RECEIVED
Apr 29 2026
SC Court of Appeals

BRIEF OF APPELLANT/RESPONDENT

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

Grace Gilchrist Knie, Circuit Court Judge

Trial Court Case No. 2017CP4202374

Appellate Case No. 2025-002050

Richard Lewis and Walter
Lewis,
Respondents/Appellants

v.

Robert M. Errato, Quinnipiac Associates,
Inc. and Upwards Builders, Inc.,
Defendants

of which Robert M. Errato is the
Appellant/Respondent

AMENDED INITIAL BRIEF OF APPELLANT, ROBERT M. ERRATO

Robert M. Errato
3000 Whitney Avenue
PMB 109
Hamden, CT 06518
(203) 494-5141
Pro Se

TABLE OF CONTENTS

Table of Contents ii

Table of Authorities iii

Statement of the Issues on Appeal 1

Statement of the Case 1

Standard of Review 10

Argument 11

I. Respondents/Appellants' Appeal Of The Denial Of Their Motion For Injunction And Constructive Trust Is Frivolous And Should Be Denied 11

A. Respondents/Appellants' Appeal Is Procedurally Untimely. 11

B. Respondents/Appellants' Appeal Fails On The Merits 13

C. Respondents/Appellants' Appeal is Frivolous 15

II. Errato's Appeal Should Be Granted And The Denial Of His Motion For Injunction Should Be Reversed 16

A. This Litigation Is A Personal Action And, Thus, Any Conservator Should Not Be Allowed To Represent The Interests Of A Party Litigant 16

B. Even If A Conservator Is Allowed, Robin Has A Clear Conflict Of Interest And Should Not Be Specifically Allowed In This Case 19

Conclusion 23

TABLE OF AUTHORITIES

Benton v. Slater, 605 N.W.2d 3 (Iowa 2000)....................18

Calcutt v. Calcutt, 282 S.C. 565 (1984)....................11

Compton v. S.C. Dep't of Corr., 392 S.C. 361 (2011)....................14

Coward Hund Constr. Co. v. Ball Corp., 336 S.C. 1 (Ct. App. 1999)....................12

Cron & Dehn v. Chelan Packing Co., 158 Wash. 167 (1930)....................18

Doe v. South Carolina Med. Malpractice Liability Joint Underwriting Ass'n, 347 S.C. 642 (2001)....................10

Forest Land Co. v. Black, 216 S.C. 255 (1950)....................11

Gamez v. Utah Labor Comm'n, 2022 UT 20, 511 P.3d 1145 (Sup.Ct.)....................20

Harris v. Tisom, 63 Ga. 629 (1879)....................18

In re Est. of Beckley, 961 So. 2d 707 (Miss. 2007)....................18

Mailsource, LLC v. M.A. Bailey & Associates, Inc., 356 S.C. 363 (Ct. App. 2003)....................10

Monroe v. Physicians Behavioral Hosp., LLC, 147 So. 3d 787 (La.App. 2014)....................18

Murray by Murry v. Murray, 310 S.C. 336 (1993).................... 16-17, 19

Pederson v. United States SEC, 153 F.4th 624 (8th Cir. 2025)....................22

Strategic Res. Co. v. BCS Life Ins. Co., 367 S.C. 540 (2006)....................10

Waldon v. Waldon, 305 So. 3d 634 (Fla. Dist. Ct. App. 2020)....................20

STATUTES AND RULES OF COURT

South Carolina Appellate Court Rule 269....................15

S.C. Code Ann. §62-5-420....................17

S.C. Code Ann. §62-5-424....................17

S.C. Code Ann. §62-5-425....................17

S.C. Code Ann. §62-5-430....................9

Black's Law Dictionary....................20

STATEMENT OF ISSUES ON APPEAL

This consolidated appeal presents what is, at its core, a single legal question that governs both matters now before the Court: whether either party has demonstrated a legally sufficient basis for the extraordinary remedy of injunctive relief under South Carolina law. There are two separate appeals in this case: one brought by Respondents/Appellants Lewis relating to the denial of their motion for injunction and constructive trust, and one brought by Appellant/Respondent Errato relating to the denial of his motion for injunction concerning conservatorship representation. Even though there are two different appeals, the underlying legal principles are identical. Both parties seek equitable relief in circumstances where the governing law imposes strict requirements, including the necessity of demonstrating irreparable harm, a likelihood of success on the merits, and the absence of an adequate remedy at law. When viewed through this unified legal framework, it becomes clear that Respondents/Appellants' appeal fails as a matter of both procedure and substance, while Appellant/Respondent's appeal raises a legitimate and unresolved legal issue that warrants reversal. Respondents/Appellants seek to impose equitable restraints over property in which they have no ownership interest, while Appellant/Respondent seeks to prevent conflicted and unauthorized representation in a personal legal action. The trial court correctly denied Respondents/Appellants' requests but erred in denying Appellant/Respondent's motion for injunction. Errato asks this Court to uphold the denial of Respondents/Appellants' injunction and reverse the denial of his motion for injunction.

