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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas
The Honorable B. Alex Hyman, Circuit Judge

Appellate Case No. 2026-001091

Claran Lundgren, Appellant,

v.

Ashton Glenn Homeowners Association, Inc.,
Waccamaw Management, LLC, and Bob Sauthoff, Respondents.

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COUNTERSTATEMENT OF ISSUES ON APPEAL

1. Whether the trial court erred as a matter of law by dismissing Appellant's claims against Respondents pursuant to Rule 12(b)(6), S.C. R. Civ. P.
2. Whether the trial court abused its discretion in declining to allow Appellant's Rule 60(b) action to proceed.
3. Whether the trial court committed reversible error with regard to any allegation of procedural error by Appellant.

STATEMENT OF THE CASE

Appellant, Claran Lundgren (“Appellant”), appeals from the decision by the Honorable B. Alex Hyman to dismiss her claims against Ashton Glenn Homeowners Association, Inc (“Ashton Glenn HOA”), Waccamaw Management, LLC (“Waccamaw”) and Bob Sauthoff (“Sauthoff”) (collectively “Respondents”). Since March 2024, Appellant has brought three independent civil actions against Respondents in state and federal court arising from identical operative facts and subject matter related to her status as a homeowner in the Ashton Glenn subdivision in Surfside Beach, South Carolina. In the instant action, as with the prior two actions, Appellant alleges that she was subjected to selective enforcement of Ashton Glenn HOA rules, discrimination, harassment, and retaliation, and that the final judgment issued against her following a bench trial in the Horry County Magistrate’s Court was procured through alleged fraud. In each action and at every level her claims failed as a matter of law, yet her efforts to re-adjudicate those same claims and allegations continue in this Court.

In the instant case, Judge Hyman correctly dismissed Appellant’s claims against Respondents pursuant to Rule 12(b)(6), S.C. R. Civ. P. as precluded by the doctrine of res judicata, and there was no error in that dismissal. Accordingly, the Court should affirm.

A. The Original State Court Action.

On March 24, 2024, Appellant filed a lawsuit against Respondents in Horry County Magistrate’s Court captioned *Claran Lundgren v. Ashton Glenn HOA c/o Waccamaw Management, LLC*, C/A No. 2024-cv-261040572 (the “Original State Court Action”). (R pp ____; Summons and Complaint filed in Case No. 2024-cv-2610405724). In her Complaint filed in the Original State Court Action, Appellant alleged “continued abuse of process, selective enforcement, harassment, inappropriate sexual comments by HOA president, [and] retaliation

...” related to the enforcement and enforceability of Ashton Glenn HOA rules. (R pp. ____; Complaint at p. 4).

A bench trial was held on May 16, 2024 before Magistrate Judge Manuela Clayton. Following the trial, on May 21, 2024, Judge Clayton issued a final judgement in favor of Respondents on all of Appellant’s claims, and awarded Respondents “the amount of \$1,020.00 for Attorney Fees.” (the “State Court Judgment”) (R pp. ____; State Court Judgment).

On June 10, 2024, Appellant filed a Notice of Civil Appeal in the Horry County Court of Common Pleas, challenging the State Court Judgment on multiple grounds, including, *inter alia*, an allegation that the State Court Judgment was procured through “judicial prejudice, misconduct, and spoilation [sic].” (R pp. ____; Notice of Civil Appeal). In support of her appeal, Appellant filed a Brief of Appellant in the Horry County Court of Common Pleas on July 1, 2024 further stating the bases of her appeal of the State Court Judgment. (R pp. ____; Brief of Appellant). In the brief, Appellant again raised allegations of misconduct by Judge Clayton and others in the trial court below and indicated that “[a]ll violations regarding selective enforce [sic], abuse of power, discrimination, harassment, retaliation, breach of fiduciary duty will also be addressed in federal court proceedings” (R pp. ____; Brief of Appellant at pp. 5-6).

On September 13, 2024, Judge R.E. Hood issued an Order Denying Appeal of Magistrate’s Court Order, finding that Appellant failed to establish any error of law in the State Court Judgment. (R pp ____; Order Denying Appeal).

On September 20, 2024, Appellant filed a Motion for Retrial, Motion for Recusal, & Motion for Change of Venue (the “Motion for Retrial”) in the Horry County Court of Common Pleas. (R pp. ____; Motion for Retrial). Appellant sought reconsideration of the prior rulings in the case and the opportunity to retry her case or change venue to federal court, arguing, *inter*

alia, that the State Court Judgment was obtained through “fraud, misrepresentation and misconduct.” (R pp. ____; Motion for Retrial at pp. 3-6).

