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SC Court of Appeals

AMENDED INITIAL BRIEF OF APPELLANT

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LANCASTER COUNTY
Court of Common Pleas

Brian M. Gibbons, Circuit Court Judge

Appellate Case No. 2024-000557

Roberta Moore, Appellant,

v.

Rebecca Giesler, Respondent.

RESPONSE TO INITIAL BRIEF OF RESPONDENT

Roberta Moore

Roberta Moore
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STATEMENT OF ISSUES ON APPEAL

1. DID THE TRIAL COURT ERR IN GRANTING SUMMARY JUDGMENT ON MARCH 8TH, 2024 WHEN COURT CASE CONTINUED BASED ON JUDGE'S DISPOSITION ON JULY 25, 2023 FOR REASONABLE EVIDENCE TO PROVE BREACH OF CONTRACT ACCOMPANIED BY FRAUDULENT ACT?
2. BASED ON COURT RULES AND PROCEDURES, COUNSEL FOR THE RESPONDENT FAILED TO MEET COURT ORDERED TIMELINE FOR FILING FINAL PAPERWORK, WHICH IN ESSENCE IS THE SAME REASON SHE WAS GRANTED SUMMARY JUDGEMENT.
3. DID THE JUDGE ERR IN GRANTING SUMMARY JUDGMENT WHEN THE RESPONDENT FAILED TO INCLUDE ALL LEGAL CONTRACTS IN QUESTION THAT WERE A PART OF THE COURT FILING IN HER REQUEST FOR SUMMARY JUDGMENT?
4. DID COUNSEL ERR IN FORMAL PAPERWORK SUBMITTED WHERE SHE INDICATED THAT THERE WERE NO OBJECTIONS IN COURT WHEN A LIST OF NOTARIZED OBJECTIONS WERE GIVEN TO HER AND THE COURT AT THE

TIME OF THE PROCEEDING? ALL INTERROGATORIES AND REQUESTS FOR ADMISSIONS THAT WERE ASKED AND ANSWERED IN WRITING WERE ALL A PART OF PUBLIC RECORD AND HAD BEEN SUPPLIED TO THE RESPONDENT PREVIOUSLY AND WAS UNNECESSARY AND DUPLICATIVE.

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STATEMENT OF THE CASE

This is an action against Respondent, Rebecca Giesler for relief sought in for Breach of Contract and Breach of Contract accompanied by a Fraudulent Act. The circuit court granted the Respondent's motion to dismiss based on failure to respond to response for admission. Appellant seeks reversal of the judgment in that the Interrogatories and Response for Admissions Request was duplicative in nature and the Respondent already had all of the documentation which had been provided previously SC Rule 26. Also, the Respondent was given a written list of objections by the permission of the court which was notarized. (List provided to The Honorable Judge Brian Gibbons, Respondent's Legal Counsel, and included in Designation of Matter)

The Respondent indicates on her Initial Brief that the Appellant and the Respondent entered into two real estate contracts for the purchase and sale of the property located at 3194 Pine Bluff Way, Fort Mill, South Carolina. At which time it is now known that the property had an outstanding mortgage and lien which violates the *Dodd-Frank Act & SC Code § 39-5-10 (2023)*. The Respondent failed to include all of the binding agreements signed between the Appellant and Respondent that include the "Real Estate Contract of Sale", "Promissory Note For Sale", "Agreement To Buy and Sell Real Estate Residential", and "Addendum to Prior Contract Which Included The Steps of Foreclosure" (all of which are a part of the Lancaster County Public Index and also included in the Designation of Matter) (*SC Code § 32-3-10*). Upon finalization of contract, the Respondent, financed the aforesaid property to the Appellant which

at that time had an outstanding mortgage on the property. (*S.C. App. Ct. R. 3.4 & SC Code § 37-22-110*)

