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SC Court of Appeals

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas

The Honorable Michael G. Nettles, Circuit Court Judge
Trial Court Case No. 2024-CP-26-04912

Appellate Case No.: 2025-001033

Chunyan GuAppellant,

v.

Sunshine Rental PropertiesRespondent,

INITIAL BRIEF OF RESPONDENT, SUNSHINE RENTAL PROPERTIES

Douglas M. Zayicek, SC Bar 11304
Holly M. Lusk, SC Bar 102307
BELLAMY, RUTENBERG, COPELAND,
EPPS, GRAVELY & BOWERS, P.A.
Post Office Box 357
Myrtle Beach, South Carolina 29578-0357
843-448-2400
Counsel for Respondent, Sunshine Rental Properties

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STATEMENT OF THE ISSUES ON APPEAL

- I. WHETHER THE CIRCUIT COURT PROPERLY FOUND APPELLANT’S APPEAL OF THE MAGISTRATE COURT’S JUDGMENT TO THE CIRCUIT COURT WAS UNTIMELY WHEN SUCH APPEAL WAS FILED MORE THAN THIRTY DAYS AFTER APPELLANT’S RECEIPT OF THE MAGISTRATE COURT’S JUDGMENT.

- II. WHETHER THE CIRCUIT COURT PROPERLY AFFIRMED THE MAGISTRATE COURT’S JUDGMENT ON THE GROUNDS THAT APPELLANT DID NOT DEMONSTRATE ANY ERRORS OF LAW OR FACT BY THE MAGISTRATE COURT.

STATEMENT OF THE CASE

This case involves a dispute between Appellant, Chunyan Gu (“Gu”), and Respondent, Sunshine Rental Properties (“Sunshine RP”), regarding Gu’s refusal to pay certain costs incurred by Sunshine RP to have Gu’s rental property painted and repaired. (See Compl., Aff and Itemization of Accounts).

Gu is the owner of real property located at 1537 Southwood Drive, Myrtle Beach, South Carolina 29575 (“Subject Property”). (Compl., Ans., p. 1). Sunshine RP is a property management company located in Myrtle Beach, South Carolina. (Mag. Case Info. Sheet). Gu hired Sunshine RP to manage the Subject Property. (See Hearing Transcript, p. 5). Following the conclusion of a tenancy at the Subject Property, Sunshine RP informed Gu that various repairs were needed at the Subject Property, including, without limitation, interior painting, and wallpaper repair. (See Id.).

The total cost of the painting and wallpaper repair at the Subject Property was \$3,000.00, out of which the tenants were responsible for paying \$200.00 and Gu was responsible for paying \$2,800.00. (07/15/22 Invoice, see also Hearing Transcript, p. 6). Sunshine RP paid the \$3,000.00 invoice for painting and wallpaper repair in full. (07/29/22 Check, 08/19/22 Check). Sunshine RP recouped the tenant’s portion of the painting and wallpaper repair payment through tenant’s security deposit. (Security Deposit Ledger, p. 1). However, to-date, Gu admittedly has failed to

pay Sunshine RP any amount for the painting and wallpaper repair. (Compl., Hearing Transcript, p. 6).

On December 19, 2023, Sunshine RP filed its Summons and Complaint against Gu in the Myrtle Beach Magistrate Court, seeking \$2,800.00 as the cost it incurred for the painting and wallpaper repair and an additional \$80.00 for its Magistrate Court filing fee. (Compl., Aff. and Itemization of Accounts, p. 1). On February 6, 2024, Gu filed an Answer to Sunshine RP's Complaint, wherein Gu admits liability and contests only the amount of damages claimed by Sunshine RP. (Ans., p. 1). In her Answer, Gu does set forth a specific amount she owes to Sunshine RP. (Id.).

