THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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SC Court of Appeals

APPEAL FROM FAIRFIELD COUNTY
In the Court of Common Pleas

Donald B. Hocker, Circuit Court Judge

Appellate Case No. 2025-000930
Circuit Court Case No. 2023-CP-20-00374

Stephanie Pressley, as Personal Representative of the Estate of Gail Wright, ... Plaintiff,

v.

Ridgeway Manor Healthcare Center, LLC, Deborah Sparks, and James McCollum, ... Defendants,

of which

Ridgeway Manor Healthcare Center, LLC, Deborah Sparks, and James McCollum are the .... Appellants,

INITIAL BRIEF OF APPELLANTS RIDGEWAY MANOR HEALTHCARE CENTER, LLC, DEBORAH SPARKS, AND JAMES MCCOLLUM

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STATEMENT OF THE ISSUES ON APPEAL

I. Whether the Circuit Court erred in denying Appellants' motion to compel arbitration, despite the inclusion of an arbitration provision in the integrated Admission Agreement signed by DSS on behalf of Mrs. Wright.

II. Whether the Circuit Court erred by ignoring the Family Court's prior order requiring DSS to place Mrs. Wright into a facility that met her level of care, and instead, making her vulnerability the focal point of its decision, which is not germane to the *legal inquiry* regarding the binding nature of the arbitration agreement signed by DSS as ordered by the Family Court.

III. Whether the Circuit Court's ruling conflicts with the principles of equitable estoppel, given that Plaintiff accepted the benefits of the Admission Agreement while seeking to avoid the arbitration provision contained within that same contract.

STATEMENT OF THE CASE

Appellants Ridgeway Manor Healthcare Center, LLC ("Ridgeway Manor"); Deborah Sparks; and James McCollum (collectively, "Appellants"), appeal the denial of their Motion to Dismiss, Compel Arbitration, and Stay Court Proceedings pursuant to the Federal Arbitration Act 9 U.S.C. § 1, et seq., and Rules 12(b)(1) and 12(b)(6) of the South Carolina Rules of Civil Procedure. The trial judge denied Appellants' motion to compel arbitration on August 29, 2024, and denied Appellants' motion for reconsideration on April 14, 2025. Appellants timely filed a notice of appeal on May 13, 2025.

I. Background

On or about May 16, 2021, Mrs. Gail Wright contacted law enforcement stating that her caregivers—which includes Plaintiff Stephanie Pressley ("Plaintiff")—abandoned her in her home for three (3) consecutive days, leaving her in a chair and unable to care for herself for that three-day period. 5/18/2021 Family Court Order at 1–2 (Exhibit 1 to Plaintiff's Memo in Opp.); Guardian ad Litem Report at 2 (Exhibit 5 to Plaintiff's Memorandum in Opposition). At that time, Mrs. Wright was a 66-year-old, paraplegic female that required constant care. *See* Guardian ad

Litem Report at 2. The South Carolina Department of Social Services ("DSS") took Mrs. Wright into emergency protective custody and transported Mrs. Wright to Prisma Health Richland Hospital, where she remained until June 1, 2021. Guardian ad Litem Report at 2.

Two (2) days after the emergency removal, on May 18, 2021, the Richland County Family Court conducted a 72-hour hearing and found probable cause to believe Mrs. Wright was a "vulnerable adult" under S.C. Code Ann. § 43-35-10(11). 5/18/2021 Family Court Order at 1–3; Guardian ad Litem Report at 3. The Family Court concluded that Mrs. Wright faced imminent danger to her life or physical safety due to neglect and that protective services were necessary. 5/18/2021 Family Court Order at 1–3. As such, the Family Court placed Mrs. Wright under the protective custody of DSS and granted DSS the right to provide for and authorize such routine and/or emergency medical care for Wright. 5/18/2021 Family Court Order at 1–3. Specifically, the Family Court ordered that DSS retain custody of Mrs. Wright and further directed that she "*shall* be placed in a facility that meets her level of care." 5/18/2021 Family Court Order at 3.

The next day, on May 19, 2021, the Family Court formally appointed Peter Reinhart as Guardian ad Litem ("GAL") for Mrs. Wright pursuant to S.C. Code Ann. § 43-35-45(C), and also appointed counsel to represent her. 5/19/2021 Order (Ex. 2 to Plaintiff's Memo in Opp.). The GAL submitted a report to the Family Court in late June of 2021. In the report, the GAL stated Mrs. Wright's family members, which includes Plaintiff, "abandoned her in her chair for a period of three days when her family members had other obligations." Guardian ad Litem Report at 5. Essentially, the GAL found that *Plaintiff—who is Mrs. Wright's daughter*—and other family members *completely abandoned Mrs. Wright in her wheelchair for three days,* which led to DSS taking Mrs. Wright into emergency protective custody and transporting her to a hospital.

On or about May 28, 2021, Appellant Ridgeway Manor notified DSS representatives Fantasia Hartwell and Keri Singleton that it could accept Mrs. Wright as a resident when the hospital discharged her from its care. In preparation for Mrs. Wright's admission to Ridgeway Manor, DSS representatives Fantasia Hartwell and Keri Singleton signed various *required* agreements and documents in connection with Mrs. Wright's admission and residency, care, and treatment at Ridgeway Manor on behalf of Mrs. Wright. *See* Ridgeway Manor Admission and Financial Agreement ("Admission Agreement") (Exhibit 3 to Plaintiff's Memorandum in Opposition).

The first sentence of the first page of the Admission Agreement states in bold, underlined text: **"THIS AGREEMENT IS SUBJECT TO ARBITRATION PURSUANT TO S.C. CODE SECTION 15-48, ET SEQ, AS MODIFIED THEREIN."** Admission Agreement at 1 (emphasis in original). As made obvious by the bold, underlined text in the first page, the Admission Agreement contains a multi-page arbitration provision, located at pages ten through twelve of the twenty-six-page contract, and incorporated as "Addendum One" to the Admission Agreement. *See* Admission Agreement at 10–12. The arbitration section states, in the very first sentence it "is an addendum to and part of the Admission Agreement." Admission Agreement at 10. Indeed, every page—including the arbitration pages—contains the exact same document footer: "Admission & Financial Agreement."

The arbitration provision at issue provides, in pertinent part:

> "The Facility [Appellant Ridgeway Manor] and the Resident and/or Resident's Authorized Representative (hereinafter referred to collectively as the "Parties") understand and agree that any legal dispute, controversy, demand, or claim that arises out of or relates to the Resident Admission Agreement or is in any way connected to the Resident's stay at the Facility shall be resolved exclusively by binding Arbitration; and not by a lawsuit or resort to other court process.

Admission Agreement at 10.

The Admission Agreement, including the arbitration provision, is binding on the Resident and/or Resident's Representative, as well as the Resident's representatives, agents, heirs, successors, and assigns. *See* Admission Agreement at 3, Art. 4.4; at 7, Art. 17.1; at 10. Assent to Ridgeway Manor's Admission Agreement is required for a person to stay in the facility. *See* Admission Agreement at 5, Art. 6.1 (noting if a resident terminates the agreement, they "must leave the facility").

The Admission Agreement was executed by Fantasia Hartwell as the "Responsible Party/Resident Representative" of Mrs. Wright and counter-signed by Keri Singleton, the DSS Case Manager. *See* Admission Agreement at 9. Mrs. Singleton was Mrs. Wright's representative as her case manager for DSS. *See* Admission Agreement at 9. As noted above, the Family Court placed Mrs. Wright into the protective custody of DSS because it found Mrs. Wright was a "vulnerable adult" as defined in the Omnibus Adult Protection Act, S.C. Code Ann. § 43-35-5 *et seq.*, ("APA") which specifically tasks DSS with providing "protective services," which include "arranging for living quarters" and "securing medical services" for the vulnerable adult. The Family Court further *ordered* DSS to place Mrs. Wright into a facility that met her level of care. 5/18/2021 Family Court Order at 3. Accordingly, both the Family Court Order and the APA gave DSS the authority to place Mrs. Wright into a suitable facility as a part of its duty to provide protective services, which necessarily included signing the Admission Agreement for Ridgeway Manor since assent to the Agreement is a condition precedent for any resident's admission to the facility.

II. Procedural History

Following Mrs. Wright's death, Plaintiff commenced this lawsuit by filing a Summons and Complaint on November 9, 2023. *See* Compl. Plaintiff has asserted medical negligence causes of

action against these Appellants in this wrongful death and survival action. Compl. at 9–11. These allegations arise from and pertain to the care and treatment provided to Mrs. Wright while she was a resident of Ridgeway Manor.

Appellants moved to compel arbitration, relying on the arbitration provision contained within the Admission Agreement signed by DSS employees. Mot. to Compel (filed Jan. 12, 2024); Mem. in Support (filed July 1, 2024). Plaintiff opposed, arguing that neither Mrs. Wright nor her statutory beneficiaries ever agreed to arbitrate and that DSS lacked authority to bind her to an arbitration clause. Pl.'s Res. in Opp. (filed May 28, 2024).

