

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Carmen T. Mullen, Circuit Court Judge

Appellate Case No. 2026-001061
Civil Action No. 2025-CP-07-00873

In the Matter of: George Francis Niesar (Decedent),

Gerald Viglione Niesar, Individually and as Personal
Representative of the Estate of George Francis Niesar, Appellant,

v.

Christine Nemeth, Respondent.

**APPELLANT’S MEMORANDUM
IN SUPPORT OF APPEALABILITY**

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Attorneys for Appellant

INTRODUCTION

Pursuant to the Court’s letter dated May 5, 2026, Appellant Gerald Viglione Niesar, Individually and as Personal Representative of the Estate of George Francis Niesar (“Appellant”) hereby submits this Memorandum in Support of Appealability. The two Orders Appellant now challenges are appealable under South Carolina’s appealability statute, S.C. Code Ann. § 14-3-330, because they have the effect of striking Appellant’s causes of action for conversion and liability as *executor de son tort*. Even Respondent admits in her brief to this Court that the Orders dismissed two of Appellant’s causes of action. This is a garden variety appeal from an order dismissing a claim, which courts routinely allow under § 14-3-330 before entry of a final judgment. Accordingly, the Court should not dismiss this appeal and should allow it to proceed.

BACKGROUND

As explained in more detail in Judge Mullen’s “Final Order Granting Plaintiff’s Motion for Summary Judgment,” attached to Appellant’s Notice of Appeal as Exhibit 3 (the “Final Order”), this dispute involves claims brought by the estate (“Estate”) of Decedent George Francis Niesar (“Decedent”) against Decedent’s ex-wife, Respondent Christine Nemeth (“Nemeth”), for conversion, liability as *executor de son tort*, and imposition of a constructive trust. Appellant is Decedent’s brother and, as Personal Representative of his Estate, seeks damages and other relief arising from Nemeth’s wrongful retention of half of the proceeds from the sale of real property owned by Nemeth and Decedent initially as joint tenants with rights of survivorship but—at the time of Decedent’s death—as tenants in common without rights of survivorship. Appellant asserts that upon Decedent’s death in 2021, the Estate had an ownership right to one half of the proceeds of the sale of that real property because Decedent and Nemeth’s joint tenancy severed by operation of law upon their divorce in 2007 and became a tenancy in

common without rights of survivorship. It is undisputed that Nemeth sold the property just days after Decedent's death for \$886,000.00 and did not share any of the proceeds from the sale of the property with the Estate.

I. Appellant sued to recover the converted proceeds.

After Decedent's death, Appellant, fulfilling his fiduciary duties to the Estate, sought to recover from Nemeth those wrongfully converted proceeds that rightfully belong to the Estate and, on December 6, 2024, filed the present Complaint in the Beaufort County Probate Court, bringing causes of action for conversion, liability as *executor de son tort*, and constructive trust against Nemeth.¹ See Complaint, attached hereto as Exhibit A. Upon Appellant's timely motion, the action was removed to circuit court pursuant to S.C. Code Ann. §§ 62-1-302(d)(3) and (5).

II. Appellant sought, and the circuit court granted, summary judgment on all claims.

Appellant filed his Motion for Summary Judgment on May 6, 2025, arguing there are no issues of fact material to his three causes of action and that he is, accordingly, entitled to judgment as a matter of law on all claims. After a hearing, the Court entered its Final Order granting summary judgment on all of Appellant's claims and: (i) awarding damages to the Estate in the amount of \$443,000, plus pre- and post-judgment interest, (ii) reducing the value of any distribution or payment to which Nemeth may be entitled to receive from the Estate by \$443,000 pursuant to the *executor de son tort* statute, S.C. Code Ann. § 62-3-619, and (iii) imposing a

¹ In reality, this case has a longer procedural history that predates the December 6, 2024 Complaint, including an action in the United States District Court for the District of South Carolina (*Gerald Viglione Niesar, individually and as Personal Representative of the Estate of George Francis Niesar v. Christine Nemeth*, Case No. 9:23-cv-04660-DCN) that was filed in 2023 and subsequently stayed pending resolution of this state court action. However, it is unnecessary to discuss that entire procedural history for present purposes. Appellant raises it for the sole purpose of dispelling any concerns the Court may have about his compliance with the applicable statutes of limitations, which are not an issue in this case.

constructive trust over \$443,000, an amount which represents the portion of the proceeds of the sale of real estate that belonged to the Estate, plus the interest awarded.

III. The circuit court reversed its Final Order, in part, because “*a cause of action for conversion cannot be sustained when the thing converted is an interest in real property,*” effectively granting summary judgment to Nemeth.

On January 6, 2026, Nemeth filed a motion to reconsider (“Defendant’s Motion to Reconsider”). The court held a hearing on Defendant’s Motion to Reconsider on January 14, 2026, during which the court, *sua sponte*, raised concerns about the soundness of its Final Order, specifically questioning whether: (i) a claim for conversion can be based upon the proceeds of the sale of real property in South Carolina; (ii) the circuit court has subject matter jurisdiction to make a finding of liability as *executor de son tort*; and (iii) any issue of material fact exists as to Appellant’s claim for constructive trust.

After both parties submitted briefing on these issues, the court entered the first order Appellant has appealed from—the March 10, 2026 Order granting Defendant’s Motion to Reconsider (“Order Granting Reconsideration”), which “reverse[d] her December 31, 2025 order granting Summary Judgment on all causes of action.” NOA Exhibit 2, Order Granting Reconsideration at 1. The court held that “under South Carolina law, a cause of action for conversion cannot be sustained when the thing converted is an interest in real property,” thereby effectively granting summary judgment to Nemeth on that claim. *Id.* at 1 (emphasis added). The court further held that it lacked subject matter jurisdiction over Appellant’s claim for liability as *executor de son tort* and that “there are questions of fact that need to be decided by the fact finder such that summary judgment is not appropriate on whether or not a constructive trust exists.” *Id.* at 2.

IV. The circuit court affirmed its reversal of summary judgment.

Appellant then timely moved to reconsider the Order Granting Reconsideration (“Appellant’s Motion to Reconsider”), asking the Court to decide several issues Appellant raised in opposition to the Defendant’s Motion to Reconsider but that the court did not address in its Order Granting Reconsideration. The court denied Appellant’s motion for reconsideration in a Form 4 Order without a hearing or explanation (“Order Denying Reconsideration”). Appellant then timely appealed the Order Granting Reconsideration and the Order Denying Reconsideration (collectively, the “Appealed Orders”). On May 5, 2026, the Court of Appeals sent a letter to both parties instructing them to file and serve memoranda addressing the issue of appealability within ten days. Appellant hereby submits this Memorandum pursuant to the Court’s instruction and respectfully contends the Appealed Orders are appealable under S.C. Code Ann. § 14-3-330.

DISCUSSION

Absent some specialized statute, the immediate appealability of an interlocutory or intermediate order depends on whether the order falls within S.C. Code Ann. § 14-3-330. *Edwards v. SunCom*, 369 S.C. 91, 93, 631 S.E.2d 529, 530 (2006) (citing *Baldwin Const. Co., Inc. v. Graham*, 357 S.C. 227, 593 S.E.2d 146 (2004)). Pursuant to S.C. Code Ann. § 14-3-330, the following types of orders are appealable:

(1) Any intermediate judgment, order or decree in a law case *involving the merits* in actions commenced in the court of common pleas and general sessions, brought there by original process or removed there from any inferior court or jurisdiction, and final judgments in such actions; provided, that if no appeal be taken until final judgment is entered the court may upon appeal from such final judgment review any intermediate order or decree necessarily affecting the judgment not before appealed from;

(2) An order *affecting a substantial right* made in an action when such order (a) *in effect determines the action and prevents a judgment from which an appeal might*

be taken or discontinues the action, (b) grants or refuses a new trial or (c) strikes out an answer or any part thereof or any pleading in any action;

(3) A final order affecting a substantial right made in any special proceeding or upon a summary application in any action after judgment; and

(4) An interlocutory order or decree in a court of common pleas granting, continuing, modifying, or refusing an injunction or granting, continuing, modifying, or refusing the appointment of a receiver.

S.C. Code Ann. § 14-3-330 (emphasis added). The Appealed Orders in this case fall within the first two subsections.

I. The Appealed Orders “involve the merits.”

As mentioned, intermediate orders are appealable in cases commenced in the court of common pleas or removed there if they “involve the merits.” *Id.* An order that involves the merits is one that “must finally determine some substantial matter forming the whole or a part of some cause of action or defense.” *Mid-State Distribs. v. Century Importers, Inc.*, 310 S.C. 330, 334, 426 S.E.2d 777, 780 (1993).

The Appealed Orders in this case “finally determine some substantial matter forming the whole or part of some cause of action” because they hold, based upon uncontroverted facts, Appellant can *never* succeed on his conversion claim. While orders denying summary judgment are not normally appealable, *Ballenger v. Bowen*, 313 S.C. 476, 476–77, 443 S.E.2d 379, 380 (1994) (collecting cases), the Appealed Orders in this case are unique because they, in effect, grant summary judgment to Nemeth on two of Appellant’s claims and are, therefore, not subject to this rule.

