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SC Court of Appeals

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

APPEAL FROM AIKEN COUNTY
COURT OF COMMON PLEAS

Judge Patrick C. Fant, III

Case No2021CP0201525

Dr. Joe Holt,

Appellant,

v.

Rural Health Services, Inc.,

Respondent.

FINAL BRIEF OF RESPONDENT

July 25, 2025

s/ D. Randle Moody, II
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STATEMENT OF THE ISSUES

1. Whether the lower court correctly held that Appellant Holt ("Appellant") could not establish a defamation claim under South Carolina law because he failed to establish the necessary elements for bringing such a claim.
2. Whether the lower court correctly held that Appellant could not establish an abuse of process claim under South Carolina law because he failed to establish the necessary elements for bringing such a claim.
3. Whether the lower court correctly held that Appellant could not establish an interference with contractual relationship claim under South Carolina law because he failed to establish the necessary elements for bringing such a claim.
4. Whether the lower court correctly held that Appellant could not establish a negligence claim under South Carolina law because he failed to establish the necessary elements for bringing such a claim.
5. Whether the lower court correctly held that Appellant could not establish a conversion claim under South Carolina law because he failed to establish the necessary elements for bringing such a claim.

STATEMENT OF THE CASE

On July 20, 2021, Appellant filed a Complaint against his former employer, Respondent, in the Aiken County Court of Common Pleas. Respondent removed the action to the United States District Court for the District of South Carolina, Columbia Division under 28 U.S.C. § 1331 as four causes of action arose under federal law. Respondent filed a motion for summary judgment and memorandum of law in support in federal court. The District Court granted summary judgment in favor of Respondent as to Appellant's federal causes of action, which included those under the Americans with Disabilities Act and Title VII of the Civil Rights Act of 1964, and the Court declined to exercise jurisdiction over Appellant's state law claims, subsequently remanding them to the Aiken County Court of Common Pleas. On July 30, 2024, Respondent filed a motion for summary judgment. On August 28, 2024, Respondent filed a memorandum in support of its motion for summary judgment. Appellant filed his memorandum in opposition to the motion for summary judgment on August 30, 2024. The Court heard oral arguments on the matter on September 4, 2024. The Honorable Patrick C. Fant, III, issued an Order on December 13, 2024, granting Respondent's motion for summary judgment in full.

STANDARD OF REVIEW

Pursuant to Rule 220(c), SCRAP, "The appellate court may affirm any ruling, order, decision or judgment upon any ground(s) appearing in the Record on Appeal." The appellate court applies the same standard that governs the trial court under Rule 56(c) of the South Carolina Rules of Civil Procedure. *Fleming v. Rose*, 350 S.C. 488, 493, 567 S.E.2d 857, 860 (2002). Under Rule 56(c) of the South Carolina Rules of Civil Procedure, the moving party is entitled to summary judgment as a matter of law when there is no genuine issue of material fact. Rule 56(c), SCRCP; *Cafe Assocs., Ltd. v. Gerngross*, 305 S.C. 6, 9, 406 S.E.2d 162, 164 (1991). Moreover, summary judgment is clearly warranted "when plain, palpable, and indisputable facts exist on which reasonable minds cannot differ, summary judgment should be granted." *Hedgepath v. Am. Tel. & Tel. Co.*, 348 S.C. 340, 355, 559 S.E.2d 327, 336 (Ct. App. 2001).

ARGUMENT

I. The Court Should Affirm Judge Fant's Ruling Because Appellant's Defamation Claim is Unsupported by Record Evidence.

The Aiken County Court of Common Pleas correctly granted Respondent's motion for summary judgment as to Appellant's defamation claim because there were no genuine issues of material fact to support Appellant's defamation claim. The Court of Common Pleas reviewed all the evidence in the light most favorable to Appellant, and correctly found that there were no genuine issues of material fact as to Appellant's defamation claim. The Honorable Patrick C. Fant, III heard and fully considered all the arguments that Appellant continues to make in his Initial Brief. Judge Fant's Order granting Respondent's motion for summary judgment thoroughly addresses all of the arguments Appellant repackaged in his Initial Brief. Appellant continues to rehash arguments here that did not persuade Magistrate Judge Shiva Hodges or Judge Fant, which should not persuade this Court now. For the reasons detailed below, the Court should affirm Judge Fant's December 13, 2024 Order granting summary judgment in favor of Respondent and dismiss Appellant's defamation claim.

