RECEIVED
Mar 26 2026
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas

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

Case No. 2024-CP-32-05200

Bruce and Joanne Loveless,... Respondents,

v.

Cameron Hinckley, Kris Hinckley, and Diana Hinckley,... Appellants

of whom Kris Hinckley and Diana Hinckley are the... Appellants.

APPELLANTS' MEMORANDUM OF LAW REGARDING APPEALABILITY OF ORDERS

Appellants Kris Hinckley and Diana Hinckley respectfully submit this response to the Court's letter dated March 16, 2026, which requested memoranda regarding the appealability of two (2) Orders dated January 29, 2026, and February 13, 2026. The first Order, dated January 29, 2026, granted the Motion to Compel against Ms. Hinckley, and deemed her initial responses to Respondents' Requests for Admission "admitted." The second, issued February 13, 2026, is a Form 4 Order denying reconsideration. Taken together, the Orders are appealable, as they affect a substantial right by, in practical effect, striking Ms. Hinckley's Answer and affirmative defense to Respondent's trespass claim, withdrawing it as a material issue from the case, foreclosing a determination on the merits, and precluding her from correcting the error.

FACTUAL AND PROCEDURAL BACKGROUND

This case arises from the events of December 17, 2023, when Appellants' adult son Cameron Hinckley ("Cameron"), stabbed Bruce Loveless inside his home. Mr. Loveless was a neighbor of Appellants.

Following the incident, Cameron was detained in Lexington County and charged with attempted murder, first-degree burglary, and possession of a weapon. On February 20, 2026, the Honorable Debra R. McCaslin, presiding over the Court of General Sessions for the County of Lexington, adjudged Cameron not guilty by reason of insanity and committed him to the Department of Mental Health. On December 17, 2024, Respondents Bruce and Joanne Loveless (the "Lovelesses" or the "Respondents") filed suit against Cameron Hinckley, Kris Hinckley, and Diana Hinckley. (A copy of the Respondents' Complaint is attached hereto as **Exhibit A.**) The Respondents' First Cause of Action for "Trespass against Defendants Cameron Hinckley and Diana Hinckley," outlined in paragraphs 80-85, provide as follows:

> 80. In the evening of December 17, 2023, Defendants Cameron and Diana both intentionally entered onto Plaintiffs' property without permission.
>
> 81. Defendants' actions to trespass onto Plaintiffs' property were intentional and affirmative acts…
>
> 83. Defendants' actions caused Plaintiffs' harm, which was a direct result of Defendants Cameron's and Diana's invasion.
>
> 84. Defendants Cameron and Diana's trespass on the Loveless Residence was willful, wanton, or in reckless disregard to Plaintiffs' rights.
>
> 85. Plaintiffs are entitled to an award of actual, consequential, and punitive damages, as well as for all damages allowed under the law and as set forth more fully herein in an amount to be shown at trial.

Appellants answered on January 15, 2025, denying the allegations of paragraphs 80-85 of Respondents' Complaint. (Answer of Kris Hinckley and Diana Hinckley, attached hereto as **Exhibit B**.) (*Id.* ¶ 176.) Additionally, Appellants asserted the affirmative defense of license. On April 29, 2025, Appellants filed a Motion to Stay the proceedings. The motion was necessary because Cameron was an incompetent party in need of a Guardian ad litem (GAL) and the parallel prosecution of both matters, without a GAL in place, raised significant due process, constitutional, and privilege concerns. On May 8, 2025, the court ordered Cameron be provided with a GAL. On June 11, 2025, a GAL appeared on his behalf. The matter was stayed by the lower court for thirty days following the appointment of the GAL. On May 20, 2024, Cameron Hinckley was deemed incompetent and unable to stand trial in accordance with S.C. Code Ann. §44-23-410 and institutionalized by the Honorable Walton J. McLeod, IV.

I. Appellants' Responses to Respondents' Requests for Admission

On July 21, 2025, Respondents served their First Requests for Admission, First Sets of Interrogatories, and First Requests for Production of Documents on Appellants. On August 20, 2025, Appellants filed a Motion for a Protective Order. (A copy of the Respondents' Motion is attached hereto as **Exhibit C**.) That same day, Appellants timely answered Respondents Requests to Admit. (A copy of Appellants' initial answers is attached as **Exhibit D**.) Appellants' responses expressly referenced the pending Motion for a Protective Order, and consistent with *Baughman v. American Tel. and Tel. Co.*, explained "a motion for a protective order may be an appropriate response of a party upon whom a request for admissions is served." *Baughman v. American Tel. and Tel Co.*, SC 306 S.C. 101, 109, 410 S.E.2d 537, 542 (1991). They also raised proper objections to the requests, as all the parties had presented significant threshold issues to the Court and were awaiting its guidance. The Request for Admission in question here, which targets the core of