A hearing was held on the Motion for Retrial on November 5, 2024 before Judge G.D. Morgan, Jr., and on November 6, 2024, Appellant’s Motion for Retrial was denied by a Form 4 Order. (R pp. ____; Form 4 Order Denying Motion for Retrial). Appellant did not file any further appeals in the Original State Court Action.

B. The Federal Court Action.

On August 13, 2024, while her appeal of the State Court Judgment was still pending in the Original State Court Action, Appellant filed a second lawsuit against Respondents in the United States District Court for the District of South Carolina captioned *Claran Lundgren v. Ashton Glenn H.O.A. c/o Waccamaw Management and Bob Southoff*, C/A No. 4:24-cv-04402 (the “Federal Court Action”). (R pp. ____; Federal Complaint filed in Case No. 4:24-cv-04402). Appellant alleged the same issues as in the Original State Court Action – alleged abuse of process, selective enforcement, harassment, inappropriate sexual comments by HOA president, and retaliation related to the enforcement and enforceability of Ashton Glenn HOA rules – but attempted to frame them as violations of the Fair Housing Act, 42 U.S.C. § 3601, *et seq.* (“FHA”). (R pp. ____; Federal Complaint). In her Complaint, Appellant admitted that she had already adjudicated her claims in a civil action brought “in Surfside Beach Magistrate court ...” and again alleged the State Court Judgment was procured through alleged misconduct. (R pp. ____; Federal Complaint at pp. 5-7).

On September 30, 2024, Respondents filed a Motion to Dismiss the Federal Court Action pursuant to Rule 12(b)(6), Fed. R. Civ. P., arguing, *inter alia*, that Appellant’s claims should be dismissed as precluded under the doctrines of res judicata and collateral estoppel because the

causes of action and issues raised by Appellant in the Federal Court Action were adjudicated or could have been raised and adjudicated in the Original State Court Action. (R pp. ____; Motion to Dismiss and Memorandum of Law). On November 4, 2024, Appellant responded by filing a Memorandum of Law Appellants Response in Opposition to Motion to Dismiss (R pp. ____; Response in Opposition). In it, Appellant argued, *inter alia*, that she was alleging a continuing wrong that was not precluded by res judicata, and asserted that she was making a collateral attack on the State Court Judgment on the basis of fraud (R pp. ____; Response in Opposition at pp. 5, 11). Respondents then filed a Reply to Plaintiff's Response in Opposition to Defendants' Motion to Dismiss on November 12, 2024, arguing, *inter alia*, that Appellant's Complaint filed in the Federal Court Action failed to state a claim upon which relief could be granted as to any alleged continuing wrong, and that res judicata and collateral estoppel precluded her claims (R pp ____; Reply).

After full briefing by the parties, Federal Magistrate Judge Kaymani West issued a Report and Recommendation on April 3, 2025 recommending dismissal of the Federal Court Action pursuant to Rule 12(b)(6), Fed. R. Civ. P. (the "R&R") (R pp. ____; R&R). In the R&R, Judge West found that the elements of res judicata were each met pursuant to South Carolina law and that Appellants claims were therefore precluded, and further found that Appellant had failed to allege facts sufficient to state a claim under the FHA. (R pp. ____; R&R). On April 22, 2025, Appellant filed Appellants Response Record and Recommendation objecting to the R&R (the "Objections") (R pp. ____, Objections). In the Objections, Appellant again alleged that the State Court Judgment was procured through "misconduct, spoliation [sic], and fraud" and asserted that she alleged a viable FHA claim in the case (R pp. ____, Objections at pp. 1-9).

On June 2, 2025, United States District Judge Joseph Dawson issued an Order and Opinion rejecting Appellant's Objections, adopting the R&R, and ordering the dismissal of the Federal Court Action (R pp. ____; Order and Opinion). In the Order and Opinion, Judge Dawson agreed with Judge West, finding that res judicata precluded Appellant's claims because they arose from the same operative facts and subject matter that was adjudicated or that could have been adjudicated in the Original State Court Action and that, alternatively, Appellant's claims were also subject to dismissal pursuant to Rule 12(b)(6), Fed. R. Civ. P., because her federal Complaint did not plausibly state an FHA claim. (R pp. ____; Order and Opinion). Judge Dawson then issued a Judgment in a Civil Action (the "Federal Court Judgment") dismissing the Federal Court Action in its entirety (R pp. ___, Federal Court Judgment). Appellant did not appeal the Federal Court Judgment.

