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S.C. SUPREME COURT

IN THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM HORRY COUNTY
Court of Common Pleas
The Honorable Michael G. Nettles, Circuit Court Judge

Appellate Case No. 2026-000863

Gloria Ormand-Ward by and through her Guardian and Conservator, CDM Corporation, Through Its Representative, Stephen Mantell ..... Petitioner,

v.

David Litt, Homedebone, LLC, Rosaria A. Alanga aka Rose Alagna; Chris Parker; Chicago Land Agency Services, Inc.; Chicago Title Insurance Company; Pereira Partners, LLC; NB Labor LLC d/b/a Newman Brothers General Contractors; John Newman; and Toorak Capital, LLC ..... Defendants,

Of which,

Chicago Title Insurance Company is the …… Respondent.

RETURN IN OPPOSITION TO PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

I. **Did the Court of Appeals correctly determine that South Carolina Code section 38-5-70 does not confer general personal jurisdiction over Chicago Title Insurance Company ("Chicago Title")?**

II. **Did the Court of Appeals correctly affirm the circuit court's determination that it could not exercise specific personal jurisdiction over Chicago Title?**

INTRODUCTION

Petitioner seeks to hold Chicago Title liable for Chicago Land Agency Services' ("CLAS") e-recording of a deed that was allegedly procured by fraud of certain other defendants. Chicago Title was a 49.9% shareholder in CLAS, but Petitioner asserts Chicago Title was a joint venture partner with CLAS based on an incorrect statement on CLAS's website. The Court of Appeals affirmed the trial court's dismissal of Chicago Title for lack of personal jurisdiction, finding that South Carolina Code section 38-5-70 does not confer general personal jurisdiction over Chicago Title, and that the evidence supported the trial court's finding that a joint venture partnership does not exist and even if a joint venture partnership existed, there was no evidence that CLAS's recording of the deed was within the scope of the joint venture partnership.

Petitioner makes little mention of Rule 242, SCACR, and the considerations listed there for the Court's review. This may be because there is no dissent in the decision of the Court of Appeals; there is no conflict with prior decisions of this Court; and there is no substantial constitutional issue or federal question. Although there is no South Carolina Supreme Court case addressing whether South Carolina Code section 38-5-70 confers general jurisdiction in South Carolina upon an insurer licensed in South Carolina, the decision of the Court of Appeals is consistent with the language of the statute and the cases in other jurisdictions addressing similar statutes. For these reasons, this case does not warrant discretionary review by this Court.

COUNTER-STATEMENT OF THE CASE

This case arises out of an alleged scheme by four of the defendants to acquire residential property from Gloria Ormand-Ward ("Ward"). In particular, Petitioner contends David Litt, Homedebone LLC, Rosaria Alagna and/or Chris Parker fraudulently affixed Ward's signature, or fraudulently induced Ward to affix her own signature, via Docusign to a February 4, 2021 warranty deed transferring the property to Homedebone. (R. pp. 71, ¶ 24; 73, ¶ 38; 79, ¶ 52; 80-81, ¶¶ 60-66). At Litt's request, CLAS e-recorded the deed on February 18, 2021. (R. p. 71, ¶ 24; R. p. 18).

Petitioner initially filed this action in the Horry County Court of Common Pleas on November 18, 2021, but did not name Chicago Title as a defendant. (R. p. 37). Petitioner filed an Amended Complaint on April 26, 2022, naming Chicago Title. (R. p. 67). Petitioner asserts fraud and similar claims against the scheming defendants. (R. pp. 71, ¶ 24; 73, ¶ 38; 79, ¶ 52; 80-81, ¶¶ 60-66). Petitioner asserted claims of negligence, quiet title, intentional infliction of emotional distress, unfair trade practices, slander of title, and civil conspiracy against CLAS and Chicago Title. (R. pp. 81-87, 89, 91). The allegations against Chicago Title were derivative of the claims against CLAS. Specifically, Petitioner alleged "[o]n information and belief, CLAS and Chicago Title are joint venture partners." (R. p. 73, ¶ 29). This allegation is based on a statement on the CLAS website that "CLAS is a joint venture with Chicago Title Insurance Company . . ." (Id.).

Chicago Title timely moved to dismiss for failure to state a claim and for lack of personal jurisdiction on June 1, 2022. (R. p. 177). On September 19, 2022, Petitioner filed a memorandum in opposition to Chicago Title's motion arguing, among other things, that, as a licensed insurer, Chicago Title is subject to general jurisdiction pursuant to South Carolina Code Section 38-5-70, which is entitled "Appointment of director as attorney for service of process" and provides:

> Every insurer shall, before being licensed, appoint in writing the director and his successors in office to be its true and lawful attorney upon whom all legal process in any action or proceeding against it

> must be served and in this writing shall agree that any lawful process against it which is served upon this attorney is of the same legal force and validity as if served upon the insurer and that the authority continues in force so long as any liability remains outstanding in the State. Copies of the appointment, certified by the director, are sufficient evidence of the appointment and must be admitted in evidence with the same force and effect as the original might be admitted.

In support of this argument, Petitioner cited Pennsylvania Fire Ins. Co. of Philadelphia v. Gold Issue Mining & Milling Co., 243 U.S. 93 (1917) (hereafter "Pennsylvania Fire"), where the Supreme Court held that an insurer consented to general jurisdiction in Missouri by complying with a state law requiring it to obtain a license and execute a power of attorney agreeing that service on the superintendent of insurance was the equivalent of personal service. (R. p. 211).

On September 16, 2022, Chicago Title filed a Reply brief addressing Petitioner's arguments. (R. p. 295). On September 19, 2022, the Court held a virtual hearing on the motions to dismiss. (R. p. 387). On October 4, 2022, the Court issued an order granting the motion for failure to state a claim as to two causes of action (intentional infliction of emotional distress and slander of title). (R. pp. 12-16). By order dated October 12, 2022, the trial court granted Chicago Title's motion to dismiss for lack of personal jurisdiction (the "Dismissal Order"). (R. pp. 17-30). In rejecting Petitioner's arguments regarding general personal jurisdiction, the trial court held that 1) Pennsylvania Fire was no longer good law in light of more recent case law and 2) even if Pennsylvania Fire was still good law, Chicago Title did not consent to general jurisdiction by complying with the insurance licensing statute because South Carolina Code Section 38-5-70 does not constitute consent to general jurisdiction in South Carolina. (R. pp. 21-25).

