

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas
Deidre L. Jefferson, Circuit Court Judge

SC Court of Appeals

Appellate Case No.: 2025-001314

M. Edward Wilson, Jr.,

Respondent,

v.

Marquee Limo Co., LLC and Paul Brown,

Appellants,

Of which Marquee Limo Co., LLC, is the Appellant.

**APPELLANT'S MEMORANDUM IN OPPOSITION TO RESPONDENT'S
MOTION TO DISMISS FOR LACK OF SUBJECT MATTER JURISDICTION**

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I. Introduction

Respondent moves to dismiss this appeal for lack of subject matter jurisdiction, arguing that the notice of appeal was untimely. Appellant, Marquee Limo Co., LLC (“Marquee Limo”), undisputedly noticed its appeal within 30 days of the denial of its motion filed pursuant to Rule 59 of the South Carolina Rules of Civil Procedure (“SCRCP”). Accordingly, Marquee Limo respectfully asks this Court to deny Respondent’s motion.

II. Background

After the jury was discharged at trial, Appellant requested ten days for post-trial motions pursuant to Rule 50(e). [Exhibit A, Transcript, p. 374, lines 17-18]. The Trial Court stated that the post-trial motions would be argued at present. [Exhibit A, Transcript, p. 374, lines 17-25 – p. 375, line 1]. Appellant then made oral post-trial motions, including for judgment notwithstanding the verdict (JNOV) pursuant to Rule 50, SCRCP. [Exhibit A, Transcript, p. 375, lines 7-14]. At trial, Appellant moved for relief on the grounds that the argument that the Respondent’s evidence did not justify the verdict and that the verdict was not tied to any evidence presented during trial. [Exhibit A, Transcript, p. 375, lines 7-14]. The Court denied this motion, setting forth the Court’s reasoning for the denial on the record. [Exhibit A, Transcript, p. 376, lines 23-25 – p. 378, line 12]. On March 25th, the Court issued its Order as a formalization of the Court’s verbal order made at trial.¹ [Exhibit B, Order Denying JNOV].

¹ Respondent argues that the March 25, 2025 Order was not included in Appellant’s Designation of Matter on Appeal. However, this is incorrect. Appellant’s Designation of Matter includes a March 19, 2025 Order. This is simply a scrivener’s error. March 19, 2025 was the last day of trial and the date of the verdict form, but there is no Order of this date. Appellant hereby amends its Designation of Matter on Appeal to correct the date and includes a copy of the amended document with this filing.

Appellant filed a Rule 59 SCRCF motion on March 28, 2025, within 10 days of the verdict and both the oral and written denial of its initial post-trial motion. [Exhibit C, Appellant's Rule 59 SCRCF Motion].

III. Argument

A notice of appeal shall be served on all respondents within thirty (30) days after receipt of written notice of entry of the order or judgment. Rule 203(b)(1), SCACR. The Rule's jurisdictional clock runs from written notice of entry of the appealed order. Appellant complied with this Rule.

Respondent argues that the trial court required that post-trial motions be made immediately, and therefore, Appellant's Rule 59 Motion was untimely, even though it was made within 10 days of the verdict. Respondent further argues that that Appellant's Rule 59 motion is not specifically a Rule 59(e) motion, resulting in Appellant waiving all rights to appeal. Respondent also argues that Appellant is only appealing issues raised in its Rule 59 motion.

First, Appellant is appealing errors it believe was made by the trial court, including objections Appellant believes were improperly sustained during closing arguments. Appellant is further appealing the denial of its post-trial motion made immediately after verdict as well as the denial of its Rule 59 motion.

Second, Appellant is required to file an appeal within 30 days of the written order denying post-trial motions. Rule 203(b)(1), SCACR. Appellant's Rule 59 motion was denied on June 5, 2025, and Appellant received written notice of entry of the Order on the same date. [Exhibit D, Order Denying Motion for New Trial]. Appellant noticed its appeal on July 1, 2025, within 30 days of June 5, 2025. Appellant has complied with this rule, and the Court has jurisdiction to hear this appeal.

Appellant's Rule 59 motion does not specifically reference Rule 59(a) or Rule 59(e) and was intended to encompass both subsections. The South Carolina Supreme Court's decision in *Camp v. Camp*, 386 S.C. 571 (2010) established that "the particularity requirement is to be read flexibly in recognition of the peculiar circumstances of the case." The court held that when a motion is challenged for lack of particularity, courts should ask "whether any party is prejudiced by a lack of particularity or whether the court can comprehend the basis for the motion and deal with it fairly."

