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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM OCONEE COUNTY
PlanetONE Packaging, LLC, Respondent,

V.

American Pharma Machinery, LLC, and Dorothy Piercea/k/a Dorothy Wells a/k/a Dorothy Aleweny a/k/a QueenDorothy Amolo, Defendants,

Of whom Dorothy Pierce a/k/a Dorothy Wells a/k/aDorothy Aleweny a/k/a Queen Dorothy Amolo is the Appellant.

Case No. 2023-CP-37-00232

Appellate Case No. 2025-00049

**APPELLANT DOROTHY PIERCE’S PETITION FOR A WRIT OF SUPERSEDEAS
(MOTION FOR STAY PENDING APPEAL AND WAIVER OF SUPERSEDEAS BOND)**

Appellant Dorothy Pierce ("Ms. Pierce"), proceeding pro se, respectfully petitions this Honorable Court pursuant to Rule 241, SCACR, for a Writ of Supersedeas to stay the execution of the Default Judgment entered against her in the Oconee County Court of Common Pleas (C.A. No. 2023-CP-37-00232) on March 24, 2025. Ms. Pierce further moves this Court to waive the supersedeas bond requirement due to her financial inability to post one. This Petition is filed directly with the Court of Appeals because extraordinary circumstances, namely the trial court’s demonstrated pattern of procedural unfairness and disregard for the evidentiary record, have made it impracticable and futile to seek relief from the lower court first, as permitted by Rule 241(d)(4)(D), SCACR.

I. INTRODUCTION

This case arises from a single commercial transaction for industrial equipment that encountered delays, a common issue in custom manufacturing. Through profound legal errors, the lower court transformed this dispute into a punitive \$262,130.33 default judgment, including:

- a) Misapplication of the South Carolina Unfair Trade Practices Act (SCUTPA) to a private contract dispute lacking “public interest” impact.

- b) Erroneous trebling of damages without evidence of “willful” violation, despite Appellant’s good-faith offers to mitigate (Exhibits A-G).
- c) The trial court's finding that Appellant is personally liable without properly piercing the corporate veil, in the absence of any evidence of fraud, domination, or the other factors required under South Carolina law (*Sturkie v. Sifly*, 280 S.C. 453, 313 S.E.2d 316 (Ct. App. 1984)).
- d) Awarding speculative, unpleaded damages (\$74,788 vs. \$22,788 pleaded), violating Rule 54(c), SCRCF.
- e) Judicial bias by Judge R. Lawton McIntosh, creating an appearance of partiality under Canon 3(E)(1), SC Code of Judicial Conduct, denying due process.
- f) Conflicting and confusing judicial orders that deprived Appellant of the ability to comply and protect her rights. In open court, the judge expressly stated that Appellant would have five (5) days from receipt of the fee affidavit to request cross-examination. Yet the written order filed the next day altered the requirement to five (5) days from the date the order was filed, without clarifying service or accounting for Rule 77(d) mailing requirements to a pro se litigant. This inconsistency created procedural confusion, undermined Appellant’s ability to respond, and resulted in the court later — and erroneously — deeming her motion untimely despite being filed within one day of actual receipt of the affidavit.
- g) Attorney’s fee award inflated in a default judgment **context** where there was no litigation on the merits, no discovery, and only three hearings, compounded by the court’s refusal to permit the very cross-examination it initially promised. The resulting judgment is not only legally unsustainable but grossly disproportionate to the underlying dispute, violating principles of fairness, due process, and proportionality in civil remedies.

A writ of supersedeas is essential to preserve the status quo, prevent irreparable financial ruin, and ensure Appellant’s meritorious appeal is not mooted by premature enforcement (*Russo v. Sutton*, 310 S.C. 200, 422 S.E.2d 750 (1992)).

II. GROUNDS FOR EXTRAORDINARY CIRCUMSTANCES JUSTIFYING DIRECT FILING

Under Rule 241(d)(4)(D), SCACR, filing directly with this Court is permitted when seeking relief from the trial court is impracticable. The trial court's pattern of bias and procedural unfairness, detailed below, demonstrates that a motion for stay would not receive impartial consideration, justifying direct filing.

- a) **Ignoring Sworn Testimony to Award Fabricated Damages:** At the January 29, 2025 damages hearing, Respondent's witness, Karen Davidson, testified under cross-examination that she sought only a \$22,788 refund plus legal fees:

Appellant: "As we speak right now, Karen, why exactly, how much do you want in damages?"

