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SC Court of Appeals

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Charleston County

Court of Common Pleas

Eugene P. Warr, Jr., Circuit Court Judge

Appellate Case No. 2026-000211

Circuit Court Case No. 2025-CP-10-03621

Joel Ndunda,

Appellant,

v.

Brandi Pfeil, LP-A, Crisis Intervention Employee, individually and officially; Caitlin McGarty, Crisis Intervention Employee, individually and officially; South Carolina Department of Behavioral and Developmental Disabilities, Office of Mental Health; and Charleston Dorchester Mental Health Center,

Defendants,

Of which Brandi Pfeil, Caitlin McGarty, and Charleston Dorchester Mental Health Center are the Respondents.

APPELLANT'S BRIEF

TABLE OF CONTENTS

TABLE OF AUTHORITIES......3
JURISDICTIONAL STATEMENT......5
STATEMENT OF ISSUES ON APPEAL......5
STATEMENT OF THE CASE......7
STATEMENT OF FACTS......8
STANDARD OF REVIEW......12
ARGUMENT......13
I. Adoption of Respondents' invented actual-malice standard, contrary to Frazier v. Badger......13
II. The Order's findings were Respondents' own language, submitted while fraud evidence was pending, and are not entitled to deference......16
III. The MUSC certification destroys every immunity ruling......18
IV. Argoe v. Three Rivers does not apply absent an actual court order......21
V. The abuse-of-process claim was wrongly dismissed......23
VI. Qualified privilege never attached, and actual malice is proven......24
VII. The IIED threshold, applied consistently, forecloses the tort for state-actor misconduct......25
VIII. The intra-corporate conspiracy doctrine was misapplied......28
IX. The invasion-of-privacy claim was wrongly dismissed......30
X. The pending fraud motion was never addressed; the jurisdictional disclaimer is wrong as a matter of law......32
XI. The SCTCA cannot bar federal claims under 42 U.S.C. § 1983......33
CONCLUSION......35
CERTIFICATE OF SERVICE......38

TABLE OF AUTHORITIES

Cases

Argoe v. Three Rivers Behavioral Health, L.L.C., 392 S.C. 462, 710 S.E.2d 67 (2011)................6
Blackwell, Jr. v. Miller, No. 2017CP2303754, 2017 WL 10795459 (S.C. Com. Pl. Nov. 8, 2017) 17
Borough of Duryea v. Guarnieri, 564 U.S. 379 (2011)...34
Broadmoor Apartments of Charleston v. Horwitz, 306 S.C. 482, 413 S.E.2d 9 (1991)...............23
Cisson v. Pickens Savings & Loan Ass'n, 258 S.C. 37, 186 S.E.2d 822 (1972)...........................23
City of St. Louis v. Praprotnik, 485 U.S. 112 (1988)..21
Corder v. Champion Rd. Mach. Int'l Corp., 283 S.C. 520, 324 S.E.2d 79 (Ct. App. 1984).........25
Flateau v. Harrelson, 355 S.C. 197, 584 S.E.2d 413 (Ct. App. 2003)..12
Food Lion, Inc. v. United Food & Com. Workers Int'l Union, 351 S.C. 65, 567 S.E.2d 251 (Ct. App. 2002)..24
Frazier v. Badger, 361 S.C. 94, 603 S.E.2d 587 (2004)...5
Hafer v. Melo, 502 U.S. 21 (1991)...33
Hansson v. Scalise Builders of S.C., 374 S.C. 352, 650 S.E.2d 68 (2007)..................................25
Harlow v. Fitzgerald, 457 U.S. 800 (1982)...34
Hartman v. Moore, 547 U.S. 250 (2006)...26
Hazel-Atlas Glass Co. v. Hartford-Empire Co., 322 U.S. 238 (1944)..12
Huggins v. Winn-Dixie Greenville, Inc., 249 S.C. 206, 153 S.E.2d 693 (1967)...........................24
Johnson v. J.P. Stevens & Co., 308 S.C. 116, 417 S.E.2d 527 (1992)..22
Mathews v. Eldridge, 424 U.S. 319 (1976)...33
Melton v. Medtronic, Inc., 389 S.C. 641, 698 S.E.2d 886 (Ct. App. 2010).................................25
Miller v. Prince George's County, 475 F.3d 621 (4th Cir. 2007)...34
Monell v. Dep't of Social Services, 436 U.S. 658 (1978)...21
Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306 (1950)..33
Painter's Mill Grille, LLC v. Brown, 716 F.3d 342 (4th Cir. 2013)...28
Paradis v. Charleston Cnty. Sch. Dist., 433 S.C. 562, 861 S.E.2d 774 (2021).............................29
Patsy v. Board of Regents, 457 U.S. 496 (1982)...33
Payton v. New York, 445 U.S. 573 (1980)...34
Rycroft v. Gaddy, 281 S.C. 119, 314 S.E.2d 39 (Ct. App. 1984)...30
Smith v. Wade, 461 U.S. 30 (1983)...36
Swinton Creek Nursery v. Edisto Farm Credit, 334 S.C. 469, 514 S.E.2d 126 (1999).................15
Vitek v. Jones, 445 U.S. 480 (1980)...34
Williams v. Condon, 347 S.C. 227, 553 S.E.2d 496 (Ct. App. 2001)...12

Statutes and Rules

42 U.S.C. § 1983...7
42 U.S.C. § 1985(3)..29
S.C. Code Ann. § 15-78-60..20
S.C. Code Ann. § 44-17-410..passim
S.C. Code Ann. § 44-22-100...10
Rule 12(b)(6), SCRCP...7
Rule 203, SCACR...5
Rule 240(e), SCACR..35

JURISDICTIONAL STATEMENT

This Court has jurisdiction pursuant to S.C. Code Ann. § 14-3-330 and Rule 203(a), SCACR. This appeal is from the Order Granting Defendants' Motion to Dismiss Plaintiff's Complaint with Prejudice, entered by the Honorable Eugene P. Warr, Jr., electronically signed October 31, 2025 and filed November 3, 2025. (R. at Order.) The Notice of Appeal was timely filed December 3, 2025, within thirty days of filing, as required by Rule 203(b)(1), SCACR. On May 6, 2026, this Court reinstated the appeal following Appellant's Motion to Reinstate of April 10, 2026.

STATEMENT OF ISSUES ON APPEAL

I. Did the trial court err by adopting Respondents' proposed actual-malice standard — requiring a pre-existing personal relationship, prior antagonism, or financial gain — where those elements appear nowhere in *Frazier v. Badger*, and where Respondents' own memorandum admitted the personal motivation *Frazier* identifies as actual malice?

II. Did the trial court err by signing Respondents' proposed Order of Dismissal — submitted two days after Appellant filed audio evidence of counsel's material misrepresentation during oral argument — where the Order's findings asserting legal authorization for the detention were Respondents' own proposed language, presented without the medical records that have since contradicted them, and adopted without a hearing on the pending Emergency Motion for Sanctions?

III. Did the trial court err by adopting immunity doctrines premised on a lawful commitment process, where MUSC's records custodian has since certified the complete absence of the § 44-17-410(1) written affidavit — the foundational document for any lawful emergency psychiatric admission — from Appellant's records for the May 1–2, 2025 detention?

IV. Did the trial court err by applying *Argoe v. Three Rivers Behavioral Health* to protect a detention where the premise of that doctrine — a facially valid order from a court of competent jurisdiction — is documented absent by the detaining facility's own records custodian?

