

THE STATE OF SOUTH CAROLINA
In the Supreme Court

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APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

S.C. SUPREME COURT

The Honorable Durham Cole, Circuit Court Judge

Appellate Case No. 2024-001249

Christian Wienands, Charlotte Muxlow, and
Gregory Muxlow,Appellants,

v.

South Wind Ranch, Ronald Hakala, and
Ashley Black,Respondents.

**PETITIONER’S REPLY TO RESPONSE TO PETITION FOR
WRIT OF CERTIORARI**

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Attorneys for Petitioners

REPLY ARGUMENT

Petitioners respectfully submit their Reply to Respondents' Response to the Petition for Writ of Certiorari. Petitioners appreciate consideration of the Petition for Certiorari, and address several key points raised by the Respondents.

As an initial matter, the "special and important reasons" for the Supreme Court to consider this case are plain: the lower court decided genuine fact questions instead of a jury in dismissing the case in violation of Article I, Section 14 of our Constitution; and the lower court ignored a wealth of evidence supporting Petitioners case in violation of *Kitchen Planners, LLC v. Friedman*, 892 S.E.2d 297 (2023) in doing so.

Respondents, through able counsel, argue fact question after fact question in their Response to the Petition for Certiorari. The arguments are thoughtfully made, but they are proper for a jury instead of a judge. For example, the Response address the contract between the parties and argues that Petitioners, and not Respondents, breached the contract. The problem is Petitioners argued the same thing and supported their argument not only with one piece of evidence, but a verification which stands as an affidavit, entire deposition transcripts, and text message conversations. The Record on Appeal is full of evidence submitted to the trial court which supports Petitioners' claims and rebutted Respondents' motion for summary judgment. The fact question of who breached the contract first and the evidence submitted by each side must be heard by a jury. If a jury believes Petitioners arguments and evidence – of which there is plenty – then Petitioners win. If a jury believes Respondents, then Respondents win. But the evidence and arguments from both sides should be heard and weighed by the factfinders contemplated by our Constitution – the jury.

Respondents also argue at length about which party's version of the facts are correct, and Respondents are entitled to do that in front of a jury. Petitioners disagree with Respondents' version of the facts and have articulated that Respondents caused the breakdown of the agreement between the parties by breaching the agreement and damaging Petitioners with a unilateral price increase not contemplated or authorized by the contract. Not only is that indisputable, but the lower court was supposed to assume that it is true for purposes of the summary judgment motion. Because a jury must decide which version of the facts are correct, and because a jury must consider all the evidence submitted by Petitioners, it was improper for the Court to usurp that function and authority from the jury, and the lower court deprived Petitioners of their constitutional right to have a jury decide those fact questions in so doing.

Petitioners respectfully submit that the compelling reasons for this Court to grant the Petition for Certiorari are straightforward. If allowed to stand, a decision completely contra to numerous cases decided by this Court and our Court of Appeals is allowed to stand. A Circuit Court instead of a jury decided who breached the contract, which evidence is correct and credible, and that unilateral increases of the contract price are allowed, even when they are not contemplated or addressed by the drafter. Petitioners respectfully request that this case be sent back to the trial court so that a jury may hear the evidence and the case.

Signature page to follow

Respectfully submitted,

Hawkins & Jedziniak, LLC

s/ Joshua T. Hawkins

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