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**SC Court of Appeals**

**THE STATE OF SOUTH CAROLINA**

In The Court of Appeals

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**APPEAL FROM FLORENCE COUNTY**

Court of Common Pleas

William H. Porter, Master-in-Equity

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Appellate Case No. 2025-002445

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Gloria Darrell,

Respondent,

v.

Daisy H. Walden,

Appellant.

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**FINAL BRIEF OF APPELLANT**

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## **STATEMENT OF ISSUES ON APPEAL**

1. Whether the Trial Court erred in granting summary judgment for Ms. Darrell.
2. Whether the Trial Court erred in finding that Ms. Darrell's Confession of Judgment met statutory requirements.
3. Whether the Trial Court erred in denying Ms. Walden's Motion to Vacate Prior Order of Reference.
4. Whether the Trial Court erred in denying Ms. Walden's Motion to Stay Execution of Foreclosure Sale.

## **STATEMENT OF THE CASE AND FACTS**

This is an appeal against the Order of the Court of Common Pleas, Master in Equity (R. pp. 8-17). The Appellant, Daisy H. Walden ("Appellant" or "Ms. Walden"), is a widowed woman who owned property in Florence County, South Carolina. (R. p. 92, lines 14-18). Ms. Walden is mentally incapacitated, residing with her daughter, Lorraine Onfrey-Dean ("Ms. Onfrey-Dean" or "Guardian ad Litem Nisi"), as caretaker. Ms. Onfrey-Dean acted as Ms. Walden's Guardian ad Litem Nisi in the Trial Court action (R. pp. 6-7).

Gloria Darrell ("Respondent" or "Ms. Darrell") alleged, and the Trial Court found, that Ms. Walden signed a Promissory Note (the "Note") on March 4, 2013, in consideration of a \$70,000.00 unsecured loan. (R. p. 120, lines 20-25). The terms of the Note called for repayment in thirty (30) days with \$100,000.00 in fixed interest and fees, totaling \$170,000.00 repayment. (R. p. 120, lines 22-25).

At the time of this transaction, prior counsel for Ms. Walden oversaw a transaction in which all, or a large majority, of the \$70,000.00 loan was disbursed to an oil tank charter company

located in Nigeria (R. p. 69). Based on all available information, Ms. Walden never received any benefit from this disbursement. (R. p. 69)

As a result of the transaction, Ms. Walden did not make any known repayment to Ms. Darrell. (R. p. 114, lines 20-25). Ms. Darrell filed suit against Ms. Walden on or around November 19, 2015, in the Court of Common Pleas for the Twelfth Judicial Circuit, Florence County, South Carolina, Case No.: 2015-CP-21-03174. (R. pp. 132-135). The disposition of the case resulted in a Confession of Judgment (the “Confession”), purportedly signed by Ms. Walden, and filed into the same case on January 27, 2016. (R. pp. 144-145).

The Confession states, in relevant part, as follows: “[t]hat she is justly and truly indebted to the Plaintiff, Reverend Gloria Darrell, on a Promissory Note dated March 4, 2013, in the principal sum of Seventy Thousand and 00/100 Dollars (\$70,000.00), plus interest and fees in the fixed (stipulated) amount of \$100,000.00, for a total of \$170,000.00, which Promissory Note matured on April 3, 2013; that the indebtedness also includes pre-judgment interest, at the rate of 8.75% per annum from April 3, 2013, which amounts to \$11,125.68 as of December 31, 2015; that the pre-judgment interest continues after December 31, 2015, until this Confession of Judgment is filed, at the per diem rate of \$40.75; and that the indebtedness also includes court costs in the amount of \$205.00.” (R. p. 144).

The Confession was originally drafted by Ms. Darrell’s counsel at the time and mailed to Ms. Walden for signature. (R. p. 95, lines 10-12). Ms. Walden purportedly signed this document in front of one witness, who also acted as the notary. (R. p. 112, lines 5-13). Upon receiving the returned Confession, Ms. Darrell’s counsel determined that another witness signature was required and mailed the document back to Ms. Walden, advising her to add an additional witness signature.

