

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM DORCHESTER COUNTY
Court of Common Pleas

Heath P. Taylor, Circuit Court Judge

Case No.: 2023-CP-18-00836
App No.: 2024-001811

RECEIVED

May 15 2025

SC Court of Appeals

Devan Chokshi, Individually and as Personal
Representative of the Estate of Freni Hazare,
Deceased, Vatsal Chokshi, Individually and
as Personal Representative of the Estate of
Dhruv Chokshi, Deceased, Respondents,

v.

BIF-Summerville Station, LLC, PAC-
Summerville, LLC, Beach Investment Fund,
L.P., Beach Real Estate Funds, LLC, Beach
Co., Lincoln BP Management, Inc., Lincoln
Property Company National LLC, John/Mary
Does 1-3, Corporations XYZ 1-3, Defendants,

Of which, BIF Summerville Station, LLC, and PAC-Summerville, LLC are the Appellants.

FINAL BRIEF OF APPELLANTS

WALL TEMPLETON & HALDRUP, P.A.

Morgan S. Templeton, Esquire
Ford H. Thrift, Esquire
145 King Street, Ste. 300
Post Office Box 1200
Charleston, South Carolina 29402
843-329-9500
Attorneys for the Appellants

Table of Contents and Cases

TABLE OF AUTHORITIESii

STATEMENT OF ISSUES ON APPEAL.....v

STATEMENT OF THE CASE..... vi

STATEMENT OF THE FACTS.....viii

STANDARD OF REVIEW.....x

ARGUMENT1

 I. The Circuit Court Erred by Finding that Devan Chokshi Was Not Bound by the Lease Agreement as the Personal Representative of Freni Hazari Because a Personal Representative Stands in the Shoes of Decedent.....1

 II. The Scope of the Jury Waiver Provision Applies to the “Case” in its Entirety.....4

 III. The Circuit Court Committed an Error of Law by Finding Decedent Dhruv Chokshi Was Not Bound by the Terms of the Lease Agreement Because He has Invoked it to His Benefit in this Lawsuit5

CONCLUSION8

Table of Authorities

Cases:

Banks v. Frith,
97 S.C. 362, 81 S.E. 677 (1914).....4

Bennett v. ACS Primary Care Physicians-Se. P.C.,
444 S.C. 458, 908 S.E.2d 110 (Ct. App. 2024).....6

Bennett v. Est. of King,
436 S.C. 614, 875 S.E.2d 46 (2022).....5

Burnsed v. Greene,
291 S.C. 59, 351 S.E.2d 910 (Ct. App. 1986).....5

Carson v. CSX Transp., Inc.,
400 S.C. 221, 734 S.E.2d 148 (2012).....1

Citizens & S. Nat. Bank of S.C. v. Lanford,
313 S.C. 540, 443 S.E.2d 549 (1994).....3

Cox v. Duke Energy, Inc.,
176 F. Supp. 3d 530 (D.S.C. 2016), aff'd, 876 F.3d 625 (4th Cir. 2017).....4

Dixon v. Pattee,
442 S.C. 233, 898 S.E.2d 158 (Ct. App. 2023).....5

Est. of Stokes ex rel. Spell v. Pee Dee Fam. Physicians, L.L.P.,
389 S.C. 343, 699 S.E.2d 143 (2010).....2

Fay v. Total Quality Logistics, LLC,
419 S.C. 622, 799 S.E.2d 318 (Ct. App. 2017).....x

Fisher on behalf of estate of Shaw-Baker v. Huckabee,
422 S.C. 234, 811 S.E.2d 739 (2018).....3

Flexon v. PHC-Jasper, Inc.,
413 S.C. 561, 776 S.E.2d 397 (Ct. App. 2015).....x

Hodge v. UniHealth Post-Acute Care of Bamberg, LLC,
422 S.C. 544, 813 S.E.2d 292 (Ct. App. 2018).....6

Hodges Concrete Prods., Inc. v. Fletcher,
284 S.C. 191, 324 S.E.2d 343 (Ct. App. 1984).....4

