THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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APPEAL FROM GREENVILLE COUNTY
PERRY H. GRAVELY, CIRCUIT COURT JUDGE



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Appellate Case No. 2025-000366
Civil Action No. 2022-CP-23-04055

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Stacey Grist as Agent under a Power of Attorney for Stanford W. Grist and as Trustee of the Second Amended Trust of Stanford W. Grist living Trust dated December 5, 2005, Stanford Grist Veterinary Services, LLC, Chestnut Ridge Farm, LLC, And Hilly Street, LLC,..... Appellants,

v.

Priscilla Mickie Grist, Caroline York Grist Lyon, Leyland H. Lyon, Jr., Jennifer Browning, Browning Geriatrics Consulting, LLC, Tracy Parson, Kiki's Kare, LLC d/b/a Comfort Keepers, Erin Couchell Individually and as a member of Kiki's Kare, Chris Couchell individually and as a member of Kiki's Kare, LLC, and Kerry Burnett McCreary, Defendants,

Of which Jennifer Browning, Browning Geriatrics Consulting, LLC, Tracy Parsons, Kiki's Kare d/b/a Comfort Keepers, Erin Couchell Individually and as a member of Kiki's Kare, Chris Couchell Individually and as a member of Kiki's Kare, LLC are the, ..... Respondents.

s/Kimberly Thomason
Kimberly T. Thomason
SC Bar No.: 70179
Devon M. Puriefoy
SC Bar No.: 102097
TRULUCK THOMASON, LLC

s/Desa Ballard
Desa Ballard
SC Bar No.: 498
Haley Hubbard
SC Bar No.: 74053
BALLARD & WATSON

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1. Did the Circuit Court err in granting summary judgment even though genuine issues of material fact existed?

2. Did the circuit court err in granting Respondent Comfort Keepers' Motion for Summary Judgment despite discovery having not been completed?

## STATEMENT OF THE CASE

This is an appeal of three separate orders granting summary judgment in favor of Respondents in an action seeking to recover damages sustained by Dr. Stanford W. Grist (hereafter "Dr. Grist"), following probate proceedings initiated by a disgruntled daughter (Defendant Prescilla Mickie Grist) after learning Dr. Grist significantly reduced her inheritance. [01/06/2025 Orders for Respondents Browning Parsons, and Comfort Keepers, respectively]. In sum, the lower Court concluded (1) Respondents Browning and Parsons were each entitled to quasi-judicial immunity, thus barring Appellant's negligence/gross negligence claim; (2) Respondent Comfort Keepers was not negligent or grossly negligent in its handling of allegations of sexual misconduct by one of its employees; (3) Appellant failed to prove negligent, hiring, supervision, and training; and (4) Appellant failed to present sufficient evidence establishing a conspiracy as to Respondents Browning and Parsons.

On August 1, 2022, Stacey Grist, the Appellant here, filed a civil action in the Court of Common Pleas of Greenville County against Priscilla Mickie Grist, Caroline York Grist Lyon, Leyland H. Lyon, Jr., Jennifer Browning, Browning Geriatrics Consulting, LLC, Tracy Parson, Kiki's Kare, LLC d/b/a Comfort Keepers, Erin Couchell Individually and as a member of Kiki's Kare, Chris Couchell individually and as a member of Kiki's Kare, LLC, and Kerry Burnett McCreary alleging claims of (1) Abuse of Process; (2) Civil Conspiracy; (3) Violation of South Carolina Unfair Trade Practices Act; and (4) Intentional Interference with Business Contract – as to Respondent Prescilla Mickie Grist and Caroline Lyon only [08/01/2022 Summons and Complaint]. An Answer was filed denying liability and raising various affirmative defenses by each named Defendant except Defendant McCreary. [Answers of each Defendant].

On August 15, 2022, Appellant filed an Amended Summons and Complaint, again naming each Defendant while adding additional claim(s) of Negligent Hiring, Training, and Supervision against Respondents Kiki's Kare, Tracey Parsons, Jennifer Browning, Browning Geriatrics Consulting, LLC, Eric Couchell, and Chris Couchell. [08/15/2022 Amended Summons and Complaint]. All Defendants, less Defendant McCreary, filed Answers. [Answers to Amended Summons and Complaint of each Defendant].

A final Second Amended Complaint was filed against each of the named Defendants asserting an additional claim of Negligence/Gross Negligence on January 29, 2024. [01/29/2024 Second Amended Summons and Complaint]. Again, all named Defendants less Defendant McCreary filed Answers. [Answers to Second Amended Summons and Complaint].

The gravamen of Appellant's allegations was the use of the probate court process by the Defendants/Respondents to (1) circumvent Stanford W. Grist's well thought out and extensive estate plan; and (2) ensure the continuation of the guardianship proceedings to ensure each of their respective financial gain. *Id.*

Following the January 6, 2025, Orders granting Respondents' respective Motions for Summary Judgment, Appellant filed Motions to Alter and Amend each Order granting summary judgment dated January 16, 2025. [01/16/2025 Motions to Alter and Amend]. On January 30, 2025, the Circuit Court denied each of Appellant's Motions to Alter and Amend. [Orders denying Motions to Alter and Amend].

Respondents were each served with their respective Notice of Appeal on or about February 27, 2025. Following the separate notices of appeal, the Court of Appeals forwarded a correspondence dated February 28, 2025, consolidating the three Notices of Appeal. However, since the

factual basis as to summary judgment as to each Respondent is slightly different, each is addressed separately in the Argument section of this [initial] brief.

Defendants who are not respondents in this appeal:

- Priscilla Mickie Grist (an adult daughter of Dr. Grist).
- Caroline York Grist Lyon (another adult daughter of Dr. Grist).
- Leyland Lyon (son-in-law of Dr. Grist, married to Caroline).
- Kerry McCreary (employee of Kiki's Kare who sexually assaulted Dr. Grist).

