

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GEORGETOWN COUNTY
Court of Common Pleas

The Honorable Benjamin H. Culbertson, Presiding Circuit Court Judge
The Honorable William H. Seals, Jr., Presiding Circuit Court Judge
The Honorable William P. Keesley, Presiding Circuit Court Judge

Circuit Court Case No. 2022-CP-22-00650

Frank Henderson and Antioch Group.....Appellants,

v.

Abundance Home Care and Tyrhonda Priest.....Respondents,

NOTICE OF APPEAL

Frank Henderson and Antioch Group respectfully appeal the following orders:

1. Order of the Honorable Benjamin H. Culbertson, filed January 15, 2026;
2. Form 4 Order of the Honorable Benjamin H. Culbertson, filed Jan. 15, 2026;
3. Order of Judgment of the Honorable Benjamin H. Culbertson, filed January 5, 2026;
4. Form 4 Order of the Honorable Benjamin H. Culbertson, filed December 16, 2026;
5. Judgments of the Court, entered December 16, 2026;
6. Order of the Honorable Benjamin H. Culbertson, filed Nov. 25, 2025;
7. Order of the Honorable William H. Seals, Jr., filed Oct. 24, 2025;
8. Order of the Honorable William P. Keesley, filed June 16, 2025;

9. Order of the Honorable William P. Keesley, filed May 22, 2025;

10. All other intermediate orders or decrees in this case necessarily affecting the judgment.

Appellants contemporaneously received notice of the orders of January 5, 2026, and January 16, 2026. A copy of the orders appealed from is attached to this Notice.

Respectfully submitted,

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s/Ainsley F. Tillman

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February 4, 2026

Charleston, South Carolina

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Attorneys for Respondents

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GEORGETOWN	)	FIFTEENTH JUDICIAL CIRCUIT
	)	C.A. No.: 2022-CP-22-00650
Frank Henderson and Antioch Group,	)	
	)	
Plaintiffs,	)	
	)	ORDER APPOINTING L. WALTER
vs.	)	TOLLISON, III, ESQUIRE AS RECEIVER
	)	
Abundance Home Care and	)	
Tyrhonda Priest,	)	
	)	
Defendants.	)	

On December 16, 2025, this Honorable Court entered judgment against Plaintiffs Frank Henderson and Antioch Group (“Plaintiffs”) in the amount of \$2,870,060.91. On December 17, 2025, Defendants Abundance Home Care and Tyrhonda Priest (“Defendants”) filed an Emergency Motion for Appointment of Receiver. This matter was heard before the Honorable Benajmin Culbertson on January 15, 2026.

Upon reviewing the record, the evidence, and the applicable law and hearing statements and representations of counsel, I find that Defendants’ Emergency Motion to Appoint Receiver should be granted and a receiver should be appointed with authority to pursue discovery from Plaintiffs and third parties, require the production of documents and other evidence, and take possession of Plaintiffs’ non-exempt assets and secure them, upon threat of contempt and sanctions by this Court for willful failure to cooperate with the receiver.

FINDINGS OF FACT

On December 15, 2025, Defendants appeared before the Honorable Benjamin Culbertson for a Damages Hearing in the above referenced matter. During the Damages Hearing, substantial information and evidence was presented which established the substantial fraud that had been

perpetrated by Plaintiffs Frank Henderson and Antioch Group on Defendants. After hearing all of the evidence, the Court entered a judgment on December 16, 2025, in favor of Defendants against Plaintiffs, jointly and severally, in the amount of \$2,870,060.91 for actual damages, lost profits and punitive damages.

During the damages hearing, evidence was presented showing how Plaintiffs colluded with other individuals and utilized other companies and entities to defraud Defendants and how Plaintiffs sequestered, hid money, and breached their fiduciary duty to Defendants. Evidence was presented showing how Plaintiffs fraudulently transferred Defendants' money and funds to other entities owned and operated by Plaintiffs. Furthermore, evidence was presented showing how a forged document filed with the South Carolina Secretary of State, which included Defendant Priest's forged signature, was utilized by Plaintiffs to perpetrate this fraud on Defendants. Based upon the egregious conduct of Plaintiffs, the Court awarded Defendants punitive damages due to the willful, wanton and reckless conduct of Plaintiffs.

This Honorable Court has reviewed the Orders in this matter and on June 16, 2025, the Honorable William P. Keesley order on June 16, 2025 which granted Defendants' Motion for Sanctions and striking the pleadings of Plaintiffs in accordance with Rule 37 of the South Carolina Rules of Civil Procedure. Notably, the Order stated:

Plaintiffs representations to Defendants and the Court during the first Motion to Compel hearing on July 25, 2024, that they would produce the sought discovery, failing to and forcing a second Motion to Compel to be filed by Defendants, and the subsequent willful noncompliance with the representations at the February 20, 2025 Motion to Compel hearing are a continuation of Plaintiffs' dilatory tactics throughout this case which have prejudiced Defendants' ability to defend against Plaintiffs' claims and support their counterclaims with discoverable information necessary to prepare for trial. Plaintiffs were aware that a trial was imminent. Plaintiffs made numerous representations that they would produce the discovery both prior to and subsequent to both hearings on Defendants' Motions to Compel, all along breaching the deadlines and extensions to deadlines granted by Defendants' counsel. In the wake of those representations, Plaintiffs' failure to comply with the July 30, 2024 and February 25, 2025 Orders of the Court demonstrate a clear willful disobedience towards Court orders and callous

disregard for the Defendants' rights. In choosing to make false representations to opposing counsel, and even their own counsel, Plaintiffs effectively wasted over a year's worth of time. These actions alone are sufficient to grant an order of sanctions striking the pleadings of Plaintiffs. When taken as a whole in context with the Plaintiffs' prior discovery abuse, monetary sanctions and continuing noncompliance with orders and the Rules of Civil Procedure, it is apparent to this Court that no other sanction is likely to have an effect on the behavior of these Plaintiffs.

In order to protect their interests, Defendants filed this Motion for Emergency Appointment of L. Walter Tollison, III, Esquire, as a Receiver (the "Receiver") for Plaintiffs Frank Henderson and Antioch Group and along with other entities owned or controlled by Plaintiffs, including but not limited to, Heart of the Carolinas.

CONCLUSIONS OF LAW

1. The foregoing Findings of Fact are denominated Conclusions of Law to the extent that they constitute the same.
2. The Judgment was granted in favor of Defendants and has not been satisfied.
3. A receiver may be appointed after judgment to carry the judgment into effect. *See* S.C. Code Ann. § 15-65-10(2).
4. Furthermore, the Court finds that Defendants have established (1) an apparent right to the property which is the subject of the action; (2) that the property is in possession of Plaintiffs; and (3) that the property, or its rents and profits, are in danger of being lost or materially injured or impaired, satisfying the requirements for appointment of a receiver under S.C. Code Ann. § 15-65-10(1).
5. Moreover, the Court finds that an appointment of a receiver is warranted based on Plaintiffs "fraudulent conduct" and "moral fraud against the trial court" as displayed by Plaintiffs' pattern of discovery abuse and litigation misconduct. *See Welch v. Advance Auto Parts, Inc.*, 445 S.C. 640, 662, 916, S.E.2d 320, 332 (2025).
6. A receiver may be appointed to receive any distributions due to or to become due to the judgment debtor from a limited liability company in which the judgment debtor has a membership

interest. *See* S.C. Code Ann. § 33-44-504(a). Likewise, a receiver may receive other payments due a judgment debtor and “stands in the shoes of the debtor with respect to property of the latter,” as well as his “contractual relation[s].” *Jeffcoat v. Morris*, 300 S.C. 526, 389 S.E.2d 526 (Ct. App. 1989), *overruled on other grounds by United Carolina Bank v. Caroprop, Ltd.*, 316 S.C. 1, 4 (1994).

7. South Carolina law allows for the appointment of a Receiver under the facts of this case.

8. The Court concludes that Defendants are entitled to the appointment of a receiver in order to ascertain by investigation and to take possession of and secure assets and income of Plaintiffs to aid in carrying the judgment into effect.

NOW, THEREFORE, based upon the foregoing findings of fact and the conclusions of law, IT IS THEREFORE ORDERED that:

1. L. Walt Tollison, III, Esq. (“TOLLISON”) is hereby appointed as Receiver to ascertain by investigation and to take possession of and secure assets and income of Plaintiffs or other third party entities to which Plaintiffs have any direct or indirect ownership interest in or any control of, including but not limited to, the following entities: Heart of the Carolinas, LLC, Faith, Hope, and Charity Residential Care, LLC, Miller Place Residential Care, LLC, Sherman Residential Care, LLC, Ruby Donald Residential Care, LLC, Ruby Donald Real Estate, LLC, Palmetto Breakfast Club, LLC, Palmetto Holdings Greer, LLC, Jackson Frank, LLC, and Palmetto Business Partners, LLC (all of the foregoing herein referred to as the “Plaintiffs’ Property” or “property”).

2. Within ten (10) business days following the entry of this Order, and on an ongoing basis as long as this Order remains in effect, Plaintiffs shall surrender and deliver possession to TOLLISON all of the assets, property, and records relating to assets, property, and income that they may possess, own or control, directly or indirectly, legally or equitably, including but not limited to the above-identified third-party entities, and all assets and property of Henderson and Antioch Group and other entities located by Receiver, all records that relate to or may lead to the discovery of assets, property, and income of

Plaintiffs, and all assets and property that Plaintiffs hereafter receives or acquires, directly or indirectly, legally or equitably, while the Order is in effect, with the exception of property that is exempt from execution or levy (for example, the homestead exemption) (“Exempt Property”). As to such Exempt Property, Plaintiffs shall not dispose of or encumber such property beyond the statutory amount of the exemption. If such property is already encumbered such that the owner’s equity in the property is less than the amount of the exemption, the owner shall not further encumber or dispose of the property.

