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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM KERSHAW COUNTY
Court of Common Pleas

Daniel Coble, Circuit Court Judge

Case No. 2024-CP-28-00123
Appellate Case No. 2025-001848

Mary Dow Jackson, Individually, and as Personal Representative of
the Estate of Gordon Louis Jackson, Melissa Jackson, Tyre Jackson,
Reginald Allen, Bryant Allen, Andre Allen, and Timothy Johnson, Appellants,

v.

The Estate of Claude E. Campbell, by and through Sonja Campbell
Parker and Barry Campbell, Thomas Clayter Campbell, Jr. as Personal
Representative and Trustee for the Estate and Testamentary Trust of
Thomas Clayter Campbell, Sr., the Estate of Colbert Harold Campbell,
by and through Vivian C. Gardner, Heyward M. Clamp, and Larry E. Clamp,
and the Estate of Charles E. Campbell, by and through Maxine Watts Campbell,.....Respondents.

FINAL BRIEF OF RESPONDENTS

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ISSUES ON APPEAL

- I. WAS SUMMARY JUDGMENT RIPE WHERE THE COURT RULED THE ADDITIONAL DISCOVERY SOUGHT BY APPELLANTS WAS NOT MATERIAL.
- II. DID THE CIRCUIT COURT PROPERLY GRANT SUMMARY JUDGMENT ON APPELLANTS' UNJUST ENRICHMENT CLAIM WHERE THE COURT HELD THERE WAS NO EVIDENCE OF ANY BENEFIT CONFERRED WHATSOEVER.
- III. DID THE CIRCUIT COURT PROPERLY GRANT SUMMARY JUDGMENT ON APPELLANTS' CONSTRUCTIVE TRUST CLAIM WHERE THERE WAS NO EVIDENCE OF FRAUD, BAD FAITH, ABUSE OF CONFIDENCE, OR A FIDUCIARY RELATIONSHIP BETWEEN THE PARTIES.
- IV. DID THE COURT PROPERLY GRANT SUMMARY JUDGMENT ON THE APPELLANTS' DECLARATORY JUDGMENT CLAIM BASED ON MOOTNESS AND LACK OF JUSTICIABILITY.
- V. DOES LACHES BAR APPELLANTS' CLAIMS WHERE APPELLANTS KNOWINGLY TOOK NO ACTION IN RESPONSE TO THE PERCEIVED WRONG UNDERLYING THIS LAWSUIT FOR GREATER THAN FORTY YEARS AND WHERE RESPONDENTS WOULD BE PREJUDICED BY UNWINDING THE INTESTATE ESTATE AT ISSUE IN THIS CASE WHICH DISCHARGED IN 1984.
- VI. WHETHER THE CIRCUIT COURT'S ORDER SHOULD BE AFFIRMED ON ANY ADDITIONAL GROUNDS APPEARING IN THE RECORD.
 - A. AS AN ADDITIONAL SUSTAINING GROUND, IS APPELLANTS' PREMATURITY ARGUMENT WAIVED BECAUSE APPELLANTS' COUNSEL DID NOT FILE A RULE 56(F) AFFIDAVIT AND BECAUSE APPELLANTS' COUNSEL WAS EXPRESSLY WARNED TO CONDUCT ANY PRE-SUMMARY JUDGEMENT DISCOVERY SEVERAL MONTHS BEFORE THE SUMMARY JUDGMENT HEARING.
 - B. AS AN ADDITIONAL SUSTAINING GROUND, THE FACTORS ESPOUSED BY THE COURT IN *MITCHELL V. HARDWICK* BE APPLIED TO BAR THIS ACTION.
 - C. AS AN ADDITIONAL SUSTAINING GROUND, SHOULD THIS CASE HAVE BEEN DISMISSED BASED ON LACK OF SUBJECT MATTER JURISDICTION.

STATEMENT OF THE CASE

This is an appeal from the Circuit Court’s order granting summary judgment in favor of Respondents on all claims. (R. pp. 10-13); (R. pp. 4-9).

Appellants initiated this action on August 16, 2023, alleging claims for unjust enrichment, constructive trust, and declaratory judgment. (R. pp. 240-247). Appellants filed an Amended Complaint on August 17, 2023. (R. pp. 232-239). Their lawsuit alleges that Appellant Mary Dow Jackson’s late husband, Gordon Louis Jackson, was the biological son of Thomas Edward Campbell (“T.E. Campbell”), who died intestate in 1982. (R. p. 236, lines 13-16). Appellants assert that Gordon Louis Jackson was improperly excluded from T.E. Campbell’s intestate estate. (*Id.*).

Respondents previously filed a Motion to Dismiss on September 15, 2023, which was denied by the Honorable Jocelyn Newman through a Form 4 Order on May 10, 2024. (R. pp. 200-209); (R. pp. 210-212). After proceedings relating to an entry of default which was set aside and conducting written and testimonial discovery, Respondents filed a motion for summary judgment on June 12, 2025. Respondents’ motion asserted that Appellants’ claims failed as a matter of law and were barred by multiple independent grounds, including lack of evidence, untimeliness, laches, failure to satisfy the requirements for retroactive inheritance claims, and lack of subject matter jurisdiction. (R. pp. 72-82). Appellants opposed the motion and argued, among other things, that summary judgment was premature due to ongoing discovery. (R. pp. 42-45).

Appellants did not file an SCRCP Rule 56(f) Affidavit in support of their prematurity argument. (R. pp. 41-51).

A summary judgment hearing was held on July 17, 2025, before the Honorable Daniel Coble. Following arguments by the parties and taking them under advisement, the Circuit Court issued a short form order dated July 29, 2025, and a formal order August 11, 2025, granting

Respondents' Motion for Summary Judgment. (R. pp. 10-13); (R. pp. 4-9). The Circuit Court granted summary judgment on the grounds that Appellants failed to produce sufficient evidence to establish the elements of their claims and that the claims were barred as a matter of law. (R. pp. 10-13); (R. pp. 4-9).

