

**RECEIVED**

**Jan 16 2026**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

The Honorable George M. McFaddin, Jr., Circuit Court Judge

Case No. 2024-CP-10-04530  
Appellate Case No. 2025-001313

Scott R. Manna,ta,

Appellant,

v.

Jack Sinclair,

Respondent.

**Respondent's Motion to Dismiss and Motion to Stay Briefing Deadlines**

This appeal stems from a dispute related to the guardianship of Jake Manna,ta, the son of Appellant.<sup>1</sup> Following an emergency petition for the appointment of a guardian over an allegedly incapacitated individual, Respondent was appointed as counsel for the allegedly incapacitated individual, Jake Manna,ta. (Ex. A, Tr. at 8:8-13). On or about January 22, 2024, the probate court appointed Dana Manna,ta, the mother of Jake Manna,ta, and ex-wife of Appellant, as the sole limited guardian. (Ex. B, Order Granting Motion to Dismiss at 1-2). Plaintiff filed suit against Respondent shortly thereafter, alleging legal malpractice made during the representation of Jake

<sup>1</sup> See *Jake Manna,ta, a ward, Dana Manna,ta v. Jake Manna,ta, an alleged incapacitated individual and Scott Manna,ta, next of kin*, Case No.: 2022-GC-10-0078.

Mannetta during the guardianship matter. (Ex. B, Order Granting Motion to Dismiss at 2). Respondent moved for dismissal. (Ex. B, Order Granting Motion to Dismiss at 1-2; Ex. C, Motion to Dismiss; Ex. D, Memorandum in Support of Motion to Dismiss). On February 28, 2025, the circuit court held a hearing on the motion for a dismissal. (Ex. A, Tr.; Ex. B, Order Granting Motion to Dismiss at 1). Pursuant to 12(b)(6), SCRCF, the circuit court granted Respondent's motion to dismiss, finding that Respondent owed no duty to Appellant and that Appellant failed to comply with S.C. Code Ann. § 15-36-100 (requiring the filing of an expert affidavit in professional negligence actions). (Ex. B, Order Granting Motion to Dismiss at 2-4).<sup>2</sup>

Plaintiff filed his Notice of Appeal on May 30, 2025. On August 22, 2025, this Court issued an Order allowing the late filing of the Notice of Appeal. On August 27, Appellant ordered the transcript. On October 27, 2025, the transcript was delivered. On October 28, this Court sent a deficiency letter to Appellant regarding the lack of proof of service. On the same day, Appellant filed proof of service. On October 31, 2025, Appellant filed an affidavit and "motion." Respondent filed a return to the affidavit and "motion" on November 7, 2025. On December 3, 2025, this Court denied Appellant's affidavit and "motion" in its entirety and required Appellant to file and serve his initial brief and designation of matter to be included in the record on appeal.

On January 5, 2026, Appellant filed his initial brief and designation of matter to be included in the record on appeal. On January 6, 2026, this Court issued a deficiency letter noting that the initial brief, designation of matter, and proof of service were not signed. On January 6, 2026, Appellant filed copies purporting to correct the deficiencies.<sup>3</sup>

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<sup>2</sup> The circuit court denied Appellant's Rule 59(e), SCRCF, motion on April 21, 2025.

<sup>3</sup> At the time of the filing of this motion, Respondent has not received service of Appellant's initial brief or designation. Respondent reserves arguments related to failure to properly serve the initial brief and designation pursuant to the direction of this Court in its January 6, 2026, Deficiency Letter, Rule 208(a)(1), SCACR, and Rule 260(a), SCACR. Appellant's certificate of service notes that it was served upon counsel by U.S. Mail "and/or" electronic service. The undersigned did not receive electronic service of Appellant's initial brief by January 5, 2026, and at the time of filing

## ARGUMENT

Rule 208(b)(1), SCACR, provides certain content requirements for the initial briefs of the parties. In relevant part, the rule requires that the initial briefs of appellants have: (1) table of contents and cases; (2) statement of issues on appeal; (3) statement of the case; (4) standard of review; (5) argument; and (6) conclusion. Rule 260(a), SCACR, allows for the clerk to involuntarily dismiss an appeal for failing to comply with the requirements of the South Carolina Appellate Court Rules.

The requirements of Rule 208(b)(1), SCACR, set forth the bare minimum that appellants must include in their initial briefs. *See id.* This assists respondents (as well as this Court) in accurately determining what issues are being appealed and the arguments that respondents need to actually respond to. Appellant's initial brief is merely a restatement of his underlying complaint with minor changes. (*See App. Initial Brief, Ex. A, Complaint*). Of note, Appellant's initial brief contains no statement of issues on appeal, standard of review, or argument on any relevant issues which may be on appeal. *See Rule 208(b)(1), SCACR.* Appellant's failure to include any statement of issues on appeal, standard of review, or coherent argument regarding any issues on appeal renders it impossible for Respondent to identify in what way Appellant believes the circuit court erred, and for what reasons the Appellant believes the circuit court erred. Appellant has continually failed to comply with the South Carolina Appellate Court Rules. *See Rule 260(a), SCACR.* For these reasons, Appellant's appeal should be dismissed.