3. Effective as of and from the date of the entry of this Order, all funds or other property that are received by Plaintiffs or other entities, except for Exempt Property, shall be delivered to the Receiver and deposited with a bank of Receiver’s choice or otherwise secured by Receiver.

4. The Receiver will be and hereby is authorized and directed to take immediate possession of the Plaintiffs’ and third-parties’ property and assets as set forth above and to exercise full control over Plaintiffs’ and third-parties’ property and assets, except for Exempt Property, provided that Receiver shall not sell or dispose of such assets until further order of this Court, and the Receiver in so doing will have all powers generally available to Receivers under the laws of the State of South Carolina, and will have, among others, the following specific powers:

(a) The power and authority to take possession of Plaintiffs’ property and assets. All parties in possession of such property are to surrender it to the Receiver upon demand. This property shall include, but not be limited to the following:

- i. Real Property
- ii. Goods
- iii. Inventory
- iv. Equipment
- v. Chattel Paper and Accounts
- vi. Securities and Instruments, including but not limited to Stocks, Membership Interests, Bonds,

and Promissory Notes

vii. Investment Property

viii. Contracts and other Documents

ix. Deposit Accounts

x. Commercial Tort Claims

xi. Money

xii. Letter of Credit Rights

xiii. General Intangibles

xiv. Supporting Obligations

xv. All Cash or Equivalents, Savings Accounts, Brokerage Accounts, any other bank accounts of Plaintiffs or other entities; and

xvi. All proceeds and products, including but not limited to rent, of above.

This property shall not include Exempt Property.

(b) Gather all books and records of Plaintiffs and other entities, and subpoena or otherwise require production of books and records of third parties, including but not limited to a list of all aliases Plaintiffs have used, a list of all family members and entities with which Henderson is affiliated, and historical records showing any asset transfers or dispositions by Henderson, family members, or affiliated entities and all salary, dividend, distribution, and other compensation payments to Henderson, his family members, or any entity with which he is affiliated, to determine the existence and amount of all Henderson's rights, debts and obligations together with all their assets;

(c) To control all bank, brokerage, and trust accounts owned by or for the benefit of Plaintiffs and other entities in which Plaintiffs have control of or a direct or indirect ownership interest in. No other persons shall have any authority or control over any funds in the accounts, including but not limited to authority or control to disburse funds;

(d) With respect to any insurance coverage in existence or obtained, the Receiver shall be named as an additional insured on the policies for the period that the Receiver shall be in possession of the property insured;

(e) The Receiver is hereby authorized to demand and receive any dividends or distributions due to or to become due to Plaintiffs or any other entities in which Plaintiffs have control of or any direct or indirect ownership or membership interest, including but not limited to Plaintiffs; and any such corporation or limited liability company is hereby directed and enjoined, upon receipt of this Order, to make such distribution(s) only to the Receiver while this Order is in effect.

5. Receiver shall have no obligation to pay for accrued wages, benefits, and taxes, payroll or other amounts, accrued in advance of the date of this Order, whether currently due or owing.

6. The Receiver will furnish to the Court and to the Parties quarterly statements itemizing property that has been secured by Receiver pursuant to this Order. Such report will be filed within thirty (30) days after the end of each calendar quarter, the first such report to be due thirty days after the end of the first quarter after this Order is entered and quarterly thereafter. The parties to this litigation will be entitled to inspect the books and records of the Receiver concerning assets held by it pursuant to this Order at reasonable times and with reasonable notice, subject to the Confidentiality Order in this case.

7. Without further Order of the Court, the Receiver shall be entitled to payment of professional fees and expenses incurred by the Receiver to be paid by Plaintiffs. Receiver's professional fees shall be charged at Receiver's reasonable hourly rate and at such lesser rates as he ordinarily charges for associate and paralegal time. All photocopies and facsimile charges along with necessary out-of-pocket expenses (including travel and lodging) will be billed at cost. All fees and expenses of the Receiver shall be accounted for in the Quarterly Statement of Operations.

8. The Receiver will have such additional powers as are provided by law and as this Court may from time to time direct.

9. No person or entity shall file suit against the Receiver, Defendants, or Defendants' counsel for actions taken in compliance with this Order.

10. The Receiver shall have no personal liability in connection with any liabilities, obligations, liens or amounts owed to any creditors or claimants of Plaintiffs.

11. The Receiver and his employees, agents, and attorneys shall have no personal liability or obligation and shall have no claim asserted against them in connection with the Receiver's actions under this Order.

12. The Receiver may, in its discretion, notify this Court and the parties to this action that the Receivership is not practical, and upon such notice all duties of the Receiver shall terminate except with regard to liabilities which arise prior to the date of the notice. The Court may then appoint a new Receiver to take any and all such other action as it deems appropriate. Receiver shall turn over all of the assets and records secured pursuant hereto to any successor receiver appointed by the Court and shall file a final accounting with the Court.

13. In the event that Plaintiffs fail to turn over the property and other items required by this Order within ten (10) business days, the appropriate County Sheriff is hereby ordered to take all necessary actions and appropriate force to give full effect to the terms of this Order.

14. All persons who receive notice of this Order are enjoined from interfering with the powers and duties of the Receiver.

15. All providers of insurance with respect to the Property are prohibited and enjoined from cancelling such insurance policies provided that the Receiver pays the applicable premiums for any prospective exposure going forward under the receivership, and such premiums may be paid from assets secured by the Receiver pursuant to this Order.

16. The Receiver is not responsible for filing any federal, state, or local tax returns including those relating to any activities during the receivership but is entitled to collect any tax refunds payable to

Plaintiffs.

17. The Receiver and the parties to this case may at any time apply to this Court for instructions or orders and for further powers necessary to enable the Receiver to perform the Receiver's duties properly.

18. IT IS FURTHER ORDERED that pending further Order of this Court, Plaintiffs and their respective agents, partners, managers, employees, assignees, heirs, representatives, affiliates or related entities and all other persons acting in concert with them who have actual or constructive knowledge of this Order, and their agents and employees, shall not:

A. Commit Waste: Plaintiffs shall not commit or permit any waste of the Property or any part thereof or suffer or commit, or permit any act on, the Property or any part thereof in violation of law, or remove, transfer, encumber or otherwise dispose of any of the Property or the fixtures presently on the Property or any part thereof.

B. Cash or Credit Card Receipts: Plaintiffs shall not discount or in any other way divert or use any of the monies from the Property, including, but not limited to, rents, cash from sales, or credit card receipts.

C. Interfere with Receiver: Plaintiffs shall not directly or indirectly interfere in any manner with the discharge of the Receiver's duties under this Order or the Receiver's possession of the Property.

D. Transfer or Encumber the Property: Plaintiffs shall not expend, disburse, transfer, assign, sell, convey, devise, pledge, mortgage, create a security interest in, encumber, conceal or in any manner whatsoever deal in or dispose of the whole or any part of the Property, including, but not limited to, the cash, rents inventory, and fixtures without prior Court Order.

E. Impair Preservation of Property or Defendants' Interest: Plaintiffs shall not do any act which will, or which will tend to impair, defeat, divert, prevent or prejudice the preservation of the Property, or the preservation of Defendants' interest in the Property. Plaintiffs are further enjoined from making any payments or transfers of funds or property to or from any affiliates, insiders, directors, officers,

family members, or any other person or entity controlled by or otherwise related to any affiliates, insiders, directors, and/or officers.

IT IS SO ORDERED.



Georgetown Common Pleas

Case Caption: Frank Henderson , plaintiff, et al VS Infinity Home Care , defendant,
et al
Case Number: 2022CP2200650
Type: Order/Appointment of Receiver

Presiding Circuit Court Judge

s/Benjamin H. Culbertson, Judge Code 2148

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF Georgetown
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2022CP2200650

Frank Henderson et al
PLAINTIFF(S)Tyrhonda Priest et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled);
☐ Other
- ☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*):
☐ Affirmed; ☐ Reversed; ☐ Remanded;
☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☒ See attached order (formal order to follow) ☐ Statement of Judgment by the Court:

Motion to Continue by Attorney Few is Denied.
Motion for Appointment of Receiver by Attorney Mihalic is Granted. Order signed 1/15/2026.

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 01/15/2026 .

Robert Mills Ariail, Jr. for Tyrhonda Priest, Abundance Home Care
Ryan Lewis Beasley for Frank Henderson, Antioch Group
Wesley D. Few for Frank Henderson, Antioch Group
Frank Henderson for Frank Henderson
Frank Henderson for Frank Henderson
Justin David Mihalic for Tyrhonda Priest, Abundance Home Care

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.



Georgetown Common Pleas

Case Caption: Frank Henderson , plaintiff, et al VS Infinity Home Care , defendant,
et al
Case Number: 2022CP2200650
Type: Order/Electronic Form 4

Presiding Circuit Court Judge

s/Benjamin H. Culbertson, Judge Code 2148

STATE OF SOUTH CAROLINA COUNTY OF GEORGETOWN	)))	IN THE COURT OF COMMON PLEAS FIFTEENTH JUDICIAL CIRCUIT C.A. No.: 2022-CP-22-0650
FRANK HENDERSON AND ANTIOCH GROUP, Plaintiffs, Vs. ABUNDANCE HOME CARE AND TYRHONDA PRIEST, Defendants.	))))))))))	ORDER OF JUDGMENT

A Damages Hearing in the above-captioned case was held before the Honorable Benjamin H. Culbertson in the Georgetown County Court of Common Pleas located at 401 Cleland Street, Georgetown, South Carolina 29440 on December 15, 2025. Plaintiffs Frank Henderson (“Henderson”) and Antioch Group (“Antioch”) (collectively “Plaintiffs”) were provided with notice of the hearing but did not appear. Defendants Abundance Home Care (“Abundance”) and Tyrhonda Priest (“Priest”) (collectively “Defendants”) were represented by R. Mills Ariail, Jr. and Justin D. Mihalic of the Ariail Law Firm, and Tyrhonda Priest was present on behalf of the Defendants.

