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SC Court of Appeals

**THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

**APPEAL FROM CHARLESTON COUNTY
MASTER-IN-EQUITY**

THE HONORABLE MIKELL R. SCARBOROUGH, MASTER-IN-EQUITY JUDGE

**Appellate Ca. No. 2025-002345
Case No. 2019-CP-10-02606**

Robert Matthews, Jr.. .... Respondent,

v.

Tiffany R. Matthews .... Appellant.

FINAL BRIEF OF RESPONDENT

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STATEMENT OF THE ISSUES ON APPEAL

I. DID THE FAMILY COURT HAVE EXCLUSIVE JURISDICTION TO DETERMINE THAT RESPONDENT'S RULE TO SHOW CAUSE FOR COLLEGE-RELATED EXPENSES WAS NOT PRECLUDED BY A 2019 CIVIL LAWSUIT SETTLEMENT THAT DID ADDRESS UNPAID, FAMILY COURT-ORDERED COLLEGE EXPENSES?

II. DID THE MASTER-IN-EQUITY ERR BY HOLDING THAT IT DID NOT HAVE THE AUTHORITY TO OVERRULE A FAMILY COURT'S ORDER DETERMINING THAT APPELLANT'S CIVIL SETTLEMENT DID NOT RESOLVE RESPONDENT'S CLAIM FOR UNPAID, FAMILY COURT-ORDERED COLLEGE EXPENSES?

STATEMENT OF THE CASE

The parties divorced in 2011 in Robert Matthews vs. Tiffany Matthews, 2011-DR-10-0924 (hereinafter the "2011 Divorce Decree"). The 2011 Divorce Decree provides for Appellant's and Respondent's *pro rata* payment of college expenses. [Final Order of Divorce, Matthews v. Matthews, 2011-DR-10-0924, filed April 18, 2011].

On May 16, 2019, Respondent filed a civil lawsuit in Robert Matthews vs. Tiffany Matthews, 2019-CP-10-2606 (hereinafter the "2019 Civil Lawsuit"), regarding the enforceability of a contract entered into by the parties approximately seven (7) years after their divorce. [Complaint, Matthews vs. Matthews, 2019-CP-10-2606, filed May 17, 2019]. Additionally, on May 17, 2019, Respondent filed suit in family court in Robert Matthews vs. Tiffany Matthews, 2019-DR-10-1723, wherein Respondent sought, among other things, a modification of custody (hereinafter the "2019 Modification Action"). [Matthews vs. Matthews, 2019-DR-10-1723, filed May 17, 2019]. In the 2019 Modification Action, Respondent did not make any request regarding the payment of future college expenses for the parties' minor children.

On June 4, 2019, the parties unsuccessfully mediated the issues of custody and visitation in the 2019 Modification Action. [Mediator's Report, Matthews vs. Matthews, 2019-DR-10-1723, filed June 7, 2019]. On February 16, 2020, the parties unsuccessfully mediated the issue of college expenses in the 2011 Divorce Decree matter. [Mediation Report, Matthews vs. Matthews, 2011-DR-10-0924, filed February 21, 2020].

On February 3, 2022, the parties reached a settlement of the 2019 Civil Lawsuit and the 2019 Modification Action, which they published on the record. On February 7, 2022, the lower court filed a Form 4 Order providing that the parties' settlement agreement in the 2019 Civil Lawsuit was placed on the record pursuant to Rule 43(k), SCRCP. [Form 4, Matthews vs. Matthews, Case No. 2019-CP-10-2606, filed February 7, 2022]. Thereafter, pursuant to the parties' settlement agreement, on February 22, 2022, Respondent dismissed the 2019 Modification Action with prejudice. [Consent Order of Dismissal and Form 4, Matthews vs. Matthews, 2019-DR-10-1723, filed February 22, 2022].

On March 22, 2022, Respondent filed a Rule to Show Cause regarding Appellant's failure to pay her *pro rata* share of college expenses pursuant to the 2011 Divorce Decree. [Verified Petition for Rule to Show Cause, Matthews vs. Matthews, 2011-DR-10-0924, filed March 22, 2022]. Due to issues regarding service of process, on March 21, 2023, the family court filed an order dismissing the Rule to Show Cause without prejudice. [Order from Plaintiff's Rule to Show Cause, 2011-DR-10-0924, filed March 21, 2023].