Even if this Court construes Appellant's initial brief to meet the minimum requirements of Rule 208(b)(1), SCACR, Appellant failed to provide citation to any relevant legal authority. (*See App. Initial Brief*). Parties *must cite supporting authority for their position.* *See Bailes v. Young,*

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this motion, has not yet received service via U.S. Mail. Appellant's certificate of service lists only one counsel's address, and thus it is unclear if the initial brief and designation of matter were even mailed to the undersigned.

315 S.C. 166, 168, 432 S.E.2d 482, 484 (1993); *Bennett v. Investors Title Ins. Co.*, 370 S.C. 578, 599, 635 S.E.2d 649, 660 (Ct. App. 2006) (holding an appellant abandoned an issue on appeal where appellant failed to cite any case law for his argument and instead made only conclusory allegations). Appellant's failure to cite *any* supporting authority for *any* arguments on appeal, except for jurisdiction, and reliance entirely on conclusory allegations constitutes abandonment of *all* possible arguments that Appellant could have argued to this Court.<sup>4</sup> For these reasons, Appellant's appeal should be dismissed.

Furthermore, Appellant's failure to identify any specific issue of the circuit court constitutes abandonment of the issue on appeal. *See* Rule 208(b), SCACR (stating that an issue must be set forth in a statement and argument for appellate review of an issue to occur); *Woodson v. DLI Props. LLC*, 406 S.C. 517, 529 n.11, 753 S.E.2d 428, 434 (2014) ("We find Petitioners have abandoned the negligent misrepresentation claim by failing to set forth an argument on the issue in their brief."); *see also Biales v. Young*, 315 S.C. 166, 168, 432 S.E.2d 482, 484 (1993) (stating that a party's failure to argue an issue constitutes abandonment of the issue and precludes consideration on appeal). Therefore, Appellant has abandoned *all* possible issues on appeal. *See* Rule 208(b), SCACR; *Woodson*, 406 S.C. at 529 n.11, 753 S.E.2d at 434; *see also Biales*, 315 S.C. at 168, 432 S.E.2d at 484. For these reasons, Appellant's appeal should be dismissed.

Appellant also requests that this Court stay briefing deadlines pending the Court's determination of this matter. *See* Rule 208(a)(2), SCACR (setting forth the deadline to file and serve the initial brief of respondent); Rule 240(b), SCACR ("A motion to dismiss an appeal or a

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<sup>4</sup> Parties are not allowed to make substantive changes to their initial brief after filing the same. *See* Rule 211(b), SCACR (setting forth that the final briefs shall be identical to the initial briefs except for references to the record on appeal and correction of typographical errors and misspellings).

motion to relieve counsel shall, however, automatically stay the time limits for perfecting the appeal until the motion is decided.”).

### **CONCLUSION**

For the reasons stated herein, Respondent respectfully requests that this Court issue an Order dismissing the appeal, and staying the briefing deadlines during the pendency of the Court’s consideration of this motion.

Respectfully Submitted,

EARHART OVERSTREET, LLC

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January 16, 2026

# EXHIBIT A



1 APPEARANCES:

2 SCOTT MANNETA, Pro se  
3 Attorney for the Plaintiff,

4

5 ROBERT LUBS EATON, Esquire  
6 4000 Faber Place Drive  
7 Suite 300  
8 North Charleston, SC 29405

9 Attorney for the Defendant,

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EXHIBITS

(None Marked)

(THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH MATERIAL  
IS REPRODUCED AS READ OR QUOTED BY THE SPEAKER.)

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PROCEEDINGS

THE COURT: Turn to Mannetta v. Sinclair. How are you, sir? Sirs.

MR. EATON: Your Honor.

THE COURT: All right. I am -- do we have everyone I need here now? Lawyers?

MR. EATON: Believe so. Yes, sir.

THE COURT: All right. I did read this -- what I have in my hand last night. And are these your motions, Mr. Manneta, sir? Mr. Manneta? Mr. Sinclair, who -- whose motions do I -- do I need to hear?

MR. EATON: You have a motion to dismiss by Mr. Sinclair and a motion for protective order, which would be moot -- moot if the motion to dismiss obviously is granted. Then otherwise I believe plaintiff has a motion to amend. I believe that's it. Just a motion to amend.

THE COURT: Well, let me -- let me hear the motion to amend first, then. Who has that motion?

MR. EATON: That's the plaintiff. Mr. Manneta.

THE COURT: Mr. Manneta? Mr. Manneta, I -- I don't - I don't hear you, sir.

THE CLERK: Your Honor, would you like me to give him a call real quick and just make sure he is not having any issues?

THE COURT: Please ma'am. Thank you,

1           THE CLERK: Your Honor, I just spoke to Mr. Mannetta.  
2 He's having some technical issues. He is showing that he  
3 should be speaking and you all should see him, but it's not  
4 crossing over. So I told him to log off and then try to log  
5 back on and see if that will help.

6           THE COURT: Thank you so much, Manneta? Mr. Manneta?

7           THE CLERK: There's one other option, your Honor. We  
8 can try to assist Mr. Mannetta with calling in. We just  
9 wouldn't be able to physically see him.