"The tort of defamation allows plaintiffs to recover for injuries to their reputation as the result of defendants' communications to others of falsities regarding the plaintiffs." *Cruce v. Berkeley Cnty. Sch. Dist.*, 435 S.C. 7, 18, 865 S.E.2d 391, 397 (S.C. Ct. App. 2021), *reh'g denied* (Dec. 2, 2021), cert. granted (Sept. 7, 2022) (citing *Boone v. Sunbelt Newspapers, Inc.*, 347 S.C. 571, 580, 556 S.E.2d 732, 737 (S.C. Ct. App. 2001). Under South Carolina law, to state a cause of action for defamation, a plaintiff must show the existence of some message that (1) is defamatory, (2) is published with actual or implied malice, (3) is false, (4) is published by the defendant, (5) concerned the plaintiff, and (6) resulted in legally presumed or in special damages. *Parker v. Evening Post Pub. Co.*, 452 S.E.2d 640, 644 (S.C. Ct. App. 1994). Malice and damages are

presumed in the case where the defamation is actionable per se. See *Holtzscheiter v. Thomson Newspapers, Inc.*, 506 S.E.2d 497, 502; *see also id.* ("In other words, if the trial judge can legally presume, because of the nature of the statement, that the plaintiff's reputation was hurt as a consequence of its publication, then the libel is actionable per se. Essentially, all libel is actionable per se.") (citations omitted).

Appellant realleges in his Initial Brief that "Respondent made false and defamatory statements about Appellant to parents of Appellant's patients" and identifies two allegedly defamatory incidents. Appellant's Initial Br. at 1. The first alleged defamatory statement that Appellant directs the Court to is provided in a brief video recording of a patient's mother[1]. In the video, the patient's mother states that at some unknown time, she was told, by an unknown person at the front desk, that Appellant was racist. (R. pp. 293-294). In the video, Appellant, not the unknown speaker, identifies the person who allegedly makes the comment as "Sheryl Lynn." *See id.* Appellant also alleges that "Respondent defamed Appellant in word and by falsely accusing him of incompetence in his profession and engaging in conduct that he did not, which is defamation *per se*." *Id.* at 10. Appellant has not provided any evidence to date that the alleged employee made the alleged statement besides Appellant's identification of the alleged employee in the recording.

As to the first statement, as Judge Fant correctly found, this statement is inadmissible in the form submitted and the statement lacks the necessary specificity to state a claim for defamation. *See* December 13, 2024, Order at 6. The patient's parent fails to state who made any allegedly

[1] It is unclear to Respondent whether Appellant has provided the identity of the patient and the patient's parent to the Court. While the case was pending in the Aiken County Court of Common Pleas, Appellant provided the alleged identity of the patient and the patient's parent in sealed documents submitted to the court.

defamatory statement, what was allegedly said, or when such statements were made or to whom.[2] *Id*. Under South Carolina law, an individual's defamation claim is appropriate for summary judgment and should be dismissed when the alleged defamatory statements lack necessary specificity, as is the case here. *See Paradis v. Charleston Cty. Sch. Dist.*, 424 S.C. 603, 613-14, 819 S.E.2d 147, 153 (S.C. Ct. App. 2018), *abrogated on other grounds* (affirming the trial court's order granting dismissal of plaintiff's defamation claim because "she never indicate[d] who made defamatory statements about her, what they said, or to whom those statements were published."); *McNeil v. S.C. Dep't. of Corr.*, 404 S.C. 186, 195, 743 S.E.2d 843, 848 (S.C. Ct. App. 2013) (affirming the trial court's order granting dismissal of plaintiff's defamation claim because "she did not set forth with any specificity what the alleged false statements were" who made the alleged statements, and who they were made to); *Carson v. Emergency MD, LLC*, 2020 U.S. Dist. LEXIS 154559, at *5 (D.S.C. Aug. 25, 2020) ("Many courts applying South Carolina law have found that a lack of specificity in a plaintiff's allegations regarding a defamation claim warrants dismissal."); *Doe v. Cannon*, C/A No. 2:16-00530-RMG, 2017 WL 591121, at *1 (D.S.C. Feb. 14, 2017) ("Plaintiff has failed to state a claim against [Defendants] for defamation because her Complaint does not state with specificity the time, place, medium, and listener of the alleged defamatory statements."). *See* R. pp. 69-70.

