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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM CHARLESTON COUNTY
Edgar W. Dickson, Circuit Court Judge

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Trial Court Case No. 2021-CP-10-01343

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Appellate Case No. 2023-001779

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Unpublished Opinion
No. 2025-UP-272 (S.C. Ct. App. filed July 30, 2025)

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Andrew Pampu; Amanda Pampu; and John Pampu, ..... Petitioners-Respondents,

vs.

CLAWSON FARGNOLI, LLC; Samuel R. Clawson, Jr., Esq.; Christina R. Fargnoli, Esq.; Barrett R. Brewer, Esq.; and BREWER LAW FIRM, LLC, ..... Respondents-Petitioners.

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# INTIAL BRIEF OF PETITIONERS-RESPONDENTS

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## Questions Presented for Review

1. Whether the Court of Appeals erred in affirming dismissal of the breach of fiduciary duty claim as duplicative of the Pampus' legal malpractice claim at the Rule 12(b)(6) stage where the operative complaint pleads a distinct, post-representation disclosure of confidences causing discrete injuries, and Rule 8 permits alternative and even inconsistent claims. *Preservation*: Raised in the Second Amended Complaint; dismissed by orders dated June 23, 2022; argued on appeal; addressed by the Court of Appeals at Op. 2; rehearing denied Sept. 29, 2025. R. 109–141; Op. at 2.

2. Whether the Court of Appeals erred in concluding Amanda and John Pampu lack standing at the pleading stage despite allegations that the Law Firms contracted to represent all three Pampus in the federal and state cases and related claims, and that Amanda and John suffered injury. *Preservation*: Standing challenged under Rules 12(b)(1) and 12(b)(6); dismissed June 23, 2022; affirmed on appeal at Op. 2; rehearing denied. R. 169–172; R. 194–197; R. 6–31; Op. at 2.

3. Whether the Court of Appeals erred in affirming dismissal of the breach of contract claim against the Law Firms where the operative complaint alleges a contract, specific breaches, and damages sufficient to satisfy Rule 12(b)(6). *Preservation*: Dismissed June 23, 2022; affirmed at Op. 2; rehearing denied. R. 6–31; Op. at 2.

## Statement of the Case

This case arises from orders dismissing—at the pleadings stage—multiple claims asserted by Petitioners-Respondents, Andrew Pampu; Amanda Pampu; and John Pampu ("the Pampus") against their former counsel and law firms, Respondents-Petitioners, CLAWSON FARGNOLI, LLC; Samuel R. Clawson, Jr., Esq.; Christina R. Fargnoli, Esq.;

Barrett R. Brewer, Esq.; and BREWER LAW FIRM, LLC. Petitioners filed their Summons and Complaint on March 19, 2021, alleging professional negligence and breach of fiduciary duty against the individual lawyers ("the Lawyers") and breach of contract against the law firms where the Lawyers practiced law ("the Law Firms") in connection with the underlying federal Title IX litigation against Clemson University and related state litigation. R. 36-37 (Compl. ¶¶ 1–2); R. 39–51 (Compl. ¶¶ 13–78).

Petitioners filed an Amended Complaint with the affidavit of Justin Dillon, Esq., on April 30, 2021. R. 57–87 (Amend. Compl.). Respondents moved to dismiss under Rules 12(b)(6) and 12(b)(1) on May 9–10, 2021. R. 88–91; R. 95–98. Petitioners filed the Second Amended Complaint, the operative pleading, on June 16, 2021. R. 109–141 (2nd Amend. Compl.) Respondents filed renewed motions to dismiss on June 28 and June 30, 2021, including challenges to Amanda and John's standing. R. 169–172; R. 194–197.

Following a March 2, 2022 hearing, the circuit court granted the motions and dismissed the action by separate orders filed June 23, 2022; the circuit court denied Petitioners' motion to reconsider on October 23, 2023. R. 6–31; R. 277–284; R. 1–2.

On July 30, 2025, the Court of Appeals issued Unpublished Opinion No. 2025-UP-272 ("Op."), affirming in part and reversing in part: it reversed dismissal of legal professional negligence (including holding the expert affidavit was timely and sufficient under S.C. CODE ANN. § 15-36-100(C)(1) and (A)); but affirmed dismissal of breach of fiduciary duty as duplicative of the legal malpractice claim; affirmed dismissal of the breach of contract claim; and affirmed that Amanda and John lack standing. Op. at 1–2, 2025 WL 2158945. Rehearing was denied September 29, 2025. Op. at 1–2; R. 1–2.

