

THE STATE OF SOUTH CAROLINA
In The Court of
Appeals

APPEAL FROM HORRY COUNTY

Court of Common Pleas

Fifteenth Judicial Circuit

B. Alex Hyman, Circuit Court Judge

Case No. 2026 - 000708

RECEIVED

MAY 12 2026

SC Court of Appeals

Joseph N. Grate,

Appellant.

v.

David A. Anderson, James J. Winebrake,
Coastal Carolina University

Respondents,

INITIAL BRIEF

Joseph N. Grate, Pro Se
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ATTORNEYS FOR RESPONDENTS:

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Statement of Issues on Appeal

1. Did the Court error in granting all Defendants' Motion to Dismiss?
2. Did the Court error in denying Plaintiff's Summary Judgment Motion?
3. Did the Court error with regard service of the Pleading?
4. Did the Court error with regard employee / employment status with respect to job functions?
5. Did the Court error with regard its application of SCTCA?
6. Did the Court error with regard Legal Professional Ethics?

Statement of the Case

1. The action was initiated on August 27, 2025.
2. This case is civil in nature.
3. The defense responded with a motion to dismiss the case.
4. The court dismissed the case.
5. The in-person motion hearing took place February 4, 2026.
6. The Transcript was received April 8, 2026.
7. The amount involved in appeal: \$ 36,000,000.00 (Thirty-Six Million Dollars).

8. The date of the Order appealing from: February 10, 2026; received by Appellant, February 20, 2026.
9. The notice of appeal was served, March 10, 2026.
10. Questions presented evolved from the dismissal on February 10, 2026.

Standard of Review

DISMISSAL MOTION “In reviewing the dismissal of an action pursuant to Rule 12(b)(6), SCRPC, the appellate court applies the same standard of review as the trial court.” Cricket Cove Ventures, LLC v. Gilland, 390 S.C. 312, 321, 701 S.E.2d 39, 44 (Ct. App. 2010)

“In considering a motion to dismiss a complaint based on a failure to state facts sufficient to a cause of action, the trial court must base its ruling solely on allegations set forth in the complaint.” Doe v. Marion, 373 S.C. 390, 395, 645 S.E.2d 245, 247 (2007).

Standard of Review

Is the Court in error of granting Defendant CCU Motion to Dismiss?

Defendant was properly served, per Rule 4(d)(8). Defendant CCU is a corporation, and as such, encompasses the following attributes: The

board of trustees is constituted a body corporate and politic under the name of the board of trustees for Coastal Carolina University. The corporation has the power to:

(2) sue and be sued by the corporate name;

(6) make bylaws and regulations for the management of its affairs and its own operations not inconsistent with law;

(8) fix tuition fees and other charges for students attending the university, not inconsistent with law;

(12) compel by subpoena, rule, and attachment witnesses to appear and testify and papers to be produced and read before the board in all investigations relating to the affairs of the university;

(13) adopt measures and make regulations as the board considers necessary for the proper operation of the university;

(15) remove any officer, faculty member, agent, or employee for incompetence, neglect of duty, violation of university regulations, or conduct unbecoming a person occupying such a position;

(18) appoint a president. The president shall report to and seek approval of his actions and those of his subordinates from the board.

S.C. Code Ann. §59-136-130.

1. IS THE COURT AT ERROR WITH REGARD DEFENDANT WINEBRAKE

Defendant Winebrake, as President of CCU, neglected to react with Plaintiff, a former Student of CCU for many years. As president, he has a duty of fostering a supportive environment for students; managing daily operations of the university; To provide leadership and direction for student affairs which includes support services and programs that enhance the overall student experience.

2. IS THE COURT AT ERROR WITH REGARD DEFENDANT ANDERSON

With regard Defendant Anderson, he advised CCU in such a manner that led to Defendants' negligence in reacting with Plaintiff, who was seeking to continue his studies at CCU. Additionally, Defendant Anderson assumed the role of President and Registrar, at a minimum, of CCU. Following the assumption of said roles, Defendant Anderson

neglected to facilitate Plaintiff's registration with CCU, thereby blocking Plaintiff from continuing his studies at the university.

3. Is the Court in error for denying Plaintiff's Summary Judgment Motion?

Rule 56, S.C.R.C.P.

Standard of Review

1. **Dismissal of Summary Judgment. RULE 56 SCRC**

The Summary Judgment Motion encompassed all elements of the case and given that none of the elements were addressed in any answer, from or by Defendants, there by constituting any genuine controverted matter, the Summary judgment was warranted, pursuant to the Rules.

2. **Did the Court error in its consideration and the application of SCTCA?**

Standard of Review

The Tort Claims Act provides that "the State, an agency, a political subdivision, and a governmental entity are liable for their torts in the same manner and to the same extent as a private individual under like circumstances, subject to the limitations upon liability and damages, and exemptions from liability and damages contained herein." S.C.Code Ann. § 15-78-40 (2005).

