RECEIVED
Jun 12 2026
S.C. SUPREME COURT

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

APPEAL FROM YORK COUNTY

Circuit Court of Common Pleas

The Honorable Daniel D. Hall, Circuit Court Judge

Unpublished Opinion No. 2026-UP-067 (S.C. Ct. App. filed Feb. 18, 2026)

In re: Estate of John Dale Williamson

Doug Williamson, Respondent

v.

Erick Williamson, individually and as personal representative of the Estate of John Dale Williamson; Derrick Williamson; and Robin Beckler, Respondents below, of whom Errick L. Williamson, individually, and Errick L. Williamson, as personal representative of the Estate of John Dale Williamson is the Appellant.

RESPONDENT'S RETURN TO PETITION FOR CERTIORARI

Respectfully Submitted,

JOHNSTON, ALLISON & HORD, P.A.

s/ J. Nathanial Pierce
J. Nathanial Pierce, S.C. Bar No. 102803
npierce@jahlaw.com
1065 E. Morehead Street
Charlotte, North Carolina 28204
Telephone: (704) 332-1181
Counsel for Respondent

June 12, 2026
Charlotte, North Carolina

Other Counsel of Record
Edward B. Davis, S.C. Bar No. 16713
Bell, Davis & Pitt, P.A.
227 West Trade Street, Suite 1800
Charlotte, NC 28202
ward.davis@belldavispitt.com
Counsel for Appellant

TABLE OF CONTENTS

Table of Authorities iv

Counter-Statement of Questions Presented for Review 1

Counter-Statement of the Case 1

Argument 7

I. No special or important reasons exist for issuance of a Writ of Certiorari. 7

A. The Court of Appeals' decision does not conflict with Supreme Court precedent. 8

i. Doug would be prejudiced by allowing Erick to disregard statutory deadlines. 11

II. The Court of Appeals did not err in affirming the Probate Court's denial of Errick's Motion to Withdraw. 13

A. The Circuit Court did not err in affirming the Probate Court's denial of Errick's Motion to Withdraw. 13

B. The Probate Court adhered to the clear terms of Rule 36, SCRCP, when it denied Errick's Motion to Withdraw. 14

C. South Carolina courts are not required to allow the withdrawal of admissions. 16

D. The Probate Court did not misapply *Scott*, nor did it misapply other important caselaw. 17

III. The Court of Appeals did not err in affirming the Probate Court's grant of Doug's Motion for Partial Summary Judgment. 18

A. Summary Judgment is proper when there is no genuine issue as to any material fact. 18

B. The Probate Court properly granted Doug's Motion for Partial Summary Judgment. 19

Conclusion 19

TABLE OF AUTHORITIES

Cases

Baughman v. American Tel. & Tel. Co.,
306 S.C. 101, 410 S.E.2d 537 (1991).. *passim*

Clark v. Ross,
284 S.C. 543, 328 S.E.2d 91 (Ct. App. 1985) 14

Dunn v. Dunn,
298 S.C. 499, 381 S.E.2d 734 (1989) 13

First Sav. Bank v. McLean,
314 S.C. 361, 444 S.E.2d 513 (Ct. App. 1994) 14

Nexstar Media Grp., Inc. v. Davis Roofing Grp., LLC,
431 S.C. 593, 848 S.E.2d 597 (Ct. App. 2020) 16

Scott v. Greenville Hous. Auth.,
353 S.C. 639, 579 S.E.2d 151 (Ct. App. 2003).. *passim*

South Carolina Dep't of Social Services v. Forrester,
282 S.C. 512, 320 S.E.2d 39 (Ct. App. 1984) 13

Stokes-Craven Holding Corp. v. McKenzie,
416 S.C. 517, 787 S.E.2d 485 (2016) 13, 17

Sundown Operating Co. v. Intedge Indus., Inc.,
383 S.S. 601, 681 S.E.2d 885 (2009) 13

Trustgard Ins. Co. v. Full Logistics, Inc.,
442 S.C. 485, 900 S.E.2d 448 (Ct. App. 2023) 13, 18

