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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

Appellate Case No. 2024-2189

APPEAL FROM OCONEE COUNTY

The Honorable R. Lawton McIntosh, Circuit Court Judge
2024-CP-37-00080

Dorothy Pierce……………………………………………………..Appellant,

v.

Danny Singleton……………………………………………….…..Respondent.

BRIEF OF RESPONDENT

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STATEMENT OF ISSUES ON APPEAL

1. Whether the appeal must be dismissed because of Appellant's blatant failures to adhere to the Appellate Court Rules?

2. Whether the grant of summary judgment to Respondent must be affirmed because judicial immunity bars Appellant's action as a matter of law?

3. Whether the grant of summary judgment to Respondent must be affirmed in light of Appellant's multiple attempts to commit fraud upon this Honorable Court?

STATEMENT OF THE CASE

At its core, this case flows from a long-standing, extensively litigated estate matter in the Oconee County Probate Court where, in 2021, the court determined the will presented by Appellant on behalf of her deceased husband was invalid. (Will of Doyle Pierce, dated 7/7/20; Prob. Ct. Order, 8/18/21, at 8) The court found Appellant's testimony, and those of her two witnesses, to lack credibility, (id.), and determined "the uncontradicted testimony" offered by a handwriting expert employed by the State Law Enforcement Division (hereinafter "SLED") to be "compelling and conclusive on the issue of lack of due execution by the Decedent." (Id.)

The testimony of the SLED expert was the purported signature on the will "was consistent with someone trying to 'forge' another's signature." (Prob. Ct. Order, 8/18/21, at 5) Respondent appealed that case to the court of common pleas, (Not. of Intent, 8/23/21), where the order of the probate court was affirmed, (Cir. Ct. Order, 12/29/21), and then to this Honorable Court. (Not. of Appeal, dated 12/30/21). Pursuant to an agreement between Appellant and, at the time, the respondent Jared Pierce, the appeal was later dismissed, and a remittitur sent by this Honorable Court to the circuit court. (Ct. App. Order, 2/25/25) Accordingly, the probate court's findings that a) Appellant's testimony as to the will's validity lacked credibility, b) the will was,

in fact, invalid, and c) Appellant had knowledge of the forgery, remain viable. (*Compare* id. *with* Prob. Ct. Order, 8/18/21, at 8)

Following a petition filed by one of the decedent's sons, a special administrator for the estate was thereafter appointed by the probate court on August 15, 2022. (Prob. Ct. Order, 8/15/22) Appellant filed a notice of appeal the next day. (Not. of Appeal, 8/16/22) Subsequently, the respondent in that action filed a motion to strike the notice of appeal on the grounds Appellant is not a lawyer and, given her previous removal as the personal representative of the estate, she had no authority to represent the estate in an appeal. (*See* Mot. to Strike, 8/16/22, at 2-3) Appellant thereafter voluntarily withdrew the notice of appeal. (Withdrawal, 8/23/22)

In an order executed by Respondent on August 21, 2023, in response to a petition filed by the special administrator, the probate court decreed the special administrator lacked the authority to sell estate assets in light of the pending appeal of Appellant. (Prob. Ct. Order, 8/21/23, at 2) The court declined to resolve the numerous issues raised by the special administrator given its view it had "no jurisdiction over the subject matter due to the pending appeal filed by" Appellant. (Id.) However, the court provided conditional access to the estate property for all parties "to safeguard and salvage the Estate assets." (Id.) Appellant again appealed to the circuit court. (Not. of Appeal, 9/11/23)

On behalf of the probate court, Respondent filed a return to the appeal on March 22, 2024. (Return, 3/22/24) Respondent, in his judicial capacity, drafted a letter to the Oconee County Clerk of Court which was filed with and a part of said return. (*See* id.; *see also* Letter, dated 3/21/24) It noted Appellant failed to timely file the notice of appeal with the probate court, no statement of claims had been filed, and Appellant failed to obtain a transcript of "the court recording" within the time period provided by section 62-1-308. (*See* id.) Ultimately, Appellant

thereafter voluntarily dismissed her appeal with prejudice. (Not. of Dismissal, 2/14/25)

While the above matter was ongoing, on October 11, 2023, Appellant and the parties to the estate litigation entered into a Private Family Agreement in open court under the auspices of section 62-3-912. (Prob. Ct. Order, 10/12/23, at 1) An order was filed the next day which embodied the parties' agreement. (Id. at 1-9) Notably, section two of the agreement was a covenant that Appellant would dismiss two appeals, one before this Honorable Court, and the other then pending in the circuit court. (Id. at 1) Plaintiff thereafter filed a notice of appeal with the circuit court on October 13, 2023, but did not file it with the probate court until November 2, 2023. (Not. of Appeal, 10/13/23) Five days after the original order, an amended order affirming the agreement was entered on October 17, 2023. (Prob. Ct. Order, 10/17/23) The amended order omitted section twelve set forth in the original, which was titled "Mutual Release" and recited no party was released from two cases filed in the Oconee County Court of Common Pleas; set forth a general release provision; and contained a covenant to dismiss with prejudice all actions pending with respect to the estate, except for the probate administration itself. (*Compare* id. at 4-5 *with* Prob. Ct. Order, 10/12/23, at 3-5) The amended order retained Appellant's covenant to dismiss the two pending appeals. (*See* Prob. Ct. Order, 10/17/23, at 1) Appellant thereafter filed an amended notice of appeal with the circuit court on October 24, 2023, and filed it with the probate court the same day. (Am. Not. of Appeal, 10/24/23)

A little over a week later, Appellant was found in contempt of court by Respondent. (Order of Civ. Contempt, 11/2/23) That order noted Appellant was appointed as personal representative pursuant to an agreement of the parties which was placed on the record during the hearing held on October 11, 2023; an amended order was issued on October 17, 2023, which removed the above-described mutual release clause; all parties were in agreement to the

provisions of the agreement as described in the amended order; and that on November 1, 2023, "an emergency hearing was conducted . . . to determine if [Appellant] should be removed as Personal Representative of the . . . Estate" for violating the amended order.[2] (Id. at 1) Appellant was so removed. (*See* id.) Plaintiff then engaged in several acts of contemptuous conduct, and despite being warned twice to refrain from such conduct, continued to exhibit this behavior. (Id. at 2) A sentence of a $500 fine to be paid within 30 days, or 30 days in jail, was therefore imposed by Respondent. (Id.)

Appellant thus filed a second amended notice of appeal with the circuit court and probate court on November 3, 2023. (Sec. Am. Not. of Appeal, 11/3/23) It identified as issues to be addressed the original Order Affirming Private Family Agreement, the Amended Order Affirming Private Family Agreement, the finding of civil contempt, and the removal of Appellant as personal representative of the estate. (*See* id.) Appellant thereafter filed a motion to reconsider in the probate court, which was denied on November 9, 2023. (Prob. Ct. Order, 11/9/23)

As part of that appeal, Appellant filed a brief which asserted:

> This case concerns the validity of bad faith [f]amily settlement orders signed by [Respondent] on October 12th and [17th], November 1st and 2nd, 2023. [The other parties] in this case entered into a bad faith settlement agreement with the sole purpose of getting Appellant to dismiss her [a]ppeal from the . . . Court of Appeals by an order of the court. They had no specific interest in settling the estate fairly. *[The other parties] in this case and [Respondent] grew up together, attending the same schools in Seneca. [Respondent's] father and Appellant's husband . . . shared a pasteurizer for many years. These families have been too dangerously close for [Respondent] to be impartial in this case where Appellant*

[2] Respondent recognizes this contempt order contains two scrivener's errors. The order which was issued immediately after the hearing of October 11, 2023, was the "Order Affirming Private Family Agreement," not the "Amended Order Affirming Private Family Agreement." (*Compare* Order of Civ. Contempt, 11/2/23 *with* Prob. Ct. Order, 10/12/23) Additionally, this contempt order references "section 13" of the original order being removed, while it was actually section "12" that was removed. (*Compare* id. *with* Prob. Ct. Order, 10/17/23)

> *is the only outsider.* In furtherance of their bad faith, [Respondent] made the following orders while Appellant's [a]ppeal is pending in the Court of Appeals in total disregard of Appellant's due process rights: a. Order affirming family settlement [a]greement[,] dated October 12, 2023. b. Amended Order affirming family settlement[,] dated October 17, 2023. c. Order removing Appellant as Personal Representative[,] dated November 01, 2023. d. Order of Civil Contempt[,] dated November 02, 2023. e. Order denying Appellant's Motion to [R]econsider[,] dated November 09, 2023.

(App. Br., 2023-CP-37-00794, at 9 (emphasis added); *see also* id. at 23 (asserting Respondent ignored that the will "contest was instituted by his friends, [the other parties] and their attorney."); id. at 32 (asserting Respondent "and his . . . friends was [sic] breaking the law."))