STATEMENT OF THE CASE

This case arises from a business arrangement related to a development project on a parcel of land owned in South Carolina by Quinnipiac Associates Inc. ("Quinnipiac"), a Connecticut

Sub-S Corporation, of which Robert Errato (“Errato”) is the CEO, President, and sole shareholder, having used his own personal assets to completely fund the operations of Quinnipiac. A dispute alleged by Plaintiffs’ is regarding a split in the potential profits from the project. On July 13, 2017, Plaintiffs Richard Lewis (“Richard”) and Walter Lewis (“Walter”) (collectively, “Plaintiffs”) filed suit against Errato, Quinnipiac, and Upwards Builders, Inc. (“Upwards”) (collectively, “Defendants”). The Complaint was amended on November 17, 2017 and included the following counts:

- Count 1 – Breach of Contract
- Count 2 – Breach of Contract with Fraudulent Acts
- Count 3 – Breach of the Covenant of Good Faith and Fair Dealing
- Count 4 – Fraud
- Count 5 – Accounting
- Count 6 – Breach of Fiduciary Duty
- Count 7 – Dissolution
- Count 8 – Declaratory Judgment
- Count 9 – Unjust Enrichment
- Count 10 – Quantum Meruit
- Count 11 – Interference with Contractual Relationship
- Count 12 – Constructive Trust
- Count 13 – Injunction
- Count 14 – Fraudulent Conveyance

See Amended Complaint. Errato disputes the allegations in the Amended Complaint.

Background Facts of Case

The facts of this case arise in 1997, when Errato, by and through his wholly owned company, Quinnipiac, purchased property in South Carolina, known as Notchwoods/Forest Springs (the “Project”), which fact was acknowledged by Plaintiffs in the Amended Complaint. *See* Amended Complaint at p. 1 (“Mr. Errato and/or Quinnipiac Associates, Inc. purchased property in Boiling Springs, South Carolina which was developed into a residential subdivision named Forest Springs by Plaintiffs.”). Errato is a resident of the State of Connecticut and

Quinnipiac is a Sub-S Corporation registered in the State of Connecticut. Errato and Walter met in Connecticut to discuss a possible business arrangement in early 1997, long before Quinnipiac and/or Errato purchased the property that is the subject of this litigation. The parties discussed that, if at some point in time, Quinnipiac and/or Errato purchased a piece of property in South Carolina, Walter was interested in providing contracting services and equipment for the Project. In return, Errato, through Quinnipiac, would agree to provide loaned funds to Walter to support such contracting services and costs related specifically to the Project. At some point in time late in 1997, long after Quinnipiac had purchased the property, Walter unilaterally decided to have his son, Richard, provide all the agreed-to services to which Walter committed for the Project in the oral agreement reached in Connecticut. *See* Defendant's Motion to Dismiss or, in the Alternative, For Summary Judgment.

There came a time when Errato, on or about 2015-2016, began talking to Upward to sell lots on the Project. Loans were still outstanding to Quinnipiac by Richard's company, RG Lewis Construction ("RGL")[1]. In the Amended Complaint, Plaintiff acknowledged that, based upon the agreement "the three partners would ultimately split the profits of the development when any loan and costs were paid." *See* Amended Complaint at p. 11. The terms of the business relationship that commenced with RGL in 1998 were to expire in 2010, which is exactly what happened and is supported by the documentation in the court record. In 2010, at the time (and continuing to date) when the business arrangement expired, there were no "profits" to realize and no money was paid to Plaintiffs, as loans and expenses remain outstanding. Plaintiffs then filed suit, claiming that, for the services they provided, they were supposed to share in the profits of the project and sale, as they allege, they are part owners of Quinnipiac. *See* Amended

[1] It should be noted that Richard's sister, Robin French, was also a founding member of RGL.

Complaint, p. 2. The Complaint alleges that Errato breached his obligation to Plaintiffs by failing to provide payment to them after he sold a limited number of lots of the Project to Upward. Furthermore, Plaintiffs alleged that "Defendants intentionally misled Plaintiffs in connection with their willingness to give them ownership interest in Quinnipiac Associates, share profits, share information, and share the benefits of their labor and materials." *See* Amended Complaint, p. 5.

It should also be noted that the Amended Complaint further alleges that Plaintiffs "demanded written acknowledgment of their contributions to the development of Forest Springs and ownership interest in Quinnipiac Associates, Inc. or written confirmation of the agreement and financial status of the development if they were not shareholders in Quinnipiac". *See* Amended Complaint, p. 3. Thus, it is clear from the Amended Complaint that Plaintiffs claim to be owners and operators of Quinnipiac but also acknowledge uncertainty by requesting confirmation *as if they were not shareholders* (which is effectively a concession that they are uncertain of their own legal status). In addition, Plaintiff allege an unspecified agreement for development rights, without alleging specific terms, dates, signatures, or documentation.

Thus, this case is about the collection of money that Plaintiffs claim is owed to them, but Defendants claim is not owed, as loans, advancements, and expenses remain outstanding. Defendants maintain, however, that Plaintiffs are not owners of Quinnipiac and Plaintiffs have failed to produce any evidence that they are. A person cannot claim to be a shareholder in a corporation unless they can produce evidence of share issuance (like a stock certificate or K-1's as required by the IRS), inclusion in a shareholder ledger, or corporate acts or filings acknowledging their ownership. The Plaintiffs, through the affidavit of Richard, have admitted they have no such documents. *See* Affidavit of Richard Lewis, attached to Defendant's Motion

to Dismiss. Thus, Defendants have maintained that Plaintiffs have not and cannot produce any evidence to show that they are entitled to claim ownership of Quinnipiac or entitled to any money potentially received from the sale of lots or future sale of the Project.