After the Circuit Court heard oral arguments on July 5, 2024, and considered briefing, it denied Appellants' motion to compel arbitration on August 29, 2024. *See* MTC hearing Tr. (July 5, 2024); 8/19/2024 Order.

Appellants filed a motion to reconsider pursuant to Rule 59(e), SCRCP. Mot. for Reconsideration (filed Aug. 29, 2024). Plaintiff opposed. Pl.'s Res. in Opp. (filed Jan. 13, 2025). The Circuit Court heard oral arguments on March 25, 2025. *See* MFR hearing Tr. (Mar. 25, 2025). The Circuit Court denied the motion for reconsideration on April 14, 2025. 4/14/2025 Order. This appeal followed upon Appellants' timely filing of the Notice of Appeal on May 13, 2025.

STANDARD OF REVIEW

"Whether an arbitration agreement may be enforced against a nonsignatory to the agreement is a matter subject to de novo review by an appellate court." *Wilson v. Willis*, 426 S.C. 326, 335, 827 S.E.2d 167, 172 (2019). Accordingly, this Court owes no deference to the Circuit Court's conclusions of law; but, as to factual findings, those "will not be reversed on appeal if any evidence reasonably supports those findings." *Id.*; *Callawassie Island Members Club, Inc. v. Martin*, 437 S.C. 148, 157, 877 S.E.2d 341, 345 (2022) ("This Court applies de novo review to

questions of law, so it need not defer to the determination of the court below.").

Likewise, the interpretation of a statute is a question of law, which this Court is free to decide without any deference to the circuit court below. *Callawassie Island Members Club, Inc.*, 437 S.C. at 157, 877 S.E.2d at 345; *Duke Energy Corp. v. S.C. Dep't of Revenue*, 415 S.C. 351, 355, 782 S.E.2d 590, 592 (2016).

SUMMARY OF ARGUMENT

The Circuit Court's denial of the motion to compel arbitration was based on several critical errors of law. First, the Circuit Court misconstrued the scope of authority granted to DSS pursuant to the Family Court's Order and the APA, S.C. Code Ann. § 43-35-5 *et seq.* The Family Court placed Mrs. Wright in DSS's custody and authorized the agency to place her in a suitable facility pursuant to the APA. DSS, acting under *both* a court order and authority conferred by the APA, had actual or, at the very least, apparent authority to sign all requisite admission paperwork on Mrs. Wright's behalf, including the Admission Agreement containing an arbitration provision.

Second, the Circuit Court erroneously focused on Mrs. Wright's competence, a factor that was legally irrelevant. The question of DSS's actual or apparent authority is a *legal inquiry* grounded in statutory interpretation; it does not turn on whether Mrs. Wright was mentally competent at the time of admission. Indeed, whether Mrs. Wright was competent or impaired, DSS had the authority to sign the Admission Agreement on her behalf under either scenario. The Circuit Court's conclusions as to competency ignored the Family Court's findings of vulnerability and ultimately failed to consider the controlling legal question presented as to actual or apparent authority.

Finally, Plaintiff is equitably estopped from denying the enforceability of the arbitration provision. Having accepted the benefits of the Admission Agreement—such as medical care and

placement at Ridgeway Manor, *after abandoning Mrs. Wright* —Plaintiff cannot now repudiate the arbitration provision. The arbitration provision is an integral part of the same contract that created the legal relationship giving rise to this lawsuit, and Plaintiff's attempt to avoid it is inconsistent with the principles of estoppel. Thus, the Circuit Court's ruling should be reversed, and the motion to compel arbitration should be granted.

ARGUMENT

The Circuit Court erred in denying Appellant Ridgeway Manor's motion to compel arbitration. Arbitration "is a matter of contract and a party cannot be required to submit to arbitration any dispute which he has not agreed to submit." *Gissel v. Hart*, 382 S.C. 235, 241, 676 S.E.2d 320, 323 (2009). However, well recognized common law principles hold that in certain circumstances a "nonsignatory can enforce, or be bound by, an arbitration provision within a contract executed by other parties." *Pearson v. Hilton Head Hosp.*, 400 S.C. 281, 288, 733 S.E.2d 597, 600 (Ct. App. 2012) (quoting *Int'l Paper Co. v. Schwabedissen Maschinen & Anlagen GMBH*, 206 F.3d 411, 416–17 (4th Cir. 2000)). "Whether an arbitration agreement may be enforced against nonsignatories, and under what circumstances, is an issue controlled by state law." *Wilson*, 426 S.C. at 338, 827 S.E.2d at 173–74. "South Carolina has recognized several theories that could bind nonsignatories to arbitration agreements under general principles of contract and agency law, including (1) incorporation by reference, (2) assumption, (3) agency, (4) veil piercing/alter ego, and (5) estoppel." *Id.* at 338, 827 S.E.2d at 174.

Furthermore, under South Carolina law, "a personal representative of a decedent domiciled in this State at his death has the same standing to sue and be sued in the courts of this State and the courts of any other jurisdiction as his decedent had immediately prior to death." S.C. Code Ann. § 62-3-703(c). Thus, Plaintiff is bound in her capacity as personal representative if Mrs. Wright

would have been bound immediately prior to her death. *See THI of S.C. at Columbia, LLC v. Wiggins*, No. CA 3:11-888-CMC, 2011 WL 4089435, at *5 (D.S.C. Sept. 13, 2011).

Here, the Circuit Court made critical legal errors throughout its Order denying the motion to compel arbitration. First, the Circuit Court failed to conduct a proper analysis on the authority conveyed to DSS pursuant to the Family Court's Order and South Carolina statutory law. Second, the Circuit Court improperly made factual findings that conflicted with the Family Court's findings and erroneously relied on these improper findings to influence its decision. Third, the Circuit Court improperly treated the Admission Agreement and the arbitration provision as separate contracts, resulting in an improper and cursory estoppel analysis. For these reasons, and those more fully set forth below, this Court must reverse the Circuit Court's Order and compel arbitration.

I. DSS had authority pursuant to the Family Court Order and the Adult Protection Act to execute necessary admission documents in order to secure medical services for Mrs. Wright.

DSS, acting under both a court order and authority conferred by the South Carolina APA had actual or, at the very least, apparent authority to sign all requisite admission paperwork on Mrs. Wright's behalf.

"An agent's authority is composed of his or her actual authority, whether express or implied, together with the apparent authority which the principal by his or her conduct is precluded from denying." *Roberson v. S. Fin. of S.C., Inc.*, 365 S.C. 6, 10, 615 S.E.2d 112, 115 (2005). Consequently, an agent's authority to act is either actual or apparent. *Id.* at 10–11, 615 S.E.2d at 115; *see also Charleston, S.C. Registry for Golf & Tourism, Inc. v. Young Clement Rivers & Tisdale, LLP*, 359 S.C. 635, 642, 598 S.E.2d 717, 721 (Ct. App. 2004) ("An agency relationship may be established by evidence of actual or apparent authority.").

As to actual authority, this type of authority may be either express or implied. *Roberson*,

365 S.C. at 10–11, 615 S.E.2d at 115; *Gallipeau v. Renewal by Andersen LLC*, 742 F. Supp. 3d 508, 517 (D.S.C. 2024) (noting "actual authority, exists when the principal expressly or implicitly grants the agent authority to perform a particular act"). Express actual authority is when a principal directly tells an agent they have the authority to take a certain action, *see Roberson*, 365 S.C. at 10–11, 615 S.E.2d at 115, whereas implied actual authority is the authority either "(1) to do what is necessary, usual, and proper to accomplish or perform an agent's express responsibilities or (2) to act in a manner in which an agent believes the principal wishes the agent to act based on the agent's reasonable interpretation of the principal's manifestation in light of the principal's objectives and other facts known to the agent." Restatement (Third) Of Agency § 2.01, Comment b (2006).

On the other hand, apparent authority "is when the principal knowingly permits the agent to exercise authority, or the principal holds the agent out as possessing such authority." *Richardson v. P.V., Inc.*, 383 S.C. 610, 615, 682 S.E.2d 263, 265 (2009). "Apparent authority to do an act is created as to a third person by written or spoken words *or any other conduct of the principal* which, reasonably interpreted, causes the third person to believe the principal consents to have the act done on his behalf by the person purporting to act for him." *Froneberger v. Smith*, 406 S.C. 37, 47, 748 S.E.2d 625, 630 (Ct. App. 2013) (emphasis in original) (citation omitted). In other words, the law focuses on the *perception created in the mind of the third person*: if the principal's behavior would make a reasonable observer think the agent has the authority to act on the principal's behalf, apparent authority exists. *Id.* This requires that the principal either intended to create that perception or should have recognized that its conduct was likely to cause such a belief. *Id.* Importantly, apparent authority cannot be based solely on what the agent says or does; it must stem from the principal's manifestations. *Id.*

Based on these principles, South Carolina courts require a showing of the following three elements for apparent authority: "(1) that the purported principal consciously or impliedly represented another to be his agent; (2) that there was a reliance upon the representation; and (3) that there was a change of position to the relying party's detriment." *Charleston, S.C. Registry for Golf & Tourism, Inc.*, 359 S.C. at 643, 598 S.E.2d at 721 (quoting *Graves v. Serbin Farms, Inc.*, 306 S.C. 60, 63, 409 S.E.2d 769, 771 (1991)).