V. Did the trial court err by dismissing the abuse-of-process claim on the premise that the commitment process was "carried out to its authorized objective," where the MUSC custodian certified the absence of the § 44-17-410(1) predicate, and where the willful act in misuse of process is documented in Defendants' own records?

VI. Did the trial court err by dismissing the defamation claim on qualified-privilege grounds where (a) no lawful commitment process existed for a privilege to attach, (b) actual malice is established by Defendants' own contemporaneous records, and (c) Respondents admitted disclosure to non-confidential third parties?

VII. Did the trial court err by dismissing the IIED claim under a threshold standard that, applied consistently, would foreclose the tort entirely for state-actor mental-health misconduct involving fabrication of psychiatric records, retaliation for protected activity, and an 18-hour deprivation of liberty without statutory authorization?

VIII. Did the trial court err by applying the intra-corporate conspiracy doctrine where Respondents' own memorandum admitted the conspiracy involved outside parties including law enforcement, MUSC, and the probate court?

IX. Did the trial court err by dismissing the invasion-of-privacy claim where it resolved the disputed identity of the disclosure recipients against Appellant at the pleading stage, where the 12(b)(6) dismissal foreclosed the discovery that would have identified those recipients, and where the "public-safety" and "confidential-relationship" rationales are mutually exclusive?

X. Did the trial court err in stating it lacked jurisdiction to address the Emergency Motion for Sanctions, filed October 21, 2025 — ten days before the Order was signed — while the court had full jurisdiction?

XI. Did the trial court err by applying the South Carolina Tort Claims Act to dismiss federal constitutional claims under 42 U.S.C. § 1983, which are not subject to state sovereign immunity?

STATEMENT OF THE CASE

This case arises from the May 1–2, 2025 involuntary psychiatric detention of Appellant Joel Ndunda by employees of the South Carolina Department of Behavioral and Developmental Disabilities, Office of Mental Health at the Charleston/Dorchester Mental Health Center ("CDMHC"), a South Carolina governmental entity. Appellant sued in the Charleston County Court of Common Pleas asserting false imprisonment, abuse of process, defamation, intentional infliction of emotional distress, civil conspiracy, and invasion of privacy, together with federal claims under 42 U.S.C. § 1983. Respondents moved to dismiss under Rule 12(b)(6), SCRCP, and the trial court heard argument October 9, 2025. (R. at Tr.)

The post-hearing sequence is detailed in Argument § II and summarized here: Appellant filed an Emergency Motion for Sanctions on October 21, 2025, and audio evidence of counsel's oral-argument misrepresentation on October 27, 2025; Respondents submitted a proposed Order of Dismissal on October 29, 2025; the trial court signed it October 31, 2025, without a hearing on the Emergency Motion; and the Order was filed November 3, 2025. (R. at Order; R. at Proposed Order.)

The Order dismissed all claims with prejudice on SCTCA immunity and independently on the merits. Every immunity and merits ruling rests on a single factual premise — that the detention was authorized by a lawful probate court Order of Detention — drafted by Respondents and

presented as established fact, and now directly contradicted by documentary evidence from the detaining facility itself.

After the Notice of Appeal, Appellant obtained written certification from MUSC's records custodian confirming the complete absence of any M-130 Affidavit for Emergency Detention from his records for the May 1–2, 2025 detention. (Mot. to Reinstate, Ex. B.) Under § 44-17-410, that affidavit is the foundational document for lawful emergency admission. On March 30, 2026, this Court dismissed the appeal because Appellant, pro se, had not provided a copy of the order on appeal under Rule 203(b), SCACR. On April 10, 2026, Appellant moved to reinstate, attaching the order and the MUSC certification. Respondents filed no return. On May 6, 2026, this Court reinstated the appeal. This appeal follows.

STATEMENT OF FACTS

A. Pre-Existing Federal Complainant Status and the Racial-Animus Predicate

Prior to May 1, 2025, Appellant had filed multiple IC3 complaints with the FBI's Internet Crime Complaint Center documenting network intrusion — including 494 unauthorized device connections preserved in router logs and a subpoena from AT&T (Letter from AT&T Global Legal Demand Center re: Subpoena, filed 10/07/2025, Emergency M., Exhibit G) — and racially targeted content injection onto his devices, specifically a video depicting the Sam Johnson lynching. (Compl., Ex. E.) These reports are documented by IC3 confirmation numbers filed in the parallel federal civil-rights action, Civil Action No. 2:25-cv-13185-BHH-MHC, U.S. District Court for the District of South Carolina.

A projectile-induced hole was created under Appellant's bedroom window prior to May 1, 2025. The law enforcement officer present at the May 1 assessment independently confirmed the existence of this hole, which was documented in Respondents' own crisis assessment form. Despite

the officer's real-time confirmation, Respondents designated Appellant's accurate reporting of this confirmed physical fact as a delusional symptom supporting emergency psychiatric detention.

B. The May 1, 2025 Assessment — What Respondents' Own Records Establish

On May 1, 2025, Respondents Pfeil and McGarty arrived at Appellant's residence in response to a non-emergency call. Their own clinical records document the following simultaneously with the emergency designation: "Safety Concerns: NONE" on the Crisis Intervention Sheet (Mem. Opp. Mot. Dismiss, Ex. B, C); "Safety Concerns: NONE," "Emergency: NO EMERGENCY, Normal Hours" and "Incarc: N" on the Clinical Service Note, which was billed as non-emergency (*id.*); Palmetto Lowcountry Behavioral Health ("PLBH") refused direct admission, stating it "could not admit pt w/o medical clearance" (*id.*, Ex. C); a 15-minute coordination call to Supervisor Guerriero immediately after Appellant stated his intent to pursue litigation (*id.*); and a "rapport" call to a specific MUSC charge nurse to arrange admission after PLBH's clinical refusal (*id.*).

Respondents parked on the immediately adjacent neighbor's property at maximum distance from Appellant's residence. When confronted, Patient Advocate Tia Lewis asserted a nonexistent institutional protocol to justify the positioning. After Appellant contacted the Columbia office, Lewis admitted no such protocol exists. (Emergency Mot., Ex. F.) At the grievance meeting where Lewis advanced that explanation, Facility Manager Dennis Pueblas, acting in his supervisory capacity, ratified the May 1 conduct of Pfeil and McGarty.

C. The MUSC Evaluation — What Qualified Professionals Would Not Certify

The MUSC evaluation form for the May 1–2, 2025 detention is as follows. (Mem. Opp. Mot. Dismiss, Ex. A.) The diagnosis field is blank; the evaluation is unsigned; no qualifying professional's signature appears anywhere on the form. The 2:00 a.m. evaluator's identity was

omitted from the medical record — though records are required to document every treating clinician — and that evaluator told Appellant, “You need someone with more experience than me” and did not certify the evaluation, offered voluntary extended admission by asking whether Plaintiff would like to ‘stay for a few days,’ and directed Plaintiff to remain pending the 10:00 AM evaluator. Directing a person to remain in custody without lawful authority to compel their presence is a detention directive unsupported by legal process. The voluntary admission offer simultaneously acknowledges the absence of compulsory authority: a clinician who seeks consent to remain does not believe she has authority to compel it. The 10:00 a.m. evaluator was a registered nurse, who under South Carolina law cannot make a psychiatric diagnosis or certify involuntary commitment. S.C. Code Ann. §§ 44-17-410, 44-22-100. Appellant was held over eighteen hours, and no qualified professional at any stage made a diagnosis supporting commitment. The Standardized Suicide Risk Screener generated as part of Respondents' May 1 documentation reflects the same pattern of risk findings the contemporaneous record did not support. (Mem. Opp. Mot. Dismiss, Ex. E.)