It is important to note that in December 1997, Walter notified Errato that he transferred his obligation to provide construction services to his son Richard. Walter transferred his commitment to RGL, a newly formed company. The owners of RGL are Richard and Robin Lewis French ("Robin"), the daughter of Walter and sister of Richard. *See* Transcript 10/9/2025 at p. 9. Walter does not have an ownership interest in RGL, and, despite Defendants' request, RGL is not a party to this litigation. *Id.* at 17.

In his affidavit, Richard asserted that RGL never received any loan funds from Quinnipiac. *See* Exhibit B to Defendants' Motion to Dismiss. However, this claim is directly contradicted by at least two separate financial records of RGL, which clearly reflect entries under the category of "loans" from Quinnipiac. *Id.* at Exhibit G. Thus, it is clear from the evidence in this case that the Plaintiffs are claiming no loans were provided and, therefore, money is owed to them, all the while financial information dictates that loans were made for the development of the Project and remain outstanding.

<u>Facts Regarding The Constructive Trust and Injunction Filed By Plaintiffs</u>

In the Amended Complaint, Plaintiffs included a count for a Constructive Trust which stated, "Since 1997 Richard Lewis has lived on the Forest Springs property…" and the "case, at its heart is a claim to ownership of real property." The Amended Complaint, included a count for Injunction which also stated, the "case, at its heart is a claim to ownership of real property."

On March 3, 2020, Plaintiffs filed a Motion for Injunction and Constructive Trust. In the motion, Plaintiffs argued that Errato sold the Property for $1 million, keeping the money for himself. Plaintiffs wished to have an injunction issued, as they were concerned that the Property would be sold without input from all parties, as the case, at its heart, is a claim to ownership of the real property.

On May 14, 2021, the Court denied the Motion and dismissed the Constructive Trust and Injunction counts. The Court stated that this case was not about the ownership of the real property, as the Property was purchased by Quinnipiac.

Errato filed a motion seeking to remove/cancel the Lis Pendens, which motion was granted on February 23, 2023. Plaintiffs then filed a motion for reconsideration related to this court ruling.

In addition, Plaintiffs made another motion for an injunction, which was heard by the trial court on December 12, 2023. The court denied the motion on January 5, 2024, specifically holding that "the current motion is nearly identical to the previous motion filed by Plaintiffs and denied by this court on May 14, 2021. Plaintiffs have failed to show any new or different grounds that would compel another result."

Instead of appealing the denial of the injunction from May 2021 or from January 2024, the Plaintiffs allowed that time to expire and they continued on with the case at the trial court. On September 17, 2025, Plaintiffs brought another Motion for Injunction and Constructive Trust. This motion is basically identical to the two filed previously. In this new motion, Plaintiffs argued that they were concerned Errato would sell the Property, despite the pending action, depriving Plaintiffs of their rights. Again, the trial court denied the motion. In the most recent denial by the court for Constructive Trust and Injunction on September 30, 2025, the court

stated, in part, that this case is a dispute over whether or not the development work on the property led to a profitable project or not, and the court held that the profits would be determined only after Quinnipiac received repayment of all monies loaned/advance to the project. The court acknowledged that the parties disputed whether or not the project was profitable. The trial court denied the motion, stating: "Given the facts of the case and current procedural posture, the Court finds an injunction regarding the property is too drastic and thus declines to order the same."

Although Plaintiffs filed a motion for reconsideration on October 9, 2025, such motion was also denied on November 3, 2025, wherein the trial court stated: "After careful consideration of the arguments of Counsel and review of the record, the Court is unable to discover any material fact or principle of law that either has been overlooked or disregarded and further finds no error of law or fact not appropriately considered."

Despite dismissal of the Constructive Trust and Injunction counts on May 14, 2021, and repeated notice to Plaintiffs regarding the lack of legal authority in the first place when filing said Lis Pendens, Plaintiffs have continued aggressively to maintain the Lis Pendens and made multiple motions to have the Constructive Trust and Injunction counts revived in the Complaint. Plaintiffs did this to cloud the title of the Property. The Lis Pendens, Constructive Trust, and Injunction Counts and subsequent motions were filed maliciously and with knowledge that Plaintiffs lacked any written documentation or legal basis to claim any interest in the Property, as the court found.

Plaintiffs now appeal the denial of the motion for injunction and constructive trust, as well as the denial of the motion for reconsideration of such issue. Plaintiffs are fully aware that they have no proper legal argument to make in favor of their motion or this appeal. This appeal should have been filed, if at all, upon the first denial of the motion in May 2021. Instead,

Plaintiffs continued to file frivolous motions, with no new facts or legal arguments, merely to extend the time for filing this appeal.

Facts Regarding Injunction and Conservatorship

As this case was proceeding, it became apparent that Walter was aging and needed help from his family. On July 28, 2025, Robin was appointed his conservator for healthcare issues in the State of Connecticut. *See* Conservator order dated 7/28/2025. Plaintiffs' counsel provided this order to Defendants, informing them that Robin would be representing her father's interest in this case. Defendants then filed a Motion for Injunction, asking the court to prohibit Robin from representing her father's interests, as the order from the court in Connecticut shows that she was appointed for healthcare reasons. *See* Defendants' Motion for Injunction dated 9/12/2025.

