THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM DORCHESTER COUNTY
Court of Common Pleas
The Honorable S. Bryan Doby
First Judicial Circuit

Case No. 2024-CP-18-01640

Gilbert Anthony E. Valdez, ... Respondent,

v.

John P. Murray d/b/a Johnny's Marine, ... Appellant.

FINAL BRIEF OF APPELLANT

/s/Jonathan S. Arndt
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December 1, 2025

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STATEMENT OF ISSUES ON APPEAL

1. Did the circuit court err in deeming Appellant's failure to respond to Requests for Admission as binding admissions and using them as the basis for summary judgment, despite Rule 36(b), SCRCP, and South Carolina precedent favoring decisions on the merits?
2. Did the circuit court err in striking nearly all of Appellant's answer, rather than liberally construing the pleading in favor of a pro se litigant as required by South Carolina law?
3. Did the circuit court err in granting summary judgment where genuine issues of material fact existed regarding the nature of the contract, the intended delivery date, and the parties' subsequent dealings?
4. Did the circuit court err in awarding treble damages and punitive damages at the summary judgment stage, where intent and willfulness are questions for the jury and duplicative punitive remedies raise due process concerns?

STATEMENT OF THE CASE

Respondent filed suit alleging breach of contract, revocation of acceptance, conversion, negligent misrepresentation, fraud, and unfair trade practices related to the sale of a boat. (R. pp. 12-20.) Appellant answered, denying liability and raising factual disputes, but proceeded *pro se*. (R. pp. 23-31.) On February 18, 2025, the court held a hearing on Respondents Motion for Summary Judgment and Motion to Strike. The court partially granted Respondent's Motion to Strike at the hearing striking all but the first sentence of Appellant's Answer. (R. pp. 2-4.) On February 26, 2025, the court entered a written order granting summary judgment awarding Respondent $69,985 in actual damages, treble damages under SCUTPA, punitive damages of $209,955, and attorney's fees. (R. pp. 35-36.) This appeal followed.

In October 2021, Appellant and Respondent agreed on the sale of a 1997 Bayliner for

$50,000, later adjusted to $40,000. (R. pp. 51-52.) The parties disputed the delivery date: Respondent claimed Christmas 2021; Appellant testified it was spring 2022, after repairs were completed, which Plaintiff was expressly told were required prior to delivery. (R. p. 52; R. p. 101, lines 4-17.) Appellant further testified Respondent purchased a second boat, which Appellant delivered, and that Respondent later neglected that vessel. (R. p. 101, lines 18-25; R. p. 102, lines 1-9.) On December 4, 2024, counsel for Respondent purportedly served initial discovery to include a set of Interrogatories, Requests for Production, and Requests for Admission. (R. pp. 63-83.) Per the certificate of service, these were served via electronic means. (R. pp. 69, 78, 82.) However, Appellant explained that he never received these discovery requests. (R. p. 103, lines 14-23.)

STANDARD OF REVIEW

When reviewing the grant of a summary judgment motion, the appellate court applies the same standard which governs the trial court under Rule 56(c), SCRCP: Summary judgment is proper when there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. *Regions Bank v. Schmauch*, 354 S.C. 648, 582 S.E.2d 432 (Ct. App. 2003). In determining whether any triable issue of fact exists, the evidence and all inferences which can reasonably be drawn therefrom must be viewed in the light most favorable to the nonmoving party. *Sauner v. Public Serv. Auth.*, 354 S.C. 397, 581 S.E.2d 161 (2003). If triable issues exist, those issues must go to the jury. *Baril v. Aiken Reg'l Med. Ctrs.*, 352 S.C. 271, 573 S.E.2d 830 (Ct. App. 2002).