Both parties were provided with notice that the case was scheduled for hearing at the Myrtle Beach Magistrate Court on June 3, 2024 at 9:00 AM. (06/03/24 Summons & Hearing Notice to Gu, 06/03/24 Summons & Hearing Notice to Sunshine RP). Despite the foregoing, Gu did not attend the Magistrate Court's June 3, 2024 hearing. (Magistrate's Return, p. 1, Notice of Appeal to Cir. Ct., p. 2, Hearing Transcript, p. 8). At the June 3, 2024 hearing, Sunshine RP presented its case, including evidence of the amount Gu owed for the paint and wallpaper repair. (Magistrate's Return, p. 1, Sunshine RP's Trial Exhibits, pp. 1-11). At the conclusion of the June 3, 2024 hearing, the Magistrate Court ruled in favor of Sunshine RP and against Gu in the amount of \$2,880.00.

(Magistrate Court Judgment). The Magistrate's Return provides, in pertinent part:

[T]he plaintiff proved to the Court a contract to perform work existed between the two parties, where the defendant requested the plaintiff to paint the inside of the defendant's rental property. The plaintiff proved to the Court work was performed and the defendant refused to pay the agreed upon amount. The defendant admitted to owing the plaintiff money for the work performed in [her] ANSWER to the Court.

(Magistrate's Return, p. 1).

Gu admits she received a copy of the Magistrate Court's Judgment on June 15, 2024. (Notice of Appeal to Cir. Ct., p. 2). More than thirty (30) days thereafter, on July 19, 2024, Gu filed a Notice of Appeal of the Magistrate Court's Judgment with the Horry County Court of Common Pleas (the "Circuit Court"). (Id.). On or around October 3, 2024, Gu also filed a thirty-six (36) page package of exhibits in the Circuit Court, which contained a handwritten timeline and email correspondence between the parties. (Gu's Cir. Ct. Exhibits). Gu's appeal of the Magistrate Court's Judgment in this matter was heard by the Circuit Court on April 16, 2025. (See Hearing Transcript).

During the April 16, 2025 hearing on appeal before the Circuit Court ("Circuit Court Hearing"), Gu admitted she had notice of the June 3, 2024 Magistrate Court hearing, stated only that she forgot to attend due to being "stressed." (Gu's Initial Brief, p. 1, Notice of Appeal to Cir. Ct., p. 1, Hearing Transcript, p. 8). Gu did not argue that a new trial should be held by the Magistrate Court and did not ask for a remand to the Magistrate Court. (Gu's Initial Brief, p. 1, Notice of Appeal to Cir. Ct., p. 1, Hearing Transcript, p. 8). Gu also did not argue that the Magistrate Court made any errors of law or fact in its June 3, 2024 Judgment; rather, Gu recited a timeline of her alleged interactions with Sunshine RP, admitting that Sunshine RP notified her that she would be responsible for \$2,800.00 of the painting and wallpaper repair invoice. (Hearing Transcript, pp. 5-6, 8).

At the Circuit Court Hearing, counsel for Sunshine RP argued both that Gu's appeal was untimely and that Gu had failed to allege the Magistrate Court had made any errors of law in its June 3, 2024 Judgment. (Id. at pp. 6-7). Gu did not rebut either of the foregoing arguments. (See Hearing Transcript). Therefore, by Form 4 Order, dated April 17, 2025, and formal written Order, dated May 6, 2025, the Circuit Court affirmed the Magistrate Court's June 3, 2024 Judgment.

(04/07/25 Form 4 Order, 05/06/25 Order). The Circuit Court’s May 6, 2025 Order states that the Circuit Court affirmed the Magistrate’s Judgment on the grounds that Gu’s appeal to the Circuit Court was untimely and that Gu failed to allege or present any evidence warranting reversal of the Magistrate Court’s Judgment. (Hearing Transcript, pp. 7-8, 04/07/25 Form 4 Order, 05/06/25 Order).

Gu filed this Notice of Appeal with the South Carolina Court of Appeals on May 27, 2025. (Notice of Appeal to Ct. of App.).

