RECEIVED
Aug 05 2025
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas
Thomas W. McGee, III, Circuit Court Judge

Appellate Case No. 2024-002036

Robert C. Workman, Individually and as Personal Representative of the Estate of James K. Workman, Kelly Workman Tick and Matthew T. Workman……Plaintiffs/Appellants,

v.

State Farm Mutual Automobile Insurance Company and Gallivan, White & Boyd, P.A.……Defendants

of which

State Farm Mutual Automobile Insurance Company is the

……Defendant/Respondent.

INITIAL REPLY BRIEF OF APPELLANTS

JUSTIN S. KAHN
WES. B. ALLISON
KAHN LAW FIRM, LLP
PO Box 31397
Charleston, South Carolina 29417
843.577.2128
ATTORNEYS FOR APPELLANTS

TABLE OF CONTENTS

TABLE OF AUTHORITIES

CASES

STATUTES

RULES

I. STATEMENT OF THE CASE AND FACTS

Appellants made an "obvious typo" that the false "certification" was an Exhibit to State Farm's Complaint when it should read the false "declaration" was an Exhibit. That error will be corrected in the final brief.[1]

II. FACTS (DISPUTED)

Respondent State Farm states as a fact that Appellants agree the forged policy 40B "replaced" the cancelled Policy 40A in effect at the time of the collision. That is incorrect. Appellants pleaded that the forged policy State Farm created *after* the collision ***falsely*** claimed it "replaced" policy 40A. *See e.g.* R. _ Complaint ¶ 51 iv, (State Farm's declaration page-unfairly, improperly and falsely claims it replaced policy 40A) and ¶ 52 iii (State Farm created the false declarations page to make material misrepresentations including that policy 40A was replaced when it was cancelled after the collision.).

State Farm asserts as "fact" that its insured, Melvin Lamb, Jr. (the father of the at-fault driver), admitted signing an excluded driver endorsement "agreeing there would be no coverage afforded" to his son. Respondent's Brief, p. 8 n. 5. But State Farm is not candid with the Court. It omits a critical fact: In the underlying

[1] In footnote 6 of Respondent's brief, State Farm states "the Certified Policy Record was not attached as an exhibit to the Complaint in the Underlying Suit" as Appellants claim in their initial brief. Rule 211(b)(2), SCACR.

DJ action, which also named its insured Mr. Lamb, Jr. as a defendant, he filed an amended answer **denying** that he signed the form and **denying** that coverage was excluded. *See State Farm Mut. Auto. Ins. Co. v. Lamb*, C.A. No. 2:21-CV-02623-MBS, Lamb Amended Answer, ECF No. 42 (D.S.C. Nov. 18, 2021). Appellants pointed this out to the trial court (R. __ Trans. p. 39, 1–2) but the misrepresentation remains uncorrected.

This is not a mistake. It reflects a pattern of selective disclosures, distortions, and misrepresentations. That tactic highlights State Farm's conduct and shows the danger of looking outside the pleadings at the Rule 12 stage: a party can manipulate selective facts to defeat claims that are otherwise properly pleaded. Courts should not reward that conduct, and certainly not use it to cut off well-pleaded, legitimate claims without amendment, discovery or trial.

III. ARGUMENT

A. *Russell* Standard Violated – Improper Considerations

"A judgment on the pleadings against the plaintiff is not proper if there is an issue of fact ***raised by the complaint*** which, if resolved in favor of the plaintiff, would entitle him to judgment. ***All properly pleaded factual allegations are deemed admitted***.… A complaint is sufficient if it states any cause of action or it appears that the plaintiff is entitled to any relief whatsoever. … A judgment on the

pleadings is a drastic procedure." *Russell v. City of Columbia*, 305 S.C. 86, 89, 406 S.E.2d 338, 339 (1991) (emphasis added). As to facts pled, "any inference of law or conclusions of fact that may properly arise therefrom are to be regarded as embraced in the averment." *Russell at* 89, 339. Further, "pleadings in a case should be construed liberally so that substantial justice is done between the parties." *Id.* The Trial Court committed reversible error and improperly looked outside the Complaint, resolved facts pled *against* the heirs, weighed the meaning of pleadings in another matter, and interpreted those materials to negate facts pled in the Complaint. *See e.g.* R. _ Amended Order pp. 6-7 and Appellants Brief, pp. 32-33.[2]

