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**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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APPEAL FROM AIKEN COUNTY  
COURT OF COMMON PLEAS

Judge Patrick C. Fant, III

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Case No. 2021CP0201525

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Dr. Joe Holt,

Appellant,

v.

RURAL HEALTH SERVICES, INC.,

Respondent.

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REPLY BRIEF OF APPELLANT

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June 6, 2025

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## **STATEMENT OF THE CASE**

On July 20, 2021, Appellant filed a Complaint against his former employer, Respondent. Respondent subsequently removed the action to the District Court 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 as to Appellant's ADA and Title VII causes of action, and the Court declined to exercise jurisdiction over Appellant's state law claims, subsequently remanding them to the Court of Common Pleas.

On July 8, 2024, a trial roster for the week of August 5, 2024, was issued. Respondent filed a motion for continuance, with consent. 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. Respondent's motion for summary judgment was heard before the Honorable Judge Patrick C. Fant, III, on September 4, 2024. A full written order granting summary judgment in favor of Respondents was then issued on December 13, 2024. This appeal followed.

## STANDARD

"When reviewing the grant of summary judgment, the appellate court applies the same standard applied by the trial court pursuant to Rule 56(c), SCRPC." *Peterson v. West Am. Ins. Co.*, 336 S.C. 89, 94, 518 S.E.2d 608, 610 (Ct. App. 1999). Summary judgment shall be granted when the evidence shows that no genuine issue exists as to any material fact and that the moving party is entitled to judgment as a matter of law. Rule 56(c), SCRPC. "When determining if any triable issues of fact exist, the evidence and all reasonable inferences must be viewed in the light most favorable to the non-moving party." *Bluestein v. Town of Sullivan's Island*, 429 S.C. 458, 462, 839 S.E.2d 879, 881 (2020)(quoting *Turner v. Milliman*, 392 S.C. 116, 121–22, 708 S.E.2d 766, 769 (2011)).

## ARGUMENT

### I. INTRODUCTION

Respondent's brief mischaracterizes the evidentiary record and applies an unduly rigid interpretation of summary judgment standards. This Reply brief clarifies the material factual disputes and legal sufficiency of Appellant's claims that should have precluded summary judgment and mandates reversal in this Court. The Court must review the grant of summary judgment construing all evidence and inferences in favor of the non-moving party. *Bluestein v. Town of Sullivan's Island*, 429 S.C. 458, 462, 839 S.E.2d 879, 881 (2020)(quoting *Turner v. Milliman*, 392 S.C. 116, 121–22, 708 S.E.2d 766, 769 (2011)).

### II. DEFAMATION CLAIM

Respondent misapplies the defamation standard by overemphasizing specificity requirements at summary judgment. The record contains direct and circumstantial evidence of repeated defamatory statements—e.g., calling Appellant “racist” and alleging he filed a false police report—which amount to defamation *per se*. See *McBride v. Sch. Dist. of Greenville County*, 389 S.C. 546, 560-61, 698 S.E.2d 845, 852 (Ct. App. 2010)(defamation is *per se* when the statement implies unfitness in one's business or profession). The identity of the declarants and the medium through which the statements were made were established through deposition testimony and corroborated by contemporaneous metadata, including Plaintiff's Memo in Support Exhibit 12 (video interview with patient's mother) and Exhibit 8 (Facebook messages), linking the statements to Respondent's agents. The identity of the individuals who heard the defamatory statements has been disclosed and was disclosed to the lower court. Respondent's argument that Appellant admitted the truth of the statements is incorrect. The accusation was not merely that he

filed a report, but that it was knowingly false—an assertion tantamount to a criminal act, constituting defamation *per se* under South Carolina law. *Id.*

### **III. ABUSE OF PROCESS**

The abuse of process claim is valid. The DSS complaint process was used with an ulterior motive: to retaliate against a client for continuing care with Appellant. This satisfies both prongs: improper use of process and collateral purpose. Appellant has standing because his professional and reputational interests were directly targeted. South Carolina law recognizes that weaponizing state processes, like DSS reporting for private retaliation, constitutes abuse of process and does not require a showing of malice on the part of the individual improperly using the process, as the Respondent argues in its brief to this Court. *See Swicegood v. Lott*, 379 S.C. 346, 351, 665 S.E.2d 211, 214 (Ct. App. 2008) (“[a]lthough harm may result from the “bad intent” used by the [lower] court to describe an ulterior purpose, proving an abuse of process claim does not require a party to intend such harm.”)

### **IV. INTERFERENCE WITH CONTRACTUAL RELATIONSHIPS**

Appellant submitted testimony and records showing ongoing patient relationships, which suffice under South Carolina law. Even absent a formal written agreement, patient-provider relationships grounded in established care and third-party billing are recognized as valid economic expectancies. A contract may be formed through oral agreements or conduct that demonstrates mutual intent to be bound. “A contract is an obligation which arises from actual agreement of the parties manifested by words, oral or written, or by conduct.” *Stanley Smith & Sons v. Limestone College*, 283 S.C. 430, 433, 322 S.E.2d 474, 477 (Ct. App. 1984). Oral agreements are enforceable if supported by clear, cogent, and convincing evidence of mutual agreement and understanding of the terms. *See Brown v. Graham*, 242 S.C. 491, 492, 131 S.E.2d 421, 422 (1963).

Respondent's interference via false reports and defamatory statements was unjustified and directly interfered with Appellant's contractual and economic relationships, which despite not being based on written contracts, were evident based on the conduct of both Appellant and his patients that chose to utilize his services. Appellant contends now as he always has that not all of his owed fees have been paid to him by Rural Health so that is a clear question of material fact which should have been presented to the fact finder.

#### **V. NEGLIGENCE CLAIM**

Respondent owed a duty to remit payments clearly owed to Appellant post-termination. The record contains evidence that Respondent retained funds improperly, in violation of its own financial policies. Damages are not speculative; they stem from lost revenue and delayed operations. Respondent's charitable status does not immunize it from negligence liability; it only limits damages under S.C. Code Ann. § 33-56-180, which is a matter for trial—not summary judgment.

#### **VI. CONVERSION CLAIM**

Respondent wrongfully exercised control over funds belonging to Appellant. The tort of conversion is strict liability and does not require proof of intent. Appellant's evidence establishes an 'unauthorized assumption and exercise of ownership' over funds due to him, or at the very least presents a question of fact to be decided by the fact finder. *See, generally, Owens v. Andrews Bank & Tr. Co.*, 265 S.C. 490, 220 S.E.2d 116 (1975). Disputes over ownership and entitlement should be resolved by a jury, not at summary judgment.

### **CONCLUSION**

For the foregoing reasons, and those in Appellant's initial brief, the judgment below should be reversed and the case remanded for trial on the merits. Because genuine disputes of material fact remain on each claim, these issues must be resolved by a jury.

June 6, 2025

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