The Order Granting Reconsideration (later affirmed by the Order Denying Reconsideration) did not reverse summary judgment on Appellant’s conversion claim based upon a genuine issue of material fact that must be decided. Instead, the circuit court reversed

summary judgment on the basis that “a cause of action for conversion cannot be sustained when the thing converted is an interest in real property.” NOA Exhibit 2, Order Granting Reconsideration at 1 (emphasis added). In the circuit court’s view, because a conversion claim cannot be based on real property, and because the court determined that Appellant’s claim is for the conversion of real property,² Appellant’s claim must fail. Accordingly, under the circuit court’s holding, the conversion claim fails as a matter of law without a need to resolve any genuine issues of material fact regarding this claim. The court’s holding, therefore, has the same effect as a final determination or striking of the conversion claim because there is no “further act which must be done by the court prior to a determination of the rights of the parties.” *Mid-State*, 310 S.C. at 336, 426 S.E.2d at 780 (distinguishing appealable final and unappealable interlocutory orders).

In *Babb v. Estate of Watson*, the South Carolina Supreme Court held that two orders similar to those here were directly appealable under § 14-3-330 because they involved the merits of the underlying action and had the effect of striking the plaintiff’s claims. *Babb v. Est. of Watson*, No. Op. No. 2006-MO-030, 2006 WL 7353457 (S.C. Sup. Ct. filed Oct. 9, 2006). In that case, the plaintiff/petitioner alleged causes of action for civil conspiracy, unjust enrichment, negligence and gross negligence, breach of fiduciary duty, and fraud, constructive fraud, deceit, and misrepresentation. *Id.* at *1. The respondents brought a counterclaim for a declaratory

² In so holding, the Court actually misconstrued the true nature of Appellant’s conversion claim. As shown in his Complaint, Appellant’s conversion claim is not based on the conversion of real property. Rather, it is based on the conversion of *the proceeds* of the sale of real property, a legally cognizable theory. Nevertheless, that error does not alter the finality of the circuit court’s orders because the court was aware of this distinction at the time it entered the Order Granting Reconsideration. See Exhibit B, Appellant’s Memorandum in Opposition to Defendant’s Motion to Reconsider at 4 (describing how the circuit court *sua sponte* raised the question at the January 14 hearing whether a claim for conversion can be based upon *the proceeds* of the sale of real property).

judgment that petitioner was not a shareholder in Little River Campground, Inc. (“LRCG, Inc.”), a finding that, if true, would defeat all of the petitioner’s claims based on her theories of liability. *Id.* At trial, the judge determined the petitioner had voluntarily and intentionally relinquished her interest in LRCG, Inc. *Id.* The petitioner filed a Rule 59(e), SCRCP motion to alter or amend the judgment, which the trial judge denied. *Id.* Petitioner appealed, and the Court of Appeals dismissed the appeal on the grounds that the orders were unappealable because they were not final. *Id.*

After the Supreme Court granted his petition for certiorari, petitioner argued the Court of Appeals erred in dismissing her appeal because the order determining she was not a shareholder was a final order involving the merits under § 14-3-330(1). *Id.* The Supreme Court agreed with petitioner, reciting that an order “involves the merits” when it “finally determines some substantial matter forming the whole or a part of some cause of action or defense,” and that “[a]n order may be appealable because it has the effect of striking out a pleading.” *Id.* (first citing *Jefferson by Johnson v. Gene’s Used Cars, Inc.*, 295 S.C. 317, 368 S.E.2d 456 (1988), and then citing *Link v. Sch. Dist. of Pickens County*, 302 S.C. 1, 393 S.E.2d 176 (1990)). The Court found that the “trial judge’s determination that petitioner had waived her interest in LRCG, Inc. had the effect of striking part of petitioner’s pleadings” because, by holding petitioner was not a shareholder, the Order “had the effect of declaring that a fiduciary relationship could not exist between petitioner and respondents,” which thereby had the effect of striking petitioner’s claim for breach of fiduciary duty. *Id.* at *2. Similarly, the Court held that “[b]y declaring petitioner’s status as a non-shareholder of LRCG, Inc., the trial judge effectively struck petitioner’s entire complaint against respondents.” *Id.* Accordingly, the Supreme Court reversed the Court of

Appeals' dismissal and remanded the case so the Court of Appeals could hear the merits of the appeal. *Id.*

Like the Orders in *Babb*, which had the effect of striking the petitioner's claim for breach of fiduciary duty because the petitioner could not satisfy an essential element of that claim (existence of a fiduciary duty), the Appealed Orders here have the effect of striking Appellant's claim for conversion because they hold Appellant cannot satisfy one of the essential elements of that cause of action (ownership rights in personal property). *See Mullis v. Trident Emergency Physicians*, 351 S.C. 503, 507, 570 S.E.2d 549, 550 (Ct. App. 2002) (“‘Conversion’ is defined as the unauthorized assumption and exercise of the rights of ownership over *goods or personal chattels* belonging to another, to the alteration of their condition or to the exclusion of the rights of the owner.” (emphasis added)). Therefore, the Appealed Orders “involve the merits” under § 14-3-330(1) and are immediately appealable.

II. The Appealed Orders “affect a substantial right.”

The Appealed Orders are also appealable under § 14-3-330(2), which provides that an order “affecting a substantial right made in an action” is appealable if it “(a) in effect determines the action and prevents a judgment from which an appeal might be taken or discontinues the action, . . . or (c) strikes out an answer or any part thereof or any pleading in any action.” The Supreme Court has clarified that this subsection applies when an “order would discontinue an action, prevent an appeal, grant or refuse a new trial, or strike out an action or defense.” *Mid-State*, 310 S.C. at 334 n.4, 426 S.E.2d at 780 n.4.

A. The Appealed Orders have the effect of striking Appellant's conversion claim.

The Appealed Orders are independently appealable under this subsection for the same reasons they are appealable under § 14-3-330(1). The Appealed Orders “in effect determine” or

strike Appellant’s conversion claim because, as discussed, they leave nothing further to be decided on that claim and discontinue the action with respect to that claim. *Babb*, No. 2006-MO-030, 2006 WL 7353457 at *2 (holding trial judge’s orders were appealable because—by holding no fiduciary duty could have existed because petitioner was not a shareholder—they had the effect of striking petitioner’s cause of action for breach of fiduciary duty).

B. The Appealed Orders have the effect of striking Appellant’s claim for liability as *executor de son tort*.

Additionally, the Appealed Orders are appealable under this subsection because—by holding the circuit court lacks subject matter jurisdiction over Appellant’s claim for liability as *executor de son tort*—they affect a substantial right and have the effect of determining and dismissing that claim. *Cf.*, *Woodard v. Westvaco Corp.*, 319 S.C. 240, 243 n2, 460 S.E.2d 392, 394 n.2 (1995) (stating that orders denying motions to dismiss for lack of subject matter jurisdiction “involve a substantial right”); *Tillman v. Tillman*, 420 S.C. 246, 248, 801 S.E.2d 757, 759 (Ct. App. 2017) (“The granting of a Rule 12(b)(6) motion to dismiss is immediately appealable.”); *Edens v. Bellini*, 359 S.C. 433, 440, 597 S.E.2d 863, 867 (Ct. App. 2004) (deciding appeal from order granting motion to dismiss for lack of subject matter jurisdiction); *Houck v. Substitute Tr. Servs., Inc.*, 791 F.3d 473, 479 (4th Cir. 2015) (holding order granting motion to dismiss for lack of judgment matter jurisdiction was appealable final judgment; “Because subject matter jurisdiction goes to the power of the court to adjudicate a claim, an order dismissing a claim for lack of subject matter jurisdiction necessarily dismisses the claim as to *all* defendants.” (emphasis in original)).

If there is any doubt whether the Appealed Orders have the effect of dismissing Appellant’s claims for conversion and liability as *executor de son tort*, that doubt is conclusively eliminated by Nemeth’s own Return to NOA, where she admits the circuit court “dismissed two

of Plaintiff's causes of action" and that orders dismissing claims for lack of subject matter jurisdiction are appealable. Return to NOA at 2. Therefore, it is clear the Appealed Orders in this case are appealable under § 14-3-330(2) because they affect a substantial right and strike out a part of Appellant's pleading.

III. Appellant's responses to Nemeth's counterarguments.

Appellant briefly addresses two issues Nemeth raises in her Return to NOA. First, Nemeth states throughout her Return to NOA that Rule 72, SCRCF at least partially governs the appealability analysis. Return to NOA at 1–3. However, the Supreme Court has expressly rejected that notion. *Jefferson by Johnson v. Gene's Used Cars, Inc.*, 295 S.C. 317, 317, 368 S.E.2d 456, 456 (1988) (“This Court has held that the right to appeal is controlled by statute and not by Rule 72.” (citing *N. Carolina Fed. Sav. & Loan Ass'n v. Twin States Dev. Corp.*, 289 S.C. 480, 481, 347 S.E.2d 97, 97 (1986) (rejecting respondent's argument that Rule 72, SCRCF authorizes appeals; “The right of appeal arises from and is controlled by statutory law. The jurisdiction of appellate courts is prescribed by S.C. Code Ann. § 14-3-330 (1976) and is defined in numerous decisions of this Court and the Court of Appeals. . . . The jurisdictional rights of appeal continue to be controlled by S.C. Code § 14-3-330.”))).

