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Apr 28 2025

SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM ANDERSON COUNTY  
Court of Common Pleas

R. Lawton McIntosh, Circuit Court Judge

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Case No. 2024-002150

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Poly-Med, Inc., Technology Drive 51, LLC,  
Technology Drive 52, LLC, and PMI Properties LLC . . . . . Respondents / Appellants,

v.

Research Park, LLC . . . . . Appellant / Respondent.

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**APPELLANT / RESPONDENT’S MOTION TO STRIKE CERTAIN MATTER  
DESIGNATED BY RESPONDENTS / APPELLANTS TO BE INCLUDED IN THE  
RECORD ON APPEAL**

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Steven Edward Buckingham (S.C. Bar No. 0075089)  
The Law Office of Steven Edward Buckingham  
16 Wellington Avenue  
Greenville, South Carolina 29609  
(o) 864.735.0832  
(e) [seb@buckingham.legal](mailto:seb@buckingham.legal)

*Attorney for Appellant / Respondent Research Park,  
LLC*

COMES NOW Research Park, LLC, Appellant / Respondent, by and through its undersigned counsel, and pursuant to Rules 209(b) & 210(c), SCACR, respectfully submits the following Motion to Strike Certain Matter Designated by Respondents / Appellants to be included in the Record on Appeal. In support of this Motion, Appellant / Respondent would show unto this Honorable Court as follows:

1. Rule 209(b), SCACR, states that a party on appeal “may only propose to include portions of the transcript, pleadings, orders, exhibits, or other materials which may be properly included in the Record on Appeal.”

2. This is further explained by Rule 210(c), SCACR: “The Record shall not, however, include matter which was not presented to the lower court or tribunal.”

3. This Motion is directed at six documents that Respondents / Appellants have proposed for inclusion in the Record:

- a. Item 83 of Respondents / Appellants’ designation, which is an “[e]mail dated 9/3/24 from Defendant’s Counsel to Plaintiffs’ Counsel with Defendant’s Proposed Formal Order,” and which is attached to this Motion as **Attachment A**;
- b. Item 84 of the designation, which is a “[r]eply Email dated 9/5/24 at 9:58 AM from Plaintiffs’ Counsel to Defendant’s Counsel;” and which is attached hereto as **Attachment B**;
- c. Item 85 of the designation, which is a “[r]eply Email dated 9/5/24 at 9:59 AM from Defendant’s Counsel to Plaintiffs’ Counsel,” and which is attached hereto as **Attachment C**;

- d. Item 86 of the designation, which is a “[r]eply Email dated 9/10/24 from Plaintiffs’ Counsel to Defendant’s Counsel with Plaintiff’s Proposed Formal Order,” and which is attached hereto as **Attachment D**;
- e. Item 87 of the designation, which is an “[e]mail dated 9/12/24 at 2:12 PM from Defendant’s Counsel to Law Clerk with Defendant’s Proposed Formal Order & Plaintiffs’ Proposed Formal Order,” and which is attached hereto as **Attachment E**; and,
- f. Item 89 of the designation, which is a “[r]eply Email dated 9/12/24 at 3:26 PM from Plaintiffs’ Counsel to Law Clerk Objecting to Defendant’s Proposed Formal Order,” and which is attached hereto as **Attachment F**.

4. With respect to Items 83-86 of Respondents / Appellants’ designation, (Atts. A-D), these items consist of correspondence between counsel and were never presented to the lower court. By the plain language of Rule 210(c), SCACR, such designations must be stricken.

5. Items 87 and 89 of the designation, (Atts. E & F), suffer from a similar defect.

6. Item 87 is the undersigned’s email to the trial judge’s law clerk, transmitting Appellant / Respondent’s proposed order arising from a Form 4 dated August 27, 2024 (directing Appellant / Respondent to prepare a more formal order based on the August 27 decision). A copy of the August 27 decision is attached hereto as

**Attachment G.** Item 87 also reflects that the undersigned was transmitting the revisions proposed by Respondents / Appellants to the trial judge’s law clerk.

7. Item 89 is the email by which counsel for Respondents / Appellants reiterated their objections to the proposed order prepared by Appellant / Respondent, and additionally, re-submitted their own proposed order. This email was also sent to the trial judge’s law clerk.

8. Item 87 was not filed with the court, nor was Item 89. Instead, these materials were simply transmitted to the trial judge’s law clerk. Importantly, it does not seem that the Appellate Court Rules, or appellate decisions, directly address whether unfiled information that was transmitted via email to a trial judge’s law clerk constitutes “matter which was [] presented to the lower court or tribunal.” Rule 210(c), SCACR.