The trial court scheduled a hearing on the Motion for Injunction for September 24, 2025. Just before the hearing, Plaintiffs' counsel provided a second conservator order to Defendants. This order was actually signed on August 14, 2025, but was not provided to Defendants until the morning of the court hearing on September 24, 2025, just minutes prior to the start of the hearing. In this order, both Robin and Carol Lewis (Walter's wife) are appointed as co-conservators for Walter's financial affairs for his estate. Pursuant to the order, both Robin and Carol shall have authority over real and personal property, banking institutions, and the operation of a business. The co-conservators would also have authority over any claims and litigation regarding Walter's financial affairs. Pursuant to the order, the co-conservators of the estate must act jointly. *See* Conservator order dated 8/14/2025.

During the hearing, Defendants' counsel made the court aware that Plaintiffs' counsel provided the wrong conservator order to the parties prior to Defendants' Motion for Injunction.

Nonetheless, Defendants continued to ask for an injunction, preventing Robin from representing Walter's interests in the litigation. Defendants argued that it was not appropriate for someone to act in Walter's stead during the litigation, especially considering both Robin and Carol must act jointly in Walter's interests. *See* Transcript, 9/24/2025, at pp. 22-23, 33.

Following the hearing, the Court denied the Motion for Injunction. *See* Court Order dated 9/25/2025. In its order, the court denied the motion, giving Plaintiffs ten days to comply with the requirements of S.C. Code Ann. §62-5-430 to register the Connecticut order with the court in South Carolina.

Errato then filed the Notice of Appeal on October 7, 2025, appealing the denial of the Motion for Injunction. *See* Notice of Appeal. On October 9, 2025, the trial court held a hearing to determine a stay in the trial court proceeding pending the appeal. During this hearing, Defendants argued that the trial court proceeding should be stayed for a variety of reasons. Defendants informed the court that Robin was a member of RGL and also acted as the accountant for Walter and RGL, the company that received millions of dollars of loans from Quinnipiac and handled the record keeping and accounting for the Project that is the subject of this litigation[2]. Thus, Robin may have a conflict of interest in sitting in Walter's stead but also having the knowledge of RGL's and Walter's accounting. *See* Transcript 10/9/2025 at p. 9. Thus, Robin would now be a party to this case and should be deposed if she is allowed to continue to represent Walter's interests. *Id.* at 10-14. Furthermore, although Defendants acknowledge that Carol is also a conservator (which was unknown at the time Defendants filed their Motion for Injunction), it is also true that Carol and Robin must act jointly and in concert with one another. *Id.* at 13-14, 34. Thus, if there is a conflict, the conflict would affect both

[2] It should be noted that the loans from Errato and Quinnipiac were provided directly to the company, RGL, but not to Walter directly.

Robin and Carol. The trial court did issue the stay of the proceedings, and the litigation is now stayed pending this appeal.

Defendants continue to argue that neither Robin nor Carol should be allowed to represent the interests of Walter in this suit. First, this suit is a personal action, and not one relating to the finances of Walter's estate. Thus, as co-conservators, Robin and Carol should not be allowed to represent Walter's interest. Second, even if they were allowed to represent Walter's interests, Robin has a clear conflict of interest in this case and should not be allowed to stand in Walter's place. Because Carol and Robin are co-conservators and must act jointly, both conservators should be removed from the case. Thus, Errato asks that this Court review and reverse the denial of the Motion for Injunction. Errato asks that this Court remand the proceedings to the trial court, wherein the co-conservators would be barred from representing Walter's interest in this litigation.

STANDARD OF REVIEW

This case involves the denial of several motions for injunction filed by both sides to this suit. "Generally, to obtain an injunction, a party must demonstrate irreparable harm, a likelihood of success on the merits, and an inadequate remedy at law." *Mailsource, LLC v. M.A. Bailey & Associates, Inc.*, 356 S.C. 363, 367-68 (Ct. App. 2003). An order granting or denying an injunction is reviewed for an abuse of discretion. *Strategic Res. Co. v. BCS Life Ins. Co.*, 367 S.C. 540, 544 (2006). An abuse of discretion occurs when a trial court's decision is unsupported by the evidence or controlled by an error of law. *Id.* The court retains equitable power to grant an injunction. *Doe v. South Carolina Med. Malpractice Liability Joint Underwriting Ass'n*, 347 S.C. 642 (2001). The party seeking an injunction has the burden of demonstrating facts and

circumstances warranting an injunction. *Calcutt v. Calcutt*, 282 S.C. 565 (1984). The remedy of an injunction is a drastic one and ought to be applied with caution. *Forest Land Co. v. Black*, 216 S.C. 255 (1950). In deciding whether to grant an injunction, the court must balance the benefit of an injunction to one party against the inconvenience and damage to the other party, and grant an injunction that seems most consistent with justice and equity under the circumstances of the case. *Id.*

ARGUMENT

I. RESPONDENTS/APPELLANTS' APPEAL OF THE DENIAL OF THEIR MOTION FOR INJUNCTION AND CONSTRUCTIVE TRUST IS FRIVOLOUS AND SHOULD BE DENIED

Plaintiffs' appeal of the denial of their motion for injunction and constructive trust should be dismissed because it is both procedurally improper and substantively deficient. Their appeal is not grounded in any new legal or factual development, but rather represents an attempt to revive an expired right to appellate review through repetitive motion practice.