(R. p. 112, lines 10-16). The Confession itself is dated December 21, 2016. (R. p. 144). The Verification of Statement predates the Confession and is dated December 14, 2016. (R. p. 145).

Ms. Darrell filed suit on July 14, 2025, resulting in a successful foreclosure action on Ms. Walden's home in Florence County, South Carolina, located at 2212 Poor Farm Road, Effingham, South Carolina 29541. (R. pp. 8-17).

## **ARGUMENT**

### **A. The Trial Court Erred in Granting Summary Judgment for Ms. Darrell.**

#### **Standard of Review**

“When reviewing the grant of summary judgment, the appellate court applies the same standard applied by the trial court pursuant to Rule 56 (c), SCRPC.” *Fleming v. Rose*, 350 S.C. 488, 493, 567 S.E.2d 857, 860 (2002). Rule 56(c), SCRPC, provides that summary judgment is only appropriate if the pleadings and other supporting documents “show 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.” Rule 56(c), SCRPC. The (Trial) Court is not to weigh the evidence. see *S.C. Prop. & Cas. Guar. Ass’n v. Yensen*, 345 S.C. 512, 518, 548 S.E.2d 880, 883 (Ct. App. 2001). “[W]here further inquiry into the facts of the case is desirable to clarify the application of the law,” summary judgment is not appropriate. *Lord v. D & J Enterprises, Inc.*, 407 S.C. 544, 553, 757 S.E.2d 695, 699 (2014) (*citation omitted*).

“Summary judgment is a drastic remedy, which should be cautiously invoked so that no person will be improperly deprived of a trial of the disputed factual issues.” *Doe ex rel. Doe v. Batson*, 345 S.C. 316, 321, 548 S.E.2d 854, 857 (2001); see also *BPS, Inc. v. Worthy*, 362 S.C. 319, 326, 608 S.E.2d 155, 159 (Ct. App. 2005). In determining whether to grant summary

judgment, the (Trial) Court must view the evidence and its reasonable inferences in the light most favorable to the nonmoving party. *Dawkins v. Fields*, 354 S.C. 58, 69, 580 S.E.2d 433, 439 (2003).

“If triable issues exist, those issues must go to the jury.” *BPS, Inc.*, 362 S.C. at 325, 608 S.E.2d at 158 (*citations omitted*). “Summary judgment should not be granted even when there is no dispute as to evidentiary facts if there is disagreement concerning the conclusion to be drawn from those facts.” *Id.* at 325–26, 608 S.E.2d at 159 (*citations omitted*).

### **Argument**

A party seeking to recover upon a claim, counterclaim, or cross-claim or to obtain a declaratory judgment may, at any time after the expiration of 30 days from the commencement of the action or after service of a motion for summary judgment by the adverse party, move with or without supporting affidavits for a summary judgment in his favor upon all or any part thereof. Rule 12, SCRCF.

Ms. Darrell’s Summons and Complaint was filed July 14, 2025 (R. pp. 34-47). The date of service on the incapacitated Ms. Walden is not certain. After good faith communications by and between counsel for the Parties, Ms. Walden filed an Answer on September 23, 2025 (R. pp. 48-51). Contemporaneously, counsel for Ms. Walden caused a Motion to Appoint a Guardian ad Litem (Nisi) to be filed on September 23, 2025 (R. p. 55). Following oral argument, the Trial Court ordered appointment of a Guardian ad Litem Nisi on October 9, 2025 (R. pp. 6-7). Prior to oral argument, on October 6, 2025, Ms. Darrell motioned the Trial Court for Summary Judgment (R. pp. 59-60). Ms. Walden answered the Complaint in accordance with Rule 8(b), SCRCF by denying claims to the best of her ability based on the cognitive status of the Appellant and prior to appointment of a Guardian ad Litem Nisi (R. pp. 48-51). Ms. Walden further offered a variety

affirmative defenses in her Answer, again, in accordance with Rule 8 (R. pp. 48-51).

