

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT
IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

2026 JAN -5 PM 4: 32
JERRI ANN ROSENEAU
BEAUFORT COUNTY, S.C.
CLERK OF COURT

Tony Williams, Plaintiff,

v. CASE NO: 2025-CP-07-01666

Lowe's Home Centers, LLC, and Andrew Melling, Defendants.

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SC Court of Appeals

PLAINTIFF'S REPLY IN SUPPORT OF RULE 59(e) MOTION

Plaintiff Tony Williams, appearing *pro se*, submits this Reply to address manifest errors of law, structural defects, and documented extrinsic fraud in the 12/17/25 Order. This memorandum specifically preserves these issues for appellate review and tolls the time for appeal pursuant to *Elam v. South Carolina Dep't of Transp.*, 361 S.C. 9 (2004).

I. CONSOLIDATED PROCEDURAL HISTORY: THE TIMELINE OF DECEPTION

The 12/17/25 Order is the "poisoned fruit" of a calculated sequence of "Double-Talk" spanning two separate case filings, designed to strip a disabled veteran of his Due Process rights through extrinsic fraud.

A. The 2024 Discovery Harvest (Case No. 2023-CP-07-01623)

1. **Direct Knowledge of Injuries:** On February 2, 2024, Defendant Melling's staff (Lisa Gibson) confirmed in writing the initiation of medical discovery and receipt of Plaintiff's authorizations.
2. **Possession of Records:** Throughout 2024, Defendants utilized these authorizations to harvest Plaintiff's MRI, tendon rupture reports, and VA psychiatric records via ShareFile.
3. **Judicial Admission:** On **December 9, 2024**, Defendant Melling filed a Motion for Sanctions in the 2023 case, explicitly admitting he possessed medical releases and had "obtained additional records" from providers. He further admitted knowledge of Plaintiff's **VA Disability status**.

B. The 2025 Character Assassination and Recusal

1. **Defamation Per Se:** On June 10, 2025, Melling filed a Supplemental Memo intentionally misquoting Plaintiff's email inquiries as "accusations" of racism and racketeering.
2. **Fabricated Criminality:** Melling represented to the Court that Plaintiff had a **"3rd Degree Domestic Violence arrest in Jasper County."** This record is non-existent.

3. **Ex Parte Exposure:** In August 2025, Melling was caught in unauthorized *ex parte* communications with Judge Mullen's staff (Robert Schockman) regarding the drafting of orders. Following this exposure and the revelation of the fabricated "DV Arrest," **The Honorable Carmen T. Mullen recused herself.**

C. The 2025 Jurisdictional Lock and the "Ghost Order"

1. **Total Default:** On **September 10, 2025**, Defendants entered a state of **Certified Default** in the instant matter by failing to answer the Amended Complaint.
2. **The Ambush:** On December 17, 2025, while in un-vacated Default and ignoring a pending Motion for Disqualification and Recusal, Melling drafted a "Ghost Order" claiming Plaintiff "provided nothing"—a direct contradiction of his own prior signed admissions.

II. THE LEGAL EFFECT OF TOTAL DEFAULT (RULE 55, SCRPC)

As a matter of law, **both Defendants (Lowe's and Melling) are in Default.** Under South Carolina law, a defaulting party is "deemed to have admitted the well-pleaded allegations of fact alleged in the claim and to have conceded liability." *Roche v. Young Bros.*, 332 S.C. 75, 81 (1998).

1. **Admission of Injury and Possession:** By failing to answer, Defendants have legally admitted Plaintiff's allegations of severe physical and psychiatric injury and their possession of medical records (MRI, tendon rupture, and VA records) via ShareFile since February 2024.
2. **Standing and Rule 55(c) Bar:** Under *Thynes v. Lloyd*, 294 S.C. 152 (1987), entry of default is a ministerial act. Because **neither Defendant** moved to vacate the default under **Rule 55(c)**, they lacked standing to seek a Rule 12 dismissal.
3. **Waiver of Merits:** Per *Stono River, LLC v. HMB Investments, LLC*, 399 S.C. 326 (2012), a party in default **waives the right to contest the merits.** The 12/17/25 Order is a procedural nullity for granting merits-based relief to "legally invisible" parties.

III. MEMORANDUM OF POINTS AND AUTHORITIES

A. Non-Waivable Conflict of Interest and Structural Error

A conflict exists under **Rule 1.7, RPC**, if a lawyer's personal interests materially limit the representation. Defendant Melling's personal interest in concealing the 2024 discovery to avoid fraud charges created a non-waivable conflict. Under *State v. Quattlebaum*, 338 S.C. 441 (2000), allowing a defendant-attorney with a personal interest in the outcome to ghostwrite the Court's findings—while motions for disqualification are pending—is a **Structural Error** that violates Due Process.