PROCEDURAL BACKGROUND

The Court makes the following findings of fact in the issuance of its Order. This case was initiated by Plaintiffs filing a Summons and Complaint in the Georgetown Court of Common Pleas on August 3, 2022. Plaintiffs filed an Amended Summons and Complaint on August 10, 2022. Plaintiffs’ Complaint consisted of two causes of action for (1) Breach of Contract and (2) Fraudulent Act. Plaintiffs alleged that, sometime on or around December 2021, Defendants breached the Partnership Agreement entered into by the parties on March 24, 2018, and that

Plaintiffs were entitled to Fifty Percent (50%) of the profits received by Defendants since the alleged breach of the Partnership Agreement.

Defendants were served with the Amended Summons and Complaint on January 17, 2023. A Consent Motion was filed by the parties on February 6, 2023, extending Defendants' time to file responsive pleadings until March 17, 2023.

On March 15, 2023, Defendants issued subpoenas to Marshall Looper and Still Water Financial, the former bookkeeper for Abundance Home Care hired by Plaintiff Henderson and also issued a subpoena to Heart of the Carolinas, LLC, a third-party entity owned and operated by Plaintiff Frank Henderson, based on funds being transferred to accounts belonging to Heart of the Carolinas and Heart of the Carolinas accounts being listed on documents filed with banks and used to obtain SBA and PPP loans.

Defendants filed their Answer and Counterclaims on March 16, 2023. Defendants' counterclaims alleged that Plaintiffs had breached the Partnership Agreement by obtaining fraudulent loans without authorization, failing to make company books and accounts available, failing to account for private profits, commingling company finances with other individuals and/or entities, and engaging in business ventures that directly conflicted with Plaintiffs' status as a partner. Defendants' counterclaims consisted of nine (9) causes of action: (1) Breach of Contract/Breach of Contract Accompanied by Fraudulent Act; (2) Breach of Duty of Good Faith and Fair Dealing; (3) Breach of Fiduciary Duty; (4) Breach of Contract – Breach of Duty of Loyalty; (5) Conversion; (6) Misrepresentation/Negligent Misrepresentation; (7) Fraud; (8) Unjust Enrichment; and (9) Accounting/Accounting of Private Profits.

Defendants' initial discovery requests were served on Plaintiffs' counsel on March 16, 2023, the same day Defendants filed their Answer and Counterclaims.

Plaintiffs provided their initial discovery responses to Defendants on June 22, 2023. On February 22, 2024, counsel for Defendants sent a deficiency letter to Plaintiffs' counsel detailing deficient interrogatory responses and additional production that was needed from Plaintiffs. Plaintiffs provided supplemental discovery on March 20, 2024, however, Defendants' counsel responded that same day to inform Plaintiffs' counsel that there were still numerous deficiencies in the discovery responses which had not been remedied, and they would be proceeding with filing a Motion to Compel.

Defendants' Motions to Compel:

On March 20, 2024, counsel for Defendants filed two separate Motions to Compel: one seeking to compel discovery responses from Plaintiffs, and another seeking to compel production through a subpoena request to Heart of the Carolinas, LLC, a third-party entity owned by Plaintiff Frank Henderson.

A hearing on Defendants' Motion to Compel was set for April 26, 2024. Plaintiffs' counsel provided additional supplemental discovery responses on April 18, 2024, and on April 24, 2024, counsel for Defendants filed a letter notifying the Court that additional discovery had been received from Plaintiffs and requesting to continue the hearings on Defendants' Motions to Compel until after the mediation that was scheduled to take place on May 3, 2024.

Mediation between the parties ultimately resulted in an impasse, and the hearings on Defendants' Motions to Compel were rescheduled for July 25, 2024. At the hearing on Defendants' Motions to Compel, the Motions were resolved by an agreement between counsel wherein Plaintiffs agreed to fully comply with Defendants' discovery requests within forty-five (45) days of the hearing. Plaintiffs' counsel also represented that she would be representing the third-party, Heart of the Carolinas, and informed the Court that Heart of the Carolinas would

comply with the subpoena request within forty-five (45) days of the hearing as well. On July 30, 2024, the Honorable Judge Hyman entered an Order based on the parties' agreement, ordering Plaintiffs' compliance with Defendants' discovery requests and Heart of the Carolina's compliance with Defendants' subpoena within forty-five (45) days.

In discussions between counsel following the hearing, Defendants' counsel agreed to extend the time frame for Plaintiffs to comply with the order to sixty (60) days.

Defendants' First Rule to Show Cause:

Ultimately, both Plaintiffs and third-party Heart of the Carolinas failed to comply with the July 30, 2024, Order compelling discovery requests and subpoena production. As a result, Defendants filed their first Rule to Show Cause on January 15, 2025, based upon Plaintiffs' and Heart of the Carolina's non-compliance with the July 30, 2024, Order.

A hearing was held on Defendants' Rule to Show Cause on February 20, 2025. Counsel for the parties once again reached an agreement regarding the requested discovery and put that agreement on record.

The agreement put on the record by the parties at the February 20, 2025, Rule to Show Cause hearing was as follows: (1) Plaintiffs were to pay \$1,500 to Defendants' attorney within seven (7) days of the hearing for necessitating the Rule to Show Cause; (2) Plaintiffs would produce all monthly bank statements for the Heart of the Carolinas account ending in -8969 for the period of January 1, 2018 through December 31, 2022 within seven (7) days of the hearing; and (3) all other outstanding bank statements identified in the March 16, 2023, deficiency letter attached as Exhibit B to the Motion to Compel filed on March 20, 2024 for the period of January 1, 2018 through December 31, 2022, as well as any other interrogatories or requests for production addressed therein, would be produced within thirty (30) days of the hearing.

On March 3, 2025, counsel for Defendants sent an email to Plaintiffs' counsel inquiring as to the status of the bank statements for the Heart of the Carolinas ending in -8969 and attorney fee payment that had been due on February 27, 2025, pursuant the parties' agreement at the first Rule to Show Cause hearing. Plaintiffs' counsel responded that same day, providing an electronic bank record for the Heart of the Carolinas account ending in -8969 she had received from Plaintiffs and stating that her client had mailed out the check for attorneys' fees that same day.

On March 5, 2025, Defendants' counsel responded to the email stating that the electronic bank record was insufficient as it appeared to be from some accounting application, and that actual copies of monthly bank statements for the time frame of January 1, 2018 to December 31, 2022 were needed to properly evaluate if funds had been misappropriated and to fully comply with the discovery request.

Counsel for Defendants sent another email on March 10, 2025, again following up on the status of the bank records and attorney fee payment. Plaintiffs' counsel responded that same day stating that the check had been mailed out on March 6, 2025, and that they were still waiting on Plaintiffs to provide them with the necessary documents for production.

On March 25, 2025, counsel for Defendants' once again sent an email inquiring as to the status of the bank statements for the Heart of the Carolinas ending in -8969 and also notifying Plaintiffs' counsel that they were now past the agreed upon thirty (30) day deadline to produce the remaining discovery sought through the deficiency letter and agreed upon at the February 20, 2025, hearing on Defendants' second Motion to Compel. Later that same day, Plaintiffs' counsel shared a Dropbox link to the bank statements she had received from Plaintiffs.

On April 1, 2025, Defendants' counsel sent an email informing Plaintiffs' counsel that

the Dropbox link only contained 22 monthly statements for the agreed upon time frame of January 1, 2018 to December 31, 2022, and also noting out that all of these statements were supposed to be produced within seven (7) days of the February 20, 2025 hearing, and it was now more than forty (40) days after the hearing and Plaintiffs had only produced partial statements for the one account that was supposed to be produced within one week of the hearing. Counsel for Defendants requested confirmation that all the discovery would be produced by the end of the week, and informed Plaintiffs' counsel of their intent to file a motion for contempt and sanctions in which they would be seeking to strike Plaintiffs' pleadings for Plaintiffs' continued abuse of discovery if the discovery was not received by the end of the week.

On April 11, 2025, a Date Certain Roster Meeting was held, and counsel for the parties agreed to a date certain of December 15, 2025, for the trial in this matter. A Form 4 Order was issued on April 15, 2025 setting this matter as Number 1 on a date certain of December 15, 2025.

Defendants' Second Rule to Show Cause/Motion for Contempt and Sanctions:

On April 25, 2025, Defendants filed a Motion for Contempt and Sanctions, seeking to strike Plaintiffs' pleadings. A hearing on Defendants' Motion was set for May 22, 2025.

On May 20, 2025, just prior to the hearing on Defendants' Motion for Sanctions, Plaintiffs produced additional bank statements for the Heart of the Carolinas account ending in - 8969 which covered the period through the end of 2021; however no statements were produced for the year 2022. Plaintiffs failed to produce or comply with the remainder of the agreement and Order compelling discovery.