On January 18, 2023, Respondent refiled his Rule to Show Cause against Appellant. [Verified Petition for Rule to Show Cause, Matthews vs. Matthews, 2011-DR-10-0924, filed January 18, 2023]. On January 6, 2025, the Rule to Show Cause was tried before the family court. The family court held Appellant in civil contempt and, among other things, ordered Appellant to

pay Respondent $34,863.10 for her *pro rata* share of the college expenses and to pay Respondent compensatory damages in the amount of $66,335.59 for a total award of $101,198.69. [Order Holding Plaintiff in Civil Contempt, Matthews vs. Matthews, 2011-DR-10-0924, filed January 21, 2025].

On February 6, 2025, Appellant filed a Notice of Motion and Motion to Alter or Amend or for New Trial Pursuant to Rules 59 and 60, SCRCP in the 2011 Divorce Decree matter. [Notice of Motion and Motion to Alter or Amend or for New Trial Pursuant to SCRCP 59 and 60, Matthews vs. Matthews, 2011-DR-10-0924, filed February 6, 2025]. On March 5, 2025, the family court denied Appellant's motion. [Order on Plaintiff's Motion to Alter or Amend or for New Trial Pursuant to SCRCP 59 and 60, Matthews vs. Matthews, 2011-DR-10-0924, filed March 5, 2025].

On April 2, 2025, Appellant filed a Notice of Appeal in Case No. 2025-000643 (hereinafter the "2025 Family Court Appellate Action") regarding the Order Holding Plaintiff in Civil Contempt filed January 21, 2025, and the Order on Plaintiff's Motion to Alter or Amend or for New Trial Pursuant to Rules 59 and 60, SCRCP, filed March 5, 2025. [Notice of Appeal, Case No. 2025-000643, filed April 2, 2025].

Subsequently, on May 1, 2025, Appellant filed a Motion to Confirm or Grant Automatic Stay in the 2011 Divorce Decree matter. [Motion to Confirm or Grant Automatic Stay, Matthews vs. Matthews, 2011-DR-10-0924, filed May 1, 2025]. Also on May 1, 2025, more than three (3) years after Respondent filed the Rule to Show Cause in family court against Appellant, Appellant filed a Motion to Enforce Settlement Agreement pursuant to Rule 43(k), SCRCP in the 2019 Civil Lawsuit to collaterally attack the family court's order and assert arguments like those in the 2025 Family Court Appellate Action. (R. pp. 009-012).

On May 12, 2025, the presiding judge of the family court issued an order recusing himself and referred the matter to the chief administrative judge for scheduling Appellant's supersedeas motion. [Order of Recusal and Refer to Chief Administrative Judge, Matthews vs. Matthews, 2011-DR-10-0924, filed May 12, 2025]. On June 13, 2025, Appellant filed a Motion to Confirm Automatic Stay or Petition for Supersedeas in the 2025 Family Court Appellate Action. [Motion to Confirm Automatic Stay or Petition for Supersedeas, Case No. 2025-000643, filed June 13, 2025].

On June 25, 2025, this Court granted Appellant a temporary stay and remanded the case to the family court for an expedited hearing on Appellant's motion to stay and on Respondent's request for a bond or undertaking. [Order, Case No. 2025-000643, filed June 25, 2025].

On September 3, 2025, the civil court denied Appellant's Motion to Enforce Settlement Agreement pursuant to Rule 43(k) in the 2019 Civil Lawsuit. (R. pp. 001-008).

On October 7, 2025, the family court denied Appellant's Motion to Confirm or Grant Automatic Stay. [Order on Defendant's Motion to Confirm or Grant Automatic Stay, Matthews vs. Matthews, 2011-DR-10-0924, filed October 7, 2025].

On October 6, 2025, Appellant filed a Notice of Motion and Motion to Alter or Amend Pursuant to Rule 59, SCRCP in the 2011 Divorce Decree matter. [Notice of Motion and Motion to Alter or Amend Pursuant to SCRCP 59, Matthews vs. Matthews, 2011-DR-10-0924, filed October 6, 2025]. The family court denied Appellant's motion without a hearing and granted Respondent leave to submit attorney's fees in the 2011 Divorce Decree matter. [Order on Motion to Alter or Amend, Matthews vs. Matthews, 2011-DR-10-0924, filed October 22, 2025].

On November 13, 2025, Appellant filed an Amended Petition for Review Pursuant to Rule 241(d)(7), SCACR in the 2025 Family Court Appellate Action. [Amended Petition for Review

Pursuant to Rule 241(D)(7) SCACR, Case No. 2025-000643, filed November 13, 2025]. On November 20, 2025, the family ordered Appellant to pay Respondent attorney's fees of $1,160.00 regarding Appellant's failed Rule 59 Motion. [Order for Plaintiff's Attorney's Fees, Matthews vs. Matthews, 2011-DR-10-0924, filed November 20, 2025].