10          THE COURT: I do prefer to be able to see the -- the  
11 attorney's.

12          THE CLERK: Close out of where you logged in. Oh, you  
13 go back and continue.

14          THE COURT: Mr. Manneta, are you with us, sir? Ms.  
15 Helm?

16          THE CLERK: Yes, sir.

17          THE COURT: When is your next non-jury term.

18          THE CLERK: I will find out right now, your Honor. The  
19 next available term is March 31st.

20          THE COURT: Gentlemen, those of you with me, I -- I do  
21 like to be able to see litigants and -- and attorneys or pro  
22 se individuals. And I've got so much ahead of me today. Do  
23 you have an objection to continue on this until that next  
24 term to allow Mr. Mannetta to -- to gain access?

25          MR. EATON: I -- just to the extent that this has

1 already been continued once last month and respectfully --

2 THE COURT: Why was it -- let me ask you this, why was  
3 it continued the last time? Do you know?

4 MR. EATON: I believe it was the snow event that week.  
5 It was still a virtual hearing, but we were -- the operations  
6 were suspended.

7 THE COURT: We've got a few more minutes here this  
8 morning. Let's just -- just stand down for -- for a few more  
9 minutes then, and hopefully we can get this done shortly.  
10 Okay?

11 MR. EATON: Yep. Thank you, your Honor.

12 THE COURT: I'm going to mute myself now.

13 (RECESS TAKEN.)

14 THE COURT: Mr. Manneta, you with us yet, sir? Mr.  
15 Manneta? Ms. Helm.

16 MR. EATON: Your Honor, we'd be happy to move to the  
17 end of the docket to allow Mr. Manneta more time to be  
18 available for today's hearing.

19 THE COURT: All right. The end of the docket is -- is  
20 at (inaudible) 11:30? All right. We'll move it to 11:30,  
21 sir.

22 MR. EATON: Okay. Thank you.

23 THE COURT: You'll be -- you'll be first up.

24 MR. EATON: Thank you, your Honor.

25 THE COURT: Thank you all.

1 MR. SINCLAIRE: Thank you, your Honor.

2 (RECESS TAKEN.)

3 THE COURT: All right. I go back now to the matter of  
4 Scott Mannetta v. Jack Sinclair. Mr. Manneta, are you with  
5 us?

6 THE CLERK: He's here. Just wait. He's -- yeah, he  
7 is.

8 THE COURT: Mr. Manneta, are you with us?

9 MR. MANNETA: Yes -- yes, your Honor. I'm here. Can  
10 you hear me?

11 THE COURT: I can, but there's an incredible amount of  
12 echoing going on that makes it hard to hear what you're  
13 saying.

14 MR. MANNETA: Give me one second. How is that?

15 THE COURT: Slightly better, sir. But let's forge  
16 ahead. I've got many more motions to hear today.

17 MR. MANNETA: Well, I want to -- I want to apologize  
18 right out of the gate and thank Mr. Sinclair and Mr. Eaton,  
19 and of course yourself for being so patient with my technical  
20 inadequate --

21 THE COURT: Okay. Here's the way -- here's the way I  
22 like to do motions. I'll -- I'll hear from each party one  
23 time. I don't need to hear it two -- two times or three  
24 times. I read everything that I'll be sent, and I'll take  
25 this matter under consideration. The -- let me hear the

1 first motion that I want to hear. I tried to put these in  
2 some order. Defendant's motion to dismiss.

3 MR. EATON: Yes, your Honor. And may it please the  
4 Court. This is essentially about whether or not Mr.  
5 Sinclaire, the defendant owed Mr. Manneta the plaintiff a  
6 duty in Mr. Sinclaire's representation of the plaintiff's son  
7 in a contested guardianship case.

8 This matter was -- the underlying matter was first  
9 started in 2022 when the mother, the plaintiff's ex-wife  
10 filed a emergency petition to appoint a guardian over an  
11 allegedly incapacitated person their son. And days later,  
12 Mr. Sinclaire was appointed by the court to serve as attorney  
13 for the son in the guardianship case in that matter.

14 That matter was litigated for around two years until  
15 the probate court decided in a final order that was issued in  
16 December that Mr. -- or that -- excuse me. That the  
17 allegedly incapacitated person should have a limited guardian  
18 appointed and that guardian should be the mother. The  
19 reasons for that and why Mr. Manneta was not appointed  
20 guardian as a guardian are many, but that is beside the fact.

21 For here today for our purposes, is whether or not Mr.  
22 Sinclaire owed a duty to Mr. Manneta. Our courts or our law  
23 is very clear that people not in privity with an attorney are  
24 not owed or do not have a duty with that attorney.

25 And there is no case law to support a person involved

1 or a respondeat involved in a guardianship case is in privity  
2 with an attorney that is representing an allegedly  
3 incapacitated person. So we would submit that Mr. Sinclair  
4 owed Mr. Manneta no duty in his representation of Mr.  
5 Manneta's son in that action.