At the hearing on Defendants' Motion for Contempt and Sanctions, counsel for Defendants presented arguments regarding Plaintiffs' repeated noncompliance with discovery, despite Plaintiffs' assurances to this Court that they would comply with discovery on two prior

occasions. Counsel for Defendants argued that Defendants had been prejudiced by the inability to conduct any forensic accounting or depose Plaintiffs due to the lack of discovery, and that the severity of the relief sought was supported given that trial was set to take place before the end of the year. Defendants' counsel also submitted an attorney fee affidavit prior to the hearing, seeking attorneys' fees in the amount of Nine Thousand, Two Hundred Thirty-Six Dollars and Sixty-Seven Cents (\$9,236.67) which had been incurred by Defendants and were directly attributable to Plaintiffs' discovery abuses over the course of this litigation.

Plaintiffs' counsel informed the Court that she had stressed the importance of compliance with her clients, had notified Plaintiffs of the possible severity of the repercussions for noncompliance, and had received little communication in the preceding months from Plaintiffs. Plaintiffs' counsel represented that Plaintiff Henderson had informed her of a medical issue which was responsible for his delayed compliance with the discovery and urged the Court for an additional thirty (30) days to allow for Plaintiffs to comply before the Court granted any of the relief sought by Defendants.

On June 16, 2025, the Honorable William P. Keesley issued an Order granting Defendants' Motion for Sanctions and striking the pleadings of Plaintiffs in accordance with Rule 37 of the South Carolina Rules of Civil Procedure. Notably, the Order stated:

Plaintiffs representations to Defendants and the Court during the first Motion to Compel hearing on July 25, 2024, that they would produce the sought discovery, failing to and forcing a second Motion to Compel to be filed by Defendants, and the subsequent willful noncompliance with the representations at the February 20, 2025 Motion to Compel hearing are a continuation of Plaintiffs' dilatory tactics throughout this case which have prejudiced Defendants' ability to defend against Plaintiffs' claims and support their counterclaims with discoverable information necessary to prepare for trial. Plaintiffs were aware that a trial was imminent. Plaintiffs made numerous representations that they would produce the discovery both prior to and subsequent to both hearings on Defendants' Motions to Compel, all along breaching the deadlines and extensions to deadlines granted by Defendants' counsel. In the wake of those representations, Plaintiffs' failure to

comply with the July 30, 2024 and February 25, 2025 Orders of the Court demonstrate a clear willful disobedience towards Court orders and callous disregard for the Defendants' rights. In choosing to make false representations to opposing counsel, and even their own counsel, Plaintiffs effectively wasted over a year's worth of time. These actions alone are sufficient to grant an order of sanctions striking the pleadings of Plaintiffs. When taken as a whole in context with the Plaintiffs' prior discovery abuse, monetary sanctions and continuing noncompliance with orders and the Rules of Civil Procedure, it is apparent to this Court that no other sanction is likely to have an effect on the behavior of these Plaintiffs.

At the time this Order was entered, there had been no ruling made on the attorneys' fees sought by Defendants because of Plaintiffs' discovery abuses based on the affidavit of attorneys' fees filed by Defendants' counsel.¹

Defendants' Motion for Default and Default Judgment:

On September 3, 2025, Defendants filed a Motion for Entry of Default, Affidavit of Default, and Motion for Default Judgment Against Plaintiffs' Frank Henderson and Antioch Group.

In their Motion for Entry of Default, Defendants noted that their Answer and Counterclaims were filed on March 16, 2023, and Plaintiffs failed to file a Reply within thirty (30) days of the Counterclaims. Defendants further supported their Motion by referencing the June 16, 2025, Order which resulted in the striking of Plaintiffs' pleadings. Defendants requested a Damages Hearing as part of their Motion for Default Judgment since their claims did not involve a liquidated amount or sum certain owed,

On September 3, 2025, following the filing of Defendants' Motions, Plaintiffs filed a Reply to the Defendants' Counterclaim.

A hearing was set for September 25, 2025, on Defendants' Motions, but an Order

¹ Based on the record, Plaintiffs never filed a response to the Attorney Fee Affidavit filed on May 21, 2025, seeking \$9,236.67 in attorneys' fees for Plaintiffs' discovery abuses and Judge Keesley has not issued a subsequent Order ruling on the attorneys' fees sought through Defendants' Motion for Sanctions.

of Continuance was issued by the Court on September 23, 2025, based on a scheduling conflict arising from Plaintiffs' counsel being scheduled for a two (2) day trial in Richland County.

The hearing on Defendants' Motions was reset for October 23, 2025, and on October 22, 2025, Plaintiffs' attorney filed a Return to Defendants' Motion for Entry of Default. Plaintiffs' counsel argued that the Reply was drafted on March 21, 2023, and inadvertently not filed with the Court, and that Plaintiffs' counsel filed the Reply on September 3, 2025, upon realizing the error and requested the Court not to grant Entry of Default Judgment.

A hearing on Defendants' Motions was held via WebEx on October 23, 2025, before the Honorable William H. Seals, Jr., and a Form 4 Order was issued on October 24, 2025, granting Defendants' Motions for Entry of Default and Entry of Default Judgment, and setting the Damages Hearing in this matter for previously set date certain trial date of December 15, 2025.

Consent Order Relieving Plaintiffs' Counsel:

On October 28, 2025, Plaintiffs' counsel filed a Consent Order Relieving Counsel based on deterioration of the attorney-client relationship, which was signed by Plaintiffs' counsel and Frank Henderson. The Court issued the Order on October 29, 2025.

However, Plaintiffs' counsel had not conferred with Defendants' counsel prior to the filing of the Consent Order, and an Amended Consent Order was filed on November 25, 2025, to include language stating that, **“opposing counsel does not object to Yvonne Murray-Boyles being relieved as counsel, so long as the Plaintiffs are aware that this shall not constitute grounds for any delays or continuances to be granted in this**

matter, and the damages hearing set for December 15, 2025, shall proceed as scheduled.” The Amended Consent Order further noted that the damages hearing “shall proceed as scheduled regardless of if or when Plaintiffs retain new counsel prior to the damages hearing.” The Amended Consent Order was signed by Plaintiffs’ counsel, Plaintiff Frank Henderson individually and as the authorized representative for Plaintiff Antioch Group, and Defendants’ Counsel. The Amended Consent Order was electronically signed by the Honorable Benjamin H. Culbertson on November 25, 2025.

FINDINGS OF FACT AND ORDER ON DAMAGES

At the call for the damages hearing on December 15, 2025, Plaintiffs did not appear despite having proper notice of the hearing which had been filed with the Court. Defendant Priest was present on behalf of Defendants with her attorneys, R. Mills Ariail, Jr. and Justin D. Mihalic of the Ariail Law Firm.

In support of their requested damages, Defendants presented the testimony of Tyrhonda Priest along with the following exhibits which were entered into the record as evidence:

- **Exhibit #1** – Partnership Agreement executed March 24, 2018.
- **Exhibit #2** – Lease with Mattie Reed Goodalle for 514 Sutton Road, Georgetown, South Carolina 29440 dated August 9, 2018.
- **Exhibit #3** – PPP Credit Memo prepared 4/20/20.
- **Exhibit #4** – PPP Lender Application Form completed by Frank Henderson.
- **Exhibit #5** – Email dated August 13, 2020, with HRSA Cares Act Provide Relief Fund application.
- **Exhibit #6** – Emails dated March 11, 2021.
- **Exhibit #7** – Abundance Home Care 2, LLC documents from the South Carolina Secretary of State.

- **Exhibit #8** – PPP Loan Tracing document
- **Exhibit #9** – Greenville County Public Index records showing Frank Henderson plead guilty to two (2) charges of forgery on August 23, 2016.
- **Exhibit #10** – Emails subpoenaed from Still Water Financial dated November 22, 2019, January 8, 2020, and November 2, 2020.
- **Exhibit #11** – Email sent to Frank Henderson from Clinton McKinney with CCNB dated April 20, 2020, with “Addendum to Cash Management Agreement for Cross Ownership Access” for “Heart of the Carolina LLC.”
- **Exhibit #12** – Email dated April 12, 2021, from Marshall Looper with Still Water Financial to Frank Henderson with attachments for ACH authorization forms for Abundance and other entities owned by Henderson.
- **Exhibit #13** – Email chain dated July 1, 2021, referencing Ruby Donald financing with attached Balance Sheet for Heart of the Carolinas reflecting “Antioch Group” and “Loan to Abundance” as assets.
- **Exhibit #14** – Email dated March 7, 2022, emails showing Frank Henderson using Abundance Home Care financials to obtain financing.
- **Exhibit #15** – Excerpts from bank statements for “CCNB Payroll” account ending in -4058.
- **Exhibit #16** – Excerpts from bank statements for “Abundance Home Care 2” CCNB account ending in -8829.
- **Exhibit #17** – 2020 Abundance Home Care Ledger subpoenaed from Still Water Financial.
- **Exhibit #18** – Excerpt from Abundance Home Healthcare account with TD Bank ending in -8598 showing a check for the repayment of the SBA Loan in the amount of \$148,675.68 dated January 20, 2023.
- **Exhibit #19** – Proof of check written to U.S. Department of the Treasury for HRSA CARES Act loan repayment dated July 8, 2024, in the amount of \$16,916.33.
- **Exhibit #20** – Table of Costs, Damages, and Misappropriated Funds.
- **Exhibit #21** – Table of Abundance Financials for 2018-2025 with Lost Profits calculation, 2021 Annual Budget, and Annual Profit and Loss statements.