<i>Hughes on behalf of Est. of Hughes v. Bank of Am. Nat'l Ass'n</i> , 442 S.C. 113, 898 S.E.2d 102 (2024).....	1, 3
<i>James v. Kelly Trucking Co.</i> , 377 S.C. 628, 634, 661 S.E.2d 329, 332 (2008).....	5
<i>Kelly v. McCombs</i> , 2019 WL 4052491 (S.C. Ct. App. 2019).....	vii
<i>Maybank v. BB&T Corp.</i> , 416 S.C. 541, 787 S.E.2d 498 (2016).....	4
<i>Milliken & Co. v. Morin</i> , 399 S.C. 23, 731 S.E.2d 288 (2012).....	x
<i>Mims Amusement Co. v. S.C. Law Enforcement Div.</i> , 366 S.C. 141, 621 S.E.2d 344 (2005)	x
<i>North Charleston Joint Venture v. Kitchens of Island Fudge Shoppe, Inc</i> , 307 S.C. 533, 416 S.E.2d 637 (1992)	vi, vii, 2, 3
<i>Page v. Lewis</i> , 203 S.C. 190, 26 S.E.2d 569 (1943).....	3
<i>Proctor v. Steedley</i> , 398 S.C. 561, 730 S.E.2d 357 (Ct. App. 2012).....	x
<i>Quattlebaum v. Carey Canada, Inc.</i> , 249 S.C. 407, 154 S.E.2d 561 (1967).....	2
<i>Reed v. Northeastern R. Co.</i> , 37 S.C. 42, 16 S.E. 289 (1892).....	2
<i>Skywaves I Corp. v. Branch Banking & Tr. Co.</i> , 423 S.C. 432, 814 S.E.2d 643 (Ct. App. 2018).....	4
<i>Southern Railway Company v. Surety Insurance Company of Greenville</i> , 249 S.C. 407, 154 S.E.2d 561 (1967).....	4
<i>THI of S. Carolina at Columbia, LLC v. Wiggins</i> , 2011 WL 4089435 (D.S.C. Sept. 13, 2011) (Currie, J.)	3
<i>Thompson v. Hudgens</i> , 161 S.C. 450, 159 S.E. 807(1931).....	3

<i>Verenes v. Alvanos</i> , 387 S.C. 11, 690 S.E.2d 771 (2010).....	x
<i>Watson v. Sellers</i> , 299 S.C. 426, 385 S.E.2d 369 (Ct. App. 1989).....	6
<i>Zurich Am. Ins. Co. of Illinois v. Palmetto Cont. Servs., Inc.</i> , 434 S.C. 104, 862 S.E.2d 714 (Ct. App. 2021).....	x
Statutes:	
S.C. Code Ann. § 27-4-210.....	6
S.C. Code Ann. § 27-40-210(15).....	7
S.C. Code Ann. § 62-1-201.....	3
S.C. Code Ann. § 62-3-703(c).....	1, 2
Rules:	
Rule 38, SCRCP.....	x
Other:	
Lawsuit, Black’s Law Dictionary (12 th ed. 2024).....	5
Personal Representative, Black's Law Dictionary (12th ed. 2024).....	1

STATEMENT OF ISSUES ON APPEAL

1. Whether the Circuit Court erred in finding that the valid Jury Waiver Provision within the Lease Agreement did not apply to the claims of Devan Chokshi as Personal Representative of the Estate of Freni Hazare where a Personal Representative asserts the claims of the deceased rather than individual claims of their own.
2. Whether the Circuit Court erred in finding that the valid Jury Waiver Provision did not apply to the Underlying Lawsuit in its entirety despite its plain language stating that it applies to “any lawsuit” involving the parties to the Lease Agreement.
3. Whether the Circuit Court erred in finding that the valid Jury Waiver Provision did not apply to the claims of Decedent Dhruv Chokshi where Appellant invoked the benefits of the Lease Agreement by alleging causes of action based upon the Lease Agreement.