A. Respondents/Appellants' Appeal Is Procedurally Untimely

The procedural history of this case is not in dispute. Plaintiffs initially sought injunctive relief and the imposition of a constructive trust in 2020. That motion was denied by the trial court in May 2021. Plaintiffs did not appeal that denial. Instead, they continued litigating the case and subsequently filed another motion for similar relief in 2023, which was again denied in 2024. Once again, no appeal followed. Finally, in 2025, Plaintiffs filed yet another motion for injunction and constructive trust. The trial court expressly found that this third motion was "basically identical" to the prior motions and presented no new facts or legal grounds that would justify a different result.

Rather than acknowledging the finality of those prior rulings, Plaintiffs now attempt to treat the 2025 denial as a new and independently appealable order. This argument ignores the fundamental principle that a party may not relitigate the same issue through successive filings in order to create a new appellate deadline. *See Coward Hund Constr. Co. v. Ball Corp.*, 336 S.C. 1, 3 (Ct. App. 1999) (dismissing the appeal because "a second motion for reconsideration is appropriate only if it challenges something that was altered from the original judgment as a result of the initial motion for reconsideration"). Plaintiffs had the ability to file an appeal in May 2021, but failed to do so. Plaintiffs should not now be allowed to circumvent those filing deadlines by renewing the exact same motion, especially when the trial court never heard any new meritorious arguments on the issue, but instead heard the same arguments that had already been denied twice by the court. The law requires finality in judicial decisions, and the appellate rules governing timeliness cannot be circumvented through repetition. If Plaintiffs' position were accepted, any litigant could simply refile the same motion indefinitely until a favorable ruling was obtained or a strategically convenient appeal window was created. Such a result would undermine the orderly administration of justice and render the appellate rules meaningless.

Plaintiffs have attempted to argue that their appeal is timely because it arises from the most recent denial of their motion for injunctive relief and that each denial of such relief constitutes a separately appealable order. While it is true that orders denying injunctions may be appealed on an interlocutory basis, this principle does not apply in the manner Plaintiffs have suggested. The issue here is not whether an injunction denial is appealable in the abstract, but whether a party may create a new appealable order by filing successive, identical motions after allowing prior appeal deadlines to lapse.

Plaintiffs' position fails because their 2025 motion did not present a new issue for adjudication. The trial court found that the motion was substantially identical to prior motions and did not raise any new facts or legal arguments. Without a material change in circumstances, there is no basis to treat the denial of the later motion as a new decision. Rather, it is simply a reaffirmation of the trial court's earlier rulings. As argued, South Carolina law does not permit a party to use such repetition as a mechanism for extending appellate deadlines.

Plaintiffs have also argued that "evolving circumstances" justified the filing of their subsequent motion. This assertion is unsupported by the record. Plaintiffs have not identified any material change in the factual or legal landscape that would alter the analysis of their claim. The central facts remain the same: Plaintiffs have no ownership interest in the property, and their claims are for monetary recovery. The trial court's repeated denial of their motions confirms that no meaningful change occurred in between the filing of Plaintiffs many motions. Thus, the motion that is the subject of this appeal is untimely, and the trial court did not err in denying that motion. This decision should be upheld.

B. Respondents/Appellants' Appeal Fails On The Merits

In addition to its procedural defects, Plaintiffs' appeal also fails on the merits. The trial court has consistently determined that the dispute in this case is not one involving ownership of real property, but rather a dispute over whether the underlying development project generated profits and whether those profits should be shared. The property at issue was purchased and owned by Quinnipiac, and Plaintiffs have never produced any documentation demonstrating an ownership interest in that property. Their claims arise from an alleged oral agreement concerning profit sharing, not from any legal title or equitable interest in the property itself.

In order to prove that Plaintiffs should be entitled to an injunction, they would have needed to show the following: "(1) [they] will suffer immediate, irreparable harm without the injunction; (2) [they have] a likelihood of success on the merits; and (3) [they have] no adequate remedy at law." *Compton v. S.C. Dep't of Corr.*, 392 S.C. 361, 366 (2011). Plaintiffs fail in this argument, as they cannot prove any of these elements.

Plaintiffs do not have an immediate irreparable harm without the injunction, and there is no likelihood of success on the merits, because Plaintiffs have no ownership rights in the Property. The Property is owned by Quinnipiac, which has been admitted to by the Plaintiffs in their own complaint. Plaintiffs may argue, as they have in the past, that they are entitled to a share of the profits of the project. First, however, they would only be entitled to a share after they prove, by audited financial documentation, that they have repaid all outstanding loans and advancements received from Quinnipiac and they have proved that all expenses were paid. At this point, Plaintiffs have not and cannot prove that they are entitled to a share in the profits. They also have not proved that they have the right to *interfere with and stop* the sale the Property. Without any right to ownership in the Property, they are not entitled to stop the sale of such Property. Thus, there is no ownership interest and there is no likelihood of success on the merits. Without those elements, Plaintiffs cannot show that they would be entitled to an injunction. This is what the trial court ruled when it denied the motion in 2021, 2024, and 2025. Without a change in circumstances, Plaintiffs refiled the motion, and the trial court, again, correctly ruled that Plaintiffs are not entitled to an injunction

Because Plaintiffs lack any ownership interest, they cannot establish the legal basis required to support an injunction or a constructive trust. Equitable remedies of this nature are designed to protect identifiable property interests, not to secure speculative claims for

monetary damages. Plaintiffs' claims, even if proven, would entitle them only to financial compensation, which is the quintessential example of an adequate remedy at law and, thus, they would not be entitled to the equitable remedy of an injunction. Therefore, Plaintiffs' appeal should be denied.

