RECEIVED
Oct 21 2025
S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM PICKENS COUNTY

Perry H. Gravely, Circuit Court Judge

Appellate Case No. 2025-001851

Andrew Pampu,.....Petitioner,

v.

Erin Wingo, David Wingo, and Colin J. Gahagan,.....Respondents.

REPLY IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI

R. Walker Humphrey, II
James T. Johnson
WILLOUGHBY HUMPHREY & D'ANTONI, P.A.
133 River Landing Drive, Suite 200
Charleston, South Carolina 29492
(843) 619-4426

Kimberly C. Lau (*pro hac vice*)
James E. Figliozzi (*pro hac vice*)
OFFIT KURMAN PC
590 Madison Avenue, 6th Floor
New York, NY 10022
(212) 545-1900

Attorneys for Petitioner

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page(s)

Federal Cases

South Carolina Cases

Statutes

Other Authorities

INTRODUCTION

Respondents do not dispute this case meets Rule 242, SCACR. The Court of Appeals' decision raises novel questions of law which have far reaching consequences throughout the state, invalidates an untold number of sexual assault and other disciplinary proceedings, and imposes tremendous costs and burdens on state universities. It is a prototypical decision for this Court to review. Perhaps understanding as much, Respondents devote their returns to the decision's merits. But even then, they misapply the standard of review, misstate the applicable law, misrepresent the record, and demonstrate why certiorari is warranted. This Court therefore should grant the petition.

ARGUMENT

I. Respondents' factual narrative contravenes settled law and the record.

"Facts," as the Wingos say, "are stubborn things." Wingo Return at 3. And so are jury verdicts. We trust juries to resolve factual disputes. *Pena-Rodriguez v. Colorado*, 580 U.S. 206, 210 (2017) (observing that "[t]he jury is a central foundation of our justice system and our democracy" and is "an inspired, trusted, and effective instrument for resolving factual disputes"). The law therefore protects a jury's factual findings. *See* 89 C.J.S. *Trial* § 1054 ("[P]ublic policy supports the finality of jury verdicts because such finality is essential to the viability of the jury as an institution integral to the judicial system.").

Here, the jury unanimously rejected the revisionist history which Respondents advance in their returns. The jury found, as a fact, that Wingo was not incapacitated when she consented to sex with Pampu. Respondents do not, and cannot, argue this verdict was unsupported by evidence. The jury received substantial evidence that Wingo and Pampu had a history, she intentionally sought Pampu out, she unilaterally proposed and then verbally consented to sex with him, she was only upset about the effect her actions had on her relationship with Gahagan and not about Pampu,

and there was no objective indication she was incapacitated at the time.[1] Pet. at 2–6. The jury also found, as a fact, that these two agreed and worked to have Pampu removed from Clemson for something he did not do in order to salvage their reputations.

Standards of review can be stubborn things too. In this appeal concerning Respondents' JNOV motions, the Court views the evidence in the light most favorable to Pampu, not Respondents. *RFT Mgmt. Co. v. Tinsley & Adams LLP*, 399 S.C. 322, 331–32, 732 S.E.2d 166, 171 (2012). But like the Court of Appeals, Respondents impermissibly take the facts in the light most favorable to them to paint Pampu in a negative light. The standard of review prohibits this recasting of the record. Respondents' narrative does not counsel against granting certiorari. Instead, it highlights why certiorari is needed to restore the jury's findings.[2]

II. Respondents' arguments show why this Court should grant certiorari to review the Court of Appeals' collateral estoppel decision.

Pampu has explained certiorari is warranted because the Court of Appeals' collateral estoppel decision raises novel legal questions of substantial importance, directly conflicts with this Court's decisions, and produces absurd results. Pet. at 14–20. Respondents largely ignore these points, focusing instead on their view of the underlying merits. Because multiple bases for review exist, and the Court of Appeals was wrong on the merits, this Court should grant the petition.