Petitioners timely seek certiorari under Rule 242 to correct the legal errors

identified in the Questions Presented. Op. at 1–2.

## Statement of Facts

*Parties and engagement*. Petitioners Andrew, Amanda, and John Pampu retained Respondents in connection with: (a) federal litigation against Clemson University arising from its violations of Title IX and the University's own disciplinary process arising from errors and mishandling of an investigation of an incident of Andrew Pampu's alleged nonconsensual sex with another student; and (b) a related state tort action against individuals and others who made false statements and gave false testimony supporting the University's investigation. R. 110-111 (2nd Amend. Compl. ¶¶ 1–2). The operative Second Amended Complaint alleges the Law Firms contracted to represent all three Pampus in the federal and state matters and any related claims; and the Lawyers accepted representation to provide legal advice, services, and representation to the Pampus. R. 113–114 (2nd Amend. Compl. ¶¶ 14–15); R. 113 (2nd Amend. Compl. ¶ 13).

*Negligence during representation*. The complaint alleges Respondents: (1) permitted Andrew to sign a short-form settlement lacking essential terms protecting the future treatment of academic records and other key objectives; (2) failed to explain the settlement's implications; (3) committed discovery/prosecution deficiencies in the state case; and (4) mishandled their withdrawal from the representation and file surrender. R. 110–111 (2nd Amend. Compl. ¶¶ 1–2); R. 113–125 (2nd Amend. Compl. ¶¶ 13–78).

*Damages*. The complaint alleges substantial, ongoing fees to successor counsel to mitigate harm, and frustration of the litigation's purpose, among other losses. R. 110–111 (2nd Amend. Compl. ¶¶ 1–2); R. 120 (2nd Amend. Compl. ¶ 56); R. 121 (2nd Amend. Compl. ¶ 60); R. 122–124 (2nd Amend. Compl. ¶¶ 64–72).

*Breach of fiduciary duty—post-representation disclosure*. Distinctly, the complaint pleads that after termination, the Lawyers disclosed confidential information related to their representation of the Pampus to opposing counsel without consent, interfering with mediation, disrupting negotiations, disadvantaging Andrew's position, and causing continuing damages—months after the client-lawyer relationship ended. R. 110–111 (2nd Amend. Compl. ¶¶ 1–2); R. 121–122 (2nd Amend. Compl. ¶¶ 61–63).

*Breach of Contract claim*. The Law Firms are alleged to have breached their agreement to provide legal services in the federal and state matters and related claims; the pleading identifies specific obligations and breaches. R. 128–129 (2nd Amend. Compl. ¶¶ 97–101); R. 116–118 (2nd Amend. Compl. ¶¶ 27–29, 36, 38, 40–42).

*Appellate disposition context*. The Court of Appeals accepted that the complaint states a claim for legal malpractice and that Petitioners' expert affidavit was timely and sufficient under S.C. CODE ANN. § 15-36-100(C)(1) and (A); but it affirmed dismissal of the breach of fiduciary duty claim as duplicative of the legal malpractice claim and dismissal of the breach of contract/standing as insufficient. Op. at 1–2.

## Standards of Review

*Rule 12(b)(6) dismissals*. De novo. The court accepts the complaint's well-pled facts as true, draws all reasonable inferences for the plaintiff, and does not dismiss if the facts and reasonable inferences would entitle the plaintiff to relief on any theory; doubts about ultimate success are not grounds for dismissal. Op. at 1. See Ashley River Properties I, LLC v. Ashley River Properties II, LLC, 374 S.C. 271, 279, 648 S.E.23d 295, 298 (Ct. App. 2007); Doe v. Marion, 373 S.C. 390, 395, 645 S.E.2d 245, 247 (2007).

*Rule 12(b)(1) standing*. De novo as a question of law on the face of the pleadings, accepting well-pled jurisdictional facts as true. Sloan v. Greenville County, 356 S.C. 531, 547, 590 S.E.2d 338, 47 (Ct. App. 2003); Bank of Am., N.A. v. Draper, 405 S.C. 214, 219, 746 S.E.2d 478, 480 (Ct. App. 2013).