STATEMENT OF THE CASE

This appeal arises from a wrongful death case initially filed by the Personal Representatives of the Estate of Freni Hazare and Dhruv Chokshi (“Respondents”) in May 2023. Respondents allege claims based upon a September 29, 2022, fire at the Summerville Station Apartments in Summerville, South Carolina, that claimed the lives of Hazare and Chokshi (“Decedents”). As amended, Respondents allege *inter alia* a cause of action against BIF-Summerville Station, LLC, and PAC-Summerville, LLC (“Appellants”) for violations of the South Carolina Residential Landlord Tenant Act (“SCRLTA”) (*See R.* at pp. 70-100); (*R.* at pp. 17, 26-28). On February 6, 2024, Appellants filed a motion to strike Respondents’ jury demand based upon a lease agreement signed by Hazare that contained a jury waiver provision. On May 28, 2024, the Circuit Court denied the motion and entered a Form 4 Order which provided the following:

This matter is before the Court on a motion to strike the Plaintiffs demand for a jury trial. Dhruv Chokshi was not a party to the lease agreement upon which the motion is based. Accordingly, his personal representative, Vatsal Chokshi, cannot be deemed to have waived the right to a jury trial. While Freni Hazare did sign the lease agreement, the lease agreement is devoid of any language indicating the document is binding on the personal representative, heirs, successors or assigns of Frenzi Hazare. Therefore, Devan Choshi, as personal representative of Freni Hazare, is likewise not a party to the lease agreement. The motion to strike jury demand is hereby denied. *See, North Charleston Joint Venture v. Kitchens of Island Fudge Shoppe, Inc., 307 S.C. 533, 416 S.E.2d 637 (1992) (holding nonparties to a lease agreement were not subject to jury waiver provisions in the lease agreement).*

(*R.* at p. 1)

On June 7, 2024, Appellants filed a Motion to Alter or Amend the Court’s May 28, 2024, Order Denying Appellants’ Motion to Strike. (*R.* at pp. 31-40). Appellants sought reconsideration on the grounds that “(1) the Jury Waiver Provision is enforceable at least as to Decedent Freni Hazare; (2) Plaintiff Devan Chokshi, as Personal Representative of the Estate of Freni Hazare, is bound by the Jury Waiver Provision; (3) the Jury Waiver Provision applies to the instant lawsuit

in its entirety; and (4) Plaintiff Vatsal Chokshi, as Personal Representative of the Estate of Dhruv Chokshi, invoked the Jury Waiver Provision by alleging claims under the South Carolina Residential Landlord and Tenant Act.” (R. at p. 1). On October 4, 2024, the Circuit Court filed a Form 4 Order which provided the following:

This matter is before the Court on Defendants BIF-Summerville Station, LLC and PAC-Summerville, LLC’s motion to alter or amend the Court’s May 28, 2024 order denying their motion to strike. The Court’s prior order as to Dhruv Chokshi and Vatsal Chokshi remains unchanged. The Court’s prior order with regard to Devan Chokshi and Freni Hazare is hereby amended as follows: While Freni Hazare did sign the lease agreement which contains a facially valid jury trial waiver, the lease agreement is devoid of any language indicating the document is binding on the personal representative, heirs, successors or assigns of Freni Hazare. Conversely, paragraph 1 of the lease agreement specifically provides that the lease agreement applies to the successors’ in interest or assigns of the owners. Had the drafter of the agreement intended the agreement to survive the death of Ms. Hazare, it certainly could have included language to that effect.

See, *Kelly v. McCombs*, 2019 WL 4052491 (S.C. Ct. App. 2019). Therefore, Devan Chokshi, as personal representative of Freni Hazare, is not a party to the lease agreement. The motion to strike jury demand remains denied. See, *North Charleston Joint Venture v. Kitchen of Island Fudge Shoppe, Inc.*, 307 S.C. 533, 416 S.E.2d 637 (1992) (holding nonparties to a lease agreement were not subject to jury waiver provisions in the lease agreement).