Here, the Circuit Court held DSS workers Keri Singleton and Fantasia Hartwell did not have the "appropriate legal authority to execute the arbitration agreement for it to be enforceable." 8/19/2024 Order at 4. Specifically, the Circuit Court held that the APA did "not authorize SCDSS employees to provide legal services to Mrs. Wright or waive her constitutional right to a jury trial." 8/19/2024 Order at 4–5. The Circuit Court further found that the Family Court Order provided no such authority either. 8/19/2024 Order at 5. In doing so, the Circuit Court barely gave any analysis on the APA, the legal force of the Family Court's Order, or the types of authority that South Carolina recognizes as sufficient to bind nonsignatories to an agreement under agency law. As discussed below, the Circuit Court's ultimate conclusion is unsound and must be reversed.

A. DSS had express actual authority pursuant to the Family Court Order and their statutory responsibilities to place Mrs. Wright in the facility.

The APA, S.C. Code Ann. § 43-35-5 *et seq.*, was enacted "to protect vulnerable adults from abuse, neglect, and exploitation." *Williams v. Watkins*, 379 S.C. 530, 534, 665 S.E.2d 243, 245 (Ct. App. 2008). The APA "generally calls for administrative and regulatory investigative procedures, sets forth reporting requirements, and criminalizes the abuse, neglect and exploitation of vulnerable adults." *Williams-Garrett v. Murphy*, 106 F. Supp. 2d 834, 841 (D.S.C. 2000). Vulnerable adults are defined under the APA as:

> a person eighteen years of age or older who has a physical or mental condition

> which substantially impairs the person from adequately providing for his or her own care or protection. This includes a person who is impaired in the ability to adequately provide for the person's own care or protection because of the infirmities of aging including, but not limited to, organic brain damage, advanced age, and physical, mental, or emotional dysfunction. A resident of a facility is a vulnerable adult.

S.C. Code Ann. § 43-35-10(11).

The APA empowers the Family Court to place vulnerable adults into protective services. S.C. Code Ann. § 43-35-45. Protective services "include, but are not limited to, evaluating the need for protective services, securing and coordinating existing services, arranging for living quarters, obtaining financial benefits to which a vulnerable adult is entitled, and securing medical services, supplies, and legal services." S.C. Code Ann. § 43-35-10(9).

The authority of the Family Court to protect vulnerable adults is exceedingly broad. *See* S.C. Code Ann. § 43-35-45(B) ("The court also may order emergency services or other relief as necessary to protect the vulnerable adult."). Indeed, our Supreme Court has recognized that, in carrying out the APA's imperative to shield vulnerable adults from harm, the Family Court may be required to restrict even core constitutional rights to ensure their protection. *See Doe v. S.C. Dep't of Soc. Servs.*, 407 S.C. 623, 637, 757 S.E.2d 712, 719 (2014) ("Without question, an involuntary removal under the Act deprives a person of his liberty as well as property if the court orders a vulnerable adult to pay for the care received while in the custody of DSS"). If the Family Court determines that a vulnerable adult should be placed in a care facility, DSS "may initiate commitment proceedings." S.C. Code Ann. § 43-35-45(F).

As an investigative entity, DSS is also given substantial authority to enact its duties. S.C. Code Ann. § 43-35-10(5) (noting the Adult Protective Services Program in the Department of Social Services is an investigative entity); S.C. Code Ann. § 43-35-20 (noting additional powers of investigative entities). Indeed, DSS may *require* all persons, including facility staff members,

to cooperate with it when it is providing protective services to a vulnerable adult. S.C. Code Ann. § 43-35-20(5).

Here, the Family Court explicitly found Mrs. Wright to be a vulnerable adult, ordered that DSS retain custody of Mrs. Wright, and required DSS to place Mrs. Wright into a suitable facility. 5/18/2021 Family Court Order at 3. As noted above, the APA specifically tasks DSS with providing "protective services," which include "arranging for living quarters" and "securing medical services" for the vulnerable adult, *without* carve outs or restrictions. Accordingly, both the Family Court Order and the APA gave DSS the express actual authority to place Mrs. Wright into a suitable facility as a part of its duty to provide protective services. Though this conclusion is seemingly obvious, the Circuit Court appeared to overlook the fact that this express actual authority necessarily *includes* the implicit authority to execute any necessary paperwork to comply with the Family Court's directive and fulfill the APA's protective mandate to place a vulnerable adult into a suitable facility.

B. The APA and the Family Court's order gave DSS implied actual authority to enter into the Admissions Agreement.

The Circuit Court appeared to agree that DSS had the express actual authority to carry out its duty to place Mrs. Wright into a suitable facility. *See* 8/19/2024 Order at 4. However, the Circuit Court's Order is not clear on whether and to what extent DSS may execute paperwork for purposes of admitting a vulnerable adult into a facility. Indeed, the Circuit Court appeared to frame the Admission Agreement as *legal paperwork* that fell outside the scope of the express authority granted to DSS. *See* 8/19/2024 Order at 4–5. To the extent the Circuit Court found the APA and/or the Family Court's Order did not *expressly* give DSS the actual authority to enter into Admission Agreement on behalf of Mrs. Wright, the Circuit Court nevertheless erred by not finding DSS had the *implied* actual authority to do so.

i. The Family Court Order gave DSS implied actual authority to execute the necessary paperwork to admit Mrs. Wright into the facility.

As noted above, the authority of the Family Court to protect vulnerable adults is exceedingly broad. *See* S.C. Code Ann. § 43-35-45(B) ("The court also may order emergency services or other relief as necessary to protect the vulnerable adult."). If the Family Court determines that a vulnerable adult should be placed in a care facility, DSS "may initiate commitment proceedings." S.C. Code Ann. § 43-35-45(F).

Here, because the Family Court **ordered** DSS to place Mrs. Wright in a medical care facility, that Order implicitly authorized DSS to take all steps reasonably necessary to accomplish that placement, including executing the Admission Agreement (which included an arbitration provision). The fact that the Family Court Order did not *explicitly mention* "signing the admissions contract" does not mean that DSS lacked actual authority; rather, the Order's mandate to place Mrs. Wright into a suitable facility encompassed the necessary means to effectuate placement under the basic agency principles of implied actual authority. In other words, DSS was given an express order by the Family Court to place Mrs. Wright into a suitable facility, and DSS was thus empowered to do what it believed was necessary to accomplish that express objective. *See* Restatement (Third) Of Agency § 2.01, Comment b (noting implied actual authority is the authority either "(1) to do what is necessary, usual, and proper to accomplish or perform an agent's express responsibilities or (2) to act in a manner in which an agent believes the principal wishes the agent to act based on the agent's reasonable interpretation of the principal's manifestation in light of the principal's objectives and other facts known to the agent"); *Roberson*, 365 S.C. at 11, 615 S.E.2d at 115 (noting an agent does not have implied authority unless they believed they had that authority).

Clearly, executing the Admission Agreement completely aligns with the Family Court's

mandate to place Mrs. Wright into a suitable facility and is reasonable under the circumstances. As discussed in section I.B.iii. below, the Circuit Court erred in holding otherwise.

ii. The APA gave DSS implied actual authority to execute the necessary paperwork to admit Mrs. Wright into the facility.

Similarly, the structure and purpose of the APA makes clear that DSS possessed implied actual authority to execute the Admission Agreement, as the statute's text and design leave no other reasonable conclusion.

Courts interpret statutes in a manner that is practical, sensible, and consistent with the legislature's overall objectives and policy choices. *Peake v. S.C. Dep't of Motor Vehicles*, 375 S.C. 589, 599, 654 S.E.2d 284, 289 (Ct. App. 2007). Statutory language must be construed in a way that fits with the subject matter at issue and advances the statute's broader purpose. *Hitachi Data Sys. Corp. v. Leatherman*, 309 S.C. 174, 178, 420 S.E.2d 843, 846 (1992). Courts also avoid interpretations that would render any word, clause, or section meaningless, unnecessary or superfluous. *Matter of Decker*, 322 S.C. 215, 219, 471 S.E.2d 462, 463 (1995). And when a statute is susceptible to more than one reading, courts favor the construction that promotes a fair, reasonable, and beneficial application of the law. *Bennett v. Sullivan's Island Bd. of Adjustment*, 313 S.C. 455, 458, 438 S.E.2d 273, 274 (Ct. App. 1993). At the same time, courts decline interpretations that would produce outcomes so absurd that the legislature could not have intended them, or that would undermine the statute's evident purpose. *Unisun Ins. Co. v. Schmidt*, 339 S.C. 362, 368, 529 S.E.2d 280, 283 (2000).