C. The Second State Court Action.

On November 21, 2025, Appellant filed a third lawsuit against Respondents in the Horry County Court of Common Pleas captioned *Claran Lundgren v. Ashton Glenn Homeowners Association, Inc., Waccamaw Management, LLC and Bob Sauthoff*, C/A No. 2025-CP-09089 (the "Second State Court Action"). (R pp. ____; Summons and Complaint filed in Case No. 2025-CP-09089 with exhibits). In the Second State Court Action, Appellant asserted that she was bringing an action in equity under Rule 60(b)'s savings-clause to vacate the May 2024 State Court Judgment against her, which she once again alleged was procured by fraud. (R pp. ____; Complaint at p. 1). Claimant then set forth a recitation of allegations on which her purported causes of action against Respondents were based. All of Plaintiff's asserted causes of action in the Second State Court Action arise from the same alleged operative facts and subject matter as were asserted in her Original State Court Action and her Federal Court Action – namely alleged

abuse of process, selective enforcement, harassment, inappropriate sexual comments by Sauthoff, and retaliation related to the enforcement and enforceability of Ashton Glenn HOA rules. Indeed, Appellant's statement of "all relevant factual and procedural events" in the complaint is limited to events alleged to have occurred prior to the entry of the State Court Judgment and/or the Federal Court Judgment, (R pp. _____, Complaint), and Appellant expressly incorporated the filings in the Original State Court Action and the Federal Court Action into her Complaint (R pp. ____; Complaint at ¶¶ 9-20). The sole exception is Appellant's reference to letters dated September 8, 2025 and October 21, 2025, which she filed as exhibits to her Complaint (R pp. ____; Complaint at p 1, Exhibits 4 and 7). However, the September 8, 2025 and October 21, 2025 letters attached to her Complaint as exhibits reflect that no new fines were issued after June 2024 – meaning the collection activity referenced by Appellant involved fines that had already been adjudicated or that could have been raised and adjudicated in the Original State Court Action and/or the Federal Court Action. (R pp. ____; Exhibits 4 and 7 to Complaint).

On December 30, 2025, Respondents filed a Motion to Dismiss the Second State Court Action, (R pp. ____; Motion to Dismiss), and Respondents submitted a Memorandum of Law in support of their Motion to Dismiss on February 17, 2026. (R pp ____; Memorandum of Law). In these filings, Respondents sought dismissal of the Second State Court Action pursuant to Rule 12(b)(6), S.C. R. Civ. P., on the grounds that Appellant's Complaint failed to state a claim upon which relief could be granted and was precluded by the doctrines of res judicata and collateral estoppel, as the causes of action and issues asserted by Appellant arise out of the same alleged operative facts and subject matter as claims asserted in the Original State Court Action and/or the Federal Court Action and were adjudicated or could have been raised and adjudicated in one or both of those prior actions. (R pp. ____; Motion to Dismiss and Memorandum of Law).

A hearing was held before Judge Hyman on Respondent's Motion to Dismiss on February 23, 2026 (R pp. ____; Transcript of Hearing). On February 27, 2026, Judge Hyman issued a Form 4 Order indicating that pending motions, including Respondent's Motion to Dismiss, were under advisement (R pp. ____; Form 4 Order). On March 2, 2024, Judge Hyman issued a Form 4 Order granting Respondent's motion to dismiss and denying Appellant's various motions (R pp ____; Form 4 Order granting Motion to Dismiss). On March 10, 2026, the Court entered an Order Granting Defendants' Motion to Dismiss setting forth additional bases for dismissal of the Second State Court Action (R pp. ____; Order of Dismissal). In the March 10, 2026 Order of Dismissal, Judge Hyman found that the Second State Court Action was precluded by the doctrine of res judicata, because the pleadings of record and filings submitted in all three actions and subject to judicial notice established as a matter of law that there was identity of the parties, identity of subject matter, and a final judgement issued in both the Original State Court Act and the Federal Court Action (R pp. ____; Order of Dismissal). Judge Hyman further found that the allegations of misconduct and fraud upon which Appellant relied in support of her purported Rule 60(b), S.C. R. Civ. P., petition had also already been raised and adjudicated in her prior cases, and thus could not proceed. (R pp. ____; Order of Dismissal at p.8).

On March 17, 2026, Appellant filed a Rule 59(e) Motion to Alter or Amend, seeking reconsideration of the Order of Dismissal and asserting eighteen claims of error, not including subparts. (R pp. ____; Rule 59 Motion).