At the hearing and in filings, Appellants repeatedly objected to the trial court's consideration of materials outside of the Complaint,[3] including State Farm's stated defenses.[4]

---

[2] "Their position is that it was an honest thing." R. _ Transcript p. 35, 14-15. Appellants pled the documents were forged, but the Court asserted State Farm has a different position and said, "you have heard one explanation for it…" R. _ Transcript p. 47 8-16. The Court should have never considered State Farm's response to the allegations or its spin.

[3] "[M]uch of what was said [argued by State Farm counsel] was outside the pleadings therefore it shouldn't be considered." R. _ Transcript p. 34, lines 3-5.

[4] "Facts outside of the pleadings and defenses like reasonable or detrimental reliance are not proper to consider." R. _ 2024.07.11 Plaintiffs' Memo in Opposition to State Farm's Judgment on the Pleadings p. 7. "the Court should deny the motions because discovery has not been fully and fairly conducted and defendants improperly seek consideration of matters outside the Complaint, including defenses such as immunity, lack of reliance, and consideration of documents in a different proceeding. At this stage, the Court is not to look beyond the Complaint." R. _ 2024.09.30 Plaintiffs' Supp. Submission. p. 2.

In the light most favorable to the Appellants, the Complaint alleges that State Farm forged and created other bogus policy documents to use in a lawsuit, causing damage to Appellants. The trial court was required to deem those facts admitted and ask only whether, if proved, they entitle Appellants to relief. They plainly could. The trial court drastically short-circuited the process *Russell* requires and committed reversible error.

B. Standing Individual Appellants and Heirs

Respondent mischaracterizes the underlying claim as a disguised attempt to sue State Farm for bad faith, for which Appellants would lack standing.

State Farm again improperly wanders outside of the pleadings and claims the heirs suffered no injury because, after State Farm was caught, it eventually paid the Estate ten million dollars. Respondent Brief pp. 23-25. That argument is flawed.

State Farm paid the $10 million only after it was caught trying to avoid covering its insureds, the Lambs, by using fake documents in the DJ action. It paid that money only after it blew a *Tyger River* demand, exposing its insureds to the potential of a huge excess judgment.[5] Once Appellants engaged in litigation and discovered the forged documents, State Farm realized it could no longer "prove"

[5] R. _ Transcript pp. 15, 21. State Farm paid to release *only* its insured and his son.

its insured's son was excluded from the policy; thus, paying to protect its insured was the only viable option at that time. State Farm could have candidly pleaded accident, mistake, or sought reformation—remedies available to any insurer whose existing paperwork is merely flawed. Instead, after the *Tyger River* demand, it chose the darker course of forging documents and suing its own insured and others, hoping the courts and the heirs would never discover the truth and avoid payment.

First, the payment for the wrongful death claim is irrelevant and should not have been considered by the trial court or this Court, as it falls outside the four corners of Appellants' Complaint. Second, to the extent State Farm wants to make it an issue, the payment of $10 million serves as proof that State Farm's DJ action was founded on bogus documents and was not supported by facts. And third, it shows Appellants relied on State Farm's bogus claims to hire a lawyer to defend them, incurring attorney's fees and costs, and other harms.

This case is about the Appellants' injuries caused by State Farm *after* the death of their father. The settlement petition, fee approvals, and probate filings are not in the Complaint; they are extra-record documents State Farm improperly offers for a merits inference—that the heirs were made whole. *Russell* forbids that exercise on a Rule 12(c) motion, and Rule 201, SCRE does not permit "judicial notice" of contested factual conclusions.