STANDARD OF REVIEW

“[T]he Court of Appeals will presume that an affirmance by a Circuit Court of a magistrate’s judgment was made upon the merits where the testimony is sufficient to sustain the judgment of the magistrate and there are no facts that show the affirmance was influenced by an error of law.” Bowers v. Thomas, 373 S.C. 240, 244, 644 S.E.2d 751, 753 (Ct. App. 2007) (citing Burns v. Wannamaker, 281 S.C. 352, 357, 315 S.E.2d 179, 182 (Ct. App. 1984)). The Court of Appeals is without jurisdiction to reverse the findings of fact of the circuit court if there is any evidence to support such findings. Bowers, 373 S.C. at 244, 644 S.E.2d at 753 (citing Vacation Time of Hilton Head Island, Inc. v. Kiwi Corp., 280 S.C. 232, 233, 312 S.E.2d 20, 21 (Ct. App. 1984)). Unless the Court of Appeals finds an error of law, it will affirm the Circuit Court’s holding if there are any facts supporting the Circuit Court’s decision. Bowers, 373 S.C. at 244, 644 S.E.2d at 753 (citing Hadfield v. Gilchrist, 343 S.C. 88, 94, 538 S.E.2d 268, 271 (Ct. App. 2000)).

ARGUMENT

I. THE CIRCUIT COURT PROPERLY FOUND APPELLANT’S APPEAL OF THE MAGISTRATE COURT’S JUDGMENT WAS UNTIMELY.

The Circuit Court properly affirmed the Magistrate Court’s June 3, 2024 Judgment on the grounds that Gu’s Notice of Appeal was untimely filed. Rule 18 of the South Carolina Rules of

Magistrates Court (“SCRMC”) requires, as follows: “Within thirty (30) days after delivery of written notice of judgment to the parties or their attorneys, a party wishing to appeal [a magistrates court judgment] shall *serve on the respondent and file a notice of appeal* containing a statement of the grounds for appeal with the magistrate rendering the judgment and with the Circuit Court of the County where the judgment was rendered.” (emphasis added). Gu failed to meet the foregoing thirty (30) day deadline to serve and file her appeal of the June 3, 2024 Magistrate’s Court Judgment as described in detail below.

The Magistrate Court entered its Judgment in this matter on June 3, 2024. (See 06/03/24 Judgment). Gu admits she received a copy of the June 3, 2024 Magistrate Court Judgment on June 15, 2024. (Notice of Appeal to Cir. Ct., p. 2). However, the time stamp marked clearly on Gu’s Notice of Appeal demonstrates that Gu did not file her Notice of Appeal of the Magistrate Court’s Judgment until July 19, 2024, more than thirty (30) days after Gu’s receipt of the Magistrate Court’s Judgment. (See Notice of Appeal to Cir. Ct.).

In her Initial Brief, Gu states she mailed her Notice of Appeal in a timely fashion. (Gu’s Initial Brief, p. 3). However, Gu never introduced any evidence regarding her mailing and/or filing of her Notice of Appeal to the Circuit Court into the record in this matter at the Circuit Court level. For this reason, any such evidence Gu seeks to introduce now should be excluded from the Record in this matter, pursuant to Rule 210, SCACR, and should not be considered by the Court of Appeals in its review of this matter. Further, Gu has never presented any evidence that she served Sunshine RP with a copy of Gu’s Notice of Appeal to the Circuit Court within thirty (30) days of Gu’s receipt of the Magistrate Court’s Judgment, as required by Rule 18, SCRMC. Therefore, it is clear that Gu’s appeal of the Magistrate Court’s Judgment was untimely in violation of Rule 18, SCRMC, and that the Circuit Court properly held as such in its May 6, 2025 Order.

It is important to note that, of the two cases Gu relies upon in support of her argument that her appeal was not untimely filed, one of such cases could not be located through a case law search and the other case does not contain the quote Gu attributes to such case within her Initial Brief. On Pages 3-4 of her Initial Brief, Gu cites to a case she identifies as Hollins v. Hollins, 310 S.C. 236, 423 S.E.2d 548 (Ct. App. 1992). (Gu's Initial Brief, pp. 3-4). Counsel for Sunshine RP could not locate a case with this caption using the numerical citation provided by Gu, nor could it locate any case law which states what Gu asserts is stated in the case she identified as Hollins v. Hollins. The numerical citation Gu provided for Hollins does partially match a different case, Moore v. North American Van Lanes, 310 S.C. 236, 423 S.E.2d 116 (1992). However, the Moore case does not contain the legal holding Gu refers to and relies upon on Page 4 of her Initial Brief.

