 6, 9, 406 S.E.2d 162, 164 (1991)).

#### **i. There was gross Procedural Errors in Granting Summary Judgment by the Circuit Court**

85. The Appellant appealed the September 1, 2023, order to the South Carolina Court of Appeals, but while the appeal was pending, the Circuit Court scheduled a hearing on the Motion for Summary Judgment for March 14, 2024. During the hearing, the Appellant requested a postponement pending the appeal's determination, which the court denied, thus violating her due process rights. Despite critical issues such as the Respondents withholding

evidence, admitting to a lack of an attorney-client relationship, and acknowledging their role in drafting defamatory articles, the court proceeded to grant the Respondents' Motion for Summary Judgment. These actions constituted procedural irregularities, undermined the fairness of the judicial process, and violated the Appellant's right to due process, further compounding the procedural errors and due process violations against her.

86. The South Carolina Court of Appeals granted the Respondents' Motion to Dismiss on May 6, 2024. The Appellant has filed a motion to reconsider this decision, arguing that the dismissal was premised on erroneous grounds and failed to address the substantial due process violations and procedural errors outlined above. In light of the foregoing, it is evident that the Appellant's due process rights were violated and that significant procedural errors occurred in the granting of summary judgment. The South Carolina Court of Appeals should reconsider its decision to dismiss the appeal, taking into account the substantial legal arguments and factual discrepancies presented by the Appellant. The Circuit Court's order granting summary judgment should be rendered moot, and the case should be remanded for further proceedings consistent with the principles of due process and fair trial. **South Carolina Rule of Civil Procedure 56(c)** mandates that summary judgment should only be granted if "there is no genuine issue as to any material fact and the moving party is entitled to a judgment as a matter of law." In this case, several critical procedural errors occurred:

- a) **Withholding of Evidence:** The Respondents withheld evidence pertinent to the Appellant's claims. The South Carolina Supreme Court has consistently held that the failure to disclose material evidence is a violation of due process (see *State v. Kennerly*, 331 S.C. 442, 503 S.E.2d 214 (1998)).
- b) **Admission of Lack of Attorney-Client Relationship:** The Respondents admitted to the lack of an attorney-client relationship, which undermines the credibility and validity of their defenses and claims. This admission creates genuine issues of material fact that should have precluded summary judgment.
- c) **Collaboration in Defamatory Articles:** The Respondents acknowledged their role in drafting defamatory articles in collaboration with the author. This constitutes a genuine issue of material fact regarding the intent and truthfulness of the publications, further invalidating the summary judgment.

87. Granting summary judgment despite the procedural irregularities and due process violations contravenes established legal principles. The court's decision is inconsistent with the requirement that summary judgment is appropriate only when there is no genuine issue of material fact (see *Baughman v. American Tel. & Tel. Co.*, 306 S.C. 101, 410 S.E.2d 537 (1991)).

ii. **Genuine Issues of Material Fact Exists Regarding Respondents' Interference and Sabotage of Appellant's Business with Journal respondents**

88. Despite evidence that Respondents sabotaged Appellant's business and interfered with her business interests, the court granted their motion for summary judgment. In July 2021, the Appellant initiated discussions with the Upstate Journal to run news and advertisements for her business, American Pharma Machinery, DBA Queen Industries. By August 7, 2021, her advertisements were featured in the Journal Newspapers, leading to a positive response from the local community and benefiting her business significantly. However, this success was abruptly interrupted when Respondent Richard Hunt McDuff, exploiting his relationship with the Journal Respondents, orchestrated a cessation of the Appellant's advertisements without prior notice, after observing her picture in the ads.

89. McDuff admitted in his testimony that he discussed the Appellant's advertising activities with Jerry Edwards, linking her identity in the probate proceedings to her business activities, thereby influencing Edwards to act against her. Following this conversation, the Journal ceased publishing the Appellant's advertisements, leading to a noticeable decline in customer engagement and potential revenue for her business. The abrupt cessation was communicated to the Appellant only after she inquired about the decline in calls and buyers, revealing that the decision was influenced by legal advice purportedly from McDuff. This incident underscores McDuff's significant influence over the Journal, which extended to manipulating media content to the detriment of the Appellant. His actions demonstrate a deliberate strategy to harm the Appellant's reputation and business interests, using both his professional relationships and media connections. Prior to the probate hearing on August 2, 2021, McDuff's actions included inappropriate communications with the Appellant's employees, defaming her to the extent of causing terminations, manipulating customers to file baseless

charges, and sending false defamatory emails to the presiding judge, amplifying the damage to her reputation both privately and publicly.

