RECEIVED
May 29 2025
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM PICKENS COUNTY
Court of Common Pleas

G. D. Morgan, Circuit Court Judge

Case No. 2020-CP-39-00266
Appellate Case No. 2024-000870

Click Properties, LLC and Hyper Formance, LLC..... Respondents-Appellants,

v.

Thomas SC Properties, LLC and All-Tech Tire and Auto Repair, LLC .. Appellants-Respondents.

INITIAL REPLY BRIEF OF RESPONDENTS-APPELLANTS

Bradford N. Martin, Esq. (SC Bar No. 3658)
Laura W. H. Teer, Esq. (SC Bar No. 16698)
Bradford Neal Martin & Associates, PA
Post Office Box 10410
Greenville, South Carolina 29603
864.552.9990

Attorneys for Respondents-Appellants
Click Properties, LLC and Hyper Formance, LLC

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Other Authorities

COUNTERSTATEMENT OF THE ISSUES ON APPEAL

Rule 208 (b)(1)(B), SCACR provides that broad general statements may be disregarded by the Appellate Court. Appellants' Statement of Issues on Appeal are overly vague and general. This vagueness would support this Court's dismissal of the appeal.[1]

COUNTERSTATEMENT OF THE CASE

Rule 208 (b)(1)(C), SCACR, provides that the Statement of the Case shall not contain contested matters. As the Supreme Court has instructed:

> Counsel is advised that the South Carolina Appellate Court Rules are not mere technicalities but provide the parties and this Court with an orderly mechanism through which to guide appeals in this State. It is incumbent upon counsel to provide material that complies with the Rules and facilitates appellate review.
>
> *Henning v. Kaye*, 307 S.C. 436, 437, 415 S.E.2d 794 (1992).

First, it is highly contested that the gravel driveway allows both owners access to the upper portion of their properties[2], and as early as 1978 it has been used exclusively for the upper back building on the property eventually owned by Hyper Formance, LLC (the Click Property).[3] Second, it is disputed that both parties used both the driveway and turnaround: it was only used by the owners of the Click Property.[4] Third, Hyper Formance's owner, Brent Click, denies that the turnaround and property are not his, and settling it once and for all was a significant purpose of the lawsuit.[5] This was found by the jury, affirmed by the lower court, and affirmed by the Court of Appeals. Fourth, matters with Thomas did not deteriorate in 2016; they had already

---

[1] As former Chief Justice Jean Hoefer Toal states in *Appellate Practice in South Carolina, Second Edition*:

> Ordinarily, no point will be considered that is not set forth in the statement of issues on appeal... In formulating the statement of issues, two extremes need to be avoided. One extreme is the tendency to present issues that are overly vague and general... The following examples illustrate what is meant by overly vague... "Did the circuit court err in granting summary judgment?"

pp. 209-210.

[2] TR. 130, ll. 15-23; TR. 140, ll. 2-3, TR. 307, l. 21-308, l. 22.

[3] TR. 409, l. 23-25; TR. 411, l. 25-TR. 412, l. 3; TR. 412, ll. 14-23; TR. 415, ll. 3-11.

[4] *Id.*

[5] TR. 152, ll. 17-25.

deteriorated when Thomas had a significantly negative reaction to Click's friendly offers of assistance in the beginning of 2014 when he took over the business from Mr. Grissinger.[6]

Fifth, the jury did not fail to enter an amount of damages. Instead, in answer to Question One on the jury form, they failed to enter damages for the First Cause of Action, Nuisance *per se*. The jury entered $196,000 for the Negligence cause of action. It was only the first amount that was missing, and they returned to the jury room and allocated $28,000 from the verdict of $196,000 that they initially reached for the Second Cause of Action, Negligence, and filled out the verdict form for $28,000 for Nuisance *per se*, and $168,000 for Negligence.[7]

Sixth, the property purchased by Thomas SC Properties, LLC (the Thomas Property) was never owned by Greg Grissinger as claimed on page five of Appellants-Respondents' Brief. The property was owned in 2013 by Jimmy and Diane Watkins[8] until sold to Respondent Thomas Properties, LLC in 2018.[9] Seventh, Brent Click erected carport awnings with concrete slabs in October 2014, not 2016.[10] Finally, All-Tech alleges on page seven that Watkins testified at trial that if Brent Click did not get along with Thomas, Watkins would erect a fence along the property line. There is no testimony in the Record that Watkins so testified.[11]

The Supreme Court Rule clearly requires that the statement "...shall not contain contested matters..." Thomas SC Properties' counsel's defiance of the Rule by including eight contested matters is grounds for dismissal.

---

[6] TR. 145, ll. 11-22.
[7] Jury Verdict Form; TR. 700, l. 24-701 l. 11; TR. 702, l. 1 – 703, l. 6.
[8] D-20, Deed of Gregory A. Porter to Jimmy A. Watkins and Diane T. Watkins, 15 June 2004, Bk-822, Pg. 298.
[9] D-20, Deed of Jimmy A. Watkins and Diane T. Watkins to Thomas SC Properties, LLC, 29 May 2018, Bk. 1958, Pg. 93.
[10] TR. 136, ll. 22- 137 l. 1.
[11] *See* Watkins Direct and Cross Examination, TR. 510-521.

ARGUMENTS

I. THE LOWER COURT PROPERLY FOUND ALL-TECH IN CONTEMPT IN ITS MARCH 1, 2024 ORDER

A. All-Tech's Motion to Dismiss was Properly Denied

The lower court properly denied All-Tech's motion to dismiss the several rules to show cause filed by Respondents-Appellants (jointly referred to as "Click").

1. All-Tech waived the argument that the September 21, 2022 order was too vague

All-Tech did not ask the lower court to clarify its order of September 21, 2022 through a Rule 59(e) motion. They failed to raise the issue of vagueness in either a Rule 59(e) motion or in their appeal of the September 21st order. An issue must be raised and ruled upon by the trial judge in order to be preserved for review, and failure to file a Rule 59(e) motion to clarify an order is fatal. The failure of an appellant to raise a question by way of an exception constitutes a waiver. *Bentrim v. Bentrim*, 282 S.C. 333, 335, 318 S.E.2d 131, 133 (Ct.App.1984). Therefore, this issue has not been preserved.

Nelums v. Cousins, 304 S.C. 306, 403 S.E.2d 681 (Ct. App. 1991) is instructive. Nelums sued Cousins after she constructed a gate that prevented him from traveling to his property along a road in use since 1908. The trial court found that Nelums had obtained a prescriptive easement across Cousins' property. Cousins argued on appeal that the trial court erred by "failing to clarify and specify whether this right of way was an easement by necessity or a prescriptive easement." The Court of Appeals found the issue of vagueness was not preserved for appellate review since the trial court was never afforded the opportunity to clarify its order because Cousins failed to make a Rule 59(e) motion. *Id.* 304 S.C. at 407, 403 S.E.2d at 681-82.