paragraphs 80-85 of Respondents' trespass claim against Ms. Hinckley, is stated as follows: "11. Admit that you were not invited into Plaintiffs' residence on December 17, 2023, by Plaintiff Bruce or Plaintiff Joanne." Appellant Ms. Hinckley responded, referring Respondents to the numerous pending motions, which included a Motion to Stay. As an aside, Ms. Hinckley was invited by text message from Joanne Loveless. (See text exchange between J. Loveless and D. Hinckley, dated December 17, 2023, attached hereto as **Exhibit E.**)

On September 16, 2025, Respondents filed a Motion to Compel against Appellants. (A copy of Respondents' Motion to Compel is attached as **Exhibit F.**) Respondents' Motion to Compel noted Appellants responded to the requests for admission served upon them, but argued the responses were insufficient because of their objections. On October 16, 2025, the court denied Appellants' Motion for a Protective Order.

On October 23, 2025, Appellants amended their responses to Respondents' Requests for Admission, withdrawing all objections and providing clear admissions or denials to each request. (A copy of Appellants supplemental responses is attached as **Exhibit G.**) Therein, Ms. Hinckley expressly denied Request No. 11, in support of her contention that she was invited into Plaintiffs' Residence on December 17, 2023. Respondents were supplied with a copy of Appellants' Amended Responses to Respondents' Requests for Admission that same day via e-mail. In that message, counsel sought consultation on the amended discovery responses. (A copy of counsel's correspondence is attached as **Exhibit H.**) Appellants did not receive a response to their request for consultation, nor were they provided with any indication that there were deficiencies in their Amended Responses to the Requests for Admission.

II. October 28, 2025, Motion to Compel Hearing

On October 28, 2025, the Honorable George M. McFaddin, Jr. heard Respondents' Motion to Compel. In that setting the court did not address the sufficiency of Appellants' Amended Responses to Respondents' First Requests for Admission, Respondents' failure to consult with Appellants pursuant to Rule 11 SCRCP, nor did it address whether Appellants' responses to Respondents' Requests for Admission, initial or amended, complied with Rule 36 SCRCP. (A transcript of the October 28, 2025, proceedings is attached as **Exhibit I**.) At the hearing, Respondents did not present Appellants' supplemental responses, which complied with Rule 36, nor did Respondents meaningfully address or challenge their sufficiency. Respondents instead, argued "there was nothing to amend," and asked the court to take the unprecedented step of disregarding Appellants' supplemental responses entirely, retroactively deeming the initial responses "admitted." Despite there being no procedural process for this request, the court consented and retroactively deemed the Respondents initial responses "admitted." The supplemental responses were not acknowledged in the January 29 Order.

The court's decision to retroactively consider the Respondents' responses and treat Appellants' requests as "admitted" effectively adjudicated the merits of the trespass claim against Appellant Diana Hinckley.

LAW/ANALYSIS

South Carolina Code §14-3-330(2)(c) provides for appellate jurisdiction to review, "An order affecting a substantial right made in an action when such an order (a) in effect determines the action and prevents a judgment from which an appeal might be taken or discontinues the action, (b) grants or refuses a new trial, (c) strikes out an answer or any part thereof or any pleading in any action. *See* S.C. Code Ann. § 14-3-330; *see also* Jean Hoefer Toal, Amelia Walker & Margaret

Baker, *Appellate Practice in South Carolina*, 151 (3d ed. SC Bar) (providing "[t]he appellate courts may immediately review an order affecting a substantial right in an action when such order strikes an answer, or any part thereof, or any pleading."). Discovery sanctions under Rule 37(b)(2), SCRCP are generally "interlocutory and not immediately appealable." *Richardson v. Halcyon Real Estate Services, LLP*, 439 S.C. 419, 887 S.E.2d 153 (2023). However, in this case, the orders in question go beyond mere discovery issues because they have the effect of striking portions of the Appellants' answer. The test for immediate appealability of orders striking pleadings requires courts to examine the effect of the order rather than its procedural label. "An order affects a substantial right by striking a pleading if the order removes a material issue from the case, thereby preventing the issue from being litigated on the merits, and preventing the party from seeking to correct any errors in the order during or after trial." *Thornton v. South Carolina Elec. & Gas Corp.*, 391 S.C. 297, 705 S.E.2d 475 (2011). An order is a final judgment if it disposes of "the whole subject-matter or be a termination of the particular proceedings or action, leaving nothing to be done but to enforce by execution what has been determined." *Richardson*, 439 S.C. at 426, 887 S.E.2d at 157 (quoting *Good v. Hartford Accident & Indem. Co.*, 201 S.C. 32, 41-41, 21 S.E.2d 2019, 212 (1942)). If the court must take a further act "prior to a determination of the rights of the parties, then the order is interlocutory." *Mid-State Distribs., Inc. v. Century Imps., Inc.* 310 S.C. 330, 335, 426 S.E.2d 777, 780 (1993).