Wilson v. Dallas,
403 S.C. 411, 743 S.E.2d 746 (2013) 13

Rules of Court

S.C. R. Civ. P. 5(a) 3

S.C. R. Civ. P. 6(e) 3, 4, 15

S.C. R. Civ. P. 34.. 3

S.C. R. Civ. P. 33 .... 3, 5

S.C. R. Civ. P. 36(a) 9, 14

S.C. R. Civ. P. 56(c) 18

S.C. R. Civ. P. 36 .... *passim*

S.C. R. Civ. P. 36(b) .... *passim*

S.C. R. Civ. P. 56 .... *passim*

COUNTER-STATEMENT OF QUESTIONS PRESENTED FOR REVIEW

I. Do special and important reasons exist for issuance of a Writ of Certiorari?

II. Did the Court of Appeals err in affirming the Probate Court's denial of Errick's Motion to Withdraw?

III. Did the Court of Appeals err in affirming the Probate Court's grant of Doug's Motion for Partial Summary Judgment?

COUNTER-STATEMENT OF THE CASE

John Dale Williamson ("Decedent" or "Dale") suffered from Parkinson's disease. (R. p. 22). As early as May 20, 2022, Dale received in-home hospice care from Agape Care, Inc. ("Agape"). (R. pp. 22–23). From May to November 2022, Agape regularly visited Dale with home health aides, nurses, and social workers. (*Id.*).

In the final months leading up to his death, Dale's condition worsened and he was not of sound mind, as his Parkinson's disease progressed. (R. p. 22). Dale received a substantial amount of palliative medicine, as well as daily assistance with the most basic tasks. (R. p. 23). Particularly during the last six to eight weeks of Dale's life, Dale needed around-the-clock care, as the advanced stages of his disease left him bedridden. (R. pp. 22–23). Dale passed away on November 29, 2022, from, *inter alia*, complications caused by the Parkinson's disease. (R. p. 23).

Dale was unmarried and had no children but was survived by three siblings: Doug Williamson ("Doug"), the respondent in this appeal; Derrick Williamson ("Derrick"); and Robin Beckler ("Robin"). (R. p. 22). Derrick is the father of Errick L. Williamson ("Errick"), the appellant in this matter. (*Id.*).

During Dale's last few months, Errick and his wife Chantelle Williamson ("Chantelle") moved into Dale's house at 1153 Deas Street, Rock Hill, South Carolina, to allegedly care for Dale. (R. pp. 22–23). Errick and Chantelle also asserted control over Dale's medical, legal, and financial matters, even controlling which family members and friends could visit Dale. (R. pp. 22–23, 26).

After Dale's death, Doug and his wife, Crystal Williamson ("Crystal"), tried to speak with Errick about the disposition of Dale's estate to ensure Dale's final wishes were honored. (R. p. 23). On multiple occasions, Errick represented to Doug and Crystal that Dale did not have a will, and neither Doug nor Crystal had any indication that Dale may have executed a will. (R. p. 23). After representing that Dale died without a will, Errick filed the purported Last Will and Testament of John Dale Williamson (the "Will") with the York County, South Carolina Probate Court on January 3, 2023. (R. pp. 23, 62–70). Errick was simultaneously appointed as the personal representative of Dale's estate (the "Estate"). (R. p. 23). The first time Doug and Crystal learned of the purported Will was when they received an Information to Heirs filing from Errick. (R. p. 23).

It is crucial to note that Dale allegedly signed the Will on November 24, 2022, a mere five days before his death from advanced Parkinson's disease. (R. p. 24). At the time, Dale was receiving around-the-clock hospice care and near-constant palliative medication. (R. pp. 22–23). Dale was not of sound mind on November 24, 2022, and he could no longer understand or know the extent of his estate, the objects of his affection, or to whom he wished to give his property. (R. pp. 22–23, 26).

Under the Will, Errick would take eighty percent (80%) of Dale's residual estate, which is defined as "real and personal property wherever situated including any life insurance policies…." (R. pp. 24, 63). Meanwhile, Derrick, Errick's father, would take the remaining twenty percent (20%) of Dale's residual estate. (*Id.*). Inexplicably, the Will explicitly excludes Crystal, who is not an intestate heir of Dale or his Estate. (R. pp. 24, 62). The Will also purports to devise non-probate assets, such as life insurance policies. (R. pp. 24, 63).

Since Errick's appointment as personal representative, Errick has taken no meaningful steps to administer the Estate, has failed to pay property taxes that were due, and has failed to redeem a substantial Estate asset from tax sale. (R. p. 163).

On March 15, 2023, Doug filed a Petition to Set Aside Will and for Appointment of Personal Representative.[1] On August 30, 2023, Doug served Errick with Interrogatories and Requests for Production ("RFPs") via United States Mail, in compliance with Rule 5(a), South Carolina Rules of Civil Procedure ("SCRCP"). (R. pp. 4–5, 12–13). According to Rules 6(e), 33, and 34 of the SCRCP, Errick's responses to the Interrogatories and Requests for Production were due on or before October 4, 2023. (R. pp. 4, 12).