---

[1] The Wingos make two errors trying to deflect this evidence. First, they argue the issue is whether Wingo consented *or* had capacity to consent. Wingo Return at 2 n.2. There is no dispute Wingo consented. R. p. 1443, lines 17–21; p. 1649, line 17–p. 1642, line 10. The only question is whether she was incapacitated. The Wingos next conflate being a student who pregamed a party (becoming "loud and having a good time," "talkative," and "excited") with being drunk to the point of incapacitation. Wingo Return at 3; R. p. 1488. The issue is not whether Wingo had been drinking that night, or whether she showed overt signs of drunkenness after Pampu secured her a ride home with friends. Instead, it was whether she was incapacitated *and* Pampu had reason to know it at the time of consent. No evidence supports that finding.

[2] Gahagan argues facts are not needed to review collateral estoppel. Gahagan Return at 2. He is wrong, as a jury's ability to return a different result than the OCES panel under the court's greater procedural protections is an exception to collateral estoppel. Restatement (Second) of Judgments § 28(3). The facts also are relevant to Pampu's civil conspiracy claim.

A. Respondents do not dispute this case satisfies Rule 242 because it raises novel and important questions of law, directly conflicts with this Court's decisions, and produces absurd results.

Respondents do not dispute that the Court of Appeals' opinion raises novel questions of law—whether campus sexual assault hearings are contested cases under the Administrative Procedure Act and whether the South Carolina Campus Assault Information Act makes those hearings preclusive. Respondents also do not dispute there are special and important reasons to grant certiorari because considering these proceedings to be contested cases means every sexual assault proceeding at every state school violates the law because no schools provide contested case procedures. Pet. at 19–20. Respondents likewise do not dispute that placing these proceedings under the APA produces absurd results by (1) creating a disparity where state school proceedings must be appealed to the court system, while private university proceedings cannot, (2) imposing increased burdens on universities conducting these proceedings which they may not meet, (3) reading contested case procedures into the Information Act which the General Assembly did not provide, and (4) removing discretion which the General Assembly afforded universities to develop their own procedures. Pet. at 15–17. Each is an independent basis for this Court to grant certiorari.

While Respondents do not directly dispute Pampu's argument that the Court of Appeals' decision conflicts with this Court's decisions, the Wingos suggest it follows decisions analyzing other school proceedings. Wingo Return at 11–12. Gagahan, however, takes a different tack. He argues that Pampu had two choices: (1) appeal the OCES decision under § 1-23-380 (for which he provides no support), or (2) "challenge the holding" of the OCES panel by suing Clemson. Gahagan Return at 5–6. By recognizing Pampu could collaterally attack the OCES decision in court, he admits that the decision is not preclusive. Certiorari therefore is warranted.

In any event, none of the cases the Wingos cite support their proposition. For example, they cite *Ross v. Medical University of South Carolina*, 317 S.C. 377, 453 S.E.2d 880 (1994) (*Ross*

I), as proof that "decisions by university boards and/or committees have been subject to the APA." Wingo Return at 11. But the parties in *Ross I* did not contest the APA's application. *See Ross I*, 317 S.C. at 380–81, 453 S.E.2d at 882–83. So when MUSC tried to challenge the APA in a subsequent appeal, the Supreme Court held the APA's application was law of the case. *Ross v. Med. Univ. of S.C.*, 328 S.C. 51, 62, 492 S.E.2d 62, 68 (1997) (*Ross II*). And any decision which is law of the case does not apply to future cases. *Builders Mut. Ins. Co. v. Bob Wire Elec., Inc.*, 424 S.C. 161, 165, 817 S.E.2d 807, 809 (Ct. App. 2018).

The Wingos also suggest the decision here "aligns with how the Court of Appeals has treated secondary school boards whose decisions are subject to judicial review." Wingo Return at 12 (citing Op. 25–27). This statement originates with *Laws v. Richland County School District No. 1*, 270 S.C. 492, 243 S.E.2d 192 (1978), which concerned a school proceeding conducted under the Teachers Employment and Dismissal Act. *Id.* at 495, 243 S.E.2d at 193. For those proceedings, the General Assembly provided for an appeal to circuit court. S.C. Code Ann. § 59-25-480. Because the General Assembly knows how to provide judicial review when it wants to, its omission of such review from the Information Act confirms that right does not exist here.

B. Respondents' arguments on the merits of collateral estoppel are wrong.

Respondents place most of their eggs in the basket that review should be denied because the Court of Appeals' decision is correct. Here too, each argument they raise readily fails.