Later, All-Tech attempted to raise the issue of vagueness in their motion to stay pending appeal. Judge Gravely denied the motion, noting:

> To the contrary [to vagueness] the Supreme Court of South Carolina in *Dill v. Dance Freight Lines*, 247 S.C. 159 (1966), upheld an Order that was "broad and general" in enjoining Defendant from operating their terminal in a manner that continued to blanket their neighbor's property in red dust but left the method of accomplishing that to the discretion of Defendant.

(R. -- April 21, 2023 order)

Judge Gravely, once again, affirmed the injunction that was "broad and general," (R. ---, p. 5) but an injunction All-Tech knew full well how to abate, having the issue addressed by engineering experts at trial. It is clear that the issue was not a lack of understanding by All-Tech but an unwillingness to take the actions required to abate the nuisance.[12] Once again, All-Tech failed to file a Rule 59(e) motion.

2. The "law of the case" precludes a vagueness attack

This unappealed issue has become the law of the case. "[A]n unappealed ruling, right or wrong, is the law of the case." *Atl. Coast Builders & Contractors, LLC v. Lewis*, 398 S.C. 323, 329, 730 S.E.2d 282, 285 (2012); *First Union Nat'l Bank of S.C. v. Soden*, 333 S.C. 554, 566, 511 S.E.2d 372, 378 (Ct. App. 1998); *Lindsay v. Lindsay*, 328 S.C. 329, 338, 491 S.E.2d 583, 588 (Ct. App. 1997).

In *Judy v. Martin*, 381 S.C. 455, 674 S.E.2d 151 (2009), Martin filed suit in magistrate's court against Judy, seeking $2,500 in damages. Judy filed an Answer and Counterclaim. The magistrate rendered a verdict for Martin in the amount of $2,555. Judy appealed to the circuit

[12] David Hall, P.E. testified that a retaining wall is necessary to prevent ongoing damage to the Plaintiffs' property through continued erosion and to restore safety to the embankment. (R. ---- May 4, 2022 Affidavit of David Hall, ¶ 5; R. --- May 12, 2022 Affidavit of David Hall, ¶ 12). Jonathan Thomas admitted in his unnumbered Affidavit filed February 16, 2023 (R.---, p. 2) that he contacted engineer Hall.

court, who affirmed the magistrate's judgment. Judy did not seek reconsideration from the circuit court or file an appeal.

Judy filed a new action and sought to reopen the question of whether the magistrate had subject matter jurisdiction to hear the merits of the underlying dispute. The South Carolina Supreme Court declined, finding the circuit court had affirmed the magistrate's judgment and Judy did not file a motion for reconsideration, an appeal with the Court of Appeals, or a motion to set aside the judgment. The Supreme Court held, "[t]he circuit court's unchallenged disposition on the magistrate's subject matter jurisdiction therefore became the law of the case, and this Court declines to reopen that issue in this subsequent action." *Id.* 674 S.E.2d at 153. *Judy* fully supports Click.

3. All-Tech is barred by the doctrine of *res judicata*

All-Tech cannot use a contempt hearing to raise issues they failed to raise before the trial court hearing the matter. *See Simpson v. Simpson* (*Simpson II*), 404 S.C. 563, 746 S.E.2d 54 (Ct. App. 2013) (Simpson II). Husband was ordered to transfer certain property to wife in a final decree for divorce. Husband appealed the equitable division of marital property. In *Simpson I*, [Unpublished Opinion No. 2007-UP-147 (Ct. App. April 4, 2007); *cert. den.* February 21, 2008] the South Carolina Court of Appeals found the husband's argument that the family court erred in awarding to wife certain pieces of real property that were owned by an LLC had not been preserved for appellate review.

Following *Simpson I*, wife filed a contempt action alleging husband and son were in contempt for failing to transfer the properties awarded to her in the final decree. The family court issued an order finding husband was not in contempt because the LLC was the titled owner of the subject properties. In *Simpson II*, The Court of Appeals found the family court erred in allowing

husband and son to relitigate the issue of ownership of the subject properties at the contempt hearings. The Court held...

> Husband and Son's argument that Husband, individually, could not comply with the Final Decree because the subject properties were titled in the name of the LLC, was barred by the doctrine of res judicata. . . . *Richardson v. Richardson*, 309 S.C. 31, 35, 419 S.E.2d 806, 808 (Ct.App.1992) (upholding the family court's ruling that the "issue of alimony was res judicata and could not be relitigated and it was the court's duty to effect compliance with the agreement as best as possible"
>
> . . . .
>
> Therefore, Husband and Son were not entitled to take a second bite at the apple by defending themselves in the contempt proceedings on the ground that the subject properties were titled in the name of the LLC.

Simpson II, 404 S.C. 563, 573, 746 S.E.2d 54, 60 (Ct. App. 2013).

All-Tech did not file a Rule 59(e) motion to reconsider the September 21, 2022 order or the April 21, 2023 order, nor did they raise vagueness in their October 21, 2022 appeal (Appellate Case No. 2022-001499). They cannot now argue the order was too vague for them to be held in contempt for failure to comply. They are barred by the doctrine of *res judicata*.

4. All-Tech is estopped from claiming they do not understand the September 21, 2022 or April 21, 2023 orders

All-Tech claimed on numerous occasions their plan to build a retaining wall but did not do so for sixteen months after they were ordered to abate the nuisance.[13] Thomas stated in an affidavit that he did not want to spend the money to abate the nuisance if he may lose the case on appeal.[14] (R.---)

The case of *Hawkins v. Mullins*, 359 S.C. 497, 597 S.E.2d 897 (Ct. App. 2004) is analogous. Hawkins and Mullins agreed to a visitation schedule that was incorporated into the

[13] See Fn. 1, *infra*.
[14] He lost his appeal to the Court of Appeals on March 12, 2025.

court's final order. Later, motions were filed, and the court issued the June 2001 order specifying a month's summer visitation.

Hawkins refused to provide Mullins with the month's summer visitation in 2002. Hawkins claimed the order only referenced summer visitation for 2001. Hawkins also maintained she made good faith attempts to settle. The Court of Appeals disagreed and found Hawkins understood and was in contempt. *Hawkins v. Mullins*, 359 S.C. 497, 502-3, 597 S.E.2d 897 (Ct. App. 2004). Likewise, Thomas understood his need to abate the nuisance for over three years.

5. The lower court had equitable authority to enforce the orders

The lower court had the equitable authority to enforce and hold All-Tech in contempt. See *Swentor v. Swentor*, 336 S.C. 472, 480 n.2, 520 S.E.2d 330, 334 n. 2 (Ct. App. 1999) (stating that although an order is not modifiable, it may be enforced). It is the duty of the lower court to interpret the intent of the September 21st order and effect compliance as best possible. *Simpson, supra*, 404 S.C. at 576, 746 S.E.2d at 61.

"The primary purpose of an action for civil contempt is to exact compliance" and in doing such, "the court must interpret what the decree mandated, considering the purpose of an object of the underlying litigation." *Richardson v. Richardson*, 309 S.C. 31, 35-36, 419 S.E.2d 806, 809 (Ct. App. 1992). In this instance, the jury found All-Tech created a serious nuisance, and the trial court required them to abate the nuisance. They failed to take action to do so for at least sixteen months. The lower court properly found they were in contempt.