9. There is no question, though, that Items 83-86 were unfiled and were not otherwise emailed into court personnel. They must be stricken.

10. If Respondents / Appellants are required to strike any matter implicated by this Motion, the undersigned would respectfully request that Respondents / Appellants be required to file a corrected Designation of Matter.

11. Furthermore, a cursory review of Respondents / Appellants’ opening brief indicates a dozen-or-so references to the matter that ought to be stricken. Again, if Respondents / Appellants are required to strike any matter implicated by this Motion, the undersigned would also respectfully request that Respondents / Appellants be required to remove the improper references (and arguments based thereon) from their initial brief, and to file a corrected initial brief.

**WHEREFORE**, the undersigned counsel for Appellant / Respondent respectfully requests the entry of an Order granting the relief sought herein, and providing for such other and further relief as the Court deems just and proper. The filing fee for this Motion follows separately by U.S. Mail.

Respectfully submitted,

*s/ Steven Edward Buckingham*

---

Steven Edward Buckingham (S.C. Bar No. 0075089)  
The Law Office of Steven Edward Buckingham  
16 Wellington Avenue  
Greenville, South Carolina 29609  
(o) 864.735.0832  
(e) seb@buckingham.legal

*Attorney for Appellant / Respondent Research Park,  
LLC*

April 28, 2025  
Greenville, South Carolina

# ATTACHMENT A

**From:** [Steven Edward Buckingham](#)  
**To:** [Marwan S. Zubi](#); [Bill Coates](#)  
**Subject:** PMI v. Research Park // Proposed Order  
**Date:** Tuesday, September 3, 2024 1:09:00 PM  
**Attachments:** [24.9.2 Proposed Order.docx](#)

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Good afternoon, gents. I have attached a draft of a proposed order on the issues of conversion and the trailer removal. Please review and let me know if you have any questions/concerns/revisions. I'd like to get this submitted by the end of the week, if practicable. Thank you.

Buck

STATE OF SOUTH CAROLINA )  
 ) IN THE COURT OF COMMON PLEAS  
COUNTY OF ANDERSON ) TENTH JUDICIAL CIRCUIT

**POLY-MED, INC.; TECHNOLOGY ) C.A. No.: 2021-CP-04-01349**  
**DRIVE 51, LLC; TECHNOLOGY )**  
**DRIVE 52, LLC; and PMI )**  
**PROPERTIES, LLC, )**

Plaintiffs / Counterclaim Defendants, )

vs. )

**RESEARCH PARK, LLC, )**

Defendant / Counterclaim Plaintiff. )

**PROPOSED ORDER ON OUTSTANDING**  
**MOTIONS REGARDING CONVERSION &**  
**INJUNCTIVE RELIEF**

**THIS MATTER** came before the Court in connection with two issues that remain post-trial; specifically, the issues regarding the disposition of Plaintiffs’ claim for conversion, as well as whether and to what extent the Court may establish dates certain by which Plaintiffs must remove temporary trailers from their premises at the Clemson Research Park. A hearing on these and related matters was held on July 24, 2024. Plaintiffs were represented by Marwan Zubi and William Coates; Defendant was represented by Steven Edward Buckingham. By Form 4 entered August 27, 2024, the Court indicated its decision as to the matters presented in this order, and has entered this order to explain the bases for its decision.

As to Plaintiffs’ cause of action for conversion, one of the issues raised in Defendant’s post-trial motions is that Plaintiffs could not have prevailed on their action for conversion as a matter of law, and that therefore, to the extent the Court’s written decision of February 23, 2024 held otherwise, the decision should be reversed and corrected. Upon due consideration of the facts and pertinent legal authorities, Defendant’s motion is granted.

In the initial written decision regarding this dispute, this Court held that, under the pertinent covenants, “Defendant had the unambiguous right to charge the prescribed amounts in the covenants, which was \$300 per acre compounded 10% annually” going back to 1986. The undisputed evidence at trial was that, for the duration of Defendant’s ownership of the Clemson Research Park, Defendant had charged property owners \$600 per year per acre owned, and that this was substantially less than the amount authorized by the covenants, which is a mathematical fact. Accordingly, the Court held that the amount Defendant had charged property owners under the covenants was consistent with the covenants, while also holding that Defendant’s use of funds collected from property owners for anything other than “maintenance and upkeep,” as that term is defined in this Court’s prior decision, was inconsistent with the covenants.