As pled, State Farm engaged in the criminal act of forgery and created false documents and used unapproved forms in a lawsuit, claiming they were real, to: 1) avoid paying the Appellants and others what State Farm actually owed; and 2) avoid defending and indemnifying their own insureds. The $10 million figure does not negate Appellants' standing; it highlights why State Farm's ulterior purpose and improper motives, as it was desperate to avoid coverage in the first place. It shows why its forged-document strategy inflicted real, uncompensated harm on the Workman children who were forced to defend the bogus lawsuit.

This action seeks to hold State Farm accountable for its wrongdoing, including abuse of process and unfair trade practices because it filed a declaratory action grounded in documents created after the collision and claimed they existed before the collision to deprive Appellants and others money.

Appellants have adequately alleged facts supporting both constitutional and statutory standing.[6] The Complaint pled concrete harms that give rise to

[6] State Farm appears to contend that Robert Workman as personal representative cannot state a claim under the UTPA. He was always identified as both himself and as personal representative. *See e.g.* the caption, "individually and as personal representative," R. ___ Compl. ¶1 "At all pertinent times, Plaintiff Robert C. Workman was the Estate's Personal Representative, son of James K. Workman and heir of Estate." R. _ Compl. ¶ 20. The UTPA cause of action can fairly be read to mean that when Plaintiff Robert C. Workman was used, it was in both capacities as the heir and personal representative, along with the other heirs. R. ___ Complaint ¶¶ 153 and 160. Of course, "pleadings in a case should be

constitutional standing and ascertainable financial losses stemming from State Farm's unfair practices, satisfying the statutory standing requirements under the South Carolina Unfair Trade Practices Act (SCUTPA).

1) Standing - Right to Make Claim

In its most basic sense, "[s]tanding refers to a party's right to make a legal claim or seek judicial enforcement of a duty or right." *Pres. Soc'y of Charleston v. S.C. Dep't of Health & Env't Control*, 430 S.C. 200, 209, 845 S.E.2d 481, 486 (2020). "Standing may be acquired (1) by statute, (2) under the principle of "constitutional standing," or (3) via the "public importance" exception to general standing requirements." *Id. at* 209–10, 486.

Far from being "uninvolved strangers," Appellants had to retain counsel, incur fees, and suffer delay in receiving settlement funds through the Estate because of State Farm's sham DJ action and the need to oppose it. R. _ Complaint ¶¶ 101-105. All are damages the law recognizes as flowing from State Farm's fraud, abuse of process, unfair trade practices, etc. Nothing more is required at the pleading stage.

2) Constitutional Standing Exists for All Claims

---

construed liberally so that substantial justice is done between the parties." *Russell v. City of Columbia*, 305 S.C. 86, 89, 406 S.E.2d 338, 339 (1991).

Because each Appellant alleges suffering concrete harms, each has constitutional standing. Respondent argues the complaint does not allege a *particularized* harm for the appellants and cite *Carnival Corp. v. Historic Ansonborough Neighborhood Ass'n*, 407 S.C. 67, 75, 753 S.E.2d 846, 850 (2014) in support. Respondent's Brief, pp. 19-20. However, *Carnival Corp*. was a public nuisance case where standing was held not to exist as plaintiffs failed to allege a concrete particularized harm or set forth any injury different from the injury suffered by the public generally. *Carnival Corp. at* 75, 850.

3) Concrete and Particularized Harms

Appellants particularized and concrete harms include denial of insurance coverage and policy proceeds, relying on the misrepresentations to make decisions about other coverage (UM/UIM), expense, attorneys fees, costs, *etc*. *See e.g.* R. _ Complaint ¶¶ 1, 15, 46, 101-102, 105, 108. 2024.09.30; R. _ Plaintiffs Supp. Response pp. 13-14; R. _ 2024.09.30 Plaintiffs' Notice Motion and Memo for Reconsideration State Farm Filed pp. 8-9. Standing requires no more. Appellants satisfy the concrete harms requirement.

To the extent State Farm relies on federal law related to Article III standing that reliance should be disregarded. "The concept of Article III standing as applied in the federal courts does not limit a state's ability to statutorily formulate standing

criteria." *Pres. Soc'y of Charleston v. S.C. Dep't of Health & Env't Control*, 430 S.C. 200, 210–11, 845 S.E.2d 481, 486 (2020).

