RECEIVED
Jan 17 2025
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Daniel Coble, Circuit Court Judge

Appellate Case No. 2024-001296

Georg S. Glassmeyer,..... Appellant,

v.

South Carolina Lottery Commission, ... Respondent.

INITIAL BRIEF OF RESPONDENT SOUTH CAROLINA LOTTERY COMMISSION

Vordman Carlisle Traywick, III (102123)
Sarah C. Frierson (104643)
ROBINSON GRAY STEPP & LAFFITTE, LLC
2151 Pickens Street, Suite 500
Post Office Box 11449
Columbia, South Carolina 29211
(803) 929-1400
ltraywick@robinsongray.com
sfrierson@robinsongray.com

Counsel for Respondent South Carolina Lottery Commission

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes and Rules

COUNTERSTATEMENT OF THE ISSUES ON APPEAL

I. Did the circuit court correctly find the Lottery did not violate the Freedom of Information Act or breach its settlement agreement with Appellant when it withheld names of lottery prize winners in response to Appellant's FOIA request under controlling state law?

II. Did the circuit court correctly grant the Lottery relief from Requests 5, 12, and 18 under section 30-4-110(A) of the South Carolina Code because they were unduly burdensome and overly broad?

III. Did the circuit court correctly find Appellant's claim relating to the Lottery's redaction of check drawers' signatures on produced check copies was moot given that he received the information he sought in another format?

IV. Alternatively, did the circuit court correctly find the Lottery properly redacted check drawers' signatures on produced check copies under FOIA and the Family Privacy and Protection Act of 2002?

STATEMENT OF THE CASE

Respondent South Carolina Lottery Commission (the Lottery) adopts Appellant George S. Glassmeyer's Statement of the Case. *See* Rule 208(b)(6), SCACR.

STATEMENT OF THE FACTS

As the circuit court noted, "[t]he parties have a long and sorted history, which involves several lawsuits related to FOIA." (Order at 1). For years, Appellant has served FOIA requests on the Lottery, seeking various information about lottery prize claimants, among other things.

In 2013 and 2014, Appellant sent several FOIA requests to the Lottery. *S.C. Lottery Comm'n v. Glassmeyer*, 433 S.C. 244, 248, 857 S.E.2d 889, 891 (2021). In response, the Lottery determined some information responsive to those requests—lottery winners' names, addresses, telephone numbers, and forms of identification—was exempt from disclosure and declined to furnish it. *Id.* at 248, 857 S.E.2d at 891–92. Those FOIA requests resulted in litigation that eventually made its way to our supreme court. *Id.* at 249, 857 S.E.2d at 892.

On remand, the parties entered a settlement agreement. (Ex. 1 to Def.'s Mot. for Summ. J.). In it, Appellant agreed not to submit FOIA requests to the Lottery seeking information about claimants or prize winners through May 31, 2023. *See id.* The agreement also provided that "[i]f the South Carolina General Assembly does not enact legislation addressing this specific issue by such date, then the South Carolina Lottery Commission will provide the full names, cities, and states of lottery prize claimants in response to FOIA requests after that date." *Id.*

Not two months later, Appellant sued the Lottery, arguing it violated FOIA by not posting a fee schedule to its website. *See* (Ex. 2 to Def.'s Mot. for Summ. J.). A year later, the circuit court granted the Lottery's motion for summary judgment, finding the Lottery did not have to post a fee schedule because it does not charge—and has never charged—fees for the review, retrieval,

redaction, and production of public records in response to FOIA requests. *Id.* The circuit court dismissed that complaint with prejudice, *id.*, and Appellant did not appeal.

That brings us to this case. On June 21, 2023, the Lottery received another FOIA request from Appellant seeking, among other things, lottery winners' names. (Ex. A to Pl.'s Compl.). Appellant's FOIA request included 18 items. *Id.* Knowing the Lottery declined to charge fees to be more transparent and make its records more accessible to the public, Appellant sought to exploit that decision by submitting several rather voluminous requests. *Id.* As relevant here, he sought two years' worth of emails to and from every Lottery employee, every check in the Lottery's possession spanning that same period, and all bills and invoices too. *Id.* (Requests 5, 12 & 18). And for each response, he wanted hard copy (paper) records. *Id.*

On July 5, 2023, the Lottery's then-general counsel, Dolly Garfield, responded to Appellant's FOIA request with a good-faith determination that lottery claimants' names and information should be redacted to prevent disclosure of information protected by Proviso 3.5 of the 2023–2024 Annual Appropriations Act (the Proviso) and that Requests 5, 12, and 18 were unduly burdensome, overly broad, and otherwise improper. (Ex. B. to Pl.'s Compl.) For each of the latter requests, the Lottery explained the volume of responsive records and noted the efforts required to retrieve, review, and redact those documents would be unduly burdensome. *Id.* Still, the Lottery invited Appellant to revise the requests, asking Appellant to let it know by July 7, 2023, "if [he] was willing to withdraw or revise the objectionable requests." *Id.* The Lottery continued, "[w]e certainly want to work together to provide responsive information. As drafted, however, several requests would require the Lottery to divert unnecessary and significant agency and outside resources to review, redact, and produce documents that are not related to the stated purpose underlying the request." *Id.* Appellant refused. (Ex. A to Countercl.).

The Lottery sent a final letter to Appellant on August 16, 2023, conveying it had provided all responsive records subject to disclosure in response to his FOIA request. (Ex. I to Countercl.). The Lottery repeated its explanation of the determination that Requests 5, 12, and 18 were overly broad, unduly burdensome, and otherwise improper. And the Lottery again invited Appellant to modify or narrow those requests. *Id.* Appellant did not respond. Instead, he sued the Lottery. (Pl.'s Compl.). This matter comes before the Court on the circuit court's order granting summary judgment for the Lottery on all claims.

STANDARD

The Lottery adopts Appellant's Standard of Review, Rule 208(b)(6), SCACR, save for one citation: he claims the Court "is free to decide the question based on its assessment of which interpretation and reasoning would best comport with the law and public policies of this state and the Court's sense of law, justice, and right." *Buchanan v. S.C. Prop. & Cas. Ins. Guar. Ass'n*, 417 S.C. 562, 567, 790 S.E.2d 783, 785 (Ct. App. 2016) (quoting *Lambries v. Saluda Cnty. Council*, 409 S.C. 1, 8, 760 S.E.2d 785, 788 (2014)). But "[t]here is no principle of statutory interpretation that allows a court to simply do what it thinks is just and right." *Buchanan v. S.C. Prop. & Cas. Ins. Guar. Ass'n*, 424 S.C. 542, 553–54, 819 S.E.2d 124, 130 (2018) (Few, J., concurring).