On August 31, 2023, Doug served Errick with nine (9) Requests for Admission ("RFAs") pursuant to Rule 36 of the SCRCP. (R. pp. 5, 122–39). RFA No. 9 specifically stated, "Admit John Dale Williamson did not sign the Last Will and Testament

---

[1] Errick failed to timely respond to the Petition, and Doug moved for entry of default. Ultimately, the Court set aside the Default and allowed Errick to file an Answer. (R. p. 163).

attached hereto as Exhibit B."[2] (R. p. 123). Pursuant to Rules 6(e) and 36, SCRCP, Errick's responses to the RFAs were due on or before October 5, 2023. (R. p. 5).

Errick failed to respond to the Interrogatories, RFPs, and/or RFAs during the time prescribed by the SCRCP. (R. p. 5). Further, Errick neglected or refused to seek an extension of time during the time prescribed by the SCRCP. (R. p. 5). As such, each of the RFAs was deemed to be admitted pursuant to Rule 36, SCRCP. (R. p. 7). Importantly, according to RFA No. 9, Errick admitted that "John Dale Williamson did not sign the [Will]." (R. pp. 7, 123).

On October 10, 2023, after Errick's responses to the discovery requests were due, Errick's counsel requested ten (10) additional days to respond. (R. p. 164). On October 11, 2023, Errick attempted to serve untimely responses to the RFAs. (R. p. 164). On October 12, 2023, Doug's counsel notified Errick's counsel that Errick's October 10, 2023 extension request was denied and that a Motion to Compel responses to Doug's Interrogatories and RFPs had been mailed to the Court for filing. (R. p. 165). However, Doug's counsel indicated that Doug would not seek a hearing on the Motion to Compel before October 20, 2023, the date on which Errick represented he would respond to the Interrogatories and RFPs. (*Id.*). The Probate Court filed the Motion to Compel on October 19, 2023, which is the same date on which Errick served responses to Doug's Interrogatories and RFPs. (R. pp. 13, 165).

Upon review of Errick's responses, Doug's counsel sent a deficiency letter to Errick's counsel on October 24, 2023 (the "Deficiency Letter"). (R. p. 13). The

---

[2] The Last Will and Testament that was attached as Exhibit B to Doug's RFAs to Errick, and which is referenced specifically in RFA No. 9, is the same will referenced throughout this brief as "the Will."

Deficiency Letter noted a myriad of problems with Errick's responses, including his responses to Interrogatories 3, 5, 8, 10, 12, 13, 15, and 18. (*Id.*). Errick had not signed and served a verification for the Interrogatories, as required by Rule 33, SCRCP. (*Id.*). Additionally, the Deficiency Letter also flagged issues with Errick's responses to RFPs 2, 6, 8, 12, and 13. (*Id.*).

On November 6, 2023, Doug filed a Motion for Partial Summary Judgment, pursuant to Rule 56, SCRCP, regarding his fifth cause of action related to the execution of the Will. (R. pp. 188–221). In particular, Doug's Motion for Partial Summary Judgment related to Errick's admission to RFA No. 9, indicating that "John Dale Williamson did not sign [the Will]." (R. pp. 123, 192–94).

On November 21, 2023, well over one month after Errick's RFAs were due, Errick filed a Motion to Withdraw/Amend Admissions, or Alternatively, for Additional Time to Serve Discovery Responses, and Motion to Strike Petitioner's Motion to Compel ("Motion to Withdraw"). (R. pp. 230–33). This was Errick's attempt to remedy his failure to timely respond to the RFAs. Errick simultaneously filed a brief in support of his Motion to Withdraw, which contained no exhibits or affidavits, and Errick failed to respond to Doug's Motion for Partial Summary Judgment. (R. pp. 234–42).

Further, Errick did not respond to the Deficiency Letter until November 22, 2023, at which point he supplemented certain discovery responses, without supplementing all of them. (R. p. 14). In particular, Errick flatly refused to supplement his responses to Interrogatories 3, 5, 10, and 13. (R. p. 14). Errick also

refused to supplement his responses to any of the outstanding RFPs. (R. pp. 14, 222–23).

On December 7, 2023, the Honorable Carolyn Woodruff, the presiding Judge for the York County Probate Court, heard Doug's Motions to Compel and for Partial Summary Judgment, along with Errick's Motion to Withdraw. (R. pp. 80–108). Pursuant to her written Orders filed on January 5, 2024, Judge Woodruff granted Doug's Motions to Compel and for Partial Summary Judgment and denied Errick's Motion to Withdraw (the "Probate Court Order"). (R. pp. 4–16).