(R. at pp. 4-5).

On October 24, 2024, Appellants timely filed its Notice of Appeal of the Circuit Court’s Order. Appellants received a copy of the transcript for the May 6, 2024 hearing on December 16, 2024. On January 16, 2025, Appellants timely filed its Initial Brief.

STATEMENT OF FACTS

As Hurricane Ian approached South Carolina’s Lowcountry on September 29, 2022, a fire broke out at the Summerville Station Apartment Complex (“Summerville Station”) in Summerville, South Carolina. (R. at pp. 70-100). The cause of the fire is unknown but it is believed to have started somewhere at or within Building B. (R. at p. 37). Decedents Freni Hazare and Dhruv Chokshi resided in Unit B-16, which was a second-floor unit in Building B. (R. at p. 75). Tragically, both Hazare and Chokshi perished in the fire. Respondents are the Personal Representatives of the Estates of the Decedents and filed a lawsuit against Appellants - who are the owners and operators of Summerville Station – as well as several other defendants alleging *inter alia* that “[a]t the heart of this matter is the Defendants’ . . . [failure] to properly manage, maintain and repair the SUMMERVILLE STATION apartment complex . . .” (R. at p.71 (capitalization in original)).

It is not entirely clear how long Decedents had resided at Summerville Station prior to the fire, but it is understood that Decedents were already residents of Summerville Station when Appellants purchased the property in December 2020. Hazare renewed her lease annually and had most recently renewed her lease in July 2022. (R. at pp. 130-166). Hazare’s agreement with Appellants dated July 7, 2022 (“Lease Agreement”) was in effect at the time of the subject fire. (R. at pp. 130-166). Dhruv Chokshi, who was a minor at the time, is not listed on the Lease Agreement as a tenant, resident, occupant, or guest. The Lease Agreement contained a “jury waiver” provision that states:

Waiver of Jury Trial. To minimize legal expenses and, to the extent allowed by law, you and we agree that a trial of any lawsuit based on statute common law, and/or related to this Lease Contract shall be to a judge and not a jury.

(R. at p. 135) (“Jury Waiver Provision”).

Appellants filed a motion to strike the Plaintiff’s jury demand based upon the language of the Lease Agreement and its jury waiver provision. It is undisputed that Hazare signed the Lease Agreement and was, therefore, bound by its terms. (R. at p. 4) (*See* R. at p. 24). Respondents disputed, however, that Hazare’s Personal Representative was bound by the Lease Agreement because he did not sign it himself. Chokshi’s Personal Representative likewise argued that neither Chokshi nor his Personal Representative were signatories to the Lease Agreement. The Circuit Court correctly noted that the jury waiver provision was facially valid but did not enforce it against Respondents despite that finding. This appeal follows.

STANDARD OF REVIEW

“Whether a party is entitled to a jury trial is a question of law.” *Verenes v. Alvanos*, 387 S.C. 11, 15, 690 S.E.2d 771, 772 (2010) (citing *Mims Amusement Co. v. S.C. Law Enforcement Div.*, 366 S.C. 141, 145, 621 S.E.2d 344, 345–46 (2005)) (See also Rule 38, SCRCPP; *Zurich Am. Ins. Co. of Illinois v. Palmetto Cont. Servs., Inc.*, 434 S.C. 104, 109, 862 S.E.2d 714, 716 (Ct. App. 2021)). Likewise, “[w]hether a contract is ... unenforceable is generally a question of law for the court.” *Fay v. Total Quality Logistics, LLC*, 419 S.C. 622, 629, 799 S.E.2d 318, 322 (Ct. App. 2017) (quoting *Milliken & Co. v. Morin*, 399 S.C. 23, 30, 731 S.E.2d 288, 291 (2012)). The Court of Appeals “reviews questions of law de novo.” *Flexon v. PHC-Jasper, Inc.*, 413 S.C. 561, 569–70, 776 S.E.2d 397, 402 (Ct. App. 2015) (quoting *Proctor v. Steedley*, 398 S.C. 561, 573, 730 S.E.2d 357, 363 (Ct. App. 2012)). “In other words, a reviewing court is free to decide questions of law with no particular deference to the trial court.” *Id.* (quoting *Proctor*, 398 S.C. at 573, 730 S.E.2d at 363).