Plaintiffs’ interpretation of the covenants appears to conflate two issues: collection of maintenance fees and their expenditure. It appears to be Plaintiffs’ contention that, under the covenants, Defendant may only collect maintenance fees from property owners necessary to cover “maintenance and upkeep;” that the collection of any amount of maintenance fee in excess of what is necessary for “maintenance and upkeep” constitutes conversion.

To reach this construction, however, the Court would have to disregard the plain language of the covenants, which establish the method by which annual maintenance fees are calculated, and which further establish that each property owner’s obligation is to pay the maintenance fees as calculated. And, while the covenants do give Defendant the authority to reduce the amount of the maintenance fee in any given year according to its discretion, the covenants do not establish an obligation to do so. Therefore, if the Court were to adopt Plaintiffs’ construction of the covenants, the Court would also be required to create a new term in the covenants—one providing an alternative method of calculating the maintenance fee—even

though the covenants already establish the method by which the fee is calculated. Consistent with well-established precedent, the Court declines the invitation to create a new contractual obligation.

The question of whether Defendant's collection of maintenance fees remains distinct from the question of how the maintenance fees are spent. And the immediate issue before the Court—with respect to Plaintiffs' conversion action—relates solely to collection.

Conversion is the unauthorized assumption in the exercise of the right of ownership over goods or personal chattels belonging to another to the exclusion of the owner's rights. See, e.g., SSI Med. Servs., Inc. v. Cox, 301 S.C. 493, 392 S.E.2d 789 (1990). An action for conversion “cannot arise from the exercise of a legal right” of ownership over the property allegedly converted. Kirby v. Horne Motor Co., 295 S.C. 7, 11, 366 S.E.2d 259, 261-62 (Ct. App. 1988) (citation omitted).

In the instant case, and consistent with the foregoing discussion, Defendant's collection of the maintenance fee does not constitute conversion. As long as Defendant charges Clemson Research Park property owners an amount no greater than \$300 per acre compounded by 10% annually, going back to 1986, Defendant's imposition of such charges is permissible under the covenants. And, since the covenants establish that each property owner's obligation is to pay the maintenance fee, Defendant has the right to collect such fee from each property owner. Accordingly, when a property owner tenders the maintenance fee to Defendant, it is doing so expressly pursuant to its contractual obligations. Plaintiffs' payment of their contractual obligations does not constitute a conversion, see, e.g., Owens v. Zippy Mart of S.C. Inc., 268 S.C. 383, 234 S.E.2d 217 (1977), and that is separate and apart from the real matter in dispute, which is how the funds collected were spent.

For these reasons, Defendant’s motion for reconsideration as to the issue of conversion is granted. As a matter of law, Plaintiffs have failed to state a legally cognizable cause of action for conversion, and judgment on Plaintiffs’ conversion action is hereby directed in Defendant’s favor.

The final matter to address in this decision pertains to Defendant’s action against Plaintiffs for breach of the covenants, specifically regarding the continued presence of “temporary” office trailers that were installed on Plaintiffs’ premises and have remained there for a number of years. The Court has previously held that Plaintiffs must remove the trailers from their premises, but invited supplemental briefing from the parties as to the amount of time that Plaintiffs should be allowed to accomplish such removal. Upon due consideration of the parties’ submissions, the Court has elected to suspend the imposition of a date certain by which removal must be accomplished. Instead, from time to time and only upon the request of Defendant’s counsel, the Court may require Plaintiffs to provide information by which the Court may evaluate Plaintiffs’ advances in the removal of such trailers and/or their replacement with permanent structures. If, upon such review, the Court finds that Plaintiffs’ progress has been inadequate, the Court reserves the right to order a specific time frame, or date certain, by which the removal of the temporary trailers must be accomplished.

It is **SO ORDERED**.

---

The Honorable R. Lawton McIntosh  
Judge, Tenth Judicial Circuit

Entered this \_\_\_\_\_ Day of \_\_\_\_\_, 2024  
Anderson, South Carolina

# ATTACHMENT B

**From:** [Marwan S. Zubi](#)  
**To:** [Steven Edward Buckingham](#)  
**Cc:** [William Coates](#); [Russell Hines](#)  
**Subject:** Re: PMI v. Research Park // Proposed Order  
**Date:** Thursday, September 5, 2024 9:58:33 AM

---

Buck:

The Plaintiffs cannot consent to your proposed order for a number of reasons including:

1. It is fairly clear from the court's August 27, 2024 Form 4 that you were ordered to prepare a formal order with respect to the trailers only, and not the conversion claim. The instruction to prepare a formal order was part of the last paragraph of the Form 4 regarding trailers, not a separate paragraph - like that utilized by the court in the November 6, 2023 Form 4, through which the court made it clear it wanted a proposed, formal order on all issues. Moreover, we note that while you addressed the part of the Form 4 regarding conversion, you did not address that part concerning attorney's fees, which suggests that, you too, understood the court was not asking for a formal order on the entire Form 4.
2. With respect to the conversion claim, you did not make the arguments in any post trial motion that you are now making in the proposed order.
3. It appears your proposed order is an attempt to try to get the court to find facts favorable to the defendant's unsuccessful defense of the Plaintiff's breach of covenants claim, so that the Defendant can point to the findings on appeal. The proposed order is yet another (probably the fifth or sixth) bite at this apple. The court has made it perfectly clear, in its July 29, 2024 order, that: "Defendant motion to reconsider is denied as to the court's ruling on maintenance and upkeep and related fees."

I will send you comments on the proposed order, but I don't know if I will be able to do so by tomorrow. It will more likely be early next week.

Marwan

-----  
Marwan S. Zubi, Esq.  
Senior Attorney  
Nicolai Law Group, P.C.  
Springfield MA • Sturbridge MA • Worcester MA  
v: 413-272-2000, ext. 226  
f: 413-272-2010  
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visit us at: [www.niclawgrp.com](http://www.niclawgrp.com)

**NOTE:** Our new mailing address is:  
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ELECTRONIC TRANSACTIONS: If this communication relates to negotiating a contract, any electronic transaction statutes shall not apply; contract formation shall only happen only on the mutual delivery of signed original documents unless explicitly stated.

On Tue, Sep 3, 2024, at 1:09 PM, Steven Edward Buckingham wrote:

Good afternoon, gents. I have attached a draft of a proposed order on the issues of conversion and the trailer removal. Please review and let me know if you have any questions/concerns/revisions. I'd like to get this submitted by the end of the week, if practicable. Thank you.

Buck

**Attachments:**

- 24.9.2 Proposed Order.docx

# ATTACHMENT C

**From:** [Steven Edward Buckingham](#)  
**To:** [Marwan S. Zubi](#)  
**Cc:** [William Coates](#); [Russell Hines](#)  
**Subject:** Re: PMI v. Research Park // Proposed Order  
**Date:** Thursday, September 5, 2024 10:00:04 AM

---

Ok. I will let the court know that a proposed order is forthcoming, but that it will be next week.

Sent from my iPhone

On Sep 5, 2024, at 9:58 AM, Marwan S. Zubi <[marwan.zubi@niclawgrp.com](mailto:marwan.zubi@niclawgrp.com)> wrote:

Buck:

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1. It is fairly clear from the court's August 27, 2024 Form 4 that you were ordered to prepare a formal order with respect to the trailers only, and not the conversion claim. The instruction to prepare a formal order was part of the last paragraph of the Form 4 regarding trailers, not a separate paragraph - like that utilized by the court in the November 6, 2023 Form 4, through which the court made it clear it wanted a proposed, formal order on all issues. Moreover, we note that while you addressed the part of the Form 4 regarding conversion, you did not address that part concerning attorney's fees, which suggests that, you too, understood the court was not asking for a formal order on the entire Form 4.
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I will send you comments on the proposed order, but I don't know if I will be able to do so by tomorrow. It will more likely be early next week.

Marwan

-----

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Senior Attorney  
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**NOTE:** Our new mailing address is:  
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Buck

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- 24.9.2 Proposed Order.docx

# ATTACHMENT D

**From:** [Marwan S. Zubi](#)  
**To:** [Steven Edward Buckingham](#)  
**Cc:** [William Coates](#); [Russell Hines](#)  
**Subject:** Re: PMI v. Research Park // Proposed Order  
**Date:** Tuesday, September 10, 2024 9:00:07 AM  
**Attachments:** [24.9.2 Proposed Order-rev.docx](#)

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Buck:

As we mentioned previously, we do not believe the court sought a more formal order on the conversion claim and only requested an order on the trailers issue. Accordingly, we propose the attached.

If you still believe the court sought a proposed order on the conversion claim, we suggest we jointly seek clarification from the court before we submit a proposed order on that issue.