On January 11, 2024, Errick appealed Judge Woodruff's Order. (R. p. 243). On August 2, 2024, the York County Circuit Court of Common Pleas heard oral arguments from counsel for Doug and Errick. (R. pp. 109–10). Via a written Order filed on August 6, 2024, the Circuit Court affirmed the Probate Court's ruling (the "Circuit Court Order"). (R. pp. 17–19).

Subsequently, on September 4, 2024, Errick appealed the Circuit Court's Order, along with the Probate Court Order, by filing and serving a Notice of Appeal with the Court of Appeals. (R. pp. 300–11). In an Opinion filed February 18, 2026, the Court of Appeals affirmed the Circuit Court's Order and denied Errick relief. Errick unsuccessfully filed a Petition for Rehearing on March 5, 2026, that was properly denied in an Order filed April 13, 2026. On May 13, 2026, Errick filed and served his Petition for a Writ of Certiorari.

ARGUMENT

I. No special or important reasons exist for issuance of a Writ of Certiorari.

"A writ of certiorari is not a matter of right, but of sound judicial discretion, and will be granted only where there are special and important reasons." Rule 242, SCACR. "Special and important reasons" may exist (1) where there are novel questions of law; (2) where there is a dissent in the decision of the Court of Appeals; (3) where the decision of the Court of Appeals is in conflict with a prior decision of the Supreme Court; (4) where substantial constitutional issues are directly involved; or (5) where a federal question is included and the decision of the Court of Appeals conflicts with a decision of the United States Supreme Court. (*Id.*). Errick requests this Court to find that the routine discovery dispute at issue in this case constitutes a special and important reason for issuance of a Writ of Certiorari.

First, this case does not present a novel question of law, as it concerns a routine discovery dispute. Errick failed to respond to Doug's routine RFA's and waited more than six weeks to withdraw his admissions. (Br. p. 1–2, R. p. 164). Errick's failure to comply with clearly established statutory discovery deadlines does not constitute a special and important reason this Court issue a Writ of Certiorari. South Carolina courts routinely address discovery disputes, and the trial court's decisions on such disputes will not be disturbed absent a clear abuse of discretion. *Stokes-Craven Holding Corp. v. McKenzie*, 416 S.C. 517, 536, 787 S.E.2d 485, 495 (2016).

Second, the Court of Appeals unanimously affirmed the decision of the Circuit Court to (1) affirm the Probate Court's denial of Errick's request to amend or

withdraw his admissions and (2) affirm the Probate Court's grant of partial summary judgment because Errick failed to raise a genuine issue of material fact.

Third, no constitutional issue is directly involved, let alone a substantial constitutional issue, as the questions presented focus solely on a routine discovery dispute.

Fourth, and finally, no federal question that conflicts with the United States Supreme Court is present in this action. Therefore, no special and important reasons exist to issue a Writ of Certiorari.

A. The Court of Appeals' decision does not conflict with Supreme Court precedent.

Errick's brief does not clearly assert whether the Court of Appeals' opinion conflicts with Supreme Court precedent. However, Errick heavily relies on this Court's opinion in *Baughman*, despite the easily distinguishable facts. The Probate Court Order, affirmed by both the Circuit Court and the Court of Appeals, specifically reviewed *Baughman* and found it distinguishable from this case. (R. p. 7).

Courts *may* allow the withdrawal or amendment of admissions when (1) the merits of the action will be subserved and (2) if the party who obtained the admission will not suffer any prejudice. *See* Rule 36(b), SCRCP (emphasis added). The Court of Appeals correctly found that "Doug demonstrated he would be prejudiced by the amendment or withdrawal of Errick's admission." (Opinion p. 2).

Errick argues that *Baughman* directly addresses the question of whether a party suffers prejudice when deemed admissions are withdrawn when responses to the admissions were provided "before the requests were deemed admitted via order."

(Pet. Br. p. 4). This is not the question in this case. Here, the question is whether the Probate Court abused its discretion by not allowing Errick to amend or withdraw his admissions. Errick disregards the thirty (30) day statutory requirement set forth in Rule 36(a), SCRCP, and argues Errick's responses *could* have been due later *if* there was an order to that effect.