Respondent submitted a return to Appellant's appeal which included a list of fourteen items. (Return 1, 12/6/23) This document referenced an additional document completed by Respondent, also titled "Return to Appeal," which addressed the various accusations of impropriety made against Respondent, along with other issues.[3] (*See generally* Return 2, 12/6/23)

The circuit court issued a Form 4 order on March 19, 2024, which affirmed the probate court, noting among other things the "record establishe[d] that a settlement was reached although Appellant denies on one hand while admitting on another that an agreement was reached." (Order, 2023-CP-37-00794, 3/19/24, at 1) The court determined that in the alternative, it lacked jurisdiction to hear the appeal since Appellant failed to comply with the provisions of section 62-1-308. (Id.) It concluded: "Further, the issue of contempt is moot and/or wasn't pursued on appeal. Appellant also moved for relief from being removed as Personal Representative, that relief is denied due to the probate court having the inherent authority to remove Appellant as

[3] Respondent notes the prefatory paragraph contains two scrivener's errors. Appellant's Notice of Appeal was filed with the probate court on November 2, 2023, not on November 29th. (*See* Return 2, 12/6/23, at 1) Concomitantly, it was Appellant's Brief that was filed on November 29th, not her Notice of Appeal. (*See* id.)

Personal Representative." (Id.) The same day, Appellant filed a notice of appeal with this Honorable Court concerning the Form 4 order. (Not. of Appeal, 3/19/24)

A formal order was prepared and filed on April 2, 2024, as contemplated by the Form 4 order. (*Compare* Order, 2023-CP-37-00794, 3/19/23, at 1 *with* Order, 2023-CP-37-00794, 4/2/24) This order explained: "[T]he record of proceedings in the Probate Court on October 11, 2023, clearly and plainly established[d] that the parties entered into a binding settlement agreement that was placed on the record in accordance with Rule 43(k), SCRCP." (Id. at 1) The circuit court also found "Appellant admitted that a settlement agreement was reached in an email to the Probate Court dated October 24, 2023, which is a part of the record on appeal." (Id. at 1-2) It determined Appellant could show no abuse of discretion as to her termination as the personal representative of the estate given the probate court's "inherent and statutory authority to remove a personal representative." (Id. at 2) It also noted Appellant admitted paying the fine associated with the November 2, 2023, order, thus rendering any appeal as to that issue moot. (Id.) Lastly, as an alternative ruling it determined Appellant failed to comply with the procedural mandates of section 62-1-308, thus divesting it of jurisdiction to hear the appeal. (Id.)

Appellant later filed a motion to amend her notice of appeal to this Honorable Court to account for the formal order. (App.'s Mot. to Amend, 8/7/24) However, pursuant to an agreement among the parties to dismiss the appeal with prejudice, (Agmt., 2/13/25), the appeal was subsequently dismissed. (Ct. App. Order, No. 2024-000455, 2/25/25) Accordingly, the circuit court's rulings are still controlling. (*Compare* id. *with* Order, 2023-CP-37-00794, 4/2/24)

During the course of that appeal, a hearing was held on June 27, 2024, pursuant to the petition of Gregory Alan Pierce, which resulted in Appellant being found in criminal contempt. (Order of Crim. Contempt, 7/1/24, at 1) Appellant was sentenced to 180 days in jail,

conditionally suspended to the service of 150 days. (Id. at 2) Again, Appellant filed a notice of appeal to the circuit court. (Not. of Appeal, 7/1/24) As before, this appeal was dismissed with prejudice pursuant to an agreement of the parties. (Stip'n, 2/14/25)

Within her Complaint, filed February 2, 2024, Appellant broadly claimed the existence of judicial misconduct violated her "due process rights," and that Respondent conspired to interfere with her "civil rights." (Comp. at 1) Appellant also alleged she was subjected to "judicial actions taken without jurisdiction," and "judicial retaliation for exercising a protected right," and that Respondent engaged in extortion, harassment, and fraud. (Id.) She asserted Respondent "pushed all parties to settle the estate" following the resignation of the special administrator appointed by Respondent's predecessor in office. (Id. at 3) Appellant claimed Respondent "threatened" her by "suggesting that another special administrator could oversee the property and potentially evict everyone," and asserted Respondent had "knowledge about [Appellant's] personal life . . . potentially due to [e]x [p]arte communications." (Id. at 4) She alleged the parties to the estate matter "initiated a partial [s]ettlement [a]greement before" Respondent, (id.), and that during the course of Respondent "presiding over [settlement] discussions" an agreement was entered into by the parties, including Appellant, which Appellant asserted was flawed in various ways and resulted in her "due process rights" being disregarded.[4] (*See* id.) Appellant claimed this led to her reluctance to withdraw her appeal, which was a condition of that agreement. (Id.; *see also* Order Aff'g Priv. Fam. Agmt., 10/12/23, at 5)

Appellant alleged various defects associated with the agreement, and that Respondent signed the order affirming it "without proper consideration of objections" she raised. (Comp. at

[4] While Appellant now casts this document as a "partial" settlement agreement, a cursory review suggests it appears to have resolved all issues associated with the estate. (*See generally* Order Aff'g Priv. Fam. Agmt, 10/12/23)

5-6) Respondent claims when she appealed this order on October 13, 2023, it deprived Respondent of jurisdiction to amend "the order on October 17, 2023," thus rendering the second order invalid. (Id. at 6) Yet contradictorily, Appellant also noted she was "reappointed" as Personal Representative pursuant to "the settlement order." (Id. at 7) Similarly, she claimed Respondent "acted beyond his authority" when he "threatened to remove [Appellant] as the personal representative, in retaliation for her exercising a protected right by filing an appeal," and that this was done in spite of the "private settlement agreement [stating] that [Appellant] would be the Personal Representative." (Id.) Appellant also alleged Respondent improperly barred her family member from the probate office. (Id.)

Appellant claimed Respondent "displayed visible anger" towards her during a hearing on November 2, 2023; breached the terms of the settlement agreement by attempting to distribute estate assets before clearing debts; and improperly "initiated a hearing to remove" her as the personal representative. (Comp.at 7) She alleged "the private family agreement" contained provisions which violated the law; that Respondent made improper rulings on her arguments as to the terms of the agreement; and she was wrongfully restrained by Respondent from acting on behalf of the estate. (Id. at 8-9) Appellant asserted Respondent wrongfully accused her of violating her fiduciary duties, "despite being the one who halted" Appellant from acting. (Id. at 9) She listed purportedly "[p]otential violations of the agreement's provisions," (id. at 9-10), along with various orders she contended Respondent lacked subject matter jurisdiction to issue. (Id. at 10-11)

Appellant alleged Respondent improperly halted an estate auction in violation of "the family agreement and [s]ettlement order." (Comp. at 11) She claimed she "was forced to pay the $500 contempt fine," but makes no further allegations as to said fine. (*See* id.) Appellant went

on to allege a series of difficulties in obtaining a copy of the probate file, none of which identify any actions by Respondent. (*See* id. at 11-12) She alleged Respondent thereafter engaged in extortion by requiring Appellant to pay for the copy of the probate file she was provided but no longer needed. (Id. at 12) In that context, Appellant claimed Respondent "initiated a campaign of several harassing communications directed at [Appellant] . . . in an attempt to extract money" from her. (Id. at 12) Appellant thus alleged causes of action for violations of her rights under the Fourteenth and First Amendments, (id. at 13); conspiracy pursuant to 42 U.S.C. § 1985, (id. at 14); extortion, (id. at 14-15); intentional infliction of emotional distress, (id. at 16); abuse of judicial discretion, (id); harassment, (id. at 16-17); fraud, (id. at 17-18); and intentional interference with inheritance. (Id. at 18-19)

Stunningly, prior to filing her complaint in this matter on February 2, 2024, (Comp. at 1), Appellant filed a federal lawsuit against Respondent on December 4, 2023. (Fed. Comp. at 1) It contained substantially similar factual allegations as the complaint in the instant matter, (*see* id. at 1-20), and raised causes of action for "Violation of Civil Rights under 42 U.S.C. § 1983," (id. at 20); conspiracy pursuant to 42 U.S.C. § 1985, (id. at 21); "Deprivation of Rights Under Color of Law under 18 U.S.C. § 242," (id. at 22); violation of Fifth Amendment property rights, (id.); violation of equal protection rights under the Fifth and Fourteenth Amendments, (id. at 23-24); and violation of due process rights under the Fifth and Fourteenth Amendments. (Id. at 24-25) Appellant also sought injunctive relief as part of the federal action. (*See* id. at 25-27)

The magistrate judge assigned to the case issued a report and recommendation that it be summarily dismissed on the grounds of abstention pursuant to Younger v. Harris, 401 U.S. 37 (1971), (R&R at 4-5); and failure to state a claim under 18 U.S.C. § 242, section 1983, and section 1985. (Id. at 5-8) The magistrate judge specifically noted: "Here, [Appellant's] § 1983

claims fail because [Respondent] has judicial immunity." (Id. at 6) The court reasoned "[i]t is well-settled that judges have absolute immunity from a claim for damages arising out their judicial actions unless they acted in the complete absence of all jurisdiction," (id.), and noted Appellant's "bare assertions of bias and retaliation are insufficient to overcome the judicial immunity afforded to" Respondent. (Id. at 7)