6 THE COURT: That's your motion to dismiss; s that  
7 right?

8 MR. EATON: That's correct.

9 THE COURT: Manneta.

10 MR. MANNETA: Yes, your Honor.

11 THE COURT: Your response to that assertion.

12 MR. MANNETA: Thank you, sir. Again, my name is Scott  
13 Manneta and I'm here today as a father and advocate for my  
14 son and a plaintiff seeking justice in this case. Just clear  
15 legal malpractice. This obviously is not a case over a  
16 disagreement over a past ruling. This case is about an  
17 attorney Jack Sinclair, who had a professional and ethical  
18 duty to zealously represent his client, my son Jake Manneta,  
19 and he failed in that duty in ways that cannot be ignored.

20 Because of Mr. Sinclair's negligence and in action, my  
21 son, who is a vulnerable adult under the laws of South  
22 Carolina, he was subjected to this limited guardianship that  
23 he explicitly opposed. While critical evidence that could  
24 have changed the outcome got ignored and was actually never  
25 presented to the court. As a result of these failures, my

1 son lost his fundamental rights.

2 I have been completely cut off from my son for over a  
3 year, and there's multiple state and federal agencies that  
4 are investigating this case as we speak, including DSS,  
5 Social Security and South Carolina Office of Inspector  
6 General.

7 Today, I'm going to ask the Court to basically focus on  
8 the facts. A licensed attorney has a duty. He failed to  
9 uphold that duty, and because of that failure, he called --  
10 he caused real and lasting harm. I just respectfully request  
11 that this Court denied a motion and allowed this case to  
12 proceed to discovery and ensure the legal malpractice is held  
13 accountable.

14 The defendant's claim that he owed no duty to me is  
15 legally incorrect. South Carolina recognizes that attorneys  
16 can be liable to third parties when their legal malpractice  
17 foreseeably causes harm. The affidavit requirement does not  
18 apply when the malpractice is clear from the record, which is  
19 the case here.

20 Even if an affidavit were required, the proper remedy  
21 is to allow me to amend my complaint and not dismiss this  
22 case. The motion for a protective order is a delay tactic.  
23 Discovery is necessary and routine and the defendant has not  
24 shown any legitimate reason why discovery should be stated.

25 This is nothing more than a delay tactic in my

1 opinion. The Courts do not routinely state discovery simply  
2 because a motion to dismiss is -- dismiss is pending. The  
3 defendant has not met the burden of proof required to justify  
4 a protective order.

5 Ham v. South Carolina Public Service Authority. The  
6 court held the protective orders must be based on an actual  
7 undue burden, not just a desire to delay the case. State v.  
8 Bunting, South Carolina 385, South Carolina 610, 685, courts  
9 must balance the need for discovery against any demonstrated  
10 burden, vague claims of annoyance are insufficient. Your  
11 Honor, discovery is essential because there are multiple  
12 ongoing investigations into this very issue raised in the  
13 lawsuit, including DSS, Social Security, inspector general.

14 Discover -- denying discovery prevents me from  
15 gathering critical evidence. The fact that he claims he owes  
16 me no duty because he was Jake's attorney and not mine.  
17 South Carolina again recognizes that attorneys can be held  
18 liable to third parties when their negligence foreseeably  
19 causes harm. Pye v. the Estate of Fox 369, South Carolina  
20 555, 633. South Carolina State Supreme Court held that an  
21 attorney can be liable to third parties when the negligence  
22 foreseeably causes harm.

23 Jake explicitly stated on numerous occasions that he  
24 wanted me involved in all of his legal strategies. All of  
25 them. As you can imagine, he's an 18-year-old vulnerable

1 adult or vulnerable -- yeah, just turned -- vulnerable adult.  
2 So of course, he wanted his father involved in the legal  
3 strategies, but Attorney Jack Sinclaire ignored those  
4 requests.

5 That is a direct violation of his duty to advocate for  
6 Jake's best interest.

7 Argo v. Three Rivers Behavioral Center, 388 South  
8 Carolina, 394, 697. The Court imposed heightened duties on  
9 attorney's handling guardianship and mental health matters.  
10 Jack Sinclaire failed to challenge an ex parte order that  
11 stripped Jake of his rights without any due process.

12 Your Honor, this case is not about whether I was named  
13 a client or I was a named client. It's about whether Jack  
14 Sinclaire failure to properly advocate for Jake Foreseeably  
15 harmed both Jake and myself.

16 Regarding the lack of an affidavit. South Carolina law  
17 record is a common knowledge exception. H&H of Johnston, LLC  
18 v. Old Republic National Title Insurance Company, 405 South  
19 Carolina 469, 748. "That no expert affidavit is needed when  
20 the malpractice is obvious."

21 And Jack Sinclaire failure to present key evidence,  
22 depose any witnesses and advocate for Jake's wishes, does not  
23 require expert testimony. It is malpractice that any  
24 reasonable person can recognize. Even if an affidavit were  
25 required, the correct remedy would be to allow me to amend

1 this complaint.