Rule 36(a), SCRCP, states:

> "A party may serve upon another party a written request for the admission, for purposes of the pending action only, of the truth of any matters within the scope of Rule 26(b)..that relate to statements or opinions of fact or of the application of law to fact…The matter is admitted unless, within 30 days after the service of the request, or within such shorter or longer time as the court may allow or as stipulated in writing by the parties pursuant to Rule 29 and 6(b), SCRCP, the party to whom the request is directed serves upon the party requesting the admission a written

answer or objection addressed to the matter...If the court determines that an answer does not comply with the requirements of this rule, it may order either that the matter is admitted or that an amended answer be served."

Any matter admitted under Rule 36 is "conclusively established unless the court on motion permits withdrawal or amendment of the admission." *Id.*

Here, Respondents asserted a cause of action for trespass against Ms. Hinckley, whom they allege intentionally entered their property without permission. South Carolina defines trespass as occurring when "any person who, without legal cause or good excuse, enters into the dwelling house, place of business or on the premises of another person after having been warned not to do so or any person who, having entered into the dwelling house...or on the premises of another person without having been warned fails and refuses, without good cause or good excuse, to leave immediately upon being ordered or requested to do so by the person in possession." *See* S.C. Code § 16-11-620. The effect of Ms. Hinckley "admitting" Request for Admission No. 11, which calls her to "Admit that you were not invited into Plaintiffs' residence on December 17, 2023, by Plaintiff Bruce or Plaintiff Joanne," is that it establishes the trespass claim against her and it strikes her affirmative defense of license It leaves no genuine dispute, and no avenue of relief for Ms. Hinckley.

There is no procedural mechanism that allows a party to bypass supplemental responses and retroactively deem Appellant's Request for Admission No. 11 "admitted." This, combined with the court's refusal to consider Appellant Ms. Hinckley's amended responses, prevents the proper adjudication of the trespass claim, which will be treated as fully established at trial. By essentially striking Ms. Hinckley's affirmative defense and portion of her Answer in this manner, the court did more than impose a discovery sanction, it affected her substantive right to defend herself against a trespass claim. As a result, the Orders function as a final determination against

Ms. Hinckley and fall squarely within the scope of immediately appealable orders under S.C. Code § 14-3-330(2)(c). This is precisely the type of substantial right referenced in controlling precedent, where an order "affects a substantial right by striking a pleading if the order removes a material issue from the case, thereby preventing the issue from being litigated on the merits, and preventing the party from seeking to correct any errors…during or after trial." *See Thornton*, 391 S.C. at 304, 705 S.E.2d at 479.

The Orders, which apply to multiple parallel claims asserted against Mr. Hinckley, are sufficiently connected and should be reviewed collectively. *Hodge v. UniHealth Post-Acute Care of Bamberg, LLC*, 422 S.C. 544, 575 n.9, 813 S.E.2d 292, 309 n.9 (Ct. App. 2018) (stating "courts may accept appeals of interlocutory orders not ordinarily appealable when appealed with a companion issue proper for review but not when the issues appealed lacked of sufficient nexus."); *Ferguson v. Charleston Lincoln/Mercury, Inc.*, 344 S.C. 502, 510, 544 S.E.2d 285, 290 (Ct. App. 2001), aff'd as modified sub nom. *Ferguson v. Charleston Lincoln Mercury, Inc.*, 349 S.C. 588, 564 S.E.2d 94 (2002) (providing "an interlocutory order may be reviewed if it contains appealable issues which are properly before the court."). The circuit court erred in the same manner with respect to the deemed admissions of Mr. Hinckley. In other words, the errors in the order regarding Diana Hinckley's deemed admissions are the same error in the order regarding Kris Hinckley's deemed admissions. Therefore, this Court should hear both issues at the same time.

