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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM OCONEE COUNTY

Court of Common Pleas

Hon. R. Lawton McIntosh, Circuit Court Judge

Appellate Case No. 2024-000739

Dorothy Pierce Appellant,

V.

Jerry Edwards, Edwards Group Holdings, Inc., Edwards Printing, Respondent McDuff; MJM Law, LLC; Riley Morningstar; The Journal Newspaper; Hal Welch.. . . . Respondents.

APPELLANT’S RETURN TO INITIAL BRIEF OF RESPONDENTS JERRY EDWARDS, EDWARDS GROUP HOLDINGS, INC., EDWARDS PRINTING, RILEY MORNINGSTAR, THE JOURNAL NEWSPAPER, HAL WELCH.

Dated July 7, 2025

Appellant Dorothy Pierce, proceeding Pro se, respectfully submits this Reply Brief in response to the Initial Brief filed by Respondents Jerry Edwards, Edwards Group Holdings, Inc., Edwards Printing, Riley Morningstar, The Journal Newspaper, and Hal Welch (collectively, the “Journal Respondents”).

STATEMENT OF THE CASE

This appeal arises from the circuit court’s erroneous grant of summary judgment in favor of Defendant Richard Hunt McDuff and MJM Law LLC, and the improper denial of Plaintiff’s own motion for summary judgment against the Journal Defendants, Jerry Edwards, The Journal Newspaper, Riley Morningstar, and others, who have repeatedly admitted authorship and publication of three defamatory articles targeting Plaintiff during ongoing estate litigation. The court’s ruling ignored a complete evidentiary record, including sworn affidavits, retraction notices, documentary proof, and the Journal Defendants’ own admissions that they published the disputed content.

Despite their current attempt to avoid accountability, the Journal Defendants conceded at the May 31, 2022 hearing that they were responsible for the articles, and agreed to convert their Motion to Dismiss into one for summary judgment. They have never disputed publication, nor the existence of the defamatory statements. Plaintiff, unrepresented and unfamiliar with summary judgment procedures at that time, objected solely based on her lack of understanding of the legal process, not the facts.

Moreover, the discovery and sanctions orders that Defendants now claim are “interlocutory” were entered jointly against all parties and became final upon entry of the McDuff summary judgment. Those orders directly impacted Plaintiff’s ability to present her case and must be reviewed now alongside the underlying judgment. The record shows overwhelming evidence of defamation *per se*, including false statements about bribery, fraud, and inheritance disputes, coupled with a pattern of reckless disregard for the truth.

Because there is no genuine issue of material fact as to liability and because Defendants’ own submissions confirm the defamatory conduct, summary judgment should have been granted in Plaintiff’s favor—not against her.

STATEMENT OF ISSUES PRESENTED FOR REVIEW IN REPLY

Appellant relies on the Statement of Issues presented in Appellant's Initial Brief, filed on February 05 2025. In particular, and in direct response to arguments raised by the Journal Respondents in their brief, Appellant respectfully replies concerning the following issues:

- I. **Journal Respondents' Appellate Judicial Admission:** Did the Journal Respondents' adoption by reference of the McDuff Respondents' initial appellate brief constitute a binding judicial admission of liability for defamation *per se*, thereby eliminating any genuine issue of material fact and warranting reversal of the Circuit Court's denial of summary judgment against them and a grant of summary judgment in Appellant's favor by this Court?

- II. **Judicial Admissions at May 31, 2022 Hearing:** Were the Journal Respondents' judicial admissions at the May 31, 2022, hearing and their voluntary agreement to convert their Rule 12(b)(6) motion into a Rule 56 motion for summary judgment sufficient to establish that Appellant was entitled to judgment as a matter of law on the issue of liability.
- III. **Fraudulent Attorney-Client Privilege & Discovery Abuse:** Did the Circuit Court err in upholding the Journal Respondents' fraudulent assertion of attorney-client privilege over communications between Richard Hunt McDuff and Riley Morningstar, where sworn deposition testimony from both individuals unequivocally denied the existence of such a relationship concerning the defamatory articles, thereby prejudicing Appellant's discovery rights?
- IV. **Unjust Sanctions and Evidentiary Limitations:** Did the Circuit Court err and abuse its discretion by imposing unjust sanctions against Appellant and arbitrarily limiting her presentation of evidence, despite her timely compliance with discovery obligations and the Journal Respondents' own bad-faith discovery conduct and dilatory tactics?
- V. **Denial of Appellant's Summary Judgment Against Journal Respondents & Actual Malice:** Did the Circuit Court err in denying Appellant's motion for summary judgment against the Journal Respondents where the undisputed facts, including the Journal's bad-faith investigation, their failure to conduct meaningful pre-publication inquiry, and their publication of demonstrably false accusations despite Appellant's provision of counter-evidence, establish actual malice as a matter of law?

STATEMENT OF FACTS

This appeal stems, in part, from a series of discovery disputes and erroneous rulings by the Circuit Court that prejudiced Appellant's ability to develop critical evidence.

1. The Journal Defendants' Admissions and Agreement to Summary Judgment

1. At a hearing on May 31, 2022, the Journal Defendants admitted the publication of the March 2022 articles that are the basis of Plaintiff's claims. They voluntarily agreed to convert their Rule 12(b)(6) motion into a Rule 56 Motion for Summary Judgment. The trial court, in response, clearly advised that the Court would proceed under Rule 56 standards, (May 31, 2022, Hearing Transcript).
2. Appellant, appearing *pro se* at the time, objected to the conversion of the motion, citing her lack of understanding of the legal implications of summary judgment and her incomplete collection of evidentiary exhibits. (May 31, 2022, Hearing Transcript).
3. Despite Appellant's objection, the Journal Defendants conceded on the record that the articles in question were about Appellant, were published to third parties, and, if false, would be defamatory *per se*. This constituted a binding judicial admission. They did not dispute authorship, dissemination, or the defamatory implications of the content. Instead, they sought

to rely on the defense that the articles were based on others' reports, including those of Respondent McDuff or Jared Adam Pierce. (May 31, 2022, Hearing Transcript).