On October 21, 2022, Petitioner moved to reconsider the Dismissal Order, relying primarily on the fact that the United States Supreme Court had granted certiorari in Mallory v. Norfolk So. Ry. Co., 266 A.3d 542 (Pa. 2021), cert. granted, 2022 WL 1205835 (No. 21-1168,

April 25, 2022) and oral argument in that matter was scheduled for November 8, 2022. (R. pp. 332-333). The issue on appeal in Mallory was whether Pennsylvania's consent to jurisdiction by registration statute, 42 Pa.C.S. Section 5301(a)(2), which provides that registration is "a sufficient basis of jurisdiction to enable the tribunals of this commonwealth to exercise general personal jurisdiction over such person," violates the Due Process clause contained in the Fourteenth Amendment of the United States Constitution. Chicago Title opposed the Motion to Reconsider, arguing, among other things, that "even if the Supreme Court finds [in Mallory] that Pennsylvania Fire is still good law, that ruling would not warrant reversal of the Dismissal Order." (R. p. 372). The Court heard in person arguments on November 29, 2022 (R. pp. 426-454) and denied the motion on January 17, 2023. (R. pp. 31-36).

Petitioner filed her Notice of Appeal on February 16, 2023. On May 24, 2023, with Respondent's consent, the proceedings in the Court of Appeals were stayed pending the United States Supreme Court's decision in Mallory. The Supreme Court issued its decision in Mallory on June 27, 2023, holding that the Pennsylvania statute did not violate constitutional due process. Mallory v. Norfolk Southern Railway Co., 600 U.S. 122 (2023). On July 7, 2023, the Court of Appeals issued a letter, stating that the case would no longer be held in abeyance. Thereafter, Petitioner filed a motion to remand seeking to have the trial court decide the case in light of the decision in Mallory. Chicago Title opposed because the trial court already determined that dismissal would be appropriate even if the Supreme Court determined in Mallory that Pennsylvania Fire was still good law. The Court denied Petitioner's motion to remand on August 24, 2023.

In its Court of Appeals brief, Chicago Title conceded that Pennsylvania Fire is still good law in light of Mallory, but contended that the trial court correctly determined that South Carolina

Code section 38-5-70 does not confer general jurisdiction in South Carolina. See Ormand-Ward by and through CDM Corp. v. Litt, 447 S.C. 341, 352, 926 S.E.2d 259, 264 (Ct. App. 2025). On December 3, 2025, the Court of Appeals issued its opinion affirming the trial court, holding that Chicago Title did not consent to general jurisdiction by complying with the insurance licensing statute because South Carolina Code Section 38-5-70 does not confer general jurisdiction in South Carolina, and that specific jurisdiction was not present. Id. at 357, 361-62, 926 S.E.2d at 267, 269-70. Petitioner filed a Petition for Rehearing, which was denied on March 13, 2026.

COUNTER-STATEMENT OF FACTS

Petitioner alleges that Litt contacted Ward offering to stop a foreclosure of an HOA lien on Ward's property. (R. p. 71, ¶¶ 22-23). On February 4, 2021, Homedebone, which is managed by Litt, prepared a warranty deed purportedly signed by Ward via Docusign transferring the property to Homedebone. (R. p. 71, ¶ 24; p. 77, ¶ 38). Petitioner contends Litt, Homedebone, Alagna and/or Parker fraudulently affixed Ward's signature, or fraudulently induced Ward to affix her own signature, to that deed. (R. p. 71, ¶ 24; p. 77, ¶ 38; p. 79, ¶ 52; pp. 80-81, ¶¶ 60-66).

Petitioner alleges that the deed was defective in several respects, including because the notary (Alagna) certified she was a notary public of "North Carolina" (rather than South Carolina) but she was not a notary public of North Carolina or South Carolina. (R. p. 72, ¶ 26). The transmittal sheet lists CLAS "as the place to return the Fraudulent Deed after recording." (R. p. 74, ¶ 31(B)). At Litt's request, CLAS e-recorded the Fraudulent Deed by using the Horry County Register of Deeds' electronic recording delivery service vendor. (R. p. 71, ¶ 24; p. 73, ¶ 29; R. p. 18). This deed was re-recorded in July 2021 to correct alleged scrivener's errors. (R. p. 71, ¶ 43). There is no allegation that CLAS or Chicago Title was involved in that recording. On February 5, 2021, Ward's name was also signed via Docusign to a Power of Attorney for Financial Management appointing Litt as her attorney-in-fact. (R. p. 74, ¶¶ 32-33).

Petitioner alleges "[o]n information and belief, CLAS and Chicago Title are joint venture partners." (R. p. 73, ¶ 29). This allegation is based on a statement on the CLAS website that says "CLAS is a joint venture with Chicago Title Insurance Company . . ." (Id.).

Chicago Title is a Florida corporation with its principal place of business in Florida. (R. p. 196, ¶ 2; R. p. 70, ¶ 12). CLAS is an Illinois corporation with a principal place of business in Illinois. (R. p. 69, ¶ 11). Chicago Title is a 49.9% shareholder in CLAS. (R. p. 196, ¶ 4). Chicago Title is licensed to write insurance in South Carolina, as it is in most states. (R. p. 196, ¶ 3). However, Chicago Title did not issue a title policy relating to the property at issue. (Id.).

No partnership exists between Chicago Title and CLAS. (R. p. 385, ¶ 2). As a shareholder of CLAS, Chicago Title has rights and benefits that can include sharing in CLAS profits with other shareholders. (Id.). However, Chicago Title is not a co-owner or partner with CLAS and does not share in profits with CLAS. (Id.).