Marwan

-----  
Marwan S. Zubi, Esq.  
Senior Attorney  
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**DRIVE 52, LLC; and PMI )**  
**PROPERTIES, LLC, )**

Plaintiffs / Counterclaim Defendants, )

vs. )

**RESEARCH PARK, LLC, )**

Defendant / Counterclaim Plaintiff. )

**PROPOSED ORDER ON OUTSTANDING**  
**MOTIONS REGARDING CONVERSION &**  
**INJUNCTIVE RELIEF**

THIS MATTER came before the Court in connection with ~~two an~~ issues that remain~~s~~ post-trial ~~(in addition to an award of attorneys' fees and costs to Plaintiffs in amounts to be determined);~~ specifically, ~~the issues regarding the disposition of Plaintiffs' claim for conversion, as well as~~ whether, ~~when~~ and to what extent ~~the Court may establish dates certain by which~~ Plaintiffs must remove temporary trailers from their premises at the Clemson Research Park. A hearing on th~~is~~ese and related matters was held on July 24, 2024. Plaintiffs were represented by Marwan Zubi and William Coates; Defendant was represented by Steven Edward Buckingham. By Form 4 entered August 27, 2024, the Court indicated its decision as to the matters presented in this order, and has entered this ~~order to explain the bases for its decision~~ more full and complete order on that one issue.

With regard to Defendants' counterclaim for breach of the restrictive covenants regarding the presence of trailers, As to Plaintiffs' cause of action for conversion, one of the issues raised in Defendant's post-trial motions is that Plaintiffs could not have prevailed on their action for conversion as a matter of law, and that therefore, to the extent the Court's written decision of

~~February 23, 2024 held otherwise, the decision should be reversed and corrected. Upon due consideration of the facts and pertinent legal authorities, Defendant's motion is granted.~~

~~In the initial written decision regarding this dispute, this Court held that, under the pertinent covenants, "Defendant had the unambiguous right to charge the prescribed amounts in the covenants, which was \$300 per acre compounded 10% annually" going back to 1986. The undisputed evidence at trial was that, for the duration of Defendant's ownership of the Clemson Research Park, Defendant had charged property owners \$600 per year per acre owned, and that this was substantially less than the amount authorized by the covenants, which is a mathematical fact. Accordingly, the Court held that the amount Defendant had charged property owners under the covenants was consistent with the covenants, while also holding that Defendant's use of funds collected from property owners for anything other than "maintenance and upkeep," as that term is defined in this Court's prior decision, was inconsistent with the covenants.~~

~~Plaintiffs' interpretation of the covenants appears to conflate two issues: collection of maintenance fees and their expenditure. It appears to be Plaintiffs' contention that, under the covenants, Defendant may only collect maintenance fees from property owners necessary to cover "maintenance and upkeep;" that the collection of any amount of maintenance fee in excess of what is necessary for "maintenance and upkeep" constitutes conversion.~~

~~To reach this construction, however, the Court would have to disregard the plain language of the covenants, which establish the method by which annual maintenance fees are calculated, and which further establish that each property owner's obligation is to pay the maintenance fees as calculated. And, while the covenants do give Defendant the authority to reduce the amount of the maintenance fee in any given year according to its discretion, the covenants do not establish an obligation to do so. Therefore, if the Court were to adopt Plaintiffs' construction of the~~

Formatted: Indent: First line: 0"

~~covenants, the Court would also be required to create a new term in the covenants—one providing an alternative method of calculating the maintenance fee—even though the covenants already establish the method by which the fee is calculated. Consistent with well-established precedent, the Court declines the invitation to create a new contractual obligation.~~

~~—— The question of whether Defendant’s collection of maintenance fees remains distinct from the question of how the maintenance fees are spent. And the immediate issue before the Court—with respect to Plaintiffs’ conversion action—relates solely to collection.~~

~~—— Conversion is the unauthorized assumption in the exercise of the right of ownership over goods or personal chattels belonging to another to the exclusion of the owner’s rights. See, e.g., SSI Med. Servs., Inc. v. Cox, 301 S.C. 493, 392 S.E.2d 789 (1990). An action for conversion “cannot arise from the exercise of a legal right” of ownership over the property allegedly converted. Kirby v. Horne Motor Co., 295 S.C. 7, 11, 366 S.E.2d 259, 261-62 (Ct. App. 1988) (citation omitted).~~

~~—— In the instant case, and consistent with the foregoing discussion, Defendant’s collection of the maintenance fee does not constitute conversion. As long as Defendant charges Clemson Research Park property owners an amount no greater than \$300 per acre compounded by 10% annually, going back to 1986, Defendant’s imposition of such charges is permissible under the covenants. And, since the covenants establish that each property owner’s obligation is to pay the maintenance fee, Defendant has the right to collect such fee from each property owner. Accordingly, when a property owner tenders the maintenance fee to Defendant, it is doing so expressly pursuant to its contractual obligations. Plaintiffs’ payment of their contractual obligations does not constitute a conversion, see, e.g., Owens v. Zippy Mart of S.C. Inc., 268 S.C.~~

383, 234 S.E.2d 217 (1977), and that is separate and apart from the real matter in dispute, which is how the funds collected were spent.