On November 20, 2025, Respondent filed a Return to Amended Petition for Review Pursuant to Rule 241(d)(7), SCACR in the 2025 Family Court Appellate Action. [Return to Amended Petition for Review Pursuant to Rule 241 (D)(7), SCACR, Case No. 2025-000643, filed November 20, 2025]. Additionally, on November 20, 2025, Appellant filed a Motion to Alter or Amend Pursuant to Rule 59, SCRCP in the family court regarding the court's order of attorney's fees to Respondent in the 2011 Divorce Decree matter. [Notice of Motion and Motion to Alter or Amend Pursuant to SCRCP 59, Matthews vs. Matthews, 2011-DR-10-0924, filed November 25, 2025].

On November 21, 2025, Appellant filed the Notice of Appeal in this case, and on December 11, 2025, Appellant filed a Motion to Consolidate Appeals, which this Court denied by order filed January 29, 2026. On December 11, 2025, this Court ordered a stay contingent on Appellant's paying a bond in the amount of $20,000. [Order, Case No. 2025-000643, filed December 11, 2025]. On December 30, 2025, the family court denied Appellant's Rule 59 Motion without a hearing in the 2011 Divorce Decree matter. [Order, Matthews vs. Matthews, 2011-DR-10-0924, filed December 30, 2025].

On January 30, 2026, Appellant filed a Notice of Appeal regarding the family court's orders, filed on October 22, 2025, and December 30, 2025, on Appellant's motions to alter or amend in the 2011 Divorce Decree matter. [Notice of Appeal filed January 30, 2026].

STANDARD OF REVIEW

A legal question in an equity case is reviewed under the same standard as a question at law. Gunter v. Fallaw, 78 S.C. 457, 59 S.E. 70 (1907). Appellate courts review questions of law *de novo* and are not obligated to defer to lower courts' decisions. Proctor v. Steedley, 398 S.C. 561, 573, 730 S.E. 2d 357, 364 (Ct. App. 2012) (citations omitted).

FACTS

The parties divorced in 2011. The parties' 2011 Divorce Decree explicitly details their mutual agreement regarding child support, custody arrangements, and, notably, the financial responsibility for their children's college expenses. The parties agreed to share their children's college expenses (including tuition, room and board, books, computers, and all necessary fees) on a *pro rata* basis.

After the parties divorced, they purchased a property together. After a dispute arose regarding the property, Respondent filed the 2019 Civil Lawsuit, wherein the Respondent sought an order declaring the Property Contract void and unenforceable, along with actual, incidental, and consequential damages.

On May 17, 2019, Respondent filed the 2019 Modification Action seeking, among other things, custody of the parties' children. In this action, Respondent did not assert any claims regarding the children's college expenses. [Complaint, Matthews vs. Matthews, 2019-CP-10-2606, filed May 17, 2019]. Indeed, the parties' children were not enrolled in college at that time.

At a temporary hearing, the court awarded custody to Respondent, granted Appellant supervised visitation, terminated Respondent's child support, and ordered Respondent to undergo a psychological evaluation. Appellant did not obey the court's order to undergo a psychological

evaluation. During the pendency of the 2019 Modification Action, the parties' children became emancipated, thereby leaving only the issue of attorney's fees and costs for trial.

During the 2019 Civil Lawsuit trial, Respondent and Appellant reached a settlement of the 2019 Civil Lawsuit and the 2019 Modification Action that the parties published on the record. Specifically, the terms of the agreement regarding the 2019 Modification Action were published by Appellant's lawyer as follows:

> MS. JOHNSTON: Thank you, Your Honor. Your Honor, the first thing, the Family Court -- the parties agreed that the Family Court case will be dismissed with prejudice. That means the attorneys' fees, claims on both sides will be dismissed. Obviously, Your Honor cannot dismiss a Family Court case, but Mr. Futeral, as an officer of the Court, will assert that he will be in charge of providing that order to counsel in having it dismissed.
>
> MR. FUTERAL: It will be done, Your Honor.
>
> * * *
>
> MS. JOHNSTON: I'm going to start over. How about that?
>
> MR. FUTERAL: All right. Please do.
>
> THE COURT: All right.
>
> MS. JOHNSTON: The Family Court case is going to be dismissed.