ARGUMENT

I. THE COURT OF APPEALS CORRECTLY FOUND THAT SOUTH CAROLINA CODE SECTION 38-5-70 DOES NOT CONFER GENERAL PERSONAL JURISDICTION OVER CHICAGO TITLE, WHERE CHICAGO TITLE DID NOT ISSUE ANY INSURANCE POLICY THAT RELATES TO ANY LIABILITIES AT ISSUE, DID NOT DIRECT ANY ACTIVITIES TO SOUTH CAROLINA, AND PETITIONER IS SEEKING TO IMPOSE LIABILITY ON CHICAGO TITLE BASED SOLELY ON AN INCORRECT STATEMENT ON CLAS'S WEBSITE.

The crux of Petitioner's argument regarding general jurisdiction is Chicago Title consented to general jurisdiction by virtue of South Carolina Code Section 38-5-70.[1] The Court of Appeals

[1] Petitioner does not assert that Chicago Title is subject to general jurisdiction in South Carolina by virtue of a traditional minimum contacts analysis. See Ormand-Ward by and through CDM Corp., 447 S.C. at 351 n. 7, 926 S.E.2d at 264 n. 7. In discussing specific jurisdiction, Petitioner asserts that Chicago title does "extensive business in South Carolina on a continuous and systematic basis," but business unrelated to the claims cannot support specific jurisdiction, and the extent of Chicago Title's business in South Carolina is insufficient under a general jurisdiction traditional minimum contacts analysis. Respondent incorporates by reference its Final Brief of Respondent at pages 7-8 as to general jurisdiction under the traditional minimum contacts analysis.

correctly determined that Chicago Title did not consent to general jurisdiction because South Carolina Code Section 38-5-70 does not confer consent to general jurisdiction in South Carolina. As the Court of Appeals correctly pointed out, under Pennsylvania Fire, obtaining the necessary licensure in a given state amounts to consent to general jurisdiction in that state only if that condition is 1) explicit in the statute, or 2) the state court has interpreted the statute as imposing that condition.[2] Ormand-Ward, 447 S.C. at 352-53, 926 S.E.2d at 265 (citing Pennsylvania Fire, 243 U.S. at 95; Fidrych v. Marriott International, Inc., 952 F. 3d 124, 137 (4th Cir. 2020)). Here, neither is present.

The condition is not explicit in South Carolina Code Section 38-5-70, and the state court has not interpreted- and should not interpret- the statute as imposing that condition. Section 38-5-70 does not contain the word "jurisdiction," unlike the statutes at issue in Mallory and Pennsylvania Fire (discussed below). The statute at issue in Mallory was 42 Pa.C.S. Section 5301(a)(2), which provides that registration to do business in Pennsylvania is "a sufficient basis of jurisdiction to enable the tribunals of this commonwealth to exercise ***general personal jurisdiction*** over such person." (emphasis added). Also, 42 Pa.C.S. Section 5301(b) states "when jurisdiction over a person is based upon this section any cause of action may be asserted against him, whether or not arising from acts enumerated in this section." see also Mallory, 600 U.S. at 127.

[2] Petitioner incorrectly argues that [t]his holding by the Court of Appeals "conflicts with the controlling precedent." (Petition at 8). Petitioner cites to Pennsylvania Fire, but there is no conflict there since the Pennsylvania Fire Court was relying on the Missouri Supreme Court's own interpretation the state statute (which, as discussed below, was reversed by an opinion of the Missouri Supreme Court subsequent to Pennsylvania Fire). Moreover, the United States Supreme Court later affirmed this principle stating "[u]nless the state law either expressly or by local construction gives to the appointment a larger scope, we should not construe it to extend to suits in respect of business transacted by the foreign corporation elsewhere . . ." Robert Mitchell Furniture Co. v. Selden Breck Construction Co , 257 U.S. 213, 216 (1921).

Similarly, the Missouri statute at issue in Pennsylvania Fire provided as follows:

> Sec. 7042. Process against foreign companies, appointment of superintendent to receive or accept service of. Any insurance company not incorporated by or organized under the laws of this state, desiring to transact business by any agent or agents in this state, shall first file with the superintendent of the insurance department a written instrument or power of attorney, duly signed and sealed, appointing and authorizing said superintendent to acknowledge or receive service of process issued from any court of record, justice of the peace, or other inferior court, and upon whom such process may be served for and in behalf of such company, in all proceedings that may be instituted against such company, in any court of this state, or in any court of the United States in this state, and consenting that service of process upon said superintendent shall be taken and held to be as valid as if served upon the company, according to the laws of this or any other state. Service of process as aforesaid, issued by any such court, as aforesaid, upon the superintendent, shall be valid and binding, and be deemed personal service upon such company, so long as it shall have any policies or liabilities outstanding in this state, although such company may have withdrawn, been excluded from or ceased to do business in this state, and in case such process is issued by a justice of the peace or other inferior court, the same may be directed to and served by any officer authorized to serve process in the city or county where said superintendent shall have his office, at least fifteen days before the return day thereof, **and such service shall confer jurisdiction**. . . .

State ex rel. P. Mut. Life Ins. Co. v. Grimm, 143 S.W. 483, 490 (Mo. 1911) (quoting Sec. 7042).[3]

Petitioner incorrectly argues that "the U.S. Supreme Court upheld jurisdiction based on a state statute similar to section 38-5-70 requiring appointment of an agent for service of process, without any modern jurisdictional terminology." (Petition at 8). Putting aside the problem that the United States Supreme Court was relying on the Missouri Supreme Court's interpretation of its

[3] The statute was not quoted in the United States Supreme Court's opinion in Pennsylvania Fire (which makes sense because it relied on the Missouri Supreme Court's statutory interpretation), but the statute was quoted in full in Grimm (the holding of which was overruled by State ex rel. Am. Cent. Life Ins. Co. v. Landwehr, 300 S.W. 294 (Mo. 1927), a case discussed *infra*. The Missouri Supreme Court quoted the statute in part and referenced Grimm in its opinion in the Pennsylvania Fire case. See Gold Issue Min. & Mill. Co. v. Pennsylvania Fire Ins. Co. of Philadelphia, 184 S.W. 999, 1003 (Mo. 1916) aff'd, 243 U.S. 93 (1917), overruled by State ex rel. Am. Cent. Life Ins. Co. v. Landwehr, 300 S.W. 294 (Mo. 1927).

statute, the reality is that the Missouri statute, unlike the South Carolina statute, did specifically use the word "jurisdiction" and, indeed, stated that "such service shall confer jurisdiction." If, as Petitioner asserts, the concepts of service and jurisdiction were identical, then there would be no reason for the Missouri statute to say that service confers jurisdiction.