At the October 9, 2025 hearing, subsequent to Ms. Darrell's Motion for Summary Judgment, Ms. Walden argued a 12(b)(6) Motion to Dismiss prior to presenting the merits of the case, as counsel had extremely limited time to investigate a substantive matter without the benefit of Ms. Walden's direct assistance. Over the course of investigation, it was discovered that funds were purportedly transferred for the benefit of a company based in Nigeria, for the purpose of chartering an oil tanker. At the time of these disbursements, prior counsel for Ms. Walden believed she was being "hoodwinked" (R. p. 69).

At the time of these transactions, Ms. Walden had an unrelated third-party residing in her home which the Guardian ad Litem Nisi has evidence to present of this party's interest in these transactions, along with evidence of fraud, duress, undue influence, and coercion related to all matters involving Ms. Walden at that time (R. p. 106, lines 10-21). In addition, there exists evidence that a New York attorney named Marjory Cajoux received a letter showing record of disbursements and some indication that Ms. Cajoux may have represented the interests of Ms. Darrell at that time, which would stand in contest to prior suggestions that Ms. Darrell had no knowledge of the factual basis of this loan (R. p. 69).

Limited time existed to contact or attempt to subpoena witnesses. On two occasions of Trial Court appearances, Appellant's counsel was led to believe Ms. Darrell would be present to examine or cross-examine. Ms. Darrell failed to appear at either opportunity. As noted in Ms. Walden's Answer, counsel raised defenses, including but not limited to, unclean hands, unconscionability, usury, duress, and undue influence (R. pp. 48-51).

Ms. Darrell argues in her motion that Ms. Walden's response is devoid of legal merit and

evidentiary support (R. p. 59). This is simply not the case here. Ms. Walden was afforded merely six (6) full working days following the appointment of Guardian ad Litem Nisi to gather evidence, discuss the case, contact parties with information related to the case, attempt to issue subpoenas, craft a defense, and undertake other matters required of mounting a fair and competent defense. In this time, prior to the October 20, 2025, hearing, Ms. Walden awaited a ruling from the Trial Court on her 12(b)(6) Motion to Dismiss that was taken under advisement, but the ruling went unissued prior to the hearing for summary judgment.

Thus, Ms. Walden was not afforded due process under the Fourteenth Amendment of the United States Constitution. (*U.S. Const. amend. XIV § 1*), was not afforded the right to be heard for a substantive denial of Ms. Darrell's allegations, was not afforded the right to present evidence and testimony in support of her defenses, and was not afforded the right to receive proper discovery, conduct depositions, serve interrogatories, or serve requests for admissions.

**B. The Trial Court Erred in Finding Ms. Darrell's Confession of Judgment Met Statutory Requirements.**

**Standard of Review**

The issue of interpretation of a statute is a question of law for the (trial) court. *Charleston County Parks Rec. Comm'n v. Somers*, 319 S.C. 65 , 459 S.E.2d 841 (1995) (holding the determination of legislative intent is a matter of law). This Court is free to decide questions of law with no particular deference to the lower court. *Moriarty v. Garden Sanctuary Church of God*, 341 S.C. 320 , 534 S.E.2d 672 (2000). *Jeter v. South Carolina Department of Transportation*, 369 S.C. 433, 633 S.E.2d 143, 437 (S.C. 2006).

“The question of subject matter jurisdiction is a question of law.” *Porter v. Labor Depot*, 372 S.C.