In *Baughman*, the defendants served requests for admission on the plaintiffs. *Baughman v. At&T*, 306 S.C. 101, 106, 410 S.E.2d 537, 540 (1991). "Within the time for responding," the plaintiffs filed a motion for protective order and objected to the requests. *Id.*, 410 S.E.2d 537, 540. At the hearing on plaintiffs' motion for a protective order, which occurred after plaintiffs' time to respond to the requests had expired, the defendants contended the requests should be deemed admitted for plaintiffs' failure to respond in a timely manner. *Baughman*, 306 S.C. at 105, 410 S.E.2d at 540. Eleven days later, plaintiffs served responses and moved that the responses be accepted, and the deemed admissions be withdrawn. *Id.*, 410 S.E.2d at 540. This Court found "[a] motion for protective order may be an appropriate response of a party upon whom a request for admissions is served." *Id.* at 109, 410 S.E.2d at 542 (citing 8 Wright & Miller, *Federal Practice and Procedure*, § 2259, p. 726 (1970)). This Court further noted that a good faith motion for a protective order "operates to prevent the matters from being deemed admitted." *Id.*, 410 S.E.2d at 542 (citing *Graham v. Three or More Members of Army Reserve Sel. Bd.*, 556 F. Supp. 669 (S. D. Tex. 1983); *In re City of Ridgeland*, 494 So. 2d 348 (Miss. 1986)). Here, in stark contrast, Errick took no action within the thirty (30) day period allowed by SCRCP Rule 36(a). (R. p. 164).

Errick made no motion for a protective order within his time to respond to the RFA's. In fact, Errick took *no* action to withdraw his admissions until November 27, 2023, nearly a week after Doug filed his motion for partial summary judgment, and nearly two months after his time to respond to the RFA's had expired.

The *Baughman* plaintiffs, in the alternative, contended that the trial court erred in denying their motion to withdraw the deemed admissions. *Id.*, 410 S.E.2d at 542. Because this Court already found the plaintiffs' timely motion for a protective order prevented the defendants' requests from being deemed admitted, this Court only briefly addressed the plaintiffs' alternative claim when it noted that the defendants were not prejudiced when the plaintiffs' responses were filed before the requests were ordered admitted. *Id.* at 110, 410 S.E.2d at 542.

The Supreme Court's decision in *Baughman* does not conflict with the Court of Appeals decision in this case, as the plaintiffs in *Baughman* were permitted to withdraw the deemed admissions because they had filed a motion for protective order and objected to the request within their thirty day time frame to respond. *Id.*, 410 S.E.2d 537, 540. Errick contends that *Baughman* outlines the "proper prejudice analysis." This is a misstatement of Baughman, which is not applicable to the facts of this case, as Errick never moved for a protective order and never responded within the applicable time frame. The Probate Court specifically noted the distinction of *Baughman* and the case at bar. (R. p. 7).

i. Doug would be prejudiced by allowing Erick to disregard statutory deadlines.

South Carolina courts have held that prejudice is apparent when a party's discovery rights are affected: "Discovery is the quintessence of preparation for trial and, when discovery rights are trampled, prejudice must be presumed." *Scott v. Greenville Hos. Auth.*, 353 S.C. 639, 652, 579 S.E.2d 151, 158 (Ct. App. 2003). In *Scott*, the plaintiff needed defendant's discovery responses "in order to prove his case." *Id.*, 579 S.E.2d at 158. Without the defendant's good faith cooperation during discovery, the plaintiff lacked key records and information which were in the defendant's sole custody. *Id.*, 579 S.E.2d at 158. Because the defendant failed to participate in discovery in good faith, the Court of Appeals determined that "[t]he trial court erred in failing to find that [the plaintiff] was prejudiced." *Id.*, 579 S.E.2d at 158.

During the Probate Court Hearing, counsel argued Errick's failure to participate in discovery in good faith, and the attendant prejudice to Doug, at length. (R. p. 86, line 2—-p. 90, line 9; p. 94, line 5–p. 95, line 21; p. 97, line 19–p. 98, line 6). Doug's counsel argued that Errick had failed to participate in discovery in good faith. (R. p. 85, line 10–p.87, line 1; p.88, line 5–p.90, line 9). Doug also argued that key documents and information were solely in Errick's possession. (R. p. 88 line 19–p.90, line 9). In support, Doug argued that Errick was, before and after Dale's death (R. p. 88 line 19), living in Dale's house; Errick assumed control over Dale's finances and medical care (R. p. 88 line 20); Errick was receiving Dale's mail (R. p. 88 line 20–21); Errick was controlling who could come in and out of Dale's house (R. p. 88 line 21–22); Errick was dealing directly with Agape, Dale's in-home medical care provider (R.

p. 88 line 22–23); Errick is the personal representative of the Estate (R. p. 89 line 1); and Errick was in possession of the communications between himself and the witnesses to the Will. (R. p. 89, line 4). In addition to hearing arguments by counsel, the Probate Court evaluated the credibility of the arguments presented by reviewing and considering Doug's initial discovery requests; Errick's untimely and deficient discovery responses; Doug's deficiency letter to Errick; and Errick's response to the same. (R. p. 10).