SUMMARY OF THE ARGUMENT

The circuit court's order granting summary judgment must be reversed because it rests on procedural shortcuts rather than a fair resolution of the merits. First, the court erred in deeming Appellant's failure to respond to Requests for Admission as binding admissions and using them

as the exclusive basis for judgment. Rule 36(b), SCRCP, is designed to prevent litigation by ambush and permits withdrawal where justice so requires. South Carolina law disfavors default-style results. See *Whaley v. CSX Transp., Inc.*, 362 S.C. 456, 609 S.E.2d 286 (2005); *Goodson v. Am. Bankers Ins. Co.*, 295 S.C. 400, 368 S.E.2d 687 (Ct. App. 1988).

Second, the court improperly struck nearly all of Appellant's answer. Pleadings are to be liberally construed to achieve substantial justice, particularly for a self-represented litigant. *See Bochette v. Bochette*, 300 S.C. 109, 386 S.E.2d 475 (Ct. App. 1989); *Baughman v. AT&T*, 306 S.C. 101, 410 S.E.2d 537 (1991).

Third, genuine disputes of material fact existed regarding the nature of the contract, the delivery date, and the performance of subsequent agreements between the parties. These issues turn on credibility and intent, matters squarely within the province of a jury. *See George v. Fabri*, 345 S.C. 440, 548 S.E.2d 868 (2001); *Anderson v. West*, 270 S.C. 184, 241 S.E.2d 551 (1978).

Finally, the award of both treble damages under SCUTPA and punitive damages for fraud and conversion was unconstitutional and premature. South Carolina law requires a jury determination on punitive damages, and duplicative punitive remedies offend due process. *See Clark v. Cantrell,* 339 S.C. 369, 529 S.E.2d 528 (2000); *Futch v. McAllister Towing*, 335 S.C. 598, 518 S.E.2d 591 (1999); *Gamble v. Stevenson*, 305 S.C. 104, 406 S.E.2d 350 (1991).

ARGUMENT

I. The Circuit Court Erred in Deeming Requests for Admission Admitted.

The trial court relied almost exclusively on deemed admissions to find liability. Yet Appellant, a pro se litigant, testified he never received notice of his obligation to respond and experienced disruptions in receiving electronic and physical mail. (R. p. 103, lines 14-23.) Furthermore, Respondent's certificate of service for the Requests indicate they were served by "electronic means." (R. pp. 69, 78, 82.) However, being a pro se party, Respondent was required

to serve Appellant by traditional means under Rule 5, SCRCP. There is nothing in the record that indicates such service was accomplished. South Carolina law disfavors "gotcha" admissions where the merits remain disputed. See *Whaley v. CSX Transp., Inc.*, 362 S.C. 456, 609 S.E.2d 286 (2005). Excusable neglect and lack of prejudice should have warranted relief under Rule 36(b), SCRCP. *See Goodson v. Am. Bankers Ins. Co.*, 295 S.C. 400, 368 S.E.2d 687 (Ct. App. 1988). For that reason, the Responses should not have been deemed admitted.

II. The Circuit Court Erred by Striking Appellant's Answer.

The court struck all but one sentence of Appellant's Answer, leaving only his general denial of the allegations to the Complaint. (R. pp. 2-4.). South Carolina requires liberal construction of pleadings, especially for pro se litigants. *See Bochette v. Bochette*, 300 S.C. 109, 386 S.E.2d 475 (Ct. App. 1989). Defendant's answer, while inartful (as is common for *pro se* filings), put the plaintiff on notice of contested issues. First and foremost, he denied liability. By striking most of the answer, the trial court eliminated factual assertions that disputed essential elements of Valdez's claims. Appellant provided evidence that raised genuine factual disputes over Respondent's allegations. He referenced issues with the boat that required repairs and provided exhibits that included a repair bill. (R. pp. 23-31.)