Appellants filed a Motion to Reconsider on August 8, 2025, but the Circuit Court denied that motion on August 13, 2025. (R. pp. 28-35); (R. pp.1-3). This appeal followed.

STATEMENT OF THE FACTS

Appellants contend that Gordon Louis Jackson was the biological son of T.E. Campbell, who died in 1982.

Gordon Louis Jackson died on December 29, 2013. (R. pp. 178-180).

No documentary evidence in the record identifies T.E. Campbell as Gordon Louis Jackson's father. There is no birth certificate, will, written acknowledgment, or correspondence supporting Appellants' claim.

Appellants' claim rests on alleged oral statements attributed to T.E. Campbell during several meetings between Gordon Louis Jackson and T.E. Campbell between 1974 and 1982. (Appellants' Brief, p. 4). Appellants claim that during some of these meetings, T.E. Campbell acknowledged Gordon Louis Jackson as his biological son. (*Id.*); (R. p. 107, line 13 – p. 108, line 12).

Gordon Louis Jackson was aware of T.E. Campbell's death shortly after it occurred in 1982. (R. p. 128, lines 1-10). At that time, Gordon Louis Jackson was forty-one years old. The record reflects that he was high school educated, a military veteran, and familiar with how to obtain legal representation. (R. p. 109, line 23 – p. 110, line 10). He knew lawyers and knew individuals who used lawyers during the relevant period. (R. p. 110, lines 13-19).

Despite this knowledge, Gordon Louis Jackson took no action during his lifetime to pursue any claim to T.E. Campbell's estate or to seek inclusion in the probate proceedings. (R. p. 112, lines 20-22); (R. p. 113, lines 4-22); (R. p. 130, lines 1-6). No action was taken in the years immediately following T.E. Campbell's death, and none was taken during the remainder of Gordon Louis Jackson's life. (*Id.*).

Even after Gordon Louis Jackson's death in 2013, no action was taken by his widow, Appellant Mary Dow Jackson, or his heirs for nearly a decade. In 2023, Appellants decided to pursue a claim to the Campbell estate following discussions with a man named Charles Ives. (R. pp. 61-63); (R. pp. 58-60); (R. pp. 55-57); (R. pp. 52-54); (R. p. 130, lines 7-12, 16-19). Charles Ives is not a party to this action but has been involved as a litigant or witness in several prior lawsuits against members of the Campbell family, some still ongoing.¹

Mary Dow Jackson testified that she has no knowledge or evidence indicating any of the Respondents in this action knew or should have known Gordon Louis Jackson was the son of T.E. Campbell and testified that she knows of nothing the Respondents did to exclude Gordon Louis Jackson from T.E. Campbell's estate. (R. p. 115, line 23 – p. 119, line 16); (R. p. 123, line 10 – p. 124, line 24).

STANDARD OF REVIEW

An appellate court reviews the grant of summary judgment de novo, applying the same standard as the circuit court under Rule 56, SCRPC. *Fleming v. Rose*, 350 S.C. 488, 493, 567 S.E.2d 857, 860 (2002).

¹ *Randy Bowers v. The Estate of Claude E. Campbell et. al.* (2019-CP-28-00680); *Charles Ives v. Charles E. Campbell et. al.* (2019-CP-28-01137); *Professional Insurance Services of Lugoff, et. al. v. Barry Campbell et. al.* (2024-CP-007100); and *Charles Ives v. Claude Campbell Properties, LLC*, (2024-CP-40-4380). The first case, *Randy Bowers v. The Estate of Claude Campbell et. al.* 2019-CP-28-00680, involved almost identical facts to this case.

“Rule 56(c) of the South Carolina Rules of Civil Procedure provides that the moving party is entitled to summary judgment ‘if the [evidence before the court] show[s] that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.’” *Kitchen Planners, LLC v. Friedman*, 440 S.C. 456, 459, 892 S.E.2d 297, 299 (2023).

In reviewing a summary judgment order, the evidence and all reasonable inferences must be viewed in the light most favorable to the non-moving party. *Fleming*, 350 S.C. at 493-94, 567 S.E.2d at 860.

Where the Circuit Court’s ruling rests on the application of equitable doctrines, including laches, the appellate court may assess the record under the court’s view of the preponderance of the evidence. *Pinckney v. Warren*, 344 S.C. 382, 387, 544 S.E.2d 620, 623 (2001). However, that broad scope of review does not require the appellate court to disregard the circuit court’s findings or ignore the circuit court’s superior position to assess credibility. (*Id.*). Accordingly, the equitable doctrine may be affirmed where supported by the record. (*Id.*).

Furthermore, the appellate court may affirm the Circuit Court’s order on any ground appearing in the record, regardless of whether it was relied upon by the circuit court. *I’On, L.L.C. v. Town of Mt. Pleasant*, 338 S.C. 406, 418, 526 S.E.2d 716, 722 (2000) (citing Rule 220(c), SCACR and Rule 208(b)(2), SCACR).

ARGUMENT

I. SUMMARY JUDGMENT WAS RIPE BECAUSE THE ADDITIONAL DISCOVERY SOUGHT BY APPELLANTS WAS NOT MATERIAL.

Appellants contend that summary judgment was premature because discovery was ongoing at the time of the summary judgment hearing. (Appellants’ Brief, p. 2). They argue that the Circuit Court erred by ruling before discovery was complete, asserting that additional discovery was needed before the court could properly resolve the case. (Appellants’ Brief, p. 3).

The Circuit Court found that the additional discovery Appellants sought—evidence relating to whether Gordon Louis Jackson was biologically T.E. Campbell’s son—was immaterial.

Under Rule 56, summary judgment may be granted where the record demonstrates no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. *Kitchen Planners, LLC v. Friedman*, 440 S.C. 456, 459, 892 S.E.2d 297, 299 (2023) (quoting Rule 56(c), SCRCF). The rule does not require that discovery be exhausted before judgment may be entered. *Dawkins v. Fields*, 354 S.C. 58, 63-64, 71, 580 S.E.2d 433, 439-40 (2003) (finding the trial court’s grant of summary judgment was proper despite the lack of complete discovery).