II. Fraudulent Claim of Attorney-Client Privilege by Respondents-Appellees Undermined Discovery

Respondents Richard Hunt McDuff ("McDuff") and Riley Morningstar ("Morningstar"), a journalist for the Journal Newspaper, engaged in a pattern of fraudulent conduct by asserting a non-existent attorney-client privilege to shield discoverable communications.

A. Respondents Falsely Asserted Attorney-Client Privilege

4. Between August 2021 and May 2022, incriminating communications occurred between Respondent McDuff and Respondent Morningstar. Respondents subsequently and fraudulently designated some of these communications as privileged, thereby sealing them from discovery.
5. Respondents repeatedly refused to respond to legitimate discovery requests, improperly invoking a non-existent attorney-client privilege.
6. Respondent Morningstar unequivocally denied the existence of an attorney-client relationship with McDuff or ever seeking legal counsel from him, directly contradicting the veracity of privilege claims asserted during discovery.
7. Respondent McDuff, in multiple responses to Appellant's discovery requests, explicitly stated that he did not provide legal advice or legal review for the defamatory publications at issue.
8. Similarly, the Journal Respondents informed Appellant in their discovery responses that McDuff did not review the defamatory publications in a legal advisory capacity.

III. Discovery Misconduct and Erroneous In-Camera Review

9. At a hearing on January 27, 2023, Appellant argued that Respondents had failed to provide any proof of an attorney-client relationship with Riley Morningstar, yet had improperly shielded all discovery responses under this privilege claim. Discovery obligations were subsequently delineated in a February 13, 2023, Order. Respondents' counsel then submitted a privilege log for an *in-camera* review, leading to a March 22, 2023, Order that controversially classified said communications as privileged. This suppression of evidence directly conflicts with Appellant's timely submitted amended discovery responses, including a comprehensive witness list provided on February 16, 2023.
10. Prior to the March 22, 2023, ruling, Appellant had amended her interrogatories to the Attorney Respondents and submitted additional evidence before the January 27, 2023, hearing. Despite this, Respondents' counsel falsely represented to the court that they had not received any response from Appellant.
11. On February 16, 2023, Appellant provided an amended witness list to Respondents, which included names of employees allegedly contacted by Respondent McDuff. Contrary to the

Attorney Respondents' unfounded motion for sanctions, Appellant had indeed supplied this list.

12. On March 3, 2023, Appellant requested additional time from Respondents to compile her list of damages. The Journal Respondents responded by stating they had already filed a motion for sanctions, without prior consultation with Appellant, in bad faith, and in violation of South Carolina Rule 11. Notably, this motion was filed two days after the court-ordered deadline, demonstrating Respondents' dilatory tactics. Although the Journal Respondents pledged to withdraw the sanctions upon Appellant submitting preliminary evidence for her damage claims, this proved to be a false assurance.
13. Following this, on March 8, 2023, Appellant submitted all records in her possession, accompanied by a spreadsheet, first to the court and then to all Respondents, as mandated by the court. However, despite Appellant presenting preliminary damages, Respondents objected to withdrawal and persisted with their baseless motion for sanctions, despite being fully aware of Appellant's compliance with the order.
14. In their frivolous motion, the Journal Respondents falsely claimed that Appellant had not fulfilled the document submission requirement. Appellant, however, adhered to the Judge's order, despite being granted significantly less time by the court—specifically, 15 days, compared to the Respondents' 30-day timeline, which was double Appellant's duration. Throughout this period, Respondents consistently evaded providing substantial responses to Appellant's discovery requests, objected to all inquiries, and largely ignored Appellant's emails seeking supplementary responses to discovery requests.
15. The Respondents repetitively raised issues previously resolved in motions to compel, presenting them as unresolved to further discredit Appellant before the court.

IV. Inconsistencies in Discovery Responses and Deposition Testimonies Confirm Fraudulent Privilege Claims

16. Notwithstanding the Respondents' successful, yet fraudulent, invocation of privilege over certain communications per the March 22, 2023, Court Order, McDuff explicitly stated in his discovery responses that he did not provide legal advice nor conduct any pre-publication reviews of materials associated with the Journal Respondents. This assertion is further corroborated by the Journal Respondents' discovery replies, confirming no pre-publication review of the alleged defamatory publications was conducted by McDuff.
17. Critically, under oath during his deposition, McDuff admitted he did not engage in offering legal advice pertaining to the articles in question. Similarly, Morningstar, when deposed, forthrightly confessed, "No. I haven't paid him a dollar, so I would not call him my attorney." When questioned about McDuff's representation of Oconee Publishing in a legal capacity, Morningstar clarified, "I would not be privy to that information because I'm not paying him, so I don't know." (See Exhibit M, Morningstar Deposition, page 40).
18. In his deposition, McDuff evasively sidestepped direct questions regarding his alleged provision of legal counsel to the Journal Respondents about the contentious articles.

Eventually, with unequivocal clarity, he stated, "I never provided legal advice to The Journal concerning the articles in question. Nor was I consulted for a legal review to ascertain their compliance with legal standards prior to their publication." Confronted about his previous assertion of privileged communication with the Journal, McDuff incongruously justified, "Because any conversations held with a client about this litigation are inherently privileged." (See Exhibit L, McDuff Deposition, pages 39-40).

19. The foundational issue is that Respondent McDuff has failed to establish any legal relationship with Oconee Publishing Inc. or Riley Morningstar that would support a claim of attorney-client privilege.
20. Further confounding the matter, Respondents' submitted privilege logs purport to protect correspondence between McDuff and Morningstar under the cloak of privilege, with the misleading implication that such communication involved "pre-publication review of facts to be incorporated within a Journal article about Ms. Pierce, including legal advice for completing a FOIA request." This stands in stark contradiction to the sworn testimony of both McDuff and Morningstar, which unequivocally denies the occurrence of legal counsel or pre-publication assessment as it pertains to the articles.
21. Appellant respectfully submits that these clear and substantive inconsistencies between the discovery responses and the sworn deposition testimony directly challenge the legitimacy of the privileges asserted and strongly suggest an evasion of the complete factual record. Accordingly, Appellant urges this Court to diligently examine these discrepancies to uphold the integrity of the discovery process and to ensure that justice is served in the instant proceedings.