6. The September 21, 2022 and April 21, 2023 orders are sufficiently specific for All-Tech's compliance

All-Tech waived the argument that the orders requiring abatement of the nuisance were too vague for enforcement. Even if the issue of vagueness was not waived, the orders are sufficiently specific to allow compliance.

South Carolina's Supreme Court set forth the applicable standard over 50 years ago:

> It has been too frequently held by this court to require further discussion that, when the existence of a nuisance has been established by the verdict of a jury, the party injured is entitled as a matter of right to an injunction to prevent its continuance.

Dill v. Dance Freight Lines, 247 S.C. 159, 162, 146 S.E.2d 574, 575 (1966) (internal citations omitted). The South Carolina Supreme Court upheld an order that left the method of abatement to the discretion of the defendant. Both of the orders in the present case relied upon *Dill*.

Click's Verified Complaint of February 27, 2020 states in Paragraph 26:

> Plaintiffs are informed and believe that the erosion will continue unless an appropriate retaining wall is erected and seek damages sufficient for the erection of a retaining wall or for an order from this Court that Defendants be required to construct an appropriate retaining wall to mitigate the significant and on-going damage to the Click Property.

The September 21, 2022 order clearly defined the nuisance as the "erosion caused by the Defendants' excavation." (R. ---, p. 14). Geotechnical testing, accepted by both parties' experts, substantiated the area where excavation created a dangerous instability. Click's expert, David Hall, defined this area at trial. (R. , Exhibits D and E). All-Tech, therefore, had all the information needed to abate the erosion.

The specific requirements for the actions that All-Tech chooses to undertake to abate the erosion are provided in Pickens County's ordinances, South Carolina statutes and regulations, and the 2021 International Building Code, with South Carolina Modifications, adopted by Pickens County. *See Swatzell v. Nat. Resources & Envt'L Protec.*, 996 S.W.2d 500 (Ky. 1999) (finding that in order to receive his mining permit, Swatzell was required to submit a detailed reclamation plan and that this plan and the applicable mining regulations, set forth in precise detail the steps

Swatzell was to perform in order to abate the regulatory violations). All-Tech intentionally chose not to comply.

7. Lack of a deadline does not prevent a finding of contempt

An order of the court implies a reasonable time for compliance if a specific time period is not set forth. More than one year passed between Judge Gravely's order requiring All-Tech to abate the nuisance and the hearings before the lower court on contempt. More than six months had passed since Judge Gravely's April 21, 2023 order in which he denied All-Tech's motion to stay as to the injunctions and noted they had done nothing towards complying with the September order. (R. , p. 5).

Thomas stated the reason he had not complied with the court's order on page 4 of his unnumbered Affidavit filed on February 16, 2023: "... it does not make any sense to spend money" if Brent eventually owns his property to satisfy the $196,000 Jury Verdict. (R.) All-Tech showed an inability to comply when they have not implemented any abatement measures.

Other jurisdictions have addressed this issue and held a reasonable period of time to comply is implied. In the case of *In re Estate of Patton*, 971 So.2d 1281 (Miss. App. 2008), Patton died leaving a will that named his wife as executrix. Patton's children filed a motion to remove Mrs. Patton as executrix. The court ordered decedent's children to inventory and turn over all assets in their possession that belonged to their father's estate.

When they failed to comply, Mrs. Patton filed a motion to compel. The court found decedent's children in contempt and awarded the attorney's fees. Decedent's daughter argued on appeal that she should not have been found in contempt because there was no deadline for compliance. In affirming, the Mississippi Court of Appeals noted the daughter had failed to comply for almost seven months. The lack of a specific deadline did not excuse compliance.

Ohio Courts have also held where an order does not include a deadline, a reasonable time may be inferred. *See Willis v. Willis*, 775 N.E.2d 878 (Ohio App. 2002) (applying the "common standard of reasonable length of time" in affirming the trial court's finding of contempt where the order lacked a deadline for payment of children's medical expenses in a shared parenting agreement); *McFarland v. McFarland*, 5th Dist. Licking No. 01CA00021, 2001-Ohio-1843, 7-8 (stating that "in determining the defendant's compliance with [an order, directing the defendant to pay certain debts, that does not set a repayment schedule], the common standard of reasonable length of time is appropriate").

Similarly, the Texas Court of Appeals found even though the lower court's decree did not specifically state a date by which one party was required to close on the home, the law implies a reasonable time. Therefore, it was within the lower court's jurisdiction to enforce the decree. *Noyes v. Noyes*, No. 04-08-00627-CV (Tex. App. 8/12/2009), No. 04-08-00627-CV. (Tex. App. Aug 12, 2009). Therefore, the fact that All-Tech failed to take any action to abate the nuisance for at least sixteen months is contemptable.

B. The Lower Court's March 1, 2024 Order is Supported by the Evidence

When determining whether to hold All-Tech in contempt, the court must find that All-Tech had a "willful disobedience of a court order." *Ex Parle Kent,* 379 S.C. 633, 637, 666 S.E.2d 921, 923 (Ct. App. 2008). Furthermore, the "record must be clear and specific as to acts or conduct upon which the contempt is based." *Id.* A willful act is an act that is done " voluntarily and intentionally with the specific intent to so something the law forbids, or with the specific intent to fail to do something the law requires to be done." *Id.*

The March 1, 2024 order is supported by the evidence. The lower court found that failure to abate the nuisance for almost a year and a half was intentional. This was confirmed by the

several statements by All-Tech's representative Thomas himself that he would not abate the nuisance. (R. Order, p.--; R. , Thomas Affidavit) Second, the law is clear that if no time is stated in an order, then a reasonable time applies.[15] There is nothing reasonable about All-Techs' refusal to address the continuing erosion for almost a year and a half.

C. The Lower Court has Discretion Regarding how Long to Hold the Record Open and Properly Found a TRO was Warranted

The lower court agreed to leave the record open on February 16, 2024 as to the TRO for a limited time, informing All-Tech that it could reconvene the following week to consider any evidence from their surveyor. (Tr. February 16, 2024 hearing, p. 33, ll. 12-21). All-Tech provides no evidence that it presented any further evidence at any time, let alone a week later (February 23, 2024).

The decision whether to reopen a record for additional evidence is within the lower court's sound discretion and will not be disturbed on appeal absent an abuse of that discretion. *Wright v. Strickland*, 306 S.C. 187, 188, 410 S.E.2d 596, 597 (Ct.App.1991). In *Wright*, the Court of Appeals affirmed a trial judge's refusal to reopen the record where the moving party did not proffer any testimony or show that the evidence could make any difference to the outcome of the case. *Id.* 306 S.C. at 188, 410 S.E.2d at 597.

All-Tech submitted a supplemental memorandum following the March 1, 2024 hearing along with a letter from Thomas Hood, their licensed professional engineer. Hood prepared the design drawing for the retaining wall and included the prohibition of any surcharge within 10 feet of the wall. Hood did not refute the testimony of Click's expert David Hall that All-Tech's location of the wall would negatively impact Click's property or their ability to use their driveway.

[15] See p. 10 of Click's Reply to All-Tech's motion to dismiss filed November 13, 2023 (R. __).

