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SC Court of Appeals

AMENDED APPELLANT'S REPLY BRIEF
THE STATE OF SOUTH CAROLINA
In The Court of
Appeals

APPEAL FROM GREENVILLE
COUNTY
Court of Common Pleas

J. Mereinda Fisher, Individually, and as Respondent,
Member of Fisher and Reid. LLC,

Respondent

V.
Cynthia J. Glenn, individually, and as
Member of Fisher and Reid. LLC, and
Carolina Birth Center, LLC d/b/a
- Carolina Water Birth, Defendants,

Of which Cynthia J. Glenn, individually, and as
Member of Fisher and Reid, LLC is the
Appellant

Alex Kinlaw, Circuit Court Judge
Appellate Case No.2024-001914

Cynthia-J: Glenn TM Su Juris
411 West Main Street, ICO Unit 87
Gray Court, South Carolina 29645
864.350.2830
Appealing

ATTORNEYS FOR RESPONDENT
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Cynthia-Jane: Glenn submits this Reply Brief to address the material inaccuracies, omissions, and mischaracterizations in Respondent's Initial Brief.

I. The Trial Court Erred by Not Properly Considering Cynthia's Challenges to Jurisdiction

The Respondents incorrectly assert that the trial court properly considered Cynthia's challenges to jurisdiction. Cynthia consistently and unequivocally challenged both subject matter and personal jurisdiction from the outset of her involvement in this case. The record clearly demonstrates that Cynthia submitted multiple written notices of lack of jurisdiction (on February 12, 2024, April 24, 2024, May 3, 2024, and June 21, 2024) prior to the October 10, 2024 hearing. Furthermore, on September 4, 2024, Cynthia submitted a "Notice of Special Appearance and Demand" specifically stating that her presence was a special appearance solely for the purpose of contesting jurisdiction, not a general appearance.

At the October 10, 2024 hearing, Cynthia explicitly informed the court that she was present "under special appearance" and that her purpose was to "challenge jurisdiction and dispute the lis pendens." She attempted to present a full statement regarding her jurisdictional objections, but was interrupted and not permitted to finish. The trial court's subsequent ruling, claiming Cynthia was not present or left the courtroom prior to defending her motion, is a misrepresentation of the record, as the transcript will attest.

Jurisdiction, once challenged, must be proven by the party asserting it. See *McNutt v. General Motors Acceptance Corp.*, 298 U.S. 178, 189 (1936); *Basso v. Utah Power & Light Co.*, 495 F.2d 906, 910 (10th Cir. 1974). No such proof was provided by Respondent. The trial court failed to require the Respondent to present evidence of jurisdiction, thereby denying Cynthia due process. Any orders issued without proper jurisdictional findings are void *ab initio*.

II. The Trial Court Erred by Proceeding to Hear Motions Without Requiring

Reinstatement

The Respondent's assertion that "Appellants fail to show how or why this case needed to be reinstated and a review of the record shows that this case was never stricken from the docket or dismissed" fundamentally misapprehends Cynthia's argument and, more critically, the trial court's own procedural obligations. This is not a matter of Cynthia *failing to show* a striking, but rather the trial court's *oversight* in failing to formally act upon its own directives, thereby creating a jurisdictional defect.

The record explicitly contains Judge Morgan's memo of October 12 and 19, 2023, which unequivocally stated that "the case can not be rescheduled and gives until Nov 1st to file settlement documents or to file for a Rule 40(j) if a trial date is not chosen.

Additionally he clarifies that cases must have been mediated within 300 days of filing."

The Appeal Brief, and indeed the undisputed facts, confirm that "Respondent fails to file

settlement documents. Mediation has not occurred and the time limits for the case lapse leaving the case abandoned and no Rule 40(j) is filed."

The Respondent's argument attempts to shift the burden of proof to Cynthia to demonstrate a formal striking, when the true issue lies with the trial court's failure to process the case in accordance with its own orders and the established rules. When a court sets explicit conditions for a case's continuance, and those conditions are undeniably unmet, the procedural consequence is not merely implied abandonment; it triggers a requirement for judicial action. To suggest the case remained active simply because a formal "stricken" order was not physically entered, despite the conditions for its effective dismissal being met, allows the court to operate outside the boundaries of its own rules and due process.