Gu also cites to Goodson v. Am. Bankers Ins. Co. of Fla., 295 S.C. 400, 368 S.E.2d 687 (Ct. App. 1988) on Page 4 of her Initial Brief and asserts that such case contains the following quote: "While pro se litigants are bound by the same rules as attorneys, courts may consider their status in applying procedural requirements in a fair and just manner." Upon review of Goodson, no such quote exists within the case. See Goodson, 295 S.C. 400, 368 S.E.2d 687. However, comparable to the facts in this case, the Goodson case involved a party who failed to attend trial and against whom a verdict was rendered. 295 S.C. at 401-02, 368 S.E.2d at 688-89. In direct contrast to the quote Gu attributed to Goodson within her Initial Brief, in Goodson, the South Carolina Court of Appeals discussed the fact that a party has a duty to monitor his case and stated, ***"Lack of familiarity with legal proceedings is unacceptable and the court will not hold a layman to any lesser standard than is applied to an attorney."*** Id., 295 S.C. at 403, 368 S.E.2d at 689. (emphasis added). Based on the foregoing, the Court should disregard any legal arguments set forth by Gu in reliance upon Hollins v. Hollins, which does not appear to exist, or in Goodson,

which does not contain the quote Gu attributes to such case or support her argument in any manner whatsoever.

Finally, the Court of Appeals should affirm the Circuit Court's May 6, 2025 Order because Gu failed to preserve her argument regarding the timeliness of her filing a Notice of Appeal in the Circuit Court. At the Circuit Court Hearing on Gu's appeal, Sunshine RP argued that Gu's appeal was untimely based on the date Gu's appeal was filed in the Circuit Court. (Hearing Transcript, pp. 6-7). Gu did not rebut this argument before the Circuit Court. In fact, Gu did not present any facts or introduce any evidence into the record at the Circuit Court level regarding the timeliness of her appeal. (See Hearing Transcript). Gu also never filed any Motion to Reconsider or post-hearing motions in an attempt to preserve this issue. Instead, Gu has raised this issue for the very first time in this appeal to the South Carolina Court of Appeals.

Based on the foregoing, Gu's argument regarding the timeliness of her appeal was not preserved for appellate review. Wilder Corp. v. Wilke, 330 S.C. 71, 76, 497 S.E.2d 731, 733 (1998) ("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.*") (internal citations omitted) (emphasis added). Even in the event that the Court of Appeals believes the issue of timeliness has been preserved, Gu should be barred, pursuant to Rule 210, SCACR, from presenting new facts into the record for the first time during this appeal. For these reasons, the Court of Appeals should affirm the Circuit Court's May 6, 2025 Order.

II. THE COURT OF APPEALS SHOULD AFFIRM THE CIRCUIT COURT'S MAY 6, 2025 ORDER BECAUSE THE CIRCUIT COURT PROPERLY CONCLUDED APPELLANT FAILED TO DEMONSTRATE THE MAGISTRATE COURT'S JUDGMENT WAS DEFECTIVE OR INCORRECT IN ANY WAY.

The Court of Appeals should affirm the Circuit Court's May 6, 2025 Order because the Circuit Court properly found the Magistrate Court did not commit any errors in rendering its June 3, 2024 Judgment.