The burden of establishing a limitation upon liability or an exception to the waiver of immunity under the Tort Claims Act is upon the governmental entity asserting it as an affirmative defense. Provisions establishing limitations upon and exemptions from liability of a governmental entity must be liberally construed in favor of limiting liability.

Steinke v. South Carolina Dep't of Labor, Licensing and Regulation, 336 S.C. 373, 393, 520 S.E.2d 142, 152 (1999).

Argument

Dismissal of Summary Judgment Motion

1. Is the Court in error for denying Plaintiff's Summary Judgment Motion?

The Summary Judgment Motion encompassed elements of the case and given that none of the elements were addressed in any answer, from or by Defendants, thereby constituting any genuine controverted matter, the Summary judgment was warranted, pursuant to the Rules. (RULE 56).

2. MOTION TO DISMISS FOR IMPROPER SERVICE

3. Is the Court error in granting Defendant CCU Motion to Dismiss?

Defendant was properly served, per Rule 4(d)(8).

Defendant CCU is a corporation, and as such, has the power to:

sue and be sued by the corporate name; S.C. Code Ann. §59-136-130.

4. IMPROPER SERVICE

With regard the matter of service, all defendants were properly served. CCU delegated all legal matters to Defendant Anderson. Additionally, proof of which was in the file before the hearing was scheduled. Plaintiff, in reiteration, presented a copy of the proof of service, at the motion hearing. (Transcript, Pages 11-13).

RULE 4 (d)(8), S.C.R.C.P. Service by Certified. Service is effective upon the date of delivery as shown on the return receipt.

Service pursuant to this paragraph shall not be the basis for the entry of a default or a judgment by default unless the record contains a return receipt showing acceptance by the defendant.

5. PLEADING ISSUES With regard the matter of sufficiency of the Pleading, it was proper in that it presented sufficient notice of the matters at issue. SCRCRCP RULE 8

6. NON – ANSWER TO THE COMPLAINT

Defendants chose not to provide an answer to the pleading. That decision placed them in a position of non-compliance with procedural process.

A defendant shall serve his answer within 30 days after the service of the complaint upon him. Rule 12 (a)

6. Defendant CCU DISPOSITION

Defendant CCU is a corporation, and as such, encompasses the following attributes:

The corporation has the power to:

(2) sue and be sued by corporate name; S.C. Code Ann. §59-136-130.

7. Defendant WINEBRAKE DISPOSITION

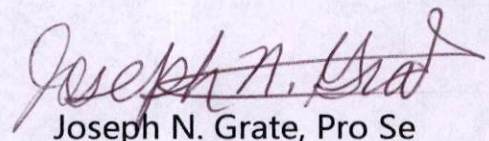
Defendant Winebrake, as President of CCU, neglected to react with Plaintiff, a former Student of CCU for many years. As president, he has a duty to fostering a supportive environment for students; managing daily operations of the university; To provide leadership and direction for student affairs which includes support services and programs that enhance the overall student experience. By his non- action in the matter at issue, he failed, thereby deprived Plaintiff of his educational pursuit; all accomplished by way of having delegated his responsibilities to Defendant Anderson.

8. Defendant ANDERSON'S DISPOSITION

With regard Defendant Anderson, he advised CCU in such a manner that led to Defendants negligence in reacting with Plaintiff, who was seeking to continue his studies at CCU. Additionally, Defendant Anderson assumed the role of President and Registrar, at a minimum, of CCU. Following the assumption of said , Defendant Anderson neglected to facilitate Plaintiff's registration with CCU, thereby questionably, unethically, at best, blocking Plaintiff from continuing his studied at the university.

Conclusion

All of the foregoing are Germain to this case and although not having been permitted a proper forum for consideration, it is requested that they now be viewed and appraised, in accordance with all applicable legal elements and awarded the aptly deserved Summary Judgment.



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May 8, 2026

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MAY 12 2026

SC Court of Appeals

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629 Columbia,
South Carolina 29211

RE: Joseph N. Grate v. David A. Anderson, James J. Winebrake,
Coastal Carolina University Case No. 2026 - 000708

PROOF OF SERVICE

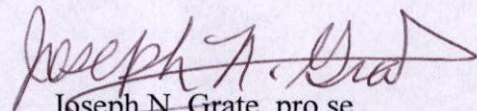
I certify that I served a copy of the initial brief on Defendants by depositing a copy of it in the United States Mail, postage prepaid, on May 8, 2026, addressed to their Attorneys of record, as indicated below.

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Sincerely,



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RE: Joseph N. Grate v. David A. Anderson, James J. Winebrake,
Coastal Carolina University Case No. 2026 - 000708

Dear Ms. Kitchings:

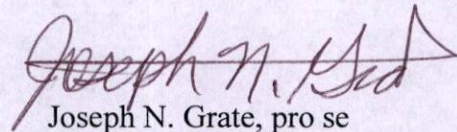
Please find enclosed for filing a copy of Plaintiff's Initial Brief and proof of service
on Defendants as follows:

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