1. Pampu did not agree to reinstate the OCES panel's factual findings through a consent judgment or otherwise.

The Wingos argue that the Clemson settlement was preclusive for two reasons: first, it was a "judgment" which itself has preclusive effect, and second, it requires reinstatement of the OCES panel's factual findings. Wingo Return at 5–6. Both arguments blink at reality.

First, "settlements ordinarily occasion no *issue preclusion* . . . unless it is clear, as is not here, that the parties intended their agreement to have such an effect." *Arizona v. California*, 530 U.S. 392, 414 (2000). This is because, without such intent, "none of the issues is actually litigated." Restatement (Second) of Judgments § 27 cmt. e. "And if preclusive effect were given to issues not litigated, the result might serve to discourage compromise, to decrease the likelihood that the issues in an action would be narrowed by stipulation, and thus to intensify litigation." *Id.* Pampu's settlement reflects no intent for it to be preclusive. To the contrary, Pampu expressly denied Wingo's allegations and Clemson expressly denied liability. R. p 3190–3191. The only matter actually litigated before the district court was whether the settlement was an enforceable contract.[3] *Doe v. Clemson Univ.*, No. 8:16-cv-1957, 2019 WL 1383822, at *2–3 (D.S.C. Mar. 27, 2019). Pampu does not challenge that finding in this case. As a result, Respondents' efforts to redraft the agreement as anything other than an ordinary settlement which has no preclusive effect must fail.

Second, the agreement does not require reinstatement of the OCES panel's factual findings. Settlement agreements are construed as ordinary contracts. *Pee Dee Stores, Inc. v. Doyle*, 381 S.C. 234, 241–42, 672 S.E.2d 799, 802–03 (Ct. App. 2009). Courts construe contracts to give effect to the parties' intent, and the best evidence of that intent is the contract's plain language as a whole. *N. Am. Rescue Prods., Inc. v. Richardson*, 411 S.C. 371, 378, 769 S.E.2d 237, 240–41 (2015). In the settlement, Pampu distinguished between the OCES panel's decision to suspend him for one semester, which he agreed to reinstate instead of the President's decision to suspend him for a longer period, and the allegations forming "the basis" of that decision, which Pampu expressly

[3] The Wingos suggest the district court rejected any claim that Clemson legally could not remove items from Pampu's record. Wingo Return at 10. But the district court *agreed* there may be restrictions on Clemson's authority, and those restrictions are part of why the court denied Pampu's effort to include additional terms in the agreement. *Doe*, 2019 WL 1383822, at *3.

denied. R. p. 3190–3191. Nothing in the agreement says the panel's factual findings are reinstated. As then-Judge Verdin found when denying Respondents' summary judgment motions on this issue, such a construction "would make no sense." R. p. 20. It particularly makes no sense because this lawsuit was pending at the time. Accepting Respondents' position means Pampu intended his settlement with Clemson to resolve *this* case. No evidence supports that conclusion, and Pampu's continued litigation against Respondents confirms he understood the settlement has no effect here.

2. OCES panels do not decide contested cases, so no right of appeal from their decisions exists.

Respondents' argument supporting the OCES proceeding being a contested case is circular: an agency decides contested cases, and a contested case is decided by an agency, so every agency (even one under the Tort Claims Act) decides contested cases. Wingos Return at 11. Their argument ignores what it means to be a contested case and has no merit.

First, Respondents ignore *Garris v. Governing Board of S.C. Reinsurance Facility*, 333 S.C. 432, 511 S.E.2d 48 (1998), which holds that a contested case is a hearing which a statute "explicitly requires." *Id.* at 440, S.E.2d 52. A voluntary hearing which a statute does not require is not a contested case. *Id.* Here, no law requires that bodies like the OCES hold a hearing. The law only requires *procedures* to investigate and resolve sexual assault complaints. *E.g.*, 28 C.F.R. § 54.135(b); 34 C.F.R. § 106.8(b); S.C. Code Ann. § 59-105-40. It does not require hearings. *Cf.* 34 C.F.R. § 106.45(g) (stating that a university's procedures "may, *but need not*, provide for a live hearing") (emphasis added). The OCES proceeding here therefore was not a contested case.

