THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

The Honorable Perry H. Gravely, Circuit Court Judge

Appellate Case No. 2025-000366
Civil Action No. 2022-CP-23-04055

Stacey Grist as Agent under a Power of Attorney for Stanford W. Grist and as Trustee of the Second Amended Trust of Stanford W. Grist living Trust dated December 5, 2005, Stanford Grist Veterinary Services, LLC, Chestnut Ridge Farm, LLC, and Hilly Street, LLC, ...Appellants,

v.

Priscilla Mickie Grist, Caroline York Grist Lyon, Leyland H. Lyon, Jr., Jennifer Browning, Browning Geriatrics Consulting LLC, Tracy Parsons, Kiki's Kare, LLC d/b/a Comfort Keepers, Erin Couchell, Individually and as a member of Kiki's Kare, Chris Couchell individually and as a member of Kiki's Kare, LLC, and Kerry Burnett McCreary, ...Defendants,

of which Jennifer Browning, Browning Geriatrics Consulting LLC, Tracy Parsons, Kiki's Kare, LLC d/b/a Comfort Keepers, Erin Couchell Individually and as a member of Kiki's Kare, LLC, and Chris Couchell individually and as a member of Kiki's Kare, LLC are ..... Respondents.

FINAL BRIEF OF RESPONDENT TRACY PARSONS

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November 6, 2025

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STATEMENT OF THE CASE

This case arises out of an intractable family dispute that has spawned a plethora of state and federal lawsuits dating back several years. At bottom, Appellants are displeased with certain decisions made with respect to Stanford W. Grist ("Dr. Grist")—an esteemed Greenville County veterinarian—under the supervision of the Greenville County Probate Court and have, in response, embarked on a long-running litigation campaign against those connected to the dispute.

The involvement of Respondent Tracy Parsons ("Ms. Parsons")[1] began when she was appointed temporary guardian of Dr. Grist by Order of the Greenville County Probate Court dated July 30, 2020 in an action brought by one of Dr. Grist's daughters, Priscilla Mickie Grist ("Mickie Grist"),[2] pursuant to S.C. Code Ann. §§ 62-5-303 et seq. (R. pp. 4-6

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[1] Ms. Parsons is variously referred to in the Appellants' brief as "Tracy Parson," "Tracey Parsons," and "Tracy Parsons." Only the latter is correct.

[2] Mickie Grist is variously referred to in the Appellants' brief as "Prescilla Mickie Grist," "Mickie Prescilla Grist," and "Priscilla Mickie Grist." Again, only the latter is correct.

and 1025-27). Ms. Parsons' guardianship was extended four times—on February 10, 2021; on March 24, 2021; on September 22, 2021; and on April 20, 2022[3]—and finally expired on August 6, 2022, just over two years after it began. (R. pp. 1028-34, 1035-41, 1042-49, and 1050).

In their Second Amended Complaint—which is their current operative pleading—Appellants allege various acts of misconduct by Ms. Parsons; Respondents Jennifer Browning, Browning Geriatrics Consulting LLC, Kiki's Kare, LLC d/b/a Comfort Keepers ("Comfort Keepers"), Erin Couchell, Individually and as a member of Kiki's Kare, Chris Couchell individually and as a member of Kiki's Kare, LLC; and several other individuals who are not parties to this appeal.[4] (R. pp. 252-75). As against Ms. Parsons, Appellants generally allege that she carried out her duties as guardian in a self-serving manner and failed to prevent Ms. McCreary's alleged sexual assault on Dr. Grist. On the basis of these allegations, Appellants assert six causes of action against Ms. Parsons: (1) negligence/gross negligence; (2) negligent hiring, negligent training, and negligent supervision; (3) abuse of process/aiding and abetting abuse of process; (4) civil conspiracy; (5) violation of the South Carolina Unfair Trade Practices Act; and (6) violation of the Power of Attorney Act. (R. pp. 262-71 and 273-74).

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[3] The first three extensions were with the consent of counsel for Dr. Grist as well as counsel for Appellant Stacey Desiree Grist ("Stacey Grist") (Mickie Grist's sister and another of Dr. Grist's daughters).