90. These facts clearly establish that there were genuine issues of material fact regarding the Respondents' interference and sabotage of the Appellant's business, which should have precluded the granting of summary judgment.

**iii. Genuine Issues of Material Fact Regarding Respondents' Direct Contribution to Defamatory Publications:**

91. The Trial Court Erred in Granting Respondents' Motion for Summary Judgment Despite Clear Evidence of Their Direct Contribution to the Preparation, Narrative, and Drafting of the Contested Articles.
92. In defamation law, liability extends not only to the person who originally makes the defamatory statement but also to anyone who contributes to the dissemination or republication of the defamatory content. This principle is grounded in the notion that each act of publication of defamatory material is a distinct harm that can injure the reputation of the subject. Therefore, anyone who plays a role in the process of spreading defamatory statements can be held liable for defamation.
93. In a series of email exchanges between Respondents and Riley Morningstar, McDuff significantly contributed to the defamatory articles against Queen Dorothy. McDuff not only drafted parts of these articles but also supplied Morningstar with the contact information of the Appellant's adversaries for interviews, organized interviews with his clients, and encouraged the publication of false narratives presented by his clients Adam Pierce and Gregory Pierce. McDuff himself was interviewed and provided defamatory news articles for Morningstar to include. Additionally, he pointed Morningstar to other so-called newsworthy information about the Appellant, all of which were incorporated into the contested articles.
94. This collaboration and the active role McDuff played in shaping and promoting the defamatory content highlight his significant contribution to the defamation campaign against the Appellant.
95. In this instant case McDuff's direct participation in the drafting of these defamatory articles are as follows:

- a) On August 27, 2021, McDuff emailed Riley Morningstar, orchestrating a media spectacle by stating, **“There is a hearing taking place on Monday at 10:45 at the Oconee County Courthouse before Judge Maddox. It is in a related case where Queen Dorothy has been sued. The company that sued her is seeking a default judgment. I am seeking to intervene to protect the Estate. There should be fireworks.”** This shows McDuff’s intent to use media against the Appellant.
- b) On August 30, 2021, Riley thanked McDuff, saying, **“Rick, great chatting with you today and thanks for the help. Please keep me posted.”** McDuff met Riley to provide information and names for interviews, creating a narrative against the Appellant.
- c) On the same day, McDuff emailed Riley with contact information for Wendy Wells, showing his role as an instigator of defamation rather than an attorney. He arranged interviews and concealed evidence, revealing misconduct.
- d) McDuff informed Adam Pierce that Riley Morningstar would be writing stories about the Appellant, pushing a false narrative. In early October 2021, Riley interviewed Adam Pierce, who made false statements without evidence.
- e) Between October 1, 2021, and November 8, 2021, McDuff and Morningstar exchanged emails about "ICE FOIA Request 2022-ICFO-01616," aiming to exploit deportation to facilitate Jared's inheritance by removing the Appellant.
- f) On February 9, 2022, the Appellant sued McDuff and associates for wrongful acts, including Interference with Contractual Interest, Conversion, and defamation. The complaint was amended on March 9, 2022.
- g) On February 11, 2023, former Appellant employee Sherry Burgess was served with a complaint and summons, leading McDuff to intensify efforts to publish defamatory articles with newspaper managers Hal Welch and Jerry Edwards
- h) On February 15, 2022, Riley updated McDuff about articles on the Appellant, stating, **“Hey Rick, I've got essentially an intro story and another story done on Pierce. I've got to write up what Adam said about her for another. Then I'm going to write about her latest suit. Can you tell me if Dorothy was given a new trial in the probate mix-up?”**