> If it were true courts have the authority to interpret statutes according to a sense of justice and right, then courts would have the power to rewrite statutes to suit their own personal preferences, regardless of legislative intent. Courts do not have that power. Rather, . . . courts must employ recognized principles of statutory interpretation with the purpose of discerning legislative intent.

Id. With that caveat, the Lottery otherwise agrees with the operative standard of review.

ARGUMENT

The Court should affirm the circuit court's grant of summary judgment to the Lottery because Appellant's arguments are either unpreserved or without merit.

I. The circuit court correctly found the Lottery did not breach its settlement agreement with Appellant or violate FOIA by withholding lottery prize winners' names.

On February 15, 2022, the Lottery and Appellant inked a settlement agreement providing "[i]f the South Carolina General Assembly does not enact legislation addressing this specific issue by" May 31, 2023, the Lottery "will provide the full names, cities, and states of lottery prize claimants *in response to FOIA requests after*" then. (Ex. 1 to Def.'s Mot. for Summ. J. at 2) (emphasis added). While the Lottery received the instant FOIA request seeking winners' names on June 21, 2023, its final determination was not due until July 5, 2023 because a major holiday fell between. *See* S.C. Code Ann. § 30-4-30(C) (giving 10 business days for a final determination). Come July 1, 2023, the law prohibited the Lottery from providing lottery winners' names in response to FOIA requests. *See* 2023 S.C. Act No. 84, Part I.B, § 3, Proviso 3.5. So the Lottery indicated in its final determination that it would withhold and redact them. Appellant claims that, in doing so, the Lottery breached the settlement agreement and violated FOIA. Not so.

A. The FOIA timeframe applied to Appellant's breach of contract and FOIA claims.

At the outset, Appellant contends the circuit court "conflate[d]" his breach of contract and FOIA claims, arguing "the FOIA issues are separate and distinct." (Appellant's Br. at 6–7).

By providing the Lottery would produce winners' names "in response to FOIA requests," (Ex. 1 to Def.'s Mot. for Summ. J. at 2), the settlement agreement specifically contemplated FOIA would apply. Appellant's counsel argued as much to the circuit court. *See* (Jan. 5, 2023 Tr. at 34:6–13). Appellant thought so, too, because he served an eighteen-item *FOIA request*—not a standalone demand for claimants' names—on the Lottery. *See* (Ex. A to Pl.'s Compl. ("[p]ursuant to the South Carolina Freedom of Information Act I am requesting the following information and documents")). His FOIA request never even mentioned the settlement agreement. *See id.* At any rate, FOIA applied under the plain and unambiguous language of the settlement agreement. *See*

Lewis v. Premium Inv. Corp., 351 S.C. 167, 171, 568 S.E.2d 361, 363 (2002) ("Basic contract law provides that when a contract is clear and unambiguous, the language alone determines the contract's force and effect.").

As the circuit court recognized, this issue "involves a contract and FOIA." (Order at 15). Under both, the Lottery did not have "an immediate duty to provide the winners' names" "[t]he very moment" it received Appellant's FOIA request. *See* (Appellant's Br. at 7). Rather, as the circuit court properly found, "the only duty that arose upon receipt of [Appellant]'s FOIA request was the duty to issue a timely final determination." (Order at 15). If the parties had contemplated the Lottery furnishing winners' names to Appellant automatically upon request, the settlement agreement would have said so.

The circuit court conflated nothing. It faithfully applied FOIA's timeframes to Appellant's breach of contract and FOIA claims. And it rightly declined Appellant's invitation to hatch a new duty that was neither contemplated by the parties nor included in the settlement agreement. *See Lewis*, 351 S.C. at 171, 568 S.E.2d at 363 ("It is not the function of the court to rewrite contracts for parties."). This Court should do the same.

B. The Lottery properly redacted lottery winners' names.

To be sure, "FOIA is remedial in nature and should be liberally construed to carry out its purpose." *Evening Post Publ'g Co. v. Berkeley Cnty. Sch. Dist.*, 392 S.C. 76, 82, 708 S.E.2d 745, 748 (2011) (quoting *Quality Towing, Inc. v. City of Myrtle Beach*, 345 S.C. 156, 161, 547 S.E.2d 862, 864–65 (2001)). But it is equally true that "agencies are required to comply with the General Assembly's enactment of a law until it has been otherwise declared invalid." *Edwards v. State*, 383 S.C. 82, 91, 678 S.E.2d 412, 417 (2009).

On June 14, 2023, the General Assembly ratified the 2023–2024 Annual Appropriations Act, including a proviso (the Proviso) addressing disclosure of lottery winner information:

> Pursuant to Section 30-4-40, the South Carolina Freedom of Information Act, the Lottery Board of Commissioners is prohibited from disclosing a winner's name, address, telephone number, date of birth, social security number, electronic address, and any copy of the forms of identification provided to the board unless consent is given by the winner. In response to a request, the board only may allow the release of the date of the claim and draw, game played, amount of prize won, retailer location where the ticket was sold, and the hometown of the winner.

2023 S.C. Act No. 84, Part I.B, § 3, Proviso 3.5. The Proviso took effect July 1, 2023.

Because the Proviso was effective when the Lottery's "final determination came due [on July 5, 2023], and later when the Lottery's production had to 'be furnished or made available for inspection or copying no later than' August 4, 2023, . . . it prevented the Lottery from disclosing lottery winners' names." (Order at 15). Appellant nevertheless contends the Lottery should "have notified Appellant that the winners' names were immediately available on or about receipt of his FOIA request which was well before the Proviso became effective." (Appellant's Br. at 9).

For one, Appellant overlooks that his request for lottery winners' names was buried in an eighteen-item FOIA request seeking information spanning a two-year period. (Ex. A to Pl.'s Compl.). For another, nothing in FOIA requires a public body to make piecemeal determinations about the public availability of certain documents. *See generally* S.C. Code Ann. § 30-4-30(C).