[4] These individuals are: (a) Mickie Grist; (b) Caroline York Grist Lyon, aunt of Stacey Grist and Mickie Grist and sister of Dr. Grist (not his daughter as indicated in the Appellants' brief); (c) Leyland Lyon, uncle of Stacey Grist and Mickie Grist and brother-in-law of Dr. Grist (not his son-in-law as indicated in the Appellants' brief); and (d) Kerry Burnett McCreary ("Ms. McCreary"), a former Comfort Keepers employee who is alleged to have sexually assaulted Dr. Grist.

Ms. Parsons filed a Motion for Summary Judgment on October 4, 2024. (R. pp. 898-99). Her motion was heard on October 15, 2024 by the Honorable Perry H. Gravely along with similar motions filed by other parties. Following the hearing, Judge Gravely took the motion under advisement. Subsequently, on January 6, 2025, Judge Gravely entered an Order Granting Defendant Tracy Parsons' Motion for Summary Judgment (the "Parsons Order"). (R. pp. 29-44 and 63-78). The Parsons Order disposed of all causes of action asserted against Ms. Parsons and dismissed her as a Defendant with prejudice. (R. pp. 43 and 77).

On January 16, 2025, Appellants filed a Motion to Alter/Amend pertaining to the Parsons Order. (R. pp. 1217-18). On January 30, 2025, Judge Gravely issued a Form 4 Order denying Appellants' Motion to Alter/Amend without argument. (R. pp. 54-56). Appellants timely filed and served a Notice of Appeal on February 27, 2025. This court subsequently consolidated Appellants' appeal of the Parsons Order with their appeals of similar orders—also issued by Judge Gravely—granting summary judgment to other Respondents.

STANDARD OF REVIEW

"Appellate courts apply the same standard of review applied by the trial court to review the grant of summary judgment pursuant to Rule 56(c) of the South Carolina Rules of Civil Procedure." Williams v. Jeffcoat, 444 S.C. 224, 233, 906 S.E.2d 588, 593 (2024). Under that rule, summary judgment shall be granted "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Rule 56(c), SCRCP.

"The purpose of summary judgment is to expedite disposition of cases which do not require the services of a fact finder." George v. Fabri, 345 S.C. 440, 452, 548 S.E.2d 868, 874 (2001). See also Ward v. Zelinski, 260 S.C. 229, 232, 195 S.E.2d 385, 387 (1973) ("[I]f the evidence is susceptible of only one reasonable inference, the question is no longer one for the jury but one of law for the Court."). Accordingly, "when plain, palpable, and indisputable facts exist on which reasonable minds cannot differ, summary judgment should be granted." Miller v. Blumenthal Mills, Inc., 365 S.C. 204, 220, 616 S.E.2d 722, 729 (Ct. App. 2005). See also CEL Prods., L.L.C. v. Rozelle, 357 S.C. 125, 129, 591 S.E.2d 643, 645 (Ct. App. 2004) (noting that Rule 56(c) "mandates the entry of summary judgment, after adequate time for discovery against a party who fails to make a showing sufficient to establish the existence of an element essential to the party's case and on which that party will bear the burden of proof at trial") (citations and quotation marks omitted).

"Under Rule 56(c), the party seeking summary judgment has the initial responsibility of demonstrating the absence of a genuine issue of material fact." Baughman v. AT&T, 306 S.C. 101, 115, 410 S.E.2d 537, 545 (1991) (citation omitted). "With respect