The Court heard testimony from Tyrhonda Priest, who is the owner of Abundance

Home Care. Priest testified that she first met Frank Henderson sometime in 2017, and at that time Henderson represented to her that he could help her business grow by assisting in the financial management of Abundance and adding other streams of revenue to Abundance such as transportation services and residential care facilities based on his previous experience in the field. The Court finds that Priest's testimony, along with the corroborating exhibits, establishes her reasonable reliance on Henderson's representations of increasing revenue for Abundance, adding additional streams of revenue for Abundance through transportation services and residential care facilities, and Henderson's management of the financial aspects of the business while Priest focused on the day-to-day operations when she entered into the Partnership Agreement with Plaintiffs.

In reliance on Henderson's representations of creating additional revenue by expanding into residential care facilities, Abundance entered into a lease agreement in August 2018 for a property located at 514 Sutton Road, Georgetown, South Carolina 29440 with the understood goal of renovating it into a residential care facility. Henderson spearheaded the drafting and execution of this lease, and Abundance paid for renovations of the property as well as monthly rent. However, Henderson failed to deliver on his promise of turning the property into a residential care facility for Abundance. Priest testified that Abundance continued to pay rent on the property until August 2024 as the lease automatically renewed for another three-year term in August of 2021, which was a few months prior to Priest being alerted of Plaintiffs' fraudulent conduct.

The testimony and evidence further establish that Frank Henderson used his position in Abundance Home Care for his own financial gain and the financial gain of

other entities that he owned or controlled, to the detriment of Defendants.

Testimony and evidence were presented showing that Henderson created a separate entity without Priest's knowledge or authorization in June 2018, shortly after the Partnership Agreement was executed in March 2018, and fraudulently forged Tyrhonda Priest's signature in the process of creating the "Abundance Home Care 2, LLC" entity. Priest did not become aware of Henderson's fraudulent conduct until she was alerted by an employee at CCNB in November 2021.

Evidence was presented of an email chain produced by Plaintiffs from July 1, 2021, showing that Henderson was in the process of obtaining "Phase 2" financing from Southern First for a residential care facility Henderson was opening in Greenville called Ruby Donald. As part of the documents provided for the financing, a Balance Sheet for Heart of the Carolinas was attached which indicated one of the Heart of the Carolina's assets being a "loan" to Abundance in the amount of \$180,346.00, which was the exact same amount as the PPP loan taken out by Henderson under Abundance Home Care 2, LLC and was deposited into the Heart of the Carolinas account before being transferred to Abundance. The Balance Sheet also indicated that "Antioch Group" was an asset of Heart of the Carolinas.

Priest testified that at the time of July 2021, she was not aware that Henderson was in the process of constructing and opening a residential care facility in Greenville County, all while Abundance was continuing paying rent on a property in Georgetown based on Henderson's promise to turn it into a residential care facility for Abundance and generate additional revenue. Rather than devoting his efforts towards Abundance Home Care as anticipated and agreed to in the Partnership Agreement and promised to Priest,

Henderson was in the midst of opening his own facility which Abundance Home Care was paying the rent for a property that was supposed to be used for the same purpose.

Henderson also used his position to open new bank accounts under Abundance and the Abundance Home Care 2, LLC, several of which Priest never had access to and Plaintiffs failed to produce bank statements for these accounts in discovery. Priest also testified that Henderson used his position of trust to recommend Marshall Looper and Still Water Financial as the new accountant for Abundance, and Priest came to learn later that this was the same accountant that Henderson used for his other corporate entities.

The testimony and bank records show funds from the Abundance Home Care operating account being transferred to other entities owned by Henderson, and Henderson executing an “Addendum to Cash Management Agreement for Cross-Ownership Access” with CCNB in April 2020, effectively giving his other entity, Heart of the Carolinas, control over the bank accounts of Defendants. This Cross-Ownership Addendum was done without the knowledge or consent of Priest, and Priest only came to learn of this document after it was produced in discovery.

Priest testified that it was only after being alerted of the fraud by a CCNB employee that she moved funds into a separate account and began to investigate the extent of Plaintiffs’ fraudulent conduct over the duration of the partnership. Based on the Plaintiffs’ discovery violations which have plagued this case, the forensic accountant hired by Plaintiffs was unable to complete a tracing of funds or analysis on the exact amount of misappropriation due to Plaintiffs’ refusal to provide bank statements controlled by Henderson and bank statements for accounts related to other entities which were owned or controlled by Henderson.

Despite the factual allegations of Defendants' Counterclaims being deemed true by virtue of Plaintiffs' default, the testimony and evidence presented by Defendants establishes all the necessary elements supporting Defendants' Counterclaims of (1) Breach of Contract/Breach of Contract Accompanied by Fraudulent Act; (2) Breach of Duty of Good Faith and Fair Dealing; (3) Breach of Fiduciary Duty; (4) Breach of Contract – Breach of Duty of Loyalty; (5) Conversion; (6) Misrepresentation/Negligent Misrepresentation; (7) Fraud; (8) Unjust Enrichment; and (9) Accounting/Accounting of Private Profits.

The Court finds that Henderson breached the Partnership Agreement, breached his fiduciary duty, committed fraud and negligent misrepresentations and used his position with Abundance to unjustly enrich himself and converted Abundance assets by funneling funds to himself, other entities owned by Henderson such as Heart of the Carolinas, Sherman Residential Care, Palmetto Breakfast Club, and Faith Hope and Charity Residential Care, as well as a business partner of his, Edward Andre Harrison.

Based on the evidence and testimony presented by Defendants, including arguments from Defendants' counsel, the testimony of Tyrhonda Priest, and the corroborating exhibits, the Court finds that Defendants have established all the necessary elements for Plaintiffs' liability on Defendants' counterclaims and have sufficiently proved their damages for actual damages, lost profits, and punitive damages based on the intentional, fraudulent conduct of Plaintiffs.

Actual Damages:

The Court finds Defendants have established actual damages in the amount of **One Hundred Ninety-Five Thousand, Five Hundred Seventy-Four Dollars and Sixty-**

Two Cents (\$195,574.62) as shown on Exhibit 20 and corroborated through the testimony of Tyrhonda Priest and corroborating exhibits. The actual damages incurred by Defendants consist of financial obligations undertaken by Abundance based on the representations and promises of Henderson, checks written by Henderson to himself and Edward Andre Harrison which were never authorized by Priest, checks written to Heart of the Carolinas by Henderson, funds transferred to Heart of the Carolinas, funds transferred to other entities owned and controlled by Frank Henderson, and repayment of loans which were either caused by Henderson's actions or which should have been shared losses as part of the Partnership Agreement that Priest was forced to bear the full cost of.

Lost Profits:

In support of Defendants' claim for lost profits, Priest testified to Abundance Home Care's net operating income since for the years 2018 through 2025 and presented corroborating Profit and Loss statements for that same time frame. Priest testified that the 2021 Annual Budget (Exhibit 21) prepared by Marshall Looper and Frank Henderson, which showed a projected net operating income for Abundance of \$33,444/month or \$401,328/year, was consistent with what Henderson represented to her. Priest testified regarding the Lost Profits Damages Summary in Exhibit 21 and what the difference in the Abundance's actual net operating income over that time frame as compared to what Henderson and his accountant had projected for the year the Partnership Agreement broke down. Taking the 2021 Annual Budget as a baseline based on Priest's testimony that the net operating income reflected in the 2021 Annual Budget was represented to her by Henderson as the net operating income and had Henderson faithfully performed his duties and devoted time to Abundance as anticipated under the Partnership Agreement,

the Court finds that **Defendants’ suffered lost profits in the amount of One Million, Eight Hundred Ninety-Two Thousand, One Hundred Eighty-Seven Dollars and Eighty-One Cents (\$1,892,187.81)** for the fiscal years of 2020 to 2025 based on the calculations presented to the Court in Exhibit 21 and corroborated by Priest’s testimony.

The Court further finds that the lost profits were lost because of the direct and natural consequence of the Plaintiffs’ breach of contract and fraudulent activity, that the lost profits were reasonably foreseeable based upon Henderson’s representations and the 2021 Annual Budget and that the lost profits have been established by Defendants with a reasonable certainty and are not speculative or conjectural. *Manios v. Nelson, Mullins, Riley & Scarborough, LLP*, 389 S.C. 126 (2010).

Punitive Damages:

Punitive damages are appropriate in this case to punish Plaintiffs for their egregious conduct and to deter similar behavior in the future. Punitive damages may be awarded where a party proves by clear and convincing evidence that the other party’s willful, wanton, or reckless conduct caused the harm. *See* S.C. Code Ann. § 15-32-520(D); *see also* S.C. Code Ann. § 15-33-135 (requiring clear and convincing evidence for punitive damages claims). Intentional fraud and bad-faith breaches of fiduciary duty readily satisfy this standard, as such conduct demonstrates a conscious disregard for the rights of others.

Here, the uncontroverted evidence and testimony presented establish by clear and convincing evidence that Plaintiffs engaged in a pattern of willful, wanton, reckless and intentional misconduct, justifying an award of punitive damages. The practice of

awarding punitive damages originated in principles of common law “to deter the wrongdoer and others from committing like offenses in the future.” *Laird v. Nationwide Ins. Co.*, 243 S.C. 388, 393, 134 S.E.2d 206, 210 (1964). “Punitive damages may properly be imposed to further a state's legitimate interests in punishing unlawful conduct and deterring its repetition.” *Gore*, 517 U.S. at 568, 116 S.Ct. 1589. See *Mitchell, Jr. v. Fortis Ins. Co.*, 385 S.C. 570, 584, 686 S.E.2d 176, 183 (2009).

In *Gamble*, the South Carolina Supreme Court identified eight considerations that trial courts should apply in conducting a post-judgment due process review of any punitive damages award. These considerations are: (1) the defendant's degree of culpability; (2) the duration of the conduct; (3) the defendant's awareness or concealment; (4) the existence of similar past conduct; (5) the likelihood the award will deter the defendant or others from like conduct; (6) whether the award is reasonably related to the harm likely to result from such conduct; (7) the defendant's ability to pay; and (8) any other factors deemed appropriate. *Gamble*, 305 S.C. at 111–12, 406 S.E.2d at 354.