2 Dismissing any -- dismissing my case over this  
3 procedural issue would be an extreme and unjust result. Your  
4 Honor, the defendant seeks to avoid accountability fo his  
5 clear failures. He disregarded Jake explicitly. He  
6 disregarded all of Jake's wishes. He failed to challenge an  
7 unlawful guardianship and ignored procedural violations. And  
8 directly -- because of that, that directly harmed both Jake  
9 and myself. There are multiple investigations, as I stated.

10 THE COURT: You -- you told me now. That's the third  
11 time you're told me about the investigations. I -- I asked  
12 you just one time, and it's the same standard for the other  
13 lawyer too.

14 MR. MANNETA: I -- I respectfully request that the  
15 Court deny this motion to dismiss, deny the motion for a  
16 protective order, and allow this case to proceed so that full  
17 discovery can be conducted into the defendant's misconduct.  
18 Thank you, your Honor.

19 THE COURT: All right, sir. Thank you. All right. We  
20 have now -- Mr. Manneta has addressed the motion for the  
21 protective order. So what else does -- do you wish to say on  
22 behalf of the defendant, sir? Mr. Eaton.

23 MR. EATON: Other than just reiterating the point that  
24 there was no legal duty to the plaintiff and Mr. Sinclair's  
25 representation of Jake Manneta and the guardianship action.

1 As to the expert affidavit there -- it's -- it's pretty clear  
2 that the -- the common knowledge or the exception to the  
3 affidavit would not apply in this situation. There needs to  
4 be an expert affidavit attached here to opine that Mr.  
5 Sinclaire did violate the -- or breached the standard of care  
6 in regards to his legal services that he provided Jake.

7 And just to address briefly some of the factual stuff  
8 that plaintiff brought up. After the order was filed Mr.  
9 Sinclaire did have communications with Jake regarding what  
10 type of action he would like to do. That was -- that  
11 resulted in a motion for reconsideration that was  
12 subsequently denied by the probate court.

13 So just the assertion that Mr. Sinclaire did not  
14 challenge the result is -- is factually wrong. But  
15 regardless what we're here today is about the -- whether or  
16 not there was a duty from an attorney that was appointed by  
17 the Court to represent a allegedly incapacitated person,  
18 whether or not, if there was a duty that extended to either  
19 one of the potential guardians in that action.

20 And we would submit that there is not a duty. Not only  
21 on the grounds that we previously -- that I previously  
22 mentioned, but also it's just a public policy exception,  
23 similar to what we afford guardian ad litem in the state.  
24 And that is to prevent the suppression of people to volunteer  
25 as guardian ad litem.

1           Similar to that, we would hold that a policy -- public  
2 policy exception should apply here as well to avoid the  
3 suppression of people to step up and -- and represent  
4 allegedly incapacitated persons in guardianship actions.  
5 Extending a duty and extending a potential malpractice to  
6 those individuals would -- would indeed have a chilling  
7 effect of people wanting to be appointed by the court to  
8 serve in that role. Respectfully, that is all we submit.

9           THE COURT: I'm going to ask both of you to do me a  
10 favor. Don't send me a memorandum. Got tons to read. Mr.  
11 Mannelta?

12           MR. MANNETA: Yes, your Honor.

13           THE COURT: I want you to send to me your strongest  
14 case indicating that no affidavit is required. Don't --  
15 don't send me a lot of cases. I've got lots to read, just  
16 your strongest case. And for the defendant, send me your  
17 strongest case or case law or statute that no duty is  
18 required to a third party by a lawyer.

19           I will take these things and consider those things.  
20 Folks, this is day five of five days of hostile motions. So  
21 bear with me as I sort through these. I'll get you a ruling  
22 out as soon as I can.

23           You don't have to send me those cases right now. It'll  
24 be -- it'll be several days before I get to it, but I would  
25 appreciate it very much if you do so.

1 MR. EATON: Yes, your Honor.

2 THE COURT: Thank you. Thank you, Mr. Mannelta.

3 MR. MANNETA: Thank you, your Honor.

4 (THERE BEING NO FURTHER QUESTIONS, THIS HEARING CONCLUDED AT  
5 2:45 P.M.)

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**CERTIFICATE OF REPORTER**

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I, JANE DANIEL, a court-approved transcriber, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had, and evidence introduced in the trial of the captioned case, relative to appeal, in the South Carolina Circuit Court 9 of Charleston County, South Carolina, on February 28, 2025.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

Jane Daniel

September 30, 2025

JANE DANIEL

TRANSCRIBER

# EXHIBIT B



Plaintiff, who was a Respondent in that matter, sought appointment as Jake's guardian. Following a final hearing on October 10, 2023, the Probate Court appointed Jake's mother, Dana Mannelta (Plaintiff's ex-wife), as sole limited guardian. The Honorable Lenna S. Kirchner entered a formal Order on January 22, 2024, appointing Dana as guardian.

Plaintiff initiated this action on September 10, 2024, alleging legal malpractice, arising from the Defendant's strategic decisions during his representation of Jake in the guardianship matter. Defendant was served with the Summons and Complaint on or about September 12, 2024, and subsequently filed his Motion to Dismiss and Motion for Protective Order on October 4, 2024. Plaintiff filed his Motion to Amend and a Response to the Motion to Dismiss on October 7, 2024.