D. The Confirmed Absence of Any Lawful Authorization — The MUSC Certification

After the trial court proceedings, Appellant obtained written certification from MUSC's records custodian confirming the complete absence of any M-130 Affidavit for Emergency Detention from his records for the May 1–2, 2025 detention. (Mot. to Reinstate, Ex. B.) The Charleston County Probate Court clerk verbally confirmed that no Order of Detention exists in the probate court's records for Appellant for those dates. The statutory significance of that certified absence — that admission lacked its condition precedent and that probate-court jurisdiction was never triggered — is set out in Argument § III.

E. The Four-Document Pattern of Misrepresentation by Respondents' Counsel

Counsel represented across four documents that Appellant's detention was authorized by a probate court Order of Detention — in each instance while in possession of their clients' complete medical file, the same file whose records custodian has now certified the M-130 does not exist. The representations escalated in legal consequence:

Document 1: Motion to Dismiss, July 25, 2025 — “Plaintiff in this matter was transported and/or committed to MUSC ER by an Order of Detention by the Charleston County Probate Court.” (Defs.' Mot. Dismiss, filed 07/25/2025.)

Document 2: Memorandum in Support, October 7, 2025 — “it is likely that every person involuntarily committed does not believe and/or disagrees with findings in their evaluation.” (Defs.' Mem. Supp. Mot. Dismiss, filed 10/07/2025, at 11.)

Document 3: Oral argument, October 9, 2025 — Counsel made three representations regarding an authorizing Probate Court Order. First: “It's undisputed in this case that there was a Probate Court Order affecting that in this case.” (Tr. 5:24-25.) Second: “Mr. Ndunda disputes you know the findings in his mental health evaluation as I'm sure most people who are involuntarily committed do.” (Tr. 6:7-9.) Third, in rebuttal: “Obviously, there is a court order in this that committed him to MUSC. That disposes of multiple claims.” (Tr. 27:10-15.)

Document 4: Proposed Order of Dismissal, submitted October 29, 2025, signed October 31, 2025 — drafted by counsel and submitted two days after audio evidence of the oral-argument misrepresentation was filed and while the Emergency Motion for Sanctions remained pending. It states at page 11 that “there was a facially valid order from the probate court”; at page 6 that “the probate court ordered that Plaintiff be involuntarily detained”; and at page 12 that Respondents' statements were made “in effectuating a lawful order of the probate court.” Each finding was

submitted for the court's signature without disclosure of the documentary evidence in counsel's possession that contradicted it. (R. at Order.)

Documents 1 through 3 were misrepresentations in pleadings and argument. Document 4 was categorically different: counsel drafted proposed judicial findings asserting a lawful commitment process and submitted them for signature while a fraud motion remained pending — using the court's signature to authenticate premises the records-custodian certification has now contradicted. *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238, 246 (1944).

F. The Trial Court's Order — Adoption of Respondents' Proposed Findings

The trial court signed Respondents' proposed order five days after submission, in reliance on counsel's representations as officers of the court. The Order does not address Appellant's affirmative evidence: "Safety Concerns: NONE"; "Emergency: N"; the blank diagnosis; the unsigned evaluation; PLBH's refusal; the parking position; the officer's real-time confirmation of the projectile hole; the audio evidence; or the Emergency Motion. The Order states that the court "did not retain jurisdiction" to address the Emergency Motion. (R. at Order, pg. 17.) That is incorrect as a matter of law: the motion was filed October 21, 2025, and the Order was not signed until October 31, 2025, so for those ten days the court retained jurisdiction. The disclaimer produced the result that no court at any level adjudicated the substance of Appellant's fraud-on-the-court evidence before final judgment.

STANDARD OF REVIEW

This Court reviews a Rule 12(b)(6) dismissal de novo. *Flateau v. Harrelson*, 355 S.C. 197, 202, 584 S.E.2d 413, 415 (Ct. App. 2003). The question is whether, viewed in the light most favorable to the plaintiff, the pleadings articulate any valid claim for relief; the Court accepts all well-pleaded facts as true and construes all inferences in the plaintiff's favor. *Williams v. Condon*,

347 S.C. 227, 232-33, 553 S.E.2d 496, 499 (Ct. App. 2001). De novo review applies to questions of law, including the application of immunity doctrines, the elements of each claim, and the legal standard applied below. Where the trial court's order rests on factual premises directly contradicted by post-judgment documentary evidence from the detaining facility's own records custodian, de novo review of the legal conclusions resting on those premises is required.

ARGUMENT

I. THE TRIAL COURT ADOPTED RESPONDENTS' PROPOSED ACTUAL-MALICE STANDARD, WHICH INVENTED REQUIREMENTS THAT APPEAR NOWHERE IN *FRAZIER V. BADGER*, AND IGNORED RESPONDENTS' OWN ADMISSION OF PERSONAL MOTIVATION

A. The Frazier Standard Requires Personal Rather Than Occupational Motivation — Nothing More

Under the South Carolina Tort Claims Act, immunity does not extend to conduct motivated by actual malice — defined as personal rather than occupational motivation. *Frazier v. Badger*, 361 S.C. 94, 103, 603 S.E.2d 587, 591 (2004). In *Frazier*, the Court found actual malice where the employee acted to punish the plaintiff for rejecting his sexual advances — a personal reason unconnected to his governmental duties. *Id.* The complete standard is personal versus occupational motivation. The Order applied a different standard, finding actual malice requires (1) a pre-existing purely personal relationship or grudge; (2) a prior professional history with an antagonistic evaluation; or (3) personal financial gain. (R. at Order, pg. 9-10.) None of these appears in *Frazier* or any South Carolina authority. The application of a legally incorrect standard to undisputed facts is a question of law reviewed de novo.

B. Respondents' Own Filed Memorandum Proves Actual Malice Under the Correct Standard

Respondents' memorandum states that mental-health assessors must be free from "the wrath of disgruntled and litigious patients." (Defs.' Mem. Supp. Mot. Dismiss, filed 10/07/2025, at 8.) This is an admission against interest filed in the same proceeding. At oral argument, counsel confirmed the correct standard, telling the court that *Frazier* requires a showing the conduct was for "personal and not occupational reasons," and walking through *Frazier*'s facts at length. (Tr. 26:18-27:1.) An occupational motivation is to assess a person's mental-health status accurately and provide appropriate care. A personal motivation is to protect oneself and one's institution from litigation by a patient perceived as a threat. "Free from the wrath of litigious patients" is personal self-protection — precisely the personal motivation *Frazier* identifies as actual malice.

The *Frazier* standard turns on the perception of personal threat that displaces occupational judgment, not on whether that threat was objectively rational or directed at the defendants in particular. 361 S.C. at 103. Respondents' admission establishes that whatever Appellant said about litigation, Respondents subjectively understood it as a personal threat warranting protective action. Once that perception is admitted, the personal-motivation element is satisfied as a matter of pleading. Notably, Appellant did not threaten to sue Respondents; he stated his intent to sue third parties unrelated, on the face of the record, to Respondents — so the "wrath of litigious patients" admission cannot be explained as routine self-protection from a direct litigation threat. The actual motivation is a question the 12(b)(6) dismissal foreclosed Appellant from developing through discovery.