Second, Respondents ignore that the OCES proceeding bears no hallmarks of a contested case. *See* Pet. at 14–15. Rather than address those deficiencies, Respondents say Pampu should have appealed them. Wingo Return at 14; Gahagan Return at 5. But without a right to judicial review, this argument rings hollow. Also, this is not a case of one or two missing procedures that

can be appealed to bring OCES proceedings in line. It is a case of such disparate procedures that the OCES proceeding and a contested case are not in the same league.

Third, Respondents ignore that no state university provides contested case procedures for sexual assault hearings. *See*, *e.g.*, Pet. for Reh'g at 5–6; Pampu Resp. Br. to Gahagan at 24–26. At least one school should meet the APA's requirements if the statute applies. That none does confirms these proceedings are not contested cases.

Fourth, Respondents ignore that even Clemson does not believe its sexual assault proceedings have a right of judicial review. R. p. 2118, lines 4–13.

Fifth, Respondents ignore the deleterious effects of the Court of Appeals' holding. While they argue that allowing Pampu's claims would "undermine" the Information Act and "render the Act a futile thing," Wingo Return at 13, the opposite is true. Finding these proceedings to be contested cases undermines the Information Act by increasing the burden on schools, allowing direct appeals as a matter of right which will extend beyond the students' enrollment, removing schools' discretion to design sexual assault procedures, and flooding the appellate courts with a wave of appeals. Pet. at 15–17, 19–20.

3. The OCES decision is not preclusive even if it were appealable and reinstated by the Clemson settlement.

Respondents' focus on a claimed right to appeal from Clemson fails for another reason: it is immaterial. The OCES decision became final after the President's office reviewed it, regardless of any subsequent appeal. *Retreat at Charleston Nat'l Country Club Home Owners Assn., Inc. v. Winston Carlyle Charleston Nat'l, LLC*, 445 S.C. 566, 595-96, 915 S.E.2d 736, 752 (Ct. App. 2025) (holding a circuit court's order was final for collateral estoppel purposes even while an appeal was pending). A decision being final is just one of the prima facie elements for collateral estoppel. *S.C. Prop. & Cas. Ins. Guar. Ass'n v. Wal-Mart Stores, Inc.*, 304 S.C. 210, 213, 403

S.E.2d 625, 627 (1991). And the law recognizes several exceptions to collateral estoppel even for final decisions. *Id.* (holding Restatement (Second) of Judgments §§ 28–29 provide 13 exceptions to the general rule of preclusion).

An earlier decision—even a final appealable one—is not preclusive when "[a] new determination of the issue is warranted by differences in the quality or extensiveness of the procedures followed in the two courts." Restatement (Second) of Judgments § 28(3). Similarly, an earlier decision is not preclusive if "[t]he forum in the second action affords the party against whom preclusion is asserted procedural opportunities in the presentation and determination of the issue that were not available in the first action and could likely result in the issue being differently determined." *Id.* § 29(2). There is no preclusion "when the party against whom it is invoked can avail himself of procedures in the second action that were not available to him in the first action and that may have been significantly influential in determination of the issue." *Id.* § 29 cmt. d.

The Court of Appeals therefore erred by avoiding the OCES panel's procedural deficiencies. The additional procedures available to Pampu in circuit court but not before the OCES panel—discovery, the right to compel evidence, application of the Rules of Evidence, the swearing of witnesses, decisionmakers who do not act like advocates, among others—made a material difference in the outcome. This jury was the first finder of fact to hear a full and fair recitation of the evidence, and it found Wingo was not incapacitated when she consented to sex with Pampu. This case therefore falls within the exceptions to collateral estoppel.

4. The Wingos improperly conflate the separate damages caused by Respondents' defamation and caused by Clemson.

The Wingos' final collateral estoppel argument is that Pampu's defamation claim "pursue[s] damages that he has sought and which were paid via the Clemson Settlement." Wingo

Return at 17–18. As support, the Wingos claim "Pampu directly and repeatedly tied the alleged defamatory statements to his removal from Clemson." *Id.* at 17. But Pampu did no such thing.