to an issue upon which the nonmoving party bears the burden of proof, this initial responsibility may be discharged by showing -- that is, pointing out to the [trial] court -- that there is an absence of evidence to support the nonmoving party's case." Id. (brackets in original) (citation and quotation marks omitted). "Once the party moving for summary judgment meets the initial burden of showing an absence of evidentiary support for the opponent's case, the opponent cannot simply rest on mere allegations or denials contained in the pleadings" but "must present specific facts showing a genuine issue for trial." Gauld v. O'Shaugnessy Realty Co., 380 S.C. 548, 558-59, 671 S.E.2d 79, 85 (Ct. App. 2008) (citations and quotation marks omitted). See also Russell v. Wachovia Bank, N.A., 353 S.C. 208, 220, 578 S.E.2d 329, 335 (2003) ("When opposing a summary judgment motion, the nonmoving party must do more than simply show that there is a metaphysical doubt as to the material facts but must come forward with specific facts showing that there is a genuine issue for trial.") (citation and quotation marks omitted). A "mere scintilla" of evidence will not suffice. See, e.g., Kitchen Planners, LLC v. Friedman, 440 S.C. 456, 463, 892 S.E.2d 297, 301 (2023). Instead, "there must be evidence on which the jury could reasonably find for the plaintiff." Id. (quoting Anderson v. Liberty Lobby, Inc., 477 U.S. 242 (1986)).

ARGUMENTS

I. APPELLANTS HAVE ABANDONED MOST OF THEIR CAUSES OF ACTION.

As previously stated, the Second Amended Complaint asserts six causes of action against Ms. Parsons: (1) negligence/gross negligence; (2) negligent hiring, negligent training, and negligent supervision; (3) abuse of process/aiding and abetting abuse of process; (4) civil conspiracy; (5) violation of the South Carolina Unfair Trade Practices Act; and (6) violation of the Power of Attorney Act. (R. pp. 262-71 and 273-74). The Parsons Order granted summary judgment on each of these causes of action. (R. pp. 29-44 and 63-78). However, the Appellants' brief only addresses the causes of action for negligence/gross negligence and civil conspiracy. It does not address the causes of action for negligent hiring, negligent training, and negligent supervision; abuse of process/aiding and abetting abuse of process; violation of the South Carolina Unfair Trade Practices Act; or violation of the Power of Attorney Act. Appellants have, therefore, abandoned those causes of action. See, e.g., Ahrens v. State, 392 S.C. 340, 357, 709 S.E.2d 54, 63 (2011) ("An issue raised on appeal but not argued in the brief is deemed abandoned and will not be considered by the appellate court."); McGann v. Mungo, 287 S.C. 561, 575, 340 S.E.2d 154, 161 (Ct. App. 1986) ("A failure to argue an exception constitutes an abandonment of it."). Cf. Bryson v. Bryson, 378 S.C. 502, 510, 662 S.E.2d 611, 615 (Ct. App. 2008) ("An issue is deemed abandoned and will not be considered on appeal if the argument is raised in a brief but not supported by authority."); Ellie, Inc. v. Miccichi, 358 S.C. 78, 99, 594 S.E.2d 485, 496 (Ct. App. 2004) ("Numerous cases have held that where an issue is not argued within the body of the brief but is only a short conclusory statement, it is abandoned on appeal.").

II. THE CIRCUIT COURT PROPERLY FOUND THAT MS. PARSONS IS ENTITLED TO QUASI-JUDICIAL IMMUNITY FROM CIVIL LIABILITY ARISING OUT OF HER SERVICE AS A COURT-APPOINTED GUARDIAN.

Relying on Fleming v. Asbill, 326 S.C. 49, 483 S.E.2d 751 (1997), and Vaughan v. McLeod Regional Medical Center, 372 S.C. 505, 642 S.E.2d 744 (2007), the Circuit Court found that Ms. Parsons—whose involvement with Dr. Grist and his family was as a court-appointed guardian pursuant to Article 5 of Title 62 of the South Carolina Code of Laws—is entitled to absolute quasi-judicial immunity from Appellants' claims. (R. pp. 33-35 and 67-69). In their brief, Appellants concede that "court-appointed guardians are generally afforded absolute quasi-judicial immunity from civil liability[.]" App. Brief at 8. However, they argue that Ms. Parsons engaged in conduct outside the scope of her guardianship for which she is not immune.[5]