Ms. Davidson: "I would just like to have the money back that I paid... Plus my legal fees."

Appellant: "It is your testimony right now you're only asking for \$22,000, the money you paid for the machine?"

Ms. Davidson: "Right." (Tr. pp. 22-23).

Despite this, the court awarded \$262,130.33, adopting Respondent's last-minute, unsworn memorandum claiming \$74,788 (including unpleaded \$32,000 labor and \$15,000 machine costs). Ignoring sworn testimony for unverified claims shows bias, making a fair stay hearing unlikely.

- b) **Procedural Unfairness as a Pro Se Litigant:** As a pro se litigant, Appellant faced systemic barriers. While in Uganda for a funeral, she mailed a Motion to Dismiss, which arrived late due to unreliable international mail and lack of e-filing access (available to Respondent's counsel). At the damages hearing, she received an 11-page memorandum and eight exhibits (A-G) for the first time, with no opportunity to review, constituting a "trial by ambush." Judge McIntosh set an impossible five-day deadline to challenge \$37,766.33 in attorney's fees, verbally imposed before affidavits existed and reiterated in a Form 4 order received post-deadline (Feb. 13, 2025). These traps denied due process, suggesting bias against Appellant as a pro se party.

c) **Improper Personal Liability:** The court held Appellant personally liable despite no evidence to pierce American Pharma's corporate veil. Exhibits A-G, submitted by Respondent, confirm the transaction was solely with the LLC (invoice from American Pharma, payment to LLC's bank, emails from info@pharmamachineries.com). South Carolina requires domination and fraud for veil piercing (*Sturkie v. Sifly*), neither shown here. This legal error, ignoring clear evidence, further proves the trial court's predisposition, rendering a stay motion futile.

d) **The Judgment Is Voidable Due to an Appearance of Judicial Impartiality That Taints the Entire Proceeding**

The most profound defect in the proceedings below is one that strikes at the very heart of our justice system: the appearance of judicial bias. The South Carolina Code of Judicial Conduct mandates that a judge "shall avoid impropriety and the appearance of impropriety in all of the judge's activities". Canon 3(E)(1) requires a judge to disqualify himself in any proceeding in which his "impartiality might reasonably be questioned". This standard is objective; it does not depend on proof of the judge's actual, subjective bias. Rather, it asks whether a reasonable person, knowing all the circumstances, would harbor doubts about the judge's impartiality. The record of Judge McIntosh's handling of this case, when viewed through this objective lens, creates just such a doubt and suggests a structural failure of due process. The specific instances creating this appearance of partiality are as follows:

- i. **Extrajudicial Knowledge and Prejudgment:** During initial appearing on Motion for Default hearing, Judge McIntosh acknowledged a personal relationship with the father of Respondent's counsel, Christopher Major, asking in open court if counsel was "the son of Mr. Major," to which counsel replied, "Yes" and they remained in court while Judge asked questions regarding Counsel's father. This connection, combined with other actions, signaled favoritism toward Respondent. In multiple hearings, Judge McIntosh shouted at Appellant, ordered her to "shut up," and interrupted her, preventing her from fully presenting her case. On one occasion, he rescinded an order, admitting it was "signed improvidently," indicating procedural lapses.
- ii. **Disparate and Prejudicial Treatment During the Damages Hearing:** The transcript of the damages hearing reveals a stark disparity in the treatment of Plaintiff's counsel and the

pro se Appellant. While a *pro se* litigant is held to the same rules, the court's role is to ensure fairness, not to become an adversary. When Ms. Pierce attempted to cross-examine PlanetONE's witness on the speculative \$32,000 labor cost claim, Judge McIntosh cut her off, stating, "Ma'am, your liability is established. These damages flow from that. We are not re-litigating the case." While a defaulting defendant cannot contest liability, they absolutely retain the right to challenge the *amount* of damages. By conflating the two, the court effectively silenced Ms. Pierce on the only issue properly before the court, demonstrating a judicial leaning that crossed from proper case management into personal prejudice against a party.