- i) McDuff responded, **“She was not given a new trial. On December 29, 2021, Judge Maddox affirmed the judgment of the Probate Court. She has now appealed to the South Carolina Court of Appeals. She was just ordered to retain South Carolina legal counsel within 30 days, or her appeal will be dismissed.”** This shows McDuff acting as a news contributor and encouraging falsehoods.
- j) On February 17, 2022, McDuff emailed Riley, **“See attached article. Apparently, she is wearing the same dress she wore to Doyle Pierce’s funeral.”** The article was from the Alliance for Campaign Finance Monitoring, which lacked credibility. The email contained falsehoods about the Appellant's dress.
- k) On March 4, 2023, Riley published part of the Appellant's Facebook page in an article titled: ‘Queen’ passed out cash during Uganda campaign.” The executive director issued a retraction on January 3, 2024, and apologies. The article was retracted before the defendants’ publication.
- l) On February 23, 2022, Riley sent a follow-up email to McDuff stating, **“Hey Rick, do you have the date the Court of Appeals told her she had to get counsel in 30 days?”**
- m) On March 2, 2023, McDuff sent an email to Riley stating: **“If you want to be entertained, watch her 6/17/2021, on her Team Dorothy Amolo Facebook page.”**
- n) On March 4, 2023, Riley published another part of the Appellant's Facebook page, stating, “In a Facebook group last June titled “Team QUEEN DOROTHY AMOLO,” one user shared a video of Pierce promising to show Ugandans how to make “millions of shillings” on social media platforms, but only after she had 100,000 followers. Her Facebook page has more than 47,000 likes.”
- o) During his deposition, Morningstar admitted, **“I believe in one of the articles we mentioned you had a fan following or a Facebook page following”** and that it was taken from McDuff’s email.
- p) On March 9, 2022, the Journal published an article with the headline "Pierce files lawsuit against 18 defendants for billions," failing to disclose McDuff's involvement in the defamation lawsuit. Evidence indicates McDuff acted as a co-contributor.
- q) McDuff admitted during a deposition on October 25, 2023, that he reviewed at least one article as an attorney, stating, **"That's correct. Except for one. Except for the**

**very last one after you filed suit, I was asked to review that one as an attorney."**

This contradicted his previous statements. [Refer to McDuff Deposition, page 42,]

- r) The articles undermined the Appellant's litigation efforts and impacted potential settlement discussions. FCCI Insurance Company expressed interest in settling, but following the defamatory portrayal by The Journal, FCCI's offer was low, showing defamation's injurious effects.
- s) On March 17, 2022, McDuff forwarded a federal court decision to Riley, indicating he was operating outside his professional capacity. The content shared by McDuff culminated in an article by The Journal. Defendants misled the court by fabricating attorney-client privilege claims and concealing crucial evidence.
- t) This correspondence was concealed from discovery. McDuff is not an attorney for Morningstar and failed to provide evidence of a legal relationship with Oconee Publishing Inc. Morningstar stated, **"No. I haven't paid him a dollar, so I would not call him my attorney."**
- u) McDuff admitted he initiated a conversation about the Appellant to Jerry Edwards, stating, **"I may have asked him, have you ever heard of somebody who's calling herself The Queen, and I just had a will contest hearing -- or trial with her, and the court found that she had -- that the will was fraudulent that was submitted to the court and removed The Queen as the personal representative of the estate."** McDuff admitted he found this information "newsworthy."

**B. TRIAL COURT ERRED IN GRANTING SUMMARY JUDGMENT  
PREMATURELY DESPITE PENDING APPEALS IN THE COURTS OF  
APPEALS**

96. Appellant appealed the in-camera review and the unfair sanctions orders to the Court of Appeals as an immediately appealable interlocutory order. However, the summary judgment was heard and determined before the Court of Appeals could issue a decision on the issues of documents withheld from discovery. This premature hearing and determination occurred despite multiple admissions from respondents regarding the existence of withheld documents.

i. **Trial Court Erred in Granting Summary Judgment Prematurely Due to Fraudulent Concealment of Evidence and Pending Appeal on Withheld Discovery Documents**

97. **Fraudulent Concealment of Evidence:** Throughout the discovery process, the Respondents, particularly Respondent Richard Hunt McDuff and the Journal Respondents, engaged in fraudulent presentation of privileged logs, fully aware that no legitimate attorney-client privilege existed between McDuff and Riley Morningstar. These misleading claims resulted in the withholding of numerous documents, significantly hindering the discovery process and depriving the Appellant of her right to present her case. Depositions revealed that McDuff was not an attorney for Oconee Publishing Inc. or Morningstar and did not provide legal advice on the challenged articles. The fraudulent concealment of evidence under the guise of non-existent attorney-client privilege by Respondents obstructed the Appellant's ability to fully present her arguments and evidence.