Second, Nemeth argues the Appealed Orders are not appealable because they dismissed fewer than all of Appellant's claims, so Appellant's entire “action” has, therefore, not been dismissed, something Nemeth argues is necessary under § 14-3-330. Return to NOA at 2. The Supreme Court has, however, also expressly rejected that contention on multiple occasions. *Mid-State*, 310 S.C. at 334, 426 S.E.2d at 780 (“Today we have defined an order which ‘involves the merits,’ as an order which ‘must finally determine some substantial matter forming the whole or a part of some cause of action or defense. . . .’” (quoting *Jefferson*, 295 S.C. at 318, 368 S.E.2d at

456); *Lebovitz v. Mudd*, 289 S.C. 476, 479, 347 S.E.2d 94, 96 (1986) (“An order granting a Rule 12(b) motion as to one of multiple claims is directly appealable under § 14-3-330(2) because it affects a substantial right and strikes out part of a pleading.”).

CONCLUSION

The Appealed Orders have the effect of determining and dismissing Appellant’s claims for conversion and liability as *executor de son tort*. Accordingly, those orders “involve the merits” under § 14-3-330(1) and “affect a substantial right” and strike out part of a pleading under § 14-3-330(2). Therefore, they are appealable.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: /s/ Robert H. Brunson

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and as Personal Representative of the Estate of George
Francis Niesar*

Charleston, South Carolina
May 13, 2026

Exhibit A

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

IN THE MATTER OF:

GEORGE F. NIESAR,

Decedent Alleged Incapacitated Individual

Minor Other: _____

▲ PROBATE COURT USE ONLY ▲

GERALD VIGLIONE NIESAR, individually and as
Personal Representative of the Estate of George Francis
Niesar,
Plaintiff,
vs.

IN THE PROBATE COURT

CASE NUMBER 2023-ES-07-00417

SUMMONS

CHRISTINE NEMETH,
Defendant.*

TO THE DEFENDANT LISTED ABOVE:

YOU ARE HEREBY SUMMONED and required to Answer the Petition in this action, a copy of which is herewith served upon you, and to serve a copy of your Answer upon the Plaintiff(s) listed above at the following address:

Robert H. Brunson, Esq., Attorney for Plaintiff
Liberty Center, Suite 600, 151 Meeting Street
Charleston, SC 29401

Your Answer must be served on the Plaintiff at the above address within **thirty (30) days** after the service of this Summons and Petition upon you, exclusive of the day of such service; and if you fail to answer the Petition within that time, judgment by default will be rendered against you for the relief demanded in the Petition.

Signature of Attorney for Plaintiff

Date: December 2, 2024

2024 DEC -6 PM 12:48
PROBATE COURT
BEAUFORT COUNTY, SC

FILED

JURISDICTION AND VENUE

3. This Court has subject-matter jurisdiction over this action pursuant to S.C. Code Ann. § 62-1-302.

4. This Court has personal jurisdiction over Defendant because the causes of action enumerated herein arise from Defendant's tortious conduct occurring within the State of South Carolina, in whole or in part in Beaufort County, South Carolina.

5. Venue is proper in this Court pursuant to S.C. Code Ann. § 62-1-303 because proceedings concerning the Estate have already been commenced in this Court.

FACTS

6. George Francis Niesar ("George") married Defendant on March 29, 1989.

7. George was previously married and had two children from this former marriage. George and Defendant had no children together.

8. During their marriage, George and Defendant jointly owned the property known as 1105 Bluffton Parkway, Bluffton, SC 29910 with Beaufort County Tax Map Parcel Numbers R600-029-000-0034-0000 and R600-029-000-011A-0000 (the "Property") in a joint tenancy with rights of survivorship. There was no mortgage on the Property.

9. George and Defendant separated on September 25, 1995. George and Defendant filed for divorce on May 7, 2007. The divorce became final within that same year.

10. No governing instrument, court order, or contract relating to the division of the marital estate addressed the parties' joint ownership of the Property. As a result, the divorce severed the interests of George and Defendant in the Property as joint tenants with rights of survivorship.

11. After the divorce, tax liens were recorded on the Property in George's name only.

12. Upon information and belief, after her divorce from George, Defendant moved to Florida.

13. Defendant subsequently moved back to South Carolina and was living with George until his death.

14. On September 3, 2022, George and Defendant entered into a contract to sell the Property to the Beaufort County School District, with a closing date of October 31, 2022. Through several emails on or around October 5, 2022, George and Defendant's attorney informed the Beaufort County School District that George was hospitalized and his outcome was uncertain.

15. George died on October 7, 2022, at the Coastal Carolina Hospital in Hardeeville, South Carolina.

16. On the day of George's death, Defendant forwarded to the Beaufort County School District a picture of a Power of Attorney executed in her favor by George on December 17, 2018. Defendant indicated that because George lacked capacity to close the sale regarding the Property, Defendant through her Power of Attorney would close for him.

17. Defendant signed an affidavit on October 12, 2022, stating that the Power of Attorney remained in force and that George was still alive, even though George was already deceased at this time, and Defendant delivered this affidavit to the Beaufort County School District.

18. The closing for the Property was delayed to a later date.

19. When he died, George was not married.

20. On November 3, 2022, Defendant or her representative filed George's death certificate with the Beaufort County Register of Deeds office, and Defendant wrongfully assumed sole ownership of the Property. Defendant sold the Property to the Beaufort County School District

for \$886,000.00 on or around November 4, 2022. Defendant is the only grantor present on the deed conveying the Property to the Beaufort County School District. Defendant collected the full purchase price after the sale of the Property.

21. After selling the Property, Defendant purchased a home in North Carolina for around \$500,000.00.

22. A consolidated promissory note reflects that Gerald loaned \$24,000.00 to George through five payments while George was alive. George did not repay this borrowed money to Gerald before George's death.

23. Defendant informed George's family of his death, but she did not deliver a will of George to the Judge of the Probate Court having jurisdiction to admit the same within thirty days of receiving notice of George's death, as is required by S.C. Code § 62-2-901.

24. After learning of his brother's death and becoming aware that no will had been submitted for probate, Gerald, with the consent of George's children, filed a petition to open a probate matter regarding George's Estate based on his status as a creditor of George's Estate. On May 25, 2023, this Court appointed Gerald as the Personal Representative of George's Estate in *In the Matter of: George Francis Niesar*, Case No. 2023-ES-07-00417. (See **Exhibit A.**)

25. On October 13, 2023, Defendant's counsel in this matter sent Plaintiff's counsel a purported copy of George's Will dated December 17, 2018 (the "Purported Will"), stating that Defendant allegedly has the original Purported Will. This is the first time Gerald was ever made aware of the Purported Will. Gerald had never seen the Purported Will before, nor had George ever mentioned the Purported Will to Gerald while George was alive.

26. On January 31, 2024, Gerald filed in this Court his Answer opposing Defendant's Revised Petition and asserting a Counterclaim against Defendant for her violation of S.C. Code §

62-2-901. On February 9, 2024, Gerald also filed in this Court his Memorandum in Opposition to Appointment of Defendant as Personal Representative.

27. On February 12, 2024, the Honorable Heather R. Galvin, Beaufort County Probate Court, held a telephone status conference with counsel for Gerald and Defendant and decided to delay further proceedings in the Probate Court until the conclusion of the lawsuit filed by Gerald against Defendant in the United States District Court for the District of South Carolina, Beaufort Division (Civil Action No. 9:23-cv-04660-DCN) (the “Federal Action”).

28. On October 8, 2024, United States District Court Judge David C. Norton, presiding over the Federal Action, sent a letter to Judge Galvin raising his doubt that the District Court had subject matter jurisdiction over the Federal Action. In his letter, Judge Norton proposed that this Court lift its stay of the Estate administration proceedings and that the federal court stay its case pending resolution of the probate matter.

29. In response to this letter, on November 18, 2024, Associate Probate Judge Lindsay Sutcliffe held a status conference to discuss Judge Norton’s proposal. With the consent of both parties, Judge Sutcliffe lifted the stay of the Estate administration proceedings and informed Judge Norton of this plan. Judge Sutcliffe also stated that Gerald is free to bring the claims he asserted in the Federal Action in this Court.

FIRST CAUSE OF ACTION
(Conversion)

30. Plaintiff hereby incorporates by reference the allegations of the preceding paragraphs as if fully set forth herein.

31. George and Defendant jointly owned the Property in a joint tenancy with rights of survivorship during their marriage.

32. When George and Defendant divorced, their joint tenancy with rights of survivorship in the Property severed by operation of law because no governing instrument, court order, or contract relating to the division of the marital estate provided otherwise.

33. When George and Defendant entered into the contract to sell the Property on September 3, 2022, their ownership interest in the Property became personal property.

34. Because their divorce severed the interests of the former spouses in the Property as joint tenants with the right of survivorship, upon George's death, Defendant did not become owner of George's one-half interest in the Property.

35. Even though she is purportedly the sole beneficiary under George's will, her ownership right as a beneficiary with respect to the Property was subject to divestment upon any exercise of authority by a personal representative of the Estate.

36. The proceeds from the sale of the Property were subject to administration of the Estate and the claims of creditors of the Estate.

37. After George's death, Defendant exercised unauthorized control over and converted the proceeds from the sale of the Property.