4) Judicial Notice Improper – Matters in Underlying Lawsuit Not to be Considered

The trial court further erred by improperly taking judicial notice of the Estate's answer in the underlying DJ action to determine Appellants did not rely on State Farm's misrepresentations because Appellants denied them in their Answer.

As a threshold matter, reliance is a question of fact, and the Court erred in ruling on this at the Rule 12 stage and before any discovery occurred. [7]

Despite repeated reminders to confine its review to the Complaint, [8] the court considered external documents[9] and declared it "must take judicial notice" of outside filings. R. _ Order p. 4 n. 1. Rule 201 may permit a court to take notice of a filing's **existence**, but not interpret it. By using State Farm's claims in those

[7] *See e.g.* discussion about reliance as a question of fact presented to the Trial Court. R. ___ 2024.07.11 Plaintiffs' Memo in Opposition to State Farm's Judgment on the Pleadings, pp. 18-20.

[8] *See e.g.* "…much of what was said was outside the pleadings, therefore it shouldn't be considered." R. _ Transcript p. 34, lines 4-5. *See e.g.* "Judicial notice has no place in the Court's determination of a Rule 12(c) motion which is confined to consideration to the four corners of the Complaint" R. _ 2024.09.30 Plaintiffs Notice Motion and Memo for Reconsideration State Farm Filed. pp. 7-8.

[9] *See e.g.* R. _ Trial Court Order p. 7 where State Farm's district court DJ action is quoted and interpreted as brought for proper reasons or for a legitimate purpose.

filings to find merit in State Farm's position, the court violated Rule 201 and the four-corners rule of *Russell*.[10]

Respondent's argument that the Court properly found no reliance based on Appellants' answer to State Farm's DJ action creates a trap. Had Appellants admitted the declaratory complaint's false allegations and forged documents, they would not have been able to recover the automobile policy proceeds and could not sue for abuse of process; because they denied them, Respondent claims "no reliance." The law and equity provide no basis to spring that trap. Further, as was argued, Appellants relied on State Farm's claims *before answering* to hire attorneys to respond. Only after counsel was retained to address the lawsuit was the fraud discovered. R. _ Transcript pp. 59-60, 100. State Farm continued its misconduct using and creating more false documents, to force Appellants to keep defending and incur additional harm. *See* e.g. R. ___ Comp. ¶¶ 11, 13-15 and R. ___ Three Exhibits used at Oral Argument. R. _ pp. 36, 74-75.

[10] The court refused to accept as true the Complaint's core allegations (fabrication/forgery; use of those documents to initiate litigation; the heirs' reliance and injury) and explicitly relied on materials outside of the Complaint, including the Estate's Answer and Local Rule 26.03 responses in another case to find the heirs could not have relied on or been harmed, etc. *See* e.g. R. _ Order pp. 4 n. 1, 10-11. The circuit court erred by weighing extrinsic materials in the federal action at the pleadings stage. R. _ Order p. 7.

Had State Farm succeeded in convincing the District Court it had no obligation to cover damages from this fatal collision, the heirs would have been aggrieved further because no insurance proceeds would have been available to cover their damages. A person is "aggrieved by the judgment or decree when it operates on his rights of property or bears directly upon his interest, the word aggrieved referring to a substantial grievance, a denial of some personal or property right or the imposition on a party of a burden or obligation." *Bivens v. Knight,* 254 S.C. 10, 13, 173 S.E.2d 150, 152 (1970); *accord Cisson v. McWhorter,* 255 S.C. 174, 177 S.E.2d 603 (1970).

Respondents cite *Burns v. Gardner*, 328 S.C. 608, 493 S.E.2d 356 (Ct. App. 1997) to argue Appellants lack standing. However, that case holds that a 12(b)(6) dismissal of an amended complaint was proper because "there is no allegation in the amended complaint that the appellants relied on the misrepresentation." *Burns v. Gardner*, 328 S.C. 608, 616, 493 S.E.2d 356, 360 (Ct. App. 1997).