The one and only example offered by Appellants of purported *ultra vires* conduct by Ms. Parsons is referenced on page 23 of their brief. They claim to have provided evidence to the Circuit Court that Ms. Parsons "did in fact knowingly conceal allegations of sexual abuse through her to directive to Respondent Browning and Respondent Comfort Keepers to 'let a sleeping dog sleep.'" App. Brief at 23. The sole piece of "evidence" they reference is a June 1, 2021 entry by an unidentified author into a log of notes maintained by Comfort Keepers pertaining to Dr. Grist. That entry states:

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[5] Appellants cite Falk v. Sadler, 341 S.C. 281, 533 S.E.2d 350 (Ct. App. 2000), for the proposition that the immunity described in Fleming does not apply to actions beyond the scope of a guardian's duties. That statement of the law is accurate, but Falk is not procedurally analogous to this case because it reviewed a judgment on the pleadings based on the allegations in the complaint. This case, on the other hand, involves a review of a grant of summary judgment, which does not turn on the allegations of the pleadings but on the evidence in the record. As set forth herein, there is no reviewable or admissible evidence in the record of *ultra vires* conduct by Ms. Parsons.

> I spoke with Tracy Parsons and let her know that we have concluded our internal investigation. I reiterated what I told her last week that we did discover some preliminary findings that confirmed she [Ms. McCreary] was not well-suited for Dr. Grist and had been pulled from his schedule to never return due to innapropriate [sic] behavior and a failure to follow proper protocol around notifying the office of innapropriate [sic] situations. I explained that what we uncovered was cause enough to remove Kerri. I asked Tracy if she had any questions or would like us to perform any further actions. Tracy said that at this point "she is going to let a sleeping dog sleep." Unless it is pushed by the family which she thinks it wouldn't be, she is going to move forward. She said it is an employment issue and none of her business what we do with Kerri, her concern is Dr. Grist but if she is not with him "she doesn't care". She said we will never know exactly what happened. She is glad we have finished our investigation and she doesn't have an opinion if she's [Ms. McCreary] no longer with him.

(R. p. 2458). There are multiple problems with Appellants' reliance on this "evidence."

First, "[i]t 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." Wilder Corp. v. Wilke, 330 S.C. 71, 76, 497 S.E.2d 731, 733 (1998). "If the losing party has raised an issue in the lower court, but the court fails to rule upon it, the party must file a motion to alter or amend the judgment in order to preserve the issue for appellate review." I'On, L.L.C. v. Town of Mt. Pleasant, 338 S.C. 406, 422, 526 S.E.2d 716, 724 (2000). The log entry quoted above is not addressed in the Parsons Order, and Appellants did not reference it in their Motion to Alter/Amend pertaining to the Parsons Order. Therefore, it is not preserved for appellate review.

Second, evidence in opposition to a motion for summary judgment must be admissible at trial. See, e.g., Rule 56(e), SCRCP ("Supporting and opposing affidavits . . . shall set forth such facts as would be admissible in evidence[.]"); Hall v. Fedor, 349 S.C. 169, 175, 561 S.E.2d 654, 657 (Ct. App. 2002) ("Our appellate courts have interpreted Rule 56(e) to mean materials used to support or refute a motion for summary judgment must be

those which would be admissible in evidence."). See also Bowers v. Dep't of Transp., 360 S.C. 149, 153, 600 S.E.2d 543, 545 (Ct. App. 2004) ("[T]he circuit court may properly consider only 'such facts as would be admissible in evidence.'") (quoting Rule 56(e), SCRCP); Hansen v. DHL Labs., Inc., 316 S.C. 505, 510, 450 S.E.2d 624, 627 (Ct. App. 1994) ("A genuine issue of fact, however, can be created only by evidence which would be admissible at trial."); Moss v. Porter Bros., 292 S.C. 444, 448, 357 S.E.2d 25, 28 (Ct. App. 1987) ("Generally, in ruling on a motion for summary judgment, only evidence . . . that would be admissible on the trial and having probative force may be considered.") (quoting 73 Am. Jur. 2d Summary Judgment § 32 at 762 (1974)) (ellipsis in original). The log entry, however, is a textbook example of hearsay, i.e. "a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted." Rule 801(c), SCRE. It is thus inadmissible and may not be relied upon to avoid summary judgment. See, e.g., Hall, 249 S.C. at 175-76, 561 S.E.2d at 657 (finding that a hearsay statement "would be inadmissible evidence at trial and is inadmissible to refute a motion for summary judgment").