The *Camp* court explicitly rejected overly technical application of motion requirements, stating that "the particularity requirement should not be applied in an overly technical fashion when the purpose behind the rule is not jeopardized." This flexible standard focuses on the underlying purposes of notice and prevention of prejudice rather than technical compliance with subdivision designations.

Here, Appellant's Rule 59 motion seeks the court's review under Thirteenth Juror Doctrine but further asked that the Court to amend its judgment as to the speculative nature of Respondent's damages, which did not appear to be based on the evidence presented at trial. [Rule 59 Motion] Further, Appellant asked the Court to reconsider its previous ruling at trial where the Court sustained Respondent's objection and did not allow Appellant's counsel to use Marquee Limo's net profits as an anchor for any award by the jury of damages in favor of Respondent. *Id.* Appellant objected contemporaneously at trial regarding this issue. [Exhibit A, Transcript, p. 343, lines 11-21] Accordingly, Appellant timely and properly filed a motion pursuant to Rule 59 and timely noticed its appeal after its Rule 59 motion was denied.

IV. Conclusion

Appellant timely filed its appeal within 30 days of the denial of its Rule 59 motion. The Court has subject matter jurisdiction and therefore, Respondent's motion to dismiss should be denied.

Respectfully submitted,

s/Michelle N. Endemann

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January 16, 2026
Charleston, South Carolina

List of Exhibits

Exhibit A: Trial Transcript pages 343, 374-378

Exhibit B: March 25, 2025 Order Denying JNOV

Exhibit C: March 28, 2025 Rule 59 SCRPC Motion

Exhibit D: June 5, 2025 Order Denying Motion for New Trial

Exhibit A
Trial Transcript pages 343, 374-378

I N D E X

(PW) - Denotes Plaintiff's Witness

(DW) - Denotes Defense Witness

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1 have missed if he had taken vacation days or whatever. And
2 I think that's probably a good standing for medical.

3 Now, as you heard earlier, this was [indiscernible] I
4 don't want to think about it, but it sounds miserable what
5 he had to go through. They understand that. And they
6 understand through our system, they owe something for that.
7 As you heard, that's your burden. So you've got to figure
8 that out. But here's a suggestion that I would make. You
9 heard testimony earlier that the company, Marquee, makes --
10 netted about \$300,000 last couple of years --

11 MR. ALLISON: Objection, Your Honor.

12 THE COURT: Basis?

13 MR. ALLISON: That's irrelevant. We're not seeking
14 punitive damages from the Defendants.

15 THE COURT: Please approach.

16 (WHEREUPON, a bench conference was held in the presence
17 of the jury, but outside the hearing of the jury.)

18 THE COURT: Ladies and gentlemen, you're to disregard
19 counsel's last comment. You're to disregard it and give it
20 absolutely no consideration in your deliberations.

21 You may proceed.

22 MR. CRUDUP: I think that it would be fair to give him
23 about \$150,000. That's still a lot of money. But, again,
24 he went through something for about, from what we can tell,
25 six to eight months. That's obviously more than what he

1 sense impression of how they can do things just a little bit
2 better or just to get your perspective. You're welcome to
3 discuss the case if you would like.

4 By the same token, you do not have to discuss the case.
5 Is someone should exceed your comfort level, please, contact
6 the clerk's office so that we can take the appropriate
7 action to protect your privacy.

8 Hopefully, y'all have a wonderful rest of the week.
9 You're excused with the Court's profound thanks. I'll turn
10 you over to the hands of the bailiffs. The clerk will be
11 down shortly with your work excuses.

12 (WHEREUPON, the jury exits the courtroom at 4:02 p.m.)

13 THE COURT: Are there any posttrial motions from the
14 Plaintiff?

15 MR. ALLISON: No, Your Honor.

16 THE COURT: Any posttrial motions for the Defense?

17 MR. CRUDUP: Your Honor, the Defense would ask for 10
18 days.

19 THE COURT: I don't do that. I'm not going to remember
20 this in ten days and I'm not going to get a transcript and
21 read it. I'm going to be on to something else. I've got
22 trials every week after this. I'm not going to remember it.
23 I find that there's no time like the present for your
24 benefit and really, quite selfishly, for mine.