For these reasons, Defendant's motion for reconsideration as to the issue of conversion is granted. As a matter of law, Plaintiffs have failed to state a legally cognizable cause of action for conversion, and judgment on Plaintiffs' conversion action is hereby directed in Defendant's favor.

The final matter to address in this decision pertains to Defendant's action against Plaintiffs for breach of the covenants, specifically regarding the continued presence of "temporary" office trailers that were installed on Plaintiffs' premises and have remained there for a number of years.

The Court has previously held-ruled that Plaintiffs must remove the trailers from their premises, but invited supplemental briefing from the parties as to what constitutes a reasonable the amount of time that for Plaintiffs should be allowed to accomplish such removal. The parties each submitted memoranda, and Plaintiffs submitted a motion for reconsideration, on the issue. Upon due consideration of the parties' submissions and Plaintiffs' motion, the Court has elected to suspend the imposition of a date certain by which removal must be accomplished. Instead, from time to time and only upon the request of Defendant's counsel, the Court may require Plaintiffs the parties to provide information by which the Court may evaluate Plaintiffs' advances in the removal of such trailers and/or their replacement with permanent structures. If, upon such review, the Court finds that Plaintiffs' progress has been inadequate, the Court reserves the right to order a specific time frame, or date certain, by which the removal of the temporary trailers must be accomplished Plaintiffs must perform.

With the exception of the amount of attorneys' fees and cost to be awarded to Plaintiffs, all other outstanding issues have been addressed by the Court in its August 27, 2024 Form 4.

It is **SO ORDERED**.

---

The Honorable R. Lawton McIntosh  
Judge, Tenth Judicial Circuit

Entered this \_\_\_\_\_ Day of \_\_\_\_\_, 2024  
Anderson, South Carolina

# ATTACHMENT E

**From:** [Steven Edward Buckingham](#)  
**To:** [McIntosh, Lawton Law Clerk \(Makenzie Polston\)](#)  
**Cc:** [Marwan S. Zubi](#); [Bill Coates](#)  
**Subject:** PolyMed v. Research Park // 2021-1349 // Proposed Order on Conversion and Trailers  
**Date:** Thursday, September 12, 2024 2:12:00 PM  
**Attachments:** [24.9.2 Proposed Order-rev.docx](#)  
[24.9.2 Proposed Order.docx](#)

---

Ms. Collier: Good afternoon. As you may recall, I am defendant's counsel in the above-referenced case. I have copied Plaintiffs' counsel on this email. Several weeks ago, Judge McIntosh asked that I prepare a more formal proposed order on the Form 4 regarding the conversion cause of action and Plaintiffs' removal of trailers.

In that connection, I am attaching two documents. One is the proposed order I drafted and circulated to Plaintiffs' counsel. The other is Plaintiffs' counsel's redline.

Plaintiffs' redline is significant, particularly in that it strikes through the entirety of the proposed order regarding conversion. Plaintiffs' position seems to be that the Court instructed me to prepare an order only as to the issue of the removal of trailers—not conversion. I understood the Form 4 to request an proposed order on both issues. If I am mistaken, I apologize.

Regardless, I am submitting both proposals for consideration. And I'll be happy to do whatever further revisions are necessary to correct any confusion. Thank you.

Steve Buckingham

# ATTACHMENT F

**From:** [Marwan S. Zubi](#)  
**To:** [Lawton Law Clerk \(Chase Kinsey\) McIntosh](#)  
**Cc:** [Steven Edward Buckingham](#); [Bill Coates](#); [Russell Hines](#)  
**Subject:** Re: PolyMed v. Research Park // 2021-1349 // Proposed Order on Conversion and Trailers  
**Date:** Thursday, September 12, 2024 3:30:25 PM  
**Attachments:** [09.10.24 email to Steve Buckingham.pdf](#)

---

Ms. Collier:

As you may recall, Mr. Coates and I represent Plaintiffs in this action. We note that Defendant's counsel (Mr. Buckingham) chose to send his message below, and the attached proposed orders, to the Court without further conferring with us. We previously advised Mr. Buckingham that we did not believe the Court had requested a proposed order on Plaintiffs' conversion claim, gave the reasons for our belief and provided Mr. Buckingham with a proposed order dealing only with the trailers issue. A copy of our email exchange on the subject is attached. We told Mr. Buckingham that if he still believed the Court sought a proposed order on conversion, then we suggested that we *jointly* seek clarification from the Court. Instead, Mr. Buckingham sent his message and proposed orders without further input from, or consultation with, us.

