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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas
Honorable Edgar W. Dickson, Circuit Court Judge

Appellate Case No. 2025-002188
Court of Appeals Appellate Case No. 2023-001779

Andrew Pampu, Amanda Pampu, and John Pampu,Petitioners-Respondents,

v.

Clawson Fargnoli, LLC, Samuel R. Clawson, Jr., Esq., Christina R.
Fargnoli, Esq., Barrett R. Brewer, Esq., and Brewer Law Firm, LLC, Respondents-Petitioners.

RESPONDENTS-PETITIONERS' JOINT REPLY BRIEF

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INTRODUCTION

Respondents-Petitioners Clawson Fagnoli, LLC; Samuel R. Clawson, Jr., Esq.; Christina R. Fagnoli, Esq.; Barrett R. Brewer, Esq.; and Brewer Law Firm, LLC (“Respondents-Petitioners”), pursuant to Rule 242(i), SCRAP, respectfully and jointly submit their reply to the response submitted by Petitioners-Respondents Andrew Pampu, Amanda Pampu, and John Pampu (“the Pampus”).

ARGUMENT

In their response, the Pampus describe the requirement that they allege in their initial Complaint that, due to time constraints, an expert affidavit could not be prepared as “a hyper-technical pleading forfeiture,” “an extra condition,” “a trap,” “magic words,” a “gotcha,” “extra-textual prerequisites,” an “extra penalty,” a “procedural guillotine,” and “a technical drafting trap.” [See generally Response Brief]. But such a requirement is simply what is described by the plain language of § 15-36-100(C)(1). They ask the Court to “reject Respondents-Petitioners’ strict construction argument.” [See *id.* at p. 1] However, strict construction of the statute is required. “[T]he language in the statute is to be strictly construed, and section 15-36-100 cannot extend any further than what the General Assembly clearly intended.” *Walker v. AnMed Health*, 446 S.C. 419, 429, 919 S.E.2d 565, 570 (Ct. App. 2025), *reh’g denied* (Sept. 3, 2025), *cert. denied* (Feb. 11, 2026). See also *Eades v. Palmetto Cardiovascular & Thoracic, PA*, 422 S.C. 196, 201, 810 S.E.2d 848, 850 (2018) (acknowledging that the Court is required to strictly construe the requirements of § 15-36-100).

Further, the Pampus attempt to make their alleged compliance with the statute a factual matter, referencing “critical timing facts” which they contend “align with the statute’s purpose.” [Response Brief, pp. 2-3]. But statutory construction is a matter of law, not fact. See *Boiter v. S.C.*

Dep't of Transp., 393 S.C. 123, 132, 712 S.E.2d 401, 405 (2011) (“Questions of statutory construction are a matter of law.”). The Pampus further appear to conflate the Rule 12(b)(6) standard (requiring all well pleaded factual allegations to be taken as true) with statutory compliance. They claim that “the pleadings and filings . . . support a reasonable inference that the complaint was filed when time constraints existed” and contend that “the Court must credit the complaint and its exhibits—including the expert affidavit [which] confirms this is not a frivolous action.” [Response Brief, pp. 5-6]. This contention is logically inconsistent, as the substance of the untimely affidavit cannot be used to determine whether the affidavit was timely, which is the core issue of this appeal.

Next, the Pampus cite *Ranucci v. Crain* regarding the purpose of § 15-36-100. [*Id.* at p. 3 (citing 409 S.C. 493, 512, 763 S.E.2d 189, 198 (2014) (Pleicones, J., dissenting))]. In addition to quoting language from a dissenting opinion, which is not binding on this Court, the Pampus fail to acknowledge that the Notice of Intent to File Suit at issue in *Ranucci* explicitly stated that “time constraints” prevented the plaintiff from contemporaneously filing an affidavit. *Ranucci*, 409 S.C. at 497, 763 S.E.2d at 192. The Pampus made no such allegation here.

Finally, the Pampus argue that public policy supports the timeliness of their expert affidavit. [Response Brief, pp. 8-10]. None of the cases cited by the Pampus in support of this argument involve or even reference the application of § 15-36-100. As discussed in Respondents-Petitioners’ Joint Brief, the clear legislative intent to limit frivolous claims against professionals supports strict application of the provisions of subsection (C)(1).

CONCLUSION

For these reasons and those outlined in Respondents-Petitioners’ Joint Brief, Respondents-Petitioners respectfully request that this Court reverse, in part, the final decision of the Court of

Appeals and reinstate the Circuit Court's Order dismissing the Pampus' Second Amended Complaint for failure to timely file an expert affidavit pursuant to § 15-36-100.

Respectfully Submitted,

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