Appellants clearly relied on State Farm's bogus statements in the DJ complaint because they hired counsel to defend against them. This reliance was properly pled. Respondent. R. _ Complaint ¶¶ 101-102. State Farm knew Appellants and others would and had a right to rely on these documents. R. _

Complaint ¶¶ 129-130. As a result of the improper conduct, Appellants were harmed and damaged. R. _ Complaint ¶ 131.

5) Standing Exists When Defendant's Misconduct Foreseeably Affects Non-Party with a Legally Protected Interest

One has standing or is aggrieved not based solely on whether one is named in a lawsuit, but whether a one can be or "is aggrieved." *Bivens v. Knight*, 254 S.C. at 10, 13, 173 S.E.2d 150, 152, discussed *supra*.

State Farm's misconduct did not injure James Workman during his lifetime; it **targeted the heirs' statutory share after his death.** By forging a declarations page, fabricating a "Certified Policy Record," and filing a declaratory-judgment action ("DJA") using those bogus documents, State Farm tried to cut off the very proceeds the statutes earmark for his children. There is a difference between a lawsuit brought for a wrongful death and a lawsuit brought by the estate beneficiaries claiming a wrongdoer harmed the estate itself. South Carolina's wrongful-death and survival statutes are explicit: any recovery is **"for the benefit of the … heirs,"** while the personal representative merely serves as the procedural conduit. S.C. Code Ann. §§ 15-51-10, -20, -40; § 62-3-715(24). In practical terms, that is no different from forging deeds to shrink a trust corpus and forcing the trust beneficiaries to hire counsel to stop the theft. South-Carolina law allows those

beneficiaries to sue for (i) the assault on their expectancy and (ii) the out-of-pocket losses—fees, costs, delayed UIM payments—they were compelled to bear.

Because State Farm filed the DJA **after** Mr. Workman's death, the heirs already owned a vested interest in any insurance recovered. A judgment manufactured by State Farm's creation and use of forged documents declaring "no coverage" would have operated directly on their pocketbooks; that is the very definition of a party "aggrieved." *Bivens v. Knight*, 254 S.C. 10, 13, 173 S.E.2d 150, 152 (1970). Thus, Appellants were harmed when they chose to act to defend the lawsuit brought by State Farm against the Estate of which they had an interest.

Standing turns on the existence of injury, not on whether State Farm bothered to name them in its federal caption. Nor does the absence of formal "privity" bar suit. South-Carolina precedent supports the idea that foreseeable third-party victims have standing:

- ***Fabian v. Lindsay***, 410 S.C. 475, 765 S.E.2d 132 (2014) – estate beneficiaries may sue the probate lawyer whose negligence diluted their inheritance;
- ***Hardee v. Bio-Mechanical***, 384 S.C. 523, 636 S.E.2d 629 (2006) – motorists can sue a physician at a dialysis clinic who failed to warn his patient about the dangers of driving and were injured as a result;

- ***Elledge v. Richland/Lexington Sch. Dist. 5***, 352 S.C. 179, 573 S.E.2d 789 (2002) – mother recovers costs of injured child although she suffered no bodily injury herself.

Each case recognizes (explicitly or implicitly) standing where a defendant's misconduct foreseeably harms an identifiable non-party. State Farm's scheme was aimed squarely at the Workman children; the Complaint details how they were forced to retain counsel and harmed (¶¶ 101-05), lost the benefit of other insurance funds (¶¶ 1, 46-47), and were injured (¶ 113). Those concrete, personal injuries satisfy both constitutional and statutory standing under *Preservation Society* and SCUTPA S.C. Code Ann. § 39-5-140(a) (***any person*** who suffers any ascertainable loss…as a result of the use or employment by another person of an unfair or deceptive method, act or practice…***may bring an action***…). (emphasis added).

Appellants have standing and should be allowed to assert all their causes of action, including abuse-of-process, fraud, negligent-misrepresentation, and SCUTPA claims in their own names, even though State Farm did not name them in the lawsuit. South Carolina protects the right of beneficiaries to sue when an outsider purposefully sabotages the funds that existed for their benefit.