- iii. **Creation of an Atmosphere of Inevitable Defeat:** Immediately before the damages hearing, in an unrelated legal malpractice action (Sires case), Judge McIntosh berated Appellant for approximately fifteen minutes in open court, causing her severe mental anguish and distress. This public humiliation, occurring just before the damages hearing, compromised her ability to participate effectively and reinforced the perception of an unfair tribunal. At the damages hearing, Judge McIntosh verbally stated on the record that the Appellant had "five days" to request a cross-examination of the Respondent's attorney regarding claimed legal fees. Compliance with this deadline was impossible. At the time it was imposed, no fee affidavits had been served, and the Respondents had not yet even prepared them. Nevertheless, the five-day period was deemed to have commenced immediately. The Respondents later prepared their affidavit, but the Appellant did not receive it until over 10 days, well after the verbal deadline had expired, because it was sent by slow mail.

This sequence of events operated as a procedural trap, effectively depriving her of any opportunity to challenge the Respondent's claimed \$37,766.33 in attorney's fees—fees that were wholly unsupported, excessive, and grossly disproportionate to the nature of the case, which involved a default judgment with no litigation, no discovery, and only three brief hearings.

III. STATEMENT OF THE CASE

A. Factual Background: A Commercial Dispute, Not a Deceptive Scheme

The narrative advanced by Plaintiff-Respondent (“PlanetONE”) and adopted by the lower court paints a picture of deliberate fraud. The actual documentary evidence, however, tells a different story: a standard commercial transaction that encountered delays, followed by Appellant’s reasonable attempts to accommodate a customer who, in turn, refused mitigation and escalated the dispute.

The transaction began on December 5, 2022, when American Pharma issued a proforma invoice to PlanetONE for one APM-4D Automatic Capsule Counting Machine for a total price of \$22,788. The invoice specified a delivery time of 10-15 business days and required 100% payment upfront. PlanetONE secured financing through CIT Bank, a division of First-Citizens Bank & Trust Company (“CIT”), which accepted the Equipment Finance Agreement (EFA) on December 13, 2022. On December 19, 2022, American Pharma’s representative, using the name “Dorothy,” promptly acknowledged receipt of payment from CIT.

Far from initiating a fraudulent scheme, her immediate next step was to engage PlanetONE to ensure the machine would meet its needs, proactively requesting critical specifications: “Please confirm the size of your capsules/tablets so that we can customize the machine accordingly. Secondly, also confirm the power specifications: 220V, 60Hz and Single phase”. This correspondence demonstrates a clear and documented intent to perform the contract, not to abscond with the funds.

The promised delivery window was missed, and on January 30, 2023, after a period of communication breakdown, PlanetONE’s principal, Karen Davidson, threatened to contact an attorney. In response, American Pharma did not become evasive or hostile. Instead, on January 31, 2023, it apologized for a “minor setback” and made a commercially reasonable offer to mitigate any harm to PlanetONE’s business operations: **“Can we send you a temporary machine to use that we can pick up once your machine is delivered? This will be at no cost to you”**. This offer of a free loaner machine is fundamentally inconsistent with the willful, deceptive, and oppressive conduct required to support a SCUTPA claim. PlanetONE, however, rejected this accommodation.

On February 10, 2023, Ms. Davidson responded, “I do not want to confuse the issue with a replacement, inferior product. Can you simply refund me the money?”. Despite this rejection, American Pharma continued its efforts to fulfill the original order.

On March 1, 2023, it provided PlanetONE with a video of the purchased machine, stating it was in the “final stages of debugging”. PlanetONE again rejected performance, claiming, without providing any evidence, that it was “not the machine that we paid for” and was “still overseas”.

This chronology reveals a seller experiencing production delays but attempting to perform and mitigate, and a buyer unwilling to accept any solution short of a full refund. The following table provides a clear, digestible timeline of these events, contrasting the Plaintiff’s narrative of fraud with a more plausible account of a commercial deal breakdown.

Date	Event	Supporting Exhibit
Dec. 5, 2022	American Pharma issues proforma invoice to PlanetONE for \$22,788.	Ex. A
Dec. 13, 2022	CIT, PlanetONE's lender, accepts the financing agreement.	Ex. B
Dec. 19, 2022	American Pharma confirms receipt of payment from CIT and requests necessary customization specifications from PlanetONE.	Ex. B
Jan. 30, 2023	After the initial delivery window passes, PlanetONE threatens legal action.	Ex. C
Jan. 31, 2023	American Pharma apologizes for a "minor setback" and offers to provide a free temporary machine to mitigate PlanetONE's operational disruption.	Ex. C