ARGUMENT

I. The Circuit Court Erred by Finding that Devan Chokshi Was Not Bound by the Lease Agreement as the Personal Representative of Freni Hazari Because a Personal Representative Stands in the Shoes of Decedent.

A personal representative of an estate is “[s]omeone who manages the legal affairs of another because of incapacity or death, such as the executor of an estate.” Personal Representative, Black’s Law Dictionary (12th ed. 2024). Under South Carolina law, a personal representative “stands in the shoes” of the decedent whose estate they represent. *Carson v. CSX Transp., Inc.*, 400 S.C. 221, 242–43, 734 S.E.2d 148, 159 (2012); *see also* S.C. Code Ann. § 62-3-703(c). Under this framework, South Carolina law permits a representative of a deceased person to litigate claims that a decedent would have had the right to assert had they not passed away. *See gen. Hughes on behalf of Est. of Hughes v. Bank of Am. Nat’l Ass’n*, 442 S.C. 113, 123, 898 S.E.2d 102, 107 (2024). A personal representative is not a mere heir, successor, or an assignee of the decedent; the personal representative, for purposes of standing, *is* the decedent. The Circuit Court committed an error of law by ignoring this principle and holding that Respondents were not bound by the contracts of the Decedents.

It is undisputed that Decedent Freni Hazare was a party to the Lease Agreement and that Lease Agreement contained “a facially valid jury waiver.” (R. at p. 4); (*See* R. at p. 24). Therefore, had she lived, it cannot be argued that Decedent Freni Hazare would be able to seek a jury trial against Appellants. Respondents instead argued, and the Circuit Court agreed, that Respondent Devan Chokshi is not a party to the Lease Agreement because he himself did not sign it and the Lease Agreement does not state that it is not binding upon Decedent Hazare’s personal representatives, heirs, successors, or assigns. (R. at pp. 4-5). In so holding, the Circuit Court disregarded the legal distinctions afforded to personal representatives and conflates Respondents’

status with that of a mere heir or successor.

By asserting claims as the Personal Representative of the Estate of Freni Hazare, Respondent Devan Chokshi assumed all rights and limitations that Hazare would have had if she had filed the lawsuit herself. This assumption is statutorily defined and encompasses the longstanding framework of estate claims. S.C. Code Ann. § 62-3-703(c) (“a personal representative . . . has the same standing to sue and be sued in the courts of this State and the courts of any other jurisdiction as his decedent had immediately prior to death.”). The rights of the personal representative are the same as the decedent’s – not less and not more. Indeed, the scope of a personal representative’s rights are defined by more than a century of South Carolina case law. In *Reed v. Northeastern R. Co.*, 37 S.C. 42, 16 S.E. 289 (1892), the South Carolina Supreme Court addressed the issue of survivor’s claims under the Wrongful Death Act and held “[a]nything that would have defeated his recovery would defeat that in behalf of his family in case he failed to survive.” The Hon. Joseph Anderson then affirmed this principle and held “[o]ur jurisprudence makes clear that if the decedent was barred from recovering damages for his injuries, the bar passes to the decedent's estate.” *Quattlebaum v. Carey Canada, Inc.*, 685 F. Supp. 939, 942 (D.S.C. 1988). The South Carolina Supreme Court more recently upheld this principle in *Est. of Stokes ex rel. Spell v. Pee Dee Fam. Physicians, L.L.P.*, where it favorably cited Judge Anderson’s ruling. 389 S.C. 343, 348, 699 S.E.2d 143, 145 (2010). Citing *Quattlebaum*, our Supreme Court noted that “anything that would have defeated the decedent’s recovery,” including limitations “such as contributory negligence, a valid release, or similar acts on his part.” *Id.*, at 349, 699 S.E.2d 146. Applying these holdings, South Carolina law does not allow a personal representative to have greater rights to a jury trial than the decedent would have had.