As noted above, the APA specifically tasks DSS with providing "protective services," which include "arranging for living quarters" and "securing medical services" for the vulnerable adult, without carve outs or restrictions. When a statute like the APA gives an agency an objective, the statute implicitly authorizes reasonable means to accomplish that objective—even if the statute

is silent on the particular means. *See Luis v. United States*, 578 U.S. 5, 26, 136 S. Ct. 1083, 1097, 194 L. Ed. 2d 256 (2016) (Thomas, J., concurring) ("[W]henever a power is given by a statute, everything necessary to the making of it effectual or requisite to attain the end is implied." (citation omitted)).[1] Indeed, the APA is abundantly clear that the listed services are not exclusive, as it states protective services are "not limited to" those services explicitly listed. *See* S.C. Code Ann. § 43-35-10(9) (noting protective services "*include*, <u>but are not limited to</u>" the listed services (emphasis added)); *see also United States v. Helton*, 944 F.3d 198, 206 (4th Cir. 2019) ("Because 'include' and its variations are 'more often than not the introductory term for an incomplete list of examples,' their use before a list is afforded a presumption of nonexclusively in statutory interpretation." (internal citation omitted)), *as amended* (Dec. 4, 2019). The legislature's use of intentionally nonrestrictive language makes clear that DSS's authority is meant to be broad, enabling the agency to perform all actions reasonably required to protect those individuals under its care.

Accordingly, DSS undeniably has other implicit powers that attach to its authority to arrange for a vulnerable adult's living quarters or medical services. Inherent in the placement of Mrs. Wright into a suitable facility was the initiation of that commitment proceeding, which, here, included admissions paperwork. *See* Admission Agreement at 1–26. Assent to Ridgeway Manor's Admission Agreement is required for a person to stay in the facility. *See* Admission Agreement at 5, Art. 6.1 (noting if a resident terminates the agreement, they "must leave the facility").

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[1] *See also Hamm v. Cent. States Health & Life Co. of Omaha*, 299 S.C. 500, 506, 386 S.E.2d 250, 254 (1989) (holding the Insurance Commissioner had the implied authority to order a refund of money collected under an unlawful rate, as this authority arose as a reasonably necessary implication from the Commissioner's duty to regulate rates under S.C. Code Ann. § 38–3–110(1)); *State v. Cain*, 78 S.C. 348, 58 S.E. 937, 938 (1907) (reasoning the power to purchase liquors in bulk and retail them through county dispensaries necessarily included the power to bottle the liquors through such agencies as the board deemed best because the statutory language was broad enough to implicitly establish this power).

Consequently, in addition to the implicit authority granted by the Family Court's Order, DSS was likewise given implied actual authority by the APA to fill out this paperwork to secure Mrs. Wright's placement into Ridgeway Manor. *See* S.C. Code Ann. § 43-35-45(F) (noting if the Family Court determines that a vulnerable adult should be placed in a care facility, DSS "may initiate commitment proceedings"); S.C. Code Ann. § 43-35-10(9) (noting protective services "*include* but are not limited to" the listed services).

iii. The Circuit Court's Order impermissibly limits the implied actual authority given to DSS by the Family Court Order and the APA.

It is undisputable that the Family Court Order and the APA gave DSS the *express* actual authority to place Mrs. Wright into a suitable facility as a part of its duty to provide protective services. Flowing directly from this express actual authority is the *implied* actual authority to do what is reasonably necessary to effectuate that placement. The Circuit Court seemingly failed to grasp this concept.

Here, the Circuit Court agreed that the APA "permits SCDSS employees to arrange for living quarters, [and] secure medical care," but then held that neither the Family Court Order nor the APA provide the DSS the authority "to provide legal services" or waive Mrs. Wright's constitutional right to a jury trial. 8/19/2024 Order at 4–5; *see also* 8/19/2024 Order at 6 ("This Court finds that while SCDSS could secure the services and residence that Defendants provided on Mrs. Wright's behalf, SCDSS did not have the authority to execute an arbitration agreement on behalf of Mrs. Wright and waive her constitutional right to a trial by jury.").

In making this ruling, the Circuit Court never clearly explained whether, or to what extent, DSS may execute *any* paperwork necessary to admit a vulnerable adult into a facility. *See* 8/19/2024 Order at 4–6. The undisputed reality, however, is that an Admission Agreement was required for Mrs. Wright to be admitted, and neither Plaintiff nor the Circuit Court appears to have

questioned DSS's implied actual authority to complete and sign that Agreement for Mrs. Wright's placement. *See* 8/19/2024 Order; *see also* Pl.'s Response in Opposition. The Circuit Court's Order effectively assumes DSS could validly execute the Admission Agreement to secure Mrs. Wright's residence and medical care, yet simultaneously declares that DSS's authority evaporated the moment that same Agreement contained an arbitration provision. In other words, the Circuit Court and Plaintiff implicitly accept that DSS may sign the contract that creates the very relationship giving rise to this lawsuit, but insist that DSS lacks authority only as to one term of that contract: the arbitration provision. That arbitrary line-drawing is internally inconsistent and legally untenable for five reasons.

First, the Circuit Court's interpretation of the APA cannot be reconciled with the reasoning proffered. Specifically, the Circuit Court construed the APA broadly to infer implied actual authority for DSS to execute the Admission Agreement, yet in the next breath narrowly read that same statute to exclude DSS's implicit authority to execute the arbitration provision contained *within* the same contract. To be sure: no *express* statutory language in the APA supports DSS's authority *to do either*. Thus, it is paradoxical to read the statute as giving DSS one implied power but not the other, especially since the power at issue is the same: entering a binding contract. Yet, the Circuit Court—and Plaintiff—appear to accept that DSS had the implicit authority to bind Mrs. Wright to the Admission Agreement (a contract), but vehemently maintain this implicit authority evaporates if an arbitration agreement is at issue (also a contract).

Second, related to this, the Circuit Court's analysis rests on an internally inconsistent premise: that when DSS signed the Admission Agreement, it was "securing medical care," but when DSS signed the arbitration provision embedded within that same Agreement, it was suddenly "providing legal services." *See* 8/19/2024 Order at 4–5. Both actions are the same—executing a

contract—yet the Circuit Court artificially characterized one as within DSS's statutory authority and the other as categorically beyond it. Nothing in the APA (or the Family Court's Order) supports this distinction.

As noted above, the APA expressly authorizes DSS to "arrang[e] for living quarters," "secur[e] medical services," and "coordinat[e] existing services." S.C. Code Ann. § 43-35-10(9). These objectives can only be achieved *through the execution of contracts*, such as intake agreements, financial agreements, medical authorizations, residency forms, and the like. The Circuit Court and Plaintiff implicitly agree with this, because they accept that DSS could sign the Admission Agreement on Mrs. Wright's behalf. But signing the Admission Agreement is every bit as much a "legal act" as signing the arbitration provision. Both are contractual terms, contained within the same document, arising from the same act of placement, and executed for the same statutory purpose: to secure the necessary services and residence ordered by the Family Court.

Consequently, the Circuit Court's reasoning collapses under its own weight. If signing a contract is categorically deemed "providing legal services," then DSS would have *no authority* to execute *any* portion of the Admission Agreement, meaning DSS could **never** fulfill its statutory and court-ordered mandate to place a vulnerable adult in *any* facility. Such an interpretation of the APA is patently absurd. *See Unisun Ins. Co.*, 339 S.C. at 368, 529 S.E.2d at 283 (noting courts decline statutory interpretations that would produce outcomes so absurd that the legislature could not have intended them, or that would undermine the statute's evident purpose). Thus, the Circuit Court erred in creating a distinction the APA does not recognize: contract execution for admission is permissible, but contract execution for arbitration is not. This carve-out is not only illogical, but impermissible under ordinary principles of statutory construction. The Circuit Court never addressed this contradiction (despite Appellant Ridgeway Manor raising it in its Motion for

Reconsideration), because the contradiction cannot be reconciled.

Third, the Circuit Court's carve-out exclusively as to arbitration is also impermissible under contract law. Specifically, the Circuit Court's reading of the APA applies the asserted "lack of authority" principle only to the arbitration provision while implicitly accepting that DSS had authority to execute every other portion of the Admission Agreement. This is precisely what the Federal Arbitration Act ("FAA") forbids, as both the U.S. Supreme Court and South Carolina Supreme Court have repeatedly made clear that arbitration provisions must be placed on equal footing with all other contracts. *AT&T Mobility LLC v. Concepcion*, 563 U.S. 333, 339, 131 S. Ct. 1740, 1745–46 (2011); *Lampo v. Amedisys Holding, LLC*, 445 S.C. 305, 317, 914 S.E.2d 139, 146 (2025) ("The FAA requires that courts treat arbitration agreements the same as all other contracts—no more, no less." (citation omitted)).