[Transcript of Settlement Agreement, February 3, 2022, p. 4 at 24-25- p.5 at 1-11, p. 12 at 4-10] (emphasis added). At that time, the only "Family Court case" was the 2019 Modification Action.

On February 7, 2022, the civil court filed a Form 4 Order providing that the parties' settlement agreement in the 2019 Civil Lawsuit was placed on the record pursuant to Rule 43(k), SCRCP. Per the parties' agreement, on February 22, 2022, they entered into a consent order dismissing the 2019 Modification Action with prejudice. [Consent Order of Dismissal, Matthews vs. Matthews, 2019-DR-10-1723, filed February 22, 2022].

On March 22, 2022, Respondent brought a Rule to Show Cause regarding Appellant's failure to contribute towards college expenses pursuant to the parties' 2011 Divorce Decree. After several continuances, the family court heard the Rule to Show Cause on January 6, 2025. Appellant appeared as a *pro se* litigant. The court held that: (1) the 2019 Civil Lawsuit settlement did not resolve Appellant's obligation under a family court order to pay her share of college expenses; and (2) Respondent proved, by clear and convincing evidence, that Appellant failed to comply with the 2011 Divorce Decree requiring her to pay her *pro rata* share of their son's college expenses. Accordingly, the family court held Appellant in willful civil contempt and ordered her to pay Respondent $34,863.10 for her *pro rata* share of the college expenses and pay compensatory damages in the amount of $66,335.59 for a total award of $101,198.69. Appellant was sentenced to one hundred and twenty (120) days in jail, purgeable based upon payments to Respondent as set forth in the family court's order. [Order Holding Plaintiff in Civil Contempt, Matthews vs. Matthews, 2011-DR-10-0924, filed January 21, 2025].

ARGUMENTS

I. THE LOWER COURT DID NOT ERR IN DENYING APPELLANT'S MOTION BECAUSE THE FAMILY COURT HAD EXCLUSIVE JURISDICTION TO DETERMINE WHETHER THE PARTIES' SETTLEMENT AGREEMENT PRECLUDED THE RULE TO SHOW CAUSE REGARDING UNPAID FAMILY COURT-ORDERED COLLEGE EXPENSES.

Appellant asserts that because the settlement of the 2019 Modification Action was published in civil court, the civil court should have, in essence, countermanded the family court's order holding Appellant in contempt for failing to pay her *pro rata* share of college expenses pursuant to the 2011 Divorce Decree. Appellant's argument lacks merit because the family court had exclusive jurisdiction to enforce family court orders.

"Subject matter jurisdiction is 'the power to hear and determine cases of the general class to which the proceedings in question belong.'" Theisen v. Theisen, 394 S.C. 434, 440-41, 716 S.E.2d 271, 274 (2011) (quoting Dove v. Gold Kist, Inc., 314 S.C. 235, 237-38, 442 S.E.2d 598, 600 (1994)). "[J]urisdiction for all domestic matters, whether by decree or by agreement, . . . vest in the family court." Moseley v. Mosier, 279 S.C. 348, 353, 306 S.E.2d 624, 627 (1983). Moreover, the family court has "exclusive jurisdiction . . . in all cases or proceedings within the county against persons charged with failure to obey an order of the court made pursuant to authority conferred by law." S.C. Code Ann. § 63-3-530(A)(13).

Here, the family court had exclusive jurisdiction to determine whether the Rule to Show Cause was precluded by the parties' settlement agreement for three reasons. First, only the family court had jurisdiction to determine whether the 2019 Modification Action, a domestic matter, included claims for college expenses. Second, only the family court had jurisdiction to determine whether the settlement of the 2019 Modification Action, a domestic matter, resolved the issue of unpaid, family court-ordered college expenses, which was also a domestic matter. Third, the family court had exclusive jurisdiction over all domestic matters, including the enforcement of the 2011 Divorce Decree and issues arising from the 2019 Modification Action.

Only the family court had exclusive jurisdiction to determine whether the Rule to Show Cause was precluded by the parties' settlement agreement, regardless of which court it was published in. Accordingly, this Court should deny the appeal.

II. THE LOWER COURT DID NOT ERR IN DENYING APPELLANT'S RULE 43(K) MOTION, WHERE THE FAMILY COURT PREVIOUSLY RULED THAT THE PARTIES' 2019 SETTLEMENT DID NOT RESOLVE APPELLANT'S OBLIGATION UNDER A FAMILY COURT ORDER TO PAY HER SHARE OF COLLEGE EXPENSES.