## STATEMENT OF FACTS

In 2005 while being involved daily in the operation of his veterinary practice, active, agile and intellectually intact, Dr. Grist took extensive steps with the assistance of estate planning counsel to produce a detailed estate plan that would also provide for any eventuality that might arise in the future, including his death. [Stanford W. Grist Revocable Trust (the "Trust")]. He created a trust; appointed a health care power of attorney (HCPOA) and a durable power of attorney (DPOA) in the event he needed help as he aged. As circumstances with his business changed[1], Dr. Grist again employed counsel to update his plans, removing Defendants Leland Lyon and Caroline York Grist Lyon and appointing his daughter, Appellant Stacey Grist as successor trustee of his trust after himself as primary trustee [First Trust Amendment]. In 2019, Dr. Grist went to a well-respected estate planning lawyer in Greenville, South Carolina and updated his HCPOA to name his

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1 Dr. Grist learned that Leyland and Caroline, who lived in Georgia and to whom he had entrusted the financial end of his practice, had failed to properly oversee the finances of his practice, which led to litigation awarding Dr. Grist $200,000.00 in judgment for unfair trade practices, injunctive relief and other relief against a former employee (office manager/employee) who was supposed to be supervised by Leyland and Caroline. *See* Stanford Grist Veterinary Services LLC v. Judy Tabor and James Ratliffe, Case No. 2005-CP-23-4213-R. (Order of Circuit Court Judge G. Edward Welmaker dated September 2, 2007).

daughter Defendant Mickie Prescilla Grist. [Affidavit of Chace Campbell]. Shortly thereafter[2], he also amended his DPOA to name Stacey to act in his stead if he was unable. [[February 19, 2019, Durable Power of Attorney]. On or about May 13, 2020, just over a year later, Dr. Grist amended his estate planning documents once more which was intended to represent the final disposition of his property after his death, while leaving Stacey in place as successor trustee. [Second Trust Amendment]. The lawyer who made these amendments also had Dr. Grist evaluated for competency, and Dr. Grist was found to be of sound mind. [Affidavit of James Stone Craven]. The Second Amendment reduced the post-death distributions to his daughter Defendant Prescilla Mickie Grist. [Second Trust Amendment]. These amendments were subsequently explained to Defendant Prescilla Mickie Grist.

Angered by her discovery of Dr. Grist's amendments to his Trust, Defendant Mickie Prescilla Grist resigned her position as HPOA and undertook a course of action intended to ensure her post-death inheritance be restored back to its pre-2020 status.

In July of 2020, Defendant Prescilla Mickie Grist filed a petition seeking the appointment of a guardian, in direct violation of Dr. Grist's estate plan by falsely claiming Dr. Grist had no estate document and that he suffered from dementia (while going to work daily). [July 9, 2020, Petition].

Without notice to him or even requiring his appearance, the probate court found Dr. Grist to be incapacitated, and appointed Defendant Prescilla Mickie Grist as temporary guardian. [Order Appointing Prescilla Mickie Grist]. Shortly thereafter, Defendant Prescilla Mickie Grist resigned

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2 The estate planning attorney very astutely had Dr. Grist evaluated for competency prior to the 2019 amendments and Dr. Grist naturally passed with flying colors; he was still actively practicing veterinary medicine and overseeing multiple clinics for many years.

her position as temporary guardian, and the Probate Court appointed Respondents Browning and Parsons as professionals to provide care for Dr. Grist. [Order of Appointment of Professionals]. These "professionals" retained Comfort Keepers and began round-the-clock "care" of Dr. Grist. [Comfort Keepers Client Care Agreement]. Their "care" resulted in imprisonment of Dr. Grist in his home, a sexual assault of Dr. Grist by one of his "caretakers", overmedication of Dr. Grist, and finally, permanent brain damage. By way of example, these "professionals" installed over $100,000.00 worth of fencing around Dr. Grist's beloved farm under the guise of Dr. Grist being a flight risk. In truth, what led to the installation of the referenced fence was Dr. Grist attempting to drive himself to his veterinary clinic as he had done for the past 40+ years because he simply could not believe his entire life had been stripped from him.

Stacey finally successfully wrestled control from the Respondents and filed this action for damages against the wrongdoers [Common Pleas Power of Attorney Summary Judgment Order] and now cares for him with the assistance of workers who were not hired by the so-called "professionals."

## ARGUMENT OF APPELLANT TO RESPONDENT BROWNING

### I. It was Error to Have Granted Defendant Browning's Motion for Summary Judgment on Any Ground.

#### A. Standard of Review

"An appellate court reviews the granting of summary judgment under the same standard applied by the trial court pursuant to Rule 56(c), SCRCP: Summary judgment is properly upheld when there is no genuine issue as to any material fact and the moving party is entitled to a judgment as a matter of law." *Peterson v. W. Am. Ins. Co.*, 336 S.C. 89, 94 (Ct. App. 1999) (citations omitted). The non-moving party is entitled to the benefit of "all ambiguities, conclusions, and

inferences arising in and from the evidence...." *Willis v. Wu*, 362 S.C. 146, 151 (2004) (citation omitted). Even where the parties agree on the relevant facts, just not the conclusions that flow from them, summary judgment is inappropriate. *Nelson v. Charleston Cty. Parks & Rec. Comm'n*, 362 S.C. 1, 5 (Ct. App. 2004) (citation omitted).

**B. Statement of Additional Facts**

Between February and May of 2019, Dr. Grist amended his Durable Power of Attorney and Second Amended Trust of Stanford W. Grist Dated December 5, 2005, to name Stacey Grist has his attorney-in-fact and successor trustee, respectively, in the event of his incapacity. [February 19, 2019, Durable Power of Attorney] [May 1, 2019 Trust Amendment]. In the fall of 2019, after having made Defendants Prescilla Mickie Grist, Caroline Lyon, and Leyland Lyon aware of the changes to his estate plan, Dr. Grist found himself on the receiving end of an anonymous complaint with the South Carolina Labor Licensing and Regulation ("LLR") board in which the complainant questioned Dr. Grist's ability to continue to perform veterinary services. [*See* Appellant's Memorandum in Opp. to Resp. Browning's Motion for Summary Judgment p. 5]. In early 2020, the LLR investigation was closed, and the allegations of incapacity were deemed unfounded. [*See* Appellant's Memorandum in Opp. to Resp. Browning's Motion for Summary Judgment p. 5].

In response to the unwarranted and unsupported allegations of the LLR Complaint, Dr. Grist sought the assistance of a highly respected attorney to include additional amendments to his Trust, but only after submitting to an independent medical evaluation by a disinterested third-party. [May 13, 2020, Trust Amendment]. The 2020 amendment divested Defendant Mickie Prescilla Grist of any ownership interest she had in Stanford Grist Veterinary Services, LLC, Chestnut Ridge Farm, LLC (the real estate entity holding the nearly 400 acres of real property upon which Dr. Grist's

home was located), and Hilly Street, LLC (the real estate entity holding the real property upon which Stanford Grist Veterinary Services, LLC operated). [May 13, 2020, Trust Amendment].