As we advised Mr. Buckingham in the attached email, our primary concern with his proposed order on conversion (if the Court requested one) is that the proposed order appeared to be:

*"an attempt to try to get the court to find facts favorable to the defendant's unsuccessful defense of the Plaintiff's breach of covenants claim, so that the Defendant can point to the findings on appeal. The proposed order is yet another (probably the fifth or sixth) bite at this apple. The court has made it perfectly clear, in its July 29, 2024 order, that: "Defendant motion to reconsider is denied as to the court's ruling on maintenance and upkeep and related fees."*

We believe that many of the purported factual findings in Defendant's proposed order on conversion have little to do with the conversion claim and much to do with the breach of covenants claim that Defendant last and has appealed.

If the Court would like a proposed order on the conversion claim, Plaintiffs respectfully request leave to submit their own proposed order on the subject.

Respectfully submitted,

Marwan Zubi

-----  
Marwan S. Zubi, Esq.  
Senior Attorney  
Nicolai Law Group, P.C.  
Springfield MA • Sturbridge MA • Worcester MA  
v: 413-272-2000, ext. 226

f: 413-272-2010  
e-mail: [marwan.zubi@niclawgrp.com](mailto:marwan.zubi@niclawgrp.com)  
visit us at: [www.niclawgrp.com](http://www.niclawgrp.com)

**NOTE:** Our new mailing address is:  
PO Box 2840  
Worcester, MA 01613-9998

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ELECTRONIC TRANSACTIONS: If this communication relates to negotiating a contract, any electronic transaction statutes shall not apply; contract formation shall only happen only on the mutual delivery of signed original documents unless explicitly stated.

On Thu, Sep 12, 2024, at 2:12 PM, Steven Edward Buckingham wrote:

Ms. Collier: Good afternoon. As you may recall, I am defendant's counsel in the above-referenced case. I have copied Plaintiffs' counsel on this email. Several weeks ago, Judge McIntosh asked that I prepare a more formal proposed order on the Form 4 regarding the conversion cause of action and Plaintiffs' removal of trailers.

In that connection, I am attaching two documents. One is the proposed order I drafted and circulated to Plaintiffs' counsel. The other is Plaintiffs' counsel's redline.

Plaintiffs' redline is significant, particularly in that it strikes through the entirety of the proposed order regarding conversion. Plaintiffs' position seems to be that the Court instructed me to prepare an order only as to the issue of the removal of trailers—not conversion. I understood the Form 4 to request an proposed order on both issues. If I am mistaken, I apologize.

Regardless, I am submitting both proposals for consideration. And I'll be happy to do whatever further revisions are necessary to correct any confusion. Thank you.

Steve Buckingham

**Attachments:**

- 24.9.2 Proposed Order-rev.docx
- 24.9.2 Proposed Order.docx

# ATTACHMENT G

FORM 4

STATE OF SOUTH CAROLINA  
COUNTY OF ANDERSON  
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2021CP0401349

Poly-Med, Inc.  
PLAINTIFF(S)

Research Park, LLC  
DEFENDANT(S)

Submitted by: R. Lawton McIntosh	Attorney for : <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant
	or <input type="checkbox"/> Self-Represented Litigant

**DISPOSITION TYPE (CHECK ONE)**

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.  See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):**  Rule 12(b), SCRPC;  Rule 41(a), SCRPC (Vol. Nonsuit);  Rule 43(k), SCRPC (Settled);  Other
- ACTION STRICKEN (CHECK REASON):**  Rule 40(j), SCRPC;  Bankruptcy;  Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;  Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**  
 Affirmed;  Reversed;  Remanded;  Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

**IT IS ORDERED AND ADJUDGED:**  See attached order (formal order to follow)  Statement of Judgment by the Court:

**ORDER INFORMATION**

**COUNSEL FOR THE DEFENDANT HAS FIFTEEN (15) DAYS FROM THE DATE OF FILING THIS ORDER TO SEEK TO CROSS-EXAMINE PLAINTIFF'S COUNSEL AS TO ATTORNEYS FEES AND COST REQUESTED AND /OR TO FILE A MEMORANDUM IN OPPOSITION.**

**FAILURE OF DEFENDANT'S COUNSEL TO REQUEST THE RIGHT TO CROSS-EXAMINE PLAINTIFF'S ATTORNEYS REGARDING FEES AND/OR TO FILE A MEMORANDUM IN OPPOSITION WILL BE TREATED AS DEFENDANT'S ACQUIESCENCE OF THE FEES AND COSTS BY CLAIMANT.**