The Circuit Court's analysis violates this principle by treating the arbitration provision as uniquely forbidden, despite arising from the very same contractual act the APA otherwise permits. As Chief Justice Toal explained in her *Coleman* dissent, state-law principles cannot be applied in a manner that "takes its meaning precisely from the fact that a contract to arbitrate is at issue," or that empowers an agent to sign every part of an agreement *except* the arbitration provision. *See Coleman v. Mariner Health Care, Inc.*, 407 S.C. 346, 358–59, 755 S.E.2d 450, 457 (2014) (Toal, C.J., dissenting) (citing *Perry v. Thomas*, 482 U.S. 483, 492 n.9, 107 S. Ct. 2520, 2527 n.9 (1987) and *Concepcion*, 131 S. Ct. at 1747–48). Yet that is exactly what occurred here. The Circuit Court accepted DSS's implied authority to sign the Admission Agreement to secure Mrs. Wright's placement but concluded that implicit authority stops short solely because the contract contains an arbitration provision. Such arbitration-specific treatment is irreconcilable with the FAA's mandate that arbitration clauses stand on the same footing as all other contractual terms. If the APA singles

out arbitration provisions—as the Circuit Court appears to suggest—then that statute is preempted by the FAA. *See id.*

Fourth, even setting aside the Circuit Court's incomprehensible view of the implied authority flowing from APA, the Circuit Court completely ignores the implied actual authority granted to DSS *by the Family Court Order*.[2] Under agency/authority principles, when an entity is directed to accomplish a task, it has implied power to do an ancillary task if that ancillary task is reasonably necessary to effectuate the directed task. The Family Court gave DSS an express directive to place Mrs. Wright into a suitable facility, and that placement could not occur absent executing the Admission Agreement. Thus, executing the Admission Agreement was necessary to effectuate the placement of Mrs. Wright in the facility. That the Admission Agreement contained an arbitration provision cannot serve as a roadblock to *a court order*.

Truly, the Circuit Court's interpretation renders the Family Court's Order toothless if DSS could not effectuate the placement because a necessary form included an arbitration provision. The interposition of paperwork should not defeat the command of a court in this state, especially where, as here, the court is specifically given broad statutory power to effectuate a specific legislative goal. *See* S.C. Code Ann. § 43-35-45(B) ("The court also may order emergency services or other relief as necessary to protect the vulnerable adult."). To accept the Circuit Court's interpretation would mean DSS would be incapable of placing a vulnerable adult into a facility if that facility had an arbitration provision in its admissions paperwork—such a result could not have been intended by the legislature. *See Unisun Ins. Co. v. Schmidt*, 339 S.C. 362, 368, 529 S.E.2d 280, 283 (2000) (noting courts decline statutory interpretations that would produce outcomes so absurd

[2] Indeed, the Circuit Court dedicated a single, conclusory sentence to the authority derived from the Family Court's Order. *See* 8/19/2024 Order at 5 ("The family court order provides no such authority, nor does the statute.").

that the legislature could not have intended them, or that would undermine the statute's evident purpose).

Finally, the Circuit Court's reliance on the rhetoric of "waiv[ing] Mrs. Wright's constitutional right to a jury trial" is misplaced and distorts the actual statutory framework at issue. *See* 8/19/2024 Order at 5. This framing—which Plaintiff presented in her briefing—ignores the well-settled recognition by our Supreme Court that, in carrying out the APA's mandate to protect vulnerable adults, the Family Court may curtail rights far more fundamental than the procedural right to a *civil* jury trial. *See Doe*, 407 S.C. at 637, 757 S.E.2d at 719 (acknowledging that involuntary removal under the APA deprives a vulnerable adult "of his liberty as well as property"). Against that backdrop, it is unreasonable to suggest that DSS may execute the very Admission Agreement needed to secure a vulnerable adult's safety, yet DSS simultaneously lacks authority only as to the arbitration provision because it implicates a jury-trial waiver. The Family Court's Order did not instruct DSS to waive any constitutional rights; it ordered DSS to place Mrs. Wright in appropriate care. Completing the required admission paperwork—including the embedded arbitration provision—was simply part of executing that mandate. By focusing narrowly on a jury-trial waiver, the Circuit Court developed constitutional right tunnel-vision and lost sight of the APA's overarching purpose and the express directive of the Family Court: to ensure Mrs. Wright received the protective medical services and residential care she needed. *See Williams*, 379 S.C. at 534, 665 S.E.2d at 245 (explaining the APA was enacted "to protect vulnerable adults from abuse, neglect, and exploitation").

At bottom, the Family Court explicitly found Mrs. Wright to be a vulnerable adult, ordered DSS custody, and required placement into a suitable facility. The legislative intent, reflected in the APA's preamble, supports the view that when a statute grants a general power or duty, all

necessary predicate acts to make that power effective are likewise conferred. The Family Court's Order reinforces this view. Thus, it was both necessary and logical that DSS executed all required admissions documents, without which placement would not have been possible. The Circuit Court's interpretation of both the APA and the Family Court's Order stripped DSS of the very authority needed to effectuate the protective placement ordered by the Family Court, and thus constitutes statutory misconstruction and an error of law. Accordingly, this Court must reverse.

C. DSS had apparent authority to execute the Admission Agreement.

Even if DSS did not have actual authority (express or implied) to enter into the Admission Agreement, Appellant Ridgeway Manor nevertheless reasonably relied on DSS's apparent authority to execute the agreement.

As noted above, apparent authority requires a showing "(1) that the purported principal consciously or impliedly represented another to be his agent; (2) that there was a reliance upon the representation; and (3) that there was a change of position to the relying party's detriment." *Charleston, S.C. Registry for Golf & Tourism, Inc.*, 359 S.C. at 643, 598 S.E.2d at 721 (quoting *Graves,* 306 S.C. at 63, 409 S.E.2d at 771).

Here, these three elements are easily met, as DSS's apparent authority arises from DSS's role as the *court-appointed custodian* of Mrs. Wright. The Family Court's protective-custody Order did not merely authorize DSS to intervene; it expressly charged DSS with securing Mrs. Wright's placement in an appropriate medical facility. As a matter of law, DSS's authority flowed directly from the Family Court itself.

As to the first element, apparent authority may arise by *implied* manifestations, and the Family Court's Order did exactly that. By placing Mrs. Wright in the legal custody of DSS, directing DSS to arrange her living situation, and requiring DSS to ensure her immediate safety

and care, the Family Court implicitly represented DSS as its authorized agent to act for purposes of protecting Mrs. Wright as a vulnerable adult under the APA. DSS, in turn, transported Mrs. Wright to Appellant Ridgeway Manor pursuant to that legal authority flowing from the Family Court's Order. 5/18/2021 Family Court Order at 1–2; Guardian ad Litem Report at 2–3. It is difficult to imagine a clearer manifestation of authority from a principal than a *judicial order* charging a *state agency* with completing a specific custodial task that is *mandated by a state statute*.

As to the second element, Appellant Ridgeway Manor clearly reasonably relied on DSS's court-ordered custodial status. Indeed, Ridgeway Manor had no reason to doubt DSS's authority. DSS employees Ms. Fantasia Hartwell and Ms. Keri Singleton initiated contact regarding the placement, completed intake paperwork in their capacity as court-designated representatives, and signed as "Responsible Party/Resident Representative." Moreover, Mrs. Wright was solely accompanied by state custodians, as she was abandoned by her family. Nothing in DSS's conduct—or the circumstances surrounding the placement—suggested that DSS lacked authority to do the necessary paperwork for Mrs. Wright's admittance to the facility. South Carolina law evaluates reliance from the standpoint of a *reasonable* third party, not based on undisclosed legal limitations. *See R & G Const., Inc. v. Lowcountry Reg'l Transp. Auth.*, 343 S.C. 424, 432, 540 S.E.2d 113, 117 (Ct. App. 2000) (noting reliance is established when "persons of ordinary prudence, reasonably knowledgeable with business usages and customs, are led to believe the agent has certain authority and they in turn deal with the agent based on that assumption"). Appellant Ridgeway Manor's reliance was not only reasonable, but it was also *compelled* by the Family Court Order.[3]

[3] Not only that, but DSS has the statutory power to *require* all persons—including facility staff

Finally, Appellant Ridgeway Manor changed its position in reliance on DSS's apparent authority. By accepting Mrs. Wright as a resident, allocating a bed, providing care, and undertaking contractual and regulatory obligations associated with her admission, Ridgeway Manor materially changed its position to its detriment. This easily satisfies the third element.