25 So if you would like to make your motion, I'd like to

1 hear it so I can go ahead and rule on it. And if you want
2 to appeal it, go ahead and you won't be held up for another
3 -- you know, it's an electronic record, so they're going to
4 have to send it to court administration and have somebody
5 else transcribe it. That could take another who knows how
6 long.

7 MR. CRUDUP: At this time, the Defendant would move a
8 judgment notwithstanding the verdict. The verdict, which
9 was \$3,350,000, I believe -- the Defense does not believe
10 the Plaintiff's evidence justifies that. The verdict
11 doesn't seem to be tied to anything in particular. So for
12 those reasons, Your Honor, and for all the other objections
13 we made, we would ask for a judgment notwithstanding the
14 verdict.

15 THE COURT: Would the Plaintiff like to respond?

16 MR. ALLISON: Yes, Your Honor, I would. First of all,
17 in regards to whether or not there is any particular rhyme
18 or reason to the verdict, the verdict form asked for actual
19 damages as a whole. It did not break out between economic
20 and noneconomic damages. We presented evidence that would
21 show that Dr. Wilson's likely lost future wages would exceed
22 \$3,200,000. We, also, presented evidence from which the
23 jury could determine that his actual non-economic damages
24 exceeded \$3,350,000.

25 So between those two categories of damages, economic

1 and non-economic, there was sufficient evidence presented to
2 this jury for them to make a reasonable determination that
3 Dr. Wilson's actual damages, economic and non-economic, was
4 \$3,350,000. And I, also, heard no objections to the verdict
5 form or to any of the evidence of which they made their
6 decision.

7 THE COURT: Would you like to respond, Mr. Crudup?

8 MR. CRUDUP: No, Your Honor.

9 THE COURT: Is the Defendant entitled to any level of
10 setoff from anything? I wasn't sure and I meant to ask that
11 earlier.

12 MR. CRUDUP: Yes, Your Honor, there was \$1.5 million in
13 liability.

14 THE COURT: So y'all are entitled to setoff of 1.5?

15 MR. CRUDUP: That's correct, Your Honor.

16 THE COURT: I would assume then, I need to include that
17 on the verdict form -- I mean, on the -- it needs to be
18 reflected in a Form 4 in the entry of judgment?

19 MR. CRUDUP: Yes, I believe so.

20 I assume you have no objection and do not contest the
21 amount of setoff?

22 MR. ALLISON: No, Your Honor, not at all.

23 THE COURT: In considering a motion for judgment
24 notwithstanding the verdict, the Court must employ the same
25 standard as it would have on directed verdict. That means

1 that the Court must consider the evidence in the light most
2 favorable to the nonmoving party. Judgment notwithstanding
3 the verdict should not be granted unless only one reasonable
4 inference can be drawn from the evidence.

5 When considering the motion, this Court -- and I'm
6 meaning the trial court has authority to decide -- this
7 Court does not have the authority to substitute its judgment
8 on credibility or believability or to resolve conflicts in
9 testimony and evidence. That would invade the province, the
10 fact-finding province of the jury. The Court is bound by
11 the any evidence standard. It does not appear that this
12 verdict was actuated by passion, prejudice, caprice or some
13 other evidence found outside the evidence. There is
14 sufficient --

15 And you all didn't ask me to break down the verdict
16 form. Normally, we don't anyway. There's usually a general
17 verdict form. But I think it's clear that the jury
18 understood the difference between economic and noneconomic
19 damages based on their note asking for that differentiation
20 and asking the Court to give them clarity on the life
21 expectancy table and noneconomic damages.

22 There was evidence in the record, both presented by Dr.
23 Wood regarding the loss of potential future wages of Dr.
24 Wilson. In addition to that, there was testimony from Dr.
25 Wilson himself as well as his wife and his doctors regarding

1 the quality of his life, pain and suffering, especially that
2 which he experienced at the emergency room in preparation
3 for the corrective surgery that was necessary, his loss of
4 sleep, what could be characterized as chronic pain just due
5 to the nature of the injury and the fact that it will worsen
6 as he gets older, the fact that he's developed some level,
7 minor level of arthritic changes in his body as a result.