Consequently, insurers registering to do business pursuant to the Missouri and Pennsylvania statutes understood that they were not merely designating the insurance superintendent as agent for service of process, but also that such appointment constituted consent to jurisdiction. Section 38-5-70 contains no such statement. In fact, section 38-5-70 states that the effect of appointing the insurance commissioner for service of process is that service on the commissioner "shall be of the same legal force and validity as if served upon the insurer."

This omission is important. Service is inherently distinct from personal jurisdiction (which explains why the Missouri and Pennsylvania statutes needed to explicitly state that "such service shall confer jurisdiction"). A defendant may be properly served pursuant to Rule 4(a)(d)(1), SCRCP, and the court may simultaneously lack personal jurisdiction over that same defendant in the same action. See, e.g., Delta Apparel, Inc. v. Farina, 406 S.C. 257, 750 S.E.2d 615 (Ct. App. 2013). Such a holding would be impossible if service of process and personal jurisdiction were not separate. Service of process is not at issue in this case. See also Builder Mart of America, Inc. v. First Union Corp., 349 S.C. 500, 504, 563 S.E.2d 352, 354 (Ct. App. 2002) (rejecting the plaintiff's argument that the appointment of an agent for service of process meant that the defendant bank was subject to personal jurisdiction in South Carolina, the Court explained "'[a] corporation can be qualified to do business in South Carolina and have appointed an agent for service of process but still not be conducting sufficient activities in South Carolina to be subject to suit here.'"), *overruled in part on other grounds* by Farmer v. Monsanto Corp., 353 S.C. 553,

579 S.E.2d 325 (2003); Fidrych, 952 F.3d at 138 (holding that appointment of registered agent in accordance with certificate of authority requirements did not subject Marriott to general personal jurisdiction in South Carolina even though Marriott licensed or managed at least 27 hotels in South Carolina and finding that the phrase "amenable to suit in the state" in South Carolina Code Section 33-15-107 means "amenable to service of process in the state" but did not mean it was amenable to general jurisdiction).[4] Consequently, service on the insurance commissioner does not confer personal jurisdiction over Chicago Title. See also AM Tr. v. UBS AG, 681 Fed. Appx. 587, 589 (9th Cir. March 31, 2017) ("Service of process and personal jurisdiction are two different things.").

Even if the statute speaks to jurisdiction rather than just service, it does not confer *general* personal jurisdiction. Courts have refused to construe the phrase "any action or proceeding" to require a defendant to be hauled into a state to which it did not direct its activities. See Ferrante v. Trojan Powder Co., 79 F. Supp. 502, 505–06 (E.D. Pa. 1947) (citing Steinberg v. Aetna Fire Ins. Co., 50 F. Supp. 438 (E.D. Pa. 1943)); In re Aqueous Film-Forming Foams Prod. Liab. Litig., No. CV 2:18-2873-RMG, 2023 WL 6846676, at *5 (D.S.C. Oct. 17, 2023) (rejecting the plaintiff's argument that South Carolina Code Section 38-5-70 conferred general personal jurisdiction over the defendants and noting that "[a] review of *Mallory* and the Pennsylvania business registration statute makes clear that the Supreme Court's ruling in *Mallory* is limited to the situation where a

[4] Petitioner asserts that the regulatory framework governing insurance is distinct from the registration statute at issue in Builder Mart and Fidrych. However, the statutes at issue in those cases require a company transacting business in South Carolina to appoint an agent for service of process in South Carolina, similar to section 38-5-70. See S.C. Code Ann. §§33-15-101, 107. Moreover, the reporter comments to section 33-15-107 states that "foreign corporation that obtains a certificate of authority in a state thereby agrees that it is amenable to suit in the state." S.C. Code. Ann. § 33-15-107, Official Comment. Consequently, the courts' rejection of the contention that these statutes confer general jurisdiction is persuasive.

state's business registration statute provides that a foreign corporation must consent to personal jurisdiction within the state as a condition of doing business.").

Moreover, the clause "so long as any liability remains outstanding in the State" limits the statute's operation to specific jurisdiction. Petitioner argues that "[l]ike South Carolina, Missouri required every insurer licensed in Missouri to name the Superintendent of the Insurance Department as the insurance company's agent for service of process 'so long as [the insurance company] should have any liability outstanding in the state.'" (Petition at 8). This argument supports Chicago Title since the Missouri Supreme Court overturned its interpretation of the statute in State ex rel. American Cent. Life Ins. Co. v. Landwehr, 300 S.W. 294 (Mo. banc 1927). The Landwehr Court determined that the language "so long as it shall have any policies or liabilities outstanding in this state," meant that a Missouri court could **not** exercise jurisdiction over an insurer licensed in Missouri unless it was for a suit related claim. See also State ex rel. Norfolk S. Ry. Co. v. Dolan, 512 S.W.3d 41, 53 n. 11 (Mo. 2017) (stating that the Missouri Court's interpretation of "specifically was overturned on this precise point by [State ex rel. American Cent. Life Ins. Co. v. Landwehr, 318 Mo. 181, 300 S.W. 294 (Mo. banc 1927)], which held that a foreign insurer's registration constituted consent **only to suit on related claims**.") (emphasis added).[5]

[5] Petitioner cites Moore v. Christian Fidelity Life Insurance Co., 687 S.W.2d 210 (Mo. App. W.D. 1984) and asserts that "[t]he holding in *Moore* directly applies a foundational jurisdictional doctrine that originated in Missouri" and "the state statute analyzed in *Moore* is the direct descendent of Missouri Rev. Stat. § 7042, which was exactly the statute validated by the United States Supreme Court in *Pennsylvania Fire*." However, the statute analyzed in Moore, § 375.906, RSMo 1978, was applicable to "all actions brought by residents of this state upon any policy issued or matured, or upon any liability accrued in this state, or on any policy issued in any other state in which the resident is named as beneficiary, and in all actions brought by nonresidents of this state upon any policy issued in this state in which the nonresident is named beneficiary or which has been assigned to the nonresident, *and in all actions brought by nonresidents of this state on a cause of action, other than an action on a policy of insurance, which arises out of business transacted, acts done, or contracts made in this state.*" Moore, 687 S.W.2d at 212-13 (emphasis supplied by the Moore Court). The plaintiff in Moore contracted with the defendant insurer to perform services

Petitioner neglects to mention this reversal in its brief. The Missouri Supreme Court's interpretation of this language in its own statute is thus persuasive in Chicago Title's favor.