For these reasons, the Orders of January 29, 2026, and February 13, 2026, are immediately appealable, and Appellants Kris Hinckley and Diana Hinckley respectfully request that this Court accept appellate review to address these critical procedural and substantive errors.

CONCLUSION

For the above reasons, the Court should accept appellate review of the Order granting Respondents' September 16, 2025, Motion to Compel.

HAYNSWORTH SINKLER BOYD, P.A.

s/ Roopal S. Ruparelia
Roopal S. Ruparelia (SC Bar No. 16003)
Diana L. Murray (SC Bar 106165)
1201 Main Street, 22nd Floor
Post Office Box 11889 (29211-1889)
Columbia, South Carolina 29201
(803) 779.3080 - telephone
(803) 765.1243 - fax
rruparelia@hsblawfirm.com
dmurray@hsblawfirm.com

s/Bess J. DuRant (SC Bar No. 77920)
Sowell & DuRant, LLC
1325 Park Street, Ste. 100
Columbia, SC 29201
(803) 722-1100
Bdurant@sowelldurant.com

Attorneys for Appellant Kris and Diana Hinckley

RECEIVED
Mar 26 2026
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas

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

PROOF OF SERVICE

I certify that I have served the Appellants Kris and Diana Hinckley's Memorandum of Law on Appealability of Orders on all attorneys of record by electronic mail on March 26, 2026, addressed to:

Rhett Ricard, Esquire (SC Bar No. 102353)
J. David Black, Esquire (SC Bar No. 68499)
Nick Fowler, Esquire (SC Bar No. 106908)
Maynard Nexsen PC
205 King Street, Suite 400
Charleston, SC 29401
PH: 843.740.1707
rricard@maynardnexsen.com
dblack@marynardnexsen.com
nfowler@maynardnexsen.com

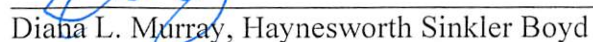
Attorneys for Respondents

Edward C. Boggs, Esquire (SC Bar No. 13506)
135 E. Main St.
Lexington, SC 29072
PH: 803-359-6194
ecb@ecboggslaw.com

Guardian ad Litem for Cameron Hinckley

Brian P. Hubacher, Esquire (SC Bar No. 103779)
4922 O'Hear Ave., Ste. 301
North Charleston, SC 29405
PH: 843.284.1080
bphubacher@wjcblaw.com

Attorney for Cameron Hinckley



Diana L. Murray, Haynesworth Sinkler Boyd

RECEIVED
Mar 26 2026
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas

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

PROOF OF SERVICE

I certify that I have served the Appellants Kris and Diana Hinckley's Memorandum of Law on Appealability of Orders on all attorneys of record by electronic mail on March 26, 2026, addressed to:

Rhett Ricard, Esquire (SC Bar No. 102353)
J. David Black, Esquire (SC Bar No. 68499)
Nick Fowler, Esquire (SC Bar No. 106908)
Maynard Nexsen PC
205 King Street, Suite 400
Charleston, SC 29401
PH: 843.740.1707
rricard@maynardnexsen.com
dblack@marynardnexsen.com
nfowler@maynardnexsen.com

Attorneys for Respondents

Edward C. Boggs, Esquire (SC Bar No. 13506)
135 E. Main St.
Lexington, SC 29072
PH: 803-359-6194
ecb@ecboggslaw.com

Guardian ad Litem for Cameron Hinckley

Brian P. Hubacher, Esquire (SC Bar No. 103779)
4922 O'Hear Ave., Ste. 301
North Charleston, SC 29405
PH: 843.284.1080
bphubacher@wjcblaw.com

Attorney for Cameron Hinckley

Diana L. Murray, Haynesworth Sinkler Boyd

HAYNSWORTH
SINKLER BOYD

RECEIVED
Mar 26 2026
SC Court of Appeals

March 26, 2026

VIA EMAIL AND U.S. MAIL
The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

Re: *Bruce and Joanne Loveless v. Kris Hinckley, et al.*
C.A. No: 2024-CP-32-05200

Dear Ms. Kitchings:

Enclosed please find Appellants' Memorandum of Law Regarding Appealability of Orders, along with Exhibits A-I, and Proof of Service.

Please return a clocked copy to me by email.

Sincerely yours,

HAYNSWORTH SINKLER BOYD, P.A.

Diana L. Murray

DLM/dlm
Enclosures

cc: Rhett Ricard, Esq.
J. David Black, Esq.
Nick Fowler, Esq.
Edward C. Boggs, Esq.
Brian P. Hubacher, Esq.
Bess Durant, Esq.