When a party opposing summary judgment asserts that additional discovery is necessary, that party bears the burden of demonstrating that further discovery will likely uncover relevant evidence, and is “not merely engaged in a fishing expedition.” *Dawkins*, 354 S.C. at 69, 580 S.E.2d at 439 (quoting *Baughman v. AT&T*, 306 S.C. 101, 112, 410 S.E.2d 537, 545 (1991)).

General assertions that discovery is ongoing or that further investigation might produce relevant evidence are insufficient. *Schmidt v. Courtney*, 357 S.C. 310, 317, 592 S.E.2d 326, 330 (Ct. App. 2003).

Here, Appellants’ prematurity argument rests on two categories of purportedly missing discovery: depositions that had not yet been taken, and additional evidence concerning Gordon Louis Jackson’s paternity, including DNA testing. (Appellants’ Brief, p. 3). Appellants failed to meet the burden of demonstrating how that additional discovery would create a genuine issue of *material* fact. Put another way, Appellants failed to explain—and still fail to explain—how the additional discovery they seek would make any material difference to the outcome of the dispositive elements of their claims.

With respect to depositions, Appellants asserted only that depositions remained outstanding and that further discovery would “definitely uncover” relevant evidence. (Appellants’ Brief, p. 3). They did not identify which witnesses’ depositions were necessary, what testimony those witnesses were expected to provide, or how that testimony would bear on any element of unjust enrichment, constructive trust, or declaratory judgment. Assertions that additional depositions would “definitely uncover” relevant evidence equate to nothing more than a fishing expedition – which is insufficient under the law. *See In re Estate of Smith*, 419 S.C. 111, 118, 796 S.E.2d 158, 161 (Ct. App. 2016) (affirming summary judgment where the plaintiff failed to demonstrate genuine issues of material fact beyond “mere allegations”).² South Carolina law requires a party opposing summary judgment to present “specific facts” establishing a genuine issue for trial. *Dawkins*, 354 S.C. at 70, 580 S.E.2d at 439. Appellants failed to do so.

Furthermore, Appellants’ assurance in brief that “depositions were actively being scheduled and conducted” is simply untrue. In fact, months before the summary judgment hearing, Appellants were expressly advised by Respondents that Respondents were preparing to file a motion for summary judgment and were further advised to complete any depositions they believed necessary before the motion was heard.

² Appellants acknowledge in brief that “factual statements of the attorneys [...] may not be considered by the court in determining whether a genuine issue of material fact exists;” thus, their counsel’s unsworn suggestion that more depositions would “*definitely uncover*” relevant evidence is meaningless. (Appellants’ Brief, p. 3).

Paul Porter

From: Paul Porter
Sent: Friday, March 28, 2025 9:53 AM
To: rick@gleissnerlaw.com; Jonathan Harling
Cc: Harper L. Hutson
Subject: Mary Dow Jackson case [REDACTED]

Rick and Jonathan,

Your client seems like a sweet lady and I am sure she has a fine family.

I'll soon be filing a motion for summary judgment in this case.

[REDACTED]

Please also coordinate with my staff (elizabeth@cromerbabb.com; and gina@cromerbabb.com) to get any depositions set that you feel need to be taken before an MSJ is ripe.

Sincerely, Paul

(R. p. 273). (“Please also coordinate with my staff [] to get any depositions set you feel need to be taken before an MSJ is ripe.”). Despite that notice and months of opportunity to schedule and conduct depositions, Appellants did not do so. Notably, Appellants did not submit a Rule 56(f) affidavit explaining why additional discovery was unavailable and material. Appellants cannot rely on their own failure to pursue discovery as a basis for postponing or reversing summary judgment.

Appellants’ reliance on waiting paternity-related discovery fares no better. Appellants contend that Gordon Louis Jackson’s paternity is disputed and that the existence of that dispute alone precludes summary judgment. However, the existence of *a* dispute does not preclude summary judgment. Under Rule 56, SCRCF, a factual dispute defeats summary judgment only if it is *material*.

Even if Appellants conclusively established Gordon Louis Jackson’s paternity through DNA testing or other evidence, such a showing would not affect the disposition of any claim and

is therefore immaterial. Gordon Louis Jackson's paternity would not establish that Appellants conferred a benefit on Respondents, as required for an unjust enrichment claim. It also would not supply evidence of fraud, bad faith, abuse of confidence, or a fiduciary relationship necessary to impose a constructive trust. Nor would it revive the declaratory judgment claim, which is moot because the estate at issue was closed decades ago and no declaration could have any practical legal effect. Nor would evidence of paternity overcome the undisputed evidence of extreme delay in pursuing this action by the Appellants and resulting prejudice that independently bars all claims under the doctrine of laches. Although Appellants argue at length in their brief that paternity was disputed, they fail to demonstrate why any paternity evidence—pending or otherwise—is material to any element of their claims. (Appellants' Brief, pp. 3-4).

In its grant of summary judgment, the Circuit Court did not resolve disputed material facts or weigh credibility in reaching its decision. On the contrary, the court viewed the record in the light most favorable to Appellants and expressly held that, even with further discovery, Appellants could not establish the elements of their claims, and that the additional evidence sought would not have influenced the court's analysis. (R. p. 6).

Thus, summary judgment was ripe, and the Circuit Court properly granted summary judgment as a matter of law.

II. THE CIRCUIT COURT PROPERLY GRANTED SUMMARY JUDGMENT ON APPELLANTS' UNJUST ENRICHMENT CLAIM BECAUSE THERE WAS NO EVIDENCE OF ANY BENEFIT CONFERRED WHATSOEVER.

Appellants contend the Circuit Court erred in granting summary judgment on their unjust enrichment claim because Respondents received estate property while Gordon Louis Jackson did not. Appellants argue that this circumstance alone establishes unjust enrichment. Appellants' contention relies on an express misstatement of the law.