The Respondent indicates that the Appellant, failed to comply with the terms under the contract(s) and promissory note, including, among others, failure to pay property taxes, the failure to tender all monthly payments, and the failure to obtain financing by maturity date of the promissory note. In response to this, the Appellant has never received a tax bill from the County Of Lancaster or from the Respondent with any tax amounts or tax due dates. Therefore, no timelines has ever been established as to when the taxes are due. There is also a question in regards to the amount of taxes to be paid by the Appellant based on written communications between the Appellant and the now deceased husband of the Respondent. The Respondent indicates that Appellant failed to secure financing for the property by the maturity date of the promissory note, however, the contract clearly states new terms of the contract would be a 35 year mortgage with a higher interest rate if the financing was not secured in the initial 5 year period. Of which, the Appellant has paid all retroactive payments and is still paying at the present time. The contract does not indicate a deadline or a need for new financing because the 35 year mortgage at a higher interest rate replaces the initial 5 year mortgage. At no point has a bill for property taxes been issued to the Appellant by the County of Lancaster, nor the Respondent, since the inception of the contracts. The Respondent has refused to honor the the other written communications of the Respondent's now deceased husband in regards to how much of the property taxes the Appellant is to pay and at no point has Appellant received a bill from the County of Lancaster nor the Respondent.

The Respondent indicates there were several attempts to reach an amicable agreement, however, as noted in communications from Respondent and her attorney, the attempt for agreement was to demand on January 27, 2023 giving a deadline of February 3, 2023 for the Appellant to respond to a demand of either signing a new purchase agreement raising the price for the property to \$349,999 or the house would be sold. The demand given was \$89,000 over the contracted purchase price of the home. The Respondent indicated to the Appellant that there were mortgage payments in arrears and all of those payments needed to be paid and were paid in full within a 30 day timeframe from the date of the Respondent's demand. The Respondent's demand for a new contract was unwarranted because the original promissory note addresses the terms of the agreement if financing was not secured by the aforesaid date. The demand to have the Appellant sign a new agreement for \$89,000 more than the original agreement or be put out of the property without following the proper foreclosure proceeding as indicated in the signed, "Addendum to Prior Contract Which Included The Steps of Foreclosure" (included in Designation of Matter) is known as extortion or blackmail and is a criminal offense in accordance to *U.S. Federal Law 18 U.S.C. 873, SC Code § 16-13-240, and Penal Code 523*)

On April 24th, 2023, the Appellant initiated an action against the Respondent in regards to the binding mortgage agreement for sale of real estate property namely a "Real Estate Contract of Sale", "Promissory Note For Sale", "Agreement To Buy and Sell Real Estate Residential", and "Addendum to Prior Contract Which Included The Steps of Foreclosure" (all of which are a part of the Lancaster County Public Index and also included in the Designation of Matter). The Appellant then filed an amended complaint against the Respondent on June 8th, 2023 indicating eight causes of action, namely: (1) Violation of the South Carolina Unfair Trade Practices Act ("SCUPTA"); (2) Breach of Contract; (3) Breach of Contract Accompanied by a Fraudulent

Act; (4) Invasion of Privacy; (5) Negligence; (6) Gross Negligence; (7) Intentional Infliction of Emotional Distress; and (8) Negligent Infliction of Emotional Distress.

On June 19th, 2023 the Respondent filed a Motion to Dismiss which went before the Honorable Judge Gibbons on July 24th, 2023. At which time the motion was taken under advisement and partially granted with the exception of two causes of action. Those actions were Breach of Contract and Breach of Contract accompanied by a fraudulent act. (*Form 4, Electronically Filed July 25, 2024*) (SC Code § 16-13-240)

On September 23, 2023, Respondent served Appellant with Respondent's first set of Interrogatories, Request for Admissions, and Request for Production of Documents. The Respondent indicates that she filed a Motion for Summary Judgment on November 15, 2023. The Respondent never served this motion to the Appellant and did not receive a copy of it until Friday, January 5th, 2024 through regular mail with a copy of the court date which was scheduled for January 8th, 2024. .

The Respondent indicated in her response that the motion for summary judgment was heard by the Honorable Judge Gibbons on January 8, 2024 which is incorrect. The Honorable Judge Gibbons indicated on January 8, 2024 that he could not do anything involving the case because the case was not on his roster. The Honorable Judge Gibbons did confirm at that time that the following causes of action had not been dismissed: (1) Breach of Contract; and (2) Breach of Contract Accompanied By A Fraudulent Act.