Third, the log entry says nothing about withholding or concealing information from anyone, and thus the argument that it is evidence of a coverup of alleged sexual abuse is based on Appellants' pure speculation, which cannot defeat summary judgment. See, e.g., Nelson v. Piggly Wiggly Cent., Inc., 390 S.C. 382, 390, 701 S.E.2d 776, 780 (Ct. App. 2010) (citing McKnight v. S.C. Dep't of Corr., 385 S.C. 380, 684 S.E.2d 566 (Ct. App. 2009), for the proposition that "a non-moving party may not rely on speculation to defeat a motion for summary judgment"). Cf. Small v. Pioneer Mach., 329 S.C. 448, 461, 494 S.E.2d 835, 841 (Ct. App. 1997) ("[V]erdicts may not be permitted to rest upon surmise,

conjecture, or speculation."). At most, the log entry is a "mere scintilla" of evidence, but that does not suffice. See Kitchen Planners, 440 S.C. at 463, 892 S.E.2d at 301 ("We now clarify that the 'mere scintilla' standard does not apply under Rule 56(c).").

Because Appellants concede that court-appointed guardians are entitled to absolute quasi-judicial immunity from civil liability for conduct within the scope of their appointments, and because the sole piece of "evidence" relied upon by Appellants to argue that Ms. Parsons acted outside the scope of her guardianship is unreviewable and/or inadmissible, the Circuit Court properly found that Ms. Parsons is immune from all of Appellants' claims.

III. THE CIRCUIT COURT PROPERLY GRANTED SUMMARY JUDGMENT TO MS. PARSONS ON THE CAUSES OF ACTION NOT ABANDONED BY APPELLANTS.

Of the six causes of action asserted against Ms. Parsons in the Second Amended Complaint, Appellants have abandoned four of them as set forth in Section I. With regard to the remaining causes of action—negligence/gross negligence and civil conspiracy—the Circuit Court properly granted summary judgment to Ms. Parsons.[6]

A. Summary judgment was proper on the cause of action for negligence/gross negligence.

In the Parsons Order, the Circuit Court found that the record does not support Appellants' cause of action against Ms. Parsons for negligence/gross negligence, noting: (1) that the alleged sexual assault of Dr. Grist by Ms. McCreary was unforeseeable; (2) that

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[6] As set forth in Section II of the Parsons Order and Section II herein, Ms. Parsons is immune from liability to Appellants under any of the causes of action asserted in the Second Amended Complaint. This section—and Sections IV and VII of the Parsons Order—describes separate and discrete bases for summary judgment on the causes of action for negligence/gross negligence and civil conspiracy apart from any finding of immunity.

Ms. McCreary was not employed by Ms. Parsons; and (3) that, even if Ms. McCreary had been employed by Ms. Parsons, vicarious liability would not attach because any purported sexual assault would not have been within the scope of Ms. McCreary's employment. (R. pp. 37-39 and 71-73). Appellants argue these findings are "of no legal consequence to [their] articulated theory of liability," which they say "is rooted in allegations . . . that Respondent Parsons knowingly and intentionally covered up the sexual abuse of Dr. Grist[.]" App. Brief at 21. They are mistaken.

As noted in the Parsons Order, the entirety of the negligence/gross negligence allegations against Ms. Parsons are contained in paragraphs 58 and 59 of the Second Amended Complaint. Those paragraphs state as follows.

> 58. The sexual encounter complained of occurred after the Probate Court's appointment of a [sic] Defendant Parsons as guardian and Defendant Browning as guardian ad litem based on allegations of Dr. Grist's incapacity.
>
> 59. As Dr. Grist's guardian and guardian ad litem, Defendant Parsons and Defendant Browning were responsible for Dr. Grist's health, wellbeing, and safety.