## **I. STANDARD OF REVIEW**

"In considering a motion to dismiss a complaint based on a failure to state facts sufficient to constitute a cause of action, the trial court must base its ruling solely on allegations set forth in the complaint. Doe v. Marion, 373 S.C. 390, 395, 645 S.E.2d 245, 247 (2007). If the facts alleged and inferences reasonably deducible therefrom, viewed in the light most favorable to the plaintiff, would not entitle the plaintiff to relief on any theory, then dismissal under Rule 12(b)(6) is proper. Id.

## **II. LEGAL CONCLUSIONS**

### **Defendant Owed No Duty to the Plaintiff**

Plaintiff alleges legal malpractice arising out of the Defendant's representation of Jake in the guardianship matter. However, as a court-appointed attorney, Defendant's duty was to Jake, not to the Plaintiff.

"In an action for legal malpractice, the claimant must prove four elements: (1) the existence of an attorney-client relationship; (2) breach of a duty by the attorney; (3) damage to the client;

and (4) proximate causation of the client's damages by the breach." McNair v. Rainsford, 330 S.C. 332, 342, 499 S.E.2d 488, 493 (Ct. App. 1998). "A plaintiff in a legal malpractice action must generally establish the standard of care by expert testimony." Id. at 342, 499 S.E.2d at 494; *see also* Mali v. Odom, 295 S.C. 78, 80, 367 S.E.2d 166, 168 (Ct. App. 1988) ("A plaintiff in a legal malpractice case must ordinarily establish by expert testimony the standard of care, unless the subject matter is of common knowledge to laypersons.")

The Court finds that there was no attorney-client relationship between the Plaintiff and Defendant. Defendant was appointed solely to represent Jake, and no duty was owed to Plaintiff. As such, Plaintiff's claim for legal malpractice fails as a matter of law and must be dismissed.

**Plaintiff Failed to Comply with SC Code § 15-36-100**

Defendant also argues that Plaintiff failed to comply with S.C. Code § 15-36-100, which requires the contemporaneous filing of an expert affidavit in professional negligence actions, including those against attorneys. Plaintiff asserts that the affidavit was unnecessary under the "common knowledge" exception.

The Court finds that Plaintiff's claims of malpractice arising from the Defendant's strategic decisions during his representation of Jake in the guardianship action do not fall within the ambit of common knowledge such that the exception would apply. *See* Mali v. Odom, S.C. at 80. Therefore, Plaintiff was required to file an expert affidavit in compliance with § 15-36-100.

Moreover, the statute does not impose any duty upon the Court to notify a plaintiff of its requirements. It is the responsibility of the litigant to comply with statutory prerequisites to filing suit. Plaintiff's failure to do so renders the Complaint subject to dismissal.

Because Plaintiff failed to demonstrate an attorney-client relationship or a duty owed, and because his claims are procedurally deficient under § 15-36-100, the Court finds that granting

leave to amend the Complaint would be futile. Accordingly, Plaintiff's Motion to Amend is denied. See Health Promotion Specialists, LLC v. S.C. Bd. of Dentistry, 403 S.C. 623, 632, 743 S.E.2d 808, 812 (2013) (motion to amend is within the discretion of the trial court).

### **III. CONCLUSION**

In conclusion, the Court finds that viewing the Complaint in the light most favorable to the Plaintiff, dismissal is warranted for Defendant. Therefore, Defendant Jack Sinclair, Esq.'s Motion to Dismiss is GRANTED. Defendant's request for Protection from Discovery is hereby GRANTED, Plaintiff's Motion to Amend his Complaint is DENIED and this case is hereby DISMISSED.

IT IS SO ORDERED

---

George M. McFaddin, Jr.  
Circuit Court Judge

April \_\_, 2025  
Charleston, South Carolina



Charleston Common Pleas

**Case Caption:** Scott Manna , plaintiff, et al VS Jack Sinclair

**Case Number:** 2024CP1004530

**Type:** Order/Dismissal

So Ordered

S/George M. McFaddin, Jr., #2759

# EXHIBIT C

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

Scott R. Manna,ta,

Plaintiff,

vs.

Jack Sinclaire,

Defendant.

IN THE COURT OF COMMON PLEAS  
FOR THE NINTH JUDICIAL CIRCUIT

CASE NO.: 2024-CP-10-04530

**DEFENDANT’S NOTICE OF MOTION AND  
MOTION TO DISMISS PLAINTIFF’S  
COMPLAINT**

*PRIORITY MATTER*

PLEASE TAKE NOTICE that Defendant Jack Sinclaire, Esq. (“Defendant”), by and through his undersigned attorneys, hereby moves for an Order pursuant to Rule 12(b), SCRCPP, for dismissal of Plaintiff’s Complaint on one or more of the following grounds:

1. The Complaint fails as a matter of law, pursuant to Rule 12(b)(6), SCRP, for failure to state a claim upon which relief may be granted. The Complaint fails to establish that the Defendant owed a duty to the Plaintiff.

2. The Complaint fails as a matter of law pursuant to S.C. Code 15-36-100 and Rule 12(b)(6), SCRCPP. Plaintiff failed to contemporaneously file an affidavit with the Complaint.