8 So there is -- when looking at the any evidence
9 standard, when the Court considers the credibility and
10 believability of the witnesses, there is sufficient evidence
11 in the record to support the verdict. Therefore, the motion
12 for judgment notwithstanding the verdict is denied.

13 It was a pleasure, y'all. Have a good rest of the
14 week.

15 MR. ALLISON: Thank you, Your Honor.

16 THE COURT: And make sure the court reporter has all
17 the exhibits. I should have a Form 4 does this afternoon.

18 MR. ALLISON: Thank you, Your Honor.

19 THE COURT: You're welcome.

20 So that would be a judgment entered in the amount of
21 \$1,850,000.
22
23
24
25

Exhibit B
March 25, 2025 Order Denying JNOV

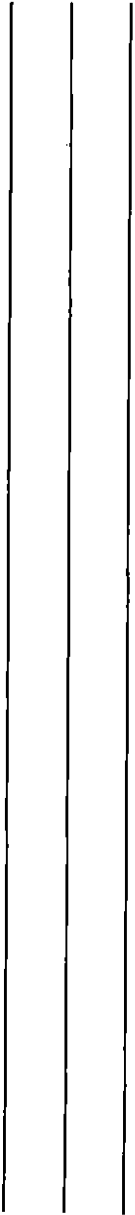
be drawn from the evidence, the motion must be granted.” *Brady Dev. Co, Inc. v. Town of Hilton Head Island*, S.C. 73 (1993). See *Sorin Equipment v. The Firm*, 323 S.C. 359 474 S.E.2d 819 (Ct. App. 1996). “The jury’s verdict must be upheld if there is any evidence to sustain the factual findings implicit in the verdict.” see also *Garrison v. Target*, 429 S.C. 324 838 S.E.2d 18 (Ct. App. 2020). “A Motion for JNOV may be granted only if no reasonable jury could have reached the challenged verdict.” *The Winthrop Univ. Trustees for the State v. Pickens Roofing & Sheet Metals, Inc.*, 418 S.C. 142, 161, 791 S.E.2d 152, 162 (Ct. App. 2016), reh’g denied (Oct. 21, 2016).

The Court finds that the evidence presented, in the light most favorable to the nonmoving party was susceptible of more than one inference and the grant JNOV is not supported by the record. Moreover, there is more than ample evidence to sustain the factual findings implicit within the jury’s verdict. The Court further finds that there is no support that no reasonable jury could have reached the challenged verdict. Moreover, the Court finds that the verdict was not actuated by passion, caprice or prejudice. The jury gave careful deliberation to the issues before it and deliberated for three (3) hours. The Motion was heard and the Court also made contemporaneous findings of fact and conclusions of law for the record which are incorporated in this Order as if stated verbatim.

Based on the foregoing; Defendant's Motion for Judgment Notwithstanding the Verdict is heard and respectfully DENIED.

Hon. Deadra L. Jefferson
Presiding Judge
Ninth Circuit Court

_____, 2025
Charleston, South Carolina





Charleston Common Pleas

Case Caption: M Edward Wilson Jr VS Paul Brown , defendant, et al
Case Number: 2022CP1002743
Type: Order/Judgment and Form 4

IT IS SO ORDERED.

s/D.L. Jefferson Ninth Judicial Circuit Judge 2128

Exhibit C
March 28, 2025 Rule 59 SCRCF Motion

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON)	CASE NO.: 2022-CP-10-02743
)	
M. Edward Wilson, Jr., M.D.,)	
)	
Plaintiff,)	
vs.)	MOTION FOR A NEW TRIAL
)	
Marquee Limo Co., LLC and Paul Brown,)	
)	
Defendants.)	
)	
)	
)	

PLEASE TAKE NOTICE that Defendants, Marquee Limo Co., LLC and Paul Brown (hereinafter "Defendants"), by and through their undersigned attorney, moves this Court for a New Trial pursuant to Rule 59 of the South Carolian Rules of Civil Procedure.

Defendants move on the grounds that this Court improperly instructed the jury on speculative damages and the requirements that damages be ascertainable with a reasonable degree of certainty.