C. The Officer's Confirmation of the Projectile Hole Proves Knowledge of Falsity

A law enforcement officer present at the May 1 assessment independently confirmed the existence of the projectile hole under Appellant's bedroom window, which was documented in Respondents' own assessment form. Crisis workers simultaneously designated Appellant's accurate reporting of that confirmed fact as a delusional symptom; "Responding to internal stimuli… Sometimes skips meals" (Mem. Opp. Mot. Dismiss, Ex. D.). Actual malice requires knowledge of falsity at the moment of publication or reckless disregard for the truth. *Swinton Creek Nursery v. Edisto Farm Credit*, 334 S.C. 469, 484, 514 S.E.2d 126, 134 (1999). A clinician who designates an accurate perception as delusional while a law enforcement officer confirms its physical reality has not made a clinical error; she has made a statement she knows to be false at the moment she makes it. That is actual malice as a matter of law. The Order does not mention the officer's confirmation, the projectile hole, or that crisis workers documented it in their own form while designating its accurate reporting as delusion.

D. The Simultaneous Contradictions Are Logical Impossibilities, Not Poor Judgment

The Order characterizes the contradictions in Respondents' records as "poor professional judgment." (R. at Order, pg. 9.) But the contradictions alleged are not matters of clinical opinion; they are logical impossibilities. "Safety Concerns: NONE" and "homicidal ideation" cannot coexist in a genuine clinical assessment of the same person at the same time. A clinician who documents both has not exercised poor judgment; she has falsified one finding. The parking position answers which: crisis workers who genuinely believed a person homicidal would not park at maximum distance from him. They parked at maximum distance, documenting their own consciousness that the homicidal designation was false.

II. THE ORDER'S FACTUAL FINDINGS WERE RESPONDENTS' OWN PROPOSED LANGUAGE, SUBMITTED WHILE FRAUD EVIDENCE WAS PENDING, AND ARE NOT ENTITLED TO APPELLATE DEFERENCE

A. The Sequence of Submission Eliminates the Presumption of Independent Analysis

The timeline is established by the dates in the record:

1. October 7, 2025: Respondents file Motion to Dismiss with Memorandum in Support. (R. at Defs.' Mem. Supp. Mot. Dismiss.)
2. October 9, 2025: Oral argument. Counsel makes the misrepresentation later captured on audio. (R. at Tr.)
3. October 13, 2025: Appellant files Memorandum in Opposition with Pfeil's contemporaneous Crisis Intervention Sheet documenting the missing-order workflow — eighteen days before the Order was signed. (R. at Mem. Opp. Mot. Dismiss.)
4. October 21, 2025: Appellant files Emergency Motion for Sanctions alleging fraud on the court — ten days before the Order. (R. at Emergency Motion.)
5. October 27, 2025: Appellant files audio evidence of counsel's material misrepresentation — four days before the Order. (Flash Drive Audio Recording, filed 10/27/2025.)
6. October 29, 2025: Respondents submit the Proposed Order of Dismissal — two days after the audio evidence. (R. at Proposed Order.)
7. October 31, 2025: The trial court signs Respondents' proposed order, with the audio evidence and fraud motion pending. (R. at Order.)
8. November 3, 2025: Order filed. The Emergency Motion was never addressed; the audio evidence never examined; Pfeil's contemporaneous note never reconciled with the Order's findings.

A trial court that signs a party's proposed dismissal order five days after submission, while a fraud motion remains pending, without a hearing and without addressing the opposing party's affirmative evidence, has done so in reliance on counsel's good-faith representations as officers of the court. Where those findings were submitted by the party seeking immunity, presented without disclosure of the documentary evidence in counsel's possession that would have contradicted them, the proper remedy is appellate de novo review of the legal conclusions and reversal where the now-documented record contradicts the premises on which the order rests.

B. The Specific Findings Were Drafted by the Party That Benefits From Them

The Order's critical premises — "there was a facially valid order from the probate court" (R. at Order, pg. 11), "the probate court ordered that Plaintiff be involuntarily detained" (R. at Order, pg. 6), the finding that "Defendants exercised discretion" (R. at Order, pg. 8), and the conclusion that the statements were made "in effectuating a lawful order of the probate court" (R. at Order, pg. 12) — were drafted by counsel. Each rests on the same unexamined assumption that a lawful Order of Detention existed. The qualified-privilege conclusion is the clearest example of findings shaped by the party they benefit. In their Memorandum in Support, Respondents recited the correct five-element test: a party asserting qualified privilege must show "(1) good faith, (2) an interest to be upheld, (3) a statement limited in its scope to this purpose, (4) a proper occasion, and (5) publication in a proper manner and to proper parties." (Defs.' Mem. Supp. Mot. Dismiss, filed 10/07/2025, at 14.) The proposed order they then drafted contains none of those elements — not good faith, not a proper occasion, not proper manner. It states only that "qualified privilege applies" (R. at Order, pg. 12), supported by analogy to *Blackwell, Jr. v. Miller*, No. 2017CP2303754, 2017 WL 10795459 (S.C. Com. Pl. Nov. 8, 2017), and borrowing that decision's "good faith" parenthetical in place of any finding on this record.

Having stated the governing standard, Respondents drafted findings that omitted every element of it. The omitted fifth element is not incidental: “publication … to proper parties” is the same third-party-publication fact that Respondents' privilege defense, the civil-conspiracy overt-act analysis (§ VIII), and the invasion-of-privacy claim (§ IX) each turn on, and the drafted findings resolved none of it. Appellate deference to findings of fact presupposes those findings reflect independent judicial analysis. That presupposition does not hold where a party drafts proposed findings, presents them while opposing evidence is pending and unaddressed, and the trial court adopts them in reliance on representations the records-custodian certification has now contradicted. This Court reviews those findings de novo.

III. THE MUSC CERTIFICATION DESTROYS EVERY IMMUNITY RULING BECAUSE EACH IMMUNITY RESTED ON A LAWFUL COMMITMENT PROCESS WHOSE STATUTORY FOUNDATION THE DETAINING FACILITY'S OWN RECORDS CERTIFY NEVER EXISTED

A. The Statutory Sequence Under § 44-17-410 — What Was Required and What Was Absent

Section 44-17-410 provides that a person may be admitted for emergency admission “upon”: (1) a written affidavit under oath stating the required clinical grounds; and (2) a certification in triplicate by at least one licensed physician. The word “upon” is operative — both documents are conditions precedent to lawful admission, not post-admission paperwork. Under § 44-17-410(3), within forty-eight hours of admission the place of admission must forward both the affidavit and the certification to the probate court for a probable-cause review; only upon a finding of probable cause may the court issue a written order for continued detention. The § 44-17-410(1) affidavit is therefore foundational: without it, admission lacks its condition precedent; without it,

the § 44-17-410(3) forwarding that triggers probate-court jurisdiction cannot occur; and without that forwarding, no order for continued detention can lawfully issue.

MUSC's records custodian has certified that no § 44-17-410(1) affidavit exists in Appellant's records for the May 1–2, 2025 detention. (Mot. to Reinstate, Ex. B.) Its absence establishes that admission lacked its statutory condition precedent, that no affidavit was forwarded, that the probate court had no jurisdictional basis to act, and that no order for continued detention could lawfully have issued. Appellant was held over eighteen hours without any step of the statute satisfied.

Respondent Pfeil's own contemporaneous Crisis Intervention Sheet places her on record asserting the very document the custodian certifies absent: "Staffed w/admin and due to presenting symptoms and safety concerns the pt met criteria for a higher level of care. Staffed w/ probate and an order of detention was obtained. Staffed w/ PLBH for direct admission but they stated they could not admit the pt w/o clearance. Transported to MUSC by CPD. Called and gave rapport to charge nurse." (Emergency Mot., Ex. C.) Pfeil's claim that "an order of detention was obtained" is contradicted by the certified absence of the foundational § 44-17-410(1) affidavit any such order would require. The missing-document problem is thus at the center of Defendants' own records — not as Appellant's allegation, but as Pfeil's own contemporaneous assertion.