Gu admits liability within her Answer. (Ans., p. 2). During the April 16, 2025 Circuit Court Hearing: (1) Gu orally argued that she corresponded with Sunshine RP regarding repairs needed at the Subject Property, (2) admitted that Sunshine RP informed her that the cost to paint and repair the wallpaper at the Subject Property was \$3,000.00, and (3) admitted that Sunshine RP notified Gu she was responsible for \$2,800.00 of such cost. (Hearing Transcript, pp. 5-7, 8). On appeal to the Circuit Court, Gu never set forth any legal errors or factual errors made by the Magistrate Court in rendering its Judgment. (See Hearing Transcript). As stated in the Circuit Court's May 6, 2025 Order, Gu simply disagreed with the outcome. (05/06/25 Order).

In Indigo Assocs. v. Ryan Inv. Co., 314 S.C. 519, 523, 431 S.E.2d 271, 273–74 (Ct. App. 1993), the South Carolina Court of Appeals outlined the standard for the Circuit Court on an appeal of a Magistrate Court decision by stating:

[T]he circuit court, pursuant to S.C. Code Ann. § 18–7–170 (1985), in appeals from the magistrate court, “may affirm or reverse the judgment of the [magistrate], in whole or in part, as to any or all the parties or for errors in law or fact.” Nonetheless, the circuit court is restricted regarding which issues it may entertain in determining whether a judgment should be affirmed or reversed, either in whole or in part. The circuit court, acting as an appellate court in a case heard by the magistrate, cannot consider questions that have not been presented to the magistrate. See Sanders v. Hayes, 128 S.C. 181, 122 S.E. 572 (1924) (where the defendant failed to object at the trial that the magistrate was related to the plaintiff although his attention was called to it, that objection cannot be raised on appeal); Hill v. Garrett, 83 S.C. 572, 65 S.E. 821 (1909) (wherein the court held the objections, on appeal from a magistrate court, were not available unless raised below). Also, the parties to an appeal from the magistrate court are restricted to the theory on which the case was tried in the magistrate court. 51 C.J.S. Justices of the Peace § 141, at 299 (1967); see White v. Livingston, 231 S.C. 301, 306, 98

S.E.2d 534, 537 (1957) (“It is well settled that one cannot present and try his case on one theory and thereafter advocate another theory on appeal.”).

Gu did not attend the Magistrate Court’s hearing in this case; therefore, she did not present any arguments, legal theories, or objections to the Magistrate Court. (Hearing Transcript, p. 8, Notice of Appeal to Cir. Ct., p. 2). As a result, Gu did not preserve any of her own theories of the case for ruling before the Circuit Court and was limited to the facts before the Magistrate Court on appeal to the Circuit Court. Gu failed to demonstrate any legal or factual errors made by the Magistrate Court. (05/06/25 Order). The Circuit Court thus properly affirmed the June 3, 2024 Magistrate Court Judgment.

A. The Circuit Court Did Not Err In Concluding That Factual Matters Had Already Been Presented In the Magistrate Court.

In her Initial Brief, Gu argues that “[t]he Circuit Court erred as a matter of fact and law by concluding that *Appellant’s factual defenses* had already been presented and considered by the Magistrate Court.” (Gu’s Initial Brief, p. 5) (emphasis added). Gu’s argument should be rejected by the Court of Appeals because it misstates the Circuit Court’s ruling. (See Hearing Transcript pp. 7-8, 05/06/25 Order).

The Circuit Court did not rule that the Magistrate Court had already considered Gu’s factual defenses or arguments. (See Hearing Transcript, 05/06/25 Order). At the April 16, 2025 Circuit Court Hearing, the Circuit Court verbally ruled: (1) it is clear from the Magistrate’s Return that the Magistrate Court determined factual issues in the case and (2) Gu did not set forth an argument on appeal that the Magistrate Court committed any legal errors in entering its June 3, 2024 Judgment. (Hearing Transcript, p. 7). The Circuit Court’s May 6, 2025 Order affirming the Magistrate Court’s Judgment further states, “Appellant did not allege or present any evidence under SC Code Ann. [§] 18-7-10, et. seq. warranting reversal of Judge Arakas...Appellant

produced no documentation, nor alleged any facts or circumstances, showing the Magistrate’s decision was defective or incorrect in any way.” (05/06/25 Order, pp. 1-2).