Appellants cite authority out of context to omit a required element from the claim of unjust enrichment. (Appellants' Brief, pp. 4-5); *citing, Dema v. Tenet Physicians Services-Hilton Head, Inc.*, 383 S.C. 115, 678 S.E.2d 430 (2009). Appellants assert *Dema* permits recovery *whenever* a defendant has been unjustly enriched at the expense of the plaintiff and invoke that case as if it dispenses with the requirement that a plaintiff proves it conferred a benefit upon a defendant. (*Id.*). However, the authority cited does not address the nonexistence or existence of the critical claim element at issue here.

In *Dema*, the plaintiffs alleged that a hospital performed unauthorized medical procedures in violation of the law and received substantial revenues as a result. 383 S.C. at 119, 678 S.E.2d at 432. Because of that, it was clear from the facts that the hospital received payment – a benefit – from the plaintiffs. *Id.* at 124, 678 S.E.2d at 435. The question before the Supreme Court was therefore whether the hospital's retention of that benefit was inequitable. *Id.* So while the Court did not analyze whether a benefit had been conferred by the plaintiffs, it was not because the Court decided to dispense with that elemental requirement altogether and reduce the claim to a mere fairness inquiry. *Id.* Instead, there was simply no need to analyze that element at all. *Id.*

Dema does not stand for the suggestion that a plaintiff may recover for unjust enrichment without proving that the plaintiff conferred a benefit on the defendant, nor does *Dema* stand for the proposition that unjust enrichment exists whenever a defendant receives a benefit that did not belong to them. In fact, the *Dema* Court found that the defendant was “*undoubtedly* unjustly enriched” (emphasis added) at the expense of the plaintiff and still did not find sufficient evidence to permit recovery under the claim. *Dema*, 383 S.C. at 119, 678 S.E.2d at 432.

Therefore, while Appellants contend that “Respondents incorrectly state the elements of a claim for unjust enrichment”, in fact, Appellants misstate the law by omitting the threshold element they failed to establish – the “benefit conferred” element. (Appellants’ Brief, p. 4).

“One seeking to recover for unjust enrichment must show: ‘(1) a benefit conferred by the plaintiff upon the defendant; (2) realization of that benefit by the defendant; and (3) retention of the benefit by the defendant under circumstances that make it inequitable for him to retain it without paying its value.’” *Chase Home Fin., LLC v. Risher*, 405 S.C. 202, 212, 746 S.E.2d 471, 476 (2013) (quoting *Myrtle Beach Hosp., Inc. v. City of Myrtle Beach*, 341 S.C. 1, 8-9, 532 S.E.2d 868, 872 (2000)).

Central to the doctrine is the first element – that the benefit must be conferred by the plaintiff. *Ellis v. Smith Grading & Paving Inc.*, 294 S.C. 470, 475, 366 S.E.2d 12, 15 (Ct. App. 1988) (“In order for [the plaintiff] to recover, she must show she has conferred a benefit on [the defendant]”); *Inglese v. Beal*, 403 S.C. 290, 298, 742 S.E.2d 678, 691 (Ct. App. 2013) (rejecting unjust enrichment claim where any benefit received by defendant was conferred by a third party, not by the plaintiff).

Appellants’ attempt to restate these established elements—using a case which did not recite or address each of the elements—is a legal nonstarter.

The mere receipt of property by a defendant—without an affirmative transfer or contribution by the plaintiff—does not give rise to unjust enrichment. *Id.* A plaintiff must confer the allegedly wrongfully retained property on the defendant to have an actionable claim.

Applying the correct law to the record, Appellants’ claim fails at the outset. The record contains no evidence that Appellants conferred any benefit on Respondents. Respondents, or their ancestor/ascendants, acquired the estate property by operation of law, four decades before this

action was filed. Just because Respondents received property through inheritance that Appellants believe belonged to them, the law is clear that there is no benefit conferred unless the benefit came from Appellants themselves. *See Ellis*, 294 S.C. at 475, 366 S.E.2d at 15 (finding plaintiff did not confer a benefit on defendant despite evidence that defendant benefitted from a breach of duty to a third party); *see also Inglese*, 403 S.C. at 298, 742 S.E.2d at 691 (finding no unjust enrichment where a third party, not the plaintiff, conferred a benefit on defendant).

Even accepting Appellants' argument at face value, Respondents' receipt of estate property allegedly owed to Appellants does not constitute a benefit conferred by Appellants, because Appellants never possessed that property. Appellants cannot logically claim they conferred a benefit upon Respondents when they never held or transferred the property at issue.

The Circuit Court properly recognized this elemental deficiency and concluded that “[t]here is no evidence in this case of any benefit conferred by the Plaintiffs on the Defendants whatsoever.” (R. p. 11). That conclusion did not involve weighing credibility or resolving disputed facts; it followed directly from the absence of evidence on a required element. Because Appellants failed to establish that it conferred a benefit on the defendant, the Circuit Court’s order granting summary judgment on this claim should be affirmed.

III. THE CIRCUIT COURT PROPERLY GRANTED SUMMARY JUDGMENT ON APPELLANTS’ CONSTRUCTIVE TRUST CLAIM BECAUSE APPELLANTS FAILED TO PRODUCE EVIDENCE OF FRAUD, BAD FAITH, ABUSE OF CONFIDENCE, OR A FIDUCIARY RELATIONSHIP.

A constructive trust is an equitable remedy imposed to prevent a party from retaining property obtained or held through wrongful conduct. *Lollis v. Lollis*, 291 S.C. 525, 529, 354 S.E.2d 559, 561 (1987). Under South Carolina law, a constructive trust arises “against one who by fraud, actual or constructive, by duress or abuse of confidence, by commission of a wrong or by any form of unconscionable conduct, artifice, concealment, or questionable means and against good

conscience, either has obtained or holds the right to property which he ought not in equity and good conscience hold and enjoy.” *Doe v. Roe*, 323 S.C. 445, 452, 475 S.E.2d 783, 786-87 (Ct. App. 1996) (quoting *Halbersberg v. Berry*, 302 S.C. 97, 99, 394 S.E.2d 7, 13 (Ct. App. 1990)).