Though Appellant recycles the accusation that the Lottery "willfully chose to wait until the law [] changed" to provide its final determination, he conceded below that (1) intent does not matter, and (2) he had no evidence of willfulness.[1] *See* (Jan. 5, 2023 Tr. at 9:19–10:24); (Order at

[1] *Cf. Pope v. Heritage Cmtys., Inc.*, 395 S.C. 404, 430, 717 S.E.2d 765, 779 (Ct. App. 2011) ("find[ing] no error by the trial court in granting a directed verdict on negligence based on Appellants' concession at trial"); *Denson v. Nat'l Cas. Co.*, 439 S.C. 142, 149, 886 S.E.2d 228,

15 n.3). Under FOIA, the Lottery had ten business days—from June 21, 2023 until July 5, 2023—to make a final determination. *See* S.C. Code Ann. § 30-4-30(C). That the Lottery made its final determination on the last day is neither improper nor surprising given the intervening July Fourth holiday and the searching scope of Appellant's eighteen-item FOIA request.

When the time came to respond to Appellant's FOIA request, the Proviso was in full force and prevented the Lottery from disclosing winners' names. Thus, the Lottery properly declined to furnish them. It did not breach the settlement agreement or violate FOIA in doing so.

To the extent the agreement provided otherwise (it did not), the circuit court properly found the Lottery was excused from performing.[2] (Order at 15–16). After all, it is settled that "[w]hen a contract is originally legal, but performance becomes illegal due to a change in the law, any subsequent performance is against public policy and the party who has agreed to perform is excused from doing so." *White v. J.M. Brown Amusement Co.*, 360 S.C. 366, 371, 601 S.E.2d 342, 345 (2004). Some courts consider this an "impossibility of performance," while others "conclude that the duty to perform is excused or discharged because performance would violate public policy as expressed in constitutional provisions, statutes, or judicial decisions." *Id.* Because this case involved a settlement agreement and FOIA, the circuit court properly found both apply here: "The

232 (2023) (relying on a point "counsel conceded at oral argument" in analyzing an issue). After abandoning the issue at oral argument before the circuit court, Appellant did not raise this in his motion to reconsider. He may not do so now. *See Hotel & Motel Holdings, LLC v. BJC Enters., LLC*, 414 S.C. 635, 657, 780 S.E.2d 263, 275 (Ct. App. 2015) (finding an issue unpreserved when "Appellants presented one argument below and another on appeal"); *Elam v. S.C. Dep't of Transp.*, 361 S.C. 9, 24 n.4, 602 S.E.2d 772, 780 (2004) (the "preservation requirement" "prevents a party from keeping an ace card up his sleeve—intentionally or by chance—in the hope that an appellate court will accept that ace card and, via a reversal, give him another opportunity to prove his case" (quoting *I'On, LLC v. Town of Mt. Pleasant*, 338 S.C. 406, 422, 526 S.E.2d 716, 724 (2000))).

[2] Notably, the prohibition on disclosing lottery winners' names is now permanent law. *See* S.C. Code Ann. § 59-150-145; *see also* (Order at 16 n.5).

Lottery would violate state law and the public policy as expressed by the General Assembly by disclosing lottery winners' names in response to [Appellant]'s FOIA request and to comply with the disclosure agreed to in the settlement agreement." (Order at. 16).

The circuit court correctly granted summary judgment for the Lottery on Appellant's breach of contract and FOIA claims because the Lottery could not provide lottery prize winners' names in response to Appellant's FOIA request.

II. The circuit court correctly granted the Lottery relief from responding to Requests 5, 12, and 18 under subsection 30-4-110(A).

Under FOIA, "[a] public body . . . may file a request for hearing with the circuit court to seek relief from unduly burdensome, overly broad, . . . or otherwise improper requests." S.C. Code Ann. § 30-4-110(A). Invoking this provision, the Lottery sought relief from three items in Appellant's FOIA request. Request 5 sought "[c]opies of all checks (front and back) and wire transfers issued by SCEL from June 30, 2021 through June 15, 2023." (Ex. A to Pl.'s Compl.) Request 12 sought "[a] copy of all bills, invoices, and statements submitted by any vendor, contractor, supplier, professional, or professional entity and received by SCEL between June 30, 2021 and June 15, 2023, inclusive." *Id.* And Request 18 sought "[c]opies of all emails received, sent, or forwarded by any and all SCEL employees from June 30, 2021 through June 15, 2023, inclusive." *Id.*

On an undisputed record, the circuit court found—as separate and independent grounds—the Lottery was entitled to relief because it proved Requests 5, 12, and 18 were both overly broad and unduly burdensome. The Court should affirm on either or both grounds.

A. The Lottery asked Appellant to modify or narrow Requests 5, 12, and 18 twice.

According to Appellant, "[t]he record . . . is silent as to any attempt by Respondent to ask Appellant whether his requests (5, 12, 18) may be limited." (Appellant's Br. at 10). It is not. In

rejecting this argument below, the circuit court found "the Lottery twice asked [Appellant] to narrow Requests 5, 12, and 18." (Order at 12).

The Lottery first asked Appellant "to withdraw or revise the objectionable requests" because, as drafted, they "would require the Lottery to divert unnecessary and significant agency and outside resources to review, redact, and produce documents that are not related to the stated purpose underlying the request." (Ex. B. to Pl.'s Compl.). He rejected this invitation as to Requests 5, 12, and 18 but accepted it for a different one. (Ex. A to Countercl.). After that, he and the Lottery exchanged over twenty emails about his FOIA request and the responsive documents produced on a rolling basis. *See* (Exs. B, C, D, E, F, G, & H to Countercl.). Appellant did not once mention the Lottery's determination on Requests 5, 12, and 18. *See id.* Still, in its final production letter, the Lottery reiterated "[i]f you would like to modify, specify, or narrow your requests in Items 5, 12, or, 18, the Lottery will reconsider its position and will make reasonable efforts to accommodate your requests." *Id.* But Appellant never responded.

Appellant does not acknowledge or grapple with the circuit court's finding—or the undisputed evidence underlying it—on this point. His claim that the Lottery never sought to limit his requests is therefore "utterly meritless." *Hood v. USAA*, Op. No. 28249 (S.C. Sup. Ct. filed Jan. 8, 2025) (Howard Adv. Sh. No. 2 at 17).

B. Requests 5, 12, and 18 are unduly burdensome.

To support its request for relief from Requests 5, 12, and 18 as unduly burdensome, the Lottery filed an unrebutted expert affidavit from attorney John S. Nichols.