Judge Fant further found that in the context as alleged by Appellant, the isolated statement, that Appellant is racist, may not be defamatory. *Id*. at 70, lines 11-12. As stated by the South Carolina Supreme Court:

[2] In addition, as Respondent clarified in briefing on its Motion for Summary Judgment to the Aiken County Court of Common Pleas, the woman in the indecipherable video was never identified by Appellant, and to date, she was never identified as a witness in this case, and so Respondent has not been able to depose the unidentified woman.

> Petitioners correctly contend that calling someone a racist can be defamatory depending on the context. In this regard, we reject any suggestion that calling someone a racist can never be defamatory. *See* 50 Am. Jur. 2d Libel and Slander § 200 (2017) ("Courts have readily held allegations of racism . . . to constitute libel per se, at least when founded on specific incidents."); 3 Dan. B. Dobbs et al., The Law of Torts § 572 (2d ed. 2011) ("While 'racist' is sometimes said to be mere name-calling and not actionable in some contexts, the term can be actionable where it plainly imputes acts based on racial discrimination." (footnote omitted)); *MacElree v. Phila. Newspapers, Inc.*, 544 Pa. 117, 674 A.2d 1050, 1055 (1996) ("Although accusations of racism have been held not to be actionable defamation, it cannot be said that every such accusation is not capable of defamatory meaning as a matter of law.").

Garrard for R.C.G. v. Charleston Cty. Sch. Dist., No. 2020-000605, 2023 WL 3731173, at *1 (S.C. May 31, 2023); *see also id.* at n.2 ("*La Liberte v. Reid*, 966 F.3d 79, 93 (2d Cir. 2020) ("[The defendant] did not merely accuse [the plaintiff] of being 'racist' in some abstract sense. Rather, [the defendant's social media post] could be understood as an 'accusation of concrete, wrongful conduct,' which can be proved to be either true or false. That makes it potentially defamatory.") *Id.*

The second alleged defamatory statement that Appellant directs the Court to is what purports to be a Facebook chat exchange with Gabrielle Gaudette, who worked for Respondent in medical records at some point, and who stated she had heard "that u left bc u called the cops on mrs Alford son." (R. pp. 283-285). Appellant alleges that the Facebook exchange shows that "Respondent defamed Appellant to unprivileged staff and Appellant's patients by accusing him of making a false police report." (R. p. 247, lines 18-19.) Appellant's Initial Br.at 2. The statement states that Appellant called the police on another employee's child. Appellant admitted that he called the police on another employee's child. (R. pp. 191-192, lines 220:18 – 221:15.) *See N.Y. Times Co. v. Sullivan*, 376 U.S. 254, 274 (1964) (holding that truth is an absolute defense to a defamation claim). At no point prior to or after Appellant's termination from Respondent did Respondent accuse him of filing a false police report or making a false or defamatory statement

that he was incompetent in his profession. Appellant has failed to provide any record evidence for the Court to deem otherwise. Further, the messages between Appellant and Ms. Gaudette do not substantiate Appellant's claims because they provide no evidence of who made any allegedly defamatory statements, what was allegedly said, or when such statements were made.

Judge Fant thoroughly reviewed the evidence that Appellant requests the Court review here and properly found that this statement is not defamatory. The Aiken County Court of Common Pleas correctly found and held that none of the statements alleged by Appellant are defamatory in granting summary judgment for Respondent on Appellant's defamation claim. For these reasons, the Court should affirm Judge Fant's December 13, 2024, Order as it relates to the defamation claim.

II. The Court Should Affirm Judge Fant's Ruling Because Appellant's Abuse of Process Claim is Unsupported by Record Evidence.