As stated above, in Indigo, the South Carolina Court of Appeals made clear that a circuit court cannot consider questions that have not been presented to the magistrate, but, instead, may reverse a magistrate’s decision if it is determined that there were legal or factual errors made by the magistrate. 314 S.C. at 523, 431 S.E.2d at 273. The transcript of the Circuit Court Hearing, the Circuit Court’s verbal ruling at the Circuit Court Hearing, and the May 6, 2025 Order affirming the Magistrate Court’s Judgment all demonstrate the Circuit Court considered the Magistrate’s Return, the June 3, 2024 Magistrate Court Judgment, and the oral arguments of the parties on appeal. Upon doing so, the Circuit Court then properly affirmed the Magistrate Court’s June 3, 2024 Judgment, determining Gu had not set forth any facts or circumstances showing the Magistrate’s decision was defective or incorrect in any way. (05/06/25 Order). There is simply nothing in the record indicating the Circuit Court affirmed the Magistrate Court’s Judgment on the ground that Gu had already presented her arguments to the Magistrate and any such argument by Gu is without merit.

B. The Circuit Court Did Not Refuse to Consider Gu’s Arguments and/or Evidence on Appeal; However, Even If It Had, Such Ruling Would Have Been Proper.

In her Initial Brief, Gu makes several conflicting statements with regard to the Circuit Court’s consideration of “additional materials” Gu e-filed on appeal to the Circuit Court. (See Gu’s Initial Brief, pp. 6-7). On the one hand, Gu argues that the Circuit Court accepted her materials, and, on the other hand, Gu argues the Circuit Court declined to review such evidence. (Id.). Nothing in the transcript from the Circuit Court Hearing or the Circuit Court’s May 6, 2025 Order expressly states whether the Circuit Court considered the materials Gu submitted on appeal. (See

Hearing Transcript, 05/06/25 Order). Review of the record in this matter reveals that the Circuit Court never expressly declined to review such evidence. (Id.). In fact, in her oral argument at the Circuit Court Hearing, Gu presented the same factual information contained in such materials, which was a general timeline and description of correspondence between Gu and Sunshine RP regarding the painting and wallpaper repair to the Subject Property. (Hearing Transcript, pp. 5-7). Therefore, the information contained in Gu's package of materials was presented to the Circuit Court, via Gu's testimony. (Id.).

It is important to note that Gu neither sought to admit the package of materials into evidence at the Circuit Court Hearing, nor raised the issue of whether the Court had considered or would consider such materials on appeal. As a result, the Circuit Court never made a determination regarding whether it would consider Gu's evidentiary submission and such issue is not preserved for review by the Court of Appeals. (Hearing Transcript, 05/06/25 Order). See Wilder Corp., 330 S.C. at 76, 497 S.E.2d 733 (1998) ("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.*") (internal citations omitted) (emphasis added). Therefore, any argument Gu has made regarding her submission of materials to the Circuit Court should be rejected by this Court.

Notwithstanding the foregoing, even had the Circuit Court expressly ruled that Gu was barred from introducing new facts and evidence into the record, such ruling would be proper pursuant to South Carolina law. In Indigo, the South Carolina Court of Appeals makes clear that a circuit court cannot consider questions or theories that were not presented to the lower court. 314 S.C. at 523, 431 S.E.2d at 273 (internal citations omitted). Gu failed to preserve any of her own arguments by failing to attend the June 3, 2024 hearing in the Magistrate Court. Id. Therefore, Gu was limited to arguing that there was some legal or factual error in the Magistrate Court's Judgment

based on the facts and materials presented to the Magistrate Court. Id. Gu failed to set forth any such errors and the Circuit Court properly affirmed the Magistrate Court's Judgment on such grounds.