Nichols opined on the capital and human resources, time, and effort that would be required to retrieve, review, redact, and produce records responsive to Requests 5, 12, and 18. (Ex. J to Def.'s Countercl.). During the hearing, Appellant's counsel "stipulate[d] to t[he] entire record,

including [what] John Nichols said about how long this would take." (Jan. 5, 2024 Tr. at 46:21–23). That means the undisputed facts before the circuit court were as follows:

> Request 5 covers about 120,000 checks or wire transfers; Request 12 covers over 8,000 documents; and Request 18 covers about 3 million emails from the Lottery's 125 employees at the time. As expert John Nichols explained, at least nine exemptions may apply to the records sought in Requests 5, 12, and 18. . . . According to Nichols, it would take 2,000 hours to review and redact 120,000 checks and wire transfers responsive to Request 5 at a cost of $300,000 to $400,000. As for Request 12, it would take 134 hours, to the tune of $20,100 to $26,800. And it would take around 50,000 hours to review and redact the roughly 3 million emails received, sent, or forwarded by the Lottery's employees under Request 18, which would cost around $7,500,000 to $10,000,000.

(Order at 7–8); *see also* (Ex. J to Def.'s Countercl.); (Verified Countercl. at ¶¶ 54–87).

After recognizing this was a case of first impression under subsection 30-4-110(A), the circuit court found "the Lottery made a good-faith determination that Requests 5, 12, and 18 are unduly burdensome" and granted the Lottery relief from responding to them. (Order at 7–10). Appellant claims the circuit court erred for two reasons.[3] *First*, Appellant tries to use the Lottery's decision not to charge fees against it, arguing that somehow waived any objection to his far-reaching requests. (Appellant's Br. at 10–12). *Second*, Appellant contends the circuit court was "mistaken in it[s] dominate reliance on discovery practice principles to resolve this FOIA controversy." (Appellant's Br. at 12–15). Appellant is wrong twice over.

On the fee issue, Appellant contends the Lottery's "problem is one of [its] own making" because it doesn't charge fees for responding to FOIA requests. (Appellant's Br. at 11). Nothing

[3] While Appellant generally criticizes the circuit court's overall approach, he makes no specific arguments about the analysis and ruling on each request. As a result, he has abandoned any argument on that front. *See, e.g.*, *First Sav. Bank v. McLean*, 314 S.C. 361, 363, 444 S.E.2d 513, 514 (1994) (noting an issue is abandoned when party fails to "provide arguments or supporting authority"); *Fields v. Melrose Ltd. P'ship*, 312 S.C. 102, 106, 439 S.E.2d 283, 285 (Ct. App. 1993) (stating one "may not use the reply brief to argue issues not argued in his brief in chief").

in the separate section giving agencies an avenue for relief from harassing and unduly burdensome FOIA requests, however, predicates that relief on the agency first posting a fee schedule and charging fees. *See* S.C. Code Ann. §§ 30-4-30(B) & -110(A). And as the circuit court found, money is not the only consideration. (Order at 9). Although he stipulated to the record, Appellant continues to ignore the time and resources the agency would have to devote—regardless of cost—to respond to his unduly burdensome requests. *See* (Order at 7–10).

Nor does the statute cabin its applicability to expensive requests only. The Court should thus reject Appellant's invitation to redline the statute to adopt his preferred outcome, which would have given him *less* information than what the Lottery provided here. *See* (Pl.'s Mot. to Reconsider at 4); (Jan. 5, 2024 Tr. at 52:7–18); *see also Hodges v. Rainey*, 341 S.C. 79, 87, 533 S.E.2d 578, 582 (2000) (noting a court "cannot rewrite the statute and inject matters into it which are not in the legislature's language"); *Gentry v. Yonce*, 337 S.C. 1, 522 S.E.2d 137, 143 (1999) ("Statutes should not be construed so as to lead to an absurd result.").

What is more, Appellant's concern that the Lottery—or any other public body—can "now simply say" that a request is unduly burdensome on "some arbitrary and private threshold" when it does not want to respond to the request is misplaced. (Appellant's Br. at 11). As the circuit court observed, "judicial review precludes agencies from self-imposing [Appellant's] feared rudderless standard, and courts are more than capable of determining—on a case-by-case basis—whether a FOIA request runs afoul of a statute." (Order at 8). Also consider what happened here: Appellant served eighteen voluminous FOIA requests on the Lottery, and the Lottery provided responsive information to all but three objectionable requests. In fact, the Lottery "still spent over 100 hours retrieving, reviewing, redacting, and otherwise responding to [Appellant's] remaining 15 requests in addition to fielding new follow-up ones." (Order at 8); *see also* (Verified Countercl. at ¶ 19).

Turning to the circuit court's invocation of discovery practice in its analysis, Appellant failed to preserve this issue. The only issue Appellant raised in his motion to reconsider on the unduly burdensome claim is the Lottery's lack of fee for responding to FOIA requests. *See* (Mot. to Reconsider). He did not challenge the use of discovery law during the hearing on the motion to reconsider either. (July 9, 2024 Hr'g Tr. at 1–26); *cf. I'On, LLC*, 338 S.C. at 422, 526 S.E.2d at 724 ("The losing party must first try to convince the lower court that it has ruled wrongly and then, if that effort fails, convince the appellate court that the lower court erred.").

Even if the issue were preserved, it misses the mark. To begin, the circuit court did not "domina[ntly] rel[y] on discovery practice principles to resolve this FOIA controversy." (Appellant's Br. at 12). Instead, in this "matter of first impression" involving terms with which it was "quite familiar," the circuit court "dr[ew] on its experience handling discovery issues in analyzing Requests 5, 12, and 18, while keeping in mind the purpose of FOIA and the liberal construction afforded its provisions." (Order at 6).

That was entirely appropriate. Subsection 30-4-110(A) includes the terms "overly broad" and "unduly burdensome," but it does not define them. S.C. Code Ann. § 30-4-110(A). "The cardinal rule of statutory construction is to ascertain and effectuate the intent of the [General Assembly]." *Hodges*, 341 S.C. at 85, 533 S.E.2d at 581. "In interpreting a statute, the language of the statute must be read in a sense that harmonizes with its subject matter and accords with its general purpose." *Town of Mt. Pleasant v. Roberts*, 393 S.C. 332, 342, 713 S.E.2d 278, 283 (2011). As Appellant ostensibly recognizes, courts "must give the words found in the statute their 'plain and ordinary meaning without resort to subtle or forced construction to limit or expand the statute's operation.'" *CFRE, LLC v. Greenville Cnty. Assessor*, 395 S.C. 67, 74, 716 S.E.2d 877, 881 (2011) (quoting *Sloan v. Hardee*, 371 S.C. 495, 499, 640 S.E.2d 457, 459 (2007)).