*Certiorari posture*. While certiorari is discretionary and granted only for "special and important reasons" under Rule 242(b), the issues argued herein concern legal errors in applying Rule 12(b)(6) and 12(b)(1) standards and pleading doctrines, warranting correction in the Court's supervisory role. Rule 242(b), SCACR.

*Unpublished opinion citation constraint*. The Court of Appeals' opinion is unpublished and has no precedential value except as permitted by Rule 268(d)(2), SCACR; it is cited here for case history and the holdings under review. Rule 268(d)(2), SCACR.

## Arguments

### I. The Court of Appeals erred in affirming dismissal of the breach of fiduciary duty claim as duplicative of malpractice at the Rule 12(b)(6) stage.

A. *Preservation*. The Second Amended Complaint specifically alleges a fiduciary breach due to the disclosure of confidences after representation ended. Despite this clear distinction, the claim was dismissed on June 23, 2022, with the Court of Appeals affirming the dismissal on grounds that the breach of fiduciary duty claim was "duplicative" of the legal malpractice claim, and a rehearing was subsequently denied. R. 110–111 (2nd Amend. Compl. ¶¶ 1–2); R. 121–122 (2nd Amend. Compl. ¶¶ 61–63); Op. at 2.

B. *Standard of review*. De novo; facts are accepted as true and inferences drawn for the non-movant; dismissal is improper if any theory could entitle relief. Op. at

1. See Ashley River Properties I, LLC v. Ashley River Properties II, LLC, 374 S.C. 271, 279, 648 S.E.23d 295, 298 (Ct. App. 2007); Doe v. Marion, 373 S.C. 390, 395, 645 S.E.2d 245, 247 (2007).

C. *Merits*.

1. *Distinct conduct and duty*. The fiduciary claim is grounded in conduct occurring months after termination: the Lawyers' disclosure of information related to their representation of the Pampus to opposing counsel without the Pampus' consent that interfered with mediation and caused discrete, continuing injuries. R. 110–111 (2nd Amend. Compl. ¶¶ 1–2); R. 121 (2nd Amend. Compl. ¶¶ 60–61); R. 122–124 (2nd Amend. Compl. ¶¶ 64–72). These allegations clearly implicate duties of loyalty and confidentiality that survive or are distinct from standard-of-care obligations and breaches of those obligations occurring during the representation and must be taken as true at a Rule12(b)(6) stage. Op. at 1.

The breach of fiduciary duty claim stands apart from the legal malpractice claim because it addresses distinct actions that occurred after the termination of the client-lawyer relationship. Unlike malpractice, which focuses on the quality of representation during the engagement, this fiduciary breach involves the unauthorized disclosure of confidential information to opposing counsel, an act that directly violated the enduring duties of loyalty and confidentiality the Lawyers owed to the Pampus. These duties persist beyond the formal end of representation, ensuring that former clients are protected from harm caused by their previous counsel's actions. The separate timing and nature of these events underscore that the fiduciary breach is not merely a repetition of the malpractice claim but a distinct violation that warrants independent consideration and redress.

2. *Alternative pleading is permitted*. South Carolina's pleading rules permit alternative and even inconsistent claims pled in good faith, as provided in Rule 8(a), (e)(2), SCRCP. This flexibility is supported by case law, such as Smith v. Hastie, where the court recognized the legitimacy of pursuing both negligence and breach of fiduciary duty claims. See Smith v. Hastie, 367 S.C. 410, 419, 626 S.E.2d 13, 18 (Ct. App. 2005) ("Smith presented adequate evidence on the merits of her claims for negligence and breach of fiduciary duty.") (emphasis added). Similarly, Harper v. Ethridge highlights that the provisions in the Rules of Civil Procedure that abolished the Code pleading restrictions on pleading inconsistent causes of action, allowing parties to plead and prove all claims without making an election at the pleading stage. See Harper v. Ethridge, 290 S.C. 112, 348 S.E.2d 374 (Ct. App. 1986) (new rules of civil procedure abolished the restriction on pleading inconsistent causes of action; parties are permitted to plead and prove all claims without making an election at the pleading stage).