Pampu's lawsuit against Clemson sought compensation for Clemson's unlawful conduct during the OCES investigation and hearing, and during the internal review of the decision. R. pp. 214–215. In contrast, Pampu's defamation claim sought relief only for reputational harm caused by false statements made outside the OCES process. R. p. 1465, line 23–p. 1466, line 7; p. 1676, line 19–p. 1679, line 25; p. 1682, line 18–p. 1683, line 9; p. 1684, line 12–p. 1685, line 18; p. 1687, line 4–p. 1688, line 13; p. 1772, lines 20–22; p. 1775, lines 2–6; p. 1776, lines 6–8; p. 1777, lines 10–13; p. 1777, lines 16–19; p. 3131; 3133; pp. 1118–1120. Consistent with this distinction, Pampu clarified to the jury that his defamation damages were separate. For example, during opening statements, Pampu's counsel explained, "[t]o be clear, the plaintiff's civil conspiracy claim is based on the defendants' common plan to get him removed from Clemson University and removed from the fraternity. Meanwhile, plaintiff's defamation claim is actually based on defendants' false statements to at least 20 other people calling him a rapist." R. p. 1416, lines 15–21. Pampu then testified that his reputation suffered because of Respondents' statements. R. p. 1460, line 7–1461, line 1. And during closing arguments, his counsel again distinguished between these claims. R. p. 2234, line 10–p. 2236, line 12. The Wingo's assertion that Pampu tied his defamation damages to his removal from Clemson is based on misleading out-of-context quotations and must be rejected.

III. Respondents' arguments show why this Court should grant certiorari to review the Court of Appeals' civil conspiracy decision.

For similar reasons, Respondents' opposition to certiorari for the Court of Appeals' civil conspiracy holdings fails. Respondents do not dispute this issue involves a novel question of law and cannot justify the decision's merits. The Court therefore should grant the petition.

A. Respondents do not dispute that whether the Information Act shields Wingo and Gahagan from liability for civil conspiracy is a novel question of law.

Respondents do not dispute that whether Wingo and Gahagan are liable for civil conspiracy when Clemson followed a required sexual assault policy is another novel question of law. For this reason alone, the Court should grant certiorari as to civil conspiracy. *See* Rule 242(b)(1), SCACR. Also, Respondents do not respond to Pampu's argument that the Information Act applies to universities, not to students, and ensures universities have procedures to address sexual assault complaints, not immunize false complainants from tort liability. *See* Pet. at 21. Certiorari again is needed to review the Court of Appeals' decision.

B. Respondents cannot show the Court of Appeals' decision was correct.

On the merits, Respondents do not oppose the following: (1) the jury received evidence showing Wingo and Gahagan knew Wingo consented to sex with Pampu and was not incapacitated; (2) Wingo and Gahagan still acted and agreed to induce Clemson to remove Pampu to salvage their reputations; (3) Gahagan admitted to lying to Clemson about Wingo's consent; (4) Clemson suspended Pampu; (5) Clemson's intent when suspending Pampu is irrelevant; and (6) Pampu need not prove Clemson breached its contract with Pampu to succeed. Pet. at 2–6, 22–23. Pampu therefore met his burden. Respondents' arguments focus more on whether they have a defense as a matter of law—which they do not.

First, the Wingos argue collateral estoppel bars Pampu's civil conspiracy claim because Pampu settled his breach of contract cause of action against Clemson. Wingo Return at 20. For the reasons discussed above and in the petition, the Clemson settlement has no preclusive effect. *Supra* pp. 2–9; Pet. at 18–19.

Second, the Wingos incorrectly claim the Court of Appeals held that Pampu did not cite authority showing that "a university's imposition of sanctions against a student constitutes a breach

of contract between a student and a university." Wingo Return at 20. This argument mixes the Court of Appeals findings, each of which is wrong. The Court of Appeals first held that "Pampu's argument that Clemson's suspension of Pampu constituted a breach of contract does not appear in his initial brief; it is only in his reply brief." Op. at 9 n.7. But Pampu made this argument on pages 20–21 of his brief. Next, the court held Pampu abandoned any argument that Clemson could breach its contract when it complied with Information Act by failing to cite supporting authority. Op. at 9–10. As Pampu noted in his petition, Pampu did not cite that authority because Respondents did not raise this issue.[4] Pet. at 20 n.6. Finally, the Court of Appeals held Pampu abandoned his argument that he can "second-guess the administrative hearing board's assessment of credibility." Op. at 10. This contention is bewildering, because Pampu's collateral estoppel argument is that he can relitigate matters determined by the OCES panel.