Date	Event	Supporting Exhibit
Feb. 10, 2023	PlanetONE rejects the offer of a temporary machine and demands a full refund.	Ex. D, E
Mar. 1, 2023	American Pharma provides a video showing the purchased machine in the "final stages of debugging."	Ex. F
Mar. 5, 2023	PlanetONE rejects the machine shown in the video and reiterates its demand for a full refund.	Ex. G

B. Procedural History: From Default to a Punitive and Flawed Judgment

PlanetONE initiated this action, and after Appellant Dorothy Pierce failed to timely plead, the lower court entered an order of default. The failure to plead was a direct result of Ms. Pierce being out of the country in Uganda to attend the funeral of a close friend who had been tragically murdered. As a *pro se* litigant, she was denied access to the electronic filing system available to counsel and was forced to rely on international mail, which caused her responsive pleading to arrive late.

A hearing to determine the amount of unliquidated damages was held on January 29, 2025. While a defaulting defendant admits the factual allegations of the complaint for purposes of liability, they do not admit the quantum of damages. The plaintiff must still prove the amount of damages by a preponderance of the evidence, and the defendant retains the right to cross-examine witnesses and object to evidence concerning those damages.

At the hearing, in a clear act of "trial by ambush," Respondent's counsel served Ms. Pierce with their "Memorandum in Support of Plaintiff's Damages" and eight new exhibits for the first time while she was seated in court before the judge. This was the first time Ms. Pierce was made aware of new, unpleaded damage claims. The court overruled her immediate objection. The

lower court then adopted Respondent's flawed calculations and legal theories wholesale, entering a judgment that included:

Actual Damages: \$74,788.00

Trebling under SCUTPA: The court trebled the entire amount of these newly claimed actual damages, resulting in an award of \$224,364.00.

Attorney's Fees and Costs: The court awarded \$37,766.33 in fees and costs.

Total Judgment: \$262,130.33.

This judgment, which transforms a \$22,788 contract dispute into a quarter-million-dollar liability, is the subject of the underlying appeal and this petition.

IV. GROUNDS FOR SUPERSEDEAS AND ARGUMENT

A. A Stay Is Mandated To Prevent Irreparable Harm And Preserve The Court's Jurisdiction

The fundamental purpose of a writ of supersedeas is "to stay proceedings in the trial court, to preserve the status quo pending the determination of the appeal and to preserve to appellant the fruits of a meritorious appeal where they might otherwise be lost to him". The execution of a judgment of this magnitude against Ms. Pierce, a small business owner, would inflict precisely the type of irreparable harm the writ is designed to prevent. Seizure of bank accounts, liens on property, and other enforcement actions would not only cripple her financially but would also destroy the very solvency that makes a successful appeal meaningful. Should PlanetONE be permitted to execute on this judgment, any subsequent victory by Ms. Pierce on appeal would be a pyrrhic one. The subject matter of the appeal—her financial viability and the unjust liability imposed upon her—would be rendered moot. This Court's power to provide complete relief would be frustrated. Therefore, a stay is not merely appropriate; it is essential to preserve the jurisdiction of the appeal and prevent the central issues from being mooted by the premature enforcement of a deeply flawed judgment.

B. The Appeal Presents Substantial And Meritorious Issues Of Reversible Error

The judgment below is not the result of a single, isolated error, but rather a series of incorrect legal conclusions that compounded to produce an unjust and excessive award. The appeal presents multiple, substantial grounds for reversal, each of which is likely to succeed on the merits.

a) Denial of Motion to Cross-Examine Attorney on Fees Was Legally Erroneous: The trial court's denial of Appellant's February 14, 2025 motion to cross-examine Plaintiff's counsel regarding attorney's fees was erroneous as a matter of law because: (1) the court's written order contradicted its oral instructions at the hearing; (2) the order was never timely served on Appellant as required under Rule 77(d), SCRCF; and (3) the motion was filed within one day of Appellant's actual receipt of the fee affidavit, making it timely under both the oral ruling and due process principles.

i. Oral ruling established a different deadline than the written order.