Certainly, the Family Court's Order cloaked DSS employees Ms. Fantasia Hartwell and Ms. Keri Singleton with apparent authority to facilitate Mrs. Wright's placement into the facility, which required the execution of the Admission Agreement to effect that placement. An arbitration provision contained in the Admission Agreement does not act as a roadblock to this apparent authority, as it was reasonable for Appellant Ridgeway Manor to believe that DSS had the authority to execute the *entire* agreement, not just portions of it. Accordingly, DSS had apparent authority to execute the Admission Agreement, and the Circuit Court erred in failing to recognize—or even provide any analysis on—that apparent authority.

II. The Circuit Court erred in focusing on Mrs. Wright's competence.

The Circuit Court's analysis rested in part on a premise that was neither legally material nor factually established: that Mrs. Wright was mentally competent at the time of her admission. This focus was erroneous for two primary reasons. First, the Circuit Court's conclusions directly conflict with—and wholly disregard—the Family Court's prior findings of fact and conclusions of law, which determined that Mrs. Wright was a "vulnerable adult" under the APA. Second, in any event, the Circuit Court's focus on competency was legally irrelevant, as either factual scenario yields the conclusion that DSS had the authority to sign the Admissions Agreement.

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members—to cooperate with it when it is providing protective services to a vulnerable adult. S.C. Code Ann. § 43-35-20(5). Accordingly, given DSS's statutory power to command facility cooperation, the APA places DSS in a position where it naturally appears to third parties that DSS possesses the authority to take whatever steps are reasonably necessary to fulfill its protective-services role, regardless of whether each step is spelled out in the Family Court's Order.

A. The Circuit Court's finding conflicts with the Family Court's findings.

The most significant flaw in the Circuit Court's analysis is its outright disregard of the Family Court's findings of fact and conclusions of law, which are entitled to respect and deference.

Quite simply, the Circuit Court cannot just ignore the Family Court's Order. *See Dep't of Soc. Servs. v. Laura D.*, 386 S.C. 382, 386, 688 S.E.2d 130, 132–33 (Ct. App. 2009). This would include the factual findings and conclusions of law contained in that Order. *See Dendy v. Gamble*, 445 S.C. 367, 376–77, 914 S.E.2d 165, 170 (Ct. App. 2025) (finding a family court order could not be ignored, such that the presumptions that flowed from that order could not be denied to the parties who were entitled to it).

Here, the Family Court conducted an evidentiary hearing (notably something the Circuit Court did *not* do) aimed at determining whether Mrs. Wright needed to be taken into protective custody. 5/18/2021 Family Court Order at 1–3. The Family Court determined that Mrs. Wright was a "vulnerable adult" as defined in S.C. Code Ann. § 43-35-10(11), meaning she had "a physical **or** mental condition which substantially impairs [her] from adequately providing for [her] own care or protection." S.C. Code Ann. § 43-35-10(11) (emphasis added). The statute is explicit: a vulnerable adult is, by definition, someone who is impaired. The Family Court, applying this statutory standard, concluded that protective custody was necessary to address an imminent danger to Mrs. Wright's health and safety.

This finding was not limited to medical-consent issues or high-level oversight. It formed the legal basis for the Family Court's Order vesting custody in DSS and directing the agency to place Mrs. Wright in an appropriate medical facility. The Circuit Court, however, failed to grapple with this finding and instead accepted Plaintiff's position that Mrs. Wright was fully competent at admission—even though the Family Court had already concluded otherwise.

The Circuit Court cannot sidestep a prior judicial finding of impairment. Whether Mrs. Wright's impairment was physical, mental, or both, is immaterial; under either scenario, DSS had actual or apparent authority conferred by the Family Court's Order and the APA to act on Mrs. Wright's behalf. Because the Circuit Court appeared to ignore this and make its own finding of fact as to Mrs. Wright's competency, the Circuit Court erred.

B. The Circuit Court's focus on Mrs. Wright's mental competency was legally irrelevant, as either competence scenario supports DSS's authority to execute the Admission Agreement.

Plaintiffs argued below that Mrs. Wright was mentally competent to execute the Admission Agreement, such that DSS did not have the authority to sign it on Mrs. Wright's behalf. Pl.'s Response in Opposition at 7–10. This argument was a red herring, which the Trial Court improperly latched onto. The threshold question of this motion to compel arbitration was not whether the resident was mentally competent, but whether the signatory had authority to execute the agreement on the resident's behalf. As already thoroughly addressed above, the question of DSS's actual or apparent authority is a *legal inquiry* grounded in statutory interpretation; it does not turn on whether Mrs. Wright was mentally competent at the time of admission.

In any event, the Circuit Court appeared to treat competence as a binary condition that either conferred or stripped DSS's authority. That was a false dichotomy. Under either factual scenario—competent or impaired—DSS had authority to sign.

i. If Mrs. Wright was impaired, DSS's actual or apparent authority flowed from the Family Court's Order and the APA.

If Mrs. Wright was impaired, DSS's statutory and court-ordered authority governed. Indeed, the Family Court's finding of vulnerability fundamentally supports the argument that DSS had authority to sign the Admission Agreement as part of carrying out its protective responsibilities. As the entity charged with protective custody and placement, DSS held the actual

or apparent authority (already discussed above) to execute the admission documents.

ii. If Mrs. Wright was competent, DSS's apparent authority flows from Mrs. Wright herself.

Even assuming the Circuit Court was correct that Mrs. Wright was mentally competent at admission, that fact *supports*—rather than defeats—a finding of apparent authority.

As noted above, apparent authority requires a showing "(1) that the purported principal consciously or impliedly represented another to be his agent; (2) that there was a reliance upon the representation; and (3) that there was a change of position to the relying party's detriment." *Charleston, S.C. Registry for Golf & Tourism, Inc.*, 359 S.C. at 643, 598 S.E.2d at 721 (quoting *Graves,* 306 S.C. at 63, 409 S.E.2d at 771). Further, as to the first element, a competent principal may create apparent authority through conscious or voluntary *inaction*. *Froneberger*, 406 S.C. at 47–48, 748 S.E.2d at 630 (noting under this scenario, "the principal implies authority by *passively permitting* another to appear to third parties to have authority to act on his behalf" (emphasis added)).

Here, as to the first element, Mrs. Wright's conduct implicitly held out DSS as her representative. Indeed, Mrs. Wright arrived at Appellant Ridgeway Manor accompanied solely by DSS caseworkers, permitted them to speak for her, allowed them to answer admission questions, and stood by as they executed the required paperwork without objection. She did not attempt to correct their statements, assert personal authority, or sign for herself. From the perspective of Ridgeway Manor staff, Mrs. Wright's conduct conveyed that DSS was her designated representative for purposes of her admission, and Mrs. Wright never acted in a manner contrary to this. Thus, assuming Mrs. Wright was competent—as Plaintiff contends—her conscious or voluntary inaction created the apparent authority necessary for DSS to execute the Admission Agreement which included the arbitration provision. *Cf. Thompson v. Pruitt Corp.*, 416 S.C. 43,

55, 784 S.E.2d 679, 686 (Ct. App. 2016) (finding a dementia patient was *incapable* of creating apparent authority for purposes of signing an arbitration agreement, as "her incapacity prevented her from 'consciously or impliedly' representing another to be her agent").[4]

As to the second element, Appellant Ridgeway Manor reasonably relied on Mrs. Wright's manifestations. Nothing about the interaction suggested DSS lacked apparent authority. Mrs. Wright's presence and acquiescence would cause any reasonable facility staff member to conclude that DSS was acting with her consent.

Finally, Appellant Ridgeway Manor admitted Mrs. Wright in reliance on that perceived authority. Ridgeway Manor accepted obligations and incurred liabilities associated with Mrs. Wright's admission based on the understanding that the documents were validly executed.

Accordingly, even accepting the Circuit Court's finding of Mrs. Wright's competence, that finding supports Mrs. Wright's ability to supply any necessary authority, since she could bestow such power. If, alternatively, Mrs. Wright was not competent because of her status as a vulnerable adult (as found by the Family Court), then DSS's statutory and court-ordered authority would have applied. Either factual scenario yields authority for DSS to sign. Plaintiff's focus on competency was a red herring, and the Circuit Court erred in taking that bait.

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[4] The Circuit Court found there was "no evidence that Mrs. Wright was involved in the execution of the paperwork or that it was discussed with, or explained to, her despite her being mentally competent." 8/19/2024 Order at 2. The Circuit Court further found there was "no indication" that Mrs. Wright consented to DSS workers signing the Admission Agreement or that "she was even consulted on the matter." 8/19/2024 Order at 5–6. The Circuit Court's finding is factually unsupported, as DSS representatives Ms. Hartwell and Ms. Singleton both expressly attested in writing that Mrs. Wright had "expressly vested in me the authority to sign this Agreement on the resident's behalf." Admission Agreement at 9, 13. In other words, the Circuit Court relied on an asserted evidentiary void to make its factual findings, despite the presence of written evidence in the record that squarely contradicts its conclusion. A factual finding supported only by the *absence* of evidence cannot stand where, as here, evidence in the record affirmatively undermines it. *See Wilson*, 426 S.C. at 335, 827 S.E.2d at 172 (noting factual findings "will not be reversed on appeal if *any evidence* reasonably supports those findings" (emphasis added)).