The lower court properly found in the March 1, 2024 order that "[Click is] entitled to the full extent of the gravel drive and this evidence proves that Plaintiff would not be able to use the full extent of their drive." All-Tech's argument that it "would have been justified in proceeding with building a retaining wall on the footing as it is more than 10 feet away from the edge of the gravel drive" (All-Tech brief, p. 18) misconstrues the testimony of Click's expert, David Hall. Hall presented evidence demonstrating how the erection of a retaining wall as designed by All-Tech's expert would prohibit the use of Click's driveway and turn around area. (Tr. February 16, 2024 hearing, Exhibit F). Hall's testimony regarding the impact of the retaining wall if built at the location where the footings were dug was not dependent on the location of the property line but was determined based on the location of the footings. (Tr. February 16, 2024 hearing, p. 39, l. 12-p. 40, l. 25; p. 44, l. 10-p. 45, l. 18). Therefore, granting the Temporary Restraining Order was warranted.

D. The TRO does not Excuse All-Tech from Complying with the September 21, 2022 Order

All-Tech is required to comply with the September 21, 2022 order. The lower court's March 1, 2024 order does not prevent All-Tech from abating the nuisance or building a retaining wall. The order simply enjoins them from acting in a manner that will cause additional damage to Click's property and only prevents the building of the wall on footings immediately adjacent to the embankment. (order, p. 8)

David Hall testified that All-Tech could construct the wall designed by Thomas Hood by simply operating in accordance with the design plans and constructing the wall 10 feet away from the embankment and following the engineering requirements contained in the plan. (Tr. February 16, 2024 transcript, p. 46, ll. 3-12). All-Tech is not relieved from contempt in refusing to comply

with the trial court's order because it does not suit them to construct the retaining wall in the manner required by their own expert.

E. The Lower Court had Sufficient Evidence to find All-Tech was Harassing Click

All-Tech suggests in its brief that the only harassment alleged by Click was that All-Tech employees walked on their property. It is true that All-Tech employees routinely walked across the front of the Click Property five to ten times a day in an effort to trigger the motion sensor chime, knowing Brent or Shelly would have to exit the shop to see if a customer had arrived. (March 3, 2023 hearing, p. 42, l. 25-p. 44, l. 15). All-Tech employees increased their activity on the Click Property when they knew Shelly was there alone or if she was outside without Brent. (December 12, 2022 Affidavit of Shelly Click, ¶ 3, February 28, 2023 Affidavit of Shelly Click, ¶ 8; March 3, 2023 hearing, p. 130, ll. 17-22).

Click also testified as to voluminous other acts by All-Tech. In addition to threats, All-Tech attempted to demean and humiliate Brent personally and in the community. On February 24, 2023, Shelly Click informed Brent she had observed All-Tech employees who appeared to be operating a drone in an attempt to chase their pet ducks. (February 28, 2023 Affidavit of Shelly Click, ¶ 10; March 3, 2023 hearing, p. 133, l. 12-p. 135, l. 5). Brent recalled hearing a buzzing noise while he was using the outdoor shower. Later that day when Brent was outside on his property, All-Tech employee Stokes began dancing and making phallic signs indicating Brent had been filmed while in the shower. (February 28, 2023 Affidavit of Brent Click, ¶ 42, March 3, 2023 hearing, p. 90, ll. 3-17).

Brent was turned away from businesses where he had not previously experienced a problem because he had been reported [presumably by All-Tech employees] to them as a thief. (March 3, 2023 hearing, p. 87, l. 2- p. 88, l. 25).

All-Tech also attempted to intimidate other individuals who came to the Click Property to have work done. Colin Spector testified at the March 3, 2023 hearing that All-Tech employees would leave their work stations to stare at him in a menacing manner whenever he was on the Click Property. (March 3, 2023 hearing, p. 147, l. 25-p. 148, l. 12).

As set forth in Click's brief in its cross-appeal: All-Tech routinely blocked Click from safely exiting his property[16]; Brent Click experienced vandalism to his vehicles on a regular basis

[16] All-Tech's improper excavation made it unsafe for Click to park trucks, trailers, or large equipment on their gravel driveway. (R. August 5, 2024 Affidavit of David Hall, ¶ 23). As a result, Click was required to park his equipment, including his truck and trailer in the parking lot in front of his lower building. (R. , March 3, 2023 hearing, p. 48, ll. 10-14). All-Tech began parking vehicles on the Click property and as close to the Click property line as possible in a manner designed to prevent Click from exiting onto Highway 123 via the western driveway that accessed the All-Tech parking lot. (February 28, 2023 Affidavit of Brent Click, ¶¶ 20, 23; March 3, 2023 hearing, p. 44, l. 16-p. 46, l. 18; Ex. I to hearing).

This also gave All-Tech employees protected access to vandalize Brent's trucks free from view by his security cameras. All-Tech additionally called the Pickens County Sheriff's office to report Brent and Shelly as trespassing on the grounds they were exiting onto the Highway from the All-Tech driveway, despite the fact this is the right-of-way available for general public use and part of the South Carolina Highway Department right-of-way. (February 28, 2023 Affidavit of Brent Click, ¶ 25).

All-Tech continued to block Click's ability to safely access Highway 123. (November 2, 2023 Affidavit of Brent Click, ¶ 6; R. December 28, 2023 hearing, p. 42, l. 21-p. 43, l.3; p. 127, ll. 17-22). On October 30, 2023 All-Tech employee Stokes blocked Brent's truck with his van. (November 2, 2023 Affidavit of Brent Click, ¶ 4). When Brent photographed the van, Stokes approached him. (Id., ¶ 5). Brent explained the van was on the Click Property and he would have it towed. Stokes threatened to kill Brent if he had it towed. (Id.; R. December 28, 2023 hearing, p. 127, l. 17- p. 128, l. 1).

since the litigation was filed[17]; Click's truck, trailer, and bobcat were stolen from the Click Property on October 18, 2022[18]; All-Tech employees also threatened physical violence against Brent and Shelly.[19] Therefore, there is overwhelming evidence of harassment.

---

[17] (R. Exs. A-C to March 3, 2023 hearing). The vandalism included screws in tires of the same size and finish appeared again and again in tires after repair despite the vehicle not having been driven in the interim. (December 12, 2022 Affidavit of Brent Click, ¶ 25; March 3, 2023 hearing, p. 47, l. 5- p. 50, l. 14). Brent often found the safety latch connecting the trailer to his truck had been unhooked. (March 3, 2023 hearing, p. 50, l. 15-p. 52, l. 3).

During the week of December 5th, 2022 Brent had difficulty steering his maroon Chevrolet truck. (Id., ¶ 23). Upon inspection, he discovered a bolt had been loosened. (Id., March 3, 2023 hearing, p. 52, l. 14-p. 54, l. 6; p. 56, l. 23-p. 58, l. 2). This could only be done by crawling under the truck from their own parked vehicles, hidden from the security cameras. (R. March 3, 2023 hearing, p. 53, ll. 8-17).

In January of 2023, the brake line on Brent's white GMC truck was loosened causing a loss of brake fluid. (February 28, 2023 Affidavit of Brent Click, ¶ 33; March 3, 2023 hearing, p. 58, l. 24-p. 60, l. 13).