38. Defendant, even after institution of this lawsuit setting forth her misconduct, has not provided any compensation to George's Estate or the creditors of the Estate from the sale of the Property.

SECOND CAUSE OF ACTION
(Breach of Fiduciary Duty/Liability as Executor de son tort)

39. Plaintiff hereby incorporates by reference the allegations of the preceding paragraphs as if fully set forth herein.

40. As the person designated to serve as Personal Representative in George's will, upon George's death, Defendant owed a fiduciary duty to George's Estate and the creditors of George's Estate.

41. Defendant obtained, received, and possessed property belonging to the decedent, George, upon his death. Specifically, Decedent obtained, received, and possessed the Property, the rights under the contract to sell the Property, and, upon the sale of the Property, one-half of the proceeds from the sale of the Property.

42. Defendant did not pay any valuable consideration equivalent to the value of one-half of the Property, George's rights under the contract to sell the Property, or one-half of the proceeds from the sale of the Property.

43. Pursuant to § 62-3-619 of the South Carolina Probate Code, Defendant shall be charged and chargeable as executor of her own wrong (executor de son tort) with respect to one-half of the value of the Property, George's rights pursuant to the contract to sell the Property, and one-half of the proceeds from the sale of the Property.

44. Pursuant to § 62-3-619 of the South Carolina Probate Code, the value of one-half of the value of the Property, George's rights pursuant to the contract to sell the Property, and one-half of the proceeds from the sale of the Property shall be deducted from any distribution or payment of any claim or commission to which Defendant as the executor de son tort is entitled to receive from George's Estate.

45. Defendant's rights to one-half of the value of the Property, George's rights pursuant to the contract to sell the Property, and one-half of the proceeds from the sale of the Property are all subject to the costs of administration of George's Estate, including legal fees incurred in good faith, as well as the claims of rightful creditors, including Gerald.

46. As a result of Defendant's misconduct, the Property, George's rights pursuant to the contract to sell the Property, and the proceeds from the sale of the property have been converted, wasted or otherwise damaged through improper interference.

47. Defendant is liable to George's Estate and Gerald for damages incurred by George's Estate and Gerald as a creditor of George's Estate, including attorney's fees, costs, and prejudgment interest.

THIRD CAUSE OF ACTION
(Disgorgement/Restitution/Constructive Trust)

48. Plaintiff hereby incorporates by reference the allegations of the preceding paragraphs as if fully set forth herein.

49. Defendant owed George, George's Estate, and the creditors of George's Estate a fiduciary duty as the Personal Representative as designated in George's purported will.

50. Defendant, in equity and good conscience, was bound to act in good faith and with due regard to the interests of George, George's Estate, and the creditors of George's Estate.

51. Defendant abused her fiduciary relationship and confidence that was reposed in her through the course of her improper conduct alleged herein, including her failure to submit the will for probate in a timely fashion, her failure to administer the Estate in accordance with the will and applicable law, and her wrongful retention of all of the proceeds from the sale of the Property in contravention of the rights of the Estate and Gerald as a creditor of the Estate.

52. Defendant obtained and retained the full proceeds from the sale of the Property through bad faith, abuse of confidence, and/or violation of a fiduciary duty, which give rise to an obligation in equity to make restitution to Plaintiffs by disgorging the portion of the proceeds from the Property's sale which are necessary to pay the costs of administration of the Estate, including

Gerald's rightful claim as a creditor of George's Estate and attorneys' fees incurred in good faith on behalf of George's Estate.

53. Defendant obtained and retained the full proceeds from the sale of the Property that do not equitably belong to her and which she cannot in good conscience retain or withhold from Plaintiff.

54. Defendant has been unjustly enriched through her improper course of conduct, including her bad faith, abuse of confidence, and/or violation of fiduciary duty.

55. Based upon the foregoing, Plaintiff is entitled to disgorgement, restitution, and/or the imposition of a constructive trust over the portion of the proceeds from the Property's sale that rightfully belongs to George's Estate that Defendant improperly retained for herself.

JURY DEMAND

WHEREFORE, having set out the foregoing Complaint against Defendant, Plaintiff hereby prays for the following relief:

1. Judgment against Defendant on all of Plaintiff's causes of action against Defendant in an amount to be determined by the trier of fact;
2. Judgment against Defendant for actual damages, consequential damages, special damages, the costs of this action, attorneys' fees, and litigation expenses;
3. Pre- and post-judgment interest on all damages awarded; and
4. Such other and further legal and equitable relief as this Court may deem just and proper.

[SIGNATURE ON FOLLOWING PAGE]

NELSON MULLINS RILEY & SCARBOROUGH LLP

By:  _____

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*Attorneys for Plaintiff Gerald Viglione Niesar, individually and
as Personal Representative of the Estate of George Francis
Niesar*

Charleston, South Carolina
November 27, 2024

EXHIBIT A

FILED

2024 DEC -6 PM 12:48

PROBATE COURT
BEAUFORT COUNTY, SC

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE MATTER OF THE ESTATE OF:
GEORGE FRANCIS NIESAR
(Decedent)

)
)
)
)
)

IN THE PROBATE COURT
CERTIFICATE OF APPOINTMENT
CASE NUMBER: 2023ES0700417

This is to certify that

GERLAD V. NIESAR

is/are the duly qualified

- PERSONAL REPRESENTATIVE
- SUCCESSOR PERSONAL REPRESENTATIVE
- SPECIAL ADMINISTRATOR

In the above matter and that this appointment, having been executed on the 25th
day of May, 2023 is now in full force and effect.

RESTRICTIONS: NONE

Executed this 25th day of May, 2023.



Heather R. Galvin, Probate Judge

**Do not accept a copy of this certificate without
the raised seal of the Probate Court.**

Exhibit B

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF BEAUFORT) FOURTEENTH JUDICIAL CIRCUIT

IN THE MATTER OF:) Case No. 2025-CP-07-00873
GEORGE FRANCIS NIESAR)
(Decedent))

GERALD VIGLIONE NIESAR,) **PLAINTIFF’S MEMORANDUM IN**
Individually and as Personal Representative) **OPPOSITION TO DEFENDANT’S**
of the Estate of George Francis Niesar,) **MOTION TO RECONSIDER**

Plaintiff,)

vs.)

CHRISTINE NEMETH,)

Defendant.)

Plaintiff Gerald Viglione Niesar (“Plaintiff”), by and through his undersigned counsel, hereby submits this Memorandum in Opposition to Defendant’s Motion to Reconsider Final Order Granting Plaintiff’s Motion for Summary Judgment. Plaintiff appreciates the Court’s willingness to allow briefing on the issues discussed herein and respectfully submits that this Court correctly granted summary judgment in his favor, that this Court may not grant reconsideration on grounds other than those urged by Nemeth in her Rule 59(e) motion, and that those arguments do not defeat the Court’s grant of summary judgment.

BACKGROUND

There appears to be some confusion on Nemeth’s part surrounding the claims at issue in this action. As the Complaint lays out, this dispute involves claims brought by the Estate of George Francis Niesar against Defendant, Christine Nemeth (“Nemeth”), for Nemeth’s wrongful

conversion and retention of the Estate’s one-half share of the proceeds of the sale of real property. It does not involve, as Nemeth appears to think, Plaintiff’s individual creditor’s claim against the Estate.¹ The causes of action before the Court belong to George Niesar’s Estate, not to Gerald Niesar, personally.

On December 6, 2024, the Estate—acting through its Personal Representative—filed the present Complaint in the Probate Court, alleging against Nemeth causes of action for conversion, liability as *executor de son tort*, and constructive trust. Upon Plaintiff’s timely motion, the action was removed to this Court on April 3, 2025 by Associate Probate Judge Lindsay A. Sutcliffe in an Order attached hereto as **Exhibit A** (the “Order of Removal”) pursuant to S.C. Code Ann. §§ 62-1-302(d)(3) and (5).²

Plaintiff filed his Motion for Summary Judgment on May 6, 2025 and a supporting memorandum of law (“Summary Judgment Memorandum”) prior to the hearing, arguing there are no issues of fact material to his three causes of action and that he is, accordingly, entitled to judgment as a matter of law under Rule 56 of the South Carolina Rules of Civil Procedure. On October 7, 2025, Nemeth filed a return (“Return”)—two pages in length and devoid of legal citation—arguing (in undersigned counsel’s interpretation) that “this case should be dismissed”³

¹ While it is true Plaintiff’s Complaint mentions his creditor’s claim (Complaint ¶¶ 22, 24), and that claim remains pending in the Beaufort County Probate Court (“Probate Court”), it is not alleged as a cause of action in Plaintiff’s Complaint and, accordingly, is not at issue before this Court.

² The Order of Removal also ordered removal of Nemeth’s Summons and Petition for Formal Testacy and Appointment filed on January 23, 2024.