After its thorough review of the facts, discovery and related responses, oral arguments, caselaw, and case file, the Probate Court properly concluded that:

> Based on the facts at bar and the reasoning of the cases the Court has reviewed, and based in particular on *Scott*, the arguments of counsel, the Court's review of the discovery exchanges in the record, and weighing the furtherance of a presentation on the merits against prejudice as a result of failure to engage in discovery in good faith, the Court concludes that . . . (b) [Errick] has failed to respond to discovery requests in a timely manner and in good faith, and if [Errick] is allowed to withdraw his admissions, [Doug's] opportunity for full and fair trial preparation is further prejudiced."

(*Id.*). The Circuit Court, after its own review, affirmed the Probate Court's denial of Errick's Motion to Withdraw as properly supported. The Court of Appeals also found that "Doug demonstrated he would be prejudiced by the amendment or withdrawal of Errick's admission." (Opinion p. 2).

II. The Court of Appeals did not err in affirming the Probate Court's denial of Errick's Motion to Withdraw.

Both the South Carolina Court of Appeals and the Circuit Court properly affirmed the Probate Court's ruling, finding that the Probate Court did not abuse its discretion denying Errick's Motion to Withdraw.

A. The Circuit Court did not err in affirming the Probate Court's denial of Errick's Motion to Withdraw.

"A trial court's ruling in matters related to discovery generally will not be disturbed on appeal in the absence of a clear abuse of discretion." *Stokes-Craven Holding Corp. v. McKenzie*, 416 S.C. at 536, 787 S.E.2d at 495 (citing *Dunn v. Dunn*, 298 S.C. 499, 502, 381 S.E.2d 734, 735 (1989)). "An abuse of discretion occurs when the trial court's order is controlled by an error of law or when there is no evidentiary support for the trial court's factual conclusion." *Id.*, 787 S.E.2d at 495 (citing *Sundown Operating Co. v. Intedge Indus., Inc.*, 383 S.C. 601, 607, 681 S.E.2d 885, 888 (2009)); *see also Wilson v. Dallas*, 403 S.C. 411, 425, 743 S.E.2d 746, 754 (2013).

South Carolina appellate courts largely defer to the decision-making of the trial court, as the judges who consider the evidence presented to them are in the best position to observe and rule on the credibility of the parties and/or witnesses. *Trustgard Ins. Co. v. Full Logistics, Inc.*, 442 S.C. 485, 505–06, 900 S.E.2d 448, 459 (Ct. App. 2023) ("Credibility determinations regarding testimony are a matter for the finder of fact, who has the opportunity to observe the witnesses, and those determinations are entitled to great deference on appeal. Because the appellate court lacks the opportunity for direct observation of the witnesses, it should accord great

deference to [circuit] court findings where matters of credibility are involved.") (internal citations omitted); *see also South Carolina Dep't of Social Services v. Forrester*, 282 S.C. 512, 515–16, 320 S.E.2d 39, 42 (Ct. App. 1984).

"The burden is upon the party appealing from the order to demonstrate the trial court abused its discretion." *Dunn*, 298 S.C. at 502, 381 S.E.2d at 735 (internal citation omitted). The burden of proof for abuse of discretion is a high bar, as "the exercise of [a judge's] discretion will not be disturbed on appeal absent a clear showing of an abuse of discretion, the commission of legal error in its exercise *and* prejudice to the rights of the appellant." *Clark v. Ross*, 284 S.C. 543, 549, 328 S.E.2d 91, 97 (Ct. App. 1985) (emphasis added); *see also First Sav. Bank v. McLean*, 314 S.C. 361, 362, 444 S.E.2d 513, 514 (Ct. App. 1994) ("Mere allegations of error are not sufficient to demonstrate an abuse of discretion. On appeal, the burden of showing abuse of discretion is on the party challenging the trial court's ruling.") (internal citation omitted). Errick cannot meet his burden, and the Court of Appeals correctly found that the Circuit Court did not abuse its discretion in affirming the Probate Court Order.