On February 12th, 2024 the Motion to Dismiss was heard by the Honorable Judge Gibbons. At that time the Respondent's counsel and The Honorable Judge Gibbons were both given a notarized written list of objections to the Respondent's Interrogatories and Request for Admissions which Respondent indicated in the Motion To Dismiss that the lack thereof was the basis for the request for dismissal.

On March 5th, 2024, the judge granted a motion for summary judgement with the stipulation for the Respondent to prepare a formal order with 10 days. The Respondent failed to meet the timeline mandated by the court. *(Form 4, Electronically Filed March 5th, 2024 included in Designation of Matter)*

Not only did the Respondent fail to meet the court mandate. Also, there was still fraudulent actions that were still in question pending that needed to be ruled on which had not been dismissed and confirmed by the court on January 8, 2024 that they were still pending. *(Form 4, Electronically Filed July 25th, 2024 included in Designation of Matter)*

RESPONSE TO RESPONDENT'S

STANDARD OF REVIEW

The Respondent indicated Rule 56c, SCR, which provides summary judgment is proper when there is no genuine issue as to material fact and the moving party is entitled

to judgment as a matter of law. However, the trial court erred with granting summary judgement in this case because the court failed to consider the genuine issues that included the Breach of Contract to include the failure to follow the steps outlined in the Addendum To Contract, as well as, the second cause of Action being the Breach of Contract Accompanied By A Fraudulent Act, which both were genuine issues of material fact. *See Dawkins v Fields* , 345 S.C. 23, 545 S.E. 2d 515 (App. 2001)

The Respondent cited Rule 56, SCRPC in stating that the trial court must grant the motion “if the pleadings, depositions, answers to interrogatories, and admission on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. However, the pleadings on file clearly indicate the “material fact” of extortion along with the Respondent’s Breach of Contract. In the context of extortion, a “material fact” is any piece of information that is significant enough to influence the victim’s decision to comply with the extortionist’s demands. Also, the signed contractual agreements that the Respondent omitted from her Request for Summary Judgment significantly impacts the decision of summary judgment and proposed legal remedies. Based on the nature of the contracts, the demands made by the Respondent which constituted a fraudulent act, along with the contracts in question still being in place based on the mortgage terms in the signed contract stating new payment terms if alternate funding was not in place within the 5 year period. There are no due dates in the signed contract as to time frames in which taxes had to be paid, The court erred in granting summary judgment to the Respondent based on the material fact of contracts and letter of demand which constituted the fraudulent act. Complete discovery regarding the key contracts was

necessary in order to properly rule on the case. (*Veronie v 303 Assocs. LLC, S.C. Ct. App. Jan. 25, 2012*)

The Respondent cited in her response, “when plain, palpable, and indisputable facts exist on which reasonable minds cannot differ, summary judgment should be granted”. It is clear from the contracts submitted, and previous ruling from the Honorable Judge Gibbons, that the documents and facts submitted confirm that the court erred in granting summary judgment in that the information was not palpable in that it posed reasonable doubt. Also, evidence was already on file of which the Respondent was requesting in her Interrogatories and Request for Admissions. All of the information was already a matter of public record on the Public Index. The interrogatories and Requests for Admissions were irrelevant and all a part of public record. The Appellant did present to the Honorable Judge Gibbons, in court on February 12, 2024, and to the Respondent’s counsel, a written notarized response in court to all of the interrogatories and requests for admission.

The Respondent indicated that the Appellant failed to “raise and issue on appeal” with the Circuit Court. The Appellant filed the Notice Of Appeal in accordance with SC *Appellate Rule 203*, Notice Of Appeal. The Notice Of Appeal was filed with the lower court, the Court of Appeals, and served upon the Respondent within the timeframe given by *Appellate Rule 203*.