The district court wholly adopted the report and recommendation and dismissed Appellant's action with prejudice. (Order, No. 8:23-cv-5609-TMC, at 3) Appellant did not appeal this ruling to the Fourth Circuit Court of Appeals. (*Cf.* Dkt., No. 8:23-cv-5609-TMC, at 4) Instead, approximately two weeks after the federal court's order dismissing her lawsuit with prejudice, Appellant filed the instant action. (*Compare* Dkts. 17 & 18 *with* Comp. at 1)

After timely filing his Answer, Respondent moved for summary judgment, filing a memorandum in support of the motion on June 19, 2024, which included the magistrate judge's report and recommendation, as well as the district court's order, as exhibits. (Def.'s SJ Memo., 6/19/24) Plaintiff filed a response to Defendant's Motion on September 5, 2024. (Pl.'s Resp., 9/5/24) Following a hearing on September 12, 2024, the circuit court granted Defendant's motion for summary judgment on the basis Respondent "has judicial immunity" for Appellant's claims. (Order, 2024-CP-37-00080, at 1, 4-5) This appeal followed. (Not. of Appeal, 12/30/24)

STANDARD OF REVIEW

"'In reviewing a grant of summary judgment, the appellate court applies the same standard as the trial judge under Rule 56(c), SCRCP." Meritage Asset Mgmt., Inc. v. Freeland Const. Co., Inc., 433 S.C. 293, 296, 857 S.E.2d 792, 794 (Ct. App. 2021) (quoting Shirley's Iron Works, Inc., 403 S.C. 560, 567, 743 S.E.2d 778, 782 (2013)). "Summary judgment is appropriate in those cases in which plain, palpable, and indisputable facts exist on which

reasonable minds cannot differ." Main v. Corley, 281 S.C. 525, 526, 316 S.E.2d 406, 407 (1984). A party is entitled to summary judgment "forthwith if the pleadings . . . show that there is no *genuine* issue of material fact and that the moving party is entitled to judgment as a matter of law." Rule 56(c), SCRCP (emphasis added). This analysis does not employ the calculus of "speculative, theoretical, and hypothetical views." Proctor v. Department of Health & Env'l Control, 368 S.C. 279, 292-93, 628 S.E.2d 496, 503 (Ct. App. 2006).

ARGUMENT

I. BECAUSE APPELLANT HAS IGNORED THE REQUIREMENTS OF THE APPELLATE COURT RULES, HER APPEAL MUST BE DISMISSED.

Appellant's initial brief was required to contain "a table of cases . . . , statutes, and other authorities cited, with references to the pages of the brief where they are cited." Rule 208(b)(1)(A), SCACR. No pagination is provided in Appellant's table of authorities, thus complicating Respondent's task, as set forth in Section III, *infra*, in determining the extent to which Appellant has engaged in intrinsic fraud upon this Honorable Court. (*See* App. Br. at 3-4) As Appellant is barred from adding such numbers later in light of the mandate that only "obvious typographical errors and misspellings" may be corrected in her final brief, it appears Appellant has intentionally failed to provide a complete, proper table of authorities. (*See* id.) Rule 211(b)(2), SCACR..

Appellant's statement of the case was required to contain "a concise history of the proceedings, insofar as necessary to an understanding of the appeal." Rule 208(b)(1)(C), SCACR. Yet Appellant writes: "Singleton sentenced Pierce to 180 days in jail to coerce her compliance with probate orders, vacating the sentence only when she agreed to settle the estate dispute and withdraw her appeals." (App. Br. at 5; *see also* id. at 16) Appellant fails to note the contempt order embodying this sentence was filed July 1, 2024, (*see* Prob. Ct. Order, 7/1/24),

and was not a subject of her action against Respondent. (*See generally* Comp.) Because the contempt order came into existence after February 2, 2024, which is the day Appellant filed the instant action, (id. at 1), Appellant's statement of the case provides no "history of the proceedings" as required by the rules governing practice before this Honorable Court. Rule 208(b)(1)(C), SCACR.

As allowed by the Rules, Appellant included a statement of facts in her initial brief. (*See* App. Br. at 9) Rule 208(b)(1)(E), SCACR. Yet not a single factual citation is provided in the entire statement of facts, (id. at 9-14), in clear violation of the requirement that if a "separate statement of facts" is included in the appellant's brief, it must be done "with reference to the record on appeal." Id.; *see also* 208(b)(4) ("The brief shall contain references to the . . . materials . . . to support the salient facts alleged."). Moreover, rather than set forth actual facts pertaining to the case at hand in a coherent manner, Appellant engaged in a "stream of consciousness" drafting style reminiscent of complaint allegations. (*See, e.g.*, id. at 10 (contending Respondent's December 6, 2023, return "constituted an improper and partisan advocacy brief."); id. (contending Respondent "made multiple knowingly false and misleading statements intended to discredit . . . Appellant."); id. at 11 (contending Respondent made a false statement which would be contradicted by "the transcripts," but identifying neither the source of the purportedly false statement, nor which specific transcripts would demonstrate such falsity); id. at 12 (contending Respondent deprived Appellant's husband of due process regarding his arrest on May 24, 2024, almost three months after the complaint at the center of this action was filed)) Notably, most of Appellant's arguments lack any factual citation in support. (*See generally* App. Br. at 16-29) In short, the absence of proper citations appears calculated to confound Respondent's ability to effectively address the contentions made by Appellant. *Cf*. Rules 208(b)(1)(E) & 208(b)(4).

Finally, in her designation of matter to be included in the record on appeal, Appellant was obligated to "set forth with specificity" the items she "proposes to include in the record on appeal." Rule 209(a), SCACR. Instead, Appellant identified such things as the "full probate court record" in her deceased husband's estate case, "including orders, motions, transcripts, audio records, notices, hearing correspondence, and exhibits," all "relevant hearing transcripts and audio from both the" circuit and probate courts, and "any other relevant filings, evidence, or rulings expressly cited by the parties." (App. Desig'n at 1-2) Again, this blatant disregard of the mandate imposed upon her appears calculated to impair Respondent's to address the issues raised in the appeal. *Cf.* id. Accordingly, as Appellant failed to substantially comply with the rules governing practice before this Honorable Court, her appeal should be dismissed. *See* Rules 101(a) & 260(a), SCACR.

II. BECAUSE JUDICIAL IMMUNITY BARS PLAINTIFF'S ACTION AS A MATTER OF LAW, THE GRANT OF SUMMARY JUDGMENT MUST BE AFFIRMED.

"Judicial immunity is one of the basic common law tenets upon which the modern system of justice was built." O'Laughlin v. Windham, 330 S.C. 379, 384, 498 S.E.2d 689, 692 (Ct. App. 1998). "It is a general principal, applicable to all magistrates, even to those of inferior jurisdiction, that they are not liable to an action for any judicial act done within their jurisdiction." Randall v. Brigham, 74 U.S. 523, 532 (1868). "Judicial immunity affords absolute immunity from suit." O'Laughlin, 330 S.C. at 382, 498 S.E.2d at 691 (citing Stump v. Sparkman, 435 U.S. 349 (1978)). It thus "acts as a bar to suit, not just as an ultimate bar to relief. Therefore, a finding of judicial immunity renders a complaint alleging judicial misconduct meritless." OLaughlin, 330 S.C. at 383, 498 S.E.2d at 691; *see also* Bradley v. Fisher, 80 U.S. 335, 347, 13 Wall. 335 (1871) ("Nor can this exemption of the judges from civil liability be affected by the motives with which their judicial acts are performed. The purity of

their motives cannot in this way be the subject of judicial inquiry."); Pierson v. Ray, 386 U.S. 547, 554 (1967) ("This immunity applies even when the judge is accused of acting maliciously and corruptly, and it 'is not for the protection or benefit of a malicious or corrupt judge, but for the benefit of the public, whose interest it is that the judges should be at liberty to exercise their functions with independence and without fear of consequences.'") (internal citation omitted); Doe v. McMillan, 412 U.S. 306, 319 (1973) ("Judges . . . have been held absolutely immune regardless of their motive or good faith."); Butz v. Economou, 438 U.S. 478, 509 (1978) ("If a civil action could be maintained against a judge by virtue of an allegation of malice, judges would lose 'that independence without which no judiciary can either be respectable or useful.'") (quoting Bradley, 13 Wall. at 348).

Importantly, the

> very foundation of this principle is to protect judges *when they have erred*. If they have decided rightly, they need no protection, for the correctness of their decision will vindicate them. To secure the maximum of impartiality, a judge must be protected from personal responsibility for his errors, if he happens to make any. It would be absurd to say that he should receive the protection of the law only in those cases where no protection is required.

Randall, 74 U.S. at 533-34 (emphasis in original).