**PLAINTIFF'S CLAIM FOR CONVERSION IS DENIED.**

**AS TO DEFENDANT'S COUNTER CLAIM FOR THE REMOVAL OF THE MOBILE STRUCTURES, THE COURT WILL NOT SET A CERTAIN TIME FRAME IN WHICH PLAINTIFF IS TO ACT. THIS MATTER WILL BE REVIEWED FROM TIME TO TIME AT THE REQUEST OF DEFENDANT'S COUNSEL TO REVIEW ADVANCES MADE IN REMOVAL OF THE MOBILE STRUCTURES AND REPLACE THEM WITH PERMANENT STRUCTURES. IF UPON REQUEST BY DEFENDANT TO REVIEW PLAINTIFF'S PROGRESS, THE COURT DETERMINES THAT PLAINTIFF'S PROGRESS IS INADEQUATE, THE COURT RESERVES THE RIGHT TO ORDER A SPECIFIC TIME FRAME IN WHICH PLAINTIFF WILL BE REQUIRED TO PERFORM. DEFENDANT'S COUNSEL TO PREPARE A FORMAL ORDER.**

This order  ends  does not end the case.

INFORMATION FOR THE JUDGMENT INDEX		
Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.		
Judgment in Favor of	Judgment Against	Judgment Amount To be Enrolled

(List name(s) below)	(List name(s) below)	(List amount(s) below)
		\$
		\$
		\$
If applicable, describe the property, including tax map information and address, referenced in the order:		

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

**E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.**

	2155	
<b>Circuit Court Judge</b>	<b>Judge Code</b>	<b>Date</b>

**For Clerk of Court Office Use Only**

This judgment was entered on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ and a copy mailed first class or placed in the appropriate attorney’s box on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ to attorneys of record or to parties (when appearing pro se) as follows:

<b>ATTORNEY(S) FOR THE PLAINTIFF(S)</b>	<b>ATTORNEY(S) FOR THE DEFENDANT(S)</b>
	<b>CLERK OF COURT</b>

**Court Reporter:**

**E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk’s entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.**

**ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.**

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

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Anderson Common Pleas

**Case Caption:** Poly-Med Inc , plaintiff, et al VS Research Park Llc

**Case Number:** 2021CP0401349

**Type:** Order/Form 4

S/R. LAWTON McINTOSH

S/R.LAWTON McINTOSH

RECEIVED

Apr 28 2025

SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM ANDERSON COUNTY  
Court of Common Pleas

R. Lawton McIntosh, Circuit Court Judge

Case No. 2024-002150

Poly-Med, Inc., Technology Drive 51, LLC,  
Technology Drive 52, LLC, and PMI Properties LLC . . . . . Respondents / Appellants,

v.

Research Park, LLC . . . . . Appellant / Respondent.

**PROOF OF SERVICE**

The undersigned counsel for Appellant / Respondent hereby certifies, subject to penalty of perjury, that the following document(s) was/were served upon the following counsel of record by the following means as of the date identified below.

**Document(s):** Appellant / Respondent’s Motion to Strike Certain Matter Designated by Respondents / Appellants to be Included in the Record on Appeal

**Counsel Served:** For Respondents / Appellants

William A. Coates, Esq. (S.C. Bar No. 0001289)  
Cassidy Coates Price, P.A.  
(e) wac@cassidycoates.com

Means of Delivery: *Via Email Only*

Marwan S. Zubi, Esq. (Pro Hac Vice)  
Nicolai Law Group, P.C.  
(e) marwan.zubi@niclawgrp.com

Means of Delivery: *Via Email Only*

Stephen L. Brown, Esq. (S.C. Bar No. 066468)  
Russell G. Hines, Esq. (S.C. Bar No. 072100)  
Clement Rivers, LLP  
(e) sbrown@ycrlaw.com  
(e) rhines@ycrlaw.com

Means of Delivery: *Via Email Only*

**Courts Served:** Office of the Clerk of the Court of Appeals  
ctappfilings@sccourts.org

Means of Delivery: *Via Email Only*

With the Motion Filing Fee Being Sent Separately *Via U.S. Mail*  
Post Office Box 11629  
Columbia, SC 29211

**Date:** April 28, 2025

Respectfully,

*s/ Steven Edward Buckingham*

---

Steven Edward Buckingham (S.C. Bar No. 0075089)  
The Law Office of Steven Edward Buckingham  
16 Wellington Avenue  
Greenville, South Carolina 29609  
(o) 864.735.0832  
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*Attorney for Appellant / Respondent*