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SC Court of Appeals

**FORM 13
BRIEF OF APPELLANT***

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas

Michael G. Nettles, Circuit Court Judge

Appellate Case No. 2025-001033
Case No. 2024-CP-26-04912
Magistrate Case No. 2023CV261093929

Sunshine Rental Properties,

Respondent,

v.

Chunyan Gu,

Appellant.

REPLY BRIEF OF APPELLANT

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* Under Rule 267(e), SCACR, the cover of the final briefs should be the following colors: brief of appellant - blue; brief of respondent - red; reply brief - gray; and amicus curiae or intervenor - green.

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ARGUMENTS

1. Reply to Respondent’s Argument on Timeliness of Appeal

Respondent contends that Appellant’s appeal was properly dismissed as untimely because the filing was received after the thirty-day period. Appellant does not dispute that filing is generally complete upon delivery to the clerk. However, Respondent’s brief ignores evidence showing that Appellant mailed the appeal well within the required period and would provide certified mailing receipts (R. at 33) demonstrating timely submission. The delay in receipt was the result of postal delivery, not neglect or failure by Appellant. As stated in the Initial Brief, these facts establish excusable neglect and warrant consideration of the appeal on its merits. No new argument is raised here—only clarification in response to Respondent’s mischaracterization.

2. Reply to Respondent’s Argument That the Court of Appeals Should Affirm the Circuit Court’s May 6, 2025, Order

I. The Circuit Court’s Ruling Relied on an Incorrect Factual Premise

Although Respondent does not repeat it here, in the hearing before the Circuit Court Respondent’s counsel asserted that “all factual issues have already been heard and decided by the magistrate” (Tr. p. 19, l. 20–22). That assertion was incorrect and not supported by the record. Appellant did not appear or present evidence in the magistrate proceeding, and thus no factual issues involving Appellant’s position were ever “heard” or “decided.”

The Circuit Court nevertheless adopted that statement as the basis for its ruling, stating that the matter involved “factual issues determined by the magistrate” (Tr. p. 20, l. 12–21). By accepting that mistake, the Circuit Court effectively foreclosed review of Appellant’s legal arguments and denied meaningful appellate consideration. This constitutes legal error and warrants reversal or, at minimum, remand for proper review on the merits. Under

Rule 210(h), SCACR, appellate review is confined to the Record on Appeal. The Circuit Court's reliance on a mistaken factual premise (Tr. p. 20, l. 12–21) therefore constitutes legal error.

II. The Circuit Court Overlooked the Fundamental Dispute Over Responsibility for Repair Costs

At the heart of this appeal is the question of who bears responsibility for the repair costs to the Subject Property. Sunshine RP's own communications acknowledge that the tenant was responsible for the majority of those costs, as reflected in the emails between the appellant and Sunshine Rental (R. at 25). Nevertheless, Respondent later asserted that it possessed full authority to order all repairs and that Appellant was liable for most of the cost. This conflicting position concerns the scope of contractual authority under the management agreement, a legal issue that was never properly addressed by the lower courts.

The Circuit Court's reliance on the claim that these issues had already been "presented" is incorrect. Because Appellant did not attend the Magistrate Court hearing, no such factual defenses or documentary evidence were before that court. The emails are therefore critical to determining whether the magistrate's judgment was legally and factually supported, and the Circuit Court erred by failing to consider them.

III. Respondent's Claim of Unlimited Repair Obligation Is Unsupported by the Record.

Respondent's statement that "various repairs were needed at the Subject Property, including, without limitation, interior painting and wallpaper repair" (Resp. Br. p. 1) mischaracterizes both the record and the parties' communications. The record shows that a Sunshine RP representative stated in an email dated July 12, 2022 (R. at 25), that the tenant would be responsible for most of the painting and wallpaper repair costs. That individual, however, was not the final decision-maker. After receiving that email,

Appellant followed up in email to request confirmation of the amount Appellant was expected to pay (July 14, 2022, (R. at 25)). Sunshine RP never responded. The absence of any reply or itemized statement contradicts Respondent’s claim that Appellant was responsible for open-ended or “unlimited” repairs.

Moreover, email correspondence in connection with another rental property managed by Sunshine RP confirms that the company’s policy was to handle only tenant-related repairs, while owners remained responsible for other maintenance (including painting the walls, even though the tenant left numerous nails and holes on the walls) (emails July 3, 2024 to July 9, 2024. Email copies not included in Record of Appeal since they were not part of consideration at Court of Common Pleas but will be provided upon request). This consistent practice further undermines Respondent’s assertion that Appellant had agreed—or was otherwise obligated—to pay for all repairs “without limitation.”

IV. Respondent’s notes that certain authorities cited in Appellant’s Initial Brief could not be located

Respondent notes that certain authorities cited in Appellant’s Initial Brief could not be located (Resp. Br. pp. 6–7). Appellant acknowledges that some references were derived from secondary sources summarizing South Carolina law rather than from the original opinions themselves. Those references were included only to illustrate general legal principles, not as controlling precedent. Appellant relies primarily on the record and the rules of this Court in support of the arguments presented.

CONCLUSION

For the reasons stated above and in Appellant's Initial Brief, the Circuit Court's May 6, 2025, order should be reversed, or in the alternative, remanded for proper consideration of the merits based on the full record and applicable law.

Respectfully submitted,

Dec. 2, 2025

/s/ Chunyan Gu

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