On August 22, 2023 Brent noticed transmission fluid under his red Ford truck. (September 22, 2023 Affidavit of Brent Click, ¶ 4; December 28, 2023 hearing, p. 24, l. 25-p. 25, l. 16). Upon inspection, he discovered the transmission line had been cut. (Id.; R. December 28, 2023 hearing). The front right wheel on the maroon Chevrolet truck (which had been parked next to the car), had a new screw directly on top of the tire. (Id., ¶ 5). The screw did not have any scratches on it, so it is also evident the maroon truck had not been driven with this screw exposed.

On August 24, 2023, Brent discovered the air-conditioning system in the maroon Chevrolet truck was not working. (September 22, 2023 Affidavit of Brent Click, ¶ 6; R. December 28, 2023 hearing, p. 30, ll. 14-24). Upon inspection, it was determined that the air-conditioning line had been bent down, and the valve was destroyed. (September 22, 2023 Affidavit of Brent Click, ¶ 6; R. December 28, 2023 hearing, p. 30, ll. 14-24). It was clear that All-Tech was involved in the vandalism because when Brent went to drive the truck, an employee of All-Tech waved his hand in front of his face like, "it is hot!" indicating they knew the air conditioning system had been tampered with. (Id.).

The wiring was cut on the Click's new compactor. (September 22, 2023 Affidavit of Brent Click, ¶ 7; R. December 28, 2023 hearing, p. 52, l. 15-p. 55, l. 21).

On Saturday, November 4, 2023, Brent transported a bobcat tractor to a worksite. (November 8, 2023 Affidavit of Brent Click, ¶ 4; R. December 28, 2023 hearing). When he arrived, he noticed fluid pouring from the bobcat, the bucket sensor was not working, and the low fluid light was on. (November 8, 2023 Affidavit of Brent Click, ¶ 5). He observed that the hydraulic lines were punctured, and the sensor line was cleanly cut. (Id.; R. December 28, 2023 hearing, p. 66, l. 2-p. 68, l. 2). Brent had performed work with this machine the prior Saturday, October 28th, and it was fully functional. (November 8, 2023 Affidavit of Brent Click, ¶ 6). On Thursday, November 2nd, just two days prior to Brent's discovery of the vandalism, he had prepared the machine for the upcoming job, including greasing the joints, and checking the fluid. (November 8, 2023 Affidavit of Brent Click, ¶ 7). There were no punctures or cut lines at that time and no fluid came out when he test-ran the machine. (Id.; R. December 28, 2023 hearing). On Friday, November 3rd, the bobcat was parked close to the gate and in the lot for a portion of the day, when it would have been accessible to All-Tech employees. (Id. ¶ 8).

Brent observed Thomas and several employees mocking him and his wife as they were loading their maroon Chevy truck to leave for a job on December 23, 2023. (December 27, 2023 Affidavit of Brent Click, ¶ 4). Brent noticed the driver's side door, which had previously been locked, was now unlocked. (December 27, 2023 Affidavit of Brent Click, ¶ 6). The truck, which had driven fine two days before would not start. Brent lifted the hood and saw the wiring harness had been pulled from its mounts. (Id. ¶¶ 7-8; R. December 28, 2023 hearing). Because the maroon Chevy truck was damaged, Brent took the white GMC truck instead. (December 27, 2023 Affidavit of Brent Click, ¶ 8). Brent had just entered the highway when the GMC began to overheat. Brent checked the engine and saw the coolant hose clamp had been repositioned to allow coolant to blow out of the bottom of the radiator. (Id. ¶ 9; R. December 28, 2023 hearing, p. 47, l. 15-p. 48, l. 3).

On the return trip from the jobsite, Brent noticed one of the trailer lights was out and found a metal wire had been placed over the taillight plug. (December 27, 2023 Affidavit of Brent Click, ¶ 12, R. December 28, 2023 hearing, p. 48, ll. 5-25). Brent was only able to drive a few more miles before a tire blew out. Inspection of the remaining tires showed marks as if they had been cut. (Id. ¶ 13, R. December 28, 2023 hearing, p. 49, ll. 1-19).When Brent returned

and inspected the maroon truck, he discovered the lower skid plate was missing. This plate would have to be removed to reach the engine from underneath the truck. (Id. ¶ 14). Brent also discovered all the safety pins had been removed from the steering system and a bolt had been loosened. (Id. ¶ 15, R. December 23 hearing, p. 34, l. 17-p. 36, l. 12). The ground strap for the battery had been removed and the alternator unplugged. (Id., ¶¶ 16-17). Once the truck was running, it began to smoke. The gas tank read as full, where it had previously been ¾ full. This indicated water had been added to the gas tank. (Id. ¶ 18; R. December 28, 2023 hearing, p. 43, l. 24-p. 44, l. 7).

On December 27, 2023, Brent and Shelly were leaving their shop when they noticed Thomas and other All-Tech employees pointing at their Prius and laughing. As they began driving, they saw white smoke coming from the car. Again the fuel gauge indicated more fuel than was previously in the car indicating water had been added to this gas tank as well. (December 27, 2023 Affidavit of Brent Click, ¶ 21, December 28, 2023 hearing, p. 50, l. 8-p. 51, l. 24).

[18] (December 12, 2022 Affidavit of Brent Click, ¶ 5, March 3, 2023 hearing, p. 62, l. 20-p. 67, l. 7). Brent testified that prior to the theft he observed All-Tech employees writing down the VIN numbers of the trucks and taking photos of the VIN numbers and license tags.[18] (December 12, 2022 Affidavit of Brent Click, ¶ 3; March 3, 2023 hearing, p. 60, l. 23-p. 61, l. 24, Ex. D to hearing). Following this incident, Brent found on multiple occasions that his trucks had been unlocked and the glove boxes and receipt clipboards gone through. (December 12, 2022 Affidavit of Brent Click, ¶ 4). The speed at which the truck was entered and started during the theft, as shown on security footage, suggested the truck was accessed with a key. (Id., ¶ 6; Ex. G. to March 3, 2023 hearing). Brent testified there was no broken glass at the scene following the theft. (Id.). That fact, coupled with the speed of the theft shown on the surveillance footage, indicated access to the truck with a key.

Brent was able to track the bobcat and trailer after the theft through a GPS tracker on the bobcat. (Id. ¶ 13, March 3, 2023 hearing, p. 75, l. 21-p. 76, l. 5). The truck was not with the trailer when it was recovered the next morning. (Id.). The glass on the bobcat was scratched with screwdrivers, the door handles were damaged, all visible wires had been severed and the auxiliary lights pried from the bobcat. (Id., ¶ 14; March 3, 2023 hearing, p. 77, l. 21-p. 79, l. 2). There was also evidence someone had urinated on the bobcat and the metal name plates on the trailer. (Id. ¶ 14, March 3, 2023 hearing, p. 78, ll. 14-20). The wiring for the trailer's brakes and lighting were severed and the safety equipment and tools had been taken from the trailer. (Id., ¶ 15, March 3, 2023 hearing, p. 79, ll. 14-23). The theft of an older truck while vandalizing and abandoning the more valuable bobcat and trailer indicated a personal animus towards Brent rather than an attempt to steal equipment. Brent additionally testified he saw All-Tech employee Ivester's brother driving the truck after the theft. (March 3, 2023 hearing, p. 83, ll. 4-13; p. 84, l. 24-p. 85, l. 3). (R. March 3, 2023 hearing, p. 190, ll. 18-20).