³ Nemeth’s request for dismissal in a return to a motion for summary judgment is just one example of many during the course of this litigation of her failure to follow mandatory civil procedure and to grapple with the applicable issues and standard of review. *See* Rule 7(b)(1), SCRCF (“An application to the court for an order shall be by motion . . .”); Rule 56, SCRCF (enabling *judgment* as a matter of law, not dismissal).

because: (i) Decedent's and Nemeth's joint tenancy with rights of survivorship were not severed by their divorce, and (ii) that the Estate does not own one-half of the property because "Christine was willed the property." Nemeth attached to her Return only two exhibits, a letter from United States District Court Judge David C. Norton to Judge Sutcliffe dated October 8, 2022 and a copy of a document entitled "Last Will and Testament of George Francis Niesar" purportedly executed by Decedent on December 17, 2018 naming Nemeth as Decedent's sole beneficiary ("Purported Will"). Notably, Nemeth's Return did not take issue with any of the factual allegations upon which Plaintiff's claims are based, instead only disputing (without any explanation or analysis) the legal consequences of those undisputed facts.

After a hearing, the Court entered its Final Order Granting Plaintiff's Motion for Summary Judgment ("Final Order") on December 31, 2025, granting summary judgment on all of Plaintiff's claims and: (i) awarding damages to Plaintiff in the amount of \$443,000, plus pre- and post-judgment interest, (ii) reducing the value of any distribution or payment to which Nemeth may be entitled to receive from the Estate by \$443,000 pursuant to S.C. Code Ann. § 62-3-619, and (iii) imposing a constructive trust over \$443,000, an amount which represents the portion of the proceeds of the sale of real estate that belong to the Estate, plus the interest awarded.

On January 6, 2026, Nemeth filed the present motion to reconsider (the "Motion to Reconsider") pursuant to Rule 59(e): (i) arguing it is unjust to award Plaintiff \$443,000 on a claim for an unpaid loan of \$24,000, (ii) asking "[w]ho does this combined total award of \$559,104.45 go to?" and (iii) concluding, "the Plaintiff was not damaged by more than \$24,000." Again, Nemeth does not dispute the facts relied upon in Plaintiff's motion for summary judgment and this Court's Final Order.

The Court held a hearing on the Motion to Reconsider on January 14, 2026 during which the Court, *sua sponte*, raised concerns about the soundness of its Final Order, specifically questioning whether: (i) a claim for conversion can be based upon the proceeds of the sale of real property in South Carolina; (ii) the Circuit Court has subject matter jurisdiction to make a finding of liability as *executor de son tort*, and (iii) any issue of material fact exists as to Plaintiff's claim for constructive trust.⁴ Because Nemeth never raised these issues—either at summary judgment or in her Motion to Reconsider—Plaintiff did not have a prior opportunity to address these points. Plaintiff requested the opportunity to provide the Court with briefing on these questions, which the Court graciously granted.

ARGUMENT

None of the facts material to Plaintiff's claims are in dispute. This case presents only pure questions of law, which the Court correctly decided in Plaintiff's favor. Accordingly, the Court should deny the Motion to Reconsider and allow its Final Order to stand.

I. The Court should not grant reconsideration on grounds Nemeth did not raise.

As a threshold matter, given the limited purpose and availability of Rule 59(e) relief and the strong policy interest in the finality of judgments, Plaintiff respectfully submits that the Court may not modify or reverse its Final Order on legal grounds that were available to but never raised by Nemeth—either in response to Plaintiff's Motion for Summary Judgment or in her present Motion to Reconsider. *Oulla v. Velazques*, 427 S.C. 428, 436, 831 S.E.2d 450, 454 (Ct. App. 2019) (discussing “the philosophy favoring finality of judgments and the expeditious termination of litigation”); *Bowman v. Bowman*, 357 S.C. 146, 152, 591 S.E.2d 654, 657 (Ct. App. 2004) (“[W]e

⁴ If this is not an accurate recitation of the Court's true concerns, Plaintiff respectfully requests the opportunity to brief those before the Court decides the Motion to Reconsider.

conclude that South Carolina’s strong policy towards finality of judgments trumps a party’s ability to set aside a judgment where, as here, the party could have discovered the evidence prior to trial.”).

The South Carolina Supreme Court has reiterated that *parties* may not raise an issue for the first time in a Rule 59(e) motion to reconsider. *Repko v. Cnty. of Georgetown*, 424 S.C. 494, 502, 818 S.E.2d 743, 748 (2018) (“It is settled that “[a]n issue may not be raised for the first time in a motion to reconsider.” (quoting *Johnson v. Sonoco Prods. Co.*, 381 S.C. 172, 177, 672 S.E.2d 567, 570 (2009)); *C.A.H. v. L.H.*, 315 S.C. 389, 434 S.E.2d 268 (1993); *Hickman v. Hickman*, 301 S.C. 455, 456, 392 S.E.2d 481, 482 (Ct. App. 1990) (“A party cannot use Rule 59(e) to present to the court an issue the party could have raised prior to judgment but did not.”). Rather, a motion under Rule 59(e) is proper only when a party believes the court has misunderstood or failed to fully consider or rule upon an argument or issue. *Elam v. S.C. Dep’t of Transp.*, 361 S.C. 9, 24, 602 S.E.2d 772, 780 (2004). Rule 59(e) is, therefore, limited in purpose to addressing only arguments asserted by the movant. Unlike Rules 59(d) and 60(a), Rule 59(e) does not extend to courts an invitation to raise issues the movant could have—but neglected to—make prior to a final judgment. Compare Rule 59(e), SCRCP (“A motion to alter or amend the judgment shall be served not later than 10 days after receipt of written notice of the entry of the order.”), with Rule 59(d), SCRCP (“Not later than 10 days after entry of judgment, *the court of its own initiative* may order a new trial for any reason for which it might have granted a new trial on motion of a party.” (emphasis added)), and Rule 60(a), SCRCP (“Clerical mistakes in judgments, orders or other parts of the record and errors therein arising from oversight or omission may be corrected *by the court at any time of its own initiative* or on the motion of any party” (emphasis added)).

For example, in *Heins v. Heins*, after a divorcing husband failed to comply with several provisions of the divorce decree, the family court entered an order: (i) holding the husband in

contempt of court and, as a result, ordering him to pay \$4,146 to wife, (ii) ordering him to pay the wife's attorneys' fees, but (iii) finding the husband was under no obligation to repay certain personal expenses or undisclosed accounts payable. 344 S.C. 146, 149-50 543 S.E.2d 224, 225-26 (Ct. App. 2001). The wife, dissatisfied with the third finding, moved for reconsideration under Rule 59(e), arguing the family court erred in failing to require the husband to be responsible for his personal debts and the accounts payable. The husband filed a return to the wife's motion, denying the wife was entitled to this relief but not otherwise seeking reconsideration of the court's order. The family court denied the wife's motion but *sua sponte* reversed its prior order, which held husband in contempt. The wife moved again for reconsideration, which the court denied.

The Court of Appeals reversed, explaining that while Rule 59(e) is silent on the power of a court to alter or amend a judgment on its own initiative (unlike Rule 59(d) and Rule 60(a)), such silence does not imply that courts lack this power. The court reviewed both federal and state precedent, however, to conclude that this power is time-limited, finding courts possess this inherent power only during the ten-day window during which Rule 59(e) motions are required to be filed or else waived. The court specifically held, “[w]e rule a Family Court judge does not have the authority to alter or amend a judgment, *sua sponte*, once the judgment is more than 10-days-old.” *Id.* at 157, 543 S.E.2d at 229. Accordingly, even though a motion for reconsideration had been timely filed, because the family court ordered relief outside the scope of issues presented in that motion, its action was considered to have been *sua sponte*—something it could have done only within ten days after entry of the prior judgment. Because the family court's order on reconsideration fell outside of that ten-day window, the Court of Appeals found the family court exceeded its power and reversed its order as to that relief.

Here, like in *Heins*, the Court has proposed to grant relief outside the scope of issues presented in Nemeth's Motion to Reconsider. However, because ten days have passed since the Court entered its Final Order, it may not do so. Rather, the Court, in the present procedural posture, is free to grant reconsideration under Rule 59(e) on any of the grounds asserted by Nemeth in her Motion to Reconsider or Return—but only those grounds. As discussed briefly in the next section, those grounds are meritless.

II. Nemeth's arguments do not warrant reversal of summary judgment.

As already mentioned, Nemeth, in her Return, did not dispute any facts Plaintiff cited in support of his motion for summary judgment. Instead, Nemeth argued only that: (i) Decedent's and Nemeth's joint tenancy with rights of survivorship was not severed by their divorce, and (ii) that the Estate does not own one-half of the property because "Christine was willed the property."

As explained at greater length in Plaintiff's Summary Judgment Memorandum, Nemeth's first argument fails because S.C. Code Ann. §§ 27-7-40(a)(vii) and 62-2-507(c)(2) unequivocally instruct that unless a governing instrument, court order, or contract provides otherwise, a divorce severs any rights of survivorship between a married couple. Nemeth admits both that she and Decedent divorced and that the divorce decree does not mention the property in question yet perplexingly insists this means their survivorship rights "remain[] in effect." Return, at ¶ 6. Nowhere does Nemeth reveal the analytical path she took to arrive at that (faulty) conclusion.