Judges thus have a right to be wrong in the performance of their governmental roles, because a judge's "errors may be corrected on appeal, [and] *he should not have to fear that unsatisfied litigants may hound him with litigation charging malice or corruption*. Imposing such a burden on judges would contribute not to principled and fearless decisionmaking but to intimidation." Pierson, 386 U.S. at 554 (emphasis added). This is because "the nature of the adjudicative function requires a judge frequently to disappoint some of the most intense and ungovernable desires that people can have." Forrester v. White, 484 U.S. 219, 226 (1988). "Were the law otherwise (to use the words of Lord Stair) 'no man but a beggar or a fool would be

a judge.'" Randall, 74 U.S. at 535 (quoting 2 Shaw's Appeal Cases, 134)). In other words, "[i]f judges were personally liable for erroneous decisions, the resulting avalanche of suits, most of them frivolous but vexatious, would provide powerful incentives for judges to avoid rendering decisions likely to provoke such suits." Forrester, 484 U.S. at 226-27. "Accordingly, for more than five hundred years, by a uniform series of decisions, judges have been held exempt for personal responsibility for their judicial words or acts." Randall, 74 U.S. at 534.

As the Supreme Court recognized, "[m]ost judicial mistakes or wrongs are open to correction through ordinary mechanisms of review, which are largely free of the harmful side-effects inevitably associated with exposing judges to personal liability." Forrester, 484 U.S. at 227. Judicial immunity has thus been characterized as "vital for the continuation of an independent judiciary and for the preservation of judicial integrity." OLaughlin, 330 S.C. at 384, 498 S.E.2d at 692. Significantly, "common law judicial immunity" applies "to the judicial acts of all judicial officers, including those with limited jurisdiction." Id. at 387, 498 S.E.2d at 693; *see also* Randall, 74 U.S. at 532.

Moreover, the South Carolina Tort Claims Act "expressly preserves common law judicial immunity" by its language: "'All other immunities applicable to a governmental entity, its employees, and agents are expressly preserved.'" OLaughlin, 330 S.C. at 383-84, 498 S.E.2d at 691 (quoting S.C. Code § 15-78-20(b)); *see also* Proctor, 368 S.C. at 291, 628 S.E.2d at 503 ("The Act expressly preserves all existing common law immunities."); Plyler v. Burns, 373 S.C. 637, 649, 647 S.E.2d 188, 195 (2007) ("As a practical matter, the analysis of judicial immunity pursuant to both the Tort Claims Act and the common law is substantially similar."); Williams v. Condon, 347 S.C. 227, 250, 553 S.E.2d 496, 508 (Ct. App. 2001) (noting "the provisions of the Tort Claims Act do not supplant common law immunity doctrines."); *cf.* Stokes v. Oconee Cty.,

441 S.C. 566, 575 n.5, 895 S.E.2d 689, 694 n.5 (Ct. App. 2023) (noting the trial "court was referencing the common law [legislative] privilege, which has been codified in the Tort Claims Act.").

Admittedly, judges "'are not entitled to judicial immunity if: (1) they did not have jurisdiction to act; (2) the act did not serve a judicial function; or (3) the suit is for prospective, injunctive relief only.'"[5] Plyler, 373 S.C. at 645, 647 S.E.2d at 193 (quoting Faile v. South Carolina Dep't of Juv. Justice, 350 S.C. 315, 324, 566 S.E.2d 536, 541 (2002)). Thus, a judge who has "'jurisdiction over the subject matter before him'" inherently has jurisdiction for immunity purposes. *See* McEachern v. Black, 329 S.C. 642, 648, 496 S.E.2d 659, 662 (Ct. App. 1998) (quoting Stump, 435 U.S. at 356); *see also* id. ("Subject matter jurisdiction is the power of a court to 'hear and determine cases of the general class to which the proceedings in question belong.'") (quoting Brown v. Evatt, 322 S.C. 189, 193, 470 S.E.2d 848, 850 (1996)).

But the first exception related to a lack of jurisdiction applies only where "the judge acts in the 'clear absence of all jurisdiction.'" O'Laughlin, 330 S.C. at 385, 498 S.E.2d at 692 (quoting Stump, 435 U.S. at 357). Moreover, "the want of jurisdiction [must be] known to the judge." King v. Myers, 973 F.2d 354, 357 (4th Cir. 1992) (quoting Bradley, 13 Wall. at 351-52). Thus,

> it is immaterial that his challenged judicial act may have been unauthorized by the laws which govern his conduct. If he exceeds his authority, his action is subject to correction on appeal or other authorized review, but it does not expose him to a claim for damages in a private action, or put him to the trouble and expense of defending such an action.

[5] To be clear, Plaintiff sought both compensatory and punitive damages in her action, thus the third exception is inapplicable to this matter. (*See* Comp. at 20) *See* Plyler, 373 S.C. at 645, 647 S.E.2d at 193; *see also* O'Laughlin, 330 S.C. at 385, 498 S.E.2d at 692 (noting judicial immunity cannot be asserted "for suits seeking only prospective, injunctive relief.").

Chu v. Griffith, 771 F.2d 79, 81 (4th Cir. 1985); *see also* Mireles v. Waco, 502 U.S. 9, 13 (1991) (noting if the judge "authorized and ratified the police officers' use of excessive force, he acted in excess of his authority. But such an action—taken in the very aid of the judge's jurisdiction over a matter before him—cannot be said to have been taken in the absence of jurisdiction."); King, 973 F.2d at 357 ("Her actions were judicial in that, while she may have exceeded her authority in the manner in which she ordered the arrest, she performed a function 'normally performed by a judge.'") (quoting Stump, 435 U.S. at 362).

As explained by the Supreme Court, "[a] *judge will not be deprived of immunity because the action he took was in error, was done maliciously, or was in excess of his authority*; rather, he will be subject to liability only when he has acted in the 'clear absence of all jurisdiction.'" Stump, 435 U.S. at 356-57 (internal citation omitted) (emphasis added). Thus, a "judge who acts in excess of her authority in the particular case, but is not acting in the clear absence of all jurisdiction, is still entitled to the protection of common law judicial immunity." O'Laughlin, 330 S.C. at 387, 498 S.E.2d at 693. As noted by this Honorable Court:

> Excess of jurisdiction, as distinguished from the entire absence of jurisdiction, means that the act, although within the general power of the judge, is not authorized, and therefore void with respect to the particular case, because the conditions which alone authorize the exercise of his general power in that particular case are wanting, and hence the judicial power is not in fact lawfully invoked.

Id. at 386-87, 498 S.E.2d at 693 (quoting 46 Am.Jur.2d Judges § 82 (1994)).

The second exception embraces the common sense view that judicial immunity "extends only to judicial acts." O'Laughlin, 330 S.C. at 385, 498 S.E.2d at 692. It is "the nature and function of the act" which determines whether it is judicial in character. Proctor, 368 S.C. at 300, 628 S.E.2d at 507; *see also* Butz, 438 U.S. at 511 ("Judges have absolute immunity not because of their particular location within the Government but because of the special nature of

their responsibilities."). The determination arises from "the nature of the act itself, i.e., whether it is a function normally performed by a judge, and to the expectations of the parties, i.e., *whether they dealt with the judge in his judicial capacity*." Stump, 435 U.S. at 362 (emphasis added). Yet it is the "act's relation to a general function normally performed by a judge" which matters, not the act itself. Mireles, 502 U.S. at 13; *cf*. Figueroa v. Blackburn, 208 F.3d 435, 443 (3d Cir. 2000) ("That Judge Blackburn may have erred in immediately ordering Figueroa to prison . . . does not alter the judicial nature of the act."). "Here, as in other contexts, immunity is justified and defined by the *functions* it protects and serves, not by the person to whom it attaches." Forrester, 484 U.S. at 227 (emphasis in original). Accordingly, "the informal and *ex parte* nature of a proceeding has not been thought to imply that an act otherwise within a judge's lawful jurisdiction was deprived of its judicial character." Id.; *see also* Campbell v. Bennett, No. 0:19-973-JFA-PJG, 2019 WL 5865607, at *3 (D.S.C. May 29, 2019), *adopted by* 2019 WL 4593567 (D.S.C. Sept. 23, 2019) ("Judicial immunity is not pierced by allegations of corruption or bad faith."); Stump, 435 U.S. at 356-57 (noting a "judge will not be deprived of immunity because the action he took . . . was done maliciously.").

A. APPELLANT FAILED TO ALLEGE WITHIN THE COMPLAINT ANY ACTIONS BY RESPONDENT WHICH BAR HIS ENTITLEMENT TO JUDICIAL IMMUNITY, AND THE GRANT OF SUMMARY JUDGMENT MUST THEREFORE BE AFFIRMED.

1. Appellant's contentions regarding lack of jurisdiction following appeal.

Without identifying to which appeal she refers, Appellant claims Respondent was divested of subject matter jurisdiction to "remov[e] Appellant as personal representative, appoint[] new estate agents, and issu[e] punitive orders." (App. Br. at 16) Yet "[s]ubject matter jurisdiction is the power of a court to 'hear and determine cases of the general class to which the proceedings in question belong.'" McEachern, 329 S.C. at 648, 496 S.E.2d at 662 (quoting

Brown, 322 S.C. at 193, 470 S.E.2d at 850). Notably, each of the acts Appellant describes, (*see* id.), relates to the powers associated with a probate court judge, and thus Respondent cannot have been acting outside his subject matter jurisdiction. *See* id.

