

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HORRY COUNTY
COURT OF COMMON PLEAS

The Honorable David P. Caraker

Case No.: 2022-CP-26-08003
Appellate Case No.: 2025-000445

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SC Court of Appeals

Stephanie Hatton and Brandon Deubell..... Appellants,

v.

Sam Investment Properties, LLC, a/k/a
Archangel Investments, LLC.....Respondent.

INITIAL BRIEF OF RESPONDENT

Jay G. Anderson (SC Bar # 14295)
ANDERSON LAW, LLC
4447 Highway 17 Business, Suite 101
Post Office Box 969
Murrells Inlet, South Carolina 29576
843/545-6001
jga@jayganderson.com
Attorney for Respondent

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STATEMENT OF ISSUES ON APPEAL

- I. DID APPELLANTS FAIL TO PRESERVE THE ISSUES PRESENTED ON APPEAL BY FAILING TO ENTER TIMELY AND SPECIFIC OBJECTION DURING THE TRIAL AT THE LOWER COURT?

- II. DID APPELLANTS FAIL TO PRESERVE THE ISSUES PRESENTED ON APPEAL BY NOT FILING A SCRCP RULE 59(E) MOTION TO ALTER OR AMEND AS TO THOSE ARGUMENTS RAISED BUT NOT RULED UPON BY THE LOWER COURT?

STATEMENT OF THE CASE

This is an appeal from the circuit court's Verdict and Order granting judgment for Respondent, SAM Investment Properties, LLC a/k/a Archangel Investments, LLC, agent for landlord, ("Respondent") on February 4, 2025. (Order.)

On December 20, 2022, Respondent filed a Complaint against Stephanie Hatton and Brandon Deubell ("Appellants") for damages, rent, and attorney's fees following Appellants' eviction from property managed by Respondent. Appellants *pro se* filed an Answer and Counterclaim on January 19, 2023. Mediation was held on December 14, 2023, resulting at an impasse.

On January 27, 2025, the case proceeded to trial, non-jury, before the Honorable David P. Caraker, Jr. in Horry County, South Carolina. Appellant Hatton was present and elected to proceed at trial *pro se*. Appellant Deubell was not present. On February 4, 2025, the Court entered a formal Verdict and Order awarding judgment for Respondent, to-wit: \$2,030.72 in damages and \$7,050.00 in attorney's fees for a total judgment of \$9,080.72.

Appellants filed their Notice of Appeal on February 25, 2025.

STATEMENT OF FACTS

On or about March 18, 2020, Appellants Hatton and Deubell entered into a residential lease agreement with Respondent as property management agent for property located in North Myrtle Beach, South Carolina. Addendums to this lease agreement were signed March 26, 2021 and February 1, 2022. Appellants breached their lease and were subsequently evicted in June, 2022, and moving out in July, 2022.

After the unit was vacated by Appellants, Respondent's agent conducted an inspection and found the unit to be in disrepair. An itemized list of the damages and security deposit invoice was sent, as is the standard course of business, to Respondents upon their move-out. A copy of this document was entered into evidence without objection [Tr. 32:25]. Respondent's agent testified at trial, after specifying the damages, and entering into evidence proof of repair costs, that they were seeking damages (for cleaning, repairs, and one month's rent) in the amount of \$5,316.44, less the security deposit (\$1,050.00) and pet deposits (\$900.00), for total damages of \$3,366.44 [Tr. 12:6] plus attorney's fees.

After taking the matter under advisement [Tr. 78: 10-12], the Court issued its Verdict and Order on February 4, 2025, granting judgement to Respondent in the amount of \$ 9,080.72.

Appellant Hatton, appearing *pro se*, failed to raise any objections ruled upon during the trial. [Tr. 3 - 78]

Appellants failed to file a Rule 59(e) Motion to Alter or Amend the judgment once the Verdict and Order was issued.

STANDARD OF REVIEW

Appellants' appeal challenges the circuit court's ruling granting Respondent judgment on its Complaint for damages, rent, and attorney fees.

"A *pro se* litigant who knowingly elects to represent himself assumes full responsibility for complying with substantive and procedural requirements of the law." *State v. Burton*, 356 S.C. 259, 265, 589 S.E.2d 6, 9 n 5 (2003).

If an issue was raised at trial but the trial judge did not rule on it, the party must file for a motion to reconsider in order to preserve that issue for appeal. Appellant did not file a Rule 59(e) motion asking the circuit court to rule on any issues. Instead, they immediately filed a Notice of Appeal. “A party *must* file [a rule 59(e)] when an issue or argument has been raised, but not ruled on, in order to preserve it for appellate review.” *Feldman v. Feldman*, 380 S.C. 538, 545, 670 S.E.2d 669, 672 (Ct. App. 2008) (citing *Elam v. S.C. Dep’t of Transp.*, 361 S.C. 9, 24, 602 S.E. 2d 772, 780 (2004)) (emphasis in original) (internal quotations omitted).