RESPONSE TO ARGUMENT FROM RESPONDENT

A. Appellant failed to preserve all issues of this appeal with the Circuit Court

The Respondent indicated that in South Carolina, the appellate courts do not allow the “plain error” standard when sitting in review of trial court’s decision. However, in civil cases, plain error review allows an appellate court to address an error that wasn’t timely objected to if that error is obvious and affects substantial rights, potentially leading to a miscarriage of justice. In review of the case, the judgment rendered directly affects the substantial rights of the Appellant in that the Respondent breached the contract and also committed an unlawful act against Appellant directly going against the Appellant’s constitutional rights.

The Respondent indicated that she has not received any response to the interrogatories and request for admissions. However, a notarized copy of interrogatories and request for admissions was provided to the Respondent’s counsel in court and also given to the Honorable Judge Gibbons on February 12th, 2024.

The Respondent indicated that the Appellant immediately appealed the Circuit Court’s order. The Appellant followed the SC Rules of Appeal and filed paperwork with both the Circuit Court and the Court of Appeals.

B. Any argument concerning Respondent’s first set of interrogatories or Appellant’s response to interrogatories is irrelevant to this appeal.

The Respondent indicated that the Appellant’s response to interrogatories are irrelevant to the appeal. However, the Request for Admissions were provided along

with the response to the interrogatories to the Honorable Judge Gibbons and the Respondent. The Requests for Admissions were all duplicative in nature and all a part of public record but a written notarized response was given in person in court.

C. The Circuit Court correctly applied the clear language under SCRCP Rule 36.

The Respondent indicated that the Appellant failed to respond to the interrogatories and request for admissions because it was duplicative in nature to documentation was already on file. This is true, however, a written response was submitted to the Honorable Judge Gibbons and given to the counsel of the Respondent. Judge Gibbons said he would look at it and the counsel for the Respondent never objected to the response being a part of the public record and to date has not objected.

D. The Circuit Court reviewed the court file in its entirety.

The Respondent is incorrect in saying that the Circuit Court reviewed the court file in its entirety. The sole dismissal of the case was based on the Appellant's failure to respond to the Response For Admissions. It did not consider the Breach of Contract or Breach of Contract Accompanied by A Fraudulent Act both causes which had survived the initial judgment. The Respondent's request for dismissal was based solely on the Appellant's failure to respond as she indicated in Section C of the Argument Section of her response to the Record of Appeal. Which confirms that the contracts, extortion letter, or any other parts that are included in the Designation of Matter were not considered in the summary judgment of the case.

E. **After the admissions were deemed admitted, no genuine issue of material fact existed under Appellant's Amended Complaint**

The Respondent hereby admits that the Requests for Admissions were provided and admitted summary judgment was granted based on what she indicated as no Requests for Admission. She hereby admits here that she received a response and it was admitted as evidence. She indicates that three elements must be proved, all of which were and are all a part of the Designation of Matter. 1) a binding agreement entered into by the parties. There are four signed contracts that were entered into by the parties. 2) breach or unjustifiable failure to perform the contract. The Respondent failed to get Bond For Title to get tax bills sent to the Appellant and the Respondent also failed to send the Appellant any tax bills to indicate what had to be paid and the deadlines for payment. Neither of the 4 contracts signed by the Respondent and the Appellant indicated any timelines by which the taxes had to be paid. The Appellant was instructed to go to the tax office to get the taxes switched to her name, which she did and the Appellant brought back the instructions to the Respondent's now deceased husband to do what the County required be done for the tax bills to go directly to the Appellant which the Respondent failed to do. So at no time has the Appellant ever received a tax bill for the property. 3) a fraudulent act accompanied by a breach. The Respondent put in writing a letter of demand to the Appellant (which is also a part of the Designation of Matter) with a threat to either pay \$89,000 more for the property or be forced to leave. The letter proves to be extortion, which is a fraudulent act according to SC Code 16-17-640 (3) (Blackmail). *(Any person who verbally or by printing or writing or by electronic communications ... compels any person to do any act, or to refrain from doing any lawful act, against his*

will with the intent to extort money or any other thing of value from a person, or attempts or threatens to do any of such acts, with the intent to extort money or any other thing of value, shall be guilty of blackmail...)