Appellant admits he is not saying "discovery practice jurisprudence may not be used to inform a court's resolution of novel issues like those in S.C. Code Ann. §30-4-110 present here." (Appellant's Br. at 14). His attempt to assign error is thus unclear, for that's what the circuit court did: it considered what "unduly burdensome" might mean in its ordinary and popular sense under the law and drew on its experience handling "unduly burdensome" discovery requests. (Order at 6). And for good reason. "In ascertaining the meaning of language used in a statute, [courts] presume the General Assembly is 'aware of the common law, and where a statute uses a term that has a well-recognized meaning in the law, the presumption is that the General Assembly intended to use the term in that sense.'" *Grier v. AMISUB of S.C., Inc.*, 397 S.C. 532, 536, 725 S.E.2d 693, 696 (2012) (quoting *State v. Bridgers*, 329 S.C. 11, 14, 495 S.E.2d 196, 198 (1997)).

In doing so, however, the circuit court did not throw caution to the wind and "deviate from, or otherwise minimize, the controlling statutory authority in FOIA's codified purpose."[4] (Appellant's Br. at 14). Rather, it considered what "unduly burdensome" might mean under the circumstances of this case, "while keeping in mind the purpose of FOIA and the liberal construction afforded its provisions." (Order at 6). Indeed, the circuit court began its analysis with the acknowledgement that it was "mindful of and guided by the FOIA context in which this case arises." (Order at 4). According to the circuit court, this included the remedial nature of FOIA and the liberal interpretation it deserves. *Id.* at 4–5. And in analyzing the requests, the circuit court found "the cost of responding is but one consideration. An unduly burdensome

[4] As an aside, Appellant continues to argue "FOIA's only prohibited purpose for submitting a request" is "commercial solicitation." *See, e.g.*, (Appellant's Br. at 14). He has yet to provide a citation for that assertion. And section 30-4-50(B), upon which he relies, does not stand for that proposition. In any event, in section 30-4-110(A), the General Assembly enumerated four types of requests as well as any "otherwise improper requests" from which a public body may seek relief. S.C. Code Ann. § 30-4-110(A). Appellant's attempt to limit it is therefore unavailing.

objection necessarily requires an evaluation of the time and effort a party must expend responding to the request too." (Order at 9).

That is not reversible error. Especially not on these facts: Appellant's requests would either "require the Lottery to halt its operations" and "spend 50,000 hours responding to a FOIA request" or "cost approximately $7,820,100 to $10,426,800 for a law firm to review, redact, and produce" responsive records. (Order at 9–10). As Appellant admits, the circuit court "describe[ed] in detail the burden [the Lottery] faced if it were forced to disclose the responsive information." (Appellant's Br. at 14); *see also* (Order at 7–10). But he ignores that the circuit court recentered the analysis by balancing that burden with the objectives of FOIA and Appellant's interest in the information. When it all went on the scale, Appellant's onerous requests failed the balancing test.[5]

Because Requests 5, 12, and 18 are unduly burdensome, the circuit court correctly granted the Lottery relief from responding to them.

C. Requests 5, 12, and 18 are overly broad.

At the threshold, Appellant's challenge to the circuit court's ruling that Requests 5, 12, and 18 are overly broad is not preserved. He did not contest the circuit court's separate ruling on the overbreadth of Requests 5, 12, and 18 in his motion to reconsider. *See* (Mot. to Reconsider); *but see I'On, LLC*, 338 S.C. at 422, 526 S.E.2d at 724. Although the Lottery noted this omission during the hearing, he did not respond. (July 9, 2024 Hr'g Tr. at 18–21, 25–26).

Even so, as the circuit court noted, "the parties agreed it would be appropriate for the Court to consider the reason for seeking the information as compared to the specific request." (Order at 10); *cf. Denson*, 439 S.C. at 149, 886 S.E.2d at 232 (relying on a point "counsel conceded at oral

[5] Appellant's statement that the circuit court "simply pointed to the size, seemingly exclaimed 'big' and ended the inquiry," (Appellant's Br. at 15), is irreconcilable with his concession that the circuit court's order was "detail[ed]."

argument" in analyzing an issue). It is unsurprising, then, that the circuit court analyzed each request, compared the three requests to Appellant's stated purpose for seeking information, and found each request was overly broad. (Order at 10–11). Appellant cannot be heard to complain about the circuit court's analysis now after conceding it was appropriate.[6] *See* (Jan. 5, 2024 Tr. at 51:13–18); *cf. Hood*, Op. No. 28249, at 12 n.2 (criticizing the losing party's arguments because they "have shifted at every step of this litigation").

Next, Appellant repeats his misguided belief that the Lottery cannot seek relief for an overbroad request if it does not charge a fee and his critique of the circuit court's reference to discovery principles in its analysis. (Appellant's Br. at 15–16). Both arguments fail for the reasons explained above. *See supra* Section II.B (explaining Appellant's misreading of the two statutes and the circuit court's reconciliation of FOIA's codified purpose); *see also* (Order at 4–6).

Appellant is thus left with an argument he did not raise on reconsideration that the circuit court erred in purportedly finding he should have "take[n] care with how broadly a request is worded so as not [to] burden public bodies unnecessarily." (Appellant's Br. at 16). "FOIA does not have such a restriction," Appellant says, and "[a] requester can submit a request that yields information as vast as that person desires." *Id.* Appellant contends it is "ironic" that the circuit court "chastise[d]" his refusal to narrow his overly broad requests upon invitation, claiming "the state history [shows] the Legislature was trying to remedy [those views] when it passed FOIA." (Appellant's Br. at 16). "These arguments, too, are utterly meritless." *Hood*, Op. No. 28249, at 17. Although he may wish subsection 30-4-110(A) weren't on the books, the General Assembly

[6] As with his unduly burdensome arguments, *see supra* note 3, Appellant makes only generalized critiques about the circuit court's overall approach to determining whether Requests 5, 12, and 18 are overly broad. His conclusory argument is therefore abandoned. *See, e.g.*, *First Sav. Bank*, 314 S.C. at 363, 444 S.E.2d at 514; *Fields*, 312 S.C. at 106, 439 S.E.2d at 285.

enacted that provision to give public bodies an avenue for relief from harassing FOIA requests like these. So while it is true a person can submit an overly broad FOIA request, it is equally true that a public body can decline to fulfill that request and seek relief under section 30-4-110(A).