Nemeth's second argument concerning Nemeth's status as the Estate's sole beneficiary via the Purported Will is immaterial to the claims at issue here because the Purported Will—even assuming it is valid and governs the distribution of Decedent's Estate—cannot undo the severance of survivorship rights that took place in 2007 upon Decedent's and Nemeth's divorce. Contrary to her assertions, because of the severance of survivorship rights, the real property became a part of

Decedent's Estate and subject to administration upon his death and did not automatically pass to Nemeth. *See* S.C. Code Ann. § 62-1-201(35) (defining "Probate estate" as "the decedent's property passing under the decedent's will plus the decedent's property passing by intestacy"); § 62-1-201(37) (defining "Property" to include "both real and personal property or any interest therein"); *Estate of Livingstone v. Livingstone*, 404 S.C. 137, 145, 744 S.E.2d 203, 208 (Ct. App. 2013).

Next, in her Motion to Reconsider, Nemeth's **sole** argument—again, unburdened by legal citation or analysis—is that the damages award of \$443,000 plus interest is unjustly disproportionate to the value of Plaintiff's \$24,000 creditor's claim. Motion to Reconsider, at ¶¶ 4-6. As mentioned above, it appears Nemeth has her claims confused. The damages award in the Final Order is the remedy for the Estate's claims against Nemeth, not for Gerald Neisar's individual creditor's claim against the Estate, which is not encompassed by this action. Therefore, Nemeth has utterly failed to meet her burden of showing any errors in this Court's Final Order and that the Court should alter or amend that judgment pursuant to Rule 59(e).

III. The Court properly granted summary judgment on Plaintiff's conversion claim.

In the event the Court disagrees with Plaintiff on the issues available for reconsideration, the Court should still deny reconsideration and allow its judgment on Plaintiff's conversion claim to stand because all necessary elements of that cause of action are met. Plaintiff will not rehash his entire conversion analysis but will address only the Court's question whether the proceeds of the sale of real property are the proper subject of a conversion claim.

Conversion in South Carolina is the "unauthorized assumption and exercise of the right of ownership over goods or personal chattels belonging to another, to the alteration of the condition or the exclusion of the owner's rights." *Regions Bank v. Schmauch*, 354 S.C. 648, 667, 582 S.E.2d 432, 442 (Ct. App. 2003) (citation and internal quotation marks omitted). To establish a cause of

action for conversion, “a plaintiff must prove (1) an interest by the plaintiff in the thing converted; (2) the defendant converted the property to his or her own use; and (3) the use was without the plaintiff’s permission.” *Builders Source Direct v. Cosco Logistics (Americas) Inc.*, 2008 WL 11349731, at *11 (D.S.C. 2008) (citing *Crane v. Citicorp Nat’l Servs., Inc.*, 313 S.C. 70, 437 S.E.2d 50 (1993), *superseded by statute on other grounds*)).

Plaintiff acknowledges the rule that a conversion action “does not lie when alleging the exercise of dominion or control over real property,” *Hawkins v. City of Greenville*, 358 S.C. 280, 297, 594 S.E.2d 557, 566 (Ct. App. 2004), and that there are no reported cases from this State explicitly standing for the proposition that proceeds of the sale of real property can be converted. However, Plaintiff has also not located any South Carolina cases rejecting this proposition.

Under South Carolina law, an interest in real property becomes an interest only in personal property when the owner executes a contract to sell the property. “The theory of equitable conversion provides that under an executory contract for the sale of real estate, the equitable estate passes to the purchaser and the bare legal title for security purposes remains in the vendor.” *Brooks v. Council of Co-Owners of Stones Throw Horizontal Prop. Regime I*, 315 S.C. 474, 476, 445 S.E.2d 630, 632 (1994). Accordingly, upon entering a contract to sell real property, the seller becomes the owner of the purchase price, and the buyer is deemed to be the equitable owner of the real estate. *See In re Restivo Auto Body, Inc.*, 772 F.3d 168, 177 (4th Cir. 2014) (“[U]pon contracting to buy land, ‘in equity the vendee becomes the owner of the land, the vendor of the purchase money.’” (citing *Himmighoefer v. Medallion Indus., Inc.*, 487 A.2d 282, 286 (Md. 1985))); *Meltzer v. Wendell-West*, 497 P.2d 1348, 1351 (Wash. 1972) (“An equitable conversion, therefore, takes place when a contract for the sale of real property becomes binding upon the

parties. Thenceforth, the purchaser of the land is deemed the equitable owner thereof, and the seller is considered the owner of the purchase price.”).

It is undisputed that Nemeth and Decedent executed a contract to sell the property to the Beaufort County School District on September 3, 2022. Compl. at ¶ 14; Answer at ¶ 2. Thus, on that day, each became the owner of their right to receive their portion of the agreed purchase price, and neither remained an equitable owner of the real property. Because Decedent’s only interest was in the sales proceeds when he died, and the proceeds of sale constituted personal, not real property, Nemeth’s retention of Decedent’s share of those proceeds constituted a conversion of personal property. *See SSI Med. Servs., Inc. v. Cox*, 301 S.C. 493, 498, 392 S.E.2d 789, 792 (1990) (“Money may be the subject of conversion when it is capable of being identified and there may be conversion of determinate sums even though the specific coins and bills are not identified.”); *Daniel v. Post*, 181 S.C. 468, 187 S.E. 915, 917 (1936) (“Where personal property has been converted and sold, an action lies either for damages for the conversion or for the recovery of the proceeds of sale, the first being trover and the second assumpsit for money had and received.”).

Additionally, other jurisdictions have examined this exact question, even recently, and concluded that real property sales proceeds constitute personal property that can support a conversion claim. *See Alisa A. Peskin-Shepherd, PLLC v. Blume*, 974 N.W.2d 835, 836 (Mich. 2022) (“It is true that proceeds of a real-estate sale are personal property and thus may be subject to conversion.”); *Asdourian v. Konstantin*, 93 F. Supp. 2d 296, 299 (E.D.N.Y. 2000) (“As the conversion cause of action concerned the proceeds of the sale of properties and not the conversion of real property itself, the Court denies the defendant’s motion for judgment as a matter of law with regard to the contention that Blue Chip may not recover in conversion for the wrongful sale of real property.”); *Congram v. Giella*, No. 91 CIV. 1134 (LMM), 1992 WL 349845, at *6 (S.D.N.Y.

Nov. 10, 1992) (distinguishing between a claim for conversion of real property and a claim for the proceeds from the sale of real property); *Stewart v. Young*, 226 N.W. 222, 224 (Mich. 1929) (holding that when real estate is sold without permission of all parties involved, “such proceeds are not real estate, but personal property”).

Because South Carolina precedent establishes that a real property interest becomes a personal property interest when a sales contract is executed, and the sales contract here was executed on September 3, 2022, only a personal property interest remained when the Decedent died on October 7, 2022. So, when Nemeth kept all of the sale’s proceeds, she converted personal property to her own use, and that conduct renders her liable for conversion.

IV. The Court properly granted summary judgment on Plaintiff’s claim for liability as *executor de son tort*.

As explained in greater detail in Plaintiff’s Summary Judgment Memorandum, summary judgment was proper on Plaintiff’s claim for Nemeth’s liability as an *executor de son tort* of Decedent’s Estate. Importantly, this Court has subject matter jurisdiction to make such a determination.

It appears the Court’s concern derives from the language of section 62-3-620, which provides:

Acting sua sponte or upon the petition of any interested person, *the probate judge* of the county in which a deceased person was domiciled at the time of his death may order the executor de son tort to account for the property in his possession. Upon a finding that the property has been converted, wasted or otherwise damaged through improper interference, the court may assess damages including attorney’s fees and costs in the amount determined by the court not to exceed the value of the property charged to the executor de son tort.

S.C. Code Ann. § 62-3-620 (emphasis added). However, this section does not deprive the Court of subject matter jurisdiction to determine liability as *executor de son tort* or to provide the specific remedy it did in its Final Order.

To begin with, section 62-3-620 is not even mentioned in the Court’s Final Order. The Final Order does not cite section 62-3-620 or provide the remedies it enables. Rather, the Final Order only utilizes the neighboring code section, section 62-3-619, which does not even arguably limit the finding of liability as *executor de son tort* to any particular court or judge. Rather, that section provides:

Any person who obtains, receives, or possesses property of whatever kind, belonging to the decedent, by means of fraud or without paying valuable consideration equivalent to the value of the property, shall be charged and chargeable as executor of his own wrong (executor de son tort) with respect to the goods and debts. The value of the property is charged to the executor de son tort. Likewise, the value of the property shall be deducted from any distribution or payment of any claim or commission to which the executor de son tort is entitled from the estate.

Section 62-3-619 does not specify which court or judge may determine that a person has “obtain[ed], receiv[ed], or possess[ed] property . . . belonging to the decedent, by means of fraud or without paying valuable consideration” or to order the remedy the Final Order did in this case—the reduction of any distribution to which Nemeth may be entitled—which remedy is not provided for in section 62-3-620, the arguably problematic section.

Even assuming that section 62-3-620—and its arguably limiting “probate judge” language—is somehow involved in this case (which it is not), it is not a jurisdictional statute. Rather, it simply allows the court, after finding that an *executor de son tort* is liable, to provide the remedy of an “account[ing] for the property in his possession” and to assess damages if the property in the *executor de son tort*’s possession has been converted, wasted or otherwise damaged. Importantly, section 62-3-620 uses the terms “probate judge” and “court” interchangeably. Because the probate code does not define “court” as “the probate court” but,

rather, as “the court or branch having jurisdiction in matters as provided in this Code,”⁵ section 62-3-620 does not foreclose the possibility that the Circuit Court can also have jurisdiction, if the probate code provides so.