The Respondent also highlights that there was no written contract agreement for the Bond For Title and also highlighted where the Respondent's late husband indicated that they were not going to pursue the Bond For Title. Per the instructions of the County Clerk's office, the Bond For Title was necessary to get taxes for the property put in Appellant's name. Therefore, the Appellant has never gotten a tax bill from the County Tax office nor from the Respondent. The email memorandum from the Respondent's husband as taken as evidence by the Respondent, also indicates a reduction in what would be required as tax payment from the by the Respondent's late husband. At no point from the inception of the signed agreements has the Appellant received any tax bills from the County or tax bills from the Respondent with said due dates or amounts which would also be necessary for the Appellant to be able to file the taxes on the home.

In regards to the Respondent failing to provide mortgage history and payment records, the Respondent indicated that she sent over an updated Check Registry. The Respondent was told by the Appellant that the check registry was not sufficient for financial purposes. The check registry did not include Appellants name or in other pertinent information that could be used as a legal document to obtain financing. When a more formal document was requested from the Appellant to correct and send back over, she refused to do so. The Appellant was unable to use the information on the check register in order to get the home refinanced because the document was inaccurate and could not be considered a legal document. The Respondent told the Appellant to alter

the document but because it was a legal document, the Appellant could not do that. The Appellant also requested the Respondent submit payment information to help with getting Covid Assistance payments for the house that would be paid directly to the Respondent and she again failed to do that.

F. Respondent's formal order was appropriately submitted.

The Respondent admits that ex parte communication consists of prohibited communication between counsel and the court when opposing counsel or representation is not present. As the Respondent indicates in the Code of Judicial Conduct, the judge should not permit or consider ex parte communication or consider other communications made to the judge outside of the presence of the parties. Respondent indicated Section 7(a) where circumstances require ex parte communications for scheduling, administrative purposes or emergencies that do not deal with substantive matters or issues on the merits are authorized. The Respondent's actions in communicating with the clerk of court and the Judge were directly related to the outcome of the case and required revision of the court ordered document and all parties should have been notified of all communications. The Respondent failed to do that. The Respondent indicated that there was no substantive issue. A substantive issue refers to a topic that is important, real, and meaningful and there is nothing more important, real, or meaningful than the judgment of the case and the Respondent was requesting the judge to rewrite the judgment paperwork.

ARGUMENTS

Dawkins v Fields, 345 S.C. 23, 545 S.E. 2d 515 (App. 2001)

“The plaintiffs moved to alter or amend the order granting summary judgment, arguing, among other things, that the court erred in (1) excluding the affidavit...

Additional Standard Of Review (Case Law – Citation 545 S.E.2d 515,345 S.C. 23)

“Summary judgment is proper where there is no genuine issue of material fact and the movant is entitled to judgment as a matter of law.”² “Summary judgment should not be granted even when there is no dispute as to the evidentiary facts if there is dispute as to the conclusions to be drawn from those facts.”³ “In determining whether any triable issues of fact exist, the evidence and all inferences which can be reasonably drawn from the evidence must be viewed in the light most favorable to the nonmoving party.”⁴ Summary judgment should be invoked cautiously to avoid improperly denying a party a trial on the disputed factual issues.

In this case the court erred by not considering the evidentiary facts in dispute as to the conclusions to be drawn because there were triable issues of fact that existed.

Veronie v 303 Assocs. LLC, S.C. Ct. App. Jan. 25, 2012

We hold the circuit court erred in dismissing the Veronies' complaint on the ground that it failed to allege the existence of a valid contract. Viewing the factual allegations in the complaint, and inferences from them, in the light most favorable to the Veronies, we find they pled sufficient facts which could entitle them to relief.

Veronie v. 303 Assocs. LLC, Unpublished Opinion No. 2012-UP-044, (S.C. Ct. App. Jan. 25, 2012)

In this case the court erred by issuing summary judgment without verifying and validating the 4 contracts, along with the fraudulent demand made by the Respondent to the Appellant in question before issuing a summary judgment.