Judge Fant correctly found that there were no genuine issues of material fact as to Appellant's abuse of process claim after reviewing the evidence in the light most favorable to Appellant. Judge Fant heard and fully considered all the arguments that Appellant continues to make regarding his abuse of process claim and his order granting Respondent's motion for summary judgment thoroughly addresses all of the Appellant's arguments repackaged in Appellant's Initial Brief. Appellant continues to rehash arguments as to his abuse of process claim that are insufficient to overcome summary judgment. For the reasons described below, the Court should affirm Judge Fant's December 13, 2024, Order granting summary judgment in favor of Respondent and dismiss Appellant's abuse of process claim.

Under South Carolina law, "[t]he essential elements of abuse of process are: (1) an ulterior purpose; and (2) a willful act in the use of the process not proper in the regular conduct of the proceeding." *Gregory v. Riley Pope & Laney, LLC*, No. 2015-000740, 2017 WL 4640146, at *2

(S.C. Ct. App. May 3, 2017) (quoting *Johnson v. Painter*, 279 S.C. 390, 391, 307 S.E.2d 860, 860 (S.C. 1983); *see also Hainer v. Am. Med. Int'l, Inc.*, 492 S.E.2d 103, 107 (S.C. 1997) ("There is no liability where the defendant has done nothing more than carry out the process to its authorized conclusion, even though with bad intentions.").

Appellant alleges that "Respondent's representative(s) called the South Carolina Department of Social Services and made a false report against a family who decided to continue medical care services with Appellant rather than Respondent, by falsely alleging that the family was refusing to follow the doctor's recommendation of getting counseling." (R. p. 341-342); Appellant's Initial Br. at 4. According to Appellant, "the parents were contacted by Child Protective Services as a result of this false claim," and "Respondent utilized the DSS complaint process as a weapon against Appellant's client for preferring his services after termination." *Id.* at 4-5. Appellant argues, but provides no supporting evidence, that Respondent or its representative did this "in retaliation for the family choosing to utilize Appellant's counseling services" after Appellant was terminated. *Id.* Appellant has provided no evidence to support this claim at all.[3]

Judge Fant correctly found that there was no evidence from which a reasonable jury could find Respondent acted with an ulterior purpose. *See* R. p. 72. Judge Fant further stated, "The only evidence [Appellant] has that an unknown person allegedly associated with [Respondent] called DSS is that the father and mother allegedly told him. (Holt Dep. at 225:3– 227:11)." *Id*. at lines 11-13. While Appellant continues to allege otherwise, there is no evidence in the record, not even Appellant's own testimony, supporting that even if a representative of Respondent called DSS,

[3] In addition, an alleged report against someone other than Appellant or his family could not possibly harm Appellant, and thus he lacks standing to bring this claim.

such actions were to retaliate against him. In fact, Appellant testified that he does not even know who made the report against him. (R. pp. 195-196, lines 226:22-227:5).

Judge Fant correctly opined, "[a]dditionally, as [Respondent] correctly asserts, [Appellant] has failed to follow the appropriate procedure for bringing a claim for making a false DSS report. *See Barton v. Barton*, 2022 S.C. C.P. LEXIS 819 *4-5 (Jan. 11, 2022.) (stating that "[t]he plain language of § 63-7-430(B) clearly states that a plaintiff may have a civil cause of action (1) 'if the family court determines pursuant to Section 63-7-2000 that a person has made a false report of suspected child abuse or neglect maliciously or in bad faith' or (2) if a person has been found guilty of making a false report pursuant to Section 63-7-440."). Judge Fant properly held that:

> Even if [Appellant] could demonstrate [Respondent]'s representative called DSS to retaliate against [Appellant], the essence of the tort of abuse of process centers on events occurring outside the process, and our courts have noted that "[t]he improper purpose usually takes the form of coercion to obtain a collateral advantage, not properly involved in the proceeding itself, such as the surrender of property or the payment of money, by the use of the process as a threat or club." *Swicegood v. Lott*, 379 S.C. 346, 353, 665 S.E.2d 211, 214 (S.C. Ct. App. 2008) (quoting *Huggins v. Winn-Dixie Greenville, Inc.*, 249 S.C. 206, 209, 153 S.E.2d 693, 694 (1967)). "There is, in other words, a form of extortion, and it is what is done in the course of negotiation, rather than the issuance or any formal use of the process itself, which constitutes the tort." *Id.* (quoting *Huggins*, 249 S.C. at 209, 153 S.E.2d at 694); *D.R. Horton, Inc. v. Westcott Land Co. 730* S.E.2d 340, 352 (S.C. Ct. App. 2012), cert. denied as to this issue, 764 S.E.2d 701 (S.C. 2014).

R. pp. 72, line 15-p. 72, line 9).

Judge Fant thoroughly reviewed the evidence that Appellant would have the Court review here and correctly held that "[Appellant] has provided no evidence that even if [Respondent]'s representatives called DSS on his patient's parents, that [Respondent] acted with an ulterior motive." *Id.* at p. 73, lines 9-11. The lower court correctly found that there is no record evidence to support Appellant's claim that Respondent sought to gain any kind of collateral advantage over Appellant and granted summary judgment for Respondent on Appellant's abuse of process claim.

For these reasons, the Court should affirm Judge Fant's December 13, 2024, Order as it relates to the abuse of process claim.

III. The Court Should Affirm Judge Fant's Ruling on Appellant's Interference with Contractual Relationship Claim Because Appellant's Claim is Unsupported by Record Evidence.

Judge Fant correctly granted Respondent's motion for summary judgment as to Appellant's interference with contractual relationship claim because Appellant has failed to produce any record evidence to support his claim. Judge Fant heard and fully considered all the arguments that Appellant continues to make in his Initial Brief. Judge Fant's Order granting Respondent's motion for summary judgment thoroughly addresses all of the Appellant's arguments regarding his interference with contractual relationship claim. Similar to all of Appellant's other claims, Appellant continues to rehash arguments that did not persuade Judge Fant, which should not persuade this Court now. For the reasons detailed below, the Court should affirm Judge Fant's December 13, 2024, Order granting summary judgment in favor of Respondent and dismiss Appellant's interference with contractual relationship claim.

South Carolina recognizes a claim for intentional interference with contract, also known as tortious interference with contractual relations. "The elements of a cause of action for tortious interference with contract are: (1) existence of a valid contract; (2) the wrongdoer's knowledge thereof; (3) his intentional procurement of its breach; (4) the absence of justification; and (5) resulting damages." *Dutch Fork Dev. Grp. II, LLC v. SEL Properties, LLC*, 406 S.C. 596, 604, 753 S.E.2d 840, 844 (S.C. 2012) (quoting *Camp v. Springs Mortgage Corp.*, 310 S.C. 514, 517, 426 S.E.2d 304, 305 (S.C. 1993)).

Appellant alleges that he "has existing and prospective contractual relationships with patients and their families to provide medical services, specifically pediatric behavioral therapy

through the Family Center of Aiken County." Appellant's Initial Br. at 6. As Judge Fant correctly recognized,

> [Appellant] has provided no support of any contractual relationships. Instead, in support of this claim, [Appellant] has submitted letters from former patient's parents with (1) one stating her payments from her insurance company were paid to [Respondent] when they should have gone to [Appellant], (2) at some unknown time one was sexually harassed by the 'front end secretary,' (3) one was informed by Jones that she "could not see Dr. Holt anymore that [she] had to see in house one of their psychologists . . . to be a patient there," (4) "The RHS pediatric staff made negative, disparaging comments about Dr. Joe Holt as a professional," and (5) one family was informed they could not be seen by the practice without using their counselors, the same family that [Appellant] alleges [Respondent] called DSS on. [citation omitted] Appellant's claim must be dismissed because he has still failed to identify the terms of any contract at issue that was allegedly breached, how those terms were breached, how those terms were intentionally breached by Respondent, and the damage that occurred. *See e.g., Eldeco, Inc. v. Charleston Cty. Sch. Dist.*, 642 S.E.2d 726, 732 (S.C. 2007) ("An essential element to the cause of action for tortious interference with contractual relations requires the intentional procurement of the contract's breach. Where there is no breach of the contract, there can be no recovery.") (citations omitted)).