III. In the alternative, Plaintiff is equitably estopped from denying the import of the arbitration provision.

Even if this Court were to conclude that DSS lacked actual or apparent authority to execute the Admission Agreement, the Circuit Court's ruling must be reversed because Plaintiff is equitably estopped from denying the arbitration provision's enforceability.

The theory of equitable estoppel can preclude parties from asserting their nonsignatory status, compelling them to submit their claims to arbitration. *Wilson*, 426 S.C. at 339, 827 S.E.2d at 174. Under this theory, a "nonsignatory is estopped from refusing to comply with an arbitration clause 'when it receives a direct benefit from a contract containing an arbitration clause.'" *Pearson*, 400 S.C. at 290, 733 S.E.2d at 601 (quoting *Int'l Paper Co.*, 206 F.3d at 418). "In the arbitration context, the doctrine recognizes that a party may be estopped from asserting that the lack of his signature on a written contract precludes enforcement of the contract's arbitration clause *when he has consistently maintained that other provisions of the same contract should be enforced to benefit him.*" *Id.* (emphasis in original) (quoting *Int'l Paper Co.*, 206 F.3d at 418).

Specifically, the Circuit Court's ruling was erroneous because (1) the Circuit Court's refusal to apply equitable estoppel rested on the incorrect assumption that the arbitration provision was a separate, stand-alone document like the arbitration forms in *Hodge*[5] and *Solesbee*[6]; and (2) the underlying facts establish that Plaintiff is estopped from accepting the benefits of Admission Agreement while repudiating its dispute-resolution mechanism contained within.

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[5] *Hodge v. UniHealth Post-Acute Care of Bamberg, LLC*, 422 S.C. 544, 556, 813 S.E.2d 292, 299 (Ct. App. 2018).

[6] *Est. of Solesbee by Bayne v. Fundamental Clinical & Operational Servs., LLC*, 438 S.C. 638, 648, 885 S.E.2d 144, 149 (Ct. App. 2023), *reh'g denied* (Apr. 14, 2023), *cert. denied* (Apr. 16, 2024).

A. The arbitration provision is not a separate contract; it is part of the Admission Agreement itself.

The Admission Agreement included an arbitration provision in an addendum, making it part of one, singular document. The Circuit Court erred in finding otherwise.

Indeed, the Circuit Court relied on *Hodge* and *Solesbee* in making its determination. 8/19/2024 Order at 5. Both *Hodge* and *Solesbee* based their reasoning on our Supreme Court's ruling in *Coleman*[7] and the Court of Appeals' opinion in *Thompson*.[8] These four cases repeatedly emphasized that estoppel was unavailable because the arbitration agreements in those cases were separate, independent contracts, evidenced by: different governing-law provisions, separate pagination, a separate signature page, express language stating the arbitration agreement was "voluntary" or "not a condition of admission," express revocation rights not found in the admission agreement, and contractual language declaring the documents to be distinct. *See Coleman*, 407 S.C. at 355–56, 755 S.E.2d at 455; *Est. of Solesbee by Bayne*, 438 S.C. at 648–49, 885 S.E.2d at 149; *Hodge*, 422 S.C. at 562–63, 813 S.E.2d at 302; *Thompson*, 416 S.C. at 60, 784 S.E.2d at 688.

Here, however, hardly any of these elements are present, such that the merger analysis is easily satisfied for **seven reasons**. As an initial matter, the *very first sentence* <u>of the first page</u> of the Admission Agreement states in bold, underlined text: **"<u>THIS AGREEMENT IS SUBJECT TO ARBITRATION PURSUANT TO S.C. CODE SECTION 15-48, ET SEQ, AS MODIFIED THEREIN.</u>"** Admission Agreement at 1 (emphasis in original). Quite clearly, the Admission Agreement made it known—loudly—that it contained an arbitration provision. This is the polar opposite of the admission agreements discussed in *Coleman*, *Solesbee*, *Hodge* or *Thompson*, as those admission agreements made no mention of arbitration whatsoever.

[7] *Coleman v. Mariner Health Care, Inc.*, 407 S.C. 346, 355, 755 S.E.2d 450, 455 (2014).
[8] *Thompson v. Pruitt Corp.*, 416 S.C. 43, 58, 784 S.E.2d 679, 687 (Ct. App. 2016).

Second, the arbitration provision appears within a single, consecutively paginated document. The Admission Agreement contains twenty-six consecutively numbered pages. The arbitration provision falls on pages ten through twelve of that same set, without any restart of pagination. *See* Admission Agreement at 10–12. This stands in stark contrast to *Hodge* and *Solesbee*, where those arbitration agreements began on page one of a different document and bore no indication that they were part of the corresponding admission contracts.

Third, every page—including the arbitration pages—contains the exact same document footer: "Admission & Financial Agreement." This uniform footer demonstrates the parties intended the agreement to function as **one integrated document**. Appellants have been unable to find a South Carolina case rejecting an estoppel argument involving a contract in which every page, including the arbitration portion, was expressly identified as part of the same overarching agreement. The Circuit Court stubbornly ignored this. *See* 4/14/2025 Order (denying Appellants Motion for Consideration and merely stating the "Court's analysis stands" regarding estoppel).

Fourth, although there is a separate signature page for the arbitration provision, *this is not unique* to the arbitration provision. To the contrary, the Admission Agreement contains multiple signature pages throughout the entire document. *See, e.g.*, Admission Agreement at 13, 18, 20–21. In fact, the Admission Agreement required signature initials at the bottom of each page. *See* Admission Agreement at 1–26. Unless each and every page was its own, standalone contract, the Circuit Court's reliance on this was misplaced.

Fifth, the arbitration section states—*in the very first sentence*—it "is an addendum to and part of the Admission Agreement." Admission Agreement at 10. This language eliminates any possible belief that the arbitration provision is a separate contract. If the arbitration provision "is an addendum to *and part of* the Admission Agreement," then—unlike the documents in *Hodge*

and *Solesbee*—there has been a merger. The Circuit Court also appeared to ignore this, along with every other sign pointing unmistakably to the existence of one cohesive contract.

Sixth, there is no language that states the arbitration provision is somehow voluntary or not necessary for admission into the facility. To the contrary, executing the Admission Agreement is required for a person to stay in the facility, and the *very first sentence* of the first page of the Admission Agreement states in bold, underlined text that the agreement is subject to arbitration. *See* Admission Agreement at 1 (**"THIS AGREEMENT IS SUBJECT TO ARBITRATION PURSUANT TO S.C. CODE SECTION 15-48, ET SEQ, AS MODIFIED THEREIN."** (emphasis in original)); Admission Agreement at 5, Art. 6.1 (noting if a resident terminates the agreement, they "must leave the facility").

Seventh, there is no conflict in governing law. The Circuit Court suggested the arbitration provision here was governed by state or federal law while the Admission Agreement was governed by state law, analogizing *Hodge* and *Solesbee*. 8/19/2024 Order at 5 n.3. But it is unclear how the Circuit Court came to this conclusion. The arbitration provision does not contain a standalone governing-law clause. This is because the Admission Agreement *already has a governing law* clause. Thus, because the arbitration provision *is a part of the Admission Agreement*, none is needed in the arbitration provision. *See* Admission Agreement at 7, Art. 17.1.

The only relevant language in the arbitration provision states: "damages, if any, awarded in an arbitration … shall be determined in accordance with the provisions of the State or Federal law applicable to a comparable civil action." Admission Agreement at 11. This clause pertains only to damages, not governing law. It simply ensures that the same substantive tort-law rules (whether state or federal, depending on the claim) apply in arbitration. It does not create the type of conflicting governance found in *Hodge*, *Coleman*, or *Solesbee*.

Indeed, the Admission Agreement repeatedly references "applicable state *and* federal law" to acknowledge the Agreement will adhere to whatever applicable laws may be germane to various situations. *See, e.g.*, Admission Agreement at 5, Art. 6.2 (stating the facility may terminate the agreement and transfer the resident "in accordance with applicable state and federal laws"); Admission Agreement at 8, Art. 21.2 (acknowledging a resident has been informed of their rights "under Federal and State law"); Admission Agreement at 17 (noting assignment is valid under "applicable federal and state laws").

Moreover, **every page** of the Admission Agreement, including pages with the arbitration provision, is uniformly stamped with language regarding choice of law: "Any liability assumed is subject to limitations of the rules, regulations, policies, and procedures of the South Carolina Department of Social Services and Federal Law governing the participation of the agency in social service programs." *See* Admission Agreement at 1–26. To assert that there is a conflict in the governing law here because the Admission Agreement references state and federal law completely ignores the system of federalism that is the foundation of the United States legal system, the Supremacy Clause at Sec. 2 of the U.S. Constitution, and the plethora of case law regarding the FAA, 9 U.S.C. §§ 1-16.[9] Because there is no inconsistency in governing-law provisions, another critical factor relied upon by Circuit Court to reject merger is absent here.