Defendant reserves the right to supplement this motion with additional memoranda prior to a hearing. This motion is a priority matter pursuant to SCRCPP 40.

[Signature page follows.]

This 4<sup>th</sup> day of October, 2024.

Respectfully submitted,

EARHART OVERSTREET LLC

By: /s/ Robert L. Eaton

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Attorneys for Defendant

P.O. Box 22528  
Charleston, SC 29413  
843-972-9400

# EXHIBIT D

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

Scott R. Mannaetta,

Plaintiff,

vs.

Jack Sinclaire,

Defendant.

IN THE COURT OF COMMON PLEAS  
FOR THE NINTH JUDICIAL CIRCUIT

CASE NO.: 2024-CP-10-04530

**DEFENDANT'S MEMORANDUM OF LAW  
IN SUPPORT OF HIS MOTION TO DISMISS  
PLAINTIFF'S COMPLAINT**

**Preliminary Statement**

Scott R. Mannaetta ("Plaintiff") was a respondent in a guardian action in the Charleston County probate court and disagrees with the decision made by that court. Plaintiff, appearing *pro se*, has brought this action for legal malpractice against his son's attorney (or "Jake"). However, Plaintiff fails to state a claim against Jack Sinclaire, Esq. (or "Defendant") because Mr. Sinclaire never owed a duty to the Plaintiff. Furthermore, there are no possible amendments which would change that determination. Mr. Sinclaire was the court-appointed attorney for Jake, only. Any duty arising out of his representation is to Jake, not the Plaintiff. Therefore, this motion to dismiss should be granted.

**Legal Standard**

Rule 12(b)(6) allows for the court to grant dismissal of an action when the defendant demonstrates that the plaintiff has failed to state facts sufficient to constitute a cause of action in the pleadings filed with the court. Williams v. Condon, 347 S.C. 227 (Ct.App.2001). Generally, in considering a 12(b)(6) motion, the trial court must base its ruling solely upon allegations set forth on the face of the complaint. Stiles v. Onorato, 318 S.C. 297 (1995). Looking at the facts in a light most favorable to plaintiff, and with all doubts resolved in her behalf, the court must

consider whether the pleadings articulate any valid claim for relief against the Moving Defendants. Cowart v. Poore, 337 S.C. 359 (Ct.App.1999). “To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” Ashcrof v. Iqbal, 556 U.S. 662 (2009) (quoting Bell Atl. Cirp. V. Twombly, 550 U.S. 544, 570 (2007)). “A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” Id.

### **Argument**

#### **I. An attorney representing an allegedly incapacitated individual in a guardianship case owes no duties to and is immune from liability to his client’s potential guardians, and other non-client adversaries.**

It is undisputed that Mr. Sinclair was, at all times, representing Jake in his guardianship case. Mr. Sinclair did not represent Plaintiff and cannot be held liable to him for the advice and representation he provided in the course and scope of representing Jake. Regardless of the theory or cause of action, allowing Plaintiff to sue Mr. Sinclair on these facts would be tantamount to finding that a non-client third-party can hold an attorney liable for providing advice to his client.

Our courts have long recognized that an attorney acting in the course and scope of representing a client owes no duties to non-clients and is immune from liability to third parties absent some independent duty owed to the third party. Pye v. Estate of Fox, 369 S.C. 555, 564, 633 S.E.2d 505, 509 (2006); Stiles v. Onorato, 318 S.C. 297, 300, 457 S.E.2d 601, 602 (1995); Gaar v. N. Myrtle Beach Realty Co., Inc., 287 S.C. 525, 528, 339 S.E.2d 887, 889 (Ct. App. 1986) (“In his professional capacity the attorney is not liable, except to his client and those in privity with his client, for injury allegedly arising out of the performance of his professional activities.”); Argoe v. Three Rivers Behavioral Center & Psychiatric Solutions, 388 S.C. 394,

697 S.E.2d 551, 554-55 (“Because [Attorney] represented Son and not Appellant in the Beaufort Property transaction, the only duty of care arising out of that relationship was owed to Son.”).

The rule against liability to non-client third parties is not limited to traditional legal malpractice claims. Non-client third parties often label their claims as something other than legal malpractice to avoid dismissal for lack of an attorney-client relationship. As shown in the cases cited above, courts have applied the rule to a variety of non-traditional legal malpractice claims. See Pye v. Estate of Fox, 633 S.E.2d at 51 (civil conspiracy and abuse of process); Gaar, 339 S.E.2d at 889 (malicious prosecution); Argoe, 697 S.E.2d at 554 (breach of fiduciary duty, *et al.*).

Fundamental to this rule of law is that a non-client cannot sue an attorney for advice, good or bad, that the attorney gave his client. Gaar, 339 S.E.2d at 889 (“The fact that through ignorance he gives his client bad advice, on which he acts to the hurt of another, will not make the attorney liable to the other.”). This is exactly what Plaintiff has attempted to do in this lawsuit.