(R. p. 74, lines 2-16). Further, Appellant falsely alleges that, "[r]espondent actively provided false information to patients and their families to dissuade them from using Appellant's services and Respondent engaged in intentional conduct to prevent Appellant from receiving contract services from his former patients, seen while Appellant was employed by Respondent." Appellant's Initial Br. at 6. Respondent has done no such thing. Appellant has failed to provide any evidence that he had *any* contractual relationship with the patients he provided services to while working for Respondent, and he has failed to provide any evidence that Respondent interfered with any alleged contractual relationship. In fact, when questioned about such "contracts," Appellant admitted he did not have a contract with his patients:

> Q: But you don't have a written contract with the patient that I'm only your therapist?
> A: No, it's by their choosing.

(R. p. 205, lines 266:4-6). This is detrimental to Appellant's claim, because South Carolina courts have found vague and conclusory claims, such as Appellant's, to be insufficient to state a valid claim for interference with contractual relationship when the plaintiff fails to indicate the terms of any contact, how the terms were breached, how a defendant intentionally procured the breach, how a defendant's actions are not justified, or that the defendant was a "stranger" to the contract. *See Rollins Ranches v. Watson*, 2021 U.S. Dist. LEXIS 61683 (D.S.C. 2021); *BCD LLC v. BMW Mfg. Co., LLC*, 360 Fed. Appx. 428, 435 (4th Cir. 2010) (applying South Carolina law); *PTA-FLA, Inc. v. ZTE Corp.*, 2015 U.S. Dist. LEXIS 195778, at *23-24 (D.S.C. July 27, 2015); *Callum v. CVS Health Corp.*, 137 F. Supp. 3d 817, 861 (D.S.C. 2015).

Again, Judge Fant thoroughly reviewed the evidence that Appellant would have the Court review here and correctly found that there is no record evidence demonstrating the terms of any contract, how such terms were breached, how such terms were intentionally breached by Respondent, or that any damage occurred. For these reasons, the Court should affirm Judge Fant's December 13, 2024, Order granting summary judgment for Respondent on Appellant's interference with contractual relationship claim.

IV. The Court Should Affirm Judge Fant's Ruling Because Appellant's Negligence Claim is Unsupported by Record Evidence.

Judge Fant correctly granted Respondent's motion for summary judgment as to Appellant's negligence claim because there are no genuine issues of material fact as to Appellant's negligence claim even after reviewing the evidence in the light most favorable to Appellant. Judge Fant heard and fully considered all the arguments that Appellant continues to make in his Initial Brief and his Order granting Respondent's motion for summary judgment thoroughly addresses all of the Appellant's arguments repackaged in Appellant's Initial Brief. For the reasons detailed below, the

Court should affirm Judge Fant's December 13, 2024, Order granting summary judgment in favor of Respondent and dismiss Appellant's negligence claim.

In a negligence action, a plaintiff must show that (1) the defendant owes a duty of care to the plaintiff, (2) the defendant breached the duty by a negligent act or omission, (3) the defendant's breach was the actual and proximate cause of the plaintiff's injury, and (4) the plaintiff suffered an injury or damages." *Madison ex rel. Bryant v. Babcock Ctr., Inc.*, 371 S.C. 123, 135, 638 S.E.2d 650, 656 (S.C. 2006). "Duty is generally defined as 'the obligation to conform to a particular standard of conduct toward another.'" *Huggins v. Citibank, N.A.*, 355 S.C. 329, 333, 585 S.E.2d 275, 277 (S.C. 2003) (quoting *Hubbard v. Taylor*, 339 S.C. 582, 588, 529 S.E.2d 549, 552 (2000)). "[T]he court must determine, as a matter of law, whether the defendant owed a duty of care to the plaintiff." *Huggins*, 355 S.C. at 332, 585 S.E.2d at 276.