At the January 30, 2025 hearing, the trial court clearly stated on the record: "You will have until Friday week to turn in your affidavit of attorney's fees. You will copy Ms. Pierce on them... If she wants to question you about them, she will have a right to request a hearing. You have to do so within five days of receiving the affidavit of the fees from this gentleman, okay?" This instruction unambiguously tied the five-day deadline to **receipt of the affidavit**, not to the date the order was filed. Immediately after the hearing, however, the court entered a written order dated January 30, 2025 and filed January 31, 2025, which instead required Appellant to request cross-examination "within five (5) days of this order being filed." This change of trigger date directly conflicted with the oral ruling, creating an inconsistency that deprived Appellant of the deadline she was given in open court.

ii. Rule 77(d) requires service of orders on pro se parties before any filing-based deadline can run.

Appellant was self-represented. Under Rule 77(d), SCRCF, the clerk must serve written notice of the entry of an order "by mail upon each party who is not in default for failure to appear." In E-Filing counties, parties who are not E-Filers (including pro se litigants) must still be served by mail. The record shows the order was filed on January 31, 2025, but Appellant did not receive it on that date and was never contemporaneously served

by the clerk. Without proper service, the filing date cannot trigger a compliance deadline against a pro se litigant. Any calculation from the “date of filing” was therefore premature and legally defective.

iii. **Appellant’s motion was filed within one day of actual receipt of the fee affidavit.**

Appellant received Plaintiff’s fee affidavit on February 13, 2025. The very next day, February 14, 2025, she filed a motion to cross-examine Plaintiff’s counsel on those fees. This filing was well within the five-day deadline announced at the hearing (based on receipt of the affidavit), and also satisfied due process requirements that a party be afforded a meaningful opportunity to respond after receiving the operative document.

iv. **Prejudice and due process violation.** The court’s denial of the motion as “untimely” deprived Appellant of her right to challenge an inflated attorney’s fee request in a default judgment context, where there had been no litigation, no discovery, and only three hearings. By changing the operative deadline after the hearing, failing to serve the order as required, and disregarding the actual date of receipt of the affidavit, the court denied Appellant both notice and a fair opportunity to be heard, in violation of Rule 77(d) and fundamental due process.

b) **The Trial Court Fundamentally Misapplied the South Carolina Unfair Trade Practices Act (SCUTPA):**

The lower court’s most significant error was allowing PlanetONE to leverage SCUTPA to transform a simple breach of contract into a statutory tort yielding treble damages and attorney’s fees. South Carolina courts have repeatedly cautioned that SCUTPA is not available to remedy a mere private wrong where the public interest is unaffected. To be actionable under SCUTPA, a plaintiff must prove that the defendant’s unfair or deceptive acts had an “impact upon the public interest”. This public interest component is typically established by showing the acts have a “potential for repetition”. The potential for repetition can be demonstrated in two ways: (1) by showing the same kind of actions occurred in the past, making it likely they will continue, or (2) by showing the company’s procedures create a potential for future repetition. The record here is utterly devoid of evidence supporting either prong. This was a single transaction with a single customer. PlanetONE presented no evidence of any past complaints, similar disputes, or a pattern of misconduct by Ms. Pierce or American Pharma. Furthermore, the very nature of the dispute—a complete breakdown of the relationship with this specific customer—makes

repetition of this specific alleged harm impossible. The South Carolina Court of Appeals decision in *Turner v. Kellett* is instructive. In that case, the court reversed a SCUTPA finding because the unfair acts were “incapable of repetition” where the business at issue had closed. Similarly, here, the relationship between American Pharma and PlanetONE is permanently severed. **SCUTPA requires “public interest” impact (*Turner v. Kellett*). This one-off dispute with no repetition evidence (Exhibits A-G) is private, not actionable. Trebling requires “willful” violation, but Appellant’s offers (free machine, Ex. C; replacement, Ex. D) show good faith (*Noack Enterprises v. Country Corner Interiors*, 290 S.C. 475, 351 S.E.2d 347 (Ct. App. 1986)).**

The alleged unfair practice cannot be repeated against this plaintiff. Without evidence of a broader pattern or practice affecting the public, the dispute remains a private one, falling outside the ambit of SCUTPA. The trial court’s finding of a SCUTPA violation was, therefore, clear legal error. Even if a technical violation could be found, the court’s decision to treble the damages was a further error. Treble damages are reserved for “willful or knowing” violations of the Act. A willful violation occurs when the party “knew or should have known that his conduct was a violation” of SCUTPA. The record evidence contradicts any finding of willfulness. American Pharma’s proactive communication to obtain customization details, its apology for delays, and its concrete offer to provide a temporary machine at no cost are the actions of a business attempting to solve a problem, not one willfully engaging in a deceptive scheme. These good-faith efforts to perform and mitigate damages negate the *mens rea* required for a punitive trebling of the award.