The truck was recovered four months later close to the home of All-Tech employee Ivester's father. (February 28, 2023 Affidavit of Brent Click, ¶ 49; March 3, 2023 hearing, p. 82, l. 7-p. 83, l. 2) The passenger side door of the truck had been shot repeatedly and almost all components in the cab had been broken or shot. (February 28, 2023 Affidavit of Brent Click, ¶ 54, March 3, 2023 hearing, p. 85, ll. 4-19; Ex. F. to hearing) The truck was covered in paint on both the interior and the exterior. (February 28, 2023 Affidavit of Brent Click, ¶ 55, March 3, 2023 hearing, p. 86, ll. 5-9) Welded on the front bumper was "TTGF". (February 28, 2023 Affidavit of Brent Click, ¶ 55) All-Tech employee Ivester had previously used the phrase "trying to get f*****d" when trying to provoke a fight with Brent. (February 28, 2023 Affidavit of Brent Click, ¶ 55, March 3, 2023 hearing, p. 85, l. 21-p. 86, l. 4) Later that same month an acquaintance told Brent, unprompted, that he was sorry to see what Ivester had done to his truck. (February 28, 2023 Affidavit of Brent Click, ¶ 56)

Brent observed Ivester come from the rear of the All-Tech building on September 1, 2023, and hand a trailer hitch to Thomas. (October 3, 2023 Affidavit of Brent Click, ¶ 4; R. December 28, 2023 hearing, p. 63, l. 9 – p. 64, l. 22). Brent was able to see the hitch more closely when Thomas's truck was later parked across the street. (October 3, 2023 Affidavit of Brent Click, ¶ 4). Brent recognized the hitch as the one that was inside his stolen truck in October 2022 due to the distinctive welding pattern used when he had modified the hitch with a welded cross bar several years earlier. (Id.; R. December 28, 2023 hearing, p. 63, l. 9 – p. 64, l. 22).

[19] All-Tech employees made threatening hand-to-the-throat gestures towards Brent. (February 28, 2023 Affidavit of Brent Click, ¶ 39; March 3, 2023 hearing, p. 100, ll. 12-24). All-Tech owner Thomas would walk across the Click property towards Brent in a threatening manner and then turn away at the last second. (February 28, 2023 Affidavit of Brent Click, ¶ 31). Thomas would also making a cutting gesture on his throat in a threatening manner. (March 3, 2023 hearing, p. 100, ll. 17-20).

In October of 2022, All-Tech employee Ivester rushed Brent and Shelly multiple times with a screwdriver, only to veer off at the last second and mutter threats. (February 28, 2023 Affidavit of Brent Click, ¶ 20; December 12, 2022 Affidavit of Shelly Click, ¶ 4, March 3, 2023 hearing, p. 141, l. 21-p. 42, l. 12)

F. The Lower Court Properly Awarded Reimbursement to Click

The lower court has full authority to issue a Contempt Order of $15,000 when evidence was presented that Click suffered damages as result of continued harassment and additional damage to their property since September 21, 2022, including a newly formed ditch and flooding in their workshop, as a result of Defendants' untimely failure to abate the erosion.

Civil contempt sanctions serve two functions: to coerce future compliance and to remedy past noncompliance. *Jarrell v. Petoseed Co.*, Inc., 331 S.C. 207, 209, 500 S.E.2d 793 (Ct. App. 1998) citing *United States v. United Mine Workers of Amer.*, 330 U.S. 258, 302-04 (1947). Civil compensatory contempt is designed to remedy past noncompliance.[20]

"In a civil contempt proceeding, a contemnor may be required to reimburse a complainant for the costs he incurred in enforcing the court's prior order, including reasonable attorney's fees."

On February 10, 2023 All-Tech employee Standard was following Shelly along the property line. When Shelly asked what she could do for him, he went inside All-Tech and back out with what appeared to be a gun in the front pocket of his hoodie. Standard then sat in a car parked on the Click Property line playing with the gun in his lap. (February 28, 2023 Affidavit of Brent Click, ¶ 40; March 3, 2023 hearing, p. 130, l. 23-p. 133, l. 10)

On March 17, 2023, All-Tech employee Standard fired a gun towards the Click Property in the presence of the owner, Thomas. (April 19, 2023 Affidavit of Brent Click, ¶ 5; R. December 28, 2023 hearing, p. 69, ll. 14-18).

On March 21, 2023 Brent was with a potential customer who was test driving a car for sale when they had to stop for a truck that was turning around in the road. When they stopped, All-Tech employee Ivester suddenly appeared and rushed towards the car brandishing a gun. (R. ; April 19, 2023 Affidavit of Brent Click, ¶ 6). The customer quickly drove around the truck and used the shoulder to escape. (April 19, 2023 Affidavit of Brent Click, ¶ 6; R. December 28, 2023, p. 75, l. 13-p. 76, l. 10).

On April 17, 2023 Brent observed Standard bragging to other All-Tech employees about shooting towards the Click Property. (April 19, 2023 Affidavit of Brent Click ¶ 9). All-Tech employee Ivester began using hand gestures to imitate flying drones and acted out the events that occurred when he rushed towards Brent and his customer with a gun on March 21st. (Id.).

It became common for All-Tech employees to carry pistols on the All-Tech property and to brandish them when Brent or Shelly were in view. (April 19, 2023 Affidavit of Brent Click, ¶ 7). Two employees of All-Tech threatened to put Brent and Shelly "in the ground" in front of one of their customers. (October 3, 2023 Affidavit of Brent Click, ¶ 16; R. December 28, 2023 hearing, p. 73, ll. 1-7).

On October 31, 2023 Stokes came across the All-Tech parking lot towards Brent, yelling and waiving his arms. (Id., ¶ 8). Stokes informed Brent that the Pickens County Sheriff's Department worked for him now and that he "can't make them do sh*t." He also stated that the police wanted to arrest Brent because they work for All-Tech and that Brent was going to go to jail "for being a little b**ch." Brent did not respond. (Id.).

[20] "The sanction is employed not to vindicate the court's authority but to make reparation to the injured party and restore the parties to the position they would have held had the injunction been obeyed." *Jarrell, supra,* 331 S.C. at 210 quoting *Vuitton et Fils S.A. v. Carousel Handbags*, 592 F.2d 126, 130 (2d Cir. 1979).

Poston v. Poston, 331 S.C. 106, 114, 502 S.E.2d 86, 90 (1998); see also *Miller v. Miller*, 375 S.C. 443, 463, 652 S.E.2d 754, 764 (Ct.App.2007) ("Courts, by exercising their contempt power, can award attorney's fees under a compensatory contempt theory."). The determination of the amount of the award is within the court's discretion. *Poston*, 331 S.C. at 114, 502 S.E.2d at 90.