Courts in other jurisdictions have interpreted similar insurance licensure statutes as not providing for consent to jurisdiction over unrelated claims. See, e.g., Gen. Am. Life Ins. Co. v. Carter, 54 N.E.2d 944, 947 (Ind. 1944) (holding that the "obvious purpose" of statutory language that the power of attorney executed by an insurance company "shall continue in force and be irrevocable so long as any liability of the insurance company remains outstanding in this state" was "to bring the insurance company within the jurisdiction of the courts of the state for the purpose of actions arising out of contracts made within the state or with residents of the state."); Tom James Co. v. Zurich Am. Ins. Co., 221 N.E.3d 1261, 1271–72 (Ind. App. 2023) (same); Lumen Techs. Serv. Group, LLC v. CEC Group, LLC, 691 F. Supp. 3d 1282, 1291 (D. Colo. 2023) (unlike Mallory, Colorado law is not "explicit that 'qualification as a foreign corporation' shall permit state courts to 'exercise general personal jurisdiction' over a registered foreign corporation, just as they can over domestic corporations."); Kelchner v. CRST Expedited Inc., 29 N.W.3d 315, 325 (Iowa 2025), amended (Feb. 25, 2026) ("We note that several other courts have reached similar conclusions when interpreting similar statutes in other jurisdictions" and listing cases).

This interpretation makes sense. South Carolina Code Section 38-5-70 is part of a broader regime regulating the insurance business. See, e.g., S.C. Code § 38-5-10. The statute's purpose is not to provide for jurisdiction over a licensed insurer especially for matters unrelated in any way to insurance, and it does not create an avenue for a plaintiff to sue a shareholder of a corporation for

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as supervisor for the State of Missouri under the contract of employment with the defendant insurance company. Id. at 212. Consequently, the Moore Court found that the cause of action arose out of business transacted or acts done in Missouri. Id. at 214. Neither Moore nor the statute it was interpreting has any application here.

activities that the corporation (not the shareholder) directed at South Carolina. Here, the shareholder happens to be an insurer even though nothing in the case has anything to do with Chicago Title in its capacity as an insurer.

In the Petition, Petitioner cites several cases that were not cited below, including Meyer v. Paschal, 330 S.C. 175, 498 S.E.2d 635 (1998), Littlejohn v. Southern Railway Co., 45 S.C. 96, 22 S.E. 761 (1895), Hendrix v. Hendrix, 296 S.C. 200, 371 S.E.2d 528, 530 (1988), and Murray v. Sovereign Camp, W.O.W, 192 S.C. 101, 5 S.E.2d, 560 (1939). These cases are inapposite. Not one of these cases interprets- or even cites- section 38-5-70.

Moreover, in Meyer, the Court refused to apply the plain language of the tolling statute (which tolled the statute of limitations where a defendant is out of state) because the statute was no longer necessary because of the evolution of the traditional minimum contacts analysis. In other words, the purpose of haling more defendants into South Carolina courts was no longer necessary in light of the less stringent traditional minimum contacts text. This case clearly does not help Petitioner.

Similarly, in Hendrix, the Court merely acknowledged that in light of United States Supreme Court precedent (i.e., International Shoe), personal jurisdiction exists where traditional minimum contacts are present. In Littlejohn, the plaintiff was injured on railway property owned by the defendant railroad so specific jurisdiction clearly existed and the defendant was served via its registered agent in South Carolina. 22 S.E. at 761. Finally, in Murray, the Court held that "in view of the history of the legislation above pointed out, and of the deliberate insertion by the Legislature, in the light of the facts before it, of the word 'shall' in the act of 1917, that service on foreign insurance companies as provided for in Section 7964 of the Code of 1932 is exclusive, and that service made in any other way upon such corporations is invalid." 5 S.E.2d at 562. Notably,

that holding is directly inconsistent and contrary to the holding of another case Plaintiff cites- White Oak Manor, Inc. v. Lexington Ins. Co., 407 S.C. 1, 753 S.E.2d 537 (2014), discussed below.

Petitioner also cites Wofford v. Prudential Ins. Co. of America, 65 F. Supp. 637 (D.S.C. 1946), Equilease Corp. v. Weathers, 275 S.C. 478, 272 S.E.2d 789 (1980) and White Oak Manor, Inc. v. Lexington Ins. Co., 407 S.C. 1, 753 S.E.2d 537 (2014). The Court of Appeals correctly distinguished each of these cases.

In sum, Wofford is a non-binding federal court decision that is distinguishable because it considered the issue in the context of the federal venue statute. Ormand-Ward by and through CDM Corp., 447 S.C. at 356, 926 S.E.2d at 267. Moreover, Wofford never addresses the "so long as" language or the cases interpreting similar language, and a more recent federal district court decision rejected the plaintiff's argument that Section 38-5-70 confers general jurisdiction. In re Aqueous Film-Forming Foams Prod. Liab. Litig., 2023 WL 6846676, at *5.

The Court of Appeals properly distinguished Equilease Corp., because the Equilease Corp. Court did not address section 38-5-70, the insurer in that case did not dispute personal jurisdiction, and, therefore, Equilease did not address whether an insurer's compliance with section 38-5-70 confers general jurisdiction over the insurer. See Ormand-Ward by and through CDM Corp., 447 S.C. at 354, 926 S.E.2d at 265-66.