(R. p. 263). These allegations imply some duty by Ms. Parsons to have prevented the alleged sexual abuse or that Ms. Parsons is vicariously liable for Ms. McCreary's alleged misconduct. There is no mention of a purported coverup or a purported failure to report abuse to the proper authorities. Thus, the Parsons Order addressed Appellants' cause of action as pled, while Appellants are now impermissibly arguing a new and different theory of liability. Cf. Johnson v. Alexander, 413 S.C. 196, 202, 775 S.E.2d 697, 700 (2015) ("Parties are generally bound by their pleadings and are precluded from advancing arguments or submitting evidence contrary to those assertions."); Charleston Cty. Sch. Dist. v. Laidlaw Transit, Inc., 348 S.C. 420, 425, 559 S.E.2d 362, 364 (Ct. App. 2001)

("Any allegations, statements, or admissions contained in a pleading are conclusive against the pleader, and a party cannot subsequently take a contrary or inconsistent position.").

Even if Appellants had pled a negligence/gross negligence theory of liability based on a purported failure by Ms. Parsons to report Ms. McCreary's alleged sexual abuse of Dr. Grist or her purported withholding or concealment of information about the alleged abuse, such a theory would still fail at the summary judgment stage based on the absence of reviewable or admissible evidence in the record supporting it. Once again, the sole piece of "evidence" cited by Appellants in support of this un-pled theory is the June 1, 2021 Comfort Keepers log entry referenced in Section II above. However, as set forth in that section, the log entry is unreviewable and inadmissible and cannot be used to defeat summary judgment.

B. Summary judgment was proper on the cause of action for civil conspiracy.

A claim for civil conspiracy is comprised of the following elements: "(1) the combination or agreement of two or more persons, (2) to commit an unlawful act or a lawful act by unlawful means, (3) together with the commission of an overt act in furtherance of the agreement, and (4) damages proximately resulting to the plaintiff." Paradis v. Charleston Cty. Sch. Dist., 433 S.C. 562, 574, 861 S.E.2d 774, 780 (2021). In the Parsons Order, the Circuit Court found that Appellants failed to cite record evidence of unlawful acts committed by Ms. Parsons, lawful acts committed by Ms. Parsons by unlawful means, or overt acts committed by Ms. Parsons in furtherance of a purported conspiracy. (R. pp. 41 and 75). The Appellants' brief—which does not contain a separate argument section pertaining to the grant of summary judgment to Ms. Parsons' on the cause

of action for civil conspiracy[7]—suffers from the same failure. There are no citations to reviewable, admissible evidence of conspiratorial misconduct by Ms. Parsons, and thus summary judgment was proper on the civil conspiracy cause of action.

IV. THE CIRCUIT COURT'S GRANT OF SUMMARY JUDGMENT TO MS. PARSONS WAS NOT PREMATURE.

Appellants' final argument as to Ms. Parsons is that summary judgment was premature because they did not have an opportunity to depose Ms. Parsons. A review of the record reveals that argument to be utterly meritless.

On February 27, 2024, Appellants noticed the deposition of Ms. Parsons for May 22, 2024. (R. pp. 363-64). Two days prior to the scheduled deposition, Ms. Parsons received a letter from counsel for Appellants accusing her and others of violating the Racketeer Influenced and Corrupt Organizations Act ("RICO"), 18 U.S.C. §§ 1961 et seq., and stating that a federal RICO lawsuit was forthcoming.[8] In response to the letter, counsel for Ms. Parsons filed a Motion for Protective Order objecting to her being deposed twice—once in this action and once in the federal action—regarding the same allegations. (R. pp. 814-19). That motion was heard by the Honorable G. D. Morgan, Jr. on August 5, 2024.[9]

On August 9, 2024, Judge Morgan entered a Form 4 Order addressing several pending motions, including Ms. Parsons' Motion for Protective Order that had been heard

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[7] As against Ms. Parsons, the Appellants' brief merely references and incorporates its civil conspiracy argument pertaining to Respondents Jennifer Browning and Browning Geriatrics Consulting LLC (collectively, "Browning").