B. Vicarious Liability and Corporate Ratification

Defendant Lowe's Home Centers, LLC is 100% vicariously liable for the fraud of its agent, Andrew Melling.

- **Scope of Agency:** Melling acted as the legal voice for Lowe's during the February 2024 "harvest" of records.
- **Ratification:** Lowe's was served with a **Notice of Vicarious Liability**. By failing to repudiate Melling's "Ghost Order" and ShareFile concealment, Lowe's has legally ratified the Malicious Prosecution, IIED, abuse of process and Defamation Per Se under *Crittenden v. Thompson-Walker Co., Inc.*, 288 S.C. 112 (1986).

C. Manifest Error Under Morrow Crane

The 12/17/25 Order cites *Morrow Crane Co. v. T.R. Tucker Const.*, 296 S.C. 427 (1988), which mandates the Court "must presume all well-pleaded facts to be true." By requiring proof of injury at the pleading stage—and ignoring that these injuries were already admitted via default—the Court inverted the legal standard.

D. Absolute Privilege vs. Extrinsic Fraud

Per *Gaar v. North Myrtle Beach Realty Co.*, 287 S.C. 525 (1985), attorney immunity does not protect **Extrinsic Fraud**. Suppressing known 2024 discovery (specifically the confirmations from staff members Gibson and Lucas) to induce a "futility" finding is a tortious act outside the scope of protected advocacy.

E. Eggshell Plaintiff Doctrine and Outrage

Defendants knew of Plaintiff's status as a 100% disabled veteran. Under the **Eggshell Plaintiff Doctrine**, a tortfeasor "takes the victim as he finds him." *Schaefer v. Miller*, 322 S.C. 267 (1996). The execution of an "Administrative Ambush" (the JIC-less Order) intended to trigger a psychiatric collapse constitutes **Outrage** under *Ford v. Hutson*, 276 S.C. 157 (1981).

F. Structural Error: Recusal & The Mullen Precedent

It is a matter of record that the previous presiding judge, **The Honorable Carmen T. Mullen**, recused herself from this litigation.

1. **Judicial Admission of Risk:** A recusal under **Canon 3(E)** is a formal acknowledgment that a judge's impartiality might "reasonably be questioned."
2. **The Threshold Bar:** Proceeding to a 12/17/25 dismissal without first ruling on Plaintiff's **Motion for Recusal** is a structural error that defies "harmless-error" standards. *State v. Quattlebaum*.

G. Rebuttal of "Failure to Show" / Due Process

Defendant Melling alleges Plaintiff "failed to show" for the hearing. However, any such failure is a byproduct of the **Administrative Ambush** and the lack of a mandatory **Judicial**

Identification Code (JIC) on court notices. Furthermore, a Court cannot hold a "merits hearing" while a party is in **Default**. Per *Stono River*, the only hearing permitted while a defendant is in default is a **Rule 55(b)(2) Damages Hearing**. To use a hearing to dismiss a case against a defaulted defendant is a manifest perversion of the South Carolina Rules of Civil Procedure.

IV. PRESERVATION OF APPEALABLE ISSUES

Plaintiff specifically preserves and **REQUESTS A SPECIFIC RULING** on:

1. **Conflict/Ghost Order:** Is an order void when ghostwritten by a Defendant-Attorney with a non-waivable Rule 1.7 conflict while a disqualification motion is pending?
2. **Standing:** Does a party in default have standing to seek a Rule 12(b)(6) dismissal without first prevailing on a Rule 55(c) motion?
3. **Extrinsic Fraud:** Whether the trial court committed manifest error by finding Plaintiff "provided nothing," despite written confirmation dated February 2, 2024, acknowledging receipt of discovery.
4. **Recusal/Disqualification Priority:** Did the Court err as a matter of law by granting a dismissal while motions for **Recusal of the Judge** and **Disqualification of Counsel** remained pending and unaddressed?
5. **Due Process / Notice:** Whether the 12/17/25 Order is void for lack of Due Process if the hearing proceeded on the "merits" despite the Defendants being in **active Default** and the Plaintiff lacking proper notice of a dispositive hearing.
6. **Structural Integrity:** Whether the verbatim adoption of a "Ghost Order" drafted by an attorney facing a pending Disqualification Motion violates the **Purity of the Judicial Process**.

PRAYER FOR RELIEF: Plaintiff Moves the Court to **VACATE** the 12/17/25 Order as void; **STRIKE** Defendants' barred filings; and schedule a **Rule 55(b)(2) Damages Hearing** for **\$30,000,000.00**.

Respectfully submitted,

 1/5/26
s/ **Tony Williams**, Plaintiff Pro Se

Dated: January 5, 2026