Appellant argues that the civil court had jurisdiction and authority to determine whether the agreement placed on the record in the 2019 Civil Lawsuit resolved her obligation to pay her family court-ordered share of college expenses, despite the family court having already issued an order regarding this obligation. This argument lacks merit because the civil court did not have authority to overrule the family court.

"There is a long-standing rule in this State that one judge of the same court cannot overrule another." Charleston Cnty Dept. of Soc. Serv. v. Father, et al., 317 S.C. 283, 288, 454 S.E.2d 307, 310 (1994) (citing Tisdale v. Amer. Life Ins. Co., 216 S.C. 10, 56 S.E.2d 580 (1950); Dinkins v. Robbins, 203 S.C. 199, 26 S.E.2d 689 (1943)). If a prior ruling addresses a substantive legal issue, another judge should treat it as final. Rice v. Doe, 442 S.C. 160, 898 S.E. 2d 127 (Ct. App. 2024) (citation omitted). *See* Steele v. Charlotte, Columbia & Augusta R.R. Co., 14 S.C. 324, 329 (1880) (holding that "[t]here is no appeal from one Circuit judge to another.").

Here, on January 6, 2025, the family court issued an order regarding Appellant's obligation to contribute to college expenses. The family court held that the 2019 Civil Lawsuit settlement did not encompass Appellant's obligation under a family court order to pay her share of college expenses. Therefore, the civil court did not err in denying Appellant's motion because the civil court did not have the authority to overrule the family court's order determining that Appellant had not settled Respondent's claim for college expenses. Accordingly, this Court should deny the appeal.

III. THE LOWER COURT DID NOT ERR IN DENYING APPELLANT'S RULE 43(K) MOTION BECAUSE APPELLANT DELAYED OVER THREE YEARS AFTER THE RESPONDENT INITIATED THE RULE TO SHOW CAUSE IN FAMILY COURT TO FILE HER MOTION IN CIVIL COURT.

This Court should affirm the lower court's denial of Appellant's motion under the doctrine of laches because the record fully supports that ground. "The appellate court may affirm any ruling,

order, decision or judgment upon any ground(s) appearing in the Record of Appeal." Rule 220(c), SCACR.

Appellant's delay in filing her Rule 43(k) motion was unreasonable, whereas Respondent incurred substantial attorney's fees and expenses in initiating, preparing, and presenting his Rule to Show Cause action against Appellant, which Appellant sought to undermine collaterally.

> If there has been unreasonable delay in asserting a claim, or if, knowing his rights, a party does not seasonably seek to avail himself of the means at hand for their enforcement, but suffers his adversary to incur expense or enter into obligations or otherwise change his position, then equity will ordinarily refuse to enforce those rights . . . . Whether [a party] is barred by laches is to be determined in light of the facts of each case, taking into consideration whether the delay has worked injury, prejudice, or disadvantage to the other party.

Arceneaux v. Arrington, 284 S.C. 500, 502 – 503, 327 S.E.2d 357, 358 (Ct. App. 1984) (citations omitted).

Here, Respondent initiated his petition in family court for a Rule to Show Cause against Appellant on March 22, 2022. [Verified Petition for Rule to Show Cause, Matthews vs. Matthews, 2011-DR-10-0924, filed March 22, 2022] Appellant delayed, without justification, for three (3) years, one (1) month, and nine (9) days to file her Rule 43(k) motion.

While Appellant delayed filing her motion without cause, her delay worked to Respondent's disadvantage. Specifically, Respondent incurred $66,335.59 in attorney's fees and costs to pursue the Rule to Show Cause against Appellant. Indeed, in its order, the family court specifically blamed Appellant for the extensive costs incurred by Respondent as follows:

> At trial, the testimony revealed [Appellant] was uncooperative in calculating her share of *pro rata* college expenses. Instead of cooperating, the testimony revealed that [Appellant] engaged in extensive discovery and requested that [Respondent] provide thousands of pages of financial records, including tax returns, personal checking statements, personal savings account statements, joint checking statements regarding the parties' son, joint savings account statements regarding the parties' son, records of expenses from the son's college, records regarding scholarships, grants, aid, and more. Ultimately, at trial, [Appellant]

> stipulated to [Respondent's] calculation of [Appellant's] *pro rata* share of college expenses. Moreover, [Appellant] named numerous witnesses, none of whom testified at trial, regarding [Appellant's] failed argument that the parties settled this matter in the 2019 Civil Case. Lastly, [Appellant] named the parties' son, who did not testify at trial, to support her position that Petitioner agreed to pay all college expenses. Ultimately, [Appellant's] lack of cooperation, the discovery, and the ensuing depositions of [Appellant's] witnesses added to the litigation's complexity and costs.