The probate code does so provide. This action was removed from the Probate Court to this Court under S.C. Code Ann. §§ 62-1-302(d)(3) and (5), which provide concurrent jurisdiction to the Circuit Court over “actions to try title concerning property in which the estate of a decedent or protected person asserts an interest” and “actions in which a party has a right to trial by jury and which involve an amount in controversy of at least five thousand dollars in value.” S.C. Code Ann. §§ 62-1-302(d)(3), (5). As Judge Sutcliffe found, this action falls in both categories. Either is sufficient to confer jurisdiction.

First, this is an “action[] to try title concerning property in which the estate of a decedent or protected person asserts an interest” because one of the issues essential to all of Plaintiff’s claims is the Estate’s ownership of the proceeds of the sale of the property. *See Builders Source Direct*, 2008 WL 11349731, at *11 (“In order to establish a cause of action for conversion, a plaintiff must prove (1) an interest by the plaintiff in the thing converted. . . .”); S.C. Code Ann. § 62-3-619 (to establish liability as *executor de son tort*, it must be shown that the property wrongfully obtained, received, or retained “belong[ed] to the decedent”); *SSI Med. Servs., Inc. v. Cox*, 301 S.C. 493, 500, 392 S.E.2d 789, 793 (1990) (“A constructive trust arises whenever a party has obtained money which does not equitably belong to him and which he cannot in good conscience retain or withhold from another who is beneficially entitled to it. . . .”).

Second, this Court has jurisdiction for the additional reason that this is an “action[] in which a party has a right to trial by jury and which involve an amount in controversy of at least five

⁵ S.C. Code Ann. § 62-1-201(5) (defining “court”).

thousand dollars in value.” S.C. Code Ann. § 62-1-302(d)(5). Section 62-1-306(a), “entitle[s]” parties to a jury trial if a jury trial is duly demanded and the action is “for the recovery of money only or of specific real or personal property.” Here, the Complaint involves an amount in controversy in excess of \$5,000, demands a jury trial, and seeks both monetary damages and a constructive trust over the specific portion of the sale’s proceeds that belongs to the Estate. Complaint, Jury Demand, ¶¶ 2-4.

Therefore, this Court has subject matter jurisdiction over the entirety of this action—including Plaintiff’s claim for liability as *executor de son tort*—pursuant to S.C. Code Ann. §§ 62-1-302(d)(3) and (5).⁶

V. The Court properly granted summary judgment on Plaintiff’s claim for constructive trust.

The Court properly granted summary judgment on Plaintiff’s claim for constructive trust. A constructive trust is an operation of law designed to remedy unjust enrichment, *Hale v. Finn*, 388 S.C. 79, 89, 694 S.E.2d 51, 57 (Ct. App. 2010), and “arises whenever a party has obtained money which does not equitably belong to him and which he cannot in good conscience retain or withhold from another who is beneficially entitled to it as where money has been paid by accident, mistake of fact, or fraud, or has been acquired through a breach of trust or the violation of a fiduciary duty.” *SSI Med. Servs.*, 301 S.C. at 500, 392 S.E.2d at 793-94.

⁶ The case cited in Judge Norton’s letter to Judge Sutcliffe dated October 8, 2024, *Maryland v. Territory of Maryland*, No. CV PX 16-3426, 2017 WL 1807157, at *1 (D. Md. May 5, 2017) is not binding and, in any event, does not stand for the proposition that a South Carolina Circuit Court does not have jurisdiction to make a finding of liability of *executor de son tort*. That case did not involve South Carolina courts or law and found that Maryland’s concept of *executor de son tort* did not apply for the entirely distinguishable reason that the *pro se* plaintiffs’ action did not involve a decedent or an estate at all.

Nemeth has failed to show, by affidavit or otherwise in either her Return or her Motion to Reconsider, a genuine issue that Nemeth has not been unjustly enriched by her unlawful and fraudulent retention of the full proceeds of the property's sale, when one half of those proceeds belongs to the Estate. As discussed above in Section II and in the Final Order, Nemeth does not dispute any of the facts upon which Plaintiff's constructive trust claim rests. Specifically, she does not dispute that she and Decedent divorced in 2007; that their divorce decree did not mention the property; that she and Decedent contracted to sell the property on September 3, 2022 while Decedent was alive; that Decedent died on October 7, 2022 during the closing period; that she sent a Power of Attorney ("POA") to the buyer of the property on the day Decedent died; that on October 12, 2022, she executed and delivered to the buyer an affidavit stating that the POA remained in effect (despite Decedent's death five days earlier); or that she sold the property on or around October 31, 2022 and retained all of the proceeds of the sale. *See* Final Order, at 2-3 (detailing undisputed facts).

Procedurally, it is too late for her to do so now. *See* Rule 6(d), SCRCP ("[O]pposing affidavits may be served not later than two days before the hearing, unless the court permits them to be served at some other time."); Rule 56(c), SCRCP (allowing a party adverse to a motion for summary judgment to "serve opposing affidavits not later than two days before the hearing"); *Johnson v. Sonoco Prod. Co.*, 381 S.C. 172, 177, 672 S.E.2d 567, 570 (2009) ("An issue may not be raised for the first time in a motion to reconsider.").

Therefore, the Court should not disturb its final judgment on Plaintiff's claim for constructive trust. *See SSI Med. Servs.*, 301 S.C. at 501, 392 S.E.2d at 794 (affirming summary judgment in plaintiff's favor on its claim for constructive trust where the "profits [the defendant]

retained from the sale of the vehicles were acquired through a breach of trust and fiduciary duty” and, therefore, “did not equitably belong to [the defendant]”).

CONCLUSION

Based on the above, Plaintiff respectfully submits the Court properly granted Plaintiff’s Motion for Summary Judgment, that Nemeth has done literally nothing to show otherwise, and that this Court should accordingly deny her Motion to Reconsider.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: /s/ Robert H. Brunson

Robert H. Brunson (S.C. Bar No. 11987)
Email: robert.brunson@nelsonmullins.com
John P. Bozeman (S.C. Bar No. 105262)
Email: John.bozeman@nelsonmullins.com
151 Meeting Street / Sixth Floor
Post Office Box 1806 (29402-1806)
Charleston, SC 29401-2239
(843) 853-5200

*Attorneys for Plaintiff Gerald Viglione Niesar, individually and
as Personal Representative of the Estate of George Francis
Niesar*

Charleston, South Carolina
January 26, 2026

EXHIBIT A

BEAUFORT COUNTY PROBATE COURT

JUDGE
HEATHER R. GALVIN



ASSOCIATE JUDGE
LINDSAY A. SUTCLIFFE
HALEY G. FINNERAN

COUNTY COURTHOUSE
102 RIBAUT ROAD, BEAUFORT, SC 29902

April 3, 2025

Robert H. Brunson, Esquire
John P. Bozeman, Esquire
151 Meeting Street
Suite 600
Charleston, SC 29401

C. Russell Keep, III, Esquire
Suite 303, WaterEdge
P.O. Drawer 5877
Hilton Head Island, SC 29938

Re: Estate of Maurice Levy: George Frances Niesar
Probate Court Case No. 2023ES0700417

Counselors:

Enclosed please find a copy of the Order for Removal of the above-referenced action to the Circuit Court, which has been entered this date. This Court's Certificate of Return to the Circuit Court, together with a Civil Action Coversheet, has been filed with the Beaufort County Clerk of Court and proof thereof mailed to all counsel here in.

Any filing fee due in connection with the removal must be paid directly to the Clerk of Court. All pleadings and papers in the removed action must hereafter be filed in the Circuit Court. The Probate Court retains continuing exclusive jurisdiction over the administration of the estate.

Thank you for your attention to this matter.

Very truly yours,

Lindsay A. Sutcliffe, Associate Judge
Beaufort County Probate Court

By: 
Aleathia Greene, Deputy Clerk

Enclosure

cc (w/encl.): Ms. Catherine Niesar Heft
Mr. Eric Niesar



CERTIFICATE OF MAILING

This certifies that a true copy of the foregoing Certificate of Return to Circuit Court for Case on Removal, without attachments, was this day mailed by U. S. Mail, first class and postage prepaid, to the following named persons at their respective addresses shown below:

Robert H. Brunson, Esquire
Nelson Mullins Riley &
Scarborough LLP
151 Meeting Street
Suite 600
Charleston, SC 29401

Ms. Catherine Niesar Heft
11866 Island Lakes Lane
Boca Raton, FL 33498

2025 APR -3 PM 3:15
JERRI ANN ROSENEAU
BEAUFORT COUNTY, S.C.
CLERK OF COURT

John P. Bozeman, Esquire
Nelson Mullins Riley &
Scarborough LLP
151 Meeting Street
6th Floor
Charleston, SC 29401

Mr. Eric Niesar
655 Ane Cheh Colonars II
06790 Aspremont, France

C. Russell Keep, III, Esquire
Russ Keep Law Office
Suite 303, WatersEdge
P.O. Drawer 5877
Hilton Head Island, SC 29938



Deputy Clerk of Probate Court
Beaufort County Probate Court

Beaufort, South Carolina
April 3, 2025



STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT **2025 APR -3 PM 3:15** IN THE COURT OF COMMON PLEAS