On April 20, 2026, the trial court entered a Form 4 Order denying Appellant's Rule 59(e) Motion to Alter or Amend. (R pp. ____; Form 4 Order).

On April 29, 2026, Appellant filed the instant Notice of Appeal, asserting fifteen claims of error by the trial court below (R pp. ____; Notice of Appeal).

On May 22, 2026, Appellant filed her Initial Brief of Appellant, asserting ten claims of error by the trial court below (R pp. ____; Initial Brief of Appellant).

As set forth in detail below, Judge Hyman was correct to dismiss Appellant's Second State Court Action pursuant to Rule 12(b)(6), S.C. R. Civ. P., because the claims asserted by Appellant are precluded by the doctrine of res judicata and collateral estoppel and the operative complaint fails to state a claim for which relief can be granted. As there was no error in the dismissal, the decision should be affirmed.

STANDARD OF REVIEW

Dismissal of Appellant's claims against Respondents under the doctrines of res judicata or collateral estoppel are reviewed de novo. *See Builders Mut. Ins. Co. v. Bob Wire Elec., Inc.*, 424 S.C. 161, 165, 817 S.E.2d 807, 809 (Ct. App. 2018).

Furthermore, consideration of a Rule 60(b) motion is within the sound discretion of the trial court. *See Coleman v. Dunlap*, 306 S.C. 491, 494, 413 S.E.2d 15, 27 (1992). This Court reviews the denial of a Rule 60(b) motion for abuse of discretion. *First Sav. Bank v. McLean*, 314 S.C. 361, 363, 44 S.E.2d 513, 514 (1994) (citing *State ex. rel. McLeod v. Wilson*, 279 S.C. 562, 310 S.E.2d 818 (Ct. App. 1983)).

ARGUMENTS

While Appellant seeks to muddy the water in this appeal with irrelevant and peripheral arguments unmoored from the core findings of the trial court below, the legitimate issues presented for this Court's review are simple: (1) did the trial court commit reversible error in dismissing the Second State Court Action pursuant to Rule 12(b)(6), S.C. R. Civ. P.; and, notwithstanding Rule 12(b)(6) dismissal, (2) did the trial court abuse its discretion in declining to allow Appellant's purported Rule 60(b) equitable action based on unsupported allegations of

fraud to proceed. The answer to both questions is a resounding NO. The trial court correctly dismissed Appellant's claims against Respondents, and that decision should be AFFIRMED.

I. THE TRIAL COURT DID NOT ERR IN DISMISSING THE SECOND STATE COURT ACTION PURSUANT TO RULE 12(B)(6), S.C. R. CIV. P.

A. The Trial Court Correctly Found That Appellant's Claims Are Precluded By the Doctrine of Res Judicata.

"Res judicata is the branch of law that defines the effect a valid judgment may have on subsequent litigation between the same parties and their privies. Res judicata ends litigation, promotes judicial economy and avoids the harassment of relitigation of the same issues." *Plum Creek Dev. Co. v. City of Conway*, 334 S.C. 30, 34, 512 S.E.2d 106, 108 (1999) (quoting J. Flanagan, *South Carolina Civil Procedure* p. 642 (1996)). "Res judicata bars subsequent actions by the same parties when the claims arise out of the same transaction or occurrence that was the subject of a prior action between those parties." *Id.* at 109 (citing *Sub-Zero Freezer Co. v. R.J. Clarkson Co.*, 308 S.C. 188, 417 S.E.2d 569 (1992)). "Under the doctrine of res judicata, '[a] litigant is barred from raising any issues which were adjudicated in the former suit and any issues which might have been raised in the former suit.'" *Id.* (quoting *Hilton Head Center of South Carolina, Inc. v. Public Service Comm'n of South Carolina*, 294 S.C. 9, 11, 362 S.E.2d 176, 177 (1987)).