Dismissing a fiduciary duty claim as "duplicative" at the pleading stage improperly forces an election of remedies and conflicts with Rule 8's text. The case of Skydive Myrtle Beach, Inc. v. Horry Cnty. further illustrates that it is appropriate to allege actions within and outside the scope of official duties, or to plead alternative theories of liability. See also, Skydive Myrtle Beach, Inc. v. Horry Cnty., 426 S.C. 175, 187, 826 S.E.2d 585, 591 (2019) ("We find it is entirely appropriate for Skydive to allege that some of an individual's actions were within the scope of their official duties, and some were not, or even to plead alternative theories of liability depending on whether an individual's actions were within the scope of their duties.") (citing Rule 8(a), SCRCP). Franke Assocs. v. Russell also notes that Rule 8(e)(2) permits a party to plead inconsistent causes of action. See Franke Assocs.

v. Russell, 295 S.C. 327, 330, 368 S. E.2d 462, 464 (1988) (noting that Rule 8(e)(2), RPC, "permits a party to plead inconsistent causes of action").

These authorities collectively affirm the permissibility and necessity of alternative pleading in ensuring comprehensive legal redress. Concerns about duplication or double recovery are addressed after liability determinations, not at the early motion to dismiss stage. Dismissing a fiduciary duty claim as "duplicative" at the pleading stage improperly forces an election of remedies and conflicts with Rule 8's text.

3. *The duplicativeness rationale misapplies posture*. The Court of Appeals' reliance on RFT Management is misplaced. While RFT Management addresses situations where identical duties and facts lead to overlapping claims, it does not justify dismissing a fiduciary claim that is alternatively pled and involves distinct, post-termination conduct with separate injuries. See RFT Mgmt. Co. v. Tinsley & Adams, L.L.P., 399 S.C. 322, 732 S.E.2d 166 (2012). Here, the Petitioners' complaint clearly outlines these temporally distinct actions and their unique impacts. R. 121-122 (2nd Amend. Compl. ¶¶ 61–63); Op. at 2.

South Carolina's notice pleading framework does not permit dismissal of a claim at the pleading stage merely because it arises from the same underlying facts as another cause of action. Under the South Carolina Rules of Civil Procedure—a plaintiff is entitled to plead alternative theories of recovery, even where those theories share a common factual foundation, so long as they assert distinct legal duties and elements.

The Court of Appeals' conclusion that the Pampus' breach of fiduciary duty claim was "duplicative" of their legal malpractice claim conflicts with this fundamental principle. The complaint does not merely relabel a negligence claim; it alleges a separate breach of

fiduciary obligations arising from duties of confidentiality and loyalty that the Lawyers owed to the Pampus, their former clients; these confidentiality and loyalty duties extend beyond the Lawyers' prior duties to provide competent legal services. In other words, such allegations implicate post-representation duties of loyalty, candor, and trust that are analytically distinct from the duty of care governing professional negligence during the representation.

Courts addressing this precise issue have rejected the automatic dismissal of fiduciary duty claims at the pleading stage simply because they overlap factually with malpractice claims. In Titshaw v. Geer, the Georgia Supreme Court disapproved of prior decisions collapsing fiduciary duty and contract claims into malpractice, holding that "plaintiffs are not prohibited from simultaneously pursuing different causes of action with different elements simply because the claims involve the same underlying conduct, the same damages, and duties deriving from the same source." 320 Ga. 128, 139, 907 S.E.2d 835, 845 (2024). The court emphasized that modern pleading rules affirmatively protect a plaintiff's right to pursue alternative theories and that dismissal is improper where the complaint alleges a distinct breach of duty—even if arising from the same relationship.

That reasoning is consistent with South Carolina's own pleading principles and underscores the error in the Court of Appeals' approach. The question at the motion to dismiss stage is not whether the claims overlap factually, but whether the complaint alleges a legally cognizable breach of a distinct duty. Here, it does. By dismissing the fiduciary duty claim as "duplicative" without addressing the separate duties alleged or the distinct conduct—particularly conduct occurring after the representation concluded—the Court of Appeals improperly resolved factual and legal distinctions that must be developed through

discovery.

At a minimum, even if some fiduciary duty claims may ultimately overlap with malpractice in certain cases, dismissal at the pleading stage was improper here. The complaint alleges conduct and duties that are not coextensive with professional negligence, and the Pampus are entitled to pursue those claims in the alternative.