- c) **The Trial Court Erred in Piercing the Corporate Veil:** The lower court’s decision to disregard the corporate form of American Pharma and hold Ms. Pierce personally liable for the judgment constitutes another extraordinary remedy applied without the requisite factual foundation. One of the primary purposes of forming a limited liability company is to shield its members from personal liability for the company’s debts and obligations. Courts do not lightly disregard this legal separation. Under South Carolina law, piercing the corporate veil is an equitable remedy reserved for exceptional circumstances. **No evidence supports piercing (*Sturkie v. Sifly*). Exhibits A-G show LLC-only dealings (invoice, bank, emails). No domination or fraud was proven.**

A plaintiff must satisfy a demanding two-prong test. First, they must show that the plaintiff has been dominated by the shareholder to the extent that it has no separate existence. Factors include a failure to observe corporate formalities, non-payment of dividends, insolvency of the debtor corporation, siphoning of funds by the dominant stockholder, non-functioning of other officers or directors, absence of corporate records, and the fact that the corporation is a mere facade for the operations of the dominant stockholder. Second, and critically, the plaintiff must show that this control was used to commit “bad faith, abuse, fraud, wrongdoing, or injustice”. The South Carolina Supreme Court has clarified that common ownership and control, or even a failure to observe all corporate formalities, is not enough. The party seeking to pierce the veil must establish that the corporate structure was used for fraudulent, unjust, or policy-defeating purposes.

The record before the lower court was barren of the evidence needed to meet this high standard. PlanetONE’s case for alter ego appears to rest entirely on the fact that Ms. Pierce is the owner of American Pharma and was the individual communicating on its behalf. There was no evidence presented regarding American Pharma’s capitalization, its corporate records, the commingling of personal and corporate funds, or any of the other factors necessary to justify this drastic remedy. The lower court effectively held Ms. Pierce personally liable simply because she was the owner of the company involved in the dispute. This is a misapplication of the law and constitutes a clear reversible error.

d) The Damages Award is Speculative, Mathematically Flawed, and Excessive: The damages award itself is built on a foundation of speculative claims and questionable legal reasoning. While a defaulted defendant’s ability to contest damages is limited, the plaintiff still bears the burden of proving its damages by competent evidence. The lower court failed to scrutinize PlanetONE’s claims, instead adopting a damages calculation that is legally and factually insupportable. PlanetONE’s memorandum sought and received “actual damages” of \$74,788.00, which it calculated as follows: Purchase Price of Machine: \$22,788.00 Interest Paid on Loan: ~\$5,000.00 Increased Labor Costs: \$32,000.00 Increased Cost for a Different Machine: \$15,000.00 Total: \$74,788.00, **violating Rule 54(c), SCRCP. Ms. Davidson’s testimony (Tr. pp. 22-23) limits damages to \$22,788.** The court then trebled this entire amount to arrive at its award of \$224,364.00. This calculation is flawed in several respects.

First, the claims for “Increased labor costs” (\$32,000) and the “Increased cost required to purchase a different machine” (\$15,000) are forms of consequential damages.

These figures appear to be speculative estimates, and the record lacks any detailed proof, such as payroll records or invoices for the new machine, to substantiate them. More fundamentally, it is highly questionable whether such unliquidated, consequential damages can be trebled under SCUTPA. The statute allows recovery for an “ascertainable loss of money or property”. A strong argument exists on appeal that this language limits recovery to direct, out-of-pocket losses—in this case, the \$22,788 purchase price, and does not extend to downstream, speculative business losses. Trebling these unproven consequential damages resulted in a grossly excessive and punitive award that bears no reasonable relationship to the actual harm sustained. Finally, Rule 54(c) of the South Carolina Rules of Civil Procedure provides that a default judgment “must not differ in kind from, or exceed in amount, what is demanded in the pleadings”. The appeal will require a review of PlanetONE’s original complaint to determine if these specific, substantial consequential damages were even pleaded with the requisite specificity. If they were not, their inclusion in the default judgment constitutes a fatal procedural error.