Additionally, in Metts v. Mims, 384 S.C. 491, 682 S.E.2d 813 (2009), our supreme court rejected the arguments now presented by Appellant that appealing individual orders brought the entire probate case to a halt. (*See* Comp. at 1, 6; App. Br. at 16) In Metts, the plaintiff contended the appeal of a contempt order barred the consideration of, and issuance of a ruling upon, the defendant's motion for summary judgment. *See* id. at 498, 682 S.E.2d at 817. The court explained:

> [W]e note that petitioner couches this argument as one involving the trial court's subject matter jurisdiction. Generally speaking, subject matter jurisdiction is the power to hear and determine cases of the general class to which the proceedings in question belong. Circuit courts have jurisdiction over general tort cases, such as the instant defamation case. Accordingly, petitioner's "subject matter jurisdiction" claim is inapposite.

Id. (internal citations omitted). Accordingly, Appellant's argument, (*see* App. Br. at 16), is entirely without merit. *See* id.; *see also* id. (citing Rule 205, SCACR, for the proposition "a trial court may proceed 'with matters not affected by the appeal.'"); § 62-1-308(h) (noting when an appeal is taken as to a decree of the probate court, only "proceedings in pursuance" of the decree "shall cease."); McEachern, 329 S.C. at 648, 496 S.E.2d at 662.

More concerning is Appellant's citation, without pinpoint cites, of Ex parte Dibble, 279 S.C. 592, 310 S.E.2d 440 (Ct. App. 1983), in support of her argument that her "filing of a probate appeal" divested Respondent of jurisdiction in the case. (*Cf.* App. Br. at 16) The issue in Dibble was whether a "court may appoint a lawyer for a litigant who has no right to legal counsel." 279 S.C. at 595, 310 S.E.2d at 442. Dibble has absolutely no bearing on the instant matter, and its inclusion in Appellant's brief is a prime example of the frivolous, vexatious paths

Respondent has been required to navigate in dealing with Appellant. *Cf.* id. Accordingly, the grant of summary judgment to Respondent must be affirmed. Rule 56(c), SCRCP.

2. Appellant's contentions regarding Respondent conducting a criminal contempt trial without the authority to do so.

Appellant contends Respondent conducted a criminal contempt trial on June 27, 2024, without the legal authority to do so, and thus his actions "fall outside the protection of judicial immunity," citing for this proposition "McDaniel v. Gray, 88 S.C. 270, 70 S.E. 717 (1911)." (App. Br. at 16) First, it is beyond question "judges have the authority to sua sponte use contempt proceedings to preserve the authority and dignity of their courts." McEachern, 3298 S.C. at 649, 496 S.E.2d at 662; *see also* id. at 650, 496 S.E.2d at 663 (noting "rules to show cause and contempt proceedings are inherently judicial acts."). Second, as this contempt action took place after the filing of the Complaint, it is neither mentioned in that pleading, nor can it have any impact on the propriety of the granting of summary judgment to Respondent. (*Cf. generally* Comp.) Lastly, Appellant's citation of the McDaniel decision appears calculated to intentionally mislead both Respondent and this Honorable Court, (*see* App. Br. at 16), as the South Carolina Reports citation provided by Appellant designates Buist v. Williams, 88 S.C. 252, 70 S.E. 817 (1911), and the Southeastern Reports she cites designates Dwyer v. Raleigh Cole & Coke Co., 70 S.E. 717 (W. Va. 1911). Accordingly, the grant of summary judgment to Respondent must be affirmed. Rule 56(c), SCRCP.

3. Appellant's contentions regarding Respondent engaging in administrative and coercive conduct.

Appellant asserts Respondent engaged "in a non-judicial, administrative capacity when he personally contacted auctioneers, initiated property evaluations, and attempted to enforce a settlement through intimidation." (App. Br. at 16) While Appellant again avoids defining

exactly when such acts purportedly occurred, (*cf*. id. at 16-17; *but see* Comp. at 11), Respondent notes Appellant was removed by court order as personal representative of the estate, thus depriving her of authority to act on its behalf by conducting an auction of estate assets or arranging any property evaluations. (*See* Order of Civ. Contempt, 11/2/23, at 1 ("The court determined that [Appellant] was in violation of the order and removed [her] as the Personal Representative.")) As to her claim Respondent engaged in intimidation tactics "to enforce a settlement," (App. Br. at 16), a "judge will not be deprived of immunity because the action he took . . . was done maliciously." Stump, 435 U.S. at 356-57; *see also* Bradley, 80 U.S. at 347 (noting the "exemption of the judges from civil liability [is not] affected by the motives with which their judicial acts are performed. The purity of their motives cannot in this way be the subject of judicial inquiry."); Pierson, 386 U.S. at 554 (noting "immunity applies even when the judge is accused of acting maliciously and corruptly."); Campbell, 2019 Wl 5865607, at *3 ("Judicial immunity is not pierced by allegations of corruption or bad faith."). Accordingly, the grant of summary judgment to Respondent must be affirmed. Rule 56(c), SCRCP.

4. Appellant's contentions regarding Respondent interfering with her access to appeal.

Appellant broadly urges Respondent "actively interfered with" her "ability to prosecute her appeal," again without defining to which appeal she refers. (App. Br. at 17) Citing Dennis v. Sparks, 449 U.S. 24 (1980), Appellant claims it stands for the proposition "judges do not have immunity when they act in concert to deprive individuals of constitutional rights." (Id.) Yet in Dennis, the Court affirmed the Fifth Circuit's en banc decision that while the judge had immunity, the accused private parties did not. *See* 449 U.S. at 27-28, 32; *see also* id. at 28 (noting "the judge has been properly dismissed from the suit on the immunity grounds."); id. ("Under these allegations, the private parties conspiring with the judge were acting under color

of state law; and it is of no consequence in this respect that the judge himself is immune from damages liability."). Thus, Appellant's contentions herein are simply another example of Appellant's complete, intentional misrepresentation of the law. (*Cf.* id.) Accordingly, the grant of summary judgment to Respondent must be affirmed. Rule 56(c), SCRCP.

5. Appellant's contentions regarding Respondent submitting an advocacy brief.

Appellant contends Respondent violated section 62-1-308(k) by "submit[ing] a partisan return" on December 6, 2023. (App. Br. at 17) Again, "[j]udicial immunity is not pierced by allegations of corruption or bad faith." Campbell, 2019 Wl 5865607, at *3; *see also* Stump, 435 U.S. at 356-57; Pierson, 386 U.S. at 554; Bradley, 80 U.S. at 347. More importantly, Appellant raised no allegations about these purported acts in her pleading, and her present argument is thus wholly irrelevant to this appeal. (*See generally* Comp.) Lastly, there is no evidence Respondent ever rendered a decision as to Appellant's appeal to the circuit court, or that he "act[ed] as attorney or counsel" for another party, which are the forms of conduct actually prohibited by the statute cited by Appellant. (*See* App. Br. at 17) § 62-1-308(k). Accordingly, this argument by Appellant provides another example of her misrepresentation of reality, (*see* id.), and the grant of summary judgment to Respondent must therefore be affirmed. Rule 56(c), SCRCP.

6. Appellant's contentions regarding Respondent engaging in unauthorized administrative and interference tactics.

Appellant broadly argues she "alleges and the record supports" Respondent stopped a "family-agreed estate auction without any motion from parties;" blocked the opening of an account at a commercial bank; and "[d]irected the parties to settle or face adverse rulings." (App. Br. at 17) Appellant contends, without citation of any controlling authority, these acts were "administrative" and "not entitled to immunity." (*See* id. at 17-18) First, Appellant made no allegations of improper conduct involving an account at a commercial bank within her

Complaint. (*See generally* Comp.) As to the remaining contentions, while they are alleged in her pleading, it is clear from the language such conduct took place as part of Respondent's duties in overseeing the estate case. (*See* id. at 3, 11) Accordingly, immunity clearly attaches, and Appellant's contentions otherwise are entirely without merit. *See* McEachern, 329 S.C. at 648, 496 S.E.2d at 662 (noting a judge who has "'jurisdiction over the subject matter before him'" inherently has jurisdiction for immunity purposes); King, 973 F.2d at 357 (reciting "the want of jurisdiction [must be] known to the judge" to bar the application of immunity); Chu, 771 F.2d at 81 (noting a judge who exceeds his authority may be corrected on appeal, but civil immunity for damages is retained). Therefore, the grant of summary judgment to Respondent must be affirmed. Rule 56(c), SCRCP.

B. APPELLANT'S ARGUMENTS THAT RESPONDENT ENGAGED IN NON-JUDICIAL CONDUCT ARE MERITLESS, AND THE GRANT OF SUMMARY JUDGMENT MUST THEREFORE BE AFFIRMED.