Appellants do not submit evidence establishing any of these preconditions to a constructive trust claim. While Appellants do not assert in brief what conduct or circumstances they believe give rise to a constructive trust, at the summary judgment stage, they argued merely that this constructive trust should be imposed because Gordon Louis Jackson should have inherited from T.E. Jackson’s estate but did not. (R. p. 47); (*see also*, R. pp. 83-147). Appellant’s argument fails because they do not establish that Respondents engaged in fraudulent or malevolent conduct – a required condition to impose a constructive trust. *See McNair v. Rainsford*, 330 S.C. 332, 356, 499 S.E.2d 488, 501 (Ct. App. 1998) (“Generally, fraud is an essential element [...], although it need not be actual fraud.”).

Not only have Appellants failed to allege that Respondents committed fraud, engaged in concealment, abused a position of confidence, breached a fiduciary duty, or otherwise acted wrongfully to obtain or retain estate property, but the record clearly confirms the absence of such conduct.

Appellant Mary Dow Jackson, the personal representative of Gordon Louis Jackson’s estate, admitted in her deposition that she has no evidence that Respondents engaged in fraud or other wrongful acts. (R. p. 124, line 15 – p. 126, line 21). She further admitted that she does not know whether any Respondent played a role in the administration of the estate, does not know whether any Respondent participated in Gordon Louis Jackson’s alleged exclusion, and even more

telling – does not know whether Respondents were even aware of the alleged paternity.³ (R. p. 123, line 10 – p. 124, line 24); (R. p. 115, line 23 – p. 119, line 16). Indeed, when asked directly what “bad” or wrongful acts Respondents committed, she testified that she was not aware of any. (R. p. 144, lines 11-15).

Those admissions by Appellant Mary Dow Jackson are dispositive. If Respondents did not engage in fraud, concealment, or other wrongful conduct there is no legal or equitable basis to support the imposition of constructive trust.

This is not a case involving disputed evidence of wrongdoing; it is a case in which the Appellants’ own witness – the personal representative of Gordon Louis Jackson’s estate – admits the absence of such evidence altogether.

Appellants attempt to excuse this evidentiary failure by pointing to the fact that none of the Respondents were deposed and by asserting that discovery was ongoing. (Appellants’ Brief, p. 5). However, that argument fails for the same reasons explained above. Appellants were expressly warned months before the summary judgment hearing that Respondents intended to seek summary judgment and were advised to take any depositions, they believed necessary. They did not do so. Nor did they file a Rule 56(f) affidavit. Even now, Appellants do not identify what evidence of fraud or wrongful conduct additional depositions would produce.

The Circuit Court applied the correct legal standard and properly granted summary judgment. Viewing the evidence in the light most favorable to Appellants, the court found no evidence of fraud, abuse of confidence, or fiduciary relationship – requirements essential to the

³ In her deposition, Mary Dow Jackson did testify that she believes Claude Campbell may have known of the alleged paternity. (R. p. 115, line 23 – p. 119, line 16). However, this was only because he was polite and courteous to her during their interactions. (*Id.*). She admitted that she has no other basis for that belief and no knowledge that Claude Campbell ever acknowledged, discussed, or acted upon any alleged paternity. (*Id.*).

imposition of a constructive trust. That conclusion required no credibility determination or weighing of evidence. It followed directly from Appellants' failure to allege or prove the conduct necessary to invoke this equitable remedy.

Therefore, because Appellants failed to produce evidence of fraud or other wrongful conduct by Respondents, their constructive trust claim fails as a matter of law and the Circuit Court's grant of summary judgment on this claim should be affirmed.

IV. THE CIRCUIT COURT PROPERLY GRANTED SUMMARY JUDGMENT ON APPELLANTS' DECLARATORY JUDGMENT CLAIM BECAUSE OF MOOTNESS AND LACK OF JUSTICIABILITY.

The Circuit Court properly granted summary judgment on Appellants' declaratory judgment claim because the claim failed to implicate a present, justiciable controversy within the court's jurisdiction. The court did not, as Appellants assert, grant summary judgment solely as a derivative consequence of dismissing Appellants' other causes of action. (Appellants' Brief, p. 6); (R. p. 7). While the court recognized that Appellants' claim was moot because their claims of unjust enrichment and constructive trust failed, the court further recognized the lack of a justiciable controversy because there would be no available relief that could alter the legal rights of the parties because the estate at issue has long been closed. (R. p. 7). Both grounds – the failure of Appellant's claims and the estate closure – support dismissal.

Declaratory judgment is available only where a declaration will have a practical legal effect on the parties' existing rights. *West v. West*, 263 S.C. 146, 149-50, 208 S.E.2d 530, 532-33 (1974); *Tourism Expenditure Review Comm. v. City of Myrtle Beach*, 403 S.C. 76, 81, 742 S.E.2d 371, 374 (2013). Where a declaration would resolve a live controversy or would not alter the legal relationship of the parties, the claim is moot. *Sloan v. Friends of the Hunley, Inc.*, 369 S.C. 20, 25-26, 630 S.E.2d 474, 477 (2006).

In this case, Appellants' declaratory judgment claim depended entirely on the existence of viable substantive claims that could give rise to a present dispute over rights or property. Once the Circuit Court properly granted summary judgment on Appellants' unjust enrichment and constructive trust claim, no such dispute remained. Indeed, after dismissal of those claims, there was nothing left for a declaratory judgment to "declare." Appellants did not identify any existing ownership dispute, ongoing legal relationship, or present denial of rights that could be resolved through declaratory relief. Any declaration issued at that point would have no operative effect and would not have altered the parties' existing legal rights or obligations. The Circuit Court therefore concluded that the declaratory judgment claim was moot.