[Order Holding Plaintiff in Civil Contempt, Matthews vs. Matthews, 2011-DR-10-0924, filed January 21, 2025, pp. 5 - 6].

Appellant's prolonged and unjustified delay of over three years in filing her Rule 43(k) motion resulted in significant prejudice to Respondent, who was compelled to incur substantial attorney's fees and costs. The family court expressly attributed these expenses to Appellant's lack of cooperation and extensive discovery demands, which unnecessarily complicated the proceedings. Given these circumstances, this Court should uphold the lower court's denial of Appellant's Rule 43(k) motion under the doctrine of laches.

IV. THE LOWER COURT DID NOT ERR IN DENYING APPELLANT'S MOTION BECAUSE: (1) THE PARTIES HAD A FINAL JUDGMENT IN FAMILY COURT; (2) THE PARTIES ARE IDENTICAL; AND (3) APPELLANT IS RAISING THE SAME MATTERS THAT SHE RAISED IN FAMILY COURT.

This Court should affirm the lower court's denial of Appellant's motion under the doctrine of *res judicata* because the record fully supports that ground. "The appellate court may affirm any ruling, order, decision or judgment upon any ground(s) appearing in the Record of Appeal." Rule 220(c), SCACR. Here, Appellant is attempting to relitigate matters that she raised and that the family court adjudicated.

"*Res judicata* bars subsequent actions by the same parties when the claims arise out of the same transaction or occurrence that was the subject of a prior action between these parties." Nelson v. QHG of S.C., Inc., 354 S.C. 290, 304, 580 S.E.2d 171, __ (Ct. App. 2003) (citations

omitted), *aff'g in part and rev'd in part*, 362 S.C. 421, 608 S.E.2d 855 (2005). The three elements of the *res judicata* are: 1) a final, valid judgment on the merits; 2) identical parties; and 3) the second action must involve matters properly included in the first suit. Latimer v. Farmer, 360 S.C. 375, 602 S.E.2d 32 (2004).

Here, all three elements of *res judicata* exist – (1) there has been a final judgment on the merits wherein the family court held that the 2019 Civil Lawsuit settlement did not preclude Respondent from seeking enforcement of the 2011 Order regarding college expenses; (2) the parties are identical; and (3) Appellant is raising the same matter to this Court that she raised in the family court in her return to Plaintiff's Rule to Show Cause, her return to Plaintiff's Motion in Limine, and at trial.

In her return to Respondent's Rule to Show Cause, Appellant argued, "The issue of college support was litigated as part of the cases of *Matthews v. Matthews*, 2019-DR-10-1723, and *Matthews v. Matthews*, 2019-CP-10-2606." (R.pp.195-198). Again, in Appellant's return to Plaintiff's Motion in Limine, Appellant argued that "[Appellant] contends that the agreement that 'claims on both sides will be dismissed' is unambiguous and that any claim [Respondent] had for college reimbursement was dismissed." (R. pp. 066-194). During the Rule to Show Cause trial, Appellant argued that the 2019 Modification Action and the 2019 Civil Lawsuit encompassed college tuition, but the family court found that neither action included college expenses. [R. for Appellate Case No. 2025-000643 pp. 154-161]. Moreover, the family court determined that the issue of unpaid, family court-ordered college expenses remained unresolved. [R. for Appellate Case No. 2025-000643 p. 158, ll. 14 – 25, p. 159, ll. 5 – 8; Order Holding Plaintiff in Civil Contempt, Matthews vs. Matthews, 2011-DR-10-0924, filed January 21, 2025, p. 4]. Accordingly, this Court should deny this appeal on the ground of *res judicata*.

CONCLUSION

This Court should affirm the lower court for four reasons. First, the family court had exclusive jurisdiction to determine whether the parties' settlement agreement precluded the enforcement of unpaid, family court-ordered college expenses. Second, the lower civil court did not have the authority to overrule the family court's order determining that the parties had not settled the issue of unpaid college expenses. Third, Appellant's delay in filing her Rule 43(k) motion was unreasonable and caused Respondent to incur substantial attorney's fees and costs, and is therefore barred by the doctrine of laches. Fourth, Appellant is attempting to relitigate matters for which there was a final judgment in the family court, which involved identical parties and the same matters in the family court, and is therefore barred by the doctrine of *res judicata*.

Respectfully submitted,

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Dated: 5/11/26