Without any citation, Appellant asserts if a judge's "action was not one normally performed by a judge or was performed in a non-judicial capacity, immunity does not apply." (App. Br. at 18) This is an improper statement of the applicable legal standard, which dictates it is "the nature and function of the act" which determines whether it is judicial in character. Proctor, 368 S.C. at 300, 628 S.E.2d at 507; *see also* Mireles, 502 U.S. at 13 (noting it is the "act's relation to a general function normally performed by a judge" which matters, not the act itself). Because Appellant "dealt with [Respondent] in his judicial capacity," immunity attaches to Appellants claims, and the grant of summary judgment to Appellant must be affirmed. *See* Stump, 435 U.S. at 362; Rule 56(c), SCRCP.

1. Appellant's contentions regarding coercive settlement tactics and threats of retaliation.

Within her pleading, Appellant asserted Respondent "pushed all parties to settle the estate" following the resignation of the special administrator appointed by Respondent's predecessor in office. (Comp. at 3) She also claimed Respondent "threatened" her by "suggesting that another special administrator could oversee the property and potentially evict everyone," and that Respondent had "knowledge about [Appellant's] personal life . . . potentially due to [e]x [p]arte communications." (Id. at 4) Appellant now reframes each of these allegations within her initial brief, and cites King for the proposition "judges are not immune for acts of retaliation, harassment, or coercion that are personal rather than judicial in character." (App. Br. at 18)

Appellant again intentionally misstates the law, in that nowhere within King is there any language from which it may be contended "judges are not immune for acts of retaliation, harassment, or coercion that are personal." (App. Br. at 18) *Cf. generally* 973 F.2d at 354-59. In King, the court approvingly examined Lopez v. Vanderwater, 620 F.2d 1229 (7th Cir. 1980), noting in that decision the Seventh Circuit "acknowledged that the judge's acts may have exceeded his jurisdiction, and even characterized the acts as 'outrageous,'" but the court determined the judge was nonetheless protected by immunity "because [the acts] were not taken in the clear absence of all jurisdiction." 973 F.2d at 528; *see also* id. at 358 ("The fact that the specific act of directing officers to effect warrantless arrests is not an act 'normally performed' by a magistrate in Virginia does not make the act non-judicial.").

As to Appellant's general contention that "threats are not 'judicial acts,'" (App. Br. at 18), in making this argument she overlooks the contexts in which she alleged such "threats" arose. (*Compare* id. *with* Comp. at 3-4) Mireles, 502 U.S. at 13 (noting it is the "act's relation to a general function normally performed by a judge" which matters, not the act itself); Stump, 435

U.S. at 362 (noting where a party "dealt with the judge in his judicial capacity," immunity attaches for those acts by the judge.) Appellant even specifically recites one such "threat" took place in open court. (*See* App. Br. at 18) Regardless, a "judge will not be deprived of immunity because the action he took . . . was done maliciously." Stump, 435 U.S. at 356-57; *see also* Bradley, 80 U.S. at 347 (noting the "exemption of the judges from civil liability [is not] affected by the motives with which their judicial acts are performed."); Pierson, 386 U.S. at 554 (noting "immunity applies even when the judge is accused of acting maliciously and corruptly."); Campbell, 2019 Wl 5865607, at *3 ("Judicial immunity is not pierced by allegations of corruption or bad faith."). Accordingly, Appellant's argument must fail, and the grant of summary judgment to Respondent must be affirmed. Rule 56(c), SCRCP.

2. Appellant's contentions regarding administrative interference with an auction, bank account, and estate administration.

Appellant simply recasts her previous arguments on these topics as being acts not "'normally performed by a judge,'" but without providing the source of her quoted language. (*See* App. Br. at 19) Regardless, it is the "act's relation to a general function normally performed by a judge" which controls the immunity question, not the act itself. Mireles, 502 U.S. at 13; *see also* King, 973 F.2d at 358 ("The fact that the specific act of directing officers to effect warrantless arrests is not an act 'normally performed' by a magistrate in Virginia does not make the act non-judicial."). Because the acts were associated with Respondent's responsibilities to oversee the estate, each is immunized against civil liability. *See* McEachern, 329 S.C. at 648, 496 S.E.2d at 662 (noting a judge who has "'jurisdiction over the subject matter before him'" inherently has jurisdiction for immunity purposes); King, 973 F.2d at 357 (reciting "the want of jurisdiction [must be] known to the judge" to bar the application of immunity); Chu, 771 F.2d at

81 (noting a judge who exceeds his authority may be corrected on appeal, but civil immunity for damages is retained).

As to Appellant's citation without explanation of "Harold v. Waldron [sic], 960 F.Supp. 660 (S.D. [W.Va] 1997)" at the conclusion of this subsection, the citation provided by Appellant reveals Vannest v. Sage, Rutty & Co., Inc., 960 F.Supp. 651 (W.D. N.Y. 1997), and can thus have no impact on the grant of summary judgment to Respondent. (*See* id.) Accordingly, the grant of summary judgment to Respondent must be affirmed. Rule 56(c), SCRCP.

3. Appellant's contentions regarding Respondent's involvement in the appeal process.

Appellant again asserts Respondent's "December 6, 2023 Return to Appeal" violated section 62-1-308(k) and "removed him from a judicial role." (App. Br. at 19) Again, Appellant raised no allegations about these purported acts in her lawsuit, and her instant argument is thus wholly irrelevant to this appeal. (*See generally* Comp.) Moreover, Respondent notes two documents bearing the title "Return to Appeal" were filed on December 6, 2023, (*see* Rtn., 12/6/23 (2 pages) & Rtn., 12/6/23 (5 pages)), and both clearly flowed from Respondent's duty to provide the circuit court with the record on appeal. *See* Rule 75, SCRCP. To call the provision of such documents and information to the circuit court "inherently non-judicial," (App. Br. at 19), stretches credulity in light of the requirement that Respondent certify and transmit the record to the circuit court. *See* id.

Appellant also cites Harris v. Harvey, 605 F.2d 330, 336-38 (7th Cir. 1979), for the proposition no immunity applies "where [the] judge acted as an adversary and intervened in a pending case with bias and malice." (App. Br. at 19) Yet in Harris, the court only held the judge's "repeated communications to the press and to city officials over the course of more than a year" were not protected by immunity as they did not involve "functions normally performed by

a judge." *See* id. at 336. Here, there was no allegation Respondent made any comments to "the press and city officials," ergo Harris is of no benefit to Appellant. (*See generally* Comp.) Accordingly, the grant of summary judgment to Respondent must be affirmed. Rule 56(c), SCRCP.

C. NO GENUINE ISSUES OF MATERIAL FACT WERE PRESENTED BY APPELLANT'S ALLEGATIONS WITHIN THE COMPLAINT, AND SUMMARY JUDGMENT MUST THEREFORE BE AFFIRMED.

Appellant argues she "presented specific, well-supported claims involving non-judicial acts of misconduct," and goes on to list, again without citation to the record, a stream-of-consciousness style series of allegations. (App. Br. at 20) Contrary to the plain language of the Complaint, Appellant contends her "allegations were not conclusory—they were substantiated by sworn declarations, court filings, correspondence, and court-generated records." (App. Br. at 21) But despite an exhaustive search of the court records associated with this action, Respondent is not aware of nor able to locate any "sworn declarations" filed with the Complaint, (*cf.* id.), nor any presented in opposition to Respondent's Motion for Summary Judgment. (*Cf. generally* Pl.'s Resp. to Def.'s Mot. for SJ, 9/5/24) The same is true regarding Appellant's later contention her "well-pleaded complaint [was] supported by sworn statements." (*See* App. Br. at 41) Thus, Respondent is wholly baffled by Appellant's present assertion her claims were "well-supported." (*See* id.)

Regardless, Appellant argues genuine issues of material fact made summary judgment improper, (App. Br. at 20), and that she should have been provided with the opportunity to conduct discovery. (Id. at 21) Yet what Appellant now casts as an attempt at "Fraud and Extortion," (id. at 20), was alleged in her pleading to be Respondent "*suggesting* that another special administrator could oversee the property and *potentially* evict everyone." (Comp. at 4)

Even if the Complaint's allegations were accurate, and even if one can attach a wrongful or threatening meaning to such language, the alleged statement obviously came about in the context of Respondent's role as a probate court judge responsible for adjudicating an estate matter. (*See* id.) Therefore, Respondent is entitled to judicial immunity as a matter of law as to any claims arising from the statement. *See* Stump, 435 U.S. at 362 (explaining "whether [parties] dealt with the judge in his judicial capacity" is determinative of the judicial nature of an act); Mireles, 502 U.S. at 13 (noting it is the "act's relation to a general function normally performed by a judge" which matters for immunity purposes).