B. Quasi-Judicial Immunity — No Lawful Court Process Existed

The Order applied quasi-judicial immunity on the premise that Respondents' actions were "part of a court process." (R. at Order, pg. 6.) The § 44-17-410(3) process that would have made probate-court involvement lawful could not have occurred because the § 44-17-410(1) affidavit did not exist and there is no Probate Court order. Quasi-judicial immunity protects acts taken as part of a genuine judicial proceeding; it does not protect the manufacture of the appearance of one.

Respondents' own Memorandum describes the sequence: “it is undisputed that the Probate Court issued Part I of the Order of Detention committing Plaintiff to MUSC ER for further evaluation following” their assessment, and that Appellant's “commitment was the result of [his] evaluation by BHDD and subsequent approval by the probate court.” (Defs.' Mem. Supp. Mot. Dismiss, filed 10/07/2025, at 7.) That is the admission: the order, on Respondents' own account, issued as a product of their evaluation, not upon the sworn § 44-17-410(1) affidavit and probable-cause review the statute requires. Respondent Pfeil's contemporaneous assessment form records the same inverted sequence — “Staffed w/ probate and an order of detention was obtained” — documenting that the probate court was contacted to ratify a disposition the clinicians had already reached. (Emergency Mot., Ex. C.) There was no proceeding to be part of; there was only the appearance of one, generated after the fact.

C. Discretionary Immunity — Fabrication Is Not the Exercise of Discretion

The Order applied discretionary immunity under § 15-78-60(5) on the premise that Defendants exercised professional judgment. (R. at Order, pg. 7-8.) Two findings in Respondents' own records cannot be products of any exercise of discretion. First, a clinician cannot simultaneously find “Safety Concerns: NONE” and document homicidal ideation through any exercise of judgment, however poor; the findings are mutually exclusive, and their simultaneous presence proves one was fabricated. Second, designating an accurate perception as delusional while a law enforcement officer confirms its physical reality (see § I.C, supra) is a knowing false determination, not a discretionary judgment. Moreover, Respondents' records reflect that the outcome was determined before the assessment: after PLBH refused direct admission for lack of clearance, Respondents contacted a specific MUSC charge nurse to arrange admission notwithstanding that refusal. (Emergency Mot., Ex. C.) Where the assessment occurs after the

disposition has been arranged, no judgment is exercised — the assessment documents a conclusion already reached. The SCTCA was never intended to immunize predetermined deprivations of liberty occurring in the complete absence of the statutory framework authorizing them.

D. Monell Ratification Liability

Where a supervisor with policymaking authority ratifies unconstitutional conduct after the fact, that ratification constitutes official policy chargeable to the entity. *City of St. Louis v. Praprotnik*, 485 U.S. 112, 127 (1988). At the grievance meeting, Facility Manager Pueblas, the supervisor with policymaking authority over SCDBDD (CDMHC) mobile-crisis operations, ratified the May 1 conduct on the merits, while Patient Advocate Lewis advanced — and later abandoned — a fabricated “protocol” justification for the parking position. (Emergency Mot., Ex. F.) Senior management ratifying the conduct while fabricating institutional cover satisfies *Praprotnik*. The systematic absence of the M-130 across SCDBDD (CDMHC)-referred MUSC admissions that proper facilities refused further raises whether the conduct is systematic practice rather than isolated deviation. *Monell v. Dep't of Social Services*, 436 U.S. 658 (1978).

IV. *ARGOE V. THREE RIVERS* DOES NOT APPLY BECAUSE THE DOCTRINE REQUIRES AN ACTUAL COURT ORDER AND THE DETAINING FACILITY'S OWN RECORDS CERTIFY NONE EXISTED

The Order applied *Argoe v. Three Rivers Behavioral Health, L.L.C.*, 392 S.C. 462, 473, 710 S.E.2d 67, 73 (2011), for the proposition that “even where the order of commitment is erroneously made, but is valid on its face and issued by a court of competent jurisdiction, the detention is not false imprisonment,” and adopted the finding that “there was a facially valid order from the probate court.” (R. at Order, pg. 10.) MUSC's custodian has certified that finding is unsupported by the foundational statutory document any such order would require.

A. Argoe Requires a Real Order — The Doctrine Has No Application to Nonexistent Authorization

Every operative term of the *Argoe* protection fails. “Confined pursuant to an authorized” process: the process required a § 44-17-410(1) affidavit, certified absent — there was no authorized proceeding. “Even where the order of commitment is erroneously made”: an erroneous order is a real order containing an error; a nonexistent order cannot be erroneous. “Valid on its face”: facial validity requires a face, and the document does not exist. “Issued by a court of competent jurisdiction”: probate-court jurisdiction over continued detention under § 44-17-410(3) is triggered by receipt of the forwarded affidavit and certification; without them, the court had no jurisdictional basis to act.

B. The Fraud Exception Applies Independently

Even if an order existed, fraud vitiates everything it touches, including court orders. *Johnson v. J.P. Stevens & Co.*, 308 S.C. 116, 417 S.E.2d 527 (1992). An order procured by representing that statutory prerequisites were met when the foundational document was never executed is procured by fraud and unenforceable as a shield. Appellant's argument is not a “collateral attack on the factual findings… of the probate court” as the Order characterizes it (R. at Order, pg. 11); it establishes that no lawful probate-court proceeding ever occurred, because the foundational document was never executed. The certified absence of the M-130 proves this directly.

V. THE TRIAL COURT ERRED BY DISMISSING THE ABUSE-OF-PROCESS CLAIM BECAUSE NO "AUTHORIZED OBJECTIVE" EXISTED, AND THE FABRICATED FINDINGS CONSTITUTE THE WILLFUL ACT IN MISUSE OF THE PROCESS

Abuse of process requires (1) an ulterior purpose and (2) a willful act in the use of the process not proper in the regular conduct of the proceedings. *Broadmoor Apartments of Charleston v. Horwitz*, 306 S.C. 482, 486, 413 S.E.2d 9, 11 (1991). The trial court found Appellant failed to allege the second element, concluding the commitment process "was carried out to its authorized objective." (R. at Order, pg. 11-12.) Each premise is contradicted by the certified record.

A. The "Authorized Objective" Premise Is Foreclosed by the MUSC Certification

As shown in § III, the custodian certified that no § 44-17-410(1) affidavit exists. Without it, no forwarding could occur and no Order of Detention could lawfully issue — the "authorized objective" the court relied on did not exist. "There is no liability where the defendant has done nothing more than carry out the process to its authorized conclusion." *Cisson v. Pickens Savings & Loan Ass'n*, 258 S.C. 37, 46, 186 S.E.2d 822, 826 (1972). The converse is also true: where the defendant carries the process to a conclusion it lacked authorization to produce, liability attaches. Section 44-17-410 supplies one lawful purpose for emergency admission, and the certified absence of the affidavit means that purpose was never invoked. The gap between the statutory authorization and the actual conduct is the definition of abuse of process.