South Carolina Alternative Dispute Resolution Rule 5(f) provides that "The case shall not be on the circuit court trial roster until a Proof of ADR is filed." The absence of a Proof of ADR, coupled with the elapsed mediation deadline and the Respondent's non-compliance, removed this case from proper "trial roster" status, effectively making it abandoned, as acknowledged by Judge Morgan's memo. The Respondent cannot now benefit from the trial court's procedural oversight by claiming the case was never formally stricken. The court's jurisdiction to act on October 10, 2024, was vitiated by the prior unmet conditions and the lack of a formal reinstatement. The trial court's failure to

recognize this abrogation of its own prior directives and the rules of court is a clear error demanding reversal.

III. The Trial Court Improperly Granted Respondents' Motion to Dismiss Counterclaims and Failed to Recognize Cynthia's Objections

Cynthia raised valid and timely objections under Rule 12(b) of the South Carolina Rules of Civil Procedure, which permits dismissal for a variety of legal insufficiencies. These include:

- **Lack of Jurisdiction over the Person:** Cynthia explicitly stated she is not the "Cynthia J. Glenn, individually" referenced in the caption, and that she is not a U.S. Citizen or South Carolina resident. This fundamental challenge to personal jurisdiction was not adequately addressed. The Respondent's counsel even acknowledged that the case was "confidential" and would not discuss it with Cynthia, creating an impossible scenario for proper identification and communication.
- **Improper Venue:** Given Cynthia's non-residency and the pre-existing settlement agreement, venue in a South Carolina court was improper.
- **Insufficiency of Process and Service of Process:** The Lis Pendens was invalid as the underlying case had expired. Furthermore, proper service was not established for any of the named entities or for Cynthia-Jane: Glenn, the living woman, especially given the Respondent's attorney's contradictory statements regarding confidentiality and Cynthia's identity.

- **Failure to State Facts Sufficient to Constitute a Cause of Action (regarding Respondent's claims):** The underlying dispute over the property was resolved through an offer and acceptance, and payment for the property was fulfilled by Cynthia. Therefore, no injury existed for the Respondent, and the court lacked a basis to grant relief.
- **Failure to Join a Party:** The relevant professional entities involved were not properly captioned, and the inclusion of Fisher and Reid, LLC as both a Plaintiff and Defendant created a disqualifying conflict of interest.
- **Another Action is Pending Between the Same Parties for the Same Claim:** The pre-existing lease agreement and the settled property sale negate the need for the court's intervention in the original complaint.

The trial court failed to address these arguments. The burden to establish standing and jurisdiction lies with the Respondent. See *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560–61 (1992).

IV. The Trial Court's Findings Do Not Support the Facts or Conclusions of Law

The trial court's factual findings and conclusions of law are not supported by the record. The court's assertion that Cynthia was not present to defend her motion is contradicted by the transcript, which shows Cynthia was present and attempted to present her jurisdictional challenge but was prevented from doing so. Orders issued without jurisdiction are void. See *Old Wayne Mutual Life Association v. McDonough*, 204 U.S. 8,

27 S. Ct. 236 (1907). The failure to allow full argument on a dispositive issue like jurisdiction is reversible error. See *Merritt v. Hunter*, 170 F.2d 739, 742 (10th Cir. 1948).

V. Cynthia's Diligent Efforts to Preserve Issues for Appeal

Cynthia diligently attempted to present her jurisdictional challenge and supporting arguments at the trial court level, through consistent written filings and an attempted oral presentation during the hearing. The Respondent's brief, in questioning whether "any or all other issues were preserved for appellate review," overlooks Cynthia's repeated efforts to bring these critical issues to the court's attention, only to be denied a full and fair opportunity to be heard.

The record demonstrates that Cynthia filed multiple "Notices of Lack of Jurisdiction" on February 14, 2024, April 24, 2024, May 3, 2024, and a "Writ of Notice of Error" on June 24, 2024. These pretrial notices unequivocally articulated Cynthia's objections to subject matter and personal jurisdiction, improper venue, insufficiency of process, and other fundamental defects, all directly challenging the court's authority to proceed. These were not new issues sprung upon the court at the last minute; they were consistently raised and documented in the official court record.