On the other hand, Respondents and the Circuit Court relied upon *North Charleston Joint*

Venture v. Kitchen of Island Fudge Shoppe, Inc., 307 S.C. 533, 416 S.E.2d 637 (1992) for the prospect that only signatories to a lease agreement may be bound by jury waivers. (*See gen. R.* at pp. 4-5); (*See gen. R.* at pp. 17-30). Their reliance upon *North Charleston Joint Venture* is out of place, however, because it does not address personal representatives or their standing to sue. In that case, the Supreme Court held that guarantors of a lease agreement could not be bound by the agreement’s jury waiver provision because they were not parties to the agreement itself. Whereas personal representatives derive their right to sue from the decedent themselves, a guarantor’s relationship arises from separate but related contracts with the debtor. *Citizens & S. Nat. Bank of S.C. v. Lanford*, 313 S.C. 540, 544, 443 S.E.2d 549, 551 (1994) (a guaranty of payment is an obligation separate and distinct from the original note). This contrasts with the law governing personal representatives, where claims are asserted on behalf of the estate itself. *Fisher on behalf of estate of Shaw-Baker v. Huckabee*, 422 S.C. 234, 238, 811 S.E.2d 739, 741 (2018). Respondent is not a guarantor of Decedent Hazare, he has asserted the claims in this lawsuit through his status as the personal representative of Hazare’s estate and must therefore be held to the same standards that Hazare would be held if she asserted them herself. Since Hazare would be barred from seeking a jury trial in a lawsuit against Appellants, her personal representative must also be barred.

As an additional basis for binding Respondent, our courts have long recognized that “all contracts which are capable of being enforced against a decedent in his lifetime may be enforced against his estate.” *Thompson v. Hudgens*, 161 S.C. 450, 159 S.E. 807, 817 (1931); *see also* S.C. Code Ann. § 62-1-201 (defining “claims” with respect to estates as including contracts).¹ Similarly, the notion that a waiver must specify that it is binding upon personal representatives has been rejected by multiple courts in this state as well. *See, e.g., THI of S.C. at Columbia, LLC*,

¹ It should be noted that contract-based causes of action survived death even at common law. *Hughes*, 442 S.C. at 123, 898 S.E.2d at 107 (citing *Page v. Lewis*, 203 S.C. 190, 193, 26 S.E.2d 569, 570 (1943)).

2011 WL 4089435 (2011) (Currie, J.); *Cox v. Duke Energy, Inc.*, 176 F. Supp. 3d 530 (D.S.C. 2016), *aff'd*, 876 F.3d 625 (4th Cir. 2017). The Lease Agreement need not spell out that it is binding upon personal representatives in order to have that effect. In *Cox*, Judge Bruce Hendricks rejected this very argument and held that a personal representative “is bound in [his] capacity as personal representative if [Decedent] would have been bound immediately prior to his death.” 176 F. Supp. 3d at 542.

It is well established that “South Carolina law allows parties to contractually waive the right to jury trial.” *Skywaves I Corp. v. Branch Banking & Tr. Co.*, 423 S.C. 432, 447, 814 S.E.2d 643, 651 (Ct. App. 2018) (*See also Banks v. Frith*, 97 S.C. 362, 81 S.E. 677 (1914); *Hodges Concrete Prods., Inc. v. Fletcher*, 284 S.C. 191, 193, 324 S.E.2d 343, 344 (Ct. App. 1984); *Southern Railway Company v. Surety Insurance Company of Greenville*, 249 S.C. 407, 154 S.E.2d 561 (1967)). It is equally well established that a personal representative’s right to sue is measured by the rights of the decedent. Because Decedent Hazare was bound by the terms of the Lease Agreement to its terms, including the Jury Waiver Provision, so too is her personal representative who asserts claims on behalf of her estate.