Similarly, the acts Appellant now describe as "[h]arassment," (App. Br. at 20), were previously alleged to simply be Respondent's "knowledge about [Appellant's] personal life . . . potentially due to [e]x [p]arte communications," (Comp. at 4), and Appellant "facing comments undermining her position in the estate based on her marriage duration and other aspects." (Id.) Notably, these allegations fail to state a claim which may be granted. *See* Rule 8(a), SCRCP (requiring that a "pleading which sets forth a cause of action . . . contain . . . a short and plain statement of the facts showing that the pleader is entitled to relief."); Shirley's, 403 S.C. at 574, 743 S.E.2d at 785 ("'It is elementary that the principal purpose of pleadings is to inform the pleader's adversary of legal and factual positions which he will be required to meet on trial.'"). But more importantly, to the extent they are given credence they clearly arose, if at all, from Respondent's judicial role in the estate matter. *See* Stump, 435 U.S. at 362; Mireles, 502 U.S. at 13.

Without defining exactly to which document she refers, Appellant urges genuine issues of material fact barred the granting of summary judgment given "knowingly false statements in *the* Return to Appeal." (App. Br. at 20) (emphasis added) Yet no allegations considering *any*

"Return to Appeal" were made in the Complaint. (*See generally* Comp.) Appellant broadly contends "Constitutional Violations" regarding her "due process rights" occurred, (App. Br. at 20; *see also* Comp. at 11, 13-14), failing to grasp the res judicata effect of the federal court order on the same topic. *See* Taylor v. Sturgell, 553 U.S. 880, 892 (2008) ("Under the doctrine of claim preclusion, a final judgment forecloses 'successive litigation of the very same claim, whether or not relitigation of the claim raises the same issues as the earlier suit.'") (internal citation omitted). As to her assertions regarding "Interference with Inheritance," (App. Br. at 20), Appellant fails to define the exact conduct she contends create genuine issues of material fact, (*see* id.), nor does she appreciate this cause of action does not exist in South Carolina. *See* Douglass v. Boyce, 344 S.C. 5, 9, 542 S.E.2d 715, 717 (2001) ("We have not adopted the tort of intentional interference with inheritance."); Meehan v. Meehan, No. 2006-UP-088, 2006 WL 7285712, at *3 n.3 (S.C. Ct. App. Feb. 10, 2006) (unpublished) ("South Carolina has yet to recognize intentional interference with inheritance rights as a valid cause of action."). Additionally, Appellant contends genuine issues of material fact as to "Interference with Appellate Rights" made summary judgment improper in this case. (App. Br. at 20) Yet, each instance she lists flowed directly from Respondent's role as a probate court judge.[6] *See* McEachern, 329 S.C. at 648, 496 S.E.2d at 662 (noting "a judge who has "'jurisdiction over the subject matter before him'" inherently has jurisdiction for immunity purposes); *see also* Stump, 435 U.S. at 362; Mireles, 502 U.S. at 13. Accordingly, it is clear judicial immunity applied to Appellant's claims within the Complaint as a matter of law, and summary judgment for Respondent must therefore be affirmed. *See* Rule 56(c), SCRCP.

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[6] Again, as stated by Appellant, the "false statements to undermine her appeal" were purportedly made in the "Return to Appeal," which was not part of her lawsuit. (*Compare* App. Br. at 20 *with* Comp. at 1-20)

D. ALLEGATIONS OF AN IMPROPER LETTER BY RESPONDENT TO THIS HONORABLE COURT ON APRIL 1, 2024, HAVE NO BEARING ON THIS ACTION, AND SUMMARY JUDGMENT MUST THEREFORE BE AFFIRMED.

Appellant contends Respondent engaged in willful judicial interference by way of a letter to this Honorable Court on April 1, 2024, and presents multiple arguments associated therewith. (*See* App. Br. at 21-23). Obviously, no allegations concerning this letter were made in the Complaint, which was filed two months before the letter existed. (*See* Comp. at 1) Accordingly, summary judgment for Respondent must be affirmed. Rule 56(c), SCRCP.

It is notable, however, that within this section of her brief, Appellant continues to fraudulently misstate aspects of what she contends are controlling principles of law. (*See* App. Br. at 22) For example, using a pinpoint citation, Appellant quotes Offutt v. United States, 348 U.S. 11 (1954), for the principle "'a judge receiving ex parte communications cannot maintain the appearance of impartiality required by due process." (Id.) Respondent notes this sentence does not appear at page fourteen of the opinion, as asserted by Appellant, (*see* id.), nor anywhere in the Offutt decision. *Cf*. 428 U.S. at 11-16.

Likewise, Appellant urges in the case of In re McMillan, "277 S.C. 603, 291 S.E.2d 455 (1982), the South Carolina Supreme Court cautioned that even the perception of judicial interference with appeals can erode public confidence in the courts." (App. Br. at 22) Yet the cites provided reveal a criminal appeal, State v. Allen, 277 S.C. 595, 291 S.E.2d 459 (1982), and a case from the Georgia Court of appeals. *See* Gustin v. Roberts Mort. & Inv. Corp., 291 S.E.2d 455 (Ga. Ct. App. 1982). Despite diligent efforts involving multiple searches with varying parameters, the closest Respondent can come to locating the McMillan case identified by Appellant, (*see* id.), is a worker's compensation decision with no bearing on the case sub judice. *See* McMillan v. Huntington & Guerry Elec. Co., 277 S.C. 552, 290 S.E.2d 210 (1982).

Similarly, Appellant contends in Ex parte Wright, "200 S.C. 298, 20 S.E.2d 66 (1942), the South Carolina Supreme Court held that lower courts may not intrude on matters under appellate jurisdiction." (App. Br. at 22) However, the citations provided reveal All v. Prillaman, 200 S.C. 279, 20 S.E.2d 741 (1942), and Coleman v. Lurey, 199 S.C. 442, 20 S.E.2d 65 (1942), which both say nothing of the kind. (*Cf.* id.) In the same vein, Appellant argues there is a mandate from State v. Simons, "264 S.C. 509, 216 S.E.2d 369 (1975), [which dictates t]he timely service of the notice of appeal . . . shall stall all further proceedings." (App. Br. at 23) As before, the citations provided by Appellant reveal two wholly different cases: Thorne v. Seabrook, 264 S.C. 503, 216 S.E.2d 177 (1975), and another Georgia Court of Appeals case. *See* McKisic v. College Park Hous. Auth., 216 S.E.2d 369 (Ga. Ct. App. 1975). As Appellant has again attempted to commit fraud upon this Honorable Court, the grant of summary judgment to Respondent must be affirmed. (*See* Section III, *infra*) Rule 56(c), SCRCP.

E. APPELLANT'S BLANKET ASSERTIONS REGARDING JUDICIAL ETHICS, DUE PROCESS, AND STATUTORY DUTIES DO NOT ALTER THE APPLICABILITY OF JUDICIAL IMMUNITY TO HER CLAIMS WITHIN THE COMPLAINT, AND SUMMARY JUDGMENT MUST THEREFORE BE AFFIRMED.

In this section of her brief, (*see* App. Br. 23-26), Appellant offers arguments which are repetitive of those already presented, (*see, e.g.,* id. at 17, 19, 21, and have already been addressed herein. (*See* Sections II(A)(4)-(5), II(B)(3), & II(C), *supra*) Ultimately, Appellant presents no rational basis from which it may be concluded judicial immunity did not apply to the allegations within her Complaint, and instead attempts to create random rabbit trails which Respondent declines to pursue. (*Cf.* App. Br. at 23-26) Accordingly, summary judgment for Respondent must be affirmed. Rule 56(c), SCRCP.

F. APPELLANT'S CONTENTIONS REGARDING A PURPORTEDLY INAPPROPRIATE "RETURN BRIEF" ON DECEMBER 3, 2023, HAVE NO

BEARING ON THIS MATTER, AND SUMMARY JUDGMENT MUST THEREFORE BE AFFIRMED.

Appellant again presents a variety of arguments pertaining to what she terms herein as a "return brief," which given the context is clearly the "Return to Appeal" she previously discussed. (*Compare* App. Br. at 27-35 *with* id. at 17, 19-20) Again, no claims were made in the lawsuit concerning the impropriety of any return to appeal filed by Respondent, (*see generally* Comp.), and Appellant's nine pages of argument as to this topic are therefore wholly irrelevant.[7] (*See* App. Br. at 27-35) Accordingly, the grant of summary judgment to Respondent must be affirmed. Rule 56(c), SCRCP.

G. APPELLANT'S CONTENTIONS REGARDING RESPONDENT'S OCTOBER 3, 2024, LETTER TO THE OCONEE COUNTY CLERK OF COURT HAVE NO BEARING ON THIS MATTER, AND SUMMARY JUDGMENT MUST THEREFORE BE AFFIRMED.