On July 9, 2020, a mere two months after Dr. Grist's fairly significant amendments to this Trust, Defendant Prescilla Mickie Grist petitioned, on an *ex parte* basis, for the appointment of herself to serve as Dr. Grist's guardian in direct violation of his Durable Power of Attorney. [July 9, 2020, Petition] [February 19, 2019, Durable Power of Attorney]. Despite directives to the contrary, by *ex parte* order dated July 13, 2020, Defendant Prescilla Mickie Grist was named Dr. Grist's temporary guardian. [July 13, 2020, *Ex Parte* Order of Appointment]. With the consent of all Defendants, Defendant Prescilla Mickie Grist was ultimately removed as temporary guardian and Respondent Parsons was appointed, with Respondent Jennifer Browning and Browning Geriatrics Consulting, LLC (collectively "Respondent Browning") subsequently being named Guardian Ad Litem. [Order of Appointment – Tracy Parsons] [Order of Appointment – Jennifer Browning]. From the outset it became clear that Respondent Parsons was running the show, and all communications and decisions were to flow through her, regardless of what Dr. Grist's estate plan called for. [Depo. Christopher Couchell p. 69:6-9].

Over the coming years, Respondent Browning and her Co-Defendants/Co-Respondents used these probate filings, and their respective subsequent appointments to exercise complete control over Dr. Grist's person and finances, in an attempt to assist with the re-writing of Dr. Grist's estate plan, even going as far to using Trust assets that could never be part of Dr. Grist's probate estate, to pay each of these appointment "professionals."

Respondent Browning was directly involved in these attempts through the submissions of numerous reports to the Greenville County Probate Court which contained on many occasions knowingly false, inaccurate, or intentionally misleading information, all geared towards ensuring the

continuance of the guardianship action. [Reports of Respondent Browning]. By way of example and not limitation, Respondent Browning testified to speaking to Respondent Prescilla Mickie Grist on no less than thirty-four (34) occasions following her appointment, in an effort to "...provide support..." to Respondent Prescilla Mickie Grist in furtherance of her endeavors, i.e. have Dr. Grist's estate plan rewritten - while at the same time carefully tailoring her filings in an attempt to avoid triggering the Trusts no contest clause – in an effort to ensure her inheritance reverted back to is pre May 13, 2020 status. [Depo. of Respondent Browning p. 137:4-21].

### C. Summary Judgment was Improper as to Appellant's Claim of Negligence/Gross Negligence.

The Circuit Court erred in finding, as a matter of law, that Respondent Browning was entitled to quasi-judicial immunity because "Plaintiffs have failed to produce evidence or testimony that **any** actions taken by Browning were outside of her scope of duties as the guardian ad litem" [*See* Respondent Browning's 10/10/2024 Memo. in Support of Summary Judgment] [*See* 01/06/2025 Order Granting Respondent's Motion for Summary Judgment].

Although court-appointed guardians are generally afforded absolute quasi-judicial immunity from civil liability, this immunity is not blanket protection for all actions taken by a guardian, and actions performed outside the scope of their appointment are still subject to liability. *See Falk v. Sadler,* 341 S.C. 281, 533 S.E.2d 350 (Ct. App. 2000). Falk states that "[i]t is the nature of the acts, not simply the status of the defendants as guardian ad litem, that determines the availability of immunity for the challenged acts and the extent of protection afforded by that immunity." *Id.* In Falk, the Court found that Falk's complaint contained several allegations which, if true, would show the guardian acted outside the scope of her duties and thus is not entitled to immunity. *Id.*

Contrary to Respondents suggestion that no testimony exists demonstrating "...that any actions taken by Browning were outside her scope of duties..." the Court need look no further than Respondent Browning's own admissions. On May 1, 2024, Respondent Jennifer Browning's deposition was taken, and when asked "...Emails and telephone communications to and from Mickie [Respondent Prescilla Mickie Grist] to provide support. Is it your job to support her? I thought you were independent. Is it your job to support her?" Respondent Jennifer Browning replied, "It's not my job to." [Depo. of Respondent Browning p. 151; 9-18]. The degree of the harm caused by the conduct is a separate consideration; for purposes of the summary judgment motion presented to the lower Court, it cannot be concluded that Respondent Browning engaged in "no" conduct that fell beyond her scope of duties, as she freely admitted to engaging in activities that were not her "job". *Id.*

Summary judgment "is a drastic remedy...[and] should be cautiously invoked to ensure that a litigant is not improperly deprived of a trial on disputed factual issues." *Helena Chem. Co. v. Allianz Underwriters Ins. Co.*, 357 S.C. 631, 644 (2004) (citation omitted). That judicial hesitation ought to be doubly strong where the party moving for summary judgment, by their own admissions, establish the existence of a genuine issue of material fact. "[G]ross negligence is a mixed question of law and fact and should be presented to the jury unless the evidence supports only one reasonable inference." *Worsley Cos. v. Town of Mount Pleasant*, 339 S.C. 51, 57, 528 S.E.2d 657, 661 (2000) (citing *Clyburn v. Sumter County School Dist.* # 17, 317 S.C. 50, 451 S.E.2d 885 (1994)).

For the foregoing reasons Appellant believes the Circuit Court erred in its grant of summary judgment as to Respondent's claim of Negligence/Gross Negligence.

**D. Summary Judgment was Improper as to Appellant's Claim of Conspiracy.**

"A civil conspiracy is a combination of two or more parties joined for the purpose of injuring the plaintiff and thereby causing special damage." (citation omitted). The "essential consideration" in civil conspiracy "is not whether lawful or unlawful acts or means are employed to further the conspiracy, but whether the primary purpose or object of the combination is to injure the plaintiff." *Pye v. Estate of Fox*, 369 S.C. 555, 567, 633 S.E.2d 505, 511 (2006).

Below, the Court erroneously held that Appellant (1) failed to produce or identify evidence or testimony to establish that Browning did anything other than appropriately communicate and correspond with the other Defendants..."; (2) failed to provide actual evidence to support the combination or agreement of the parties to conspiracy; (3) failed to provide any compelling evidence that the parties conspired to commit an unlawful act by unlawful means, together with the commission of an overt act in furtherance; and (4) failed to show the primary purpose of the conspiracy was to injury the Plaintiff. [01/06/2025 Order Granting Respondent Browning's Motion for Summary Judgment].

As to the existence of a genuine issue of material fact as to whether Browning did anything other than appropriately communicate and correspond with other Defendants, the Court need look no further than Respondent Browning's own admissions. Following her appointment, Respondent Browning became a critical part of Defendant Prescilla Mickie Grist efforts to gain control over her father and his estate. Despite argument to the contrary, whether Respondent Browning benefited directly from any amendment to Dr. Grist's estate planning is of no consequence and does not drill down on the gravamen of Appellant's argument which is all Defendants/Respondents stood to benefit financially from Defendant Prescilla Mickie Grist's ongoing challenge to Dr. Grist's estate. [Fee Affidavit of Respondent Browning].