Even apart from mootness, Appellants' declaratory judgment claim failed from the outset for lack of justiciability. The Declaratory Judgments Act does not create jurisdiction and does not authorize courts to issue advisory opinions or to resolve hypothetical disputes contingent on future events. *Tourism Expenditure*, 403 S.C. at 81-82, 742 S.E.2d at 374. A declaratory judgment action must present a real and substantial controversy involving existing legal rights – otherwise, any declaration would amount to nothing more than an impermissible advisory opinion. *Sunset Cay, LLC v. City of Folly Beach*, 357 S.C. 414, 423, 593 S.E.2d 462, 466 (2004).

Here, the declaration Appellants sought would not have altered title, possession, or any existing legal right, regardless of the disposition of other claims. Appellants did not already possess heirship rights, ownership interests, or other legally cognizable rights that required clarification.

Appellants rely on *Pinckney v. Warren*, to argue that while the estate at issue is long closed, the passage of time and the closure of an estate do not, standing alone, defeat justiciability. 344 S.C. 382, 544 S.E.2d 620 (2001); (Appellants' Brief, pp. 6-7). That framing of *Pinckney* improperly conflates the age of underlying events with the existence of a justiciable controversy.

In *Pinckney*, the declaratory judgment action was justiciable because competing parties asserted *present* ownership interest in real property, requiring the Court to determine marketable title. *Pinckney*, 344 S.C. at 386-87, 544 S.E.2d at 622-23. The controversy in *Pinckney* did not arise merely from a decades-old inheritance, but from a live dispute over whether a recorded conveyance conveyed any interest at all. (*Id.*). Here, by contrast, Appellants identify no comparable present dispute affecting title or ownership.

The Circuit Court properly recognized the defects in Appellants' claim. By concluding that Appellants' declaratory judgment was moot and non-justiciable, the Court correctly declined to enter an advisory opinion on contingent matters not ripe for adjudication. (R. p. 7).

Therefore, because Appellants' declaratory judgment claim became moot once their substantive claims failed, and independently, failed to implicate a present, justiciable controversy capable of resolution through declaratory relief, the Circuit Court properly granted summary judgment on that claim and the Order should be affirmed.

V. THE CIRCUIT COURT'S APPLICATION OF THE DOCTRINE OF LACHES WAS APPROPRIATE WHERE APPELLANTS KNOWINGLY TOOK NO ACTION IN RESPONSE TO THE PERCEIVED WRONG UNDERLYING THIS CASE FOR MORE THAN FORTY YEARS AND WHERE RESPONDENTS WOULD BE PREJUDICED BY UNWINDING THE INTESTATE ESTATE AT ISSUE IN THIS CASE WHICH DISCHARGED IN 1984.

This case presents a textbook application of laches. Laches bars relief where a party, despite knowledge or opportunity for knowledge, unreasonably delays in asserting a claim and that delay results in prejudice to the opposing party. *Eldridge v. Eldridge*, 398 S.C. 113, 121-22, 728 S.E.2d 24, 28 (2012). Although delay alone is not sufficient, South Carolina courts consistently hold that extraordinary, unexplained delay – combined with knowledge, opportunity, and resulting prejudice – warrants dismissal as a matter of law. *Whitehead v. State*, 352 S.C. 215, 219-20, 574

S.E.2d 200, 202 (2002); *Robinson v. Estate of Harris*, 388 S.C. 645, 654, 698 S.E.2d 229, 236 (2010).

The length of delay here is undisputed. T.E. Campbell died in 1982. His estate was administered and closed in 1984. (R. pp. 171-177). Gordon Louis Jackson knew of T.E. Campbell's death shortly after it occurred and knew, or at a minimum readily could have learned, that he received nothing from the estate despite alleged paternity. (R. p. 128, lines 1-10; p. 113, lines 4-22). Yet during his lifetime, Gordon Louis Jackson took no action to investigate the estate, seek legal advice, assert a claim, or challenge the administration of the estate in any way. (R. p. 113, lines 4-22); (R. p. 130, lines 1-6). The record contains no evidence that he inquired into his rights, consulted counsel, or even discussed pursuing a claim in the decades following the estate's closure.

That prolonged inaction continued even after Gordon Louis Jackson's death. Appellant Mary Dow Jackson, his widow, admitted in her deposition that no action was taken for years after her husband's death, despite her claimed awareness of the alleged paternity. (R. p. 130, lines 7-12, 16-19); (R. p. 104, line 17 – p. 105, line 12). She confirmed that neither she nor Gordon Louis Jackson discussed taking action, that Gordon Louis Jackson never sought to be included in the estate during his lifetime, and that the family knew how to contact lawyers and had the ability to do so. (R. p. 113, lines 4-22); (R. p. 130, lines 1-6); (R. p. 110, lines 13-19). Indeed, the record does not reflect a claim that was investigated and deferred for legitimate reasons; it reflects complete and prolonged inaction spanning four decades before this lawsuit was ultimately filed.

Appellants attempt to excuse this delay by asserting that they believed T.E. Campbell had executed a will and that the family decided to pursue litigation only after learning in 2022 that no will existed. (R. pp. 61-63); (R. pp. 58-60); (R. pp. 55-57); (R. pp. 52-54). However, that

explanation does not defeat laches. A party's decision to delay asserting a known claim based on assumptions, inattention, or a later change in strategy is not a legally cognizable justification. *See Robinson*, 388 S.C. at 655, 698 S.E.2d at 236 (finding delay unreasonable despite petitioners' affidavits explaining delay because petitioners had the opportunity for knowledge of the potential claim for nearly four decades). Equity requires diligence, not eventual willingness to sue. *Id.* The undisputed record establishes that Appellants knew of the circumstances giving rise to a potential claim (alleged paternity and exclusion), had decades of opportunity to investigate or act, and chose not to do so.