4. *Conclusion to Issue I*. Accepting the complaint's allegations as true and drawing reasonable inferences for Petitioners, the fiduciary duty count states a plausible claim distinct from professional negligence and should not have been dismissed as duplicative at a Rule 12(b)(6) stage. Op. at 1–2; R. 121-122 (2nd Amend. Compl. ¶¶ 61–63).

## II. The Court of Appeals erred in holding Amanda and John Pampu lack standing at the pleading stage.

A. *Preservation*. Standing was raised in Rule 12(b)(1)/(b)(6) motions; the circuit court dismissed; the Court of Appeals affirmed; rehearing denied. R. 169–172; R. 194–197; R. 6–31; Op. at 2.

B. *Standard of review*. De novo; where standing was decided on the pleadings, the court accepts well-pled allegations as true and draws inferences for plaintiffs. Sloan v. Greenville County, 356 S.C. 531, 547, 590 S.E.2d 338, 47 (Ct. App. 2003); Bank of Am.., N.A. v. Draper, 405 S.C. 214, 219, 746 S.E.2d 478, 480 (Ct. App. 2013).

C. *Merits*.

1. *Pleadings allege client-lawyer relationship and privity*. The operative pleading alleges the Law Firms contracted to represent "the Pampus," including Amanda and John, in the federal and state litigations and "any other claims or causes of

action arising from the facts, incidents, and allegations referenced in these lawsuits," and that the Lawyers accepted representation to provide legal advice and services to the Pampus. R. 113–114 (2nd Amend. Compl. ¶ 13–15).

The pleadings clearly establish a basis for John and Amanda to have standing in this dispute by detailing the specific contractual relationship between the Law Firms and the entire Pampu family, including John and Amanda. This contractual agreement encompassed not only the federal and state litigations but also any related claims arising from the same set of facts and incidents. By accepting representation, the Lawyers committed to providing legal advice and services to all members of the Pampu family, thereby creating a direct client-lawyer relationship and privity. See Fabian v. Lindsay, 410 S.C. 475, 483, 765 S.E.2d 132, 136 (2014) (citing Rydde v. Morris, 381 S.C. 643, 650, 675 S.E.2d 431, 435 (2009) (stating "existing law [ ] imposes a privity requirement as a condition to maintaining a legal malpractice claim in South Carolina")). This relationship inherently grants John and Amanda a substantial interest in the proceedings, as they were parties to the representation agreement and have alleged injuries resulting from the breaches. The pleadings, therefore, sufficiently demonstrate that John and Amanda have a legitimate stake in the outcome, satisfying the requirements for standing.

2. *Standing on the pleadings*. Standing requires a real, material, or substantial interest in the subject matter. Sloan v. Greenville County, 356 S.C. 531, 547, 590 S.E.2d 338, 47 (Ct. App. 2003). For a motion under Rule 12, SCRCP, the court must accept Petitioners' privity and representation allegations—coupled with asserted injuries—as true. R. 113–114 (2nd Amend. Compl. ¶¶ 13–15); R. 120 (2nd Amend. Compl. ¶ 56); R. 122 (2nd Amend. Compl. ¶ 65).

3. *The Court of Appeals' rationale is too narrow*. The holding that only Andrew was a party to the underlying suits and signed the settlement does not negate standing where the complaint alleges the parents were clients and parties to the representation contracts and suffered injuries from the breaches. Op. at 2; R. 113–114 (2nd Amend. Compl. ¶¶ 13–15). Under the Rule 12 standard the court itself recited, these factual allegations suffice to survive dismissal. Op. at 1.

4. *Conclusion to Issue II*. Accepting the pleadings alleging a client-lawyer relationship and privity as true, Amanda and John alleged a real, material interest and injury; dismissal for lack of standing at the Rule 12 stage was error. R. 113–114 (2nd Amend. Compl. ¶¶ 13–15). Op. at 1.

## III. The Court of Appeals erred in affirming dismissal of the breach of contract claim against the Law Firms.

A. *Preservation*. The contract claim was pled against the Law Firms; dismissed by the circuit court; affirmed by the Court of Appeals; rehearing denied. R. 128–129 (2nd Amend. Compl. ¶¶ 97–101); R. 6–31, Op. at 2.