II. The Scope of the Jury Waiver Provision Applies to the “Case” in its Entirety.

The Circuit Court erred by declining to enforce the Jury Waiver Provision not only to the claims of Decedent Hazare but also to the underlying lawsuit in full. The Jury Waiver Provision states that “**any lawsuit** . . . shall be to a judge and not a jury.” (R. at pp. 135 (emphasis added)). The Jury Waiver Provision is not limited to specific causes of action or to any parties and instead states plainly that it governs the lawsuit between the parties. While courts will strictly construe the terms of waivers and limitations of liability provisions, courts will nonetheless uphold valid contracts by the plain language of their terms. *E.g. Maybank v. BB&T Corp.*, 416 S.C. 541, 576,

787 S.E.2d 498, 516 (2016). As noted above, the Circuit Court found that the Jury Waiver Provision itself is valid. The plain language of the provision leaves no room for interpretation – the trial any lawsuit to which the Lease Agreement applies must be a nonjury trial.

The use of the term “any lawsuit” in the Lease Agreement encompasses the entirety of the action and not individual claims or issues. The word “lawsuit” may generally be used interchangeably with the terms “action” or “case.” *See* Lawsuit, Black’s Law Dictionary (12th ed. 2024). On the other hand, words such as “issue” and “claims” are generally understood to be mere parts of a larger lawsuit, action, or case. *See, e.g., Bennett v. Est. of King*, 436 S.C. 614, 621 n. 6, 875 S.E.2d 46, 50 n.6 (2022), (noting that petition raised “multiple issues” in a single appeal); *James v. Kelly Trucking Co.*, 377 S.C. 628, 634, 661 S.E.2d 329, 332 (2008) (“A plaintiff may, in a single lawsuit, assert many causes of action against a defendant.”); *Burnsed v. Greene*, 291 S.C. 59, 60–61, 351 S.E.2d 910, 911–12 (Ct. App. 1986) (“[T]he parties are permitted to join as independent or alternate claims as many claims as they have against the opposing party in a single lawsuit.”). Because the Jury Waiver Provision applies to “any lawsuit” in which it can properly be invoked and not mere portions of the lawsuit, it must necessarily be enforced to the underlying lawsuit as a whole and not merely individual parties or claims.²

III. The Circuit Court Committed an Error of Law by Finding Decedent Dhruv Chokshi Was Not Bound by the Terms of the Lease Agreement Because He Invoked the Lease Agreement’s Benefits by Landlord-Tenant Claims.

Decedent Dhruv Chokshi was not identified as a tenant in the Lease Agreement, but “a party may not rely on the contract when it works to its advantage, and repudiate it when it works to its disadvantage.” *Dixon v. Pattee*, 442 S.C. 233, 258, 898 S.E.2d 158, 171 (Ct. App. 2023) (citation omitted). The Circuit Court erred by allowing Respondent Vatsal Chokshi to circumvent

² Appellants also note that no other parties have opposed or objected to Appellants’ position.

the Lease Agreement's Jury Waiver Provision while simultaneously claiming status as a tenant and asserting claims under the SCRLTA. A party does not have standing to sue under the SCRLTA absent a rental agreement. S.C. Code Ann. § 27-4-210; *see also Watson v. Sellers*, 299 S.C. 426, 385 S.E.2d 369 (Ct. App. 1989) (holding the SCRLTA creates a cause of action for duties owed by the landlord to the tenant).³ While Decedent Chokshi was a nonsignatory to the Lease Agreement, Respondent Vastal Chokshi affirmatively invoked the Lease Agreement by filing the underlying lawsuit against Appellants and claiming Decedent Chokshi had status as a tenant under the SCRLTA.⁴