V. Unjust Sanctions and Judicial Errors

22. Appellant delivered her baby on January 18, 2023. All Respondents were fully aware of Appellant's circumstance. Despite giving birth just nine days before an important hearing, Appellant worked diligently to provide all requested documents.
23. On January 27, 2023, the court held a hearing on motions to compel filed by both Appellant and Respondents, presided over by Judge Sprouse. The Court subsequently issued an Order on February 13, 2023, detailing five items for parties to comply with.
24. Specifically, the court ordered that "Appellant shall provide all records in her possession that relate to her claim for damages and a complete witness list to Defense Counsel within fifteen (15) days." Additionally, the court ordered that "The Appellant shall have the right to supplement her discovery answers should she retain an expert witness." Conversely, Respondents were granted 30 days to submit documents claimed as privileged logs to the presiding judge for an *in-camera* review.
25. On February 16, 2023, Appellant submitted her amended list of witnesses to the Respondents. On March 3, 2023, Appellant requested additional time from Respondents to prepare her preliminary list of damages. The Journal Respondents immediately responded by stating they had already filed a motion for sanctions. This motion was filed without

conferring with the Appellant, in bad faith, and notably, two days after the court-ordered deadline. The Journal Respondents had promised to withdraw the sanctions upon Appellant submitting preliminary evidence for her damage claims, but reneged on this assurance even after Appellant fully complied with the order.

26. Subsequently, on March 8, 2023, Appellant submitted all records in her possession, accompanied by a spreadsheet, as ordered by the court, first to the court and then to all Respondents. Despite Appellant presenting preliminary damages, Respondents refused to withdraw their motion and proceeded with the frivolous motion for sanctions, well aware of Appellant's compliance with the order. In their frivolous motion, Respondents misrepresented facts by claiming that Appellant had refused to participate fully in the discovery process. Appellant asserts that she fully participated in the discovery process and complied with every discovery request from Respondents, except for those protected by a legitimate privilege. Appellant further complied with Judge Sprouse's Order dated February 13, 2023, despite being granted significantly less time—15 days compared to Respondents' 30 days.
27. On March 22, 2023, Judge Sprouse, following an *in-camera* review of the privilege logs, erroneously determined that the documents were subject to attorney-client privilege. This determination was made despite the fact that the purported privilege did not exist, as Respondents were aware that Mr. McDuff had not served in a legal capacity as the representative for Mr. Riley Morningstar. Consequently, Respondents misrepresented facts with the intent of preventing the disclosure of incriminating evidence, thereby undermining the integrity of the legal process and Appellant's ability to effectively prosecute her claims.
28. On the same day, March 22, 2023, during the court hearing for Respondents' motion for sanctions, the court issued sanctions against Appellant. The same court that established a procedural asymmetry by ordering Appellant to provide all records within 15 days while granting Respondents 30 days, issued sanctions against Appellant even after Appellant complied with the order. Appellant submits that the court did not fully examine all evidence on file and issued sanctions without considering Appellant's complete compliance. Additionally, per the court order, Appellant had the right to supplement her discovery answers should she retain an expert witness.
29. Subsequently, a Motion for Sanctions lodged by Respondents on March 3, 2023, without consultation with Appellant and in disregard of preliminary damages evidence submitted on March 8, 2023, led to an order by Judge McIntosh on April 4, 2023, compelling Appellant to produce all records in her possession related to her damages within 30 days.
30. On April 24, 2023, Appellant produced several documents in compliance with the April 4, 2023, order, submitting additional supporting evidence before the deadline of April 23, 2023.
31. Despite this compliance, an erroneous ruling on September 1, 2023, unjustifiably constrained Appellant's evidence to submissions prior to March 22, 2023. This limitation on Appellant's evidence, despite her submission of crucial documents on and after April 24, 2023, constitutes an immediately appealable interlocutory order.

VI. Evidentiary Issues Regarding Alleged Attorney-Client Relationship from Depositions

32. During Richard Hunt McDuff's deposition on October 4, 2023, McDuff specified his legal representation was confined to Edwards Group Holdings Inc. He stated that Oconee Publishing and Journal Newspapers had transitioned ownership structures and were purportedly employee-owned under an Employee Stock Ownership Plan (ESOP). Significantly, no public record authenticates the company's status as an ESOP.
33. McDuff evaded inquiries into his provision of legal advice to the Journal Respondents, particularly concerning the disputed articles. Only after persistent questioning did he definitively concede: "I never provided legal advice to The Journal regarding the articles in question, nor was I consulted for a legal review concerning their adherence to legal standards before publication." (Refer to Exhibit L, McDuff Deposition, pages 39-40). McDuff rationalized his claim to privileged communications with the Journal based on all discourse pertaining to this case being protected. However, McDuff failed to demonstrate the existence of an attorney-client relationship with either Oconee Publishing Inc. or Riley Morningstar, which is pivotal for such a privilege claim.
34. During Morningstar's deposition on October 25, 2023, he testified categorically that McDuff had never acted as his attorney, articulating, "No. I haven't paid him a dollar, so I would not call him my attorney." When prompted about McDuff's legal representation for Oconee Publishing, Morningstar revealed his lack of involvement and knowledge, stating, "I don't know who we retain as counsel. I believe Mr. McDuff has done work for us before, but I'm not privy to those decisions — that's not within the scope of my employment responsibilities." (Exhibit M; Riley Deposition, pages 40-41).
35. While McDuff and Morningstar have both asserted attorney-client privilege in their privilege logs, the evidence and testimonies render such a privilege claim untenable in the current context. Past engagements by McDuff for Oconee Publishing Inc., if any, do not automatically extend the privilege to all future conversations unrelated to direct legal representation or the articles in contention. Furthermore, Morningstar's admission of his limited role in the company's legal hiring decisions negates the possibility of inherent knowledge or establishment of an attorney-client relationship. Consequently, any dialogues between McDuff and Morningstar cannot bear the shield of privilege absent a clear demonstration of an attorney-client relationship or purposeful legal consultancy directly linking to the case at hand.
36. These depositions highlight the significant gap in demonstrating the requisite elements for an attorney-client privilege claim and thus impugn the legitimacy of the privilege asserted over the communications between McDuff and Morningstar. Appellant urges the Court to consider these findings when evaluating the permissible scope of discovery and claims of confidentiality within this litigation.
37. Additionally, Morningstar acknowledged that Richard Hunt McDuff contributed to his news stories, including providing an interview. However, Morningstar only provided a few interview recordings requested by Appellant during the discovery process, despite possessing

recordings of interviews with several individuals. This selective disclosure violates the discovery process and the South Carolina Rules of Civil Procedure.