Furthermore, at the October 10, 2024, hearing before Judge Kinlaw, Cynthia clearly appeared with the explicit intent to "challenge jurisdiction and dispute the lis pendens," under "special appearance" to contest jurisdiction without submitting to it generally.

Cynthia's own brief states, and the Respondent's brief acknowledges, that she "addressed the jurisdiction issue at the hearing before leaving the courtroom" and "the Court then allowed her to read her statement into the record." However, Cynthia was prevented from fully presenting her case, as evidenced by her own account and transcript: "Cynthia tried to defend her motion but was interrupted and not allowed to continue despite asking several times for the judge to allow her to present her statement succinctly and to be allowed to finish her challenge to jurisdiction." The critical finding in the final order, stating that "Cynthia J. Glenn, individually, was not present at the hearing" or "had left the courtroom prior to her Motion Hearing without making attempts to defend it," is directly contradicted by Cynthia's documented appearance under special appearance and her attempts to articulate her jurisdictional challenge.

Cynthia's consistent pretrial notices, coupled with her active, albeit curtailed, attempt to argue these points orally, demonstrate a clear and persistent effort to preserve these issues for appeal. The trial court's failure to fully entertain these arguments, or its mischaracterization of Cynthia's presence and attempts to speak, constitutes a denial of due process and renders the subsequent rulings suspect. Cynthia raised these issues repeatedly, attempted to convey them orally, and was denied the full opportunity guaranteed by law.

VI. RESPONDENT'S AGREEMENT TO DISMISS THE CASE REFUTES ANY CLAIM OF IMPROPER REPRESENTATION BY CYNTHIA

Cynthia and Respondent reached a mutual agreement in which Respondent agreed to sell her interest in the jointly owned property to Cynthia. In exchange, Respondent committed to voluntarily dismissing all claims and withdrawing the lawsuit. Cynthia fulfilled her obligations by delivering full payment, as evidenced by certified mailing and receipt.

Despite this, Respondent failed to comply with the agreement, continuing litigation without justiciable controversy. This conduct underscores that Cynthia's actions were taken solely in her individual capacity as a contracting party and co-owner—not as a representative of any corporate entity.

Respondent now argues that Cynthia is improperly representing Carolina Birth Center, LLC without an attorney. However, Cynthia has not sought to litigate on behalf of the LLC. Her participation in this matter has been limited to defending her personal interests and challenging a Lis Pendens that affects her individual property rights.

To the extent Cynthia referenced Carolina Birth Center, LLC in court filings, it was for the limited purpose of preserving jurisdictional objections and disputing mischaracterizations in Respondent's pleadings. These references do not constitute

unauthorized legal representation and were necessary to correct factual errors in the record.

CONCLUSION

For all the reasons presented, Cynthia-Jane: Glenn respectfully requests that this Honorable Court of Appeals reverse the erroneous rulings of the trial court, declare all associated orders void for want of jurisdiction, and dismiss this action in full due to the Respondent's failure to comply with procedural mandates, abandonments under Rule 40(j), and failure to prosecute. The continuation of this case despite a private settlement agreement, jurisdictional defects, and disregard for ADR requirements undermines the integrity of due process and judicial economy.

Respectfully submitted,

Cynthia-J: Glenn

Without Prejudice
Cynthia-J: Glenn TM Su Juris
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Dated: July 15, 2025

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Carolina Birth Center, LLC d/b/a
- Carolina Water Birth, Defendants,

Respondent

Of which Cynthia J. Glenn, individually, and as Member of Fisher and Reid,
LLC is the Appellant

I, Cynthia J. Glenn, certify that on this 16th day of July, 2025, I served the foregoing **AMENDED
REPLY BRIEF** upon counsel for the Respondent, J. Mereinda Fisher, by mailing a copy via United
States Postal Service, first-class mail, postage prepaid, to the following address: Duggan &
Hughes Law Firm 457 Pennsylvania Ave# B, Greer, SC 29650.

Cynthia J. Glenn

without prejudice
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