560 , 567, 643 S.E.2d 96 , 100 (Ct.App.2007) (*citations omitted*). “The issue of interpretation of a statute is a question of law for the (trial) court.” *Jeter v. S.C. Dep’t of Transp.*, 369 S.C. 433 , 438, 633 S.E.2d 143 , 146 (2006) (*citation omitted*). An appellate court may decide questions of law with no particular deference to the trial court. *In re Campbell*, 379 S.C. 593 , 599, 666 S.E.2d 908 , 911 (2008) (*citation omitted*). *Linda Mc Co. v. Shore*, 390 S.C. 543, 703 S.E.2d 499 (S.C. 2010).

### Argument

"It is well-established that '[t]he cardinal rule of statutory construction is to ascertain and effectuate the intent of the legislature.'" *Grier v. AMISUB of S.C. Inc.*, 397 S.C. at 535, 725 S.E.2d at 695 (2012) (*quoting Hodges v. Rainey*, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000)). "What the General Assembly says in the text of the statute is the best evidence of its intent, and this Court is bound to give effect to the legislature's expressed intent." *Aiken v. S.C. Dep't of Revenue*, 429 S.C. 414, 419, 839 S.E.2d 96, 99 (2020). "Where the statute's language is plain and unambiguous, and conveys a clear and definite meaning, the rules of statutory interpretation are not needed and the court has no right to impose another meaning." *Lambries v. Saluda Cnty. Council*, 409 S.C. 1, 10–11, 760 S.E.2d 785, 790 (2014) (*quoting Media Gen. Commc'ns, Inc. v. S.C. Dep't of Revenue*, 388 S.C. 138, 148, 694 S.E.2d 525, 530 (2010)).

“Before a judgment by confession shall be entered a statement in writing must be made and signed by the defendant and verified by his oath to the following effect: (1) It must state the amount for which judgment may be entered and authorize the entry of judgment therefor; (2) If it be for the money due or to become due, it must state concisely the facts out of which it arose and must show that the sum confessed therefor is justly due or to become due;...” S.C. Code § 15-35-360.

“It is certainly well settled in this state that a description of a note, without a statement of the indebtedness for which the note was given, is not sufficient to sustain a confession before the clerk. See *Weinges v. Cash*, 15 S.C. 44, and *Ex parte Carroll*, 17 S.C. 446.” *Woods v. Bryan*, 41 S.C. 74, 19 S.E. 219 (S.C. 1894). “And long ago the cognovit method was described by the Chief Justice of New Jersey as 'the loosest way of binding a man's property that ever was devised in any civilized country.’” *Alderman v. Diament*, 7 N.J.L. 197, 198 (1824). *31 124 Overmyer Co Inc of Ohio v. Frick Company* 8212, 405 U.S. 174, 176, 92 S.Ct. 775 (1972).

“(T)here is another fatal objection to the confession of judgment. It does not comply with the requirements of section 400 Lynch's Code (now section 384), inasmuch as it does not state the facts out of which the debt arose, which it was given to secure. As we have said in the recent case of *Ex parte Carroll*, 17 S. C. 450: “The judgment in question derives its origin from a special statutory provision, and to make it valid the requirements of the statute must be strictly complied with. Freeman on Judgments, § 543. \*\*\* The object of the statement required by the code is to protect creditors against fraudulent confessions of judgment by giving them such information as will enable them, by inquiry, to ascertain whether the alleged indebtedness is bona fide or pretensive and fraudulent, and if the statement fails to furnish such information, then the judgment based upon it must be regarded as fraudulent and void as to other creditors even though it may be valid as between the parties to it who may be estopped from questioning its validity.’” See also the case of *Weinges v. Cash*, 15 S. C. 61, where this subject is discussed. *Kohn v. Meyer*, 19 S. C. 198 (S.C. 1883).

**i. Concise Statement of Facts**

Based on the plain language of S.C. Code Ann. §15-35-360, a confession of judgment must

be compliant with the statutory provisions. Such is not the case here and the Trial Court erred by failing to ensure the provisions of the statute were followed.