Likewise, Appellant's attempt to twist the circuit court's recognition that "some of these records [sought] may very well be tailored to [Appellant's] concern of purported embezzlement within the Lottery," (Appellant's Br. at 15–16), proves too much. Of course, an overly broad FOIA request could produce at least some responsive records. But the problem with overbreadth is that it is excessive and not appropriately tailored. A state agency cannot be required to endure overly broad requests—like Requests 5, 12, and 18—simply because a frequent FOIA requester "in part" concocts an unfounded concern "about possible continuing embezzlement of public funds within [the] agency."[7] (Ex. A to Pl.'s Compl.)

This "case has all of the earmarks of a fishing expedition, an enterprise" our supreme court "has time and again stated that it does not favor." *Royster v. Unity Life Ins. Co.*, 193 S.C. 468, 472, 8 S.E.2d 875, 877 (1940). The Lottery met its burden of proving that was the case, and Appellant did not show otherwise. As a result, the circuit court concluded that "[e]ven when liberally construing FOIA in favor of the public's access to records"—"on balance—[Appellant's] unparticularized hunch about potential embezzlement is insufficient to justify the unwieldy production he demands." (Order at 12). "That is especially so where, as here, [Appellant] still declines to tailor these wi[de]-ranging requests at all to that concern." *Id.*

[7] Appellant submitted no evidence to support this assertion. *Cf.* Rule 56(e), SCRCP. If a bald, conclusory assertion like that is all it takes to defeat overbreadth and unduly burdensome claims, that tool would never be at an agency's disposal. The General Assembly, however, did not create a useless remedy. *See Denene, Inc. v. City of Charleston*, 352 S.C. 208, 212, 574 S.E.2d 196, 198 (2002) ("The Court must presume the legislature did not intend a futile act, but rather intended its statutes to accomplish something.").

In sum, the circuit court considered Appellant's reason for making Requests 5, 12, and 18 as balanced against the tailoring of each specific request and what it might yield—as the parties agreed was appropriate—while considering FOIA's transparency driven purpose. Taking that all into account, the circuit court correctly found Requests 5, 12, and 18 were overly broad under section 30-4-110(A). Appellant mounts no serious challenge to that carefully considered ruling.

III. The circuit court correctly rejected Appellant's claim on the Lottery's redaction of check drawers' signatures on produced check copies.

In response to Appellant's FOIA request to produce "[c]opies of all checks (front and back) and/or wire transfers issued to all persons identified in Item #1 above," (Ex. A to Pl.'s Compl.), the Lottery produced responsive records, redacting the check drawers' signatures, the same day it made its final determination, *see* (Ex. 1 to Def.'s Supp. Mot. for Summ. J.).

Two weeks later, on July 18, 2023, Appellant emailed Garfield, asking for unredacted copies of the responsive checks "with the respective drawer(s) signature(s) clearly visible." *See* (Ex. A to Def.'s 2nd Supp. Mot. for Summ. J.). On July 21, 2023, Garfield explained "signatures are not subject to disclosure and are considered private information under the Family Privacy Protection Act, S.C. Code Ann. § 30-2-10 *et seq.*, which requires public officials to redact records that contain such personal information." *Id.* She continued, however, explaining "[t]he respective drawers of the checks were completed by the SCEL's CFO and the CFO that preceded him" and providing a chart of the CFOs' names with each corresponding check. *Id.* Appellant responded that same day, stating "[t]hanks for your prompt and comprehensive response" and asking whether "disbursement checks payable to lottery winners only require one drawer signature (i.e., the Lottery CFO)?" *Id.* Garfield responded in the affirmative several days later. (Ex. B to Def.'s 2nd Supp. Mot. for Summ. J.).

The Lottery heard nothing more from Appellant on this issue and thought it was settled. In its August 16, 2023 letter, the Lottery said it had provided all responsive records subject to disclosure in response to his FOIA request. (Ex. I to Countercl.). Less than three weeks later, Appellant filed this lawsuit, alleging in conclusory fashion that the Lottery "did respond with some records pursuant to Item 4; however failed to provide unredacted information concerning drawers' signatures or winners[']s names in violation of FOIA." (Pl.'s Compl. at ¶ 24).

Because Appellant "already received the information he was after—the names of the Lottery's employees who wrote the checks to million-dollar winners—in response to Request 4 well before he filed this lawsuit," the circuit court found his request for a declaratory judgment and injunction was moot. (Order at 17). It thus found "it unnecessary to determine whether redaction of the check drawers' signatures was proper under FOIA and the Family Privacy Protection Act of 2002." (*Id.* at 18). Still, the circuit court added that even if the claim weren't moot, "the Lottery properly redacted its CFOs' signature on the responsive checks under FOIA and the Family Privacy and Protection Act." (Order at 18 n.6). Both findings are correct.

A. The claim is moot because Appellant already received the information he sought.

Appellant argues the circuit court erred in finding his claim on check drawers' signatures moot for two equally unavailing reasons.

He first claims that unredacted records "would afford [him] an understanding of how these records were created and (perhaps) negotiated with lottery claimants." (Appellant's Br. at 18). But he already received "[c]opies of all checks (front and back) and/or wire transfers issued to all persons identified in Item #1 above." *See* (Ex. A to Pl.'s Compl.). Seeing the Lottery's chief financial officers' signatures—rather than an affidavit from the Lottery's general counsel that the CFOs signed the checks—will not provide Appellant with anymore "understanding" than he

already has. (Ex. C to Def.'s 2nd Supp. Mot. for Summ. J.). Nor will it show whether the Lottery "improperly applied an exemption." *But see* (Appellant's Br. at 18).

To the contrary, "the Lottery's production of this information in chart format satisfied the purpose of FOIA because [Appellant] is fully able 'to learn and report fully,' S.C. Code Ann. § 30-4-15, on the Lottery's fulfillment of claims." (Order at 17). It was unclear to the circuit court, and it remains hazy, "what more [Appellant] could learn by seeing the cursive signatures of the Lottery's CFOs rather than the typed names." *Id.*

"Before a court may render a declaratory judgment, an actual, justiciable controversy must exist." *Pee Dee Elec. Coop., Inc. v. Carolina Power & Light Co.*, 279 S.C. 64, 66, 301 S.E.2d 761, 762 (1983). A declaratory judgment is inappropriate solely to adjudicate past conduct or proclaim one party liable to another. *Beazer Homes Corp. v. VMIF/Anden Southbridge Venture*, 235 F. Supp. 2d 485, 494 (E.D. Va. 2002). "Its purpose is to settle and to afford relief from uncertainty and insecurity with respect to rights, status[,] and other legal relations." S.C. Code Ann. § 15-53-130. Likewise, "[t]he purpose of an injunction is to preserve the status quo and prevent possible irreparable injury to a party pending litigation." *AJG Holdings, LLC v. Dunn*, 382 S.C. 43, 51, 674 S.E.2d 505, 509 (Ct. App. 2009).