Respondent Browning testified to speaking to Respondent Prescilla Mickie Grist on no less than **thirty-four (34)** occasions -while speaking to Appellant and trustee/durable power of attorney on two occasions - following her appointment, in an effort to **"...provide support..."** to Respondent Prescilla Mickie Grist in furtherance of her endeavors, i.e. have Dr. Grist's estate plan rewritten - while at the same time carefully tailoring her filings in an attempt to avoid triggering the Trusts no contest clause – in an effort to ensure her inheritance reverted back to is pre May 13, 2020 status. [Depo. of Respondent Browning p. 137:4-21]. When questioned about whether it was her job to "provide support" to Defendant Prescilla Mickie Grist, Respondent Browning very clearly testified it was not. *Id.*

Although unnecessary to demonstrate the clear existence of a genuine issue of material fact, by way of further example, Respondent Browning also testified about other communications that were far from "appropriate" including discussions with Respondent Parsons about the sexual assault of Dr. Grist, testifying that "...everything was reported to the Court except that one incident." [Depo. of Respondent Browning 200: 21-25]. To suggest discussions concerning the sexual assault of an alleged incapacitated individual, and the ultimate election to intentionally conceal the same from the probate court – presumably to ensure to continuation of the guardianship process and the fees that were being paid as a result of the same, which most certainly would have ended or resulted in the removal of certain professionals if reported – constitutes appropriate communication with her Co-Defendants/Respondents is both a legal and factual fallacy.

Appellant would also argue, respectfully, that the January 6, 2025, Order incorrectly set a requirement that Appellant not only prove the existence of a conspiracy, but also present "compelling evidence" of the same, rather than present some evidence that there existed a genuine issue of material fact. [01/06/2025 Order Granting Respondent Browning's Motion for Summary

Judgment]. "At the summary judgment stage of litigation, the court does not weigh conflicting evidence with respect to a disputed material fact." *S.C. Prop. & Cas. Guar. Ass'n v. Yensen*, 345 S.C. 512, 518, 548 S.E.2d 880, 883 (Ct. App. 2001). In fact, the lower Court's holding that the evidence presented by Appellant in opposition to Respondent Browning's Motion for Summary Judgment was not "compelling" enough, as it relates to demonstrating Respondent Browning conspired to commit an unlawful act by unlawful means, together with the commission of an overt act in furtherance, appears to create a heightened burden which can only be satisfied via the submission of direct (i.e. more compelling) evidence of the alleged conspiracy. This is patently incorrect. "Civil conspiracy is an act which is by its very nature covert and clandestine and usually not susceptible of proof by direct evidence. . . " *Island Car Wash, Inc. v. Norris,* 292 S.C. 595, 599, 358 S.E.2d 150, 152 (Ct. App. 1987).

Rather, each of the pieces of circumstantial evidence introduced [by Appellant] constitutes a link in the chain of proof that cumulatively established the existence of a genuine issue of material fact as to Respondent Browning's liability. *Rhodes v. Granby Cotton Mills*, 87 S.C. 18, 28, 68 S.E. 824, 828 (1910). This is usually the case – as it is here - where an issue depends on circumstantial evidence. *Id.*

Appellant presented the following evidence as part of the chain of events to the Circuit Court, each, collectively or individually, that create a genuine issue of material fact concerning the four (4) grounds noted above that the lower Court relied on in its grant of Respondent Browning's Motion for Summary Judgment:

1. Defendant Prescilla Mickie Grist petitions on an *ex parte* basis to have her father deemed incapacitated and seeks the appointment of a guardian and conservator in

violation of his established estate plan. [July 9, 2020, Petition] [February 19, 2019, Durable Power of Attorney].

2. Defendant Prescilla Mickie Grist's continuous efforts to modify the terms of Dr. Grist's estate plan by ensuring the guardianship proceedings continue so as to permit negotiations of estate document amendments in exchange for the future release of the guardianship proceeding.
3. Appointment of Respondent Parsons as guardian for Dr. Grist in direct violation of his established estate plan. [February 19, 2019, Durable Power of Attorney] [Order of Appointment – Tracy Parsons].
4. Appointment of Respondent Browning as guardian ad litem in direct violation of Dr. Grist's established estate plan. [February 19, 2019, Durable Power of Attorney] [Order of Appointment – Jennifer Browning]. Following her appointment, Respondent Browning became a critical part of Defendant Prescilla Mickie Grist efforts to gain control over her father and his estate. Respondent Browning testified to speaking to Respondent Prescilla Mickie Grist on no less than thirty-four (34) occasions following her appointment, in an effort to "...provide support..." to Respondent Prescilla Mickie Grist in furtherance of her endeavors, i.e. have Dr. Grist's estate plan rewritten - while at the same time carefully tailoring her filings in an attempt to avoid triggering the Trusts no contest clause – in an effort to ensure her inheritance reverted back to is pre May 13, 2020 status. [Depo. of Respondent Browning p. 137:4-21].
5. Respondents Parsons and Browning placing and overseeing Respondent Comfort Keepers in their capacity as full-time live in care givers to Dr. Grist in direct violation

of his established estate plan. [February 19, 2019, Durable Power of Attorney] [Comfort Keepers Contract].

6. Respondent Parsons ordering Appellant to execute the contract for services with Respondent Comfort Keepers in Appellant's capacity as trustee of Dr. Grist's Trust, thus binding the Appellant, and by extension Dr. Grist's trustee – despite all funds contained therein being wholly separate and distinct from the almost non-existent estate assets being overseen by Respondents Parsons and Browning - in contract to pay Respondent Comfort Keepers, despite Respondent Parsons directives to Respondent Comfort Keepers that they are to take orders exclusively from her. [Comfort Keepers Contract] [Depo. of Christopher Couchell p. 128:24-25] [Depo. of Appellant p. ....]
7. Respondent Parson's approval of and directives to Appellant to pay over $300,000.00 thousand dollars to Respondent Comfort Keepers from Trust assets that were not subject to the guardianship proceeding despite objection to the same. [Depo. of Christopher Couchell p. 86:21-25] [Depo. of Appellant p. ....].
8. Respondent Browning's submissions of knowingly false reports to the Probate Court which ensured the continuance of the guardianship proceedings. [Depo. of Respondent Browning p. 172:4-25]
9. Respondent Parson's discovery that Dr. Grist was sexually assaulted by an employee of Respondent Comfort Keepers and subsequent failure to report the same to the Probate Court, instructing Respondents Browning and Comfort Keepers that it was best to "let sleeping dogs sleep." [Comfort Keepers Internal Notes]

10. Respondent Browning's discovery that Dr. Grist was sexually assaulted by an employee of Respondent Comfort Keepers and subsequent failure to report the same to the Probate Court as Dr. Grist's guardian ad litem.
11. Respondent Browning's submission of recommendations to extend Dr. Grist's guardianship to former probate judge Clayton Jennings, while intentionally omitting to Appellant and her counsel that Clayton Jennings was actively representing Respondent Browning in a Laurens County Probate matter wherein Respondent Browning was being accused of engaging in the very same conduct alleged in the instant matter. [Answer of Jennifer Browning filed in Laurens County Probate].
12. Respondent Browning's petition to her attorney and then acting probate court judge Clayton Jennings to approve over $15,000.00 in guardian ad litem costs to be paid by Dr. Grist's Trust. [Order Approving Fees].