Click presented testimony and documentary evidence in support of their damages regarding both harassment and All-Tech's failure to abate the nuisance. Click testified as to his damages in the amount of $153,721.51. (R.--- Tr. August 9, 2024 hearing, p. 138) The lower court had ample evidence to support its ruling.

Click also filed an affidavit for attorney's fees on January 5, 2024 in which fees in the amount of $22,500 were requested. The March 1st order found in favor of Click regarding All-Tech's failure to abate the nuisance and continued harassment. The order also granted Click's preliminary injunction. There is no issue on which Click did not prevail. Click's motion for an order and rule to show cause filed in December 2022 required three separate hearings, and the award of attorney's fees was entirely reasonable and appropriate.

II. THE LOWER COURT PROPERLY FOUND ALL-TECH IN CONTEMPT IN ITS OCTOBER 1, 2024 ORDER

A. All-Tech has Abandoned its Arguments

All-Tech has abandoned its arguments regarding the October 1, 2024 order by failing to cite to any law or authority in support of their argument, asking this Court to instead read their motion to reconsider filed with the lower court. *See D.R. Horton, Inc. v. Wescott Land Co.*, LLC, 398 S.C. 528, 548-49, 730 S.E.2d 340, 350-51 (Ct. App. 2012) (holding an appellant abandoned an issue by failing to cite any law or authority in support of their argument and making only conclusory arguments).

B. All-Tech's Motion to Reconsider was Untimely

All-Tech's Motion to Reconsider was untimely. Rule 59(b), SCRCP requires a Motion to be filed within 10 days of receipt of written notice of entry of the judgment. Rule 6(a), SCRCP provides that the last day of a designated time period is not computed if it is a Saturday, Sunday, or State or Federal holiday, in which case the period runs to the end of the next day which is not a Saturday, Sunday, or such holiday. The South Carolina Supreme Court issued Orders on September 30th, October 1st, and October 4th declared filing "holidays" for Friday September 27th through Wednesday, October 9th. All-Tech admitted in their motion that the October 1st order was received on October 1, 2024. (R.) Therefore, a motion to reconsider was required to be filed by Friday, October 11th. Instead, the motion was filed on October 15th, four days later. No extension was provided for this filing deadline as it did not fall on a filing "holiday." The motion was therefore, untimely.

An untimely Rule 59(e) motion does not toll the time for filing an appeal. *See Overland, Inc. v. Nance*, 423 S.C. 253, 256, 815 S.E.2d 431, 432 (2018). ("[T]he ten-day limit for serving a Rule 59(e) motion is an absolute deadline."); *See* Rule 59(f), SCRCP ("The time for appeal for all parties shall be stayed by a *timely* motion under this Rule and shall run from the receipt of written notice of entry of the order granting or denying such motions." (emphasis added)); *Overland*, 423 S.C. at 257, 815 S.E.2d at 433 ("The failure to serve a Rule 59(e) motion within ten days of receipt of notice of entry of the order converts the order into a final judgment, and the aggrieved party's only recourse is to file a notice of intent to appeal."). Therefore, All-Tech's appeal of the October 1, 2024 order is untimely and should be dismissed.

C. In the Alternative, the Lower Court had Sufficient Evidence to Find All-Tech in Contempt

Click presented clear and convincing evidence that All-Tech willfully disregarded the trial court's September 21, 2022 order.

All-Tech never ceased its attempts to harass Brent and Shelly or to sabotage their trucks and business. Among other testimony, Click presented the following:

1. Shelly observed All-Tech employee Standard motion an Amazon driver to All-Tech when he arrived at Hyper Formance on January 26, 2024. (January 29, 2024 Affidavit of Shelly Click, ¶ 3). Shelly asked the Amazon driver if the package was for them and he went and retrieved it from All-Tech. (Id. ¶ 4). Shelly was informed All-Tech had directed all packages to be delivered to All-Tech claiming the businesses were the same. (Id. ¶ 5).
2. Brent testified that All-Tech employees routinely blasted an air horn at him and his wife. (July 8, 2024 Affidavit of Brent Click, ¶ 36; August 5, 2024 Affidavit of Brent Click, ¶ 23).
3. Brent observed a drone being flown across the Click Property to frighten his pet ducks the afternoon of the February 16, 2024 hearing on the TRO. He also observed the drone attempt to enter his lower building. (August 9, 2024, p. 118, l. 15-p. 199. 1. 24). This was the second such incident involving a drone. (Id.).
4. On February 15, 2024, Brent overheard Thomas tell his counsel that he would not stop harassing Brent and Shelly stating, "He's about to leave. He's looking at other buildings. We are about to run them out." (February 16, 2024 Affidavit of Brent Click, ¶¶ 2-3). The same day Brent noticed Stokes looking towards the shop and laughing as an officer approached. The officer had been called anonymously about ducks that had been reported as mistreated and abandoned. (February 16, 2024 Affidavit of Brent Click, ¶ 5). Brent was able to show the officer that the ducks were in good health and had an appropriate living area, after which the officer left. (Id. ¶¶ 6-8).
5. In March of 2024 All-Tech employees were shouting at Shelly about how funny it would be when someone raped her. (August 5, 2024 Affidavit of Shelly Click, ¶ 2).
6. Brent testified that he continued to be blocked from exiting the property, including on March 15, 2024; May 20, 2024; June 4, 2024; June 10, 2024; and on multiple occasions by Stokes. (July 8, 2024 of Brent Click, ¶ 34; August 9, 2024 hearing, p. 115, l. 8-p. 117, l. 12). All-Tech would on occasion block both driveways preventing any vehicles from entering or exiting. (July 8, 2024 Affidavit of Brent Click, ¶ 33).
7. On February 9, 2024, Brent left his property in the white GMC truck, with the trailer attached. As he entered the highway, the truck went into neutral and he was unable to put it into gear. (February 14, 2024 Affidavit of Brent Click, ¶ 2). The truck rolled to a stop and Brent was able to climb underneath to discover the nut on the shifter bolt had been loosened. (Id. ¶ 2).
8. On February 13, 2024, Click had completed repairs on a Toyota Highlander for a customer. (Id. ¶ 3). He observed Thomas watching him and smiling. (Id. ¶ 4). Brent

then observed a gel-like substance bubbling on the car. (Id. ¶ 5). When Brent went to wipe the substance from the car, his skin began burning. (Id. ¶ 7). Brent did not have any similar substances on the property for business or personal purposes. (Id. ¶ 9). The substance was not observed on other equipment in the area or generally on the ground, indicating it was not part of a wider weather phenomena. (Id. ¶ 8). The substance was not present on the roof of the Highlander or the side facing away from the All-Tech Property, indicating it was flung onto the car from a low angle from the direction of the All-Tech Property. (Id. ¶ 12).