Moreover, the Court of Appeals correctly pointed out that the White Oak Court did not specifically address the issue of whether section 38-5-70 confers general personal jurisdiction. Rather, the issue was whether a "service-of-suit" clause in the insurance policy was a valid alternative method of service that was binding on the insurer or whether 15-9-270 required service of process be made through the Director. Id. at 6, 753 S.E.2d at 539. The court did not directly

address id not directly address whether an insurer's agreement to appoint the Director as its attorney for the service of process constitutes the insurer's consent to general jurisdiction in South Carolina.

For these reasons, the Court of Appeals correctly found that Section 38-5-70 does not confer jurisdiction over Chicago Title in this matter.

II. THE TRIAL COURT CORRECTLY DETERMINED THAT IT COULD NOT EXERCISE SPECIFIC PERSONAL JURISDICTION OVER CHICAGO TITLE WHERE CHICAGO TITLE DID NOT DIRECT ANY SUIT RELATED ACTIVITIES TOWARD SOUTH CAROLINA AND PETITIONER IS SEEKING TO IMPOSE LIABILITY ON CHICAGO TITLE BASED SOLELY ON AN INCORRECT STATEMENT ON CLAS'S WEBSITE.

A finding of specific jurisdiction "requires a court to find that the defendant directed its activities to a resident of this State and that the cause of action arises out of or relates to those activities." S. Plastics Co. v. S. Com. Bank, 310 S.C. 256, 261, 423 S.E.2d 128, 131 (1992) (citing Aviation Associates & Consultants, Inc. v. Jet Time, Inc., 303 S.C. 502, 508, 402 S.E.2d 177, 180 (1991)). "In addition, the defendant's activities directed to a resident of this State must be its own and not the unilateral activities of some other entity." Id. (citing Aviation, 303 S.C. at 507, 402 S.E.2d at 180); Helicopteros Nacionales de Colombia, S.A. v. Hall, 466 U.S. 408, 417 (1984) ("[The] unilateral activity of another party or a third person is not an appropriate consideration when determining whether a defendant has sufficient contacts with a forum State to justify an assertion of jurisdiction").

The Court of Appeals correctly found that the trial court applied the correct standard. The court is not bound by the allegations of the Complaint and must consider evidence outside of the pleadings. Cockrell v. Hillerich & Bradsby Co., 363 S.C. 485, 491, 611 S.E.2d 505, 508 (2005)). Moreover, "[t]he decision of the trial court should be affirmed unless unsupported by the evidence or influenced by an error of law." Id. Petitioner asserts that the trial court held it to a higher standard than the prima facie standard, but the Court of Appeals correctly rejected that argument.

Petitioner's entire specific jurisdiction argument hinges on one erroneous statement on the website of CLAS that "CLAS is a joint venture partnership with Chicago Title" but this statement is contradicted by logic and all other facts. As set forth in more detail below, the Court of Appeals appropriately affirmed the trial court since:

- CLAS's formation as a corporation precludes it from being a joint venture or partnership,
- CLAS's website statement is nonsensical because CLAS cannot be a joint venture partner in a joint venture partnership and also be the joint venture partnership itself; and
- even if there was some joint venture partnership involving CLAS and Chicago Title, there is no evidence that CLAS's conduct was within the scope of the partnership as opposed to its own business.

A. CLAS's formation as a corporation precludes it from being a joint venture or partnership, and CLAS's website statement is nonsensical because CLAS cannot be a joint venture partner in a joint venture partnership and also be the joint venture partnership itself.

Petitioner alleges "[o]n information and belief, CLAS and Chicago Title are joint venture partners." (R. p. 73, ¶ 29). Other than the website statement, there are no other facts to support the allegation of a joint venture. The pertinent facts show Chicago Title is a shareholder (owing a 49.9% interest) in that corporation. (R. p. 196, ¶4). No partnership exists between Chicago Title and CLAS. (R. p. 385, ¶ 2). As a shareholder of CLAS, which is an Illinois corporation, Chicago Title has rights and benefits that can include sharing in CLAS profits with other shareholders. (Id.). However, Chicago Title is not a co-owner or partner with CLAS and does not share in profits with CLAS. (Id.).

The Court of Appeals appropriately affirmed the finding that CLAS's formation as a corporation precludes it from being a joint venture or partnership since CLAS cannot be a joint

venture partner in a joint venture partnership and also be the joint venture partnership itself. Gordon v. Rothberg, 213 S.C. 492, 503, 50 S.E.2d 202, 207 (1948) (a "joint venture" is defined as a "special combination of two or more persons, where in some specific venture a profit is jointly sought without any actual partnership or corporate designation" and "[p]ractically the only difference between a 'joint adventure' and a 'partnership' is that a partnership is ordinarily for the transaction of a general business of a particular kind, while a joint adventure relates to a single transaction."); Future Plastics, Inc. v. Ware Shoals Plastics, Inc., 340 F. Supp. 1376, 1383 (D.S.C. 1972) ("[t]he evidence does not establish joint venture, since the parties incorporated their effort as Future Plastics, Inc. . . . . **A corporation is inconsistent with a joint venture**.") (emphasis added); S.C. Code Ann. § 33-41-210[6] ("any association formed under any other statute of this State or any statute adopted by authority, other than the authority of this State, is not a partnership under this chapter unless the association would have been a partnership in this State before the adoption of this chapter on February 13, 1950");[7] In re Silicone Gel Breast Implants Prod. Liab. Litig., 887 F. Supp. 1455, 1462 (N.D. Ala. 1995) ("the fact that an entity is a corporation precludes a finding that it is a partnership or a joint venture or a finding that its stockholders constitute partners or joint venturers" and "[a] joint venture cannot be carried on in corporate form because the two forms of

[6] Petitioner cites to South Carolina code regarding partnerships, although such sections have questionable application in light of CLAS being an Illinois corporation and Chicago Title being a Florida corporation. Nevertheless, even if they do apply, the South Carolina statutes support Chicago Title's position since an entity cannot be both a partnership and a corporation.