The chain of conduct set forth above barely scrapes the surface of what has been alleged by way of a conspiracy against the Respondents, yet even those few facts, when strung together, make clear that Respondent Browning's election to view the conspiracy claim in a vacuum is misplaced. In considering circumstantial evidence, even if no single fact is sufficient to establish, prima facie, a conspiracy, nevertheless, when several circumstances are considered together, they may have such effect. *Rhodes v. Granby Cotton Mills*, 87 S.C. 18, 28, 68 S.E. 824, 828 (1910).

Therefore, Appellant would respectfully submit that the Circuit Court erred in holding that Appellant provided no evidence, direct or circumstantial, which created the existence of a genuine issue of material fact.

## II. It was Error for the Circuit Court to Grant Respondent Browning's Motion for Summary Judgment Prior to the Conclusion of Discovery.

**E. Standard of Review**

"An appellate court reviews the granting of summary judgment under the same standard applied by the trial court pursuant to Rule 56(c), SCRCP: Summary judgment is properly upheld when there is no genuine issue as to any material fact and the moving party is entitled to a judgment as a matter of law." *Peterson v. W. Am. Ins. Co.*, 336 S.C. 89, 94 (Ct. App. 1999) (citations omitted). The non-moving party is entitled to the benefit of "all ambiguities, conclusions, and inferences arising in and from the evidence...." *Willis v. Wu*, 362 S.C. 146, 151 (2004) (citation omitted). Even where the parties agree on the relevant facts, just not the conclusions that flow from them, summary judgment is inappropriate. *Nelson v. Charleston Cty. Parks & Rec. Comm'n*, 362 S.C. 1, 5 (Ct. App. 2004) (citation omitted).

**A. Additional Facts**

As part of the discovery process in the underlying litigation, Appellant served a Notice of Deposition on Respondent Parsons, setting the same for May 22, 2024. [02/27/2024 Notice of Deposition].[3] However, between the date of Appellant's deposition notice to Respondent Parsons and the deposition itself, Appellant engaged the below signed counsel along with attorneys Paul Hulsey and Cherie Durand to name each Defendant as co-collaborators in a separate and legally distinct federal action for violations of the Organized Crime Control Act of 1970. Pub.L.No. 91-452, Title IX, "Racketeer Influenced and Corrupt Organizations Act" ("RICO") (Codified at 18

[3] Although these set of facts deal specifically with discovery motions and orders concerning the deposition of Respondent Parsons and not Respondent Browning, this Court's determination as to the appropriateness or inappropriateness of Respondent Browning's Motion for Summary Judgment is contingent upon a determination of whether discovery was still ongoing for purposes of, at a minimum, establishing the conspiracy related to both parties, thus rendering the lower Court's Order an abuse of discretion.

U.S.C. §§ 1961-1968) along with common law claims. As a direct result of this engagement, counsel for Appellant served on each of the named Defendants and alleged co-conspirators a notice of representation informing each of the forthcoming federal court filing.

On May 21, 2024, the day before the state court deposition, counsel for Respondent Parsons notified Appellant that "...we are postponing the deposition of Tracy Parsons. We are not going to voluntarily agree to potentially expose her to two depositions...." On even date with the email, counsel for Respondent Parsons sought an order of protection seeking, *inter alia*, a determination of whether Respondent Parsons would be required to sit for a deposition during the pendency of both the state court action and forthcoming federal action. [05/21/2024 Motion for Order of Protection].

Between the filing of Respondent Parson's Motion for Order of Protection and a hearing on the same, Appellant's counsel filed with the South Carolina District Court, Greenville Division, a RICO complaint against each of the named Defendants. On August 2, 2024, Appellant filed a Motion to Stay the state court proceedings pending conclusion of the federal court action. [08/02/2024 Motion to Stay].

At the conclusion of Respondent Parson's motion hearing the Honorable G.D. Morgan, Jr. of the Greenville County Court of Common Pleas issued an Order rendering moot Respondent Parson's Motion for Order of Protection given the pendency of the Motion to Stay. [08/09/2024 Order].

On September 11, 2024, Appellant's Motion to Stay was denied. [09/11/2024 Order]. On September 12, 2024, Respondent Kiki's Kare, LLC ("Comfort Keepers") served a Notice of Deposition on Tracy Parsons, setting the deposition for September 30, 2024. [09/12/2024 Notice of Deposition]. This was later amended to move the deposition to October 9, 2024. Unlike with

Appellant's notice, counsel for Respondent Parsons offered no objection; however, Respondent Parson's Motion for Order of Protection was still being held in abeyance and was never withdrawn as to Appellant noticed intent to depose Respondent Parsons. A Motion to Alter and Amend was subsequently filed by Appellant on the lower Court's denial of its Motion to Stay. [09/23/2024 Motion to Alter and Amend].

On October 9, 2024, Respondent Parson's deposition proceeded, during which only counsel for Comfort Keepers questioned Respondent Parsons. [10/09/2024 Depo. of Respondent Parsons]. With there being no final adjudication on Appellant's Motion to Stay, and with Respondent Parson's Motion for Order of Protection still pending, Appellant did not, and could not, elicit testimony from Respondent Parsons until complete resolution of the pending motions.

**B. It was Improper for the Circuit Court to Proceed to the Summary Judgment Hearing Before the Conclusion of Discovery.**

Summary judgment "is a drastic remedy...[and] should be cautiously invoked to ensure that a litigant is not improperly deprived of a trial on disputed factual issues." *Helena Chem. Co. v. Allianz Underwriters Ins. Co.*, 357 S.C. at 644 (2004) (citation omitted). Summary judgment **must not** be granted until the opposing party has had a full and fair opportunity to complete discovery. *Baird v. Charleston Cty.*, 333 S.C. 519, 524, 511 S.E.2d 69, 72 (1999) (emphasis added).