- e) **The Judgment Is Voidable Due to an Appearance of Judicial Impartiality That Taints the Entire Proceeding:** The most profound defect in the proceedings below is one that strikes at the very heart of our justice system: the appearance of judicial bias. The South Carolina Code of Judicial Conduct mandates that a judge “shall avoid impropriety and the appearance of impropriety in all of the judge’s activities”. Canon 3(E)(1) requires a judge to disqualify himself in any proceeding in which his “impartiality might reasonably be questioned”. This standard is objective; it does not depend on proof of the judge’s actual, subjective bias. Rather, it asks whether a reasonable person, knowing all the circumstances, would harbor doubts about the judge’s impartiality. **Judge McIntosh’s conduct (Canon 3(E)(1)), counsel ties, shouting, impossible deadlines, supplier relationship—created an appearance of partiality, denying due process.**
- f) **The Trial Court Erred by Awarding Damages in Excess of the Amount Demanded in the Complaint.** The trial court committed a clear error of law by entering a default judgment that awarded damages far greater in amount and different in kind from what the Plaintiff demanded in its Amended Complaint. This action violated the plain language of Rule 54(c)

of the South Carolina Rules of Civil Procedure, which explicitly states: "**A judgment by default shall not be different in kind from or exceed in amount that prayed for in the demand for judgment.**" The purpose of this rule is to ensure fundamental due process. A defendant must have notice of their maximum potential liability when deciding whether to contest a lawsuit or to default. The court's judgment in this case nullified that right.

What Was Demanded in the Complaint: The "WHEREFORE" clause of the Plaintiff's Amended Complaint, which constitutes the formal demand for judgment, specifically prayed for: "...judgment against Defendants in the amount of **\$22,788**, plus prejudgment interest... plus legal costs, including reasonable attorney's fees, treble damages, [and] punitive damages..."

Based on the complaint, the maximum potential "actual damages" subject to trebling was **\$22,788**.

What Was Added at the Hearing: At the damages hearing, the Plaintiff, for the first time, introduced entirely new categories of damages that were never mentioned in the complaint. As detailed in their last-minute damages memorandum, these new, unpleaded damages included:

- a) Interest paid on the loan: ~\$5,000.00
- b) Increased labor costs: \$32,000.00
- c) Increased cost for a different machine: \$15,000.00

Plaintiff's counsel improperly combined these new figures with the original purchase price to create a new, fabricated "actual damages" total of **\$74,788**. The trial court then erroneously used this inflated and unpleaded amount as the basis for its treble damage award of \$224,364.

The trial court only had the authority to award damages based on the **\$22,788** specifically demanded in the complaint. By awarding damages that were different in kind (adding labor and new equipment costs) and far exceeded in amount what was prayed for, the court violated Rule 54(c) and committed a reversible error.

C. Respondent's Use Of An Improper Lis Pendens As An Extortion Tactic

Respondent has engaged in a clear abuse of process by filing a lis pendens against Appellant's real property. Under the plain language of S.C. Code Ann. § 15-11-10, a lis pendens is only appropriate when the underlying lawsuit affects the title to or possession of real property. The "underlying action" in this case (Case No. 2023-cp-37-00232), as established by Respondent's own Amended Complaint, is a commercial dispute seeking monetary damages for claims of Breach of Contract, Fraud, and violations of the Unfair Trade Practices Act. The lawsuit is about a disagreement over a machine; it has no connection whatsoever to the ownership of real estate. Therefore, the filing of the lis pendens is legally baseless. It is a bad-faith legal tactic intended to unlawfully encumber Appellant's assets, creating improper leverage to extort payment of an unjust judgment while it is under appeal.

D. Appellant Will Suffer Immediate And Irreparable Harm Without A Stay

Without a stay, Ms. Pierce faces immediate and irreparable harm. Respondent has already initiated a new fraudulent transfer lawsuit (Case No. 2025-LP-37-00107) and filed a Lis Pendens to seize real property. This filing is itself an abuse of process intended to pressure collection during the appeal. The underlying action for breach of contract does not affect title to or possession of real property, making the lis pendens improper under S.C. Code Ann. § 15-11-10. Respondent will undoubtedly attempt to levy bank accounts and seize other assets. As detailed in the attached affidavit, Ms. Pierce is financially unable to post a supersedeas bond. Requiring a bond that likely exceeds \$285,000 would be punitive and would effectively deny her fundamental right to appellate review. Furthermore, allowing collection to proceed would create an irreversible legal disaster. If Respondent seizes and liquidates assets, a victory on appeal would be rendered hollow if the fruits of that victory have already been irretrievably lost. This is the very definition of irreparable harm that a stay is designed to prevent. Finally, a bond is unnecessary as Respondent is already adequately secured. The judgment, once enrolled, acts as a lien on any real property owned by Appellant in Oconee County. This existing lien is sufficient to protect Respondent's interests pending the outcome of this meritorious appeal.