Here, the Trial Court found the statement of facts contained in Ms. Walden's alleged confession to be valid. This ruling lies in stark contrast with longstanding South Carolina precedent. *Woods v. Bryan* is unambiguous in the fact that reference to a promissory note alone is insufficient. Arguably, much of the statutory intent lies in providing notice of the facts to indicate the validity of the debt giving rise to the Confession. In the present case, in addition to this, Appellant argues an alternative legislative intent is also at play. Trial Court filings indicate that the direction of loan proceeds was paid, beyond entirety, to a corporation based in Nigeria for the purpose of chartering an oil tanker. Failure to include that statement of facts related to the purpose of the loan allows Ms. Darrell to claim a lack of knowledge as to the direction and disbursements of loan proceeds. This begs the question, should a party be allowed to claim ignorance as to the details of a confession in a subsequent action to foreclose based on the same? However, the speculative nature of that question need not be answered as the statute is clear and the above citation of *Kohn v. Meyer* mandates strict compliance with the statute.

Here again, statutory compliance fails because the subject Confession does not contain a concise statement of facts, and the statute, along with supporting case law, requires a finding that the subject Confession is invalid.

**ii. Verification by Oath**

In this case, the Trial Court recognized defects and deficiencies with the Confession of Judgment. Recognizing deficiencies is equivalent to determining the Confession does not comply with the statutory provisions. The recognition of deficiency without a determination of non-

compliance creates a conflict within the Trial Court's Ruling. The Confession was not made under oath as required. The verification by oath antedated the Confession itself. The Trial Court took notice of the same. With these obvious admitted defects, it was an error not to invalidate the Confession. Additionally, it was error for the Trial Court to purport that the signature on Page 1 appearing to be the same antedated signature on Page 2 has any bearing on the validity of the statutorily required verification by oath. See S.C. Code Ann. §15-35-360(2). Based on S.C. Code Ann. § 26-1-90, a notary public may perform oaths and affirmations. However, the notarial act **must** be attested by the legible appearance of the notary's name (**emphasis added**). In other words, typed or printed. That is not present on the subject Confession. Thus, the verification statutorily fails for a variety of reasons. Further, a notary **shall not** notarize a signature on a blank or incomplete document (**emphasis added**).

In this case, the notary public did just that. The same is admitted in correspondence filed by Ms. Darrell's counsel. A Confession of Judgment fails to contain the required verification by oath if the oath was taken prior to a material change on the document being verified.

The statute does not call for a judicial determination as to the signature on the Confession matching the signature on the verification, and the same would not be dispositive as to validity based on law or statute. The statute requires that a confession must concisely state the facts from which the alleged debt arose and be verified by the party's oath, and it was error on the part of the trial court not to require compliance.

**C. The Trial Court Erred in Denying Ms. Walden's Motion to Vacate Prior Order of Reference.**

### **Standard of Review**

An "abuse of discretion" may be found by this Court where the appellant shows that the conclusion reached by the lower court was without reasonable factual support, resulted in prejudice to the right of appellant, and, therefore, amounted to an error of law. *Darden v. Witham*, 263 S.C. 183, 209 S.E.2d 42 (1974).

The burden is upon the party appealing from the order to demonstrate the trial court abused its discretion. *Clark v. Ross*, 284 S.C. 543, 328 S.E.2d 91 (Ct.App.1985). *Dunn v. Dunn*, 298 S.C. 499, 381 S.E.2d 734 (S.C. 1989), 503.

### **Argument**

“The right of trial by jury as declared by the Constitution or as given by a statute of South Carolina shall be preserved to the parties inviolate. Issues of fact in an action for the recovery of money only or of specific real or personal property must be tried by a jury, unless a jury trial be waived.” Rule 38, SCRPC.