Plaintiff brought a lawsuit against Defendants for a motor vehicle accident that occurred on April 12, 2021. As a result of the accident, Plaintiff alleged he incurred \$85,186.01 in medical bills. Plaintiff also presented a loss of earning capacity report produced by Dr. Wood. Dr. Wood's opinions are based on Plaintiff's claim his career was shortened by ten years and that he will retire on December 31, 2025. Further, Dr. Wood's included costs related to the care of Plaintiff's disabled son. Ultimately, Dr. Wood's opinion is that Plaintiff had \$3,311,649.00 in loss of earning capacity and child care.

This matter was tried to a jury verdict between March 17, 2025, and March 19, 2025. The jury found Defendants liable to Plaintiff for \$3,350,000.00. At the time of trial, Plaintiff was 70

years old. He presented no expert evidence supporting his position that he was likely to continue working as a pediatric ophthalmologist until he was at least 80. If Plaintiff's damages were taken as presented, he had incurred \$3,396,835.01 in past and future economic damages. This exceeded the award before the inclusion of any non-economic damages.

Plaintiff cannot recover damages that are conjectural or speculative. *See Smith v. Wells*, 258 S.C. 316, 188 S.E.2d 470 (1972) (only such future or prospective damages may be recovered as the evidence renders it reasonably certain will of necessity result from the alleged injury) and *Ford v. A.A.A. Hwy. Express, Inc.*, 204 S.C. 433, 29 S.E.2d 760 (1944)(future or prospective damages must be confined to such as evidence renders it reasonably certain will result from original injury).

The majority of Plaintiff's damages hinge upon his allegedly shortened career. He claimed debilitating injuries that will force him to retire on December 31, 2025. If the Jury accepts this claim, then Plaintiff's award should have been higher. On the other hand, if the jury did not believe Plaintiff's injuries were severe enough to shorten his career, the economic damages presented in Dr. Wood's report are not supported, and Plaintiff's award should be substantially lower. Therefore, the only logical conclusion must be that the jury's award was based on speculation and not reasonably ascertainable damages.

Finally, during closing arguments, Plaintiff's counsel objected to Defendant's counsel referring to the annual net income of Defendant Marquee. This evidence was already in the record without objection as it was elicited from Defendant Marquee's representative. However, during the objection, Plaintiff's counsel argued Defendant Marquee's ability to pay was not relevant as Plaintiff has dismissed his claims for punitive damages. The objection was sustained.

This objection was improperly sustained for two reasons. First, this argument was based upon evidence already in the record. For the entirety of the trial, Plaintiff's counsel sought punitive damages and examined Defendants and witnesses on issues related only to punitive damages. In fact, at least one witness was proffered almost solely on the issue of punitive damage despite liability being admitted. As such, Defendant had the right to address these allegations even if Plaintiff chose to drop his claim for punitive damages just before closing arguments. Second, Defendant's annual net income was already evidence in the record. As such, Defendant was free to reference that evidence. Importantly, as argued at the time of the objection, this information was *not* being offered to address an ability to pay. Instead, it was being offered as a real life foundation upon which the jury might reasonably reach a fair verdict. This was no different than Plaintiff suggesting a *per diem* amount of damages based on Defendant's rates of service -- something Plaintiff's counsel did both in opening and closing arguments. Both methods are tied to Defendant's monetary income, but neither were offered to suggest Defendant's ability to pay was a consideration for the jury. As such, this objection was improperly sustained.

Based on the foregoing facts, Defendants request a new trial absolute because under the "thirteenth juror" doctrine, the evidence does not justify the jury's verdict. The trial judge has the thirteenth juror authority to see that justice is done in every case. *Rock Smith Chevrolet, Inc. v. Smith*, 309 S.C. 91, 419 S.E.2d 841 (Ct. App. 1992). Under that doctrine, a trial judge may grant a new trial absolute when he finds the evidence does not justify the jury's verdict. This ruling has also been termed as granting a new trial upon the facts. *See Gastoneau v. Murphy*, 323 S.C. 168, 473 S.E.2d 819 (Ct. App. 1996).

This 28th day of March, 2025.

Respectively Submitted,

CLARKSON, WALSH, & COULTER, P.A.,

s/ Jeffrey Crudup

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Company as UIM carrier pursuant to S.C.
Code § 38-77-160***

Exhibit D
June 5, 2025 Order Denying Motion for New Trial

Defendant, Marquee Limo Co., LLC, struck him in a crosswalk near the Medical University of South Carolina.