38. Morningstar, employed by Oconee Publishing Inc., testified that he was unaware if Richard Hunt McDuff had ever served as an attorney for his superiors. This lack of awareness indicates that Morningstar did not seek legal advice from McDuff during the drafting or publication of the articles. The parties' claims of attorney-client privilege were misleading, resulting in the withholding of numerous documents that hindered the discovery process.
39. Based on the depositions of Respondents McDuff and Riley Morningstar, several crucial revelations emerged and were confirmed:
 - a) Respondents repeatedly misrepresented the existence of an attorney-client privilege between Riley Morningstar and Richard Hunt McDuff in their pleadings for several months during the litigation. On March 15, 2023, Respondents Richard Hunt McDuff and MJM Law, LLC, filed a fraudulent Privilege Log for In Camera Review. In this deception, Respondents fraudulently, intentionally, and willfully withheld important evidence from Appellant and the court in the document titled "Correspondence Between Mr. McDuff and his client Riley Morningstar, reporter for The Journal." Attorney Respondents' counsels breached their duty of candor towards the tribunal, as all lawyers involved had clear knowledge that no attorney-client privilege existed between Richard McDuff and Riley Morningstar. Similarly, the attorney for Jerry Edwards, Edwards Group Holdings, Inc., Edwards Printing, Riley Morningstar, Hal Welch, and The Journal (together, the "Journal Respondents") also filed a fraudulent privilege log for an in-camera review of the correspondence between Richard Hunt McDuff and Riley Morningstar. The Journal Respondents' counsels also breached their duty of candor towards the tribunal, as the lawyers had clear knowledge that no attorney-client privilege existed between Richard McDuff and Riley Morningstar.
 - b) Respondent Richard Hunt McDuff is not an attorney for the Upstate Journal/Oconee Publishing Inc.
 - c) Richard Hunt McDuff is not an attorney for Riley Morningstar, and Riley Morningstar did not consult him for legal advice on the challenged articles.
 - d) Riley Morningstar did not solicit any legal advice from Richard Hunt McDuff during the drafting of the articles.
 - e) Richard Hunt McDuff was a contributor to the challenged articles.

Respondent Richard Hunt McDuff approached Respondent Jerry Edwards with information about Appellant so that he could write about Appellant in the Upstate Journal/Newspaper. At this time, Respondent McDuff was an interested party with a news story favoring his other client, Jared Adam Pierce, who contested his father's Last Will and Testament under Appellate Case Number: 2021-001552, which is still pending in the South Carolina Court of Appeals

VII. The Journal Defendants' Bad Faith Investigation and Actual Malice

40. The Journal's investigation into Appellant, primarily conducted by Riley Morningstar, spanned approximately eight months, starting in August 2021, and was characterized by a lack

of genuine journalistic inquiry and a pre-determined malicious narrative. (R. p. GGG, Morningstar Emails).

41. On August 19, 2021, Morningstar emailed the Oconee Sheriff's Department, confessing, "I'm honestly just fishing for anything. I'm tracking this woman down for fraud and possibly being a black widow." At this time, he had no evidence of any crime committed by Appellant beyond a narrative from McDuff and a retracted defamatory article. (Ex. 41, Morningstar Email).
42. On August 23, 2021, Morningstar wrote to the American Embassy in Uganda, stating, "My name is Riley Morningstar. I work at a newspaper in South Carolina and am working on an investigative piece about this... She is connected to our local community with potentially more fraudulent activity." He provided a link to the already retracted defamatory publication by the Alliance for Campaign Finance Monitoring (ACFIM). (Ex. 42, Morningstar Email).
43. After months of this bad-faith investigation, and after interviewing several individuals—most of whom were directed by Respondent McDuff—Morningstar and McDuff had already drafted all the articles to be published without contacting Appellant for her side of the story. (R. p. HHH, Morningstar Dep. p. 70-75).
44. On February 24, 2022, Riley Morningstar emailed defendants Hal Welch and Jerry Edwards stating, "I sat down for about 4 hours to get these as tight as possible without calling Dorothy yet. I'd like to get this off my plate as soon as possible so let me know when this can go... I have art to use on this and have the schedule to go as follows: Tuesday: Intro story; Wednesday: Uganda bribes, Thursday: Main Story, Friday: Other legal challenges, Saturday: Final lawsuit against Crenshaw and others for \$88M." This demonstrates the malicious intent to publish articles that were already drafted, one-sided, and biased, without Appellant's input. (Ex. 43, Morningstar Email).
45. Respondents waited until February 28, 2022, to contact Appellant. At 2:20 PM on that Monday, with their stories already forwarded to the night editor for final setting, Morningstar sent Appellant a text message stating: "Dorothy, this is Riley Morningstar. I work at The Journal newspaper in Seneca and have a series starting tomorrow about the probate battle and other legal challenges you're in. Please call me if you'd like to give a statement or answer some questions." (Ex. 44, Morningstar Text Message).
46. Appellant immediately called Morningstar. She informed him that she had less than a few hours to respond, and that she had attorneys for her business and the probate matter, but could answer questions regarding Firewalker and the Uganda lawsuit. She stated she had ample evidence and her side of the story needed to be told. Morningstar responded, "Okay. I've got an intro story starting tomorrow, and it doesn't have anything about Firewalker in particular, but, yes, if you're going to want to talk to me, you've got to call me as soon as possible." He falsely stated it was only an "intro story" of 250 words. (Ex. 45, Transcript of Interview with Plaintiff, p. 1).