6) Statutory Standing Exists for UTPA

The UTPA expressly exempts certain practices and transactions by providing that it is ***inapplicable*** to "[a]ctions or transactions ***permitted*** under laws administered by any regulatory body or officer acting under statutory authority of this State or the United States." *Maybank v. BB&T Corp.*, 416 S.C. 541, 569, 787 S.E.2d 498, 512 (2016) (emphasis added). The burden of proving an exemption is on the party claiming the exemption. *Id*. The trial court erred in determining that the entire insurance industry is exempted from the UTPA. R. _ Order pp. 18-23.

In its brief, State Farm cites no regulation ***permitting*** the use of forged or unapproved documents to deny coverage. Respondent's categorical-exemption argument under § 39-5-40(c) fails at the Rule 12 stage because the conduct alleged—litigation-related fabrication and use of false documents to avoid payment—is not permitted or "covered and regulated" by Title 38, and in any event presents factual issues not resolvable on the pleadings.

In the light most favorable to the Appellants, it is an unfair or deceptive trade practice for an insurer to create, use and provide such documents to third parties to deny coverage.

Appellants addressed the improper dismissal of their UTPA claims. Appellant's Brief pp. 15-22. These arguments were presented to the trial court. R. ___ 2024.07.11 pp. 24-26. R. ___ 2024.09.30 p. 7.

State Farm, which bears the burden of proving exemption, fails to prove its illegal conduct is exempted by UTPA. Instead, State Farm and the trial court rely on a decision by a district court that did not interpret automobile insurance and improperly held that the UTPA does not apply to insurance.

The use of and reliance on a district court decision that did not even address automobile insurance was error. The district court improperly held the SCUTPA "exempts from coverage unfair trade practices regulated by Chapter 57 of Title 38 it exempts from coverage all unfair trade practices regarding the business of insurance." *Trs. of Grace Reformed Episcopal Church v. Charleston Ins. Co.*, 868 F. Supp. 128, 132 (D.S.C. 1994).

As this Court has recognized, "a federal district court's interpretation of South Carolina insurance law is not binding on this court." *Progressive Direct Ins. Co. v. Groves*, 431 S.C. 203, 216, 847 S.E.2d 114, 121 (Ct. App. 2020), *rev'd,* 438 S.C. 26, 882 S.E.2d 464 (2022) n. 9. *Reversed on other grounds*.

Appellants alleged unfair or deceptive acts with public impact and an ascertainable loss (attorneys' fees/costs and other expenses) "as a result" (¶¶ 153–161). Respondent's categorical-exemption argument under § 39-5-40(c) fails at Rule 12 because the conduct alleged—litigation-related fabrication and use of false

documents to avoid payment—is not permitted or "covered and regulated" by Title 38, and in any event presents factual issues not resolvable on the pleadings.

7) Appellants Have Statutory UTPA Standing

"Statutory standing exists, as the name implies, when a statute confers a right to sue on a party, and determining whether a statute confers standing is an exercise in statutory interpretation." *Pres. Soc'y of Charleston v. S.C. Dep't of Health & Env't Control*, 430 S.C. 200, 210, 845 S.E.2d 481, 486 (2020).

Appellants have statutory standing to bring an action as they have alleged suffering an ascertainable loss of money because of the use or employment of State Farm's unfair or deceptive method, act or practice. SCUPTA provides Appellants *statutory* standing.[11]

As discussed *supra*, and as pled in Appellants' Complaint, Plaintiffs Robert C. Workman, Kelly Workman Tick and Matthew T. Workman suffered losses, including incurring expense to hire an attorney, defend a lawsuit, and pay expenses. Complaint ¶¶ 15, 105, 160.

[11] "***Any person*** who suffers any ***ascertainable loss of money or property***, real or personal, as a result of the use or employment by another person of an unfair or deceptive method, act or practice declared unlawful by Section 39-5-20 ***may bring an action***." S.C. Code Ann. § 39-5-140(a) (emphasis added).