Appellant would respectfully submit that the Circuit Court abused its discretion in hearing Respondent Browning's Motion for Summary Judgment despite (1) Appellant being outright denied an opportunity to engage in full and complete discovery by Respondent Parsons while a Motion for Order of Protection was still pending; and (2) the submission of Rule 56(f) Affidavits[4]

[4] Rule 56(f) Affidavits were submitted in response to Respondents Browning's, Parsons' and Comfort Keepers' respective Motions for Summary Judgment.

wherein Appellant attests to the importance of being permitted to complete critical discovery before the issuance of the Circuit Court's Order. [12/6/2024 Motion to Compel] [Appellant's Rul 56(f) Affidavits].

While Rule 30(a)(2) provides that parties to an action shall be subjected to but a single deposition, this rule must be viewed against the unique circumstances presented to the lower Court. SCRCP 30(a)(2). "The primary objective of discovery is to ensure that lawsuits are decided by what the facts reveal, not by what facts are concealed." *In re Alford Chevrolet-Geo*, 997 S.W.2d 173, 180 (Tex. 1999). The entire thrust of our discovery rules involves full and fair disclosure, to prevent a trial from becoming a guessing game or one of surprise for either party. *Samples v. Mitchell*, 329 S.C. 105, 495 S.E.2d 213 (Ct. App. 1997). In this respect, the discovery process is designed to "make a trial less a game of blind man's bluff and more a fair contest with the basic issues and facts disclosed to the fullest practicable extent." *See United States v. Procter & Gamble Co.*, 356 U.S. 677, 682, 78 S. Ct. 983, 986-87, 2 L. Ed. 2d 1077 (1958). I*n re Anonymous Mbr. of S.C. Bar*, 346 S.C. 177, 193, 552 S.E.2d 10, 18 (2001).

## III. It was Error for the Circuit Court to Make Findings of Fact and Conclusions of Law at the Summary Judgment Phase.

### A. Standard of Review

"An appellate court reviews the granting of summary judgment under the same standard applied by the trial court pursuant to Rule 56(c), SCRCP: Summary judgment is properly upheld when there is no genuine issue as to any material fact and the moving party is entitled to a judgment as a matter of law." *Peterson v. W. Am. Ins. Co.*, 336 S.C. 89, 94 (Ct. App. 1999) (citations omitted). The non-moving party is entitled to the benefit of "all ambiguities, conclusions, and inferences arising in and from the evidence...." *Willis v. Wu*, 362 S.C. 146, 151 (2004) (citation

omitted). Even where the parties agree on the relevant facts, just not the conclusions that flow from them, summary judgment is inappropriate. *Nelson v. Charleston Cty. Parks & Rec. Comm'n*, 362 S.C. 1, 5 (Ct. App. 2004) (citation omitted).

**B. It was Improper for the Circuit Court to Make Findings of Facts.**

Beginning on page two (2) of the Order granting Respondent Browning's Motion for Summary Judgment, the lower Court offers nearly seven pages of "Findings of Fact" which by its very definition cuts against the intent of Rule 56 motions. [01/06/2025 Order] [*See generally* Appellants Memo. in Opp. To Respondent Browning's Motion for Summary Judgment].

By definition, rulings on summary judgment cannot include "findings" of fact, because the standard for summary judgment requires a finding that there is "no genuine issue of material fact" and the moving party is entitled to judgment in his favor as a matter of law. Rule 56(a), SCRCP. "Findings" of fact in summary judgment motions are contrary to the legal basis upon which summary judgment is granted. *Id.* Moreover, none of the "Findings of Fact" in the orders on appeal cite to a single document, line of testimony, or exhibit in support of the "Findings." *Woodson v. DLJ Properties LLC*, 406 S.C. 517, 753 S.E.2d 428 (2014) (even though the trial judge did not properly identify the factual basis of the grant of summary judgment, the appellate court was able to independently review the matter to consider the merits of the appeal). That is simply not the case here, as set forth below. *See also Bowen v. Lee Process Systems Company*, 342 S.C. 232, 241 536 S.E.2d 86 (Ct.App. 2000) ("It is imperative, then, that the trial court state the material facts it found [to be] undisputed and the applicable law supporting its grant of summary judgment to Defendants."). Virtually every "Finding" of fact set forth in the orders on appeal is disputed, many with conflicting testimony and evidence in the record even before discovery is completed.

## ARGUMENT OF APPELLANT TO RESPONDENT PARSONS

In accordance with South Carolina Rule of Appellate Procedure 208(b)(6), Appellant joins in and adopts the following portions of Appellant's Initial Brief to Respondent Browning above: Statement of the Case, Statement of Facts, and Arguments of Sections I (A-D), II (A-C), and III while also submitting the following additional facts and arguments specific to Respondent Parsons.

### I. It was Error for The Circuit Court to Grant Respondent Parson's Motion for Summary Judgment on Any Ground.

#### A. Standard of Review (Adopted from Section I (A) of Appellant's Initial Brief to Respondent Browning above)

#### B. Statement of Additional Facts (Adopted from Section I (B) of Appellant's Initial Brief to Respondent Browning above)

#### C. Summary Judgment was Improper as to Appellant's Claim of Negligence/Gross Negligence. (Adopted from Section I (C) of Appellant's Initial Brief to Respondent Browning above with the following additional arguments)

Although Respondent Parson's Memorandum in Support of Summary Judgment, and the resulting Order, do not allege Appellant failed to claim and provide evidence in support of the existence of a duty, breach, proximate cause, and damages, the Parson's Order incorrectly concludes that it was the lack of foreseeability of Defendant McCreary's actions – sexual assault of Dr. Girst - and the fact Defendant McCreary "...was not an employee of Ms. Parsons" that bars recovery under a theory of negligence. [01/06/2025 Order - Parsons]. Respectfully, Appellant would submit that the Circuit Court's finding that there exists no genuine issue of material fact as to Appellant's negligence/gross negligence claim because "Ms. Parsons...[is] not liable for Ms. McCreary's alleged sexual misconduct..." is of no legal consequence to Appellant's articulated theory of liability. [*See* Appellant's Memorandum in Opp. to Resp. Parson's Motion for Summary Judgment p. 3].

Appellant's argument as to the existence of a genuine issue of material fact on her claim of negligence/gross negligence is rooted in allegations – with supporting evidence –that Respondent Parsons knowingly and intentionally covered up the sexual abuse of Dr. Grist through her willful failure to report the same to authorities[5], and more importantly, to the Probate Court. [Appellant's Memo. in Opp. to Respondent Paron's Motion for Summary Judgment p. 3] [*See* Comfort Keepers Internal Notes]. Said another way, the foreseeability of the assault was an improper lens through which the lower Court viewed Respondent Parson's motion for summary judgment; rather, the appropriate inquiry was whether Appellant presented any evidence, when viewed in a light most favorable to her, which created a genuine issue of material fact as to the existence of negligence. *Id.* In determining whether a genuine issue of fact exists, the evidence and all reasonable inferences drawn from it must be viewed in the light most favorable to the nonmoving party. *John Deere Constr. & Forestry Co. v. N. Edisto Logging, Inc.*, 443 S.C. 424, 427, 904 S.E.2d 889, 891 (Ct. App. 2024).