Promptly after the verdict and discharge of the jury, the Court required that all post-trial motions be made at that time. The Plaintiff made no post-trial motions. Defendant requested ten (10) days to make post-trial motions. That request was heard and respectfully denied by this Court.³ The Defense did not object. Defense Counsel then moved for Judgment Notwithstanding the Verdict pursuant to Rule 50, SCRPC. Defense Counsel presented their basis for the motion, and it was denied by this Court. The Court issued its Order denying the Motion for JNOV and entering judgment on March 25, 2025.⁴ The Court's instructions to Counsel were clear that it was requiring all post-trial motions be argued in full or the Court would consider them waived.

Defendant moves this Court for a new trial pursuant to Rule 59, SCRPC, on grounds this Court "improperly instructed the jury on speculative damages and the requirements that damages be ascertainable with a reasonable degree of certainty." (Defense Motion pg. 1). The motion asks this Court to act as the "13th juror" because the verdict is not justified by the evidence.⁵ However, this Court notes that Defense counsel failed to make a contemporaneous objection preserving the issue now raised. A charge conference was held and no objections were interposed to the Court's instructions. Additionally, no contemporaneous objections were made at the close of the Court's instructions to the jury after the Court's inquiry regarding same. Any contemporaneous objections made were heard and ruled on by the Court, are reflected in the trial transcript, and preserved for appellate review. Creech v. South Carolina

³ The Court, very clearly, advised Defense Counsel that it was requiring that all post-trial motions be made promptly after the verdict and discharge of the jury. The Court also clearly articulated and provided the basis for the requirement and its preference.

⁴ The Court denied the Motion for JNOV on March 19, 2025, and made contemporaneous findings of fact and conclusions of law which were incorporated in the written Order as if stated verbatim.

⁵ While this motion is postured as one for a New Trial pursuant to Rule 59, SCRPC, the arguments made simply mirror the arguments made by the Defense in support of its original motion for JNOV.

Wildlife and Marine Resources Dept., 328 S.C. 24, 491 S.E.2d 571 (1997). Post-trial motions are not necessary to preserve issues that have been ruled upon at trial. Bailey v. Segars, 346 S.C. 359, 550 S.E.2d 910 (Ct. App. 2001).

Under Rule 59(b), SCRPC, the motion for a new trial shall be made promptly after the jury is discharged, or in the discretion of the court not later than 10 days thereafter. “In jury trials, post-trial motions are made promptly at the end of the trial, or at the time the court, upon motion, may grant an additional ten days to make them.” Boone v. Goodwin, 314 S.C. 374, 444 S.E.2d 524 (1994).

Here, the Court required post-trial motions promptly after the verdict and the jury was discharged. Thereafter, the Defense request for an additional ten (10) days for filing Motions after the verdict was returned was denied. To allow counsel to disregard the Court’s ruling would be an open invitation to ignore the dictates of the rules and the Court.

Given the Court’s clear discretion and its requirement that post-trial motions be made immediately after the verdict and discharge of the jury, the Defense Motion for New Trial is not timely and is without merit and is therefore Denied.

IT IS SO ORDERED.

Hon. Deadra L. Jefferson
Presiding Judge
Ninth Judicial Circuit

June 4, 2025
Charleston, South Carolina



Charleston Common Pleas

Case Caption: M Edward Wilson Jr VS Paul Brown , defendant, et al

Case Number: 2022CP1002743

Type: Order/Other

IT IS SO ORDERED.

s/D.L. Jefferson Ninth Judicial Circuit Judge 2128

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Appellate Case No. 2025-001314

Marquee Limo Co., LLC and Paul Brown,

Appellants,

v.

M. Edward Wilson, Jr., M.D.,

Respondent.

PROOF OF SERVICE

The undersigned certifies that on January 16, 2026, a copy of Appellant's Memorandum in Opposition to Respondent's Motion to Dismiss for Lack of Subject Matter Jurisdiction and Appellant's Amended Designation of Matter on Appeal and has been served upon counsel of record via electronic mail using the email address listed below:

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[Signature page to follow]

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JAN 27 2026
SC Court of Appeals

Respectfully Submitted by:

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On this 16th day of January 2026
Charleston, SC

Counsel for Appellant

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JAN 27 2026

SC Court of Appeals

The Honorable Jenny Abbott Kitchings
Clerk of Court for the S.C. Court of Appeals
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