Finally, State Farm suggests that Appellants' claim its unfair trade practices also hurt "others" in the Complaint creates an issue for Appellants. Just the opposite is true. State Farm's SCUPTA violation is not only capable of repetition but actually was repeated by naming others who were defendants in the declaratory judgment action.

The Appellants pled violations of SCUTPA and allege "ascertainable losses of money" (R. __ Compl. ¶¶ 153, 160). These are concrete, particularized, post-death injuries. Thus, Appellants have statutory standing for their UPTA claims.

C. Trial Court's "Party to Prior Suit" Rationale Misstates Law

As argued in Appellants' Brief (pp. 28-30), as to an abuse of process claim, one must assert two essential elements: 1) an "ulterior purpose," and 2) a "willful act in the use of the process not proper in the conduct of the proceeding." *Food Lion, Inc. v. United Food & Com. Workers Int'l Union*, 351 S.C. 65, 71, 567 S.E.2d 251, 253 (Ct. App. 2002). The trial court improperly looked beyond the Complaint and focused on the idea that the heirs "were not parties to the Underlying Suit…" R. _ Order p. 3. Regardless of the caption, the heirs allege they were forced to participate, incur fees, and delay settlement because of State Farm's misconduct. That is sufficient.

The Amended Order concluded the heirs alleged lack of standing and no facts showing "ulterior purpose," but the Complaint tells a very different story.

C. Abuse of Process Proper as to Appellant Heirs - Complaint Pleads an Ulterior Purpose and Improper Motive

"An ulterior purpose exists if the process is used to gain an objective not legitimate in the use of the process." *Food Lion, Inc. v. United Food & Com. Workers Int'l Union*, 351 S.C. 65, 71, 567 S.E.2d 251, 253 (Ct. App. 2002). The trial court improperly held that Appellants' Complaint did not plead sufficient facts to allege State Farm filed the DJA for an ulterior purpose. *See e.g.* R. _ Order p. 7. Appellants' complaint has sufficient allegations of an ulterior purpose. For example, the Complaint alleges State Farm knew Appellants and their insurance carrier would use the false documents to make decisions about the available insurance coverage and the effect on other policies. R. ___ Complaint ¶¶ 46-48. Other examples include:

¶¶	Allegation (taken as true at Rule 12)	Ulterior Purpose / Improper Motive
40–48	State Farm forged a new declarations page so that Plaintiffs, courts, and insurers and others would rely on it.	Fabrication of sham "evidence" is evidence of improper motive or objective.
55–57	It prepared a "Certified Policy Record," falsely swearing the forged page was genuine, and delivered it "to use in litigating" the DJ action.	Litigation tool, not bona-fide record used to deploy false documents.

¶¶	Allegation (taken as true at Rule 12)	Ulterior Purpose / Improper Motive
58-61	State Farm knowingly relied on an unapproved exclusion form "*to try to deny coverage to Plaintiffs and others.*"	Using unlawful form to defeat coverage not a bona-fide quest for adjudication.
64	State Farm "knowingly provided the bogus documents … to use in litigation to further its unlawful purposes.	documents and suit were coordinated parts of one scheme.
62–66	State Farm "hired GWB in part to file a lawsuit to avoid indemnifying, defending, or paying."	DJ suit conceived as coverage-avoidance device, not bona fide quest for adjudication.
72–73	Defendants "created, filed, and pursued the litigation using bogus documents to make Plaintiffs abandon claims … to improperly deny coverage, and to avoid paying legitimate claims."	Primary objective is economic coercion, not adjudication.
96–105	As a result, each heir retained counsel, defended the DJA, addressed their own auto coverages, and incurred fees, costs, and expenses.	Direct personal injury flowing from misuse of process.

Read together—and with all reasonable inferences drawn for Appellants—these allegations plausibly plead the classic abuse-of-process elements:

1. **Process Misused.** State Farm invoked the federal-court declaratory process *after* fabricating and continuing to fabricate policy documents as part of litigation. R. _ Complaint ¶ 13-14.

2. **Ulterior Purpose.** The suit was filed for improper reasons including: to pressure the heirs to abandon the liability coverage, UIM claims, shield State

Farm from bad-faith exposure, and legitimize fraudulent documents—not merely to secure a neutral coverage ruling. R. _ Complaint ¶¶ 1, 47-50, 102.