Respondent Parson's only remaining argument in support of summary judgment before the Circuit Court was that of "quasi-judicial immunity" for court-appointed guardians. [01/06/2025 Order – Parsons]. In addition to those arguments presented in Appellant's Initial Brief to Browning, Section I (C) – which are expressly adopted and incorporated herein – Appellant would also submit that despite Respondent Parson's argument to the contrary, the referenced quasi-judicial immunity is not absolute and does not constitute blanket protection for all actions taken by a guardian. *See Falk v. Sadler*, 341 S.C. at 281 (Ct. App. 2000). It is the nature of the acts, not simply the

[5] Respondent Parsons makes unsupported representations to the Court that a report was filed with some policing authority in Greenville County, along with the South Carolina Department of Health and Environmental Control without providing the name of the policing authority, the name of the investigator(s), nor the disposition of any investigation(s).

status of the defendants as guardian that determines the availability of immunity for the challenged acts and the extent of protection afforded by that immunity. *Id.*

The Guardian must act in the best interest of the ward. S.C. Code Ann. §62-5-309(B). This duty is heightened by the unique guardian oath required by Greenville County Probate Court's, which reads, in pertinent part: "the Guardian is a fiduciary and is subject to a trustee's standard of care of "prudent personal rule." The Guardian shall exercise sound judgment and care that the prudent person acting as fiduciary would exercise under the circumstances. Guardian must keep suitable records and provide them to the Court..." [Greenville County Guardian Oath].[6]

Falk, S.C. Code Ann. §62-5-309(B), and the guardian oath, when read in conjunction with one another make clear that a grant of quasi-judicial immunity requires a fact specific inquiry and a review of the nature of the acts, not simply the status [guardian] of the individual [Respondent Parsons]. *Falk v. Sadler*, 341 S.C. at 281 (Ct. App. 2000). "Of course, determining whether an injury occurs in the course of employment [or within scope of appointment here] remains an inherently fact-specific inquiry. *See, e.g., Pierre v. Seaside Farms, Inc.*, 386 S.C. 534, 541, 689 S.E.2d 615, 618 (2010) (noting that "each case must be decided with reference to its own attendant circumstances" (quoting *Hall v. Desert Aire, Inc.*, 376 S.C. 338, 349, 656 S.E.2d 753, 759 (Ct. App. 2007)) (internal quotation marks omitted)). *Davaut v. Univ. of S.C.*, 418 S.C. 627, 640, 795 S.E.2d 678, 685 (2016).

Here, Appellant provided evidence to the lower Court in opposition to Respondent Parson's motion that Respondent Parsons did in fact knowingly conceal allegations of sexual abuse through her directive to Respondent Browning and Respondent Comfort Keepers to "let a sleeping dog

[6] Respondent Parsons executed no such oath at the time of her appointment.

sleep". [Comfort Keepers Internal Notes]. No single inference can be drawn from this undisputed fact. When evidence is susceptible to more than one reasonable inference, it should be submitted to the jury. *Quesinberry v. Rouppasong*, 331 S.C. 589, 594, 503 S.E.2d 717, 720 (1998). A reasonable juror could certainly conclude that Respondent Parson's election to withhold such pertinent information from the Probate Court was an act that went beyond the scope of her appointment, and was possibly intended to avoid "sanction(s)...fine[s], incarceration or both" if it was determined she was "derelict" in her duties. [Greenville County Guardian Oath].[7] A jury should therefore decide the "why."

**D. Summary Judgment was Improper as to Appellant's Claim of Conspiracy. (Adopted Section I(D) of Appellant's Brief to Respondent Browning)**

**II. It was Error for the Circuit Court to Grant Respondent Parson's Motion for Summary Judgment Prior to the Conclusion of Discovery (Adopted from Section II of Appellant's Brief to Respondent Browning in its entirety).**

ARGUMENT OF APPELLANT TO RESPONDENT KIKI'S KARE, LLC D/B/A COMFORT KEEPERS

In accordance with South Carolina Rule of Appellate Procedure 208(b)(6), Appellant joins in and adopts the following portions of Appellant's Initial Brief to Respondent Browning's above: Statement of the Case, Statement of Facts, and Arguments in Sections I (A-D), II (A-C), and III while also submitting the following additional facts and arguments specific to Respondent Parsons.

**I. It was Error for The Circuit Court to Grant Respondent Comfort Keepers' Motion for Summary Judgment on Any Ground.**

**A. Standard of Review (Adopted from Section I (A) of Appellant's Initial Brief to Respondent Browning above)**

**B. Statement of Additional Facts (Adopted from Section I (B) of Appellant's Initial Brief to Respondent Browning above along with the following additional facts)**

[7] Respondent Parsons executed no such oath at the time of her appointment.

Respondent Comfort Keepers is a home health care provider that was hired by Respondent Browning to provide full-time live-in-care services to Dr. Grist. [Depo. of Christopher Couchell p. 17:10-18]. Respondent Comfort Keepers was the employer of each caretaker tasked with providing care for Dr. Grist, including Defendant McCreary.

With Respondent Christopher Couchell having known Respondent Browning for approximately six to seven years – at the time of his deposition – and having been appointed in similar roles on approximately fifteen (15) other occasions, Respondent Couchell knew just how lucrative a Jennifer Browning/Tracy Parsons appointment could be. [Depo. of Christopher Couchell p. 147:16 – 149:21].

On or about August 27, 2020, once again at Respondents Browning/Parson's direction, Comfort Keepers entered into a Client Care Agreement with Appellant, which required Appellant – and by extension Dr. Grist's Trust - to become financially responsible for the 24/7 in-home care provided by Comfort Keepers – as Dr. Grist's attorney-in-fact - while at the same time actively depriving Appellant of any decision-making authority for her father. [Comfort Keepers Client Care Agreement] [Depo. of Stacey Grist pp. 182:21-183:2].

Between September 2020 and August of 2022, at Respondents Browning and Parson's direction, Respondent Comfort Keepers was paid $388,763.71. [Depo. of Christopher Couchell p. 94:11-14].

### C. Summary Judgment was Improper as to Appellant's Claim of Negligence/Gross Negligence and Negligent Training (Adopted from Section I(C) of Appellant's Initial Brief to Respondent Browning above along with the following additional arguments)

In addition to those arguments presented within Section I(C) of Appellant's Initial Brief to Respondent Browning, Appellant would make the following additional arguments.