[7] CLAS is an Illinois corporation and would not have been a partnership in South Carolina before February 13, 1950 because, among other things, a corporation has been recognized as a distinct entity from joint ventures (and partnerships) since before 1950. See Gordon, 213 S.C. at 503, 50 S.E.2d at 207; see also Tocci v. Tocci, 189 N.E.3d 241, 263 (Mass. 2022) (addressing the same provision of Massachusetts' Uniform Partnership Act and stating that business associations formed under other statutes may be considered partnerships if they would have been a partnership in the state before the state's adoption of the act, but noting that corporations have been recognized as distinct from partnerships since 1903).

business are mutually exclusive."); Itel Containers v. Atlanttrafik Exp. Service Ltd., 909 F. 2d 698 (2d Cir. 1990) (affirming the district court's ruling that a company itself "was not a joint venture because it was a corporation" since "a joint venture and a corporation are mutually exclusive ways of doing business."); Peabody-Waterside Dev., LLC v. Islands of Waterside, LLC, 995 N.E.2d 1021, 1024 (Ill. App. 5th Dist. 2013) (reversing the court's finding of a joint venture because such "finding ignores the corporate form of [an LLC] and the nature of the relationship between a limited liability company and its members. . . . Joint ventures are not distinct legal entities").[8]

Moreover, other cases have held that corporate statements as to corporate relationship are insufficient to confer jurisdiction. Builder Mart of Am., Inc., 349 S.C. at 512, 563 S.E.2d at 358-59 (a corporate family's "unified marketing and advertising and holding out to the public as a single entity, without more, [are] insufficient to confer jurisdiction" over the parent); see also In re Silicone Gel Breast Implants Prod. Liab. Litig., 887 F. Supp. at 1462 (noting that the fact that 2 parties "have occasionally used the term joint venture in non-legal situations does not justify a finding that, notwithstanding their incorporation of Dow Corning, they really intended to be partners or joint venturers in a legal sense."); Presbyterian Church of Sudan v. Talisman Energy, Inc., 453 F. Supp. 2d 633, 686 (S.D.N.Y. 2006) ("The fact that Consortium Members may have viewed their relationship as a joint venture or described it informally as such is insufficient to create an issue of fact on joint venture liability"), judgment entered sub nom. 2006 WL 3469542 (S.D.N.Y. Dec. 1, 2006), and aff'd, 582 F.3d 244 (2d Cir. 2009); Andrews v. Primus Telecomms. Group, 107 Fed. Appx. 301, 308 (4th Cir. July 16, 2004) (holding as a matter of law that a letter

[8] Although Petitioner argues that a corporation can be a partner in a partnership, that argument misses the mark because the website statement asserts that CLAS is the joint venture partnership, not that it is a partner in the partnership, but, as set forth above, its incorporation precludes it from being a partnership, as the Court of Appeals correctly determined.

from the corporation to a third party indicating that the corporation "had partnered with" the company could not support a finding that there was a legal partnership or joint venture).

Rather, because Petitioner is relying entirely on the conduct of CLAS- which is undisputedly a separate entity from Chicago Title- to establish personal jurisdiction over Chicago Title, Petitioner must show that CLAS was Chicago Title's alter ego. See Marriott Intern., Inc. v. Am. Bridge Bahamas, Ltd., 193 So. 3d 902, 906 (Fla. 3d Dist. App. 2015) (stating that prohibition of a joint venture where there is incorporation "makes sense because the decision to incorporate is generally made due to the incorporators desire to shield themselves and their future investors from individual liability, and to permit the simultaneous existence of both a corporation and a joint venture would provide plaintiffs with an alternative method of holding such incorporators and shareholders liable without piercing the corporate veil.").

Petitioner has the burden of showing alter ego and the presumption is that corporations are separate. Sturkie v. Sifly, 280 S.C. 453, 457, 313 S.E.2d 316, 318 (S.C. Ct. App. 1984) ("The party seeking to have the corporate entity disregarded has the burden of proving the doctrine should be applied."). "South Carolina courts have consistently recognized that it is difficult to plead that one entity is the alter ego of another." Fancy That! Bistro & Catering, LLC v. Sentinel Ins. Co., 2021 WL 4804974, at *4 (D.S.C. Oct. 14, 2021)).

Petitioner asserts that Chicago Title owns 49.9% interest in CLAS, three of the six officers of CLAS hold affiliations with Chicago Title, and Chicago Title's website shows a Chicago Title metropolitan office (one of many addresses listed on the website)[9] at the same address that CLAS lists on its website. (Pet. at 18-19). These facts do not indicate the existence of a joint venture or partnership, nor are they sufficient to show alter ego.

[9] Chicago Title's principal address is in Jacksonville, FL. (R. 271).

Merely owning stock- even 100% of a corporation's stock- is immaterial. Yarborough & Co. v. Schoolfield Furniture Indus., Inc., 275 S.C. 151, 153-54, 268 S.E.2d 42, 44 (1980) ("the mere acquisition and control of a domestic subsidiary's capital stock does not subject the foreign parent to the jurisdiction of that State's courts."). Common officers and/or directors are also insufficient. Id.[10] Overlap in websites, marketing, and operations, has also been found insufficient. See, e.g., Builder Mart of Am., Inc., 349 S.C. at 512, 563 S.E.2d at 358 ("unified marketing and advertising and holding out to the public as a single entity, without more, [is] insufficient to confer jurisdiction.").[11] The absence of evidence that the defendant failed to observe corporate formalities is, alone, fatal to an alter ego argument. J.R. v. Walgreens Boots All., Inc., 470 F. Supp. 3d 534, 549 (D.S.C. 2020). Moreover, alter-ego theory "'does not apply in the absence of fraud or misuse of control by the dominant entity which results in some injustice.'"