B. The Willful Act Is the Fabrication of the Clinical Findings That Procured the Detention

Defendants' own records contain mutually exclusive findings — "Safety Concerns: NONE" simultaneously with the homicidal designation that supported detention. (Emergency Mot., Ex. B.) PLBH, the proper inpatient facility, refused direct admission for lack of clearance — a substantive clinical refusal. (*Id.*, Ex. C.) Rather than respect it, Defendants made a "rapport" call

to a specific MUSC charge nurse to procure admission through the emergency department instead. (*Id.*) Pfeil documented the sequence in her own hand, recording that "an order of detention was obtained" (the document certified absent), PLBH's refusal, the bypass through transport to MUSC, and the rapport call procuring admission. (*Id.*) Each step is a willful act in misuse of the commitment process to achieve a result the process, properly executed, would not have produced. Cf. *Huggins v. Winn-Dixie Greenville, Inc.*, 249 S.C. 206, 212, 153 S.E.2d 693, 696 (1967) (using threat of criminal arrest warrant to extort payment was a sufficient willful act).

C. The Collateral Purpose Is Pleaded with Specificity

The ulterior-purpose element requires that the process be misused for "the primary purpose of achieving a collateral aim." *Food Lion, Inc. v. United Food & Com. Workers Int'l Union*, 351 S.C. 65, 74, 567 S.E.2d 251, 255 (Ct. App. 2002). The 15-minute coordination call to Supervisor Guerriero immediately followed Appellant's litigation threat. (Emergency Mot., Ex. C.) That documented temporal sequence — litigation threat, coordination call, detention — together with Respondents' own admission of the personal "wrath of litigious patients" motivation (see § I.B, supra), is sufficient pleading of the ulterior-purpose element under *Food Lion*.

VI. QUALIFIED PRIVILEGE NEVER ATTACHED BECAUSE NO LAWFUL COMMITMENT PROCESS EXISTED, AND ACTUAL MALICE IS PROVEN BY RESPONDENTS' OWN CONTEMPORANEOUS RECORDS

A. The Privilege Requires a Proper Occasion — A Lawful Proceeding

South Carolina's qualified privilege for mental-health commitment proceedings requires that statements be made on a proper occasion — a lawful proceeding. *Argoe*, 392 S.C. at 475. The MUSC certification establishes no lawful proceeding existed. A privilege that requires a lawful process cannot attach to statements made in connection with a process that lacked its statutory

foundation at every stage. The Order's finding that the privilege applied because statements were made “in effectuating a lawful order of the probate court” (R. at Order, pg. 12) is directly contradicted by the certification.

B. Actual Malice Defeats Any Privilege

Even if the privilege initially attached, actual malice defeats it. *Swinton Creek*, 334 S.C. at 484, 514 S.E.2d at 134. It is established two independent ways. First, the officer's real-time confirmation of the projectile hole, designated delusional, is documentary proof of knowledge of falsity at the moment of publication (see § I.C, supra). Second, Respondents' “wrath of litigious patients” admission establishes personal self-protection defeating good faith under *Frazier* (see § I.B, supra). Separately, Respondents characterized the conduct as discharging a duty to “benefit the safety of the general public” (Tr. 6:25-7:7; R. at Order, pg. 7) — a public-warning rationale that cannot coexist with the confidential-relationship privilege, as shown in § IX.C, infra.

VII. THE TRIAL COURT ERRED BY DISMISSING THE IIED CLAIM UNDER A THRESHOLD THAT, IF APPLIED CONSISTENTLY, WOULD FORECLOSE THE TORT FOR STATE-ACTOR MENTAL-HEALTH MISCONDUCT

The trial court found Appellant's allegations did not meet the “extreme and outrageous” threshold, citing *Corder v. Champion Rd. Mach. Int'l Corp.*, 283 S.C. 520, 324 S.E.2d 79 (Ct. App. 1984), and *Melton v. Medtronic, Inc.*, 389 S.C. 641, 698 S.E.2d 886 (Ct. App. 2010). (R. at Order, pg. 14-15.) IIED requires intentional or reckless infliction of severe emotional distress; conduct so extreme and outrageous as to exceed all bounds of decency; causation; and severe distress no reasonable person could be expected to endure. *Hansson v. Scalise Builders of S.C.*, 374 S.C. 352, 356, 650 S.E.2d 68, 70 (2007).

A. Corder and Melton Involved Far Less Invasive Conduct

Corder addressed retaliatory discharge of an at-will employee for filing worker's-compensation claims. 283 S.C. at 524, 324 S.E.2d at 81. *Melton* addressed a physician's discharge of a patient near a scheduled surgery in retaliation for the patient's expression of distrust. 389 S.C. at 651, 698 S.E.2d at 891. Neither involved a state actor depriving the plaintiff of liberty, fabrication of official government records, an 18-hour involuntary detention, retaliation for First Amendment-protected litigation activity, coordinated misconduct across multiple actors and entities, or a permanent psychiatric designation with downstream consequences for employment, healthcare, firearms eligibility, and litigation. The retaliation in *Corder* caused loss of employment and in *Melton* loss of a physician relationship; the conduct here caused loss of liberty and a permanent fabricated label.

B. The Combination of Aggravating Factors Establishes Extreme and Outrageous Conduct

The factual combination here is qualitatively distinct from any retaliation case the court cited: fabrication of clinical findings to retaliate for protected activity (*Hartman v. Moore*, 547 U.S. 250, 256 (2006)); deprivation of liberty over 18 hours without statutory authorization; coordination across state actors and a private hospital to circumvent a properly equipped facility's clinical refusal; and fabricated official records that follow Appellant indefinitely. A clinician who fabricates a “homicidal” finding while documenting “Safety Concerns: NONE” in the same record, and effects an 18-hour detention through that fabrication in retaliation for a litigation threat, has engaged in conduct that cannot be characterized as mere “professional procedures inconsistent” or “judgment erroneous.” Fabrication is not clinical practice variation.

C. The Threshold, Applied Consistently, Forecloses the Tort for State-Actor Misconduct

If state-actor fabrication of psychiatric records to procure an 18-hour involuntary detention in retaliation for protected activity, without statutory authorization, does not meet the "extreme and outrageous" threshold, then no state-actor mental-health misconduct ever could. The IIED tort exists to address conduct "beyond all possible bounds of decency." *Corder*, 283 S.C. at 524, 324 S.E.2d at 81. The threshold the trial court applied is incompatible with the tort's recognition in this category of cases.

D. The Trial Court's Own Reasoning Acknowledges the Distress It Then Dismisses

The Order's immunity analysis states: "It is an understandable reaction to be upset or 'disgruntled' by an adverse decision resulting in involuntary hospitalization. It is incumbent upon this Court to protect the integrity of the mental health assessment process by shielding the assessors from liability in tort when their actions are part of a court process." (R. at Order, pg. 7.) That acknowledgment establishes the severe-distress element wherever the conduct occurred outside the protections the immunity premise requires. The immunity premise depends on "actions… part of a court process"; where the custodian has certified no court-process foundation existed, the premise fails, and the distress the Order itself calls "understandable" becomes the IIED element. The court cannot hold that involuntary commitment is distressing enough to require blanket assessor immunity yet not distressing enough to meet the IIED threshold.