C. Respondents/Appellants' Appeal is Frivolous

Plaintiffs have argued that their appeal is not frivolous because appeals from injunction denials are common and because they have a "colorable claim." This argument overlooks the distinction between a single adverse ruling and a pattern of repeated, unsuccessful attempts to obtain the same relief. While it is true that a party may appeal an adverse ruling in good faith, the circumstances here go beyond that scenario. Plaintiffs have sought identical relief multiple times, have been denied each time, and have presented no new arguments or evidence. At some point, repetition becomes evidence of a lack of merit rather than persistence in pursuing a valid claim.

The cumulative effect of Plaintiffs' actions demonstrates that their appeal is frivolous within the meaning of Rule 269. Pursuant to Rule 269 of the South Carolina Appellate Court Rules: "Where an appeal… is frivolous or taken solely for the purposes of delay,… the appellate court may upon its own motion or that of a party,… impose upon offending attorneys or parties such sanctions as the circumstances of the case and discouragement of like conduct in the future may require…." A frivolous appeal is one that lacks any reasonable probability of success or is taken for purposes of delay. Both elements are present here.

Plaintiffs' lack of a property interest is fatal to their claim for injunctive relief. The trial court has already determined that the dispute is contractual in nature and concerns alleged profit sharing. Plaintiffs have not produced any evidence that would establish a likelihood of success

on a claim involving property ownership or equitable entitlement to the property itself. Without such a showing, their request for injunctive relief cannot succeed.

Moreover, the procedural history reveals a clear pattern of delay. Plaintiffs had the opportunity to appeal the denial of their motion in 2021 and again in 2024. They chose not to do so. Instead, they filed a third, identical motion in 2025 and then appealed its denial. This sequence of events strongly suggests that the purpose of the later filing was not to present a new claim, but to revive an expired appellate right. Allowing such conduct to proceed without consequence would encourage similar tactics in future cases and undermine the finality of trial court rulings. Accordingly, this Court should dismiss the appeal and consider the imposition of appropriate sanctions.

II. ERRATO'S APPEAL SHOULD BE GRANTED AND THE DENIAL OF HIS MOTION FOR INJUNCTION SHOULD BE REVERSED

A. This Litigation Is A Personal Action And, Thus, Any Conservator Should Not Be Allowed To Represent The Interests Of A Party Litigant

This case is a claim for breach of contract, fraud, and a host of remaining counts that must be considered a personal action rather than an action involving the financial interests of Walter's estate. Because this is a personal action, a conservator lacks the ability to maintain such personal action on Walter's behalf. Thus, Robin and Carol should not be allowed to represent Walter's interest in this litigation. The trial court erred in denying Errato's motion for injunction. This Court should reverse and remand.

Conservators should not be allowed to represent the interests of their ward in a personal action. The Supreme Court held as such in *Murray by Murry v. Murray*, 310 S.C. 336 (1993). In that case, husband and wife were married when husband became ill. Husband appointed his son as his attorney-in-fact, and later appointed this son as conservator and guardian for his estate.

The son filed a marriage dissolution action as the attorney-in-fact, and the wife contested the son's standing. The wife argued that the power of attorney dissolved when the son was appointed as the conservator. The trial court allowed the son to amend the complaint, listing himself as the conservator instead of the attorney-in-fact. The Supreme Court disagreed. The Court did hold that the power of attorney dissolved when the son was appointed the conservator and, therefore, the Court ruled that the son could not maintain the suit as an attorney-in-fact. *Id.* at 339. The Court went on to state, however, that

> The appointment of a conservator vests in him title as trustee to all property of the protected person. S.C. Code Ann. §62-5-420 (1987). A conservator has the power to manage the assets and funds of the estate. S.C. Code Ann. §§ 62-5-424 and 425 (1987). He may prosecute or defend actions, claims, or proceedings for the protection of estate assets. S.C. Code Ann. § 62-5-424(7)(1987). Therefore, while a conservator can take action to protect estate assets, there is no statutory authority allowing him to maintain an action with regard to personal matters. Accordingly, son cannot bring this action for divorce in his capacity as conservator.

Id. Ultimately, the Court ruled that there must be a hearing at the trial court to determine if the husband was competent to maintain this action by a Guardian Ad Litem. Thus, the Court remanded for such a determination.

The *Murray* case is instructive here. Although this matter deals with a breach of contract rather than a divorce, this matter is still a personal action. Robin and Carol have been appointed the ability to deal with Walter's estate and financial affairs. *See* Conservator order dated 8/14/2025. They are allowed to sell or transfer both real and personal property. They are allowed to deal with banking or financial institutions. In addition, they are allowed to deal with the operation of an entity or a business. Further, they may maintain claims and litigation in managing the financial affairs of Walter, but these are only claims or proceedings for the protection of estate assets. As the court said in *Murray*, a conservator can take action to protect

estate assets, but there is no statutory authority that allows a conservator to maintain an action with regard to personal matters.