98. **Respondents denied of attorney client- relationship:** Riley Morningstar explicitly denied having any privileged relationship or seeking legal counsel from McDuff, casting serious doubt on the legitimacy of the privilege claims. The Journal Respondents also confirmed in their responses to the Appellant's discovery requests that McDuff did not review any of the defamatory publications in a legal advisory capacity. Additionally, McDuff himself stated in several responses that he did not provide legal advice or review the defamatory publications. Despite these assertions, Respondents consistently refused to respond to several discovery requests, improperly citing a non-existent attorney-client privilege. Respondent Riley Morningstar's outright denial of any privileged relationship or seeking legal counsel from McDuff calls into question the validity of the privilege claims made during discovery. McDuff affirmed in his responses to discovery requests that he did not offer legal advice or review the defamatory publications. The Journal Respondents echoed this in their replies, stating that McDuff did not act as a legal advisor for the publications. Despite these clear statements, Respondents refused to answer numerous discovery requests, hiding behind a fabricated attorney-client privilege.

99. **Premature Summary Judgment:** Despite the pending appeal on the issue of withheld discovery documents, the trial court proceeded to grant summary judgment. The Appellant

appealed the in-camera review order to the Court of Appeals as an immediately appealable interlocutory order. However, the summary judgment was heard and determined before the Court of Appeals made a decision on the withheld documents. This premature granting of summary judgment was procedurally improper and prejudiced the Appellant's case. The court should have allowed further exploration and resolution of these critical matters before making a final judgment. The unresolved issues of material fact, coupled with the fraudulent concealment of evidence, underscore the necessity for the appellate court to reconsider the trial court's summary judgment decision.

**ii. Trial Court Erred in Granting Summary Judgment Prematurely Due to Unfair Sanctions and Judicial Errors which limited appellant's evidence.**

Appellant was blocked from submitting additional evidence by the September 1, 2023, ruling, which she appealed. The trial court granted summary judgment despite these issues being on appeal. The premature summary judgment failed to consider the ongoing appeal regarding the sanctions and the exclusion of critical evidence. These unresolved genuine issues of material fact indicate that the summary judgment was not appropriate and was rendered without a full examination of the available evidence. The following issues were on appeal:

100. **Sanctions Issued Despite Compliance:** On March 22, 2023, during the hearing for the Respondents' motion for sanctions, the court issued sanctions against the Appellant despite her full compliance with discovery orders. The Appellant contends that the court failed to fully examine all evidence on file, leading to an erroneous ruling that unjustly limited her evidence to submissions before March 22, 2023, thereby constraining her ability to prove damages.
101. **Disproportionate Timelines:** On January 27, 2023, Judge Sprouse presided over a hearing on motions to compel from both parties. The February 13, 2023 order required the Appellant to provide all records related to her claim for damages within 15 days, whereas the Respondents were given 30 days to furnish privilege logs for any evidence designated as privileged. This discrepancy granted the Respondents an extended timeline to produce documents they had possessed for months, while severely limiting the Appellant's preparation time.

102. **Fraudulent Motion for Sanctions:** On March 3, 2023, the Appellant requested additional time to compile her list of damages. The Journal Respondents responded by filing a motion for sanctions without consulting the Appellant, in bad faith and in violation of SC Rule 11. Despite the Appellant's compliance with the order by presenting preliminary damages, the Respondents objected to withdrawal and persisted with their baseless motion, demonstrating pettiness and a lack of good faith.
103. **Misrepresentation of Compliance:** The Journal Respondents falsely claimed the Appellant failed to fulfill the document submission requirement, despite her adherence to the Judge's order. The Respondents consistently evaded providing substantial responses to discovery requests, objected to all inquiries, and largely ignored the Appellant's emails seeking supplementary responses, thereby obstructing the discovery process.
104. **Judicial Oversight and Errors:** The Motion for Sanctions, lodged by the Respondents on March 3, 2023, led to an order by Judge McIntosh on April 4, 2023, compelling the Appellant to produce all records related to her damages within 30 days. Despite the Appellant's compliance, a ruling on September 1, 2023, erroneously constrained her evidence to prior March 22, 2023, submissions. This conflicting order, along with the erroneous sanctions, significantly prejudiced the Appellant's case.