[8] The federal RICO lawsuit was subsequently filed on July 3, 2024 and captioned *Grist v. Browning et al.*, 6:24-cv-03853-BHH. It was dismissed by Order of the Honorable Bruce Howe Hendricks entered June 24, 2025.

[9] The Greenville County Clerk of Court's records show the motion as having been completed on this date. (R. p. 2427).

four days prior. (R. pp. 17-19). It stated: "Defendant Tracy Parson's [sic] Motion for a Protective Order is moot." (R. p. 18). Approximately one month later, on September 12, 2024, counsel for Comfort Keepers noticed the deposition of Ms. Parsons for September 30, 2024. However, due to impacts caused by Hurricane Helene, the deposition was postponed until October 9, 2024.

Counsel for Appellants and all Respondents were present at Ms. Parsons deposition on October 9, 2024. (R. p. 1725). Ms. Parsons was questioned first by counsel for Comfort Keepers (who had noticed the deposition), then by counsel for Browning, then by her own counsel. (R. p. 1726). Upon the conclusion of questioning by counsel for Comfort Keepers, counsel for Appellants was given the opportunity to question Ms. Parsons, but he declined to do so.

> Q. Okay. Those are all the questions I have. Thank you for your time. Other lawyers in the room may have questions.
>
> MR. PURIEFOY: I don't have any.

(R. p. 1738, lines 18-21).

Rule 30(a)(2), SCRCP, could not be clearer: "The deposition of any party or witness *may only be taken one time in any case* except by agreement of the parties through their counsel or by order of the court for good cause shown" (emphasis added). Counsel for Ms. Parsons has not agreed to a second deposition, and Appellants have not sought a court order requesting a second deposition. Nor could they establish the "good cause" required for a second deposition, as their counsel was present and had the opportunity to question Ms. Parsons at her deposition on October 9, 2024.

Appellants claim their counsel was prevented from questioning Ms. Parsons on October 9, 2024 in light of her prior filed Motion for Protective Order. However, that

motion was held moot by Judge Morgan in the Form 4 Order he entered on August 9, 2024 (R. pp. 17-19), and thus it was no longer pending on the date of Ms. Parsons' deposition.[10] Even if the motion had remained pending, counsel for Ms. Parsons was present at the deposition and asserted no objection to her being questioned by counsel for Appellants. Nor did counsel for Appellants take the position on the record that he was prohibited from questioning Ms. Parsons. Instead, he simply indicated: "I don't have any [questions]." (R. p. 1738, line 21). Therefore, the Circuit Court properly rejected Appellants' argument that they were not given an opportunity to depose Ms. Parsons.

Appellants also reference affidavits submitted by Stacey Grist on November 26, 2024 (purportedly pursuant to Rule 56(f), SCRCP). App. Brief at 18. These affidavits—which are addressed in Footnote 4 of the Parsons Order—were plainly a desperate, self-serving, Hail Mary attempt to avoid summary judgment. They contain nothing more than vague, non-specific, boilerplate statements that "[c]ritical discovery is outstanding in this case" and that "summary judgment is premature under SCRCP 56(f)." (R. pp. 1173-78). They do not contain the required explanation of why Appellants "[could not] for reasons stated present by affidavit facts essential to justify [their] opposition" to the Respondents' motions for summary judgment. The affidavits "merely presented an unsupported . . . and self-serving assertion that [Appellants] needed additional time for discovery." Covil Corp. v. Pa. Nat'l Mut. Cas. Ins. Co., 436 S.C. 85, 91, 870 S.E.2d 191, 194-95 (Ct. App. 2022) (quotation marks omitted) (ellipsis in original). The Circuit Court rightly rejected them as a basis for delaying its rulings.

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[10] See also Footnote 9, *supra*.

CONCLUSION

For the reasons set forth herein, the Parsons Order contains no reversible error. Accordingly, Respondent Tracy Parsons respectfully requests that this court affirm the Parsons Order.

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CERTIFICATE OF COUNSEL

The undersigned certifies that the enclosed **FINAL BRIEF OF RESPONDENT TRACY PARSONS** complies with Rule 211(b), SCACR.

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