VIII. THE INTRA-CORPORATE CONSPIRACY DOCTRINE WAS INCORRECTLY APPLIED. RESPONDENTS ADMITTED OUTSIDE-PARTY INVOLVEMENT, AND THE PERSONAL-INTEREST AND CONSTITUTIONAL-VIOLATION EXCEPTIONS APPLY

A. Respondents' Own Memorandum Admitted Outside Parties

The Order found: "Plaintiff's Complaint does not allege that any outside parties were involved in the conspiracy, nor does he name them as Defendants." (R. at Order, fn. 50.) That finding is undercut by Respondents' own characterization of the conspiracy: "Presumably, the 'uninvolved third parties' include law enforcement, MUSC ER, and perhaps even the probate court." (Defs.' Mem. Supp. Mot. Dismiss, filed 10/07/2025.) MUSC, the probate court, and law enforcement are not SCDBDD (CDMHC) entities. The intra-corporate doctrine does not apply when the conspiracy crosses entity lines — which Respondents' own briefing describes. Counsel went further at oral argument, stating that crisis workers' actions "benefit the safety of the general public" (Tr. 6:25-7:7), echoed in the proposed order (R. at Order, pg. 7); communications discharging a duty to the general public are, by definition, to recipients outside any SCDBDD (CDMHC) agency relationship.

B. The Personal-Interest Exception

The doctrine does not protect conspiracies motivated by personal rather than corporate interests. *Frazier*, 361 S.C. at 103. Respondents' "wrath of litigious patients" admission establishes personal self-protection — the same personal motivation *Frazier* found sufficient to defeat corporate immunity. The doctrine also rests on the premise that employees acted as the corporation, presupposing they were acting within their agency authority. *Painter's Mill Grille, LLC v. Brown*, 716 F.3d 342, 352 (4th Cir. 2013). Personal self-protection from litigation is not

agency authority; when Defendants stepped outside their authorized clinical role to suppress a citizen who threatened litigation, they acted as themselves, and the doctrine's own premise fails.

C. The Constitutional-Violation Exception

The Fourth Circuit has held the intra-corporate doctrine inapplicable to conspiracies that violate clearly established constitutional rights. *Painter's Mill*, 716 F.3d at 352. A conspiracy to deprive a citizen of First and Fourth Amendment rights through a fabricated psychiatric detention is precisely that category. The § 1985(3) federal conspiracy claim is therefore not barred regardless of employment relationships.

D. The Order Never Addressed the Elements of Civil Conspiracy

Civil conspiracy requires (1) a combination or agreement of two or more persons; (2) to commit an unlawful act or a lawful act by unlawful means; (3) an overt act in furtherance; and (4) damages. *Paradis v. Charleston Cnty. Sch. Dist.*, 433 S.C. 562, 574, 861 S.E.2d 774, 780 (2021). The Order dismissed civil conspiracy solely on the intra-corporate doctrine (R. at Order, pg. 15-16), making no finding that Appellant failed to plead any element. The pleadings establish each: the combination (coordination with Guerriero and the MUSC charge nurse); the unlawful means (fabrication of findings to procure detention without authorization, per §§ III, V); the overt acts (the coordination calls, the strategic positioning on the neighbor's property, the admitted neighbor disclosure, and the rapport call); and the damages (the 18-hour detention, defamation, and fabricated records). With the doctrine inapplicable and no other barrier identified, the dismissal must be reversed. The admitted neighbor disclosure is itself an overt act involving an outside party, as developed in § IX, infra.

IX. THE TRIAL COURT ERRED BY DISMISSING THE INVASION-OF-PRIVACY CLAIM BECAUSE IT RESOLVED THE DISPUTED IDENTITY OF THE DISCLOSURE RECIPIENTS AGAINST APPELLANT, THE 12(b)(6) DISMISSAL FORECLOSED IDENTIFYING DISCOVERY, AND THE PUBLIC-SAFETY AND CONFIDENTIAL-RELATIONSHIP RATIONALES ARE MUTUALLY EXCLUSIVE

South Carolina recognizes public disclosure of private facts under the publicity standard in *Rycroft v. Gaddy*, 281 S.C. 119, 124, 314 S.E.2d 39, 43 (Ct. App. 1984): "Communication to a small group, absent a breach of contract, trust, or other confidential relationship, will not give rise to liability." The trial court found Appellant failed to identify recipients and extended a confidential-relationship privilege to all outside recipients including law enforcement, MUSC, and the probate court. (R. at Order, pg. 16-17 & fn. 55.) Three independent errors require reversal.

A. The Trial Court Resolved a Disputed Factual Inference Against Appellant at the Pleading Stage

The trial court found that Respondents "made no such admission" and that their memorandum merely "speculate[d]" the third-party recipients "may have been Plaintiff's neighbors." (R. at Order, pg. 13.) But that framing resolves a contested inference — who received the disclosure — against the non-moving party, which Rule 12(b)(6) forbids. Whether the recipients were neighbors, the law enforcement officer, the household on whose property the assessment was staged, or others is a factual question; on a motion to dismiss, the inference that the disclosure reached non-privileged third parties must be drawn in Appellant's favor. *Williams v. Condon*, 347 S.C. at 232-33, 553 S.E.2d at 499. The court instead drew it for Respondents and then faulted Appellant for not having proven what only discovery would reveal, as shown in § IX.B.

B. The 12(b)(6) Dismissal Foreclosed the Discovery That Would Identify Recipients

Identification of recipients is precisely the category of fact that becomes accessible through discovery — interrogatories, depositions of the crisis workers and supervisor, and review of phone records and documentation of the neighbor contact. The 12(b)(6) standard does not require a plaintiff to plead facts within the defendant's exclusive control before discovery. *Williams v. Condon*, 347 S.C. at 232-33, 553 S.E.2d at 499. The strategic positioning of the assessment on the immediately adjacent neighbor's property at maximum distance, combined with Lewis's fabrication of a "protocol" admitted non-existent (Emergency Mot., Ex. F), establishes operational publicity engineered through deliberate conduct. The discoverable categories of recipients are not unidentified neighbors in the abstract; they include, at minimum, the law enforcement officer present at the assessment, the neighbor on whose property the assessment was positioned, the MUSC charge nurse who received the rapport call, and members of households where SCDBDD (CDMHC) patients reside in close proximity. The court dismissed before that discovery could occur, then faulted Appellant for the absence of what discovery would have produced — circular reasoning that is reversible error. *Rycroft*'s dispositive qualifier is that small-group communication gives rise to liability where it occurs outside any confidential relationship; and the statutory confidentiality framework the Order invokes under §§ 44-22-90 and 44-22-100 protects only disclosures within a lawful commitment process. The certified absence of the M-130 establishes no lawful process existed, so that framework had nothing to attach to, and the "law enforcement, MUSC, and probate court" recipients collapse back into the *Rycroft* small-group inquiry that imposes liability for communications outside a protected relationship.

C. The Public-Safety and Confidential-Relationship Rationales Are Mutually Exclusive

Respondents and the trial court invoked a duty to inform and protect the public to justify the conduct: counsel told the court crisis workers “benefit the safety of the general public” (Tr. 6:25-7:7), echoed in the Order (R. at Order, pg. 7). Simultaneously, the Order at footnote 55 invokes a confidential-relationship doctrine to extend qualified privilege to all outside recipients. The two rationales cannot coexist. A duty to protect the public at large means disclosures may permissibly extend beyond a narrow set of statutorily designated recipients; a confidential-relationship privilege means they may not without destroying the privilege. If Defendants' duty was to protect the public, the neighbor disclosure is consistent with that duty and the privilege analysis collapses because public disclosure is not confidential; if the duty was confidentiality, the public-safety justification evaporates. The Order cannot have both. Reversal is required to permit discovery into which framing actually describes the conduct.