C. **The Circuit Court Did Not Abuse Its Discretion In Affirming the Magistrate Court's Judgment.**

In her Initial Brief, Gu argues that the Circuit Court abused its discretion by refusing to consider new evidence during Gu's appeal of the Magistrate Court's Judgment. (Gu's Initial Brief, p. 7). Gu's argument fails because, pursuant to South Carolina law, and as outlined in great detail hereinabove, the Circuit Court is limited to the questions and theories considered by the Magistrate Court when considering whether to affirm or reverse an appeal of a Magistrate Court's decision. See Indigo, 314 S.C. at 523, 431 S.E.2d at 273.

An abuse of discretion occurs "when either an order based on factual conclusions is without evidentiary support or the judge issuing an order was controlled by an error of law." Em-Co Metal Prods., Inc. v. Great Atl. & Pac. Tea Co., 280 S.C. 107, 110, 311 S.E.2d 83, 85 (Ct. App. 1984) (internal citations omitted). Here, neither of the foregoing occurred because: (1) the Circuit Court was limited in what it could consider on appeal, and (2) even if the Circuit Court had considered the additional facts and/or materials presented by Gu, such facts and materials in no way could be construed as changing the outcome of this case. In her oral argument, which mirrors the documents Gu e-filed with the Circuit Court, Gu states she corresponded with Sunshine RP and Gu admits Sunshine RP told her both the price of the painting and repairs and the amount of which she was obligated to pay. (Hearing Transcript, pp. 5-7). Gu presented no evidence of any errors in the Magistrate Court's Judgment, nor any facts that contradicted its ruling. (Id.). Therefore, the Court of Appeals should reject Gu's argument that a failure to consider facts she presented was an abuse of discretion or that it would have, in any way, led to a different result in this matter.

D. Gu's Arguments Should Be Rejected Due to Gu's Unclean Hands.

The Court of Appeals should reject Gu's arguments and affirm the Circuit Court's Order on the additional sustaining ground that Gu comes to this Court with unclean hands. Gu admittedly did not attend the June 3, 2024 hearing before the Magistrate Court. (Hearing Transcript, p. 8, Notice of Appeal to Cir. Ct., p. 2). Gu provided no reasonable justification for her failure to attend the Magistrate Court Hearing. (See Hearing Transcript, p. 8, Notice of Appeal to Cir. Ct., p. 2). Conversely, Gu has stated she "forgot" about the hearing because she was "stressed." (Id.). Gu's failure to attend the hearing, where she would have had a full and fair opportunity to present her defense to Sunshine RP's case, was Gu's own fault, for which she, admittedly, has no excuse. At no point did Gu request a new trial before the Magistrate Court or ask for a remand to the Magistrate Court. (See Hearing Transcript, Notice of Appeal to Cir. Ct., p. 2.). Now, Gu argues for the first time during her *second appeal* in this matter that she has been fundamentally deprived of the right to present her case. (Gu's Initial Brief, pp. 7-9) (emphasis added). Gu's argument is wholly without merit, as it was her own failure to attend that deprived Gu of the ability to present her own arguments to the court.

CONCLUSION

In sum, the Circuit Court properly affirmed the Magistrate Court's Judgment in this matter based on Gu's untimely filing of her Notice of Appeal to the Circuit Court and Gu's failure to demonstrate any errors or defects in the Magistrate Court's Judgment. Each of Gu's arguments on appeal to this Honorable Court fail, either because Gu attempts to present arguments and/or issues that she did not preserve for review by the Court of Appeals and/or because such arguments are without merit. Based upon the foregoing, Sunshine RP respectfully requests the Court of Appeals deny Gu's appeal and affirm the Circuit Court's May 6, 2025 Order.

Respectfully submitted,

Holly M. Lusk

Douglas M. Zayicek, SC Bar No. 11304
Holly M. Lusk, SC Bar No. 102307
BELLAMY, RUTENBERG, COPELAND,
EPPS, GRAVELY & BOWERS, P.A.
Post Office Box 357
Myrtle Beach, South Carolina 29578-0357
843-448-2400
dzayicek@bellamylaw.com
hlusk@bellamylaw.com
Counsel for Respondent Sunshine Rental Properties

Myrtle Beach, South Carolina

October 16, 2025