B. The Probate Court adhered to the clear terms of Rule 36, SCRCP, when it denied Errick's Motion to Withdraw.

Rule 36(a), SCRCP, in relevant part states,

> A party may serve upon any other party a written request for the admission, for purposes of the pending action only, of the truth of any matters within the scope of Rule 26(b) set forth in the request that relate to statements or opinions of facts or of the application of law to fact, including the genuineness of any documents described in the request.…The matter is admitted unless, within 30 days after service of the request, or within such shorter or longer time as the court may allow

> or as stipulated in writing by the parties pursuant to Rules 29 and 6(b), the party to whom the request is directed serves upon the party requesting the admission a written answer or objection addressed to the matter, signed by the party or by his attorney….

R. 36(a), SCRCP (emphasis added). "Under Rule 36(a), SCRCP, all matters contained in a Request for Admission are admitted unless the party serves answers or objects within a certain time." *Scott*, 353 S.C. at 647, 579 S.E.2d at 155.

Further, Rule 36(b), SCRCP, in relevant part, says,

> Any matter admitted under this rule is conclusively established unless the court on motion permits withdrawal or amendment of the admission. Subject to the provisions of Rule 16 governing amendment of a pre-trial order, the court may permit withdrawal or amendment when the presentation of the merits of the action will be subserved thereby and the party who obtained the admissions fails to satisfy the court that withdrawal or amendment will prejudice him in maintaining his action or defense on the merits.

R. 36(b), SCRCP (emphasis added). The "failure to respond to requests for admissions deems matters contained therein admitted for trial, regardless of whether the admission concerns a matter responded to in a party's pleadings." *Scott*, 353 S.C. at 646, 579 S.E.2d at 154–55. Per the plain language of Rule 36, if a party fails to timely respond to requests for admission, those requests are conclusively deemed to be admitted for purposes of that litigation. Rule 36, SCRCP. Not only does the failure to respond mean that those requests for admission are considered true for purposes of the litigation, but "an admission [also] precludes the admitting party from arguing facts at trial contrary to its responses to a request to admit, absent an amendment to or revocation of the admission as allowed under the rules." *Id.*, 353 S.C. at 648, 579 S.E.2d at 155–56.

Here, Errick indisputably and admittedly did not respond to the RFAs before the statutory deadline, nor did he seek an order of protection or an extension of time to answer. On August 31, 2023, Doug served Errick with the RFAs. Pursuant to Rules 6(e) and 36, SCRCP, Errick's responses to the RFAs were due on or before October 5, 2023. This included Errick's response to RFA No. 9, which asked Errick to admit that "John Dale Williamson did not sign [the Will]." Errick admittedly failed and refused to respond to the RFAs, including RFA No. 9, by the October 5, 2023, deadline. Errick's argument that his responses were provided "before the requests were deemed admitted via order" ignores the clear statutory guidelines of Rule 36. *See* Pet. Br. p. 4. Errick's argument that an admission must be "ordered" to be deemed admitted contradicts the plain language of Rule 36 and precedent like *Scott*.

C. South Carolina courts are not required to allow the withdrawal of admissions.

Rule 36(b), SCRCP, states, "Any matter admitted under this rule is conclusively established ***unless*** the court on motion permits withdrawal or amendment of the admission. . . [T]he court ***may*** permit withdrawal or amendment. . ." R. 36(b), SCRCP (emphasis added). Rule 36 does not require or mandate South Carolina courts to permit withdrawal or amendment of admissions. Rule 36(b) merely enables South Carolina judges to evaluate whether they believe withdrawal may be appropriate given the circumstances. "South Carolina jurisprudence also establishes a trial court may use its discretion in finding requests to admit are not deemed admitted when the circumstances indicate otherwise." (R. pp. 8–9) (quoting *Nexstar Media Grp., Inc. v. Davis Roofing Grp., LLC*, 431 S.C. 593, 848 S.E.2d 597 (Ct. App.

2020)). The Probate Court noted its discretion in its order. *See also* (R. p. 9) ("When a party moves to withdraw or amend the admissions after the time for responding expires, the Court ***may*** engage in the analysis outlined in Rule 36(b) to determine whether the presentation on the merits would be subserved by the withdrawal of the admission and whether the party who obtained will be prejudiced if the court allows the withdrawal of the admission.") (emphasis added).