Plaintiff seeks to hold Mr. Sinclair liable for advising and representing his client in a guardianship case that was ultimately ruled against him. Mr. Sinclair did not represent the Plaintiff. He owed no duties to him. He cannot be held liable to him.

**II. Plaintiff’s Complaint fails because it does not comply with S.C. Code § 15-36-100.**

In an action for damages against an attorney, “the plaintiff must file as part of the complaint an affidavit of an expert witness which must specify at least one negligent act or omission claimed to exist and the factual basis for each claim based on the available evidence at the time of the filing of the affidavit.” S.C. Code Ann. § 15-36-100(B). If the affidavit is not timely filed, “the complaint

is subject to dismissal for failure to state a claim.” S.C. Code Ann. § 15-36-100(C)(1). It is undisputed that Plaintiff did not, and has not, filed the required expert affidavit.

Plaintiff’s claim of legal malpractice clearly requires the testimony of an expert to establish a breach of the applicable standard of care. *See Harris Teeter, Inc. v. Moore & Van Allen, PLLC*, 390 S.C. 275, 282, 701 S.E.2d 742, 745 (2010) (holding that plaintiff in a legal malpractice action must generally establish the standard of care by expert testimony). Expert testimony is required to opine whether Defendant somehow deviated from the standard of care, which is disputed. Additionally, the “common knowledge” exception is inapplicable. *See H & H of Johnston, LLC v. Old Republic Nat. Title Ins. Co.*, 405 S.C. 469, 474, 748 S.E.2d 72, 74 (Ct. App. 2013) (affirming dismissal of claims against attorney pursuant to § 15-36-100 because plaintiff failed to file expert affidavit); *Barnes v. Seigler*, No. CIV.A. 5:11-1156-MBS, 2012 WL 265409, at \*2 (D.S.C. Jan. 30, 2012) (dismissing pro se plaintiff’s legal malpractice claim for failure to file expert affidavit and holding that for breaches of professional duty arising exercise of legal judgment, more than “common knowledge” is required to evaluate whether his actions violate the standard of care owed by members of his profession).

Plaintiff has failed to file any such affidavit here. Accordingly, Plaintiff’s claim for legal malpractice and breach of fiduciary duty are barred by statute, and the Defendant requests that this Court grant his motion to dismiss.

### **Conclusion**

Based on the facts and applicable law, Mr. Sinclair respectfully submits that dismissal should be granted in his favor.

This 16<sup>th</sup> day of January, 2025.

Respectfully submitted,

EARHART OVERSTREET LLC

By: /s/ Robert L. Eaton

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Attorneys for Defendant

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Charleston, SC 29413  
843-972-9400

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

RECEIVED

Jan 16 2026

SC Court of Appeals

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

The Honorable George M. McFaddin, Jr., Circuit Court Judge

Case No. 2024-CP-10-04530  
Appellate Case No. 2025-001313

Scott R. Manna,ta,

Appellant,

v.

Jack Sinclair,

Respondent.

**PROOF OF SERVICE**

I certify that a true copy of Respondent's Motion to Dismiss and Motion to Stay Briefing Deadlines has been served this 16<sup>th</sup> day of January, 2026, by emailing a copy to the party listed below using their primary email address, as well as a hard copy using the physical address specified below.

Scott R. Manna,ta  
7575 Morgan Way  
Naples, FL 34119  
[ul20@yahoo.com](mailto:ul20@yahoo.com)  
*Pro Se Appellant*

**RECEIVED****Mannetta v. Sinclair - Motion to Dismiss****Jan 16 2026****SC Court of Appeals****From** Tavia Stockdale <tavia.stockdale@earhartoverstreet.com>**Date** Fri 1/16/2026 2:00 PM**To** U120@yahoo.com <u120@yahoo.com>**Cc** Brent DeShields <brent.deshields@earhartoverstreet.com>; Elizabeth Garrett <elizabeth.garrett@earhartoverstreet.com>; David Overstreet <david.overstreet@earhartoverstreet.com>

2 attachments (1 MB)

Respondent's MTD &amp; Exhibits.pdf; CL - MTD.pdf;

Good afternoon,

Please see the attached Motion to Dismiss & Exhibits which will be filed with the Court momentarily. A hard copy is also being issued to you. Should you have any problems opening the attached, please let me know.

Best,

**Tavia S.E. Stockdale**

Paralegal

Direct 843-628-3785

PO Box 22528, Charleston, SC 29413

January 16, 2026

**VIA E-MAIL ONLY**

The Honorable Jenny Abbott Kitchings  
Clerk of Court  
South Carolina Court of Appeals  
[ctappfilings@sccourts.org](mailto:ctappfilings@sccourts.org)

**RECEIVED**  
**Jan 16 2026**  
**SC Court of Appeals**


Re: Scott R. Manna v. Jack Sinclair  
Appellate Case No. 2025-001313

Dear Ms. Kitchings,

Please find the enclosed *Respondent's Motion to Dismiss and Motion to Stay Briefing Deadlines* to be filed with the Court.

Should you require anything else, please let me know.

Sincerely,



BRENTEN H. DESHIELDS  
DAVID W. OVERSTREET

BHD/tss

Enclosures