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**SC Court of Appeals**

IN THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas

Paul M. Burch, Circuit Court Judge

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Appellate Case No. 2025-001338

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Ida Maeve Nordan, Ida Mave Nordan as Personal Representative of the Estate of Randall  
Houston Nordan and Chip Eugene McCants, Jr., by and through his parent and natural guardian,  
Ida Maeve Nordan,..... Appellants,  
v.  
Sheriff of Richland County in his official capacity, and Half Moon Pictures, LLC, Defendants  
of which Half Moon Pictures, LLC is the.....Respondent,

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**APPELLANTS’ FINAL REPLY BRIEF**

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## REPLY ARGUMENT

“The Court erred in ignoring the well-pleaded facts of the Complaint and the inferences to be drawn therefrom which allege that it was the presence of the cameras and the allure of fame that encouraged the reckless police behavior which **foreseeably** ended in the injury of an innocent civilian. Had the cameraman been saying “go, go, go,” then under the lower Court’s view the Appellants would have had a viable claim. The cameras said “go, go, go.” Appellants’ Initial Brief, p. 8. [Emphasis Added].

In its Initial Brief, Respondent contends that the Appellants have only raised one ground for their appeal and has ignored an additional sustaining ground for the appeal, as a result of which the two-issue rule should preclude relief. Appellants offer the following brief rebuttal to address the application (or misapplication) of the two-issue rule in this setting. For the reasons set forth herein, the Respondent is incorrect in its view of the two-issue rule, and the Appellants are entitled to relief for the reasons set forth in their initial brief.

Appellants appeal the trial court’s Order of Dismissal under Rule 12(b)(6) and subsequent Order Denying Motion for Reconsideration under Rule 59. In its Order of Dismissal, the trial court focused its ruling on the point of view that Half Moon did not create the risk of harm to the Appellants, and as such, owed no duty to the Appellants to prevent the harm she suffered:

- “In sum, Half Moon did not, by virtue of the present of cameras in RCSD squad cars, create a risk that RCSD deputies would take negligent actions outside of the scope of their duties, and it cannot be held to have a duty to prevent the plaintiff from suffering injuries from Rogers or any of the RCSD responding officers. Accordingly, because no duty of care exists, Plaintiffs’ negligence claims fail.”

There is no question that this ruling of the trial court has been appealed. In a footnote discussion about the same ruling, the trial court made an observation regarding a case involving someone who was allegedly inspired to commit violence by the lyrics of a song and analogized

that the lack of foreseeability of such an event was akin to the present case. In the footnote, the trial court went on to observe that the lack of foreseeability here constituted an independent reason to support dismissal of the claim.

Clearly, the Initial Brief of Appellants raised as error the trial court ignoring the well-pleaded allegations of the Complaint which set forth the theory that it was the presence of cameras and the allure of fame that led to the foreseeable injuries to the Appellants, all of which was caused by Half Moon's desire to create entertaining television. "Ordinarily, foreseeability is a question of fact to be decided by the jury." *Steele v. Rogers*, 306 S.C. 546, 551, 413 S.E.2d 329, 332 (Ct. App. 1992). A review of the record in this matter will demonstrate that the Complaint, the motions and the Initial Brief are replete with references to the "risk" of overly aggressive policing with resulting harm to the public, risk that was created by and known by Half Moon. It was error for the trial judge to rule in a 12(b)(6) setting that these risks lacked foreseeability as a matter of law and the Appellants have preserved that issue as per the language cited above as well as the four corners of their initial brief.

### **CONCLUSION**

The Respondent seeks a hyper technical and overly narrow view of both the Order of Dismissal and the Initial Brief in order to obtain an unjust result. Foreseeability is a question of fact. The Initial Brief identifies as error the trial court ignoring the well-pleaded facts and finding a lack of foreseeability as a matter of law. The two-issue rule does not apply here. To the extent that it does, the issues have been brought properly before this Court.

{SIGNATURE PAGE TO FOLLOW}

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