At bottom, these facts distinguish this case sharply from *every* South Carolina decision in which estoppel was rejected. Because the arbitration provision here is part of a unified contract under which Plaintiff seeks to impose duties on the facility, equitable estoppel applies. The Circuit Court erred in ruling otherwise.

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[9] *See Preston v. Ferrer*, 552 U.S. 346, 359, 128 S. Ct. 978, 987 (2008) (referencing the FAA and noting "When parties agree to arbitrate all questions arising under a contract, the FAA supersedes state laws lodging primary jurisdiction in another forum, whether judicial or administrative").

B. Because the Admission Agreement is a singular contract and Mrs. Wright derived direct benefits from the Admission Agreement containing the arbitration provision, Plaintiff is estopped from denying the import of the arbitration provision.

Plaintiff's claims arise exclusively from the duties, care, and services Appellant Ridgeway Manor provided under the Admission Agreement; Plaintiff cannot accept the benefits of that contract while repudiating its dispute-resolution mechanism that was contained within.

"Equitable estoppel precludes a party from asserting rights he otherwise would have had against another when his own conduct renders assertion of those rights contrary to equity." *Int'l Paper Co.*, 206 F.3d at 417–18 (citation and internal quotation marks omitted). "A nonsignatory is estopped from refusing to comply with an arbitration clause when it receives a direct benefit from a contract containing an arbitration clause." *Id.* at 418 (citation and internal quotation marks omitted). Furthermore, under South Carolina law, "a personal representative of a decedent domiciled in this State at his death has the same standing to sue and be sued in the courts of this State and the courts of any other jurisdiction as his decedent had immediately prior to death." S.C. Code Ann. § 62-3-703(c). Thus, Plaintiff is bound in her capacity as personal representative if Mrs. Wright would have been bound immediately prior to her death. *See THI of S.C. at Columbia, LLC v. Wiggins*, No. CA 3:11-888-CMC, 2011 WL 4089435, at *5 (D.S.C. Sept. 13, 2011).

Here, Plaintiff's claims derive directly from the Admission Agreement, and Appellant Ridgeway Manor relied on this Agreement. Specifically, Plaintiff's claims indisputably arise from: Mrs. Wright's admission to Ridgeway Manor; the duties of care created by that admission; the facility's performance of services under the contract; and the very relationship that the Admission Agreement established. Appellant Ridgeway Manor relied on the Admission Agreement when admitting Mrs. Wright and changed its position by accepting Mrs. Wright into the facility, allocating a bed and resources, providing medical and custodial care, and undertaking all

regulatory and contractual obligations associated with the Admission Agreement.

These duties arose directly from the very contract Plaintiff now seeks to selectively enforce. Plaintiff, as Mrs. Wright's daughter, embraced all aspects of DSS's decision to admit Mrs. Wright to the Facility and to enter into the Admission Agreement with the Facility. Plaintiff does not dispute the validity of the Admission Agreement or her mother's admission to the Facility. She never removed Mrs. Wright from the Facility and, by all accounts, approved of Mrs. Wright's presence at the Facility/did not seek her discharge. Indeed, it is as unfortunate as it is correct to highlight that Plaintiff had an opportunity to seek custody of her mother (but did not), however, willingly accepted all benefits of DSS being her mother's legal custodian as of May 20, 2021.

Accordingly, it would be manifestly inequitable to permit a party (Plaintiff) to claim the other party (Ridgeway Manor) is liable in tort based upon a contractual relationship, while at the same time allowing Plaintiff to avoid the arbitration provision of the contract upon which Plaintiff bases her claims when such claims are in the scope of the arbitration provision. *See Wilson*, 426 S.C. at 344, 827 S.E.2d at 177 (noting, in the South Carolina case of *Pearson*, the nonsignatory doctor "clearly received a direct benefit from the hospital's contract with another entity because [the nonsignatory doctor] was able to work at the hospital and receive payment for his work due to the contract containing the arbitration clause"); *see also Int'l Paper Co.*, 206 F.3d at 417–18 (finding a buyer was bound to arbitrate claim against manufacturer even though it was not a signatory to manufacturer-distributor contract because the contract provided the factual foundation for every claim asserted by the buyer). In other words, Plaintiff cannot "have it both ways" by relying upon certain terms of the Admission Agreement when it works to her advantage and repudiating the arbitration provision when it works to her disadvantage.

Notably, in all of the cases cited by the Circuit Court below, the plaintiff or decedent did

not receive direct benefits from the arbitration agreement because it was not part of the contract that facilitated the admission. *See Solesbee*, 438 S.C. at 648–49; *Hodge*, 422 S.C. at 564; *Thompson*, 416 S.C. at 59–60, 784 S.E.2d at 688.

Here, by contrast, the arbitration provision is embedded in the Admission Agreement—the very document under which Mrs. Wright was admitted and through which Plaintiff now seeks to impose duties of care. Mrs. Wright's entire relationship with Appellant Ridgeway Manor, and thus the entire basis for the negligence claim, flows directly from the contract containing the arbitration provision. This is precisely the type of intertwined relationship that triggers estoppel.

Indeed, this very scenario has played out to bind estates to an arbitration provision contained within an admissions contract. For example, in *THI of S.C. at Magnolia Manor-Inman, LLC v. Gilbert*, Judge McDonald applied, and Judge Hendricks adopted, estoppel principles to compel arbitration in the same exact setting where a DSS Representative signed on behalf of a "vulnerable adult," ruling:

> [H]ere, having obtained for Ms. Gilbert the benefits of admission and treatment at Magnolia Manor–Inman pursuant to the Admission Contract, the defendant is estopped from denying the enforceability of the Arbitration Provision. Based upon the foregoing, the undersigned finds that the defendant is bound by the Admissions Contract and its Arbitration Provision.

THI of S.C. at Magnolia Manor-Inman, LLC v. Gilbert, No. 7:13-CV-2929-BHH, 2014 WL 6863550, at *4 (D.S.C. Oct. 31, 2014), *report and recommendation adopted,* No. CIV.A. 7:13-2929-BHH, 2015 WL 1268185 (D.S.C. Mar. 19, 2015). Likewise, in *THI of S.C. at Columbia, LLC v. Wiggins*, Judge Currie held:

> It is undisputed that the Contract was signed by an immediate family member of Hall (Wiggins) for the purpose of obtaining residential care for Hall at Magnolia Manor. After execution of the Contract, Hall became a resident of Magnolia Manor and, for an extended period of time, received the benefits provided for in the Contract. Under these circumstances, where the entity operating Magnolia Manor performed in reliance on the terms of the Contract and Hall received the benefit of

> the Contract, it would be inequitable for Hall's estate (through its personal representative, Wiggins) to avoid the Contract's Arbitration Provision.

THI of S.C. at Columbia, LLC v. Wiggins, No. CA 3:11-888-CMC, 2011 WL 4089435, at *6 (D.S.C. Sept. 13, 2011).

Unlike the plaintiffs in *Hodge*, *Solesbee*, and *Thompson*, Mrs. Wright derived all of the benefits, services, and rights she enjoyed at Ridgeway Manor—her residency, her care, her room, her meals, her medical services—only because of the Admission Agreement that contains the arbitration provision.

Where claims "arise out of or relate to" the contractual relationship—as they unquestionably do here—equitable estoppel applies. As previously noted, Plaintiff does not challenge the authority of DSS to enter into the Admission Agreement, but argues the arbitration provision contained within that Agreement should be excluded. This type of inconsistent stance is precisely when equitable estoppel steps in to prevent Plaintiff from "having it both ways." *See, e.g.*, *McCutcheon v. THI of S.C. at Charleston, LLC*, No. 2:11-CV-02861, 2011 WL 6318575, at *3 (D.S.C. Dec. 15, 2011) ("It would be inequitable, for example, to allow plaintiff to assert that Elijah McCutcheon had authority to sign the Admissions Agreement on behalf of Carmela McCutcheon, but lacked such authority to sign the Arbitration Agreement."). Accordingly, the Circuit Court erred in finding equitable estoppel was inapplicable.

CONCLUSION

For all of the foregoing reasons, Appellants respectfully request that the Circuit Court's denial of the underlying motion be reversed, that arbitration be compelled.

Respectfully submitted,

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PROOF OF SERVICE

I, the undersigned of the law offices of Gordon Rees Sculls Mansukhani LLP, attorneys for Appellants Ridgeway Manor Healthcare Center, LLC, Deborah Sparks and James McCollum, do hereby certify that I have served all parties to this appeal with a copy of the pleading(s) specific below by emailing them at the addresses below:

Pleading(s): Initial Brief of Appellants Ridgeway Manor Healthcare Center, LLC, Deborah Sparks, and James McCollum

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