Appellant urges Respondent filed a "'Return on Appeal on October 3, 2024, accompanied by a letter addressed to the Honorable Lisa Burton of the Circuit Court." (App. Br. at 35) Appellant elsewhere casts this individual as "the presiding Circuit Court judge," (id. at 13), despite the fact Respondent previously sent a letter on March 21, 2024, as part of a return to a different appeal, which is specifically addressed to Burton in her role as "Clerk of Court." (*See* Lttr., 3/21/24) Regardless, nothing Respondent did or did not do eight months *after* Appellant filed her lawsuit has any bearing on this action, (*compare* id. at 13, 35 *with* Comp. at 1-20), and the grant of summary judgment to Respondent must therefore be affirmed. Rule 56(c), SCRCP.

H. APPELLANT'S CONTENTIONS REGARDING A PURPORTED FAILURE TO TRANSMIT A COMPLETE AND ACCURATE RECORD HAVE NO BEARING

[7] Notably, Appellant contends: "The decision to appoint a Special Administrator was made by Respondent Ashley Rice, not due to any mismanagement by [Appellant], but because of the contentious nature of the case." (App. Br. at 30) Ashley Rice was the probate judge in August 2022, (*see* Prob. Ct. Order, 8/15/22, at 3), but is not a party to this appeal, or the action on which it is based. (*See* Comp. at 1)

ON THIS MATTER, AND SUMMARY JUDGMENT MUST THEREFORE BE AFFIRMED.

Appellant argues the probate court had a duty "to transmit the record on appeal" in a manner that was "complete, accurate, and [inclusive of] all materials relevant to the issues raised," and the "failure to comply with this procedural obligation can amount to structural error." (App. Br. at 37) Appellant contends in the caption of her argument such "structural error" requires "reversal," and goes on to identify two cases she contends support her position. (Id. at 38)

First, Respondent notes nowhere within her argument does Appellant identify to *which* "record on appeal" she refers within this section of her brief. (App. Br. at 37-39) Second, as to Appellant's contentions structural error requires "reversal," Appellant does not define what she contends is required to be reversed. (*See* id.) The instant action was filed in the Oconee County Court of Common Pleas, and thus no record on appeal was ever prepared by Respondent for it. (*See generally* Comp.) Ultimately, if Appellant intends by her language to mean Respondent's failure to transmit a complete record to the circuit court in one of her various appeals from probate court somehow justifies reversal of the grant of summary judgment to Respondent in this action, (*cf.* App. Br. at 37-39), she cites no authority for this position, nor can Respondent determine how logic could compel any such conclusion. (*See* id.)

Lastly, Appellant again blatantly misrepresents the law in an effort to muddy the appellate waters. Without providing a pinpoint citation, she asserts Sloan v. Friends of the Hunley, Inc., 369 S.C. 20, 630 S.E.2d 474 (2006), stands for the proposition "reversal [is] warranted where absence of [a sufficient] record precludes meaningful review." (App. Br. at 38) This case dealt with the doctrine of mootness and its exceptions, as well as the doctrine of standing, in the context of a Freedom of Information Act claim. *See* id. at 25-29, 630 S.E.2d at

477-79. Nowhere does the court in Sloan set forth any language which supports Appellant's characterization of its significance. (*See* id.) *Cf.* id. Likewise, again without a pinpoint cite, Appellant claims Elam v. South Carolina Department of Transportation, 361 S.C. 9, 602 S.E.2d 772 (2004), stands for the proposition "procedural irregularities undermining fairness justify reversal." (Id.) Respondent respectfully points out Elam says nothing of the kind, (*cf.* id.), but instead deeply examines the relationship between a motion to alter or amend a judgment and the impact on preservation of issues for appellate review. *See* id. at 14-26, 602 S.E.2d 775-81. Thus, we are left again with Appellant's minimally reckless, and most likely intentional, misrepresentations of law. (*See* id.) Accordingly, the grant of summary judgment to Respondent must be affirmed. Rule 56(c), SCRCP.

I. APPELLANT'S CONTENTIONS AS TO THE GRANTING OF SUMMARY JUDGMENT BEFORE THE COMPLETION OF DISCOVERY DUPLICATE HER PRIOR ARGUMENTS, AND SUMMARY JUDGMENT MUST THEREFORE BE AFFIRMED.

Appellant asserts several theories as to why, from her viewpoint, it was improper for summary judgment to be granted prior to the completion of discovery. (App. Br. at 39-41) Respondent notes Appellant's contentions regarding her entitlement to discovery in this matter represent a prime example of why judicial immunity "acts as a bar to suit, not just as an ultimate bar to relief." OLaughlin, 330 S.C. at 383, 498 S.E.2d at 691; *see also* Pierson, 386 U.S. at 554 (noting a judge "should not have to fear that unsatisfied litigants may hound him with litigation charging malice or corruption."); Doe, 412 U.S. at 339 (Rehnquist, J., dissenting) ("A supposed privilege against being held judicially accountable for an act is of virtually no use to the claimant of the privilege if it may only be sustained after elaborate judicial inquiry into the circumstances under which the act was performed."). Regardless, Appellant merely offers variants of the same

arguments already presented, (*see* App. Br. at 21), to which the same counters apply. (*See* Section II(C), *supra*)

However, Respondent is compelled to note that, again with no pinpoint citation, Appellant points to the Main decision for the proposition: "The South Carolina Supreme Court has emphasized that '[t]he motion for summary judgment is not to be used as a substitute for trial, and when inquiry into the facts is desirable to clarify the application of the law, summary judgment must not be granted.'" (App. Br. at 40) (alteration in original) Unsurprisingly, nowhere within the Main decision does this language appear. *Cf.* 281 S.C. at 525-27, 316 S.E.2d at 406-08. Thus, Appellant again attempts to perpetrate a fraud upon this Honorable Court, (*see* id.), and the grant of summary judgment to Respondent must therefore be affirmed. Rule 56(c), SCRCP.

J. APPELLANT'S ASSERTIONS AS TO THE EXISTENCE OF MATERIAL FACTS DUPLICATE HER PRIOR ARGUMENTS, AND SUMMARY JUDGMENT MUST THEREFORE BE AFFIRMED.

Appellant again contends "genuine issues of material fact remain," (App. Br. at 41), and merely repeats variants of arguments already presented. (*See* id. at 20-21) Respondent has already addressed Appellants arguments herein, (*see* Sections II(C) & II(I), *supra*), and relies upon said arguments to respectfully contend the grant of summary judgment to Respondent must be affirmed. Rule 56(c), SCRCP.

III. BECAUSE APPELLANT HAS ATTEMPTED TO COMMIT FRAUD UPON THE COURT, THE GRANT OF SUMMARY JUDGMENT TO RESPONDENT MUST BE AFFIRMED.

Fraud upon the court has been described "as 'that species of fraud which does, or attempts to, subvert the integrity of the Court itself, or is a fraud perpetrated by officers of the court so that the judicial machinery cannot perform in the usual manner its impartial task of adjudging

cases that are presented for adjudication.'" Chewning v. Ford Motor Co., 354 S.C. 72, 78, 579 S.E.2d 605, 608 (2003) (quoting Evans v. Gunter, 294 S.C. 525, 529, 366 S.E.2d 44, 46 (Ct. App. 1998)). It "'is a serious allegation . . . involving "corruption of the judicial process itself,"'" and "'requires a showing that one has acted with an intent to deceive or defraud the court.'" Id. (internal citations omitted) (ellipsis in original). More specifically, intrinsic fraud upon the court is "fraud which misleads a court in determining issues and induces the court to find for the party perpetrating the fraud." Id. at 81, 579 S.E.2d at 610. "'Like all other types of fraud, proving fraud upon the court requires showing that the perpetrator acted with the intent to defraud, for there is no such thing as accidental fraud.'" Sanders v. Smith, 431 S.C. 605, 613-14, 848 S.E.2d 604, 608 (Ct. App. 2020) (quoting Perry v. Heirs at Law of Gadsen, 357 S.C. 42, 47, 590 S.E.2d 502, 504-05 (Ct. App. 2003)).

This burden is easy for Respondent to meet, as throughout her brief Appellant blatantly misstates, and sometimes creates from whole cloth, the principles of law she uses to contend summary judgment in Respondent's favor was improper. (*See* Sections II(A)(1)-(2), (II)(B)(1)-(3), (II)(D), (II)(H), & (II)(I), *supra*) Significantly, the fact Respondent has identified Appellant's fraudulent attempts does not mitigate those actions; as our supreme court has commented, "'[t]he perpetrator of the fraud [upon the court] should not be allowed to dispute the effectiveness of the fraud after the fact.'" Chewning, 354 S.C. at 84 n.7, 579 S.E.2d at 611 n. 7 (quoting Dixon v. Comm'n of Internal Revenue, 2003 WL 1216290 (9th Cir. 2003) (second alteration in original). Accordingly, in light of Appellant's multiple efforts to commit fraud upon the court, which implicitly show her recognition Respondent is entitled to judgment as a matter of law, the grant of summary judgment to Respondent must be affirmed. *See* Rule 56(c), SCRCP.

CONCLUSION

FOR THE REASONS SET FORTH herein, Respondent prays this Honorable Court to AFFIRM the grant of summary judgment to Respondent.

Respectfully submitted,

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This 8th day of September, 2025.