## **VII. Prayer for Relief**

Given the substantial procedural errors, the Respondents' bad faith actions, procedural violations, and the inclusion of falsehoods in the alleged final order, improper claims of attorney-client privilege, and the erroneous judicial rulings that have significantly prejudiced the Appellant's case, the Appellant respectfully requests the following relief from the Court:

1. **Strike the Respondents' Motion to Dismiss Appeal** due to their admitted procedural errors and failure to properly serve critical documents, depriving the Appellant of her right to due process.
2. **Accept the Appellant's Motion to Accept Late Filing** to ensure fairness and justice in the proceedings.

3. **Reverse the erroneous rulings of the lower court** that have unjustly constrained the Appellant's evidence and imposed unfair sanctions despite full compliance with the discovery orders.
4. **Declare the Final Order Invalid and Moot:** Declare the final order signed on April 2, 2024, invalid and moot due to the procedural and substantive defects arising from the Respondents' misconduct.
5. **Vacate Summary Judgment:** The trial court's order signed on April 2, 2024, granting of summary judgment should be vacated due to the premature nature of the judgment and the existence of genuine issues of material fact that were not properly considered. The Respondents' fraudulent concealment of evidence under the guise of a non-existent attorney-client privilege deprived the Appellant of her right to present her case fully.
6. **Enforce Procedural Requirements:** Direct the Respondents to adhere strictly to procedural requirements in all future proceedings, including the proper service of draft orders to all parties for review and comment.
7. **Reconsideration of Sanctions:** The sanctions imposed on the Appellant should be reconsidered. Despite the Appellant's full compliance with the discovery orders, the court issued sanctions based on the Respondents' misrepresentations. The erroneous ruling that limited the Appellant's evidence to before March 22, 2023, should be overturned to allow for a fair presentation of her claims.
8. **Order Full Disclosure:** The Respondents should be ordered to produce all withheld documents and communications previously claimed under the fraudulent attorney-client privilege. This includes all correspondence between Richard Hunt McDuff and Riley Morningstar and any other relevant documents.
9. **New Trial:** The case should be remanded for a new trial to ensure that the Appellant has the opportunity to present all relevant evidence and arguments. The new trial should address the genuine issues of material fact concerning the Respondents' interference with the Appellant's business interests, the defamatory articles, and the fraudulent claims of attorney-client privilege.

10. **Other Appropriate Relief:** Grant any other relief that this Court deems just and proper to rectify the procedural and substantive injustices suffered by the Appellant, including but not limited to awarding costs and attorney's fees incurred due to the Respondents' misconduct.

The Appellant respectfully submits that the above relief is necessary to ensure justice and fairness in the proceedings.

Respectfully Submitted, this July 7, 2024

By  \_\_\_\_\_

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FOR THE APPELLANT

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM OCONEE COUNTY  
Court of Common Pleas

Hon. R. Lawton McIntosh, Circuit Court Judge

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Appellate Case No. 2024-000739

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Dorothy Pierce ..... Appellant,

V.

Jerry Edwards, Edwards Group Holdings, Inc., Edwards Printing, Richard Hunt McDuff; MJM Law, LLC; Riley Morningstar; The Journal Newspaper; Hal Welch.. . . . Respondents.

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**PROOF OF SERVICE**

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I Dorothy Pierce, do hereby certify that on this July 8, 2024, I have served the Memorandum In Support Of Appellant's Return To Respondents' Motion To Dismiss in the above captioned appeal upon opposing counsel by depositing such in the U.S. mail with proper postage affixed thereto, addressed to counsel's last known address. A courtesy copy has been provided electronically via email addressed to counsel's email address as indicated by the

AIS



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