B. *Standard of review*. De novo under Rule 12(b)(6); the complaint survives if its facts and reasonable inferences support relief on any theory; elements are existence of contract, breach, and damages. Doe v. Marion, 373 S.C. 390, 395, 645 S.E.2d 245, 247 (2007) ("In considering a motion to dismiss a complaint based on a failure to state facts sufficient to constitute a cause of action, the trial court must base its ruling solely on allegations set forth in the complaint."); id. ("If the facts alleged and inferences reasonably deducible therefrom, viewed in the light most favorable to the plaintiff, would entitle the plaintiff to relief on any theory, then dismissal under Rule 12(b)(6) is improper."); id. at 395, 645 S.E.2d at 247 ("The

complaint should not be dismissed merely because the court doubts the plaintiff will prevail in the action."); S. Glass & Plastics Co. v. Kemper, 399 S.C. 483, 491, 732 S.E.2d 205, 209 (Ct. App. 2012) ("The elements for a breach of contract are the existence of the contract, its breach, and the damages caused by such breach."

C. *Merits*.

1. *Adequate pleading of elements*. The complaint alleges: (1) a contract for legal services with the Law Firms; (2) identified failures to deliver promised services in the federal and state matters and in related claims; and (3) resulting damages. R. 128–129 (2nd Amend. Compl. ¶¶ 97–101); R. 116–118 (2nd Amend. Compl. ¶¶ 27–29, 36, 38, 40–42); R. 120 (2nd Amend. Compl. ¶ 56); R. 122 (2nd Amend. Compl. ¶ 65).

2. *The Court of Appeals' oversight on the breach of contract claim.* The Court of Appeals failed to address the trial court's omission in analyzing the breach of contract claim. The trial court dismissed all claims under Rule 12(b)(6) but only analyzed malpractice, fiduciary duty duplicativeness, standing, expert-affidavit issues under § 15-36-100, and public policy regarding mediation finality. It did not identify or apply the elements of breach of contract to the pleadings. The Second Amended Complaint clearly alleges a distinct contractual undertaking by the law firms to represent the Pampus in federal and state cases and related claims, asserting a breach by failing to provide promised services, including securing material settlement terms and handling discovery and file surrender and transfer. R. 113–114 (2nd Amend. Compl. ¶¶ 13–15); R. 116–118 (2nd Amend. Compl. ¶¶ 27–29, 36, 38, 40–42).

The Court of Appeals compounded this error by not rectifying the trial court's failure to perform the necessary contract analysis. Instead, it upheld the dismissal without addressing whether the pleadings sufficiently alleged contract formation, breach, and damages. The Court of Appeals' reliance on the trial court's reasoning, which was expressly tied to malpractice and expert-affidavit issues, ignored the distinct nature of the contract claim. This oversight conflates tort and contract, failing to recognize that the breach of contract claim does not depend on tort standards or the expert affidavit statute.

The Court of Appeals also neglected to consider whether the alleged contract breaches could yield damages independent of the settlement's validity, such as costs incurred by successor counsel or diminished claim value. By not addressing these issues, the appellate court missed an opportunity to ensure a comprehensive legal analysis. The dismissal of the Pampus' breach of contract claim should be reversed.

The contract allegations include the Law Firms' November 2, 2017 agreement to provide services across both matters and related claims, and an asserted breach by failing to provide those services, including failure to secure material settlement terms identified as core consideration, discovery/prosecution deficiencies in the state case, and mishandling of file surrender and transfer.

The Orders' expert-affidavit rulings rest entirely on § 15-36-100's "professional negligence" requirements and do not explain why that statute bars or subsumes a separately pleaded contract claim, and the only duplicativeness ruling the court made was to dismiss fiduciary duty as duplicative of malpractice, not the breach of contract claim. Public-policy discussion about mediation finality likewise does not address whether the Pampus can recover contract damages for failure to perform promised services while leaving the

settlement intact—for example, costs incurred to mitigate by successor counsel or diminished value caused by deficient performance—relief the pleadings articulate without seeking to rescind the settlement. The Brewer and Clawson/Fargnoli Orders emphasize finality of mediation and the absence of malpractice-level allegations tied to settlement advice but do not analyze whether the firms' alleged failure to obtain identified, bargained-for terms or other promised services could constitute contract breach and damages distinct from undoing the settlement.