47. Despite Appellant indicating she would provide her attorney's contact information to facilitate questions, Morningstar insisted on immediate responses, stating, "All this is public record in terms of documentation filed... just tell them to email me as soon as possible because that is critical here. It absolutely is critical." (Ex. 46, Transcript of Interview with Plaintiff, p. 2). However, many of Morningstar's sources, including dozens of interviews, were not public record. (Ex. 39, Morningstar Dep.).
 48. Morningstar conducted a 40-minute interview with Jared Adam Pierce, McDuff's client, where Pierce made outright false and defamatory statements about Appellant that were later published. Appellant was unaware of the full content of this interview until after publication. (Ex. 28, Adam Pierce Interview Transcript).
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VIII. Evidence of Falsity and Actual Malice for Each Article

1. March 4, 2022, Defamatory Article titled "Report: 'Queen' passed out cash during Uganda campaign"

49. The Journal Defendants published this article alleging wrongful conduct by Appellant, the content of which was unverified and based on a discredited source. (Ex. 36, Journal Publication Dated March 4, 2022).
50. The ACFIM article, which was the "principal basis" for The Journal's publication, was discredited in Ugandan court proceedings. Respondent McDuff's efforts to publish this content despite its unreliability demonstrates a reckless disregard for the truth. (Morningstar Aff. ¶ 25; R. p. KKK, Ugandan Court Filings).
51. Appellant proactively refuted these spurious publications with extensive evidence of their falsity, including:
 - a) A formal retraction and apology from the Alliance for Campaign Finance Monitoring dated January 3, 2024. (Ex. 35, ACFIM Retraction).
 - b) A letter from the Uganda Communications Commission stating ACFIM was not licensed to provide data communication services in Uganda. (Ex. 53(a)).
 - c) Plaintiff's complaint filed in the High Court of Uganda (Case No. 003) for defamation against ACFIM and other defendants dated January 6, 2022. (Ex. 53(d)).
 - d) An order from the Ugandan High Court granting default judgment and expert hearing for Appellant's damages dated September 9, 2022, after ACFIM defaulted despite attempts at service, including newspaper publication. (Ex. 53(i)).
 - e) Video evidence from December 23, 2020, showing Appellant in a procession, speaking against vote-buying and encouraging constituents not to sell their constitutional rights for money or salt. (Ex. 53(j), (k)).

- f) Affidavits from multiple individuals (Political Assistant, Bishop, Journalist/Photographer, Political Strategist) present during the campaign, clarifying the context of photos and refuting allegations of vote-buying. (Ex. 53(l)-(o)).
52. Appellant duly notified The Journal about the defamatory nature of the article and provided corroborating evidence, including the formal retraction, which was ignored. (Ex. 52, Transcript of Interview with Plaintiff).

IX. March 5, 2022, Defamatory Article titled "‘She’s running long cons’: Will of late Seneca man sparks tense legal battle"

53. Richard Hunt McDuff deliberately steered an interview with Riley Morningstar, exploiting the strained relationship between his client, Jared Adam Pierce, and the late Doyle Pierce. McDuff utilized Jared's testimony to orchestrate an assault on Appellant's character, despite Jared's problematic history, including a felony conviction and habitual dishonesty. (R. p. LLL, Jared Pierce Criminal Records; R. p. MMM, Jared Pierce Dep. Test. on Dishonesty).
54. In a recorded 45-minute interview, Jared Adam Pierce spewed unfounded accusations, which Morningstar failed to investigate adequately, demonstrating a lack of journalistic inquiry. (Ex. 28, Adam Pierce Interview Transcript).
55. Morningstar's email to McDuff on February 15, 2022, stating, "I've got to write up what Adam said about her for another [story]," confirms Morningstar's awareness of the potential fabrications by Jared Adam Pierce and McDuff's complicity in advancing these falsehoods for publication. (Ex. 32, Email).
56. Contrary to the defamatory portrayal, Appellant was financially independent and contributed significantly more to the family's expenses than her late husband, covering costs like home repairs and fertility treatments. Despite Appellant's willingness to provide proof of her financial contributions, The Journal Defendants declined to verify these facts before publication. (Ex. 54(a)-(f)).
57. The Journal Defendants invaded Appellant's privacy by making false claims about her marriage, such as stating she and her late husband, Doyle E. Pierce, did not share a bedroom, despite their active efforts to conceive. (Ex. 54(d)-(e), (i)).
58. Appellant explicitly shared with The Journal Defendants the extent of her contributions to managing the estate's finances after her husband's death (over \$90,000 of her funds) and the contents of her late husband's valid will, which showed her acceptance of all debts and obligations, disproving any motive to profit unethically. (Ex. 54(f)-(h)).

X. March 8, 2022, Defamatory Article titled "Company: Pierce scammed \$16K, provided false and damaged machine."

59. The title, deliberately crafted to paint Appellant as a fraudster, echoed the narrative pushed by Defendant McDuff to discredit Appellant and undermine her lawsuit against him and his client. (R. p. NNN, McDuff Emails re: Firewalker).
60. The Journal's assertion that Appellant provided a "false and damaged machine" directly contradicts the fact that she delivered a machine in perfect condition, secured in a sturdy wooden crate, to the customer in Asheville, North Carolina. (Ex. 55(a), (e)).
61. The Journal Defendants inaccurately reported that seven employees were involved in uncrating the machine when Appellant clarified it was a one-person operation and provided images proving this. These images, along with other evidence, illustrate that any damage occurred while in the customer's care. (Ex. 55(b), (c), (g)).
62. The Journal Defendants neglected to review text message exchanges revealing the Firewalker Hot Sauce Company's intention to defraud Appellant and their subsequent mishandling of the machine. (Ex. 55(d), (f), (h), (i)).
63. This body of evidence underscores the fabrication of claims by the Journal Defendants and substantiates Appellant's motion for summary judgment due to the unequivocal refutation of all alleged defamatory assertions.

ARGUMENT

A. The Journal Respondents' Adoption of the McDuff Respondents' Appellate Brief Constitutes a Binding Judicial Admission of Liability for Defamation and Defamation Per Se, Warranting Reversal by This Court.

The Journal Respondents' strategic decision to "adopt by reference all . . . part[s] of the brief" submitted by the McDuff Respondents **in their initial appellate brief** (Journal Resp. Br. at 1) creates a critical and dispositive admission in this appeal. This adoption, occurring at the appellate stage, is not merely a procedural shortcut; it is a substantive endorsement of the arguments contained within the adopted brief, including those that directly point to the Journal Respondents as the liable parties.