S.C. App. Ct. R. 3.4

“A lawyer shall not:

(a) unlawfully obstruct another party's access to evidence or unlawfully alter, destroy or conceal a document or other material having potential evidentiary value. A lawyer shall not counsel or assist another person to do any such act;

(b) falsify evidence, counsel or assist a witness to testify falsely, or offer an inducement to a witness that is prohibited by law;

(c) knowingly disobey an obligation under the rules of a tribunal, except for an open refusal based on an assertion that no valid obligation exists;

(d) in pretrial procedure, make a frivolous discovery request or fail to make a reasonably diligent effort to comply with a legally proper discovery request by an opposing party;”

In this case, the Respondent concealed the contractual agreement that was signed by all parties and relative to foreclosure procedures for the property. *(Exhibit D – Addendum to Prior Contracts)*

SC Code § 16-17-640 (2012)

“Any person who verbally or by printing or writing or by electronic communications:

(1) accuses another of a crime or offense;(2) exposes or publishes any of another's personal or business acts, infirmities, or failings; or(3) compels any person to do any act, or to refrain from doing any lawful act, against his will; with intent to extort money or any other thing of value from any person, or attempts or threatens to do any of such acts, with the intent to extort money or any other thing of value, shall be guilty of blackmail and, upon conviction, shall be fined not more than five thousand dollars or imprisoned for not more than ten years, or both, in the discretion of the court.”

In this case, the Respondent and her legal counsel both put in writing letters of demand giving the ultimatum of paying over \$100,000 more than the contracted amount for the home or being forced to leave. *(Correspondence Pg 1 and P4, included in the Designation of Matter)*

SC Code § 16-13-240

“A person who by false pretense or representation obtains the signature of a person to a written instrument or obtains from another person any chattel, money, valuable security, or other property, real or personal, with intent to cheat and defraud a person of that property is guilty of a:

(1) felony and, upon conviction, must be fined not more than five hundred dollars and imprisoned not more than ten years if the value of the property is ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years if the value of the property is more than two thousand dollars but less than ten thousand dollars;

(3) misdemeanor triable in magistrates court or municipal court, notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65, if the value of the property is two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned not more than thirty days.”

In this case the Respondent sought to defraud Appellate by trying to force a new Purchase Agreement on her with the threat of losing home if she did not sign. *(Correspondence Pg 1 and Correspondence Pg 4 included in the Designation of Matter.)*

SC Code § 32-3-10

“Agreements required to be in writing and signed.”

In this case all agreements were in writing and signed by all parties. Yet Respondent is not disclosing in Motion to Dismiss, Addendum to Contract, Foreclosure Procedure. *(Exhibit D included in the Designation of Matter)*

SC Code § 39-5-10 (2023)

“Trade” and “commerce” shall include the advertising, offering for sale, sale or distribution of any services and any property, tangible or intangible, real, personal or

mixed, and any other article, commodity or thing of value wherever situate, and shall include any trade or commerce directly or indirectly affecting the people of this State.

The Respondent entered a binding Real Estate Contract for Real Estate Property which at the time of contract, it still had a mortgage lien on it which was unlawful and constitutes and unfair trade practice. *(Transcript Dated July 24th, 2023, violates Dodd-Frank Act, Page 10, lines 5-23 included in the Designation of Matter)*

SC Code § 37-22-110

SECTION 37-22-110

(2) "Act as a mortgage lender" means to engage in the business of making or servicing a mortgage loan for compensation or gain, or in the expectation of compensation or gain, either directly or indirectly, including soliciting, processing, placing, or negotiating a mortgage loan.

The Respondent acted as a Mortgage Lender which based on the law, because their was an outstanding lien against the house at the time of mortgage, it was unlawful for her to do so.

Dodd Frank Act

"If the loan will be secured by a property that the borrower will use for residential purposes, then the person who arranges the loan is defined as a "loan originator," and must have a mortgage originator license. Seller-financers must be licensed mortgage originators unless they qualify for one of the two exceptions, which will be discussed below."