Appellant states that his "negligence claim only arises and is brought for actions that occurred after Appellant was no longer employed by Respondent." Appellant's Initial Br. at 7. Appellant also alleges that "Respondent owed a duty of care to Appellant as Appellant's former employer and as an entity that improperly received monies solely owed to Appellant." *Id*. at 8. According to Appellant, after he was terminated, BlueCross BlueShield sent checks to Respondent that should have been sent to him and even though Appellant testified that Respondent actually provided him with the funds in dispute, Appellant alleges that "Respondent retained money for services he provided, after termination, for an extended period of time." *Id*; *see also* R. p. 160, lines 48:8-9-p. 161, lines 59:5-9.

An affirmative legal duty exists only if created by statute, contract, relationship, status, property interest, or some other special circumstance. *See Hendricks v. Clemson Univ.*, 353 S.C. 449, 456, 578 S.E.2d 711, 714 (S.C. 2003). Appellant has provided no basis for the duties he

alleges Respondent owed him. In fact, in the face of no evidence to the contrary and in the light most favorable to Appellant, the undisputed facts demonstrate that Respondent deposited a check that it received in the normal course of business, with Respondent's address on it, during a period when it would be typical for Respondent to continue receiving checks for services rendered by a provider during his employment with Respondent.

In addition, Appellant has failed to provide any evidence that Respondent was the actual or proximate cause of any injury, or that he suffered any injury or damage. If it is determined that Respondent was at all negligent in depositing a check containing Respondent's address, Rural Health Services is a 501(c)(3) charitable organization. Pursuant to S.C. Code Ann. § 33-56-180, a plaintiff in a tort action against a charitable organization may only recover actual damages sustained, not to exceed the limitations on liability under S.C. Code Ann. § 15-78-120. Nevertheless, Appellant has ultimately failed to put forth any evidence that Respondent was negligent in retaining any money owed to him or that Respondent is in possession of any money owed to him.

As Judge Fant correctly held, "[Appellant] has failed to cite, nor is the court aware, of a plaintiff who has maintained a claim for negligent retention of property under these circumstances, particularly where [Appellant] testified that it is common for payments to go to an institution six months to a year after an employee leaves an institution and starts providing services elsewhere, and where [Appellant] has provided no evidence that [Respondent] knew the monies were owed solely to him or the existence of any injury. (Holt Dep. 38:15–22)." (R. p. 75, lines 13-18).

Judge Fant thoroughly reviewed the evidence that Appellant requests the Court review here and correctly found that there is no record evidence demonstrating that Respondent owed a duty of care to Appellant, the Respondent breached the duty by a negligent act or omission, the

Respondent's breach was the actual and proximate cause of Appellant's injury, or that Appellant suffered an injury or damages. For these reasons, the Court should affirm Judge Fant's December 13, 2024, Order granting summary judgment for Respondent on Appellant's negligence claim.

V. The Court Should Affirm Judge Fant's Ruling on Appellant's Conversion Claim Because Appellant's Claim is Unsupported by Record Evidence.

Judge Fant properly granted Respondent's motion for summary judgment as to Appellant's conversion claim because there were no genuine issues of material fact as to Appellant's conversion claim even after reviewing the evidence in the light most favorable to Appellant. Judge Fant heard and fully considered the arguments that Appellant continues to make in his Initial Brief and his Order granting Respondent's motion for summary judgment thoroughly addresses all of the Appellant's arguments repackaged in Appellant's Initial Brief. For the reasons detailed below, the Court should affirm Judge Fant's December 13, 2024 Order granting summary judgment in favor of Respondent and dismiss Appellant's conversion claim.

Conversion is the "unauthorized assumption and exercise of the right of ownership over goods or personal chattels belonging to another, to the exclusion of the owner's rights." *Owens v. Andrews Bank & Tr. Co.*, 265 S.C. 490, 496–97, 220 S.E.2d 116, 119 (S.C. 1975) (citing *Ray v. Pilgrim Health & Life Ins. Co.*, 206 S.C. 344, 34 S.E.2d 218 (S.C. 1945). Under South Carolina law, a plaintiff asserting the tort of conversion must show that the defendant, without authorization, assumed and exercised the right of ownership over goods or personal chattels belonging to another to the exclusion of the plaintiff's rights. *Moore v. Weinberg*, 681 S.E.2d 875, 878 (S.C. 2009) (citing *SSI Med. Servs., Inc. v. Cox*, 392 S.E.2d 789, 792 (S.C. 1990)). The plaintiff must establish either title to or right to the possession of the personal property. *Moseley v. Oswald*, 656 S.E.2d 380, 382 (S.C. 2008) (citing *Crane v. Citicorp Nat'l Servs., Inc.*, 437 S.E.2d 50, 52 (S.C. 1993)). Money may be the subject of a conversion claim if the money is capable of being identified. *Moore*,