This Court routinely applies the doctrine of equitable estoppel to bind nonsignatories to contracts that waive the right to a jury trial. *See e.g., Bennett v. ACS Primary Care Physicians-Se. P.C.*, 444 S.C. 458, 469, 908 S.E.2d 110, 116 (Ct. App. 2024) (reversing order denying motion to compel arbitration). While the majority of South Carolina's caselaw concerns the enforcement of arbitration agreements, those agreements are directly relevant because "the decision to enter into an arbitration agreement primarily concerns the signatory's decision to waive his or her right of access to the courts and right to a trial by jury." *Hodge v. UniHealth Post-Acute Care of Bamberg, LLC*, 422 S.C. 544, 566–67, 813 S.E.2d 292, 304 (Ct. App. 2018) (citations omitted). Under the principle of equitable estoppel a nonsignatory may be bound to a contract if "(1) the nonsigner's claim arises from the contractual relationship, (2) the nonsigner has 'exploited' other parts of the contract by reaping its benefits, and (3) the claim relies solely on the contract terms to impose liability." *Id.* (citations omitted).

³ Respondents do not, nor have they ever, alleged that an oral contract existed between the parties.

⁴ As outlined in Section I, *supra*, Respondent's standing to sue is based upon his status as a personal representative and not as an individual. Thus, it is immaterial as to whether or not Respondent Vatsal Choksi is a signatory to the Lease Agreement or not.

As noted above, Respondents' claims for violation of the SCRLA directly invoke the Lease Agreement. Respondents seek in the underlying lawsuit to reap the benefits of the Lease Agreement by accessing the statutory protections of the SCRLTA – protections which are afforded only to tenants in landlord-tenant relationships governed by the SCRLA. Under the SCRLTA, a “tenant” is “a person entitled under a **rental agreement** to occupy a dwelling unit to the exclusion of others.” S.C. Code Ann. § 27-40-210(15) (emphasis added). It is undisputed that a written rental agreement existed for the occupancy of the Decedents' unit and it is undisputed that that rental agreement contains a valid and enforceable Jury Waiver Provision. In the operative complaint in the underlying action, Respondent Vatsal Chokshi directly alleges that Appellants were Decedent Chokshi's landlord and asserts claims for violations of the SCRLTA against Appellants. In making these allegations, Respondent Vatsal Chokshi brings the Lease Agreement to the forefront of his claims and invokes the provisions of the Lease Agreement in their entirety. This Court should reverse the holding of the Circuit Court in order to prevent Respondent from obtaining the benefits of the Lease Agreement by asserting claims under the SCRLTA while avoiding the burdens of the Lease Agreement's Jury Waiver Provision.

Respondents have not identified any other rental agreement by which Dhruv Chokshi could qualify as a “tenant” and, therefore, their claims under the SCRLTA must necessarily invoke the lease agreement at issue here. Because Plaintiff Vatsal Chokshi, as the Personal Representative of the Estate of Dhruv Chokshi, has asserted claims under the South Carolina Residential Landlord and Tenant Act, and because such claims are predicated upon a rental agreement establishing tenancy, his claims necessarily seek the benefit of the Lease Agreement. As such, the Circuit Court erred in holding that Decedent Dhruv Chokshi and Respondent Vatsal Chokshi were not bound by the jury waiver provision.

CONCLUSION

South Carolina law is clear that a Personal Representative stands in the shoes of the decedent and is bound in his capacity as personal representative if Decedent would have been bound immediately prior to his death. As such, the Circuit Court committed an error of law by finding that Devan Chokshi was not bound by the Lease Agreement as the Personal Representative of Freni Hazari. Further, Decedent Dhruv Chokshi has invoked the benefits of the Lease Agreement and therefore cannot avoid its burdens, including the Jury Waiver Provision. Moreover, the valid Jury Waiver Provision applies to the case in its entirety and should apply to all of Responses Claims. Based on the foregoing arguments, this Court should reverse the Circuit Court's denial of Appellants' Motion to Strike Respondents' Jury Demand.

Dated this 15th day of May 2025.

WALL TEMPLETON & HALDRUP, P.A.

s/ Ford H. Thrift _____
Morgan S. Templeton (15456)
Ford H. Thrift (103294)
Wall Templeton & Haldrup, P.A.
145 King Street, Suite 300
Post Office Box 1200
Charleston, South Carolina 29402
(843) 329-9500