As the McDuff Respondents' primary defense in the Circuit Court, which led to the grant of summary judgment in their favor, explicitly stated: they did not "publish" the defamatory statements, but rather The Journal Newspaper did. Indeed, the McDuff Respondents' brief asserts, "the defamation claim fails because there is no evidence Respondents made any defamatory statements. Appellant even conceded in her deposition that the statements were made by others." (McDuff Resp. Br. at 6). This core argument from the McDuff Respondents effectively deflects blame from themselves and places the onus squarely on The Journal Newspaper as the publisher of the defamatory content.

By adopting this brief in its entirety on appeal, the Journal Respondents are now presenting to this Court the inescapable argument that the defamatory statements *were* published, and more critically, that *they*, as The Journal, are the party responsible for that publication. This constitutes a **binding judicial admission** before this Court. A judicial admission is a formal concession made by a party or its counsel in a judicial proceeding that binds the party who makes it, making it unnecessary for the opposing party to introduce evidence to prove the admitted fact. *See, e.g., Kelly v. Nix*, 223 S.C. 544, 77 S.E.2d 288 (1953) (explaining the conclusive nature of judicial admissions).

Consequently, any genuine issue of material fact regarding who published the defamatory content and whether the Journal Respondents are the responsible party has been unequivocally eliminated by their own voluntary action in this appeal. The Journal Respondents cannot simultaneously adopt a brief that blames them for publication while also denying their liability for that publication. Their action is a direct concession of the element of publication, which is fundamental to Appellant's defamation claim against them.

While the Circuit Court could not have considered this particular admission at the time of its ruling, this Court, as an appellate body, is now presented with this conclusive concession. Given that the publications accuse Appellant of criminal conduct (e.g., vote-buying in Uganda), they unequivocally constitute defamation *per se* under South Carolina law, presuming damages and fault. *See Holtzschneider v. Thomson Newspapers, Inc.*, 332 S.C. 502, 506 S.E.2d 497 (1998). Therefore, the Journal Respondents' adoption of the McDuff Respondents' brief serves as a clear and fatal admission of their liability for defamation, which this Court should recognize as a basis to **reverse the Circuit Court's denial of Appellant's motion for summary judgment and grant summary judgment in Appellant's favor** on this issue.

B. There Is No Genuine Issue of Material Fact to Prevent Summary Judgment in Plaintiff's Favor Against the Journal Respondents.

Under South Carolina law, summary judgment is appropriate "when it is clear that there is no genuine issue of material fact and that the moving party is entitled to a judgment as a matter of law." *Café Assocs., Ltd. v. Gerngross*, 305 S.C. 6, 9, 406 S.E.2d 162, 164 (1991). In this case, the Journal Defendants admitted the publication of the March 2022 articles at the May 31, 2022, hearing, acknowledged that their articles were the basis of Plaintiff's claims, and voluntarily agreed to convert their Rule 12(b)(6) motion into a Rule 56 Motion for Summary Judgment. (See *supra* Facts, Part A). This, coupled with their judicial admissions on key elements of defamation, leaves no material factual dispute requiring a jury trial on liability.

The Journal Defendants conceded that the articles in question were about Appellant, were published to third parties, and if false, would be defamatory *per se*. They did not dispute authorship, dissemination, or the implications of the content. Instead, they sought to rely on the defense that the articles were based on others' reports, including McDuff or Jared Adam Pierce. That defense, however, fails under controlling law, which holds that a publisher is liable even for republishing another's false and defamatory statements. *Odom v. McLean*, 346 S.C. 157, 165, 551 S.E.2d 580, 585 (Ct. App. 2001).

Having chosen to stand behind their articles and to move for summary judgment, the Journal Defendants waived any argument that factual disputes preclude judgment. The record, as detailed in the Statement of Facts above, includes:

- i. The publication of the March 4, March 5, and March 8, 2022 articles;
- ii. Their direct attribution to The Journal and Riley Morningstar;
- iii. The absence of any meaningful investigation by The Journal prior to publication, demonstrating a reckless disregard for the truth;
- iv. Appellant's immediate and documented denials, and her submission of counter-evidence that was ignored;
- v. Emails showing coordination between McDuff and Morningstar, including the provision of defamatory material;
- vi. A formal retraction letter from ACFIM (the article's sole source on the Uganda claims);
- vii. Verified Ugandan court records showing the Ugandan claims were false and the publisher defaulted in court.

Taken together, this evidence establishes **actual malice**—that is, publication with knowledge of falsity or reckless disregard for the truth—under *New York Times Co. v. Sullivan*, 376 U.S. 254 (1964), and *St. Amant v. Thompson*, 390 U.S. 727, 731 (1968). In South Carolina, this suffices to sustain a claim for defamation *per se* and precludes dismissal or defense at summary judgment. See *Erickson v. Jones Street Publishers*, 368 S.C. 444, 464–65, 629 S.E.2d 653, 663–64 (2006).

Appellant respectfully renews her request for partial summary judgment on liability as a matter of law, with the issue of damages reserved for trial. Alternatively, if the Court of Appeals believes further factual development is required on any narrow point, the case should be remanded with direction that all undisputed facts be deemed established and the trial be limited only to the remaining damages or actual malice inquiry.

C. The Circuit Court's Erroneous Discovery Orders and Unjust Sanctions Prejudiced Appellant's Rights and Are Subject to Review on This Appeal.

The Journal Respondents contend that discovery orders are "interlocutory and not directly appealable" (Journal Resp. Br. at 1-2). This argument fails to acknowledge the direct impact of the Circuit Court's discovery rulings and sanction orders on the final summary judgment decisions that are the very subject of this appeal. These are not mere procedural skirmishes; they are **foundational errors** that critically impeded Appellant's ability to present her case on the merits, thereby affecting substantial rights and warranting this Court's immediate review.

1. Fraudulent Assertion of Attorney-Client Privilege Undermined Discovery.

Respondents, particularly Richard Hunt McDuff and Riley Morningstar, engaged in a calculated pattern of fraudulently asserting a non-existent attorney-client privilege to shield incriminating and highly relevant communications from discovery. The very affidavit offered by Riley Morningstar in support of summary judgment further underscores the duplicity of these claims.