In South Carolina, the elements of a cause of action for negligent training are derived from the general principals of negligence, which require the demonstration of a duty, breach, proximate cause, and damages. *See generally Trotter v. State Farm Mut. Auto. Ins. Co.*, 297 S.C. 465, 473, 377 S.E.2d 343, 348 (Ct. App. 1988). Much like Respondents Browning and Parsons, Respondent Comfort Keepers does not allege, nor did the lower Court find, that Respondent Comfort Keepers did not owe a duty, breach a duty, and proximately cause injury with resulting damages related specifically to Appellant's negligence, gross-negligence, and negligent training claim. [01/06/2025 Order Granding Respondent Comfort Keepers Motion for Summary Judgment]. Rather, the lower Court' January 6, 2025, Order incorrectly finds that Appellant's negligence/gross-negligence claim failed to establish a genuine issue of material fact because Respondent Comfort Keepers was not negligent in the manner in which they handled the discovery of the alleged sexual assault. *Id.* The Court found "...Plaintiffs have failed to provide any evidence that Kiki's Kare or Couchell's were negligent in the handling of this situation..." *Id.*

The Circuit Court takes the odd position that despite the well-established rule of law that subsequent remedial measures cannot be used to establish liability. *See Reiland v. Southland Equip. Serv.*, 330 S.C. 617, 623, 500 S.E.2d 145, 148 (Ct. App. 1998) (holding "...evidence of the subsequent measures is not admissible to prove negligence or culpable conduct in connection with the event.) A subsequent remedial measure can be used as evidence of no liability. *Id.*

At the summary judgment hearing it was argued by Respondent Comfort Keepers that "...it [sexual encounter] looked consensual to me and Dr. Grist actually started it." [10/16/2024 Hearing Transcript at p. 8 lines 13-19]. First, it is reprehensible to suggest that an individual that was only under the care of Respondents Browning, Parsons, and Comfort Keepers because of a petition for the appointment of a guardian, and reports deeming him to be incapacitated could somehow

consent to a sexual encounter. [July 9, 2020 Petition] [Browning Guardian Ad Litem Report] [Browning Addendum to Guardian Ad Litem Report] [10/16/2024 Transcript at p. 8 lines 13-19]. In one instance Respondent Comfort Keepers take the position that the guardianship was not fraudulent because Dr. Grist was in fact incapacitated – despite the record clearly refuting this – yet in the same breath argue that despite a determination that Dr. Grist cannot work or make any decisions on his own behalf, he was capable of electing to engage in sexual activities with a woman decades his junior that was tasked with "caring" for him. *Id.*

In any event, it is this contradictory theory that gives rise to the genuine issue of material fact as to Respondent Comfort Keepers' negligence. To suggest Dr. Grist could consent to sexual intercourse brings directly into question what level of training Respondent Comfort Keepers' employees had on how to deal with sexual advances, and whether Respondent Comfort Keepers exercised due care in ensuring its employees knew how to respond to such a scenario. When question about the level of training Defendant McCreary received surrounding "sexual abuse" her response was "...we watched a movie thing..." [Depo. of Defendant McCreary p. 29 lines 3-8]. That was the extent of the training provided by Respondent Comfort Keepers to their employee that was tasked with staying with a male, alleged incapacitated individual, alone, for overnight stays, "...we watched a movie thing..." *Id.*

Even if this Court were to adopt Respondent Comfort Keepers' foreseeability test related to the negligence, gross-negligence, and negligent training claims, a reasonable jury could conclude that it was foreseeable that an employee could find themselves in a situation that a client/patient was making sexual advances and should have received proper training on how to respond. "Proximate cause requires proof of both causation in fact and legal cause, which is proved by establishing foreseeability." *Jolly v. GE*, 435 S.C. 607, 624 (Ct. App. 2021). "Ordinarily, the

question of proximate cause is one of fact for the jury[,] and the [circuit court's] sole function regarding the issue is to inquire whether particular conclusions are the only reasonable inferences that can be drawn from the evidence." *Id.* "Proximate cause requires proof of both causation in fact and legal cause, which is proved by establishing foreseeability." *Id.* "Ordinarily, the question of proximate cause is one of fact for the jury[,] and the [circuit court's] sole function regarding the issue is to inquire whether particular conclusions are the only reasonable inferences that can be drawn from the evidence." *Id.*

## II. It was Error for the Circuit Court to Grant Respondent Comfort Keepers' Motion for Summary Judgment Prior to the Conclusion of Discovery (Adopted from Section II of Appellant's Initial Brief to Browning in its entirety).

### CONCLUSION

Because summary judgment improperly issued based on the arguments set forth above, this Court should reverse the judgments below and remand for further proceedings.

Dated this 6th day of June, 2025.

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THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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APPEAL FROM GREENVILLE COUNTY
PERRY H. GRAVELY, CIRCUIT COURT JUDGE



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Appellate Case No. 2025-000366
Civil Action No. 2022-CP-23-04055

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Stacey Grist as Agent under a Power of Attorney for Stanford W. Grist and as Trustee of the Second Amended Trust of Stanford W. Grist living Trust dated December 5, 2005, Stanford Grist Veterinary Services, LLC, Chestnut Ridge Farm, LLC, And Hilly Street, LLC,.....Appellant,

v.

Priscilla Mickie Grist, Caroline York Grist Lyon, Leyland H. Lyon, Jr., Jennifer Browning, Browning Geriatrics Consulting, LLC, Tracy Parson, Kiki's Kare, LLC d/b/a Comfort Keepers, Erin Couchell Individually and as a member of Kiki's Kare, Chris Couchell individually and as a member of Kiki's Kare, LLC, and Kerry Burnett McCreary, Defendants,

Of which Jennifer Browning, Browning Geriatrics Consulting, LLC, Tracy Parsons, Kiki's Kare d/b/a Comfort Keepers, Erin Couchell Individually and as a member of Kiki's Kare, Chris Couchell Individually and as a member of Kiki's Kare, LLC are the, .....Respondents.

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**Proof of Service**

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Comes now undersigned counsel, a member of this Court's bar, and states that he served the Joint Initial Brief of Appellant, Appellant's Designation of Record Matter, and this proof of service, this 6th day of June, 2025 via email on the following attorney's:

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Dated this 6th day of June, 2025.

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June 9, 2025

South Carolina Court of Appeals
1220 Senate Stret
Columbia, SC 29201



Re: Stacey Grist, et al. v. Priscilla Mickie Grist, et al.
Case no.: 2025-00366

Dear Clerk,

Enclosed find Joint Initial Brief, Designation of Matter, as well as a Proof of Service for the same, as it relates the case above mentioned.

Should you have any questions, feel free to contact our office.

Very Respectfully,

**TRULUCK THOMASON, LLC**

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