“In an action where the parties consent, in a default case, or an action for foreclosure, some or all of the causes of action in a case may be referred to a master or special referee by order of a circuit judge or the clerk of court. In all other actions, the circuit court may, upon application of any party or upon its own motion, direct a reference of some or all of the causes of action in a case. Any party may request a jury pursuant to Rule 38 on any or all issues triable of right by a jury and, upon the filing of a jury demand, the matter shall be returned to the circuit court. A case shall not be referred to a master or special referee for the purpose of making a report to the circuit court. The clerk shall promptly provide the master or special referee with a copy of the order of reference.” Rule 53, SCRPC.

Ms. Walden was denied her right to trial by jury though no Motion of Reference was ever served, nor appears to be visible in the case file, and Ms. Walden had no right afforded to be heard on objection to an Order of Reference but was denied her Motion to Vacate. Ms. Walden should have been afforded a trial by jury on issues so triable and the Trial Court erred in denying the same.

**D. The Trial Court Erred in Denying Ms. Walden's Motion to Stay Execution of Foreclosure Sale**

**Standard of Review  
Same and Section C Above**

**Argument**

“If the judgment appealed from direct the sale or delivery of possession of real property, the execution of the judgment shall not be stayed unless a written undertaking be executed on the part of the appellant, with two sureties, to the effect that during the possession of such property by the appellant he will not commit or suffer to be committed any waste thereon and that if the judgment be affirmed he will pay the value of the use and occupation of the property from the time of the execution of the undertaking until the delivery of possession thereof pursuant to the judgment, not exceeding a sum to be fixed by a judge of the court by which judgment was rendered and which shall be specified in the undertaking. When the judgment directs the sale of land to satisfy a mortgage thereon or other lien, the undertaking shall provide that in case the judgment appealed from be affirmed and the land be finally sold for less than the judgment debt and costs then the appellant shall pay for any waste committed or suffered to be committed on the land and shall pay a reasonable rental value for the use and occupation of the land from the time of the execution of the undertaking to the time of the sale, but not exceeding the amount of such deficiency, which sum shall be duly entered as a payment on the judgment; and in case the land shall be unimproved

land, then in any action or proceedings now pending or hereafter begun in any of the courts of this State the undertaking shall further provide for the payment by appellant, if the judgment be affirmed, of any taxes due at the time of the appeal or already paid by the mortgagee, or becoming due during the pendency of the appeal, and also for the payment by appellant of the interest on the debt falling due during the pendency of such appeal.” S.C. Code § 18-9-170.

The Master’s Order for Foreclosure Sale was issued on October 27, 2025. Ms. Walden timely filed a Motion to Reconsider under Rule 59(e), SCRPC and Rule 60(b), SCRPC. The Master’s Order Denying Motion to Reconsider issued November 18, 2025. Ms. Walden timely filed a Notice of Appeal with the Trial Court on December 1, 2025. Ms. Walden contemporaneously filed a Motion to Stay Execution of the foreclosure sale under S.C. Code § 18-9-130.

Ms. Walden was not granted sufficient time to obtain the statutorily required sureties, and the sale was allowed to proceed. This statute grants discretion to the Trial Court by leaving the amount of allotted time to procure sureties undefined.

In this case, the Trial Court erred by denying Ms. Walden’s Motion to Stay without appropriate opportunity to obtain sureties.

### **CONCLUSION**

This Court should hold that Ms. Darrell did not meet the requisite burden for summary judgment, the confession of judgment is not compliant with S.C. Code § 15-35-360, and therefore void, invalidate and void the foreclosure deed previously assigned in favor of Ms. Darrell, and remand this case for dismissal in favor of Ms. Walden.

Alternatively, this Court should find that Ms. Walden was unjustly denied her right to a trial

by jury and vacate the Order of Reference, remanding this case to Circuit Court for a jury trial.

This Court should also find that Ms. Walden should have been afforded adequate time to obtain sureties sufficient to stay the foreclosure sale thereby invalidating the foreclosure deed until such time as this case may be heard on the merits.

Dated: May 12, 2026  
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