Gerald Viglione Niesar, individually and as
Personal Representative of the Estate of **JERRI ANN ROSENEAU** Civil Action Coversheet
George Francis Niesar,
Plaintiff
BEAUFORT COUNTY, S.C.
CLERK OF COURT

v.
Christine Nemeth,
Defendant

Case No. 2025-CP-07-**00873**

Submitted By: Robert Brunson, Esquire
Address: 151 Meeting Street / Sixth
Floor, Charleston, SC 29401


SC Bar Number: 11987
Telephone #: 843-853-5200
Click or tap here to enter text.
Other:
Email:
robert.brunson@nelsonmullins.com

DOCKETING INFORMATION (Check all that apply)

***If Action is Judgment/Settlement do not complete**

- JURY TRIAL** demanded in complaint.
- NON-JURY TRIAL** demanded in complaint.
- This case is subject to **ARBITRATION** pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is subject to **MEDIATION** pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is exempt from ADR. (Certificate Attached)

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

Submitting Party Signature: 
Date: March 20, 2025

FILED
2025 MAR 27 PM 12:20
BEAUFORT COUNTY, SC

ELECTRONICALLY FILED - 2026 Jan 26 12:10 PM - BEAUFORT - COMMON PLEAS - CASE#2025CP0700873

57

Nature of Action (Check one box below)

Contracts

- Constructions (100)
- Debt Collection (110)
- General (130)
- Breach of Contract (140)
- Fraud/Bad Faith (150)
- Failure to Deliver/Warranty (160)
- Employment Discrim (170)
- Employment (180)
- Other (199)

**Torts- Professional
Malpractice**

- Dental Malpractice (200)
 - Legal Malpractice (210)
 - Medical Malpractice (220)
 - Notice of Intent Case #
-
- Notice File. Med Mal (230)
 - Other (299)

Torts- Personal Injury

- Conversion (310)
- Motor Vehicle Accident (320)
- Premises Liability (330)
- Products Liability (340)
- Personal Injury (350)
- Wrongful Death (360)
- Assault/Battery (370)
- Slander/Libel (380)
- Other (399)

Inmate Petitions

- PCR (500)
- Mandamus (520)
- Habeas Corpus (530)
- Other (599)

Real Property

- Claim & Delivery (400)
- Condemnation (410)
- Foreclosure (420)
- Mechanic's Lien (430)
- Partition (440)
- Possession (450)
- Building Code Violation (460)
- Other (499)

Judgments/Settlements

- Death Settlement (700)
- Foreign Judgment (710)
- Magistrate's Judgment (720)
- Minor Settlement (730)
- Transcript Judgment (740)
- Lis Pendens (750)
- Transfer of Structured Settlement Application Payment Rights (760)
- Confession of Judgment (770)
- Petition for Workers Compensation Settlement Approval (780)
- Incapacitated Adult Settlement (790)
- Other (799)

Administrative Law/Relief

- Reinstate Driver's License (800)
- Judicial Review (810)
- Relief (820)
- Permanent Injunction (830)
- Forfeiture- Petition (840)
- Forfeiture- Consent Order (850)
- Other (899)

Special/Complex/Other

- Environmental (600)
- Automobile Arb. (610)
- Medical (620)
- Pharmaceuticals (630)
- Unfair Trade Practices (640)
- Out of State Depositions (650)
- Motion to Quash Subpoena in an Out of County Action (660)
- Pre-Suit Discovery (670)
- Permanent Restraining Order (680)
- Interpleader (690)
- Other (699)

Appeals

- Arbitration (900)
- Magistrate- Civil (910)
- Magistrate- Criminal (920)
- Municipal (930)
- Probate Court (940)
- SCDOT (950)
- Worker's Comp (960)
- Zoning Board (970)
- Public Service Comm. (990)
- Employment Service Comm. (991)
- Other (999)

Effective January 1, 2016, Alternative Dispute Resolution (ADR) is mandatory in all counties, pursuant to Supreme Court Order dated November 12, 2015.

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

Pursuant to the ADR Rules, you are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs.
4. Cases are exempt from ADR under ADR Rule 3(b) upon the following grounds:
 - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - b. Requests for temporary relief;
 - c. Appeals;
 - d. Post Conviction relief matters;
 - e. Contempt of Court proceedings;
 - f. Forfeiture proceedings brought by governmental entities;
 - g. Mortgage foreclosures; and
 - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. Cases may also be exempt from ADR under ADR Rule 3(c) upon motion to and approval by the court.
6. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
7. Application of a party to be exempt from payment of neutral fees due to indigency should be filed with the Clerk of Court prior to the scheduling of the ADR conference.

Please Note: You must comply with the Supreme Court Rules regarding ADR. Failure to do so may affect your case or may result in sanctions.

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

IN THE PROBATE COURT
CASE NO. 2023ES0700417

2025 CP0700873

IN THE MATTER OF ESTATE OF)
GEORGE FRANCIS NIESAR:)

CHRISTINE NEMETH,)
Petitioner,)

v.)

GERALD V. NIESAR, CATHERINE NIESAR)
HEFT, and ERIC NIESAR)
Respondents.)

2025 APR -3 PM 3:15
JERRI ANN ROSEHEAD
BEAUFORT COUNTY, S.C.
CLERK OF COURT

ORDER REMOVING
FORMAL PROCEEDINGS
TO CIRCUIT COURT


GERALD VIGLIONE NIESAR, individually and as)
Personal Representative of the)
Estate of George Francis Niesar,)
Petitioner,)

v.)

CHRISTINE NEMETH)
Respondent.)

WHEREAS, *under S.C. Code Ann.* (“Code”) §§ 62-1-302(d)(3) and (5), formal proceedings involving (1) title to property in which the Estate of a decedent asserts an interest and (2) an action in which there is a right to trial by jury and in which the amount in controversy is at least five thousand dollars (\$5,000.00) in value must be removed from the Probate Court to the Circuit Court to proceed *de novo*, on motion of a party, made not later than ten days after the date on which all responsive pleadings must be filed in the actions; and

WHEREAS, on December 6, 2024, Gerald Viglione Niesar, individually and as Personal Representative of the Estate of George Francis Niesar (“Gerald”) filed a Summons and Complaint (“Gerald Complaint”) to commence the second action captioned above, asserting causes of action for conversion, breach of fiduciary duty, liability as Executor de son tort, disgorgement, restitution, and the imposition of a constructive trust; and

1


WHEREAS, in the above proceeding, less than ten days has elapsed from the date on which all responsive pleadings are required to filed; and

WHEREAS, previously on January 23, 2024, Christine Nemeth filed a Summons and Petition for Formal Testacy and Appointment (“Christine Petition for Formal Testacy and Appointment”) to commence the first action captioned above, seeking probate of a will of Decedent and appointment of a general personal representative of Decedent’s estate; and


WHEREAS, under Code § 62-1-302(f), if an action described in § 62-1-302(d) is removed to the Circuit Court by motion of a party or by the Probate Court on its own motion, the Probate Court may, in its discretion, remove to the Circuit Court any other related matters which are before the Probate Court, if the Probate Court finds that the removal of such related matters would be in the best interest of the estate or in the interest of judicial economy; and

WHEREAS, this Court has determined to remove to the Circuit Court the actions commenced by the Gerald Complaint as well as the Christine Petition for Formal Testacy and Appointment, respectively, under Code §§ 62-1-302(d)(3) and (5); and

WHEREAS, this Court finds that these formal proceedings are sufficiently related, and it would be in the best interest of the estate and in the interest of judicial economy for all such actions to be litigated in the same judicial forum; now, therefore, pursuant to Code §§ 62-1-302(d)(3) and (5) and (f), it is

ORDERED that the two actions captioned and described above be and are hereby removed to the Circuit Court for proceedings *de novo*. This Probate Court retains continuing exclusive jurisdiction over the administration of this Estate.

AND IT IS SO ORDERED.


Lindsay A. Sutcliffe, Associate Judge
Beaufort County Probate Court

FILED
2025 APR 3 PM 3:06
PROBATE COURT
BEAUFORT COUNTY, SC
Beaufort, South Carolina
April 3, 2025

RECEIVED

May 13 2026

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Carmen T. Mullen, Circuit Court Judge

Appellate Case No. 2026-001061
Civil Action No. 2025-CP-07-00873

Gerald Viglione Niesar, Individually and as Personal Representative of the Estate of George Francis Niesar, Appellant,

v.

Christine Nemeth, Respondent.

PROOF OF SERVICE

I, the undersigned, of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Appellant Gerald Viglione Niesar, Individually and as Personal Representative of the Estate of George Francis Niesar do hereby certify that I have served all counsel of record in this action with a copy of the document(s) set forth below under Supreme Court Order dated April 24, 2024.

PLEADING(s): Appellant’s Memorandum in Support of Appealability

Counsel Served: **Via Electronic Mail**
Russ Keep, III, Esquire (S.C. Bar No. 3321)
Post Office Box 5877
Hilton Head Island, SC 29938
thehhlaw@gmail.com
Attorney for Respondent Christine Nemeth

/s/ Janice Morreale

Janice Morreale
Senior Paralegal

May 13, 2026