X. THE PENDING FRAUD MOTION WAS NEVER ADDRESSED, AND THE ORDER'S JURISDICTIONAL DISCLAIMER IS INCORRECT AS A MATTER OF LAW

A. The Jurisdictional Disclaimer Is Incorrect as a Matter of Law

The Order states: “This Court is aware that the Plaintiff filed an ‘Emergency Motion' after the hearing…. This Court did not retain jurisdiction of this case and therefore will not make any ruling as to this ‘Emergency Motion.'” (R. at Order, pg. 17.) The Emergency Motion was filed October 21, 2025; the Order was not signed until October 31, 2025. For those ten days the trial court retained complete jurisdiction. A trial court retains jurisdiction until it enters a final order — not before. The disclaimer rests on a premise the dates in the record contradict, and its functional consequence is that the Order, drafted by the party against whom the fraud evidence was directed, disclaimed the very jurisdiction that would have permitted adjudicating it.

B. The Due-Process Violation Is Independent and Requires Reversal

Procedural due process requires "notice reasonably calculated… to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950). Adequacy is evaluated under *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). Each factor favors Appellant: the private interest is protection from final dismissal of constitutional and tort claims arising from an 18-hour deprivation of liberty without authorization; the risk of erroneous deprivation under a procedure that permitted judgment while a fraud motion supported by primary audio evidence remained pending is acute; and the government interest in summary disposition is minimal where the alternative is a brief hearing. The motion was pending thirteen days before final judgment and was never denied on the merits; the audio was never addressed. Documented fraud on the court — supported by primary audio evidence, filed before any final order existed — was never adjudicated at any level. *Hazel-Atlas Glass Co.*, 322 U.S. at 246, established courts' inherent authority to address fraud that corrupts judicial proceedings. This independently requires reversal and remand to address the Emergency Motion on its merits.

XI. THE TRIAL COURT ERRED BY APPLYING THE SOUTH CAROLINA TORT CLAIMS ACT TO DISMISS FEDERAL CONSTITUTIONAL CLAIMS UNDER 42 U.S.C. § 1983, WHICH ARE NOT SUBJECT TO STATE SOVEREIGN IMMUNITY

The Order applied the SCTCA to dismiss all claims, including those under 42 U.S.C. § 1983. That was reversible error. Federal civil-rights claims under § 1983 are not subject to state sovereign immunity or state immunity statutes. *Hafer v. Melo*, 502 U.S. 21, 30-31 (1991); *Patsy v. Board of Regents*, 457 U.S. 496, 516 (1982). The SCTCA is a state immunity statute; it cannot defeat § 1983 liability for individual defendants sued in their personal capacities.

A. All Three Constitutional Claims Are Independently Stated

First Amendment Retaliation. Appellant threatened litigation — protected petition activity under *Borough of Duryea v. Guarnieri*, 564 U.S. 379 (2011). Crisis workers made a 15-minute coordination call immediately afterward and then announced the detention. The temporal sequence establishes but-for causation. *Hartman v. Moore*, 547 U.S. 250, 256 (2006). Respondents' "wrath of litigious patients" language is an admission of retaliatory motivation (see § I.B, supra).

Fourth Amendment Unlawful Seizure. An 18-hour involuntary detention without the statutory conditions precedent is an unreasonable seizure. *Payton v. New York*, 445 U.S. 573 (1980). A fabricated basis for seizure independently violates the Fourth Amendment, and officers who deliberately fabricate that basis are not entitled to qualified immunity. *Miller v. Prince George's County*, 475 F.3d 621, 631 (4th Cir. 2007).

Fourteenth Amendment Due Process. Involuntary psychiatric detention requires procedural due process. *Vitek v. Jones*, 445 U.S. 480, 491-96 (1980). Appellant was detained eighteen hours without the § 44-17-410(1) affidavit, the § 44-17-410(2) certification, a § 44-17-410(3) probable-cause review, or any qualified diagnosis. No reasonable official could believe detention under those circumstances satisfies the Constitution. *Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982).

B. Qualified Immunity Does Not Apply

Qualified immunity requires the law be clearly established at the time of the conduct. The constitutional requirements for involuntary psychiatric detention have been clearly established since *Vitek* in 1980. No reasonable official could believe that detaining a person eighteen hours without a sworn affidavit, physician certification, or court order satisfies the Constitution. The predetermination reflected in Respondents' records, the fabrication proven by the simultaneous

contradictions, and the officer's confirmation of the projectile hole each independently destroy qualified immunity. *Miller*, 475 F.3d at 631.

CONCLUSION

The Order of Dismissal was not an independent judicial determination. It was Respondents' counsel's proposed language — submitted two days after audio evidence of counsel's oral-argument misrepresentation was filed, while the Emergency Motion for Sanctions remained pending — signed five days later in reliance on counsel's obligations as officers of the court. The medical records that would have permitted independent examination were in counsel's possession and were not disclosed.

Every immunity ruling rests on one premise: that the detention was authorized by a lawful probate court Order of Detention. That premise was drafted by counsel and is now contradicted by the only institution positioned to know. MUSC's records custodian has certified the complete absence of the § 44-17-410(1) affidavit upon which lawful admission was conditioned. Without that affidavit, admission lacked its condition precedent; without it, nothing was forwarded; without forwarding, the probate court had no jurisdiction; and without jurisdiction, no order for continued detention could lawfully issue. There was no lawful commitment process, no proper occasion for privilege, no facially valid order for *Argoe*, no "authorized objective," and no genuine exercise of protected discretion.

Respondents filed no return to the Motion to Reinstate even after the records-custodian certification was on the record. Faced with documentary contradiction of every premise their proposed order asserted, they elected silence. Rule 240(e), SCACR, authorizes this Court to treat that silence as consent. The Order also entered final judgment in favor of a party whose documented misrepresentation was pending before the court, on the basis of a jurisdictional

disclaimer the dates in the record contradict. No court has adjudicated the substance of primary audio evidence of misrepresentation to a tribunal. That alone requires reversal and remand.

Reversal also revives the punitive-damages claims the trial court did not reach. The court declined to rule on Respondents' Motion to Strike Punitive Damages, finding a ruling "unnecessary" because it dismissed the Complaint in full. (R. at Order, pg. 1 n.2.) That motion rested on the same SCTCA immunity and scope-of-official-duties premises as the dismissal itself; when those premises fail for want of any lawful commitment process, the basis for striking punitive damages fails with them. The claims for punitive damages — including those predicated on the reckless indifference standard governing 42 U.S.C. § 1983 liability, see *Smith v. Wade*, 461 U.S. 30 (1983) — are therefore restored for adjudication on remand. Respondents' assertion below that the Complaint "does not allege any claims under 42 U.S.C. § 1983" (Defs.' Mem. Supp. Mot. Strike, filed 10/07/2025, at 2) cannot be reconciled with the constitutional claims the Complaint pleads and the federal action arising from the same operative facts.

1. REVERSE the Order Granting Defendants' Motion to Dismiss Plaintiff's Complaint with Prejudice in its entirety;
2. REMAND for proceedings consistent with this Court's opinion, including a hearing on Appellant's Emergency Motion for Sanctions filed October 21, 2025;
3. DIRECT the trial court to address, on remand, the documented absence of any § 44-17-410(1) affidavit from the MUSC medical record and its legal consequences for every immunity ruling;
4. REFER the four-document pattern of false authorization assertions to the South Carolina Office of Disciplinary Counsel for investigation; and
5. GRANT such other and further relief as this Court deems just and proper.

Respectfully submitted,

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Dated: May 22, 2026

RECEIVED
May 22 2026
SC Court of Appeals

CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of May, 2026, I served a true and correct copy of the foregoing APPELLANT'S BRIEF, together with all exhibits referenced herein, upon counsel for Respondents by United States Mail, first-class postage prepaid:

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