681 S.E.2d at 878. If the conversion of money is not secured illegally, tortiously, by fraud, or other wrongful conduct, a plaintiff must demonstrate that he made a demand for its return which was refused. *See Mackela v. Bentley*, 614 S.E.2d 648, 650 (S.C. Ct. App. 2005).

Appellant states that he "is aware of Respondent retaining at least $2,800 owed to Appellant." Appellant's Initial Br. at 9. However, as Judge Fant correctly recognized, "the documents [Appellant] cites in support do not appear to constitute a sum demonstrating $2,800. (*See* Ex. 20 - Documents Supporting Conversion - BCBS Records; ECF 48-2, pp. 4-11.) Additionally, [Appellant] has provided no evidence that [Respondent] refused a demand for the return of his funds to establish a conversion claim." (R. p. 76, lines 15-18). Rather, Appellant testified that occurrences of delayed payment were due to BlueCross BlueShield sending the money to Respondent instead of to him and that he was "having to talk" to BlueCross BlueShield to resolve the issue of those funds. *See* R. p. 162, line 60:12-p. 163, line 61:9).

Respondent returned the check at issue after it discovered that BlueCross BlueShield erroneously sent a check that belonged to Appellant to Respondent. *Id*. at p. 158, lines 44:3-5, 44:13-20; p. 106, lines 48:4-5. Appellant has failed to provide any evidence that Respondent obtained this money through any wrongful conduct. Also, Appellant admitted that he has been in possession of the funds for well over two years, which belies any possibility of a finding that Respondent refused to return the funds. *Id*. at p. 161, lines 59:5-9. As to the $2,800 Appellant alleges Respondent still owes him, Appellant has never provided record evidence that Respondent has possession of checks totaling that amount, which it does not. Thus, with no evidence of Respondent engaging in wrongful conduct to receive the check at issue, Appellant is required to show that Respondent refused a demand for the return of funds, which he cannot prove because he

is in possession of the check he alleges Respondent received. *Id*. at p. 155, lines 36:9-24; p. 158, lines 44:12-21.

Judge Fant thoroughly reviewed the evidence that Appellant requests the Court review here and correctly found that even in the light most favorable to Appellant, there is no record evidence demonstrating that Respondent, without authorization, assumed and exercised the right of ownership over goods or personal chattels belonging to Appellant to the exclusion of the Appellant's rights. For these reasons, the Court should affirm Judge Fant's December 13, 2024, Order granting summary judgment for Respondent on Appellant's conversion claim in full.

CONCLUSION

Appellant fails to present any argument to demonstrate that the Honorable Patrick C. Fant, III erred in determining that even viewed in the light most favorable to Dr. Joe Holt, no genuine issue of material fact exists as to any of Dr. Holt's state law claims. As detailed above, Judge Fant properly analyzed the legal elements as to each claim and issued a thorough and well-reasoned determination upon granting summary judgment in favor of Rural Health Services, Inc. as to all of Dr. Holt's claims. For these reasons, the Court should affirm the Aiken County Court of Common Pleas' judgment in full.

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July 25, 2025

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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM AIKEN COUNTY
COURT OF COMMON PLEAS

Judge Patrick C. Fant, III

Case No. 2021CP0201525

Dr. Joe Holt,

Appellant,

v.

Rural Health Services, Inc.,

Respondent.

CERTIFICATE OF SERVICE

I certify that I have served on all other counsel of record Respondent's Final Brief and Designation of Matter via email and U.S. Mail on July 27, 2025.

s/ D. Randle Moody, II
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