The circuit court correctly found Appellant's check signature claim moot—despite his muddled attempt to breathe life back into it—because he got the information he needed, and a "judgment, if rendered, will have no practical legal effect upon existing controversy." *Mathis v. S.C. State Highway Dep't*, 260 S.C. 344, 346, 195 S.E.2d 713, 715 (1973).

Appellant nevertheless contends the circuit court "entirely misunderstood that there is a meaningful legal difference between receiving the information beneath the redactions rather than being forced to trust [the Lottery] that the information it says are on those records is actually what

is on them." (Appellant's Br. at 18). His argument, in addition to being unpreserved, rests on a misapplication of the fair report privilege.

Start with preservation. If "an issue has not been ruled upon by the trial [court] nor raised in a post-trial motion," it "may not be considered on appeal." *Caldwell v. Wiquist*, 402 S.C. 565, 576, 741 S.E.2d 583, 589 (Ct. App. 2013) (quoting *Pelican Bldg. Ctrs. of Horry-Georgetown, Inc. v. Dutton*, 311 S.C. 56, 60, 427 S.E.2d 673, 675 (1993)). When a "losing party has raised an issue in the lower court, but the court fails to rule upon it, the party must file a motion to alter or amend the judgment . . . to preserve the issue" on appeal. *I'On, LLC*, 338 S.C. at 422, 526 S.E.2d at 724.

Here, the circuit court did not rule on Appellant's fair-report-privilege argument. And Appellant failed to raise the issue again in his motion to reconsider or the hearing on his motion. *See generally* (Order); (Pl.'s Mot. to Recons.); (July 9, 2024 Hr'g Tr. at 1–26). Because he never requested a ruling on the issue, he never got one. So this issue is not preserved for appellate review. *See Staubes v. City of Folly Beach*, 339 S.C. 406, 412, 529 S.E.2d 543, 546 (2000) ("It is well-settled that an issue . . . must have been raised to *and ruled upon* by the trial court to be preserved for appellate review." (emphasis added)).

Still, Appellant fares no better on the merits. The fair report privilege, after all, shields news organizations against defamation claims. *See West v. Morehead*, 396 S.C. 1, 8, 720 S.E.2d 495, 499 (Ct. App. 2011) (stating under the fair report privilege, "[f]air and impartial reports in newspapers of matters of public interest are qualifiedly privileged" (quoting *Jones v. Garner*, 250 S.C. 479, 487, 158 S.E.2d 909, 913 (1968))); *see also Tharp v. Media Gen., Inc.*, 987 F. Supp. 2d 673, 685 (D.S.C. 2013) ("The 'fair report privilege shields news organizations from defamation claims when publishing information originally based upon government reports or actions.'" (quoting *Reuber v. Food Chem. News, Inc.*, 925 F.2d 703 (4th Cir. 1991))).

Appellant cannot make it out of the batter's box on this claim. One "cannot manufacture standing merely by inflicting harm on [himself] based on [his] fears of hypothetical future harm that is not certainly impending." *Clapper v. Amnesty Int'l USA*, 568 U.S. 398, 416 (2013). Yet his argument "rests upon a 'highly attenuated chain of possibilities' and 'contingent future events that may not occur as anticipated, or indeed may not occur at all.'" *South Carolina v. United States*, 912 F.3d 720, 731 (4th Cir. 2019) (quoting *Clapper*, 568 U.S. at 410; *Scoggins v. Lee's Crossing Homeowners Ass'n*, 718 F.3d 262, 270 (4th Cir. 2013)); *see also* (Mar. 8, 2024 Tr. at 38:19–21). It requires the Court to assume, for example, that (1) he will report on checks; (2) the check drawers, as represented under oath, will be false and defamatory; (3) the Lottery or its CFOs will sue him for defamation; and (4) he will invoke the fair report privilege.

That is a fool's errand, though, for it was unnecessary to decide the mootness question and insufficient to defeat summary judgment. *See, e.g.*, *Garrard v. Charleston Cnty. Sch. Dist.*, 439 S.C. 596, 599, 890 S.E.2d 567, 568–69 (2023) (affirming "entry of summary judgment due to [p]etitioners' failure to present evidence (beyond mere speculation) in proof of their injuries"). Even if the Court were to humor Appellant and assume those speculative events will occur, the fair report privilege is inapt. While it remains unclear how or why Appellant intends to publish check drawers' signatures, that does not matter because he introduced no evidence showing he is a member of the press, a journalist, or part of news media. *Cf.* Rule 56(e), SCRCP. To be sure, various multimedia platforms are now available to the press and other reporting members of the public. But it does not follow that the media encompasses anyone with a smartphone.

As Appellant admits, "many reported decisions in South Carolina" considering the fair report privilege concern news publishers. (Appellant's Br. at 19). From the Lottery's review, however, *all* of them do. And the one case Appellant invokes, while cited in *Jones v. Garner*, 250

S.C. 479, 158 S.E.2d 909 (1968), applies the common interest qualified privilege to defamation, not the fair report privilege. *See Cullum v. Dun & Bradstreet, Inc.*, 228 S.C. 384, 389, 90 S.E.2d 370, 372 (1955) ("qualified privilege is available to a mercantile agency in respect of reports on the credit and financial standing of an individual or business concern communicated confidentially, and in good faith, to a subscriber having an interest in the particular matter").[8] Thus, no South Carolina authority supports his argument that he needs the unredacted records—rather than the information—to assert the fair report privilege at some point down the road.

In all events, Appellant *would* be able to truthfully state with certainty "that a particular person signed a check."[9] (Appellant's Br. at 19). Garfield swore in an affidavit that the redacted drawers' signatures belong to the people she identified in her July 21, 2023 email to Appellant and accompanying chart. (Ex. C to Def.'s 2nd Supp. Mot. for Summ. J.). So the sworn truth is that the Lottery's current and former CFOs signed the respective checks. And truth, of course, is an absolute defense to a defamation claim. *See Ross v. Columbia Newspapers, Inc.*, 266 S.C. 75, 80, 221 S.E.2d 770, 772 (1976).