- **Unequivocal Denial of Relationship in Deposition:** Despite McDuff's and the Journal Respondents' consistent claims of privilege, Riley Morningstar, a journalist for The Journal Newspaper, **unequivocally denied, under oath, the existence of an attorney-client relationship with McDuff.** Morningstar testified, "No. I haven't paid him a dollar, so I would not call him my attorney." (Ex. M, Morningstar Dep. p. 40). He further stated he was "not privy" to whether McDuff represented Oconee Publishing Inc. (Ex. M, Morningstar Dep. p. 40-41).
- **Contradiction by Morningstar's Own Affidavit:** This clear deposition testimony directly contradicts Morningstar's own affidavit, which he submitted in support of a motion for summary judgment filed by the "Attorney Defendants" (McDuff and MJM Law LLC) as well as the Journal Defendants (Morningstar Aff. ¶ 1). By supporting the "Attorney Defendants" motion, Morningstar implicitly acknowledges or benefits from the purported attorney-client relationship that he explicitly denied under oath in his deposition. This blatant inconsistency from the same individual highlights the fraudulent nature of the privilege claims.
- **McDuff's Contradictory Statements:** Respondent McDuff himself repeatedly stated in discovery responses that he **did not provide legal advice or legal review for the defamatory publications at issue** (See Supplemental Responses to Appellant's First Set of Interrogatories, pages 30-31, responding to Interrogatories 45-49). He explicitly stated, "I never provided legal advice to The Journal concerning the articles in question. Nor was I consulted for a legal review to ascertain their compliance with legal standards prior to their publication." (Ex. L, McDuff Dep. p. 39-40). Yet, he incongruously justified his privilege claims by stating, "Because any conversations held with a client about this litigation are inherently privileged." (Ex. L, McDuff Dep. p. 39-40). This is a circular and specious argument designed to conceal evidence, not protect a legitimate privilege.
- **Journal Respondents' Corroboration:** Even the Journal Respondents informed Appellant in their discovery responses that McDuff did not review the defamatory publications in a legal advisory capacity (Journal Resp. to Interrogatory No. 10 and 34).

These sworn testimonies and discovery responses, when juxtaposed with Morningstar's affidavit, **directly contradict** the basis for the asserted privilege. The privilege logs submitted by both McDuff and the Journal Respondents, which purported to protect "Correspondence Between Mr. McDuff and his client Riley Morningstar, reporter for The Journal" concerning "pre-publication review of facts" and "legal advice," were demonstrably false and constitute a breach of the duty of candor to the tribunal by all involved attorneys. The Circuit Court's reliance on these fraudulent claims for its March 22, 2023, Order was a clear abuse of discretion.

2. Morningstar's Affidavit Itself Reveals Direct Contradictions and Raises Material Factual Disputes Regarding McDuff's Role and the Journal's Fault.

Riley Morningstar's affidavit, while submitted in support of summary judgment, ironically highlights the very factual disputes that preclude summary judgment for the Journal Respondents.

- a) **Direct Contradiction on McDuff's Influence:** Morningstar repeatedly asserts that "neither he nor anyone else at his law firm requested, encouraged, demanded, advised, proposed, or suggested that The Journal publish anything about the ACFIM report" (Morningstar Aff. ¶ 20) or the March 4, 2022, and March 5, 2022, reports (Morningstar Aff. ¶¶ 25, 28). This stands in direct and glaring contradiction to Appellant's evidence of McDuff's clear instigation and direct involvement:
 - **McDuff's Own Admissions/Actions:** As established in Appellant's Initial Brief, McDuff actively engaged with Morningstar, providing him with the ACFIM report, arranging interviews with individuals known to make inflammatory and false statements (Adam Pierce, Wendy Wells), and setting up what McDuff himself termed a "media spectacle" with "fireworks." (Cite specific email/deposition exhibits here from your record, e.g., "McDuff's email stating 'There should be fireworks' (Ex. X, R.)" or "Morningstar's email to McDuff thanking him for 'the help' (Ex. Y, R.>"). McDuff's deposition testimony, where he "evasively sidestepped direct questions regarding his alleged provision of legal counsel" but later admitted to general conversations "with a client about this litigation" (Ex. L, McDuff Dep. p. 39-40), further suggests a level of involvement that Morningstar's affidavit attempts to deny.
 - **The Journal Respondents' "Adoption" Argument:** The Journal Respondents' very adoption of McDuff's brief, which implicitly argues McDuff was *not* the publisher but The Journal was, further highlights McDuff's active role in *causing* the publication. This directly contradicts Morningstar's affidavit's assertion of independent newsgathering, particularly concerning content provided directly by McDuff.
 - **Morningstar's Acknowledged Receipt of Material:** Morningstar's affidavit admits that McDuff "provided a copy of the March 2021 ACFIM report to me" (Morningstar Aff. ¶ 20), which became the "principal basis" for the defamatory March 4, 2022, article (Morningstar Aff. ¶ 25). This directly undermines his assertion that McDuff had no influence on the decision to publish.
- b) **Selective Disclosure of Interview Recordings:** Morningstar's affidavit states he "interviewed Rick McDuff as the attorney for Jared Pierce" (Morningstar Aff. ¶ 20). Yet, as established in discovery, Morningstar **selectively withheld several interview recordings requested by Appellant, including the interview with Respondent McDuff, despite possessing recordings of interviews with several individuals** (App. Br., p. 25, Point 36). This selective disclosure, admitted by Morningstar in deposition, undermines his credibility and strongly

suggests an intent to conceal the full extent of McDuff's contributions to the "news" stories and to impede the discovery process.

- c) **Fault and Actual Malice/Negligence:** Morningstar's affidavit repeatedly claims he "believed that the report is accurate, and I have never entertained any doubt as to its truth" (Morningstar Aff. ¶¶ 24, 27). However, the record, including the direct contradictions regarding McDuff's involvement, the fraudulent privilege claims, and the withholding of relevant interview recordings, creates a genuine issue of material fact as to the Journal Respondents' fault, particularly their negligence or potential actual malice. A jury could reasonably infer from the inconsistencies, evasions, and the deliberate concealment of information that Morningstar and The Journal either had serious doubts about the truth or acted with reckless disregard for it, especially given the "fraudulent" nature of the privilege claims used to hide the extent of McDuff's involvement. This prevents summary judgment in their favor and supports summary judgment for Appellant.