V. PROPOSED TERMS FOR SUPERSEDEAS

Rule 241(c), SCACR, grants this Court discretion to condition the grant of a supersedeas upon such terms as it deems appropriate, including the filing of a bond. Appellant respectfully requests that the Court exercise this discretion to waive the bond requirement entirely or, in the alternative, set a bond in a nominal and reasonable amount. This request is justified by several factors.

- i. First, Appellant is not responsible for the breach of contract and had no contractual relationship with Respondent, rendering her not liable for the judgment. As detailed in the merits of the appeal, the transaction was solely between American Pharma Machinery, LLC, and PlanetONE Packaging, LLC, with no evidence supporting personal liability or justifying piercing the corporate veil (*Sturkie v. Sifly*, 280 S.C. 453, 313 S.E.2d 316 (Ct. App. 1984)).
- ii. Second, as demonstrated at length above, the appeal is highly meritorious. The judgment below is riddled with clear legal errors on multiple, independent grounds. Requiring Appellant to post a bond in the full amount of a judgment that is so likely to be reversed would penalize her for the lower court's own mistakes.
- iii. Third, the sheer size of the judgment makes securing a supersedeas bond for the full amount a financial impossibility for Appellant and her small company. The premium alone for such a bond would be substantial, and the collateral requirements would be ruinous. To require a full bond under these circumstances would make the right to an appeal contingent on wealth, effectively denying Appellant access to appellate justice.
- iv. Finally, the spirit of South Carolina law disfavors prohibitive bond amounts that block meritorious appeals. For instance, S.C. Code Ann. § 18-9-130 places a statutory cap on supersedeas bonds for certain business entities, reflecting a legislative policy against allowing excessive judgments to prevent appellate review. While that statute may not apply directly here, its underlying principle should guide this Court's discretion. Given the high likelihood of success on appeal and the severe financial hardship involved, waiver of the bond is the most just and equitable course of action.

- v. Finally, the spirit of South Carolina law disfavors prohibitive bond amounts that block meritorious appeals. For instance, S.C. Code Ann. § 18-9-130 places a statutory cap on supersedeas bonds for certain business entities, reflecting a legislative policy against allowing excessive judgments to prevent appellate review. While that statute may not apply directly here, its underlying principle should guide this Court's discretion. Given the high likelihood of success on appeal and the severe financial hardship involved, waiver of the bond is the most just and equitable course of action.

VI. CONCLUSION AND PRAYER FOR RELIEF

The default judgment entered against Dorothy Pierce is not a reflection of established facts or sound legal principles. It is the product of a cascade of errors: the misapplication of a consumer protection statute to a private commercial dispute; the punitive trebling of speculative damages without evidence of willfulness; the legally unsupported decision to pierce the corporate veil; and, most troublingly, a proceeding conducted under a cloud of apparent judicial bias that undermines confidence in the outcome. The harm threatened by the immediate execution of this judgment is irreparable. To allow it to proceed would be to sanction an injustice and render Ms. Pierce's meritorious appeal meaningless. A stay is required to preserve the status quo and ensure that the weighty legal and constitutional issues raised in the appeal may be decided by this Court in a deliberate and meaningful fashion. WHEREFORE, Appellant Dorothy Pierce respectfully prays for an order from this Court:

- I. Issuing a Writ of Supersedeas, staying any and all proceedings to enforce, execute, or collect upon the judgment of the Oconee County Court of Common Pleas in Case No. 2023-CP-37-00232 during the pendency of the appeal;
- II. Waiving the requirement of a supersedeas bond or, in the alternative, setting a bond in a reasonable and nominal amount that is within Appellant's ability to pay; and Granting such other and further relief as this Court deems just and proper.
- III. Granting such other and further relief as the Court deems just and proper.

Respectfully submitted, August 11, 2025

S/N Dorothy Pierce

DOROTHY PIERCE, Pro Se Plaintiff

750 Mourning Dove Lane, Seneca, SC 29678