3. **Resulting Damages.** The heirs each suffered harm and each paid attorneys' fees and expenses to combat the sham suit and had other losses and ascertainable damages (which can include emotional). R. _ Complaint ¶¶ 100-102, 105, 108, 116, 125, 131, 160.

These allegations satisfy the ulterior-purpose element because they charge State Farm with weaponizing judicial process not to resolve a bona fide dispute but to shrink the insurance proceeds that belonged to the Workman estate and its heirs.

D. The Complaint Pleads the Required Improper Acts for Abuse of Process

Whether a lawsuit is "properly instituted does not foreclose an action for abuse of process if Respondents have, in fact, committed acts outside the normal process that are improper." *Pallares v. Seinar*, 407 S.C. 359, 372, 756 S.E.2d 128, 134 (2014). The second prong is met by allegations that State Farm filed the declaratory-judgment action using forged and unapproved documents and then continuing to litigate after their falsity was exposed. R._ Compl. ¶¶ 66-70; 94-100. Appellants pled State Farm's "intentional actions in using the process, filing, and pursuing of the lawsuit was neither proper in the regular conduct of litigation nor aimed at an objective that was a legitimate use of the process." R. _ Compl. ¶ 112.

E. Heirs' Abuse-of-Process Claim Could Not Be Dismissed at Rule 12(c)

The trial court dismissed the abuse-of-process count "without prejudice" as to the Estate and with prejudice as to the three individual heirs, reasoning that the Complaint "does not sufficiently plead" facts showing an *ulterior purpose or collateral reason* for State Farm's declaratory-judgment action. That conclusion disregards both the governing Rule 12(c) standard and the detailed allegations actually plead for – and unique to – the Appellants.

F. Reversible Error to Not Allow Amendment

Even if no facts were alleged, the trial court committed reversible error by not allowing the complaint to be amended as repeatedly requested.[12] The holding that Appellants "may or may not" (R. _ Amended Order p. 8) fix the problem by amendment shows the Complaint is at least capable of cure. "In the absence of a proper reason, such as bad faith, undue delay, or prejudice, a denial of leave to amend is an abuse of discretion." *Forrester v. Smith & Steele Builders, Inc.*, 295 S.C. 504, 507, 369 S.E.2d 156, 158 (Ct. App. 1988). There is no proper reason to deny amendment as repeatedly requested. Yet, the trial court improperly barred the claims outright and granted judgment against Appellants. This is reversible error.

[12] R. _ 2024.07.11 Plaintiffs' Memo in Opposition to State Farm's Judgment on the Pleadings p. 31-32; R. _ 2024.09.30 Plaintiffs Notice Motion and Memo for Reconsideration State Farm p. 9; R._ 2024.09.30 Plaintiffs Supp Submission p. 14.

IV. CONCLUSION

This appeal arises from an improper judgment on the pleadings that disregarded core principles of South Carolina law. The circuit court violated *Russell*, by considering matters far beyond the four corners of the Complaint, interpreting documents from another case, and resolving factual disputes in favor of the moving party. That is precisely what Rule 12(c) forbids.

This case deserves to proceed. The Complaint sets forth a plausible, disturbing account of a forgery-based litigation strategy designed to defraud an estate and its heirs. South Carolina law does not—and should not—insulate that conduct from judicial scrutiny. Appellants respectfully request that this Court reverse the judgment and remand the case to move forward on all causes of action.

Oral Argument is requested.

RESPECTFULLY SUBMITTED
KAHN LAW FIRM, LLP
/S JUSTIN S. KAHN
JUSTIN S. KAHN
SC BAR NO. 65100
JSKAHN@KAHNLAWFIRM.COM
WES B. ALLISON
SC BAR NO. 100533
WALLISON@KAHNLAWFIRM.COM
PO BOX 31397
CHARLESTON, SC 29417-1397
P 843.577.2128 | F 843.577.3538
ATTORNEYS FOR APPELLANTS