Third, the Wingos argue Pampu improperly cites *Hall v. UBS Finc. Servs., Inc.*, 435 S.C. 75, 866 S.E.2d 337 (2021), for the first time in his petition. Wingo Return at 20–21. The Wingos misunderstand why Pampu cited *Hall.* In *Hall*, this Court recognized that third-party interference with a relationship can be actionable even when the relationship itself permits termination. *Hall*, 435 S.C. at 90–92, 866 S.E.2d at 344–45. Here, Clemson could enforce its policies, but not at the instigation of students who conspired to provide false information. Wingo and Gahagan's intentional procurement of Pampu's suspension through deceit is actionable regardless of whether Clemson's ultimate act was technically authorized. Pampu previously made this argument. *See*, *e.g.*, Pet. for Reh'g at 15 ("As Pampu has repeatedly asserted, if he did nothing wrong, then there

[4] The circuit court's JNOV on civil conspiracy did not reference the Information Act, so Pampu did not address it in his opening brief. Because Respondents did not raise the Information Act in their red briefs, Pampu also did not raise in reply. The Court of Appeals instead reached this issue on its own and then faulted Pampu for not address it.

was no basis for his suspension, regardless of Clemson's duty to establish and implement a sexual assault policy.").

Fourth, the Wingos argue that the jury received insufficient evidence showing Clemson breached its contract with Pampu because the circuit court excluded evidence of the OCES proceedings. Wingo Return at 22–23. As Pampu observed in his petition, the record still has ample evidence that Wingo and Gahagan induced Clemson to breach its contract, even assuming a full breach must be shown. Pet. at 22–23. The Wingos do not refute this argument in their return.

C. Respondents cannot overcome the correct standard for awarding damages.

To close, Respondents make a series of arguments about civil conspiracy damages which fail to address the proper legal standard. Uncertainty as to damages—particularly future economic damages—will not defeat a cause of action. Pet. at 24. This is particularly true in cases like this one where the acts causing the injury make damages difficult to determine. *Id.* The law ensures that "Respondents should not get a pass because they injured someone before he could begin his career by arguing that damages are too speculative." *Id.* at 25. By failing to apply the proper standard for damages, the Court of Appeals' decision directly conflicts with this Court's decisions. With the correct standard in mind, Respondents' arguments supporting JNOV fail.

First, Pampu's Clemson settlement was not a "substantial intervening and superseding cause" of his damages because Pampu agreed to the OCES decision's "full reinstatement" so his rejection from dental school "resulted from a bargained for exchange to which Pampu assented." Wingo Return at 24. This argument, which the Wingos did not raise below, is a non-starter.

To cut the chain of causation, an intervening cause must be (1) independent of the defendant's conduct, (2) not the foreseeable result of the defendant's conduct, (3) sufficient to cause the injury itself, and (4) sufficient to render the defendant's conduct merely an indirect or

remote cause of the harm. *Stone v. Bethea*, 251 S.C. 157, 161–62, 161 S.E.2d 171, 173–74 (1968); *Dawkins v. Sell*, 434 S.C. 572, 581–82, 865 S.E.2d 1, 6 (Ct. App. 2021); *cf.* Restatement (Third) Torts-Physical & Emotional Harm § 27 cmt. c ("A defendant whose tortious act was fully capable of causing the plaintiff's harm should not escape liability because of the fortuity of another sufficient cause."). Here, the Clemson settlement contributed nothing to Pampu's injuries. A suspension was already on Pampu's record because of Wingo and Gahagan's conduct; the settlement did not put it there. And as the district court found, Clemson could not scrub Pampu's record of the charge Wingo filed against him. *Doe*, 2019 WL 1383822, at *3. Still, the settlement allowed Pampu to reduce the suspension from one year to one semester, which would not be reflected on his transcript as a sanction, thus improving Pampu's odds of acceptance to dental school. *Supra* pp. 5–6; Pet. at 19. The settlement therefore was not a cause of Pampu's harm; it was an effort to mitigate it. Gahagan also admits that Pampu could sue Clemson. Gahagan Return at 6. A settlement of claims against Clemson therefore was foreseeable to Wingo and Gahagan. In sum, the chain of causation remains intact from any perspective. [5]