Appellant’s failure to raise these (or any) issues to the circuit court through a Rule 59(e) motion following issuance of the circuit court’s Order and Verdict entered February 4, 2025, precludes Appellant from arguing these issues on appeal.

ARGUMENTS

I. APPELLANTS FAILED TO PRESERVE THE ISSUES PRESENTED ON APPEAL BY FAILING TO ENTER TIMELY AND SPECIFIC OBJECTION DURING THE TRIAL AT THE LOWER COURT.

These issues presented by Appellants on appeal were not preserved for appellate review and should not be considered by the Court. “This Court will not consider a question which was neither presented to the trial court nor raised by an exception on appeal.” *Centaur, Inc. v Richland County*, 301 S.C. 374, 392 S.E.2d 165, 165 n 4 (1990) (citing *Knight v. Lee*, 262 S.C. 17, 202 S.E.2d 19 (1974)). “[A]n issue cannot be raised for the first time on appeal, but must have been raised to and ruled upon by the trial court to be preserved for appellate review.” *Staubes v. City of Folly Beach*, 339 S.C. 406, 412, 529 S.E.2d 543, 546 (2000). The South Carolina Court of Appeals is a Court of review – not re-litigation of the case. As made clear by the Supreme Court of South Carolina: “It is axiomatic that an issue cannot be raised for the first time on appeal, but must have been raised to and ruled upon by the trial judge to be preserved for appellate review.” *Creech v. South Carolina Wildlife and Marine Resources Dep’t*. 328 S.C. 24, 491 S.E.2d 571 (1997). *Wilder Corp. v. Wilke*, 330 S.C. 71, 76, 497 S.E.2d 731, 733 (1998). “Error preservation requirements are intended ‘to enable the lower court to rule properly after it has considered all relevant facts, law, and arguments.’” *Staubes v. City of Folly Beach*, 339 S.C. 406, 412, 529 S.E.2d 543, 546 (2000) (quoting *I’On, L.L.C. v. Town of Mt. Pleasant*, 338 S.C. 406, 422, 526 S.E. 2d 716, 724 (2000)). Furthermore, Rule 103, S.C.R. Evid. ensures that evidentiary issues are properly raised and preserved during trial so that they can be reviewed by a higher court if necessary. Because the arguments (Argument I – IV, including subsections, of Appellants’ Initial Brief at pp. 10 - 37) were **never raised or ruled upon** by the circuit court, they have not been preserved for appeal and must be dismissed.

II. APPELLANTS FAILED TO PRESERVE FOR APPELLATE REVIEW THOSE ISSUES RAISED, BUT NOT EXPRESSLY RULED UPON BY THE CIRCUIT COURT BECAUSE THEY DID NOT FILE A MOTION TO ALTER OR AMEND THE JUDGMENT PURSUANT TO RULE 59(E), SCRPC.

It is crucial to make a record to preserve the issue of appealability. To successfully preserve an issue for appellate review, the issue must be: “(1) raised to and ruled upon by the trial court, (2) raised by the appellant, (3) raised in a timely manner, and (4) raised to the trial court with sufficient specificity.” *S.C. Dep’t of Transp. v. First Carolina Corp. of S.C.*, 372 S.C. 295, 302, 641 S.E.2d 903, 907 (2007) (quoting Jean Hoefler Toal, et. al., *Appellate Practice in South Carolina* 57 (2d ed. 2002)). In non-jury actions, a party aggrieved by the judgement has 10 days after receipt of written notice of the entry of the order to file the appropriate motion to reconsider or alter and amend judgement. Rule 59(e), SCRPC. Appellants’ failure to raise any issues to the circuit court through the filing of a Rule 59(e) motion following the issuance of the Circuit Court’s Order dated January 31, 2025, precludes Appellants from now arguing these issues for the first time on appeal and must be dismissed.

CONCLUSION

For all of the foregoing reasons, this appeal should be dismissed because Appellants *pro se* failed to preserve any issue for appellate review be it through objections at the trial or in the filing of appropriate post-judgement motions. Respondent respectfully requests this Court dismiss this appeal in its entirety.

Respectfully submitted,

s/JAY G. ANDERSON

Jay G. Anderson (SC Bar # 14295)
ANDERSON LAW, LLC
4447 Highway 17 Business, Suite 101
Post Office Box 969
Murrells Inlet, South Carolina 29576
843/545-6001
jga@jayganderson.com
Attorney for Respondent

August 15, 2025
Murrells Inlet, South Carolina