Rule 8, SCRCP requires only that a party "state in short and plain terms the defenses to each claim asserted." South Carolina courts liberally construe pro se pleadings. *Pope v. Wilson*, 427 S.C. 377, 831 S.E.2d. 442 (S.C. App. 2019). Furthermore, Appellant stated to the court on multiple occasions that he had been having trouble retaining an attorney but believed he had found one that was willing to assist. (R. p. 103, lines 2-5, 24-25.) The trial court abused its discretion in striking the answer. Appellant was a small business operator with technical and logistical challenges, not acting in bad faith or willful disregard of the procedure. "It is recognized that striking a pleading is a severe remedy and should be resorted to only in cases

palpably requiring it for the administration of justice. The remedy will be granted only when the defect is plain, for where there is a semblance of a cause of action or defense set up in the pleading, its sufficiency cannot be determined on motion to strike out." *Archambault v. Sprouse*, 215 S.C. 336, 343, 55 S.E.2d 70, 73 (1949).

Instead of striking Appellant's Answer and proceeding to decide the matter through a dispositive motion, Appellant should have granted leave to file an amended his answer and retain an attorney within in a specified timeframe. This was reversible error.

III. Genuine Issues of Material Fact Precluded Summary Judgment.

Summary judgment is proper only when no genuine dispute of material fact exists. *See George v. Fabri*, 345 S.C. 440, 548 S.E.2d 868 (2001). The nonmoving party must be given all favorable inferences. *See Hedgepath v. AT&T*, 348 S.C. 340, 559 S.E.2d 327 (Ct. App. 2001). Here, Appellant raised a number of factual disputes that go to the heart of Respondent's causes of action:

- **Contract Terms and Delivery Date:** Murray testified there was no firm Christmas delivery date; he understood delivery in Spring 2022 was agreed upon (R. p. 101, lines 4-17.)
- **Partial Performance:** He delivered a second boat, which slowed repairs on the first boat, with Valdez's knowledge. (R. p. 101, line 9 – R. p. 102, line 16.)
- **Offset and Settlement Negotiations:** Murray offered a $25,000 refund, acknowledging partial value retained by Valdez. (R. p. 102, lines 18-19.)
- **Condition of the Boat:** Murray claimed the boat was 90% complete and ready to deliver. (R. p. 102, line 19.)

These factual disputes are material and central to the terms of the contract and Respondent's credibility. Where credibility is central, summary judgment is improper. *See*

Anderson v. West, 270 S.C. 184, 241 S.E.2d 551 (1978).

IV. The Award of Treble and Punitive Damages on Summary Judgment was Excessive and Violated Due Process.

The trial court simultaneously awarded treble damages under SCUTPA and punitive damages for fraud and conversion. South Carolina law requires clear and convincing proof of willful or reckless conduct. *See Clark v. Cantrell*, 339 S.C. 369, 529 S.E.2d 528 (2000). Ordinarily, this is a jury determination. Moreover, summary judgment is inappropriate where intent or willfulness is at issue. *See Futch v. McAllister Towing*, 335 S.C. 598, 518 S.E.2d 591 (1999). Duplicative punitive remedies raise constitutional concerns under due process. *See Gamble v. Stevenson*, 305 S.C. 104, 406 S.E.2d 350 (1991).

The purchase price of the boat at issue was $40,000 and, per Respondent's affidavit, it was well known that the boat required a number of repairs prior to delivery. (R. pp. 51-52.). Additionally, the boat was largely complete and therefore retained value that should have been applied as an offset to the award. However, Appellant was deprived of his ability to present evidence and defend his case on the merits.

CONCLUSION

The circuit court's order granting summary judgment rests on procedural defaults and legal errors rather than a fair evaluation of the merits. By deeming requests for admission admitted, striking nearly all of Appellant's answer, disregarding genuine factual disputes, and awarding extraordinary punitive remedies without a trial, the court deprived Appellant of his right to a jury trial.

For these reasons, Appellant respectfully requests that this Court reverse the order granting summary judgment and remand the case for trial on the merits.

[signature on following page]

Respectfully submitted,

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CERTIFICATE OF COUNSEL

The undersigned certified that the Final Brief of Appellant in this matter complies with Rule 211(b), SCACR.

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