9. Click continued to have screws placed in the tires of its vehicles, finding them on April 29th, May 16th and 17th. (July 8, 2024 Affidavit of Brent Click, ¶ 30). The screws were always found on weekdays, never on weekends when trucks driven to job sites and All-Tech was closed. Additionally, the screws were always located on the outside edge of the tire towards the front of the truck, which is the end parked closest to the All-Tech Property. (July 8, 2024 Affidavit of Brent Click, ¶ 32).
10. On July 1, 2024 the Click's maroon truck was vandalized again. The driver's side handle and inner panel were broken and the ignition was damaged. (August 5, 2024 Affidavit of Brent Click, ¶ 27).
11. On July 25, 2024 there was a gash on one of the tires of the white GMC truck. (Id. ¶ 28). On August 8, the GMC truck would not start. When Brent inspected the truck, he discovered water had been added to the gas tank. (August 9, 2023 hearing, p. 112, l. 7-p. 113, l. 5).
12. Brent testified that on March 26, 2024 Stokes was standing on the Click Property yelling about killing Brent. (July 8, 2024 Affidavit of Brent Click, ¶ 35).
13. Brent testified that on May 29, 2024 and again on June 3, 2024, All-Tech employee Standard threatened him by intentionally lifting his shirt to show he had a gun. (July 8, 2024 Affidavit of Brent Click, ¶ 37).
14. The physical threats against Brent escalated until July 2, 2024, when shots were fired at Brent at close range while he was riding his motorcycle. (July 8, 2024 Affidavit of Brent Click, ¶¶ 6-8). Brent was approached by a red Durango from behind. (Id. ¶ 6). The Durango began chasing Brent at a high rate of speed. (Id., ¶ 6; R. August 9, 2024 hearing, p. 93, l. 14-p. 94, l. 1). The Durango was so close at one point that Brent's license plate was over part of the bumper of the Durango. (R. August 9, 2024 transcript, p. 91, ll. 20-24). Brent swerved to escape the Durango. (August 9, 2024 hearing, p. 94, ll. 6-11). As the Durango began to pass Brent, he heard a loud bang and turned to face the barrel of a gun outside the driver's side window. (Id., ¶ 7; R. August 9, 2024 hearing, p. 94, ll. 19-24). Brent applied his brakes and the gun fired directly in front of his face, inches away. (Id.). Brent was able to see the shooter briefly and observed a bracelet like that he had seen an All-Tech employee, Stokes, wear. (Id. ¶ 8; R. August 9, 2024 hearing, p. 94, l. 23-p. 95, l. 5). He also observed a shirt the same color and style as that worn by All-Tech employees. (August 9, 2024 hearing, p. 95, ll. 8-14). Stokes approached Brent after the shooting and said he would never be able to prove it was him, prior to Brent making the event generally known. (August 9, 2024 hearing, p. 100, ll. 108).
15. Brent testified to his continuing damages as a result of All-Tech's actions. (R. August 9, 2024 hearing, p. 137, l. 1-p. 138, l. 24).

Brent also presented evidence that instead of abating the nuisance, All-Tech built a ramp to its upper parking lot that did not comply with the design of its own expert. All-Tech resumed digging for the retaining wall over Memorial Day Weekend in 2024 despite the fact that its permit had expired. (July 8, 2024 of Brent Click, ¶ 19). All-Tech ignored the requirements of its own engineer and constructed an inclined driveway between the retaining wall and the embankment of the Click Property despite the fact the engineering plan stated there was to be no surcharge load within 10 feet of the wall. (R. Pl. Ex. 10 to August 9, 2024 hearing; August 9, 2024 hearing p. 71, ll. 20-22). Thomas admitted the structural fill was not tested by a geotechnical engineer as called for in the wall plan prepared by his own expert. (Pl. Ex. 10 to August 9, 2024 hearing; August 9, 2024 hearing, p. 69, ll. 13-23).

All-Tech's engineer (Hood) testified in December of 2023 that the location of the Click driveway within 10 feet of the wall would not comply with the design. (R. December 23, 2023 hearing, p. 152, l. 10-p. 153, l. 12). This was reiterated by Click's expert, David Hall, at the February 2024 hearing. (R. February 16, 2024 hearing, p. 51, ll. 5-7, p. 55, ll. 1-7). All-Tech was therefore aware it could not use Hood's design to build a driveway beside the wall. They proceeded to build the non-compliant driveway anyway.

When All-Tech started digging directly into the embankment that supports the Click's gravel driveway, Brent asked to see the supporting permit and engineering drawings. (August 5, 2024 Affidavit of Brent Click, ¶ 17). None were provided. (Id.). Alarmed that All-Tech's actions were causing additional damage to his property, Brent called the Pickens County Sheriff's Office so they could determine if a proper permit had been obtained. (Id.). This digging caused Brent to suffer new damage to his back building and the cliff next to his gravel driveway. (August 9, 2024 hearing, p. 132, l. 7-p. 136, l. 5; ¶ 20; August 5, 2024 Aff. of David Hall).

As set forth in Click's initial brief, the lower court should not have found them to be in contempt as All-Tech set about to systematically harass Brent and Shelly in an effort to goad them into a response that All-Tech could present to the lower court.

The lower court did not err in finding All-Tech in contempt of the September 21, 2022 order.

CONCLUSION

The lower court properly found in its March 1, 2024 and October 1, 2024 orders that All-Tech willfully violated the September 21, 2022 order requiring them to abate the nuisance they created and to refrain from harassing Click. Click provided sufficient evidence to support the lower court's orders. Respondents respectfully request this Court affirm the March 1, 2024 order and the October 1, 2024 order to the extent it finds All-Tech in contempt. As set forth in its initial brief, Click respectfully requests this Court to reverse the October 1, 2024 order to the extent it finds Click in contempt.

Respectfully submitted,

May 29, 2025

Bradford N. Martin, Esq., SC Bar No. 3658
Gwendolyn G. Martin, Esq., SC Bar No. 1897
Laura W. H. Teer, Esq., SC Bar No. 16698
BRADFORD NEAL MARTIN & ASSOCIATES, PA
Post Office Box 10410
Greenville, South Carolina 29603
(864) 552-9990
ATTORNEYS FOR RESPONDENTS-APPELLANTS CLICK PROPERTIES, LLC and HYPER FORMANCE, LLC

RECEIVED
May 29 2025
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM PICKENS COUNTY
Court of Common Pleas

G. D. Morgan, Circuit Court Judge

Case No. 2020-CP-39-00266

Appellate Case No. 2024-000870

Click Properties, LLC and Hyper Formance, LLC ..... Respondents-Appellants,

v.

Thomas SC Properties, LLC and All-Tech Tire and Auto Repair, LLC .. Appellants-Respondents.

PROOF OF SERVICE

I, Peggy McComb, certify that I have served a copy of Respondents'-Appellants' Initial Reply Brief *via email* and by depositing a copy in the U.S. Mail, sufficient first class postage prepaid, on May 29, 2025 addressed to:

Scarlet Bell Moore, Esq.
P.O. Box 17615
Greenville, SC 29606
Scarlet28@msn.com

May 29, 2025

Peggy McComb, Legal Assistant to
Bradford N. Martin, Esq. (SC Bar No. 3658)
Laura W. H. Teer, Esq. (SC Bar No. 16698)
BRADFORD NEAL MARTIN & ASSOCIATES, PA
Post Office Box 10410
Greenville, South Carolina 29603
864.552.9990