Second, the Wingos argue she and Gahagan caused no harm because "Clemson reached its decision to suspend Pampu on a host of facts," including statements of other witnesses and Pampu himself. Wingo Return at 24; *see also* Gahagan Return at 8–9 (arguing "the process was not started by Wingo or Gahagan, there is no evidence Wingo or Gahagan caused the OCES panel "to enter a decision contrary to the evidence and testimony presented," and there is no evidence the OCES panel "was impacted by some false evidence"). But they ignore that Wingo voluntarily filed the

[5] The Wingos also suggest Pampu "already recovered" for any harms flowing from the civil conspiracy through his settlement with Clemson. Wingo Return at 24. This is not true. But even if the Clemson settlement did provide some compensation for Respondents' harms, Respondents at most will receive a setoff. The settlement does not relieve them of liability.

complaint against Pampu. R. p. 2540, line 25–p. 2541, line 8. And they ignore that Pampu had no right to compel the production of evidence and witnesses favorable to him. Pet. at 7–8. So the OCES panel heard a curated set of unsworn facts consisting largely of statements and documents from Wingo, Gahagan, and Wingo's friends. The panel's decision was not independent; it was the result which Wingo and Gahagan conspired to achieve. Under Respondents' theory, no one could be liable for successfully inducing an action based on false information, so long as the ultimate decision-maker conducted some process. But civil conspiracy exists for situations where third parties cause harm by manipulating processes.

Third, the Wingos argue Pampu's other policy violations "may have" impacted his ability to attend dental school. Wingo Return at 24–25. But they provide no evidence Clemson would have known about these acts, much less charged Pampu with policy violations for them, but for Wingo's sexual misconduct complaint. They also present no evidence that dental schools would have treated these lesser offenses the same as having sex with an allegedly incapacitated person. These other violations therefore provide no relief for Wingo and Gahagan.

Fourth, Gahagan argues Pampu misuses "evidence of alleged intrinsic fraud in order to reverse" the OCES decision. Gahagan Return at 8–9. Pampu is *not* trying to reverse the OCES decision. He is holding Respondents liable for their misconduct. Gahagan also cites no cases finding that the extrinsic vs. intrinsic dichotomy applies to university disciplinary proceedings which lack any resemblance to court proceedings. In any event, an agreement outside of court to provide false evidence in court is extrinsic fraud that warrants relief from a judgment. *See Ray v. Ray*, 374 S.C. 79, 86, 647 S.E.2d 237, 241 (2007) ("We hold an act of perjury or concealment of a document coupled with an intentional scheme to defraud the court justifies the setting aside of a judgment pursuant to Rule 60(b) due to extrinsic fraud."). Pampu's claim therefore is proper.

Fifth, Respondents return to their argument that any damages are too speculative. Wingo Return at 25; Gahagan Return at 9–11. But they only pick at the edges without addressing the proper standard for awarding damages. Every argument is one they raised to the jury, which the jury could accept or reject. In the end, the jury rejected them. Steven Shedlin—Pampu's vocational rehabilitation expert who the circuit court qualified without objection—testified to a reasonable degree of professional certainty that Pampu would have earned substantially more over his working life were it not for his suspension. R. p. 1948, line 25–p. 1949, line 3; p. 1959, lines 3–7. It is undisputed Pampu made about $72,000 per year at the time of trial and generally will make less money because of his suspension. The jury therefore had sufficient evidence to find Pampu will suffer about $70,000 per year in lost earnings for the rest of his working life, for a total of $3,000,000 in civil conspiracy damages. *See Jones*, 265 S.C. at 73, 216 S.E.2d at 874.

CONCLUSION

This Court should grant the petition.

Respectfully submitted,

/s/ R. Walker Humphrey, II
R. Walker Humphrey, II
James T. Johnson
WILLOUGHBY HUMPHREY & D'ANTONI, P.A.
133 River Landing Drive, Suite 200
Charleston, South Carolina 29492
(843) 619-4426

Kimberly C. Lau (*pro hac vice*)
James E. Figliozzi (*pro hac vice*)
OFFIT KURMAN PC
590 Madison Avenue, 6th Floor
New York, NY 10022
(212) 545-1900

Charleston, South Carolina
October 21, 2025