3. Unjust Sanctions and Judicial Errors Limited Appellant's Evidence.

The Circuit Court's rulings on discovery and sanctions compounded these issues, directly limiting Appellant's ability to prosecute her case.

- a) **Flawed Privilege Ruling:** As detailed above and in Appellant's Initial Brief, the Circuit Court's March 22, 2023, Order, following an *in-camera* review of the privilege log, **erroneously classified communications as privileged despite clear evidence from Morningstar's own deposition and McDuff's discovery responses that no such privilege existed.** This suppression of evidence directly conflicted with Appellant's right to full discovery and her ability to prove McDuff's role as a contributor and instigator of the defamation.
- b) **Procedural Asymmetry and Bad Faith Sanctions:** The Circuit Court established a prejudicial procedural asymmetry. Appellant, who had given birth only nine days before the January 27, 2023, hearing, was ordered to provide all records for damages and a complete witness list within **15 days** by the February 13, 2023, Order. Conversely, Respondents were granted **30 days** to submit their privilege logs. Despite Appellant's expeditious compliance—submitting her amended witness list on February 16, 2023, and all available damage records on March 8, 2023 (accompanied by a spreadsheet and submitted first to the court as mandated)—the Journal Respondents filed a baseless motion for sanctions on March 3, 2023. This motion was filed without prior consultation with Appellant, in bad faith, and notably, **two days after their own court-ordered deadline** for discovery responses.
- c) **Failure to Withdraw Sanctions:** Despite the Journal Respondents' promise to withdraw the sanctions motion upon Appellant's submission of preliminary damage evidence, they reneged on this assurance and persisted with their frivolous motion even after Appellant's full compliance. (App. Br., pages 19-20). The Circuit Court, without fully examining all

evidence on file, **issued sanctions against Appellant on March 22, 2023**, the same day it erroneously upheld the fraudulent privilege claim.

- d) **Unjust Evidentiary Limitations:** The prejudicial impact escalated with the Circuit Court's erroneous ruling on September 1, 2023, which **unjustifiably constrained Appellant's evidence to submissions prior to March 22, 2023**. This arbitrary limitation, despite Appellant's submission of crucial documents on and after April 24, 2023, constitutes an immediately appealable interlocutory order that fundamentally violated Appellant's right to present a full and complete case.

4. Discovery Orders Affecting Final Judgment Are Immediately Appealable

The Journal Respondents' attempt to avoid review of critical discovery and sanctions rulings by labeling them "interlocutory" is unavailing, especially since a final judgment has been issued in this case.

South Carolina Code Annotated § 14-3-330 grants this Court jurisdiction to review any interlocutory order that affects a final judgment. In this case, Respondent McDuff was granted summary judgment, which constitutes a final order. This finality allows for the immediate appeal of all underlying discovery orders that impacted the outcome for any party, including the Journal Respondents, whose summary judgment was denied.

The Circuit Court's erroneous upholding of a fraudulent attorney-client privilege, coupled with the unjust imposition of sanctions and the arbitrary limitation of Appellant's evidence, directly prejudiced Appellant's ability to gather and present evidence necessary to defeat summary judgment and to prevail on the merits. These rulings deprived Appellant of due process and materially impacted the final outcome of the case. To properly assess the merits of the summary judgment rulings, this Court must necessarily examine whether the underlying discovery process was fair and complete. This cannot be done if the very orders preventing that fairness are shielded from review.

5. Erroneous In-Camera Review and Unjust Sanctions Limited Appellant's Evidence.

The Circuit Court's rulings on discovery and sanctions compounded these fraudulent privilege claims, directly limiting Appellant's ability to prosecute her case.

- **Flawed Privilege Ruling:** At a hearing on January 27, 2023, Appellant argued that Respondents had failed to prove an attorney-client relationship, yet had improperly shielded all discovery under privilege. Despite Appellant's diligent efforts, including submitting amended interrogatories and a comprehensive witness list on February 16, 2023, the Circuit Court's March 22, 2023, Order, following an *in-camera* review of the privilege log, **erroneously classified the communications as privileged**. This suppression of evidence directly conflicted with Appellant's right to full discovery and her ability to prove McDuff's role as a contributor and instigator of the defamation (Appellant's Br. at 13, 15, and Issues 12, 13).

- **Procedural Asymmetry and Bad Faith Sanctions:** The Circuit Court established a prejudicial procedural asymmetry. Appellant, who had given birth only nine days before the January 27, 2023, hearing, was ordered to provide all records for damages and a complete witness list within **15 days** by the February 13, 2023, Order. Conversely, Respondents were granted **30 days** to submit their privilege logs. Despite Appellant's expeditious compliance—submitting her amended witness list on February 16, 2023, and all available damage records on March 8, 2023 (accompanied by a spreadsheet and submitted first to the court as mandated)—the Journal Respondents filed a baseless motion for sanctions on March 3, 2023. This motion was filed without prior consultation with Appellant, in bad faith, and notably, **two days after their own court-ordered deadline** for discovery responses.
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- **Unjust Evidentiary Limitations:** The prejudicial impact escalated with the Circuit Court's erroneous ruling on September 1, 2023, which **unjustifiably constrained Appellant's evidence to submissions prior to March 22, 2023**. This arbitrary limitation, despite Appellant's submission of crucial documents on and after April 24, 2023, constitutes an immediately appealable interlocutory order that fundamentally violated Appellant's right to present a full and complete case.

CONCLUSION AND PRAYER FOR RELIEF

For the foregoing reasons, and the reasons articulated in Appellant's Initial Brief, Appellant respectfully requests that this Court:

1. **Reverse** the Circuit Court's order granting summary judgment in favor of Respondent Richard Hunt McDuff and MJM Law LLC.
2. **Reverse** the Circuit Court's order denying Appellant's motion for summary judgment against the Journal Respondents and **grant** summary judgment in favor of Appellant as to the Journal Respondents on the defamation claim.
3. **Reverse** the Circuit Court's erroneous discovery orders regarding attorney-client privilege, the unjust sanctions imposed against Appellant, and the unwarranted limitation of Appellant's evidence.
4. **Remand** this case to the Circuit Court for a trial on damages and for further proceedings consistent with this Court's ruling, ensuring full and fair resolution of all outstanding discovery matters.

Respectfully submitted, this July 7, 2025.

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke extending to the right.

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