Not only is there unexplained and unreasonable delay but re-opening the estate at issue would result in prejudice against the Respondents. Prejudice arises in a variety of circumstances depending on the facts of a given case. *See Robinson*, 388 S.C. at 655, 698 S.E.2d at 236 (finding prejudice where defendant purchased the lot at issue for "significant consideration" and had held it for nearly a decade); *see also Richey v. Dickinson*, 359 S.C. 609, 613, 598 S.E.2d 307, 310 (Ct. App. 2004) (finding prejudice where files no longer existed, depositions could no longer be taken, and the passage of time affected the ability to establish material facts).

In this case, the prejudice is clear. The Campbell estate was administered and closed more than forty years ago. Property interests vested by operation of law, titles settled, and Respondents and their predecessors ordered their affairs on the settled understanding that the estate proceedings were final. Reopening the estate now would require unwinding transactions and expectations formed over generations – resulting in precisely the inequity laches exists to prevent. Indeed, the facts of this case are comparable to the facts in *Robinson*, where the Supreme Court affirmed summary judgment on laches where the claimants waited nearly forty years to challenge a recorded quiet-title judgment. 388 S.C. at 655, 698 S.E.2d at 236. The Court emphasized that such

extraordinary delay, coupled with the passage of time and the inequity of disturbing long-settled property rights rendered the claim barred as a matter of law. *Id.* The same principles apply here.

Nevertheless, Appellants attempt to salvage their claims by asserting that laches is unavailable because Respondents have consistently maintained that Gordon Louis Jackson could not inherit in 1982. (Appellants' Brief, p. 8). That contention is incorrect. There is no legal basis requiring a defendant were to accept the legal merits of a plaintiff's asserted right to invoke laches. The relevant inquiry is whether Appellants knew of the circumstances giving rise to a potential claim, had ample opportunity to act, and nonetheless delayed for decades to the prejudice of Respondents. They did.

The Circuit Court properly applied the settled law to the undisputed record before it. The court recognized that Appellants waited more than forty years to assert any claim related to the Campbell estate, despite knowledge and opportunity to act, and that re-opening a long-closed estate would be fundamentally inequitable. (R. pp. 7-8). Under these circumstances, the court properly found that laches operates as an independent legal bar to relief. (*Id.*).

VI. ADDITIONAL SUSTAINING GROUNDS

An appellate court may affirm a lower court's judgment on any ground appearing in the record, regardless of whether the ground was relied upon by the trial court. *I'On, L.L.C. v. Town of Mt. Pleasant*, 338 S.C. 406, 420, 526 S.E.2d 716, 723 (2000). Where a judgment is supported by multiple independent grounds, affirmance is proper so long as at least one ground remains unchallenged or legally sufficient. *Atl. Coast Builders & Contractors, LLC v. Lewis*, 398 S.C. 323, 328, 730 S.E.2d 282, 284 (2012).

In addition to the grounds addressed above, the Circuit Court's judgment may be affirmed on several alternative bases that are raised below and are supported by the undisputed record. Each

of the additional sustaining grounds set forth herein independently supports the judgment and provides a sufficient basis for affirmance, regardless of the Court's disposition of the primary issues on appeal.

A. Appellants waived their prematurity argument by failing to comply with Rule 56(f).

Rule 56(f), SCRPC provides the mechanism by which a party opposing summary judgment may seek additional time for discovery on the ground that material facts are unavailable. *Guinan v. Tenet Healthsystems of Hilton Head, Inc*, 383 S.C. 48, 54-55, 677 S.E.2d 32, 36 (Ct. App. 2009); *Schmidt v. Courtney*, 357 S.C. 310, 592 S.E.2d 326 (Ct. App. 2003) (quoting *John Doe v. Batson*, 345 S.C. 316, 321, 548 S.E.2d 854, 857 (2001)). To invoke that protection, the nonmoving party must submit an affidavit identifying the specific discovery sought, explaining why it is unavailable despite diligence, and demonstrating how additional discovery would create a genuine issue of material fact. *Guinan*, 383 S.C. at 54-55, 677 S.E.2d at 36; *Schmidt*, 357 S.C. at 322; *Covil Corp. v. Pa. Nat'l Mut. Cas. Ins. Co.*, 436 S.C. 85, 91-92, 870 S.E.2d 191, 194-95 (Ct. App. 2022). Thus, a party may not defeat summary judgment by asserting in general terms that discovery is incomplete.

Here, Appellants did not file a Rule 56(f) affidavit. They did not identify any specific discovery that was unavailable to them, did not explain why such discovery could not have been obtained prior to the summary judgment hearing, and did not articulate how any additional discovery would have supplied evidence material to the elements of their claims. Instead, Appellants relied on generalized assertions that depositions had not yet been taken and that further discovery might prove helpful. Rule 56 does not permit postponement of summary judgment on that basis.

The record further reflects that Appellants were expressly warned months in advance that Respondents intended to move for summary judgment and were invited to complete any discovery they believed necessary before the motion was heard. (R. p. 273). Despite that notice and opportunity, Appellants neither pursued the discovery they now claim was essential nor sought relief under Rule 56(f). It is improper for Appellants to rely on their own failure to pursue discovery or to comply with Rule 56(f) as a basis for claiming that summary judgment was premature.

Accordingly, independent of whether additional discovery could ever have affected the merits, Appellants waived their prematurity argument by failing to comply with Rule 56(f). That waiver provides an additional sustaining ground supporting affirmance of the Circuit Court's judgment.

B. Appellants' claims are independently barred by their failure to satisfy the *Mitchell v. Hardwick* factors.

Even if Appellants could establish Gordon Louis Jackson's paternity, their claims should be independently barred by their failure to satisfy the factors required for retroactive application of inheritance rights under *Mitchell v. Hardwick*, 297 S.C. 48, 374 S.E.2d 681, 683 (1988). In *Mitchell*, the Supreme Court of South Carolina held that retroactive application of post-*Trimble* inheritance principles is permitted only in limited circumstances where all three of the following conditions are met: (1) innocent persons will not be adversely affected due to their detrimental reliance on the prior law; (2) paternity was conclusively established before the father's death by court order or by an instrument signed by the father acknowledging paternity; and (3) the estate administration remains subject to further resolution. *Mitchell*, 297 S.C. 48, 51, 374 S.E.2d 681, 683 (1988); see *Trimble v. Gordon*, 430 U.S. 762, 97 S.Ct. 1459, 52 L.Ed. 2d 31 (1977).