This Honorable Court finds that all the *Gamble* considerations have been met by the Defendants and that punitive damages should be awarded because the Plaintiffs’ fraudulent conduct supports punitive relief. The evidence shows that Plaintiffs are culpable for the conduct, that the duration of the conduct was conducted in secret over a significant period, that Plaintiffs were aware of the material representations being made to Defendants, that Plaintiffs concealed behavior from the Defendants with the intent to deceive and induce reliance from Defendants.

In support of these considerations, evidence was presented by the Defendants that Henderson created an entirely new entity mere months after entering into the Partnership

Agreement by fabricating documents with Priest's signature which were then filed with the Secretary of State. Additionally, Henderson took out federal PPP loans under the "Abundance Home Care 2, LLC" entity, using the financial information from Abundance Home Care, only to have the funds deposited into an account for Heart of the Carolinas, and then categorize the funds as a "loan" from Heart of the Carolinas to Abundance on both sets of company books once the funds were transferred to Abundance. Such intentional deception constitutes fraud and the willful misconduct sufficient to warrant punitive damages. South Carolina courts recognize that deliberate fraud justifies punitive damage awards to penalize dishonesty and deter future exploitation.

Furthermore, Plaintiffs' bad-faith actions, including breaches of contract and fiduciary duty, further demonstrate willful and wanton disregard for Defendants' rights. The testimony and evidence show that Plaintiffs intentionally violated their fiduciary obligations through acts of self-dealing, misappropriating assets, and acting in direct conflict with Defendants' interests while in a position of trust. Similarly, the conversion claim is supported by proof of Plaintiffs' willful and unauthorized exercise of dominion of Defendants' property. Bad-faith breaches involving fiduciary violations and intentional acts justify punitive damages to address Plaintiffs' abuse of trust.

Moreover, this Court finds that there is an existence of similar past conduct on part of Plaintiff Henderson who was convicted of forgery and for which the evidence shows Henderson forged documents in this matter. The award of punitive damages will also deter the Plaintiffs from future conduct like this behavior and the award is reasonably related to the harm likely to result from the conduct. Based upon the evidence, it is clear that Plaintiffs have the ability to pay the punitive damages due to

significant monetary assets located in personal funds and other business entities including but not limited to Heart of the Carolinas, LLC.

The totality of Plaintiffs' actions when viewed in the context of this litigation and Plaintiffs' egregious discovery abuses which led to their pleadings being struck reveals a clear pattern of willful conduct demonstrating a complete disregard for Defendants' and their rights. This level of culpability meets the clear and convincing standard for punitive damages, and Plaintiffs' willful, fraudulent, and bad-faith conduct compels the imposition of punitive damages to achieve justice and prevent recurrence.

Accordingly, the Court finds that Defendants are to be awarded punitive damages in the amount of Seven Hundred Eighty-Two Thousand, Two Hundred Ninety-Eight Dollars and Forty-Eight Cents (\$782,298.48) against Plaintiffs, jointly and severally.

THEREFORE, based on the procedural record, oral arguments of Defendants' counsel, the testimony of Tyrhonda Priest, and the exhibits presented at the Damages Hearing, this Court finds that:

1. Defendants are granted judgment against Plaintiffs, joint and severable, for One Hundred Ninety-Five Thousand, Five Hundred Seventy-Four Dollars and Sixty-Two Cents (\$195,574.62) in actual damages, One Million, Eight Hundred Ninety-Two Thousand, One Hundred Eighty-Seven Dollars and Eighty-One Cents (\$1,892,187.81) in lost profits, and Seven Hundred Eighty-Two Thousand, Two Hundred Ninety-Eight Dollars and Forty-Eight Cents (\$782,298.48), for a total damage award of Two Million, Eight Hundred Seventy Thousand, Sixty Dollars and Ninety-One Cents (\$2,870,060.91);

2. The Court grants the additional relief sought by Defendants and holds that Plaintiffs did in fact commit “Forbidden Acts” under the March 24, 2018, Partnership Agreement executed by the Parties, and in doing so triggered the provisions resulting in the involuntary withdrawal of a partner. Accordingly, it is the ruling of this Court that Plaintiffs Frank Henderson and Antioch Group were effectively withdrawn as partners under the Partnership Agreement as of November 2021 when Priest received notice of the fraud from Coastal Carolina National Bank. As a result, Defendants are no longer are partners or members of Defendant Abundance Home Care, LLC and have no ownership rights in Defendant Abundance Home Care, LLC.

IT IS SO ORDERED.



Georgetown Common Pleas

Case Caption: Frank Henderson , plaintiff, et al VS Infinity Home Care , defendant,
et al
Case Number: 2022CP2200650
Type: Order/Judgment and Form 4

Presiding Circuit Court Judge

s/Benjamin H. Culbertson, Judge Code 2148

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF Georgetown
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2022CP2200650

Frank Henderson et al
PLAINTIFF(S)Tyrhonda Priest et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled);
☐ Other
- ☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*):
☐ Affirmed; ☐ Reversed; ☐ Remanded;
☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☒ See attached order (formal order to follow) ☐ Statement of Judgment by the Court:

A hearing to determine damages regarding the defendants' counterclaims was held 12/15/2025. The plaintiffs' Complaint was previously stricken by the court.

The defendants are granted judgment against the plaintiffs, joint and severable, for \$195,574.62 actual damages, \$1,892,187.81 in lost profits and \$782,298.48 in punitive damages, for a total damage award of \$2,870,060.91,

Attorneys Robert Mills Ariail, Jr. and Justin David Mihalic are to prepare an order.

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 12/15/2025 .

Antioch Group
Frank Henderson for Frank Henderson
Frank Henderson for Frank Henderson

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.



Georgetown Common Pleas

Case Caption: Frank Henderson , plaintiff, et al VS Infinity Home Care , defendant,
et al
Case Number: 2022CP2200650
Type: Order/Electronic Form 4

Presiding Circuit Court Judge

s/Benjamin H. Culbertson, Judge Code 2148

STATE OF SOUTH CAROLINA	)	IN THE COMMON PLEAS COURT
	)	IN THE FIFTEENTH JUDICIAL CIRCUIT
COUNTY OF GEORGETOWN	)	
_____	)	
Frank Henderson and Antioch Group,	)	Docket Number: 2022-DP-22-0650
	)	
Plaintiffs,	)	
	)	AMENDED CONSENT
-vs-	)	ORDER RELIEVING COUNSEL
	)	
Abundance Home Care and Tyrhonda Priest,	)	
	)	
Defendants.	)	
_____	)	

This matter comes before the Court upon the request of Yvonne Murray-Boyles, Esquire counsel of record for Plaintiffs, Frank Henderson and Antioch Group.

It appears that Yvonne Murray-Boyles is being relieved as the attorney-client relationship has deteriorated. The Plaintiffs, Frank Henderson and Antioch Group, and Yvonne Murray-Boyles mutually agree that counsel be relieved as counsel. That opposing counsel does not object to Yvonne Murray-Boyles being relieved as counsel, so long as the Plaintiffs are aware that this shall not constitute grounds for any delays or continuances to be granted in this matter, and the damages hearing set for December 15, 2025, shall proceed as scheduled.

THEREFORE, IT IS HEREBY ORDERED AND ADJUDGED that Yvonne Murray-Boyles, Esquire is hereby relieved of any further representation as counsel of record for the Plaintiffs, Frank Henderson and Antioch Group and that all correspondence regarding this case from the Clerk of Court and the Defendants shall be mailed directly to the Plaintiffs, Frank Henderson and Antioch Group at the following address: 14 Antioch Drive, Greenville, SC 29605. Further, there shall be no delays or continuances granted for the damages hearing set for

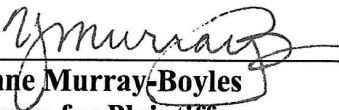
December 15, 2025, and it shall proceed as scheduled regardless of if or when Plaintiffs retain new counsel prior to the damages hearing.

AND IT IS SO ORDERED.

**Presiding Common Pleas Court Judge
Fifteenth Judicial Circuit**

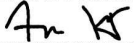
_____, 2025
_____, South Carolina

I SO MOVE:



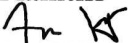
Yvonne Murray-Boyles
Attorney for Plaintiffs

I CONSENT:



frank henderson (Nov 19, 2025 16:46:06 EST)

Frank Henderson
Plaintiff



frank henderson (Nov 19, 2025 16:46:06 EST)

Antioch Group
Frank Henderson – Authorized Representative
Plaintiff

I CONSENT:

Justin D. Mihalic
Attorney for Defendants

December 15, 2025, and it shall proceed as scheduled regardless of if or when Plaintiffs retain new counsel prior to the damages hearing.

AND IT IS SO ORDERED.

**Presiding Common Pleas Court Judge
Fifteenth Judicial Circuit**

_____, 2025
_____, South Carolina

I SO MOVE:

**Yvonne Murray-Boyles
Attorney for Plaintiffs**

I CONSENT:

**Frank Henderson
Plaintiff**

**Antioch Group
Frank Henderson – Authorized Representative
Plaintiff**

I CONSENT:

Justin Mihalic

Justin Mihalic (Nov 20, 2025 11:11:04 EST)
**Justin D. Mihalic
Attorney for Defendants**

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF Georgetown
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2022CP2200650

Frank Henderson et al
PLAINTIFF(S)Tyrhonda Priest et al
DEFENDANT(S)

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- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*):
☐ Affirmed; ☐ Reversed; ☐ Remanded;
☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☒ See attached order (formal order to follow) ☐ Statement of Judgment by the Court:

Motion for Entry of Default by Attorney Ariail is Granted
Motion for Default by Attorney Ariail is Granted

Damages Hearing will be in Scheduled for 12-15-25.