Respondent originating loan and was not a licensed mortgage originator when mortgage contract was originated. This hindered the process of getting Appellant's name on the deed in order for taxes to be reduced and billed to the Appellant. *(Transcript Dated July 24th, 2023, page 10, lines 5-19 included in the Designation of Matter)*

Penal Code 523

Penal Code 523 PC addresses extortion by sending a letter that threatens

- *to injure the person,*
- *to accuse the person of a crime, or*
- *to reveal a damaging secret about the person.*

The Respondent and the Respondent's counsel both sent threatening letters which fall in line with the rules governing extortion because of the demand to pay approximately \$89,000 more for the property. *(Correspondence 1 and Correspondence 4 from Respondent and Respondent's legal counsel.)*

SC Rule 26

"The frequency or intent of use of discovery methods set forth in subdivision (a) shall be limited by the court if it determines that: (i) the discovery sought is unreasonably cumulative or duplicative, or is obtainable from some other source that is more convenient, less burdensome, or less expensive; (ii) the party seeking discovery has had ample opportunity by discovery in the action to obtain the information sought;"

The interrogatories for which the case was dismissed were duplicative. All documents requested had already been provided and were part of the Public Index. Some of which were a part of Respondent's filings. *(Transcript from February 12th, 2024, page 6 – line 25, and page 7 – lines 1-3)*

SC Rule 56

"(d) Case Not Fully Adjudicated on Motion. *If on motion under this rule judgment is not rendered upon the whole case or for all the relief asked and a trial is necessary, the court at the hearing of the motion, by examining the pleadings and the evidence before it and by interrogating counsel, shall if practicable ascertain what material facts exist without substantial controversy and what material facts are actually and in good faith controverted. It may thereupon make an order specifying the facts that appear without*

substantial controversy, including the extent to which the amount of damages or other relief is not in controversy, and directing such further proceedings in the action as are just. Upon the trial of the action the facts so specified shall be deemed established, and the trial shall be conducted accordingly.”

Respondent should not have been entitled to a summary judgment because there was a genuine issue related to Breach of Contract with A Fraudulent Act in which the Appellant was entitled to judgment.

SC Appellate Rule 203

(1) Appeals From the Court of Common Pleas. A notice of appeal shall be served on all respondents within thirty (30) days after receipt of written notice of entry of the order or judgment. When a timely motion for judgment n.o.v. (Rule 50, SCRCPP), motion to alter or amend the judgment (Rules 52 and 59, SCRCPP), or a motion for a new trial (Rule 59, SCRCPP) has been made, the time for appeal for all parties shall be stayed and shall run from receipt of written notice of entry of the order granting or denying such motion. When a form or other short order or judgment indicates that a more full and complete order or judgment is to follow, a party need not appeal until receipt of written notice of entry of the more complete order or judgment.

In this case the Appellant followed all the proper procedures as indicted under Rule 203 with the Court of Appeals.

U.S. Federal Law 18 U.S.C. 873

Whoever, under a threat of informing, or as a consideration for not informing, against any violation of any law of the United States, demands or receives any money or other valuable thing, shall be fined under this title or imprisoned not more than one year, or both

In this case, the Respondent’s actions fall up under the U.S. Federal Law guidelines for blackmail.

CONCLUSION

For all the foregoing reasons, it is respectfully requested that Appellant's request for appeal be grant and judgment from the lower court be overturned.

Respectfully submitted,

March 10, 2025

Roberta Moore

Roberta Moore
3194 Pine Bluff Way
Indian Land, SC 29707
(803) 524-1842
Appellant

THE STATE OF SOUTH CAROLINA
In The Court Of Appeals

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Mar 10 2025

SC Court of Appeals

APPEAL FROM LANCASTER COUNTY
Court of Common Pleas

Brian M. Gibbons, Circuit Court Judge

Appellate Case No. 2024-000557

Roberta Moore, Appellant,

v.

Rebecca Giesler, Respondent.

PROOF OF SERVICE

I certify that I have served the RESPONSE TO THE INITIAL BRIEF OF RESPONDENT on Rebecca Giesler via e-mail on March 10, 2025 and will be depositing a copy of it in the United States Priority Mail, postage prepaid on March 10th, 2025 addressed to her attorney of record, Jennifer M. Cloud, 1467 Ebenezer Road, Rock Hill, South Carolina 29732.

May 10, 2025

Roberta Moore

Roberta Moore

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