[10] See also Jones v. Enterprise Leasing Company-Southeast, 383 S.C. 259, 267, 678 S.E.2d 819, 823 (Ct. App. 2009) (same); *In re* AuditHead, LLC, 624 B.R. 134, 142–43 (Bankr. D.S.C. 2020) (same); Gray v. Riso Kagaku Corp., No. 95–1741, 1996 WL 181488, at *3 (4th Cir. Apr. 17, 1996) (affirming district court's dismissal of parent company for lack of personal jurisdiction even though the parent company made the subsidiary terminate a financing program on which the parent acted as a guarantor, a majority of the subsidiary's board of directors were also associated with the parent company, the parent funded the subsidiary, and the subsidiary relied on directions from the parent company to make hiring decisions and resolve complaint); ScanSource, Inc. v. Mitel Networks Corp., 6:11-CV-00382-GRA, 2011 WL 2550719, at *5 (D.S.C. June 24, 2011) ("[T]he overlap of directors and officers between parent and subsidiary alone does not render the subsidiary a 'mere department' for jurisdictional purposes.") (quoting *Weiss v. La Suisse*, 69 F.Supp.2d 449, 458 (S.D.N.Y.1999)).

[11] *See also* Fitzhenry v. One on One Marketing, LLC, No. 2:14-cv-4782-DCN, 2015 WL 4459023, at *5 (D.S.C. July 21, 2015) (finding plaintiff has shown at most that defendants "share some administrative and marketing functions" by parent's website stating subsidiary opened a branch in South Carolina and parent had job postings for employees to work at South Carolina locations); Wright v. Waste Pro USA Inc., 2019 WL 3344040, at *4 (D.S.C. July 25, 2019) ("Using a common logo on a hiring website is not enough to create an agency relationship sufficient to warrant personal jurisdiction, especially when the logo and hiring website are not relevant to the plaintiff's allegations"); Scansource, Inc., 2011 WL 2550719, at *5 ("provision of support services, including advanced costs, by parent for subsidiary, 'are part and parcel of the normal incidents of a parent-subsidiary relationship.'") (quoting Nat'l Prod. Workers Union Trust v. CIGNA Corp., No. 05–C–5415, 2007 WL 1468555, at * 10 (N.D.Ill. May 16, 2007)).

Oskin v. Johnson, 400 S.C. 390, 408, 735 S.E.2d 459, 465 (2012) (quoting Colleton Cnty. Taxpayers Ass'n v. Sch. Dist. of Colleton Cnty., 371 S.C. 224, 237, 638 S.E.2d 685, 692 (2006)); see also Baker v. Equitable Leasing Corp., 275 S.C. 359, 367–68, 271 S.E.2d 596, 600 (1980) (holding that the alter-ego theory should be used only when retaining separate "personalities would promote fraud, wrong, or injustice or contravene public policy").

In addition, regarding the shared address, as the Court of Appeals correctly pointed out, in September 2020, Chicago Title Company, LLC entered into a sublease with CLAS for a portion of the building being leased by CLAS. (R. p. 314-16). Chicago Title Company, LLC is a different entity from Respondent Chicago Title (Chicago Title does not share office space with CLAS), but putting that aside, the existence of a sublease with the sublessee paying rent to CLAS reinforces that CLAS and Chicago Title are separate entities. A landlord-tenant relationship concerning a property in Illinois certainly does not justify the imposition of jurisdiction over Chicago Title in South Carolina.

For these reasons, the Court of Appeals correctly affirmed trial court's finding of the lack of a joint venture partnership.

B. The Court of Appeals correctly affirmed the trial court's determination that even if there was some joint venture partnership involving CLAS and Chicago Title, there is no evidence that CLAS's conduct was within the scope of the partnership as opposed to its own business.

A partner cannot be subject to personal jurisdiction based on the wrongful conduct in which a partner engages individually outside of the partnership. See 28 S.C. Jur. Partnerships and Joint Ventures § 33) ("Tort liability of the partnership exists only with respect to acts or omissions occurring in the ordinary course of the business of the partnership"); Gordon, 213 S.C. at 503, 50 S.E.2d at 207 ("Practically the only difference between a 'join[t] [ ]venture' and a 'partnership' is that a partnership is ordinarily for the transaction of a general business of a particular kind, while

a joint [ ]venture relates to a single transaction."). Logic dictates that if CLAS is a partner in a joint venture with Chicago Title, then CLAS must also have a purpose and business separate from the joint venture.

The Court of Appeals correctly held that even if a joint venture or partnership existed, no evidence showed that the recording of the deed was related to the business of the partnership or that CLAS and Chicago Title joined together for the purpose of recording deeds. Although Petitioner complains that this analysis "improperly fragments the alleged enterprise" the fact remains that Petitioner has presented no evidence that the act of recording the deed was related to the business of the partnership. Indeed, Petitioner does not even allege in the Amended Complaint that the act of recording the deed was within the scope of the business of the partnership. Moreover, as the Court of Appeals pointed out, the website upon which Petitioner relies touts the provision of title insurance, and this case does not involve CLAS's or Chicago Title's provision of title insurance. In addition, the record shows Litt "engaged CLAS to assist him in efforts to record [the] deed" and "CLAS acted on this request by submitting a requested filing through its third-party vendor's submission application tool." (R. p. 312-11). CLAS invoiced Litt and payment was made to CLAS. (R. p. 317). The invoice contains no reference to Chicago Title.

This is fatal to Petitioner's claim and, accordingly, the Court of Appeals correctly affirmed the trial court on this issue. See also S. Plastics Co., 310 S.C. at 261, 423 S.E.2d at 131 ("the defendant's activities directed to a resident of this State must be its own and not the unilateral activities of some other entity.").[12]

[12] In addition, even assuming the recording of the Deed was within the scope of that joint venture partnership, the Court still could not exercise personal jurisdiction over Chicago Title since there is no evidence that any such joint venture contemplated and actually involved substantial performance in South Carolina. See Rae v. Celebrity Cruises, Inc., 1:21-CV-21668, 2022 WL 2981868, at *2 (S.D. Fla. July 28, 2022) (finding that where a plaintiff is trying to hold a non-

CONCLUSION

For all of these reasons, the Court should deny Petitioner's Petition for a Writ of Certiorari.

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resident defendant subject to jurisdiction in Florida based on the actions of the defendant's joint venture partner, "to satisfy Due Process, the [joint venture] agreement made outside of Florida must contemplate and result in substantial performance within Florida"); Owen v. Carnival Corp., 18-25372-CIV, 2022 WL 1404602, at *3 (S.D. Fla. May 4, 2022).