Errato argues that a suit for breach of contract and fraud is a personal matter rather than one relating to the protection of estate assets. Although South Carolina has not specifically defined a suit for breach of contract as a personal matter, courts across the country have routinely defined such suits as a personal action. *See, e.g., In re Est. of Beckley*, 961 So. 2d 707, 710 (Miss. 2007) ("Breach of contract claims constitute personal actions under Mississippi law."); *Monroe v. Physicians Behavioral Hosp., LLC*, 147 So. 3d 787, 793 (La.App. 2014) ("The general prescriptive period for a personal action, such as for breach of contract, is set forth in La. C. C. art. 3499"); *Benton v. Slater*, 605 N.W.2d 3, 6 (Iowa 2000) ("We thus conclude Benton's suit for breach of contract is a personal action governed by the venue provision of Iowa Code section 616.17."); *Harris v. Tisom*, 63 Ga. 629, 630 (1879) ("but this action is for a personal wrong, and, though on breach of contract, it is a personal action, and would not survive to the personal representative."); *Cron & Dehn v. Chelan Packing Co.*, 158 Wash. 167, 172 (1930) ("Ordinarily, in a personal action for breach of contract of sale, the measure of damages is as claimant contends...").

Just as the cases have held above, Errato maintains that this case, alleging, *inter alia*, breach of contract and fraud, is a personal action rather than one designed to protect the assets of Walter's estate. This case does not involve filing a suit to sell or transfer real or personal property. This case does not involve operating his business. This case does not involve enforcing Walter's rights with a bank or financial institution. This is a case where Walter claims he was a party to an oral business arrangement/contract that stated profits from the business arrangement would be split between Plaintiffs and Defendants, once all loans and expenses were

paid related to the project. This business is no longer in operation, and the parties are merely fighting about whether any profits materialized from the project that was closed out in 2010. This is an action that is personal to Walter and does not involve the financial interests of his estate. Because this is a personal action, there is no statutory authority that would allow a conservator to maintain the suit and represent Walter's interest in this litigation. Although a Guardian Ad Litem might be a possibility, pursuant to the holding of *Murray*, if the Plaintiffs could prove that Walter remains competent, that simply has not been done in this case.

Therefore, because a claim for breach of contract, and the remaining counts that stem from this alleged breach, should be considered a personal action rather than an action involving the financial interests of Walter's estate, this Court should rule that a conservator lacks the ability to maintain this action on Walter's behalf. Thus, the trial court erred in denying Errato's Motion for Injunction. This Court should reverse and remand, with the direction that the co-conservators should be barred from representing Walter's interests in this litigation.

B. Even If A Conservator Is Allowed, Robin Has A Clear Conflict Of Interest And Should Not Be Specifically Allowed In This Case

Even if this Court rules that a conservator could represent Walter's interest in this personal action, Robin should not be allowed to be a part of this case, as she has a clear conflict of interest, having to choose between her duty to Walter, her duty as both a member of RGL and its accountant, and her fiduciary duty related to her handling of the financial records of the Project (which includes missing financial records for numerous years). There has been a failure to present any records that can prove RGL, Richard, and/or Walter do not still owe Quinnipiac the loaned funds or account for more than $800,000 of direct deposits, which occurred under her direction, for sales proceeds for the lots/houses spanning multiple years. Robin had a fiduciary duty to Errato and Quinnipiac related to her non-disclosure that she was in fact a founding

member of RGL, her fiduciary duty to protect the financial records related to the property development cost, and the terms of the underlaying agreement between Quinnipiac and RGL. If Robin is barred due to this conflict, Carol must also be barred, as both co-conservators must act jointly to tend to Walter's financial interests. The trial court erred in failing to acknowledge this conflict of interest or the fact that there was a co-conservator who must act jointly. Thus, Errato requests that this Court reverse the holding of the trial court and remand the case, enjoining Robin and Carol from representing Walter's interest in this litigation.

A conflict of interest can be defined as a "situation in which regard for one duty leads to disregard of another." *Black's Law Dictionary* (3d ed. 1991). Courts across the country cite to Black's Law Dictionary and recognize a conflict of interest as a dispute among conflicting duties. *See, e.g., Waldon v. Waldon*, 305 So. 3d 634, 637-38 (Fla. Dist. Ct. App. 2020) ("A conflict of interest is a 'real or seeming incompatibility between one's private interests and one's public or fiduciary duties.' *Conflict of Interest, Black's Law Dictionary* (9th ed. 2009)."); *Gamez v. Utah Labor Comm'n*, 2022 UT 20, ¶ 48, 511 P.3d 1145, 1154 (Sup.Ct.) ("a 'conflict of interest' includes both '[a] real *or seeming* incompatibility between one's private interests and one's public or fiduciary duties.' *Conflict of interest*, Black's Law Dictionary (11th ed. 2019)."). Thus, a conflict of interest arises when a duty someone has in one area leads or could lead a person to disregard a duty she has in another area.