The trial court further dismissed the parents for lack of standing but did not articulate any basis specific to Andrew Pampu's contract claim. Both Orders state that all claims are dismissed, and the reconsideration Order later denies relief, yet none provides reasoning specific to dismissal of Andrew Pampu's breach of contract cause of action. By collapsing all theories into malpractice pleading defects, expert-affidavit issues, standing, and mediation finality, the Orders conflate tort and contract and fail to perform the required contract analysis—existence of a contract and its terms, breach, and damages—on the pleaded facts. The dismissal of Andrew Pampu's contract claim should be reversed because the Orders articulate no basis for its dismissal. The dismissal of John and Amanda Pampu's contract claim should be reversed because the Second Amended Complaint states facts supporting a claim for breach of contract.

3. *The appellate characterization ignores the record*. The Court of Appeals' erroneously found that

> the Circuit Court did not err in dismissing Appellants' breach of contract claim. The Appellants' complaint fails to allege how Respondents breached any agreement. The complaint ***only states*** that Respondents 'fail[ed] to provide such services.

Op. at p. 2. (Emphasis added).

The Court of Appeals' conclusion that the complaint "only states" a failure to provide services overlooks the specific factual allegations incorporated into the claim, which the court was required to consider in the light most favorable to Petitioners. Op. at 2; R. 116–118 (2nd Amend. Compl. ¶¶ 27–29, 36, 38, 40–42).

4. *Conclusion to Issue III*. Read as a whole and with reasonable inferences for Petitioners, the operative pleading alleges contract, breach, and damages against the Law Firms sufficient to survive Rule 12(b)(6); the contrary affirmance was error. R. 128–129 (2nd Amend. Compl. ¶¶ 97–101); R. 116–118 (2nd Amend. Compl. ¶¶ 27–29, 36, 38, 40–42).

## Request for Oral Argument

Petitioners-Respondents request oral argument. The questions presented involve recurring pleading and preservation issues affecting the bar and litigants statewide, including the proper application of Rule 8 to alternative fiduciary claims and the Rule 12 standards governing standing and contract sufficiency. Rule 242(b), SCACR.

## Conclusion

WHEREFORE, Petitioners-Respondents Andrew Pampu; Amanda Pampu; and John Pampu respectfully request that the Court:

1. Reverse the portion of the Court of Appeals' opinion affirming dismissal of (a) the breach of fiduciary duty claim, (b) Amanda and John Pampu's claims for lack of standing, and (c) the breach of contract claim against the Law Firms; and

2. Remand for further proceedings consistent with the Court's opinion.

Respectfully submitted,

*/s/ Thomas A. Pendarvis*
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April 9, 2026

Beaufort, South Carolina

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THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal From Charleston County
Court of Common Pleas
Honorable Edgar W. Dickson

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Trial Court Case No. 2021-CP-10-01343

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Appellate Case No. 2023-001779

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Unpublished Opinion
No. 2025-UP-272 (S.C. Ct. App. filed July 30, 2025)

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**PROOF OF SERVICE**

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The undersigned hereby certifies that on April 9, 2026, a copy of Petitioners-Respondents' Initial Brief filed on behalf of Petitioners-Respondents, Andrew Pampu; Amanda Pampu; and John Pampu, was served on all counsel of record via electronic mail containing the above-referenced document to each counsel's individual AIS email addresses as follows:

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Respectfully submitted,

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April 9, 2026
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# PENDARVIS LAW

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April 9, 2026

**VIA EMAIL ONLY**
The Honorable Patricia A. Howard
Clerk of Court
SUPREME COURT OF SOUTH CAROLINA
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**Re: Andrew Pampu, Amanda Pampu, and John Pampu vs. CLAWSON FARGNOLI, LLC; Samuel R. Clawson, Jr., Esq.; Christina R. Fargnoli, Esq.; BREWER LAW FIRM, LLC; and Barrett R. Brewer, Esq. Trial Court Case No.: 2021-CP-10-01343; Appellate Case No.: 2023-001779**

Dear Ms. Howard:

Enclosed please find the following with regard to the above-referenced matter:

1. Petitioners-Respondents Andrew Pampu, Amanda Pampu, and John Pampu's Initial Brief; and
2. Proof of Service.

By copy of this correspondence and pursuant to the Court's standing Order, we are serving a copy of the enclosed documents via email to all counsel of record.

With warmest personal regards, I am

Sincerely,

PENDARVIS LAW OFFICES, P.C.

Tracy Lyn Landry

Tracy Lyn Landry

Enclosures

ec: All Counsel of Record

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