D. The Probate Court did not misapply *Scott*, nor did it misapply other important caselaw.

The Probate Court did not misapply *Scott*. After analyzing arguments by counsel; Doug's initial discovery requests; Errick's untimely and deficient discovery responses; Doug's deficiency letter to Errick; and Errick's response to the same, the Court ruled that Errick had "failed to respond to discovery requests in a timely manner and in good faith . . . ." (R. p. 10). Errick takes exception with the factual distinctions that he believes the Probate Court should have drawn between *Scott* and the case at bar. *See* Initial Br. of Pet., pp. 6–7. However, that is not the question on an abuse of process review. Rather, the question is whether the Probate Court's Order is controlled by an error of law, or if it has any factual support. *See Stokes-Craven Holding Corp.*, 416 S.C. at 536, 787 S.E.2d at 495. The Probate Court considered, as set forth in more detail herein, "the arguments of counsel" and "the discovery exchanges in the record." (R. p. 10). As the trial court, the Probate Court was in the best position to evaluate the evidence presented, to determine the credibility of the arguments presented, and to draw factual conclusions in light of the same. *See generally Trustgard*, 442 S.C. at 505–06, 900 S.E.2d at 459. The Probate Court's

application of *Scott* was not controlled by an error of law, and it was factually supported by the record.

Therefore, based on the clear wording of Rule 36, SCRCP, and relevant South Carolina caselaw, it was proper for the South Carolina Probate Court to deny Errick's Motion to Withdraw and for the Circuit Court and Court of Appeals to affirm this denial.

III. The Court of Appeals did not err in affirming the Probate Court's grant of Doug's Motion for Partial Summary Judgment.

The South Carolina Court of Appeals properly affirmed the Circuit Court's holding that the Probate Court properly granted Doug's Motion for Partial Summary Judgment pursuant to Rule 56, SCRCP.

A. Summary Judgment is proper when there is no genuine issue as to any material fact.

When "reviewing the grant of a summary judgment motion," South Carolina appellate courts "apply the same standard which governs the trial court under Rule 56(c), S.C.R.P: summary judgment is proper when 'there is no genuine issue as to any material fact and . . . the moving party is entitled to judgment as a matter of law." Rule 56(c), SCRCP, *Baughman*, 306 S.C. at 114–15, 410 S.E.2d at 545 (internal citation omitted). "Once the moving party carries its initial burden, [the] opposing party must, under Rule 56(e), 'do more than simply show that there is some metaphysical doubt as to the material facts' but 'must come forward with "specific facts showing that there is a <u>genuine issue for trial</u>.""" *Baughman*, 306 S.C. at 115, 410 S.E.2d at 545 (citing internal citation omitted) (emphasis in original). "Indeed,

Rule 56(e) specifically prohibits the nonmoving party from resting upon the mere allegations or denials of its pleadings." *Id.* (internal citations omitted).

B. The Probate Court properly granted Doug's Motion for Partial Summary Judgment.

The Probate Court properly granted Doug's Motion for Partial Summary Judgment on his fifth cause of action. In support of his Motion, Doug explained that Errick had admitted RFA No. 9 and was therefore "unable to show that Dale signed the Will, or instructed another individual to sign the Will in his name at his direction, and therefore the Will is invalid for failure of due execution." (R. pp. 192–93). Errick also failed to offer any factual evidence in opposition to Doug's Motion for Partial Summary Judgment. Errick merely filed the Motion to Withdraw. As such, Errick did not "come forward with 'specific facts showing that there is a <u>genuine issue for trial</u>.'" *Baughman*, 306 S.C. at 115, 410 S.E.2d at 545 (internal citation omitted) (emphasis in original). The Probate Court properly granted Doug's Motion for Partial Summary Judgment, ruling "Errick has not carried his burden of establishing *prima facie* proof of due execution . . . . There is therefore no question of fact, partial summary judgment is appropriate on the issue of due execution, and the failure of execution invalidates the Will." (R. p. 10). Applying the same standard, both the Circuit Court and the Court of Appeals properly affirmed the Probate Court.

CONCLUSION

While Errick cannot demonstrate that this discovery dispute is a special and important reason for issuance of a writ of certiorari, and his underlying arguments are without merit. The Probate Court did not abuse its discretion in denying Errick's

Motion to Withdraw based on the clear wording of Rule 36(b), SCRCP, and precedential South Carolina caselaw. Errick failed to meet his burden of proving both elements of the Rule 36(b) test. Additionally, the Probate Court properly granted Doug's Motion for Partial Summary Judgment, as Errick failed to respond to the Motion and to provide any facts in opposition thereto. Doug therefore respectfully requests that the Court deny Errick's Petition for Writ of Certiorari.