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 10/24/2025 .

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.



Georgetown Common Pleas

Case Caption: Frank Henderson , plaintiff, et al VS Infinity Home Care , defendant,
et al
Case Number: 2022CP2200650
Type: Order/Electronic Form 4

IT IS SO ORDERED

s/ The Honorable William H. Seals Jr. #2157

Defendants brought their Motion for Sanctions after Plaintiffs refused to comply with the agreement they put on the record at the February 20, 2025, hearing on Defendants' first Rule to Show Cause and requested that the Court find Plaintiff's in contempt and grant sanctions for Plaintiffs' repeated non-compliance. The Court, having reviewed and considered the case history, current posture, all materials submitted, and oral arguments finds that the Plaintiffs have engaged in a deliberate pattern of discovery abuse, engaged in gross indifference to the discovery process and the rights of the party whom they sued, and willfully failed to follow this Court's July 30, 2024, and February 25, 2025, Orders. For these reasons, as set out in detail below, the Court grants Defendants' Motion for Sanctions pursuant to Rule 37 of the South Carolina Rules of Civil Procedure and hereby strikes all pleadings of the Plaintiffs.

FACTUAL HISTORY

The Court makes the following findings of fact in the issuance of its order. This case was initiated by Plaintiffs filing a Summons and Complaint in the Georgetown Court of Common Pleas on August 3, 2022. Plaintiffs filed an Amended Summons and Complaint on August 10, 2022. Plaintiffs' Complaint consisted of two causes of action for (1) Breach of Contract and (2) Breach of Contract Accompanied by a Fraudulent Act. Plaintiffs alleged that, sometime on or around December 2021, Defendants breached the Partnership Agreement entered into by the parties on March 24, 2018, and that Plaintiffs were entitled to Fifty Percent (50%) of the profits received by Defendants since the alleged breach of the Partnership Agreement.

Defendants were served with the Amended Summons and Complaint on January 17, 2023. A Consent Motion was filed by the parties on February 6, 2023, extending Defendants' time to file responsive pleadings until March 17, 2023.

On March 15, 2023, Defendants issued to subpoenas Marshall Looper and Still Water

Financial, the the former bookkeeper for Abundance Home Care hired by Plaintiff Henderson and also issued a subpoena to Heart of the Carolinas, a third-party entity owned by Plaintiff Henderson, based on accounts belonging to Heart of the Carolinas being listed on documents filed with banks and used to obtain SBA and PPP loans.

Defendants filed their Answer and Counterclaims on March 16, 2023. Defendants' counterclaims alleged that Plaintiffs had breached the Partnership Agreement by obtaining fraudulent loans without authorization, failing to make company books and accounts available, failing to account for private profits, commingling company finances with other individuals and/or entities, and engaging in business ventures that directly conflicted with Plaintiffs' status as a partner. Defendants' counterclaims consisted of nine (9) causes of action: (1) Breach of Contract/Breach of Contract Accompanied by Fraudulent Act; (2) Breach of Duty of Good Faith and Fair Dealing; (3) Breach of Fiduciary Duty; (4) Breach of Contract – Breach of Duty of Loyalty; (5) Conversion; (6) Misrepresentation/Negligent Misrepresentation; (7) Fraud; (8) Unjust Enrichment; and (9) Accounting/Accounting of Private Profits.

Defendants' initial discovery requests were served on Plaintiffs' counsel on March 16, 2023, the same day Defendants filed their Answer and Counterclaims.

Plaintiffs provided their initial discovery responses to Defendants on June 22, 2023. On February 22, 2024, counsel for Defendants sent a deficiency letter to Plaintiffs' counsel detailing deficient interrogatory responses and additional production that was needed from Plaintiffs. Plaintiffs provided supplemental discovery on March 20, 2024, however, Defendants' counsel responded that same day to inform Plaintiffs' counsel that there were still numerous deficiencies in the discovery responses which had not been remedied, and they would be proceeding with filing a Motion to Compel.

Defendants' Motions to Compel:

On March 20, 2024, counsel for Defendants filed two separate Motions to Compel; one seeking to compel discovery responses from Plaintiffs, and another seeking to compel production through a subpoena request to Heart of the Carolinas, a third-party entity owned by Plaintiff Frank Henderson.

A hearing on Defendants' Motion to Compel was set for April 26, 2024. Plaintiffs' counsel provided additional supplemental discovery responses on April 18, 2024, and on April 24, 2024, counsel for Defendants filed a letter notifying the Court that additional discovery had been received from Plaintiffs and requesting to continue the hearings on Defendants' Motions to Compel until after the mediation that was scheduled to take place on May 3, 2024.

Mediation between the parties ultimately resulted in an impasse, and the hearings on Defendants' Motions to Compel were rescheduled for July 25, 2024. At the hearing on Defendants' Motions to Compel, the Motions were resolved by an agreement between counsel wherein Plaintiffs agreed to fully comply with Defendants' discovery requests within forty-five (45) days of the hearing. Plaintiffs' counsel also represented that she would be representing the third-party, Heart of the Carolinas, and informed the Court that Heart of the Carolinas would comply with the subpoena request within forty-five (45) days of the hearing as well. On July 30, 2024, the Honorable Judge Hyman entered an Order based on the parties' agreement, ordering Plaintiffs' compliance with Defendants' discovery requests and Heart of the Carolina's compliance with Defendants' subpoena within forty-five (45) days.

In discussions between counsel following the hearing, Defendants' counsel agreed to extend the time frame for Plaintiffs to comply with the order to sixty (60) days.

Defendants' First Rule to Show Cause:

Ultimately, both Plaintiffs and third-party Heart of the Carolinas failed to comply with the July 30, 2024, Order compelling discovery requests and subpoena production. As a result, Defendants' filed their first Rule to Show Cause on January 15, 2025, based upon Plaintiffs' and Heart of the Carolina's non-compliance with the July 30, 2024, Order.

A hearing was held on Defendants' Rule to Show Cause on February 20, 2025. Counsel for the parties once again reached an agreement regarding the requested discovery and put that agreement on record.

The agreement put on the record by the parties at the February 20, 2025, Rule to Show Cause hearing was as follows: (1) Plaintiffs were to pay \$1,500 to Defendants' attorney within seven (7) days of the hearing for necessitating the Rule to Show Cause; (2) Plaintiffs would produce all monthly bank statements for the Heart of the Carolinas account ending in -8969 for the period of January 1, 2018 through December 31, 2022 within seven (7) days of the hearing; and (3) all other outstanding bank statements identified in the March 16, 2023, deficiency letter attached as Exhibit B to the Motion to Compel filed on March 20, 2024 for the period of January 1, 2018 through December 31, 2022, as well as any other interrogatories or requests for production addressed therein, would be produced within thirty (30) days of the hearing.

On March 3, 2025, counsel for Defendants sent an email to Plaintiffs' counsel inquiring as to the status of the bank statements for the Heart of the Carolinas ending in -8969 and attorney fee payment that had been due on February 27, 2025, pursuant the parties' agreement at the first Rule to Show Cause hearing. Plaintiffs' counsel responded that same day, providing an electronic bank record for the Heart of the Carolinas account ending in -8969 she had received from Plaintiffs and stating that her client had mailed out the check for attorneys' fees that same day.

On March 5, 2025, Defendants' counsel responded to the email stating that the electronic bank record was insufficient as it appeared to be from some accounting application, and that actual copies of monthly bank statements for the time frame of January 1, 2018 to December 31, 2022 were needed to properly evaluate if funds had been misappropriated and to fully comply with the discovery request.

Counsel for Defendants sent another email on March 10, 2025, again following up on the status of the bank records and attorney fee payment. Plaintiffs' counsel responded that same day stating that the check had been mailed out on March 6, 2025, and that they were still waiting on Plaintiffs to provide them with the necessary documents for production.

On March 25, 2025, counsel for Defendants' once again sent an email inquiring as to the status of the bank statements for the Heart of the Carolinas ending in -8969 and also notifying Plaintiffs' counsel that they were now past the agreed upon thirty (30) day deadline to produce the remaining discovery sought through the deficiency letter and agreed upon at the February 20, 2025, hearing on Defendants' second Motion to Compel. Later that same day, Plaintiffs' counsel shared a Dropbox link to the bank statements she had received from Plaintiffs.

On April 1, 2025, Defendants' counsel sent an email informing Plaintiffs' counsel that the Dropbox link only contained 22 monthly statements for the agreed upon time frame of January 1, 2018 to December 31, 2022, and also noting out that all of these statements were supposed to be produced within seven (7) days of the February 20, 2025 hearing, and it was now more than forty (40) days after the hearing and Plaintiffs had only produced partial statements for the one account that was supposed to be produced within one week of the hearing. Counsel for Defendants requested confirmation that all the discovery would be produced by the end of the week, and informed Plaintiffs' counsel of their intent to file a motion for contempt and sanctions

in which they would be seeking to strike Plaintiffs' pleadings for Plaintiffs' continued abuse of discovery if the discovery was not received by the end of the week.

On April 11, 2025, a Date Certain Roster Meeting was held, and counsel for the parties agreed to a date certain of December 14, 2025, for the trial in this matter.