The Court should therefore reject Appellant's challenges to the circuit court's mootness ruling. Doing so would obviate the need to address the merits of the exemption. *See Futch v. McAllister Towing of Georgetown, Inc.*, 335 S.C. 598, 613, 518 S.E.2d 591, 598 (1999) (holding a court court need not address remaining issues when its ruling on a prior issue is dispositive).

---

[8] *See McBride v. Sch. Dist. of Greenville Cnty.*, 389 S.C. 546, 562, 698 S.E.2d 845, 853 (Ct. App. 2010) (defining the contours of the common-interest privilege (quoting *Bell v. Bank of Abbeville*, 208 S.C. 490, 493–94, 38 S.E.2d 641, 643 (1946))).

[9] As for Appellant's comment that he would not be able to state whether "a particular claimant endorsed [a check]" due to the redactions, that is because claimants' signatures—just like their typed names—fall under the prohibition from disclosure in the Proviso (and now section 59-150-145(A)(1)). *See supra* Section I.B.

B. Alternatively, the circuit court correctly found the Lottery redacted check drawers' signatures under a valid exemption.

The Lottery properly redacted check drawers' signatures under section 30-4-40(A)(4) of the South Carolina Code and the Family Privacy Protection Act. In arguing otherwise, Appellant first contends the circuit court "fail[ed] to describe lawful authority to withhold the signature of a public official on a public record at issue in this controversy concerning a FOIA request." (Appellant's Br. at 21). He next says the circuit court erred because the Family Privacy Protection Act "reveals no applicability to FOIA requests." (*Id.*). The circuit court's thorough order, however, belies his argument. *See* (Order at 18 n.6). And his statutory construction analysis is misguided.

As the circuit court stated, "[u]nder section 30-4-40(a)(4) of the South Carolina Code, a public body may exempt from disclosure '[m]atters specifically exempted from disclosure by statute or law.'" (Order at 18 n.6 (quoting S.C. Code Ann. § 30-4-40(a)(4)). That includes matters prohibited from disclosure under the Family Privacy Protection Act. The circuit court did not conclude, and the Lottery did not argue, the Family Privacy Protection Act "swallow[s] all of" FOIA. *But see* (Appellant's Br. at 22). Rather, the circuit court found the "[m]atters specifically exempted from disclosure by statute or law" exemption in FOIA encompasses redactions required by the Family Privacy Protection Act, regardless of whether it references FOIA. (Order at 18 n.6).

That makes sense too: FOIA and the Family Privacy Protection Act are both in the same title relating to "Public Records." *Cf. Joiner ex rel. Rivas v. Rivas*, 342 S.C. 102, 109, 536 S.E.2d 372, 375 (2000) ("It is well settled that statutes dealing with the same subject matter are *in pari materia* and must be construed together, if possible, to produce a single, harmonious result.").

To have any effect, subsection 30-2-310(A)(1)(e) must apply with equal force to intentional disclosure via response to a FOIA request as it does to intentional disclosure via press release. *Cf. Duvall v. S.C. Budget & Control Bd.*, 377 S.C. 36, 42, 659 S.E.2d 125, 128 (2008) ("The Court

must presume the [General Assembly] intended its statutes to accomplish something and did not intend a futile act."). In other words, it makes no difference that disclosure is to one person instead of the public at large.[10] Nor does FOIA make that distinction. *E.g.*, *Fowler v. Beasley*, 322 S.C. 463, 468, 472 S.E.2d 630, 633 (1996) ("FOIA was designed to guarantee *the public* reasonable access to certain activities of the government" (emphasis added)). Thus, the circuit court properly considered the Family Privacy Protection Act's prohibitions to determine whether the Lottery could redact check drawers' signatures.

Under that act, a public body may not "intentionally communicate or otherwise make available to the general public an individual's . . . personal identifying information." S.C. Code Ann. § 30-2-310(A)(1)(e). Subsection 30-2-310(A)(1)(e) refers to section 16-13-510 of the South Carolina Code to define "personal identifying information," which in turn, states that "'personal identifying information' includes, but is not limited to . . . digital signatures." S.C. Code Ann. § 16-13-510(D)(9). Garfield attested the signatures on the check copies are the CFOs' "electronic signatures." (Ex. C to Def.'s 2nd Supp. Mot. for Summ. J.). Even if an "electronic signature" isn't considered a "digital signature," it makes no sense to distinguish between a "digital signature" and a cursive signature, especially considering section 16-13-510(D) is not exhaustive. *See* S.C. Code Ann. 16-13-510(D) ("personal identifying information" "includes, but is not limited to").

That is especially so where, as here, the Family Privacy Protection Act also provides that "personal information" includes an individual's "signature."[11] S.C. Code Ann. § 30-2-30(1); *see*

[10] Appellant's arguments are at war with each other. In one breath, he says he is not "the general public" to escape application of the Family Privacy Protection Act. In the next breath, he wants to invoke a privilege available only to the media to publish this very same information.

[11] Appellant spills two pages of ink arguing the release of check drawers' signatures would not be "an unreasonable invasion of personal privacy" under section 30-4-40(a)(2), claiming the circuit court included "some suggestion" on the issue. (Appellant's Br. at 24–25). It did not. *See* (Order

also Glassmeyer v. City of Columbia, 414 S.C. 213, 222, 777 S.E.2d 835, 840 (Ct. App. 2015) (considering the Family Privacy Protection Act in deciding whether "home addresses, personal telephone numbers, and email addresses of the applicants [for city manager] are information in which the applicants have a privacy interest").

Reading FOIA and the Family Privacy Protection Act together, as required, the circuit court correctly found the Lottery properly redacted its CFOs' signatures from the checks produced.

CONCLUSION

For these reasons, the Court should affirm the circuit court's grant of summary judgment for the Lottery.

Respectfully submitted,

/s/Vordman Carlisle Traywick, III
Vordman Carlisle Traywick, III (102123)
Sarah C. Frierson (104643)
ROBINSON GRAY STEPP & LAFFITTE, LLC
2151 Pickens Street, Suite 500
Post Office Box 11449
Columbia, South Carolina 29211
(803) 929-1400
ltraywick@robinsongray.com
sfrierson@robinsongray.com

Counsel for Respondent South Carolina Lottery Commission

Columbia, South Carolina
January 17, 2025

at 18). The Court should therefore decline to address the issue. *See Wilder Corp. v. Wilke*, 330 S.C. 71, 76, 497 S.E.2d 731, 733 (1998).