In this case, Robin has a conflict of interest and Errato should have been awarded an injunction in this matter. Robin's conflict of interest is clear. Walter's stance in this case is that no loans are owed to Quinnipiac. Several years ago, Errato and Quinnipiac provided to Walter multiple financial records of Quinnipiac, as required by his discovery requests, showing that as of 2010 forward, Plaintiffs and RGL owed more than $49,000 to Quinnipiac, and neither Walter

nor RGL have produced any audited records to prove otherwise to date. Despite these records, Walter still wants the Defendants and the court to accept his word that no money is currently owed by Plaintiffs to Quinnipiac. As argued, Defendants' stance is twofold. First, before there can be any accounting related to profits, there must be an accounting of calculations on any money owed by Plaintiffs to Quinnipiac. Only then would any money/profit be split, if any is owed to Plaintiffs, once it could be shown that all loans and expenses are paid, as noted by the Plaintiffs. *See* Amended Complaint at ¶62. Because there remain outstanding loans to Quinnipiac from Plaintiffs and RGL, there cannot be any "profit" to split with Plaintiffs and, therefore, Defendants do not owe any money to Plaintiffs. If Robin acts as Walter's conservator, she must maintain Walter's argument to protect his interest. The problem is that Robin is also a principal of RGL and an accountant for both RGL and Walter, and, thus, she was also the accountant for the Project. Accordingly, Robin is fully aware that loans were provided by Quinnipiac to RGL and remain outstanding. Robin knows that money is still owed by RGL to Quinnipiac and, therefore, there would be no "profit" due from the Project. Thus, Robin would have a conflict in the duty she would owe to Walter, the project, and Defendants with the duty she has as a certified public accountant and as a founding member of RGL.

If Robin was in the case as a conservator, Defendants would be able to depose her to ask about the loans made, the expenses incurred by the Project, and the potential profit, if any, from the Project. In Defendants' opinion, Robin would not be able to answer these questions truthfully while still protecting Walter's interest in this case. Robin was one of the two founding members of RGL, and Walter was not a member. Robin failed to inform the court in Connecticut that she, in fact, would have a conflict of interest, as noted herein. Robin knows that RGL has received millions of dollars from Quinnipiac over the years. Defendants should be able

to ask her about all of these issues if she is allowed in the case as a party, representing Walter's interests.

Although Plaintiffs would argue that, even if Robin is conflicted out of this case, Carol may still act as conservator and represent Walter's interest in the case. The problem with this is that the Conservator Order clearly states that Carol and Robin are co-conservators of the estate and, thus, must be "jointly" when representing Walter's estate. It is clear from the conservator order and record that Carol stated she would follow Robins lead. *See* Conservator Order dated 8/14/2025 ("Ms. Lewis testified that she will follow her husband's daughter, Robin's, lead and that she is unaware of any existing or potential conflicts of interest with serving as co-conservator of estate for Walter Lewis"). This means they must act together and as one. *See, e.g., Pederson v. United States SEC*, 153 F.4th 624, 635 (8th Cir. 2025) ("Although the statute does not define 'jointly,' the ordinary meaning of the term is 'in common; together.'"). Thus, one co-conservator cannot act alone, pursuant to the order of the court. If Robin is conflicted out of the case, both co-conservators must be barred from representing Walter's interest, as both must work together in representing Walter's interests.

Therefore, Errato asks that this Court reverse the denial of his Motion for Injunction. If Robin and Carol are allowed to represent Walter's interests, there would be irreparable harm to the parties. Robin would have to choose between her duties of tending to Walter's interests (her father) and her duties to both RGL, the Project, and her accounting profession. Robin must either tell the truth, as her professional opinion understands such evidence, or maintain that her father should be rewarded profits to which he is not entitled. In addition, Robin would be a party to the lawsuit, for which Defendants would have the ability to depose her to obtain this information. The conflict of interest is clear for Robin, and, therefore, she must be barred from

the case. If Robin is barred, Carol must also be barred, as they must act jointly to tend to Walter's financial interests. The trial court erred in failing to acknowledge this conflict of interest. Therefore, Errato requests that this Court reverse the holding of the trial court and remand the case, ordering that Robin and Carol are barred from representing Walter's interest in this litigation.

CONCLUSION

In light of the foregoing, Appellant/Respondent Robert M. Errato respectfully requests that this Court reverse the denial of his Motion for Injunction and uphold the denial of the Motion for Injunction filed by Respondents/Appellants. This consolidated appeal provides the Court with a clear opportunity to apply established principles of South Carolina law in a consistent and coherent manner. Plaintiffs' appeal should be dismissed because it is procedurally improper, substantively deficient, and frivolous. Their claims do not support injunctive relief, and their attempt to revive appellate rights through repetitive motions should not be permitted. Errato's appeal, by contrast, raises a valid legal issue concerning the improper and conflicted participation of conservators in a personal legal action. The trial court erred in denying Errato's motion for injunction, and that ruling should be reversed. Accordingly, Appellant/Respondent respectfully requests that this Court dismiss Respondents/Appellants' appeal, affirm the denial of their motion for injunctive relief, reverse the denial of Appellant/Respondent's motion for injunction, and remand the case with appropriate instructions.

Dated: April 29, 2026

Respectfully submitted:
DEFENDANT-APPELLANT:
ROBERT M. ERRATO

____________**/s/**____________________
Robert Errato
Pro Se