Defendants' Second Rule to Show Cause/Motion for Sanctions:

On April 25, 2025, Defendants filed a Motion for Contempt and Sanctions, seeking to strike Plaintiffs' pleadings. A hearing on Defendants' Motion was set for May 22, 2025.

On May 20, 2025, just prior to the hearing on Defendants' Motion for Sanctions, Plaintiffs produced additional bank statements for the Heart of the Carolinas account ending in - 8969 which covered the period through the end of 2021, however no statements were produced for the year 2022. Plaintiffs failed to produce or comply with the remainder of the agreement and order compelling discovery.

At the hearing on Defendants' Motion for Contempt and Sanctions, counsel for Defendants presented arguments regarding Plaintiffs' repeated noncompliance with discovery, despite Plaintiffs' assurances to this Court that they would comply with discovery on two prior occasions. Counsel for Defendants argued that Defendants had been prejudiced by the inability to conduct any forensic accounting or depose Plaintiffs due to the lack of discovery, and that the severity of the relief sought was supported given that trial was set to take place before the end of the year. Defendants' counsel also submitted an attorney fee affidavit prior to the hearing, seeking attorneys' fees in the amount of \$9,236.67 which had been incurred by Defendants and were directly attributable to Plaintiffs' discovery abuses over the course of this litigation.

Plaintiffs' counsel informed the Court that she had stressed the importance of compliance with her clients, had notified Plaintiffs of the possible severity of the repercussions for

noncompliance, and had received little communication in the preceding months from Plaintiffs. Plaintiffs' counsel represented that Plaintiff Henderson had informed her of a medical issue which was responsible for his delayed compliance with the discovery, and urged the Court for an additional thirty (30) days to allow for Plaintiff to comply before the Court granted any of the relief sought by Defendants.

ANALYSIS

Pursuant to Rule 37, SCRCPP, when a party fails to respond to discovery requests or obey an order to provide or permit discovery, the court may "make such orders in regard to the failures that are just." Rule 37(b)(2). Rule 37 expressly grants the trial court power to "order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the action or proceeding or any part thereof, or rendering a judgment by default against the disobedient party." Rule 37(b)(2)(C). "Discovery sanctions are imposed to penalize those whose conduct may be deemed to warrant such a sanction, and to deter those who might be tempted to such conduct in the absence of such a deterrent." *Creighton v. Coligny Plaza Ltd. Pshp.*, 334 S.C. 96, 122-23, 512 S.E.2d 510 (Ct. App. 1998) (*citing Karppi v. Greenville Terrazzo Co.*, 327 S.C. 538, 545, 489 S.E.2d 679, 683 (Ct. App. 1997)). It is the discretion of this Court to award sanctions for Plaintiffs' failure to respond fully to discovery requests and refusals to obey court orders. *Downey v. Dixon*, 294 S.C. 42, 45, 362 S.E.2d 317, 318 (Ct. App. 1987).

When discovery violations show bad faith, willful disobedience, or gross indifference to another litigants' rights, it is justified to strike that party's pleadings. *QZO, Inc. v. Moyer*, 358 S.C. 246, 255, 594 S.E.2d 541, 546 (2004). When determining the proper sanction, the Court should consider the precise nature of the discovery sought, the discovery posture of the case, willfulness, and the degree of the prejudice. *See Samples v. Mithcell*, 329 S.C. 105, 112, 495

S.E.2d 213, 216 (1997). Where a party's right to discovery is abused, prejudice must be presumed unless the party failing to submit the discovery can show a lack of prejudice. *Downey v. Dixon*, 294 S.C. 42, 46, 362 S.E.2d 317, 319 (Ct. App. 1987).

The South Carolina Supreme Court has held that such sanctions are not "unduly harsh in light of [a party's] willful and repeated failure to comply with various orders of the trial court, which resulted in unnecessary delay and prejudice to the [other party]." *Davis v. Parkview Apartments*, 409 S.C. 266, 283 (2014).

Prior to Defendants bringing their Motion for Sanctions, the Plaintiffs had entered into two agreements on the record at the previous two hearings on Defendants' Motions to Compel – all regarding Plaintiffs failure to provide discovery responses, primarily those relating to the financial information sought by Defendants. The agreement put on the record at the February 20, 2025, Motion to Compel hearing included Plaintiff agreeing to pay a monetary sanction for their failure to comply with Rule 37. Defendants' motions continued to seek the enforcement of previous Court ordered discovery and were necessary as a result of Plaintiffs' noncompliance with prior orders and failures to follow the Rules of Civil Procedure. All parties were aware that the character of the discovery sought was relevant and discoverable as demonstrated by Plaintiffs' agreeing to produce the discovery sought by Defendants.

Plaintiffs representations to Defendants and the Court during the first Motion to Compel hearing on July 25, 2024, that they would produce the sought discovery, failing to and forcing a second Motion to Compel to be filed by Defendants, and the subsequent willful noncompliance with the representations at the February 20, 2024 Motion to Compel hearing are a continuation of Plaintiffs' dilatory tactics throughout this case which have prejudiced Defendants' ability to defend against Plaintiffs' claims and support their counterclaims with discoverable information

necessary to prepare for trial. Plaintiffs were aware that a trial was imminent. Plaintiffs made numerous representations that they would produce the discovery both prior to and subsequent to both hearings on Defendants' Motions to Compel, all along breaching the deadlines and extensions to deadlines granted by Defendants' counsel. In the wake of those representations, Plaintiffs' failure to comply with the July 30, 2024, and February 25, 2025 Orders of the Court demonstrate a clear willful disobedience towards Court orders and callous disregard for the Defendants' rights. In choosing to make false representations to opposing counsel, and even their own counsel, Plaintiffs effectively wasted over a year's worth of time. These actions alone are sufficient to grant an order of sanctions striking the pleadings of Plaintiffs. When taken as a whole in context with the Plaintiffs' prior discovery abuse, monetary sanctions and continuing noncompliance with orders and the Rules of Civil Procedure, it is apparent to this Court that no other sanction is likely to have an effect on the behavior of these Plaintiffs.

Despite the efforts of Plaintiffs' counsel to obtain information and comply with previous court orders and agreements, Plaintiffs have demonstrated an egregious failure to participate in meaningful discovery. Their repeated non-compliance clearly constitutes willful disobedience and gross indifference to the rights of adverse parties.

Recognizing that this is a drastic result and one which this court cannot recall having imposed in decades, Defendants' motion is granted, however no ruling is made on the award of attorney's fees. An affidavit of attorneys' fees incurred as a result of Plaintiffs' discovery abuse was just filed on the day before the hearing and there should be an opportunity for the Plaintiffs to challenge any award in a subsequent hearing.

In a climate where discovery abuses are relatively common, this Court has not seen the extent of non-compliance that has forced defense counsel to repeatedly seek the assistance of the Court.

Defense counsel appears to have been gracious in granting extensions throughout the pendency of this action. The court finds no fault with Plaintiffs' counsel based on the presentation made at the hearing on this matter.

The Court finds from a review of the totality of the record that the Plaintiffs' conduct is in bad faith, is willfully disobedient to the orders of the Court, and demonstrates a gross indifference to the Defendants' rights seeking to delay a case on the verge of trial. Having considered the nature of the discovery sought, the discovery posture of the case, the Plaintiffs' willfulness, and the degree of prejudice the noncompliance has caused to the Defendants, it is the holding of this Court that the Pleadings of Plaintiffs Frank Henderson and Antioch Group shall be struck in accordance with Rule 37 of the South Carolina Rules of Civil Procedure.

IT IS SO ORDERED.

Hon. William P. Keesley
Presiding Judge, Fifteenth Judicial Circuit

Date: _____ 2025

_____, South Carolina



Georgetown Common Pleas

Case Caption: Frank Henderson , plaintiff, et al VS Infinity Home Care , defendant,
et al
Case Number: 2022CP2200650
Type: Order/Sanctions

Circuit Judge (Code #2050)

s/ William P. Keesley

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF Georgetown
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2022CP2200650

Frank Henderson et al
PLAINTIFF(S)Tyrhonda Priest et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled);
☐ Other
- ☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*):
☐ Affirmed; ☐ Reversed; ☐ Remanded;
☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

Defendants' Motion seeking to find the plaintiffs in contempt and impose sanctions, including striking pleadings and assessing attorney's fees, was heard via the Webex Virtual Courtroom by consent on May 22, 2025. Despite the efforts of Ms. Murray-Boyles to obtain information and comply with previous orders and agreements, her clients have demonstrated an egregious failure to participate in meaningful discovery. Their repeated non-compliance clearly constitutes willful disobedience and gross indifference to the rights of the adverse parties. Recognizing that this is a drastic result and one which this court cannot recall having imposed in decades, the motion is granted, however no ruling is made on the award of attorney's fees. An affidavit of attorney's fees was just filed on the day before the hearing and there should be an opportunity for the plaintiffs to challenge any award in a subsequent hearing. Mr. Mihalic is to submit a proposed order within 20 days. See pg. 2

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.☒ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 05/22/2025 .

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

Yvonne Murray-Boyles appeared for the plaintiffs. Justin Mihalic appeared for the defendants. This case is set for a day-certain trial in December and has been pending since August of 2022. In a climate where discovery abuses are relatively common, this court has not seen the extent of non-compliance that has forced defense counsel to repeatedly seek the assistance of the court. Defense counsel appears to have been gracious in granting extensions throughout the pendency of this action. The court finds no fault with plaintiffs' counsel based on the presentation made at the hearing.



Georgetown Common Pleas

Case Caption: Frank Henderson , plaintiff, et al VS Infinity Home Care , defendant,
et al
Case Number: 2022CP2200650
Type: Order/Sanctions

Circuit Judge (Code #2050)

s/ William P. Keesley