The undisputed record establishes that none of these conditions are satisfied here. First, reopening an intestate estate that was administered and closed in 1984 would necessarily prejudice

generations of innocent heirs who relied on the finality of probate proceedings and whose property interests vested by operation of law decades ago. Second, there is no evidence – nor any allegation – of a pre-death adjudication of paternity or of an instrument signed by T.E. Campbell acknowledging paternity. Third, the estate at issue has long since been fully administered and discharged and is not subject to further resolution.

Failure to satisfy all of the *Mitchell* factors should be dispositive, and here, Appellants failed to satisfy any of the three.

Appellants argue that because this claim involves an estate that came after *Trimble*, but before *Wilson v. Jones* they do not have to establish the *Mitchell* factors. (R. p. 45); citing, *Wilson v. Jones*, 281 S.C. 230, 314 S.E.2d 341 (1984); see also, *Trimble*, 430 U.S. 762 (1977); *Mitchell*, 374 S.E.2d 681 (1988). Their argument relies on the fact that *Mitchell v. Hardwick* concerned an estate arising before *Trimble* and allowed for limited *retroactive* application of *Trimble*. They claim this estate is not similarly burdened by the *Mitchell* factors because it was opened in 1982.

This argument fosters an absurd result. Under Appellants' asserted state of the law, all intestate estates opened between 1977-1984 are presumably vulnerable, indefinitely, to challenges by illegitimate paternal heirs who claim they were wrongfully excluded since-closed estates. No South Carolina appellate court has been presented with this bizarre scenario. As a matter of first impression, logic supports applying the *Mitchell* factors which would rightly bar this unusual action

Accordingly, even assuming *arguendo* that Appellants could establish paternity through additional evidence, *Mitchell v. Hardwick* should serve as an independent bar to their claims as a matter of law.

C. The Circuit Court's judgment may also be affirmed because the court lacked subject matter jurisdiction.

The Circuit Court's judgment may also be affirmed because the claims asserted in this action fall within the exclusive original jurisdiction of the Probate Court. *Neely v. Thomasson*, 365 S.C. 345, 350, 618 S.E.2d 884, 887 (2005). Under South Carolina law, probate courts have exclusive jurisdiction over matters relating to the administration of decedents' estate, including the determination of heirs and successors for purposes of intestate succession. *See* S.C. Code Ann. §§ 62-1-302, 62-1-201(17). Where an action turns on the identification of heirs and entitlement to estate property, subject matter jurisdiction lies exclusively with the Probate Court, not the Circuit Court.

Although Appellants styled their claims as causes of action for unjust enrichment, constructive trust, and declaratory judgment, the substance of their lawsuit seeks a judicial determination that Gordon Louis Jackson was a lawful heir of T.E. Campbell and therefore entitled to a share of the Campbell estate. At its core, this action concerns a matter that falls squarely within the Probate Court's exclusive jurisdiction.

The record reflects that T.E. Campbell's estate was administered and closed in 1984. Appellants did not seek determination of heirship during probate and did not pursue relief in the Probate Court thereafter. Instead, they initiated this action in Circuit Court more than forty years later, seeking to litigate heirship and inheritance directly through equitable and declaratory theories. South Carolina law does not permit parties to circumvent probate jurisdiction by recasting heirship disputes as civil claims.

Because the relief Appellants seek depends upon matters within the exclusive jurisdiction of the Probate Court, the Circuit Court lacked subject matter jurisdiction to adjudicate the claims asserted in this case. Lack of subject matter jurisdiction may be raised at any time and provides an

independent basis to affirm dismissal of Appellants' claims. Accordingly, the judgment may be affirmed on this additional sustaining ground appearing in the record.

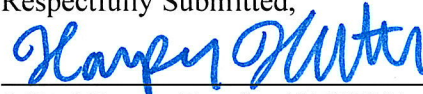
CONCLUSION

The Circuit Court's Order granting summary judgment in favor of Respondents was proper, well-reasoned, and fully supported by the record.

Summary judgment was ripe and Appellants failed to present evidence sufficient to establish the essential elements of their claims. The Circuit Court also correctly concluded that this action was independently barred by the doctrine of laches. Additionally, the Court may affirm summary judgment on the additional sustaining grounds of Appellants' failure to file a Rule 56(f) affidavit, failure to satisfy the *Mitchell v. Hardwick* factors, and lack of subject matter jurisdiction.

Accordingly, the Circuit Court's ruling should be affirmed.

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April 15, 2026

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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM KERSHAW COUNTY
Court of Common Pleas

Daniel Coble, Circuit Court Judge

Case No. 2024-CP-28-00123
Appellate Case No. 2025-001848

Mary Dow Jackson, Individually, and as Personal Representative of the Estate of Gordon Louis Jackson, Melissa Jackson, Tyre Jackson, Reginald Allen, Bryant Allen, Andre Allen, and Timothy Johnson, Appellants,

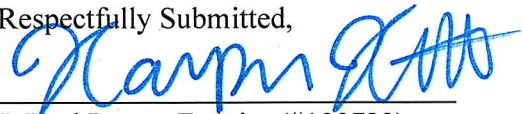
v.

The Estate of Claude E. Campbell, by and through Sonja Campbell Parker and Barry Campbell, Thomas Clayter Campbell, Jr. as Personal Representative and Trustee for the Estate and Testamentary Trust of Thomas Clayter Campbell, Sr., the Estate of Colbert Harold Campbell, by and through Vivian C. Gardner, Heyward M. Clamp, and Larry E. Clamp, and the Estate of Charles E. Campbell, by and through Maxine Watts Campbell,.....Respondents.

CERTIFICATE OF COUNSEL

The undersigned certifies that this Final Brief complies with Rule 211(b), SCACR.

Respectfully Submitted,



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April 15, 2026