"Res judicata's fundamental purpose is 'to ensure that no one should be twice sued for the same cause of action.'" *Yelsen Land Co. v. State*, 397 S.C. 15, 22, 723 S.E.2d 592, 596 (2012) (quoting *Judy v. Judy*, 393 S.C. 160, 173, 712 S.E.2d 408, 414 (2011)). *See also Pye v. Aycock*, 325 S.C. 426, 436, 480 S.E.2d 455, 460 (Ct. App. 1997) ("Res judicata bars re-litigation of the same cause of action while collateral estoppel bars re-litigation of the same facts or issues necessarily determined in the former proceeding."); *Duckett v. Goforth*, 374 S.C. 446, 464, 649

S.E.2d 72, 81 (Ct. App. 2007) (“The doctrine [of res judicata] flows from the principle that *public interest* requires an end to litigation and no one should be sued twice for the same cause of action.”); and *S.C. Dep’t of Soc. Servs. v. Basnight*, 346 S.C. 241, 248, 551 S.E.2d 274, 278 (Ct. App. 2001). “For purposes of res judicata, ‘cause of action’ is not the form of action in which a claim is asserted but, rather the ‘cause for action, meaning the underlying facts combined with the law giving the party a right to a remedy of one form or another based thereon.’” *Plum Creek Dev. Co.*, 334 S.C. at 34, 512 S.E.2d at 109 (quoting 50 C.J.S. Judgment § 749 (1997)).

Courts in South Carolina apply a three-prong test to determine whether the doctrine of res judicata applies. Specifically, res judicata bars a second suit where there is (1) identity of parties and their privies; (2) identity of the subject matter of the litigation; and (3) a final determination on the merits in the former proceeding. *H.G. Hall Constr. Co. v. J.E.P. Enterprises*, 283 S.C. 196, 321 S.E.2d 267, 271 (Ct. App. 1984) (citing *First National Bank v. United States F&G Co.*, 207 S.C. 15, 35 S.E.2d 47 (1945)). See also *Judy*, 393 S.C. at 167, 712 S.E.2d at 412 (identifying the elements as “(1) identity of the parties; (2) identity of the subject matter; and (3) adjudication of the issue in the former suit.”) (internal citations omitted) and *Plum Creek Dev. Co.*, 334 S.C. at 34, 512 S.E.2d at 109 (same).

It is also well-settled in South Carolina that a trial court may dismiss claims based on res judicata preclusion pursuant to Rule 12(b)(6), S.C. R. Civ. P. See *Riedman Corp. v. Greenville Steel Structures*, 308 S.C. 467, 419 S.E.2d 217 (1992) (affirming the trial court’s 12(b)(6) dismissal on res judicata grounds). In considering such a motion, a trial court may consider documents referenced in the operative complaint, *Brazell v. Windsor*, 384 S.C. 512, 516, 682 S.E.2d 824, 826 (2009), and may also take judicial notice of the content of court records from prior judicial proceedings. *Andrews v. Daw*, 201 F.3d 521, 524 n.1 (4th Cir. 2000) (“[W]hen

entertaining a motion to dismiss on the ground of res judicata, a court may take judicial notice of facts from a prior judicial proceeding when the res judicata defense raises no disputed issue of fact.”). See also e.g. *Christian v. Healy*, C/A No. 2018-CP-23-02513, 2018 S.C. C.P. LEXIS 1278, *3, n.1 (Ct. Common Pleas, Greenville Cty. July 27, 2018) (J. Kinlaw) (quoting *Andrews*, 201 F. 3d at 524, n.1 and finding consideration of federal court records from prior judicial proceeding appropriate in granting Rule 12(b)(6), S.C. R. Civ. P., motion based on res judicata preclusion).

Here, the trial court correctly found that dismissal of the Second State Court Action was appropriate under Rule 12(b)(6) on res judicata grounds, because there was identity of the parties and their privies, identity of subject matter, and final judgments issued in both the Original State Court Action and the Federal Court Action previously brought by Appellant.

First, the record is clear that there was identity of the parties and their privies among the Original State Court Action, the Federal Court Action, and the Second State Court Action. Under South Carolina law, identity of the parties is established where the prior and subsequent litigation involve the “same parties and their privies.” *Plum Creek Dev. Co.*, 334 S.C. at 34, 512 S.E.2d at 108. “The concept of privity rests not on the relationship between the parties asserting it, but rather on each party’s relationship to the subject matter of the litigation.” *Yelsen Land Co.*, 397 S.C. at 22, 723 S.E.2d at 596. In other words, “[o]ne in privity is one whose legal interests were litigated in the former proceeding[s].” *Roberts v. Recovery Bureau, Inc.*, 316 S.C. 492, 496, 450 S.E.2d 616, 619 (Ct. App. 1994). As correctly found by the trial court, Appellant was the plaintiff in all three lawsuits at issue in this appeal, and Ashton Glenn HOA and Waccamaw were named in each of those lawsuits. And, while Sauthoff was not named as a defendant in the Original State Court Action, his alleged acts were at issue in all three actions and he was named

as a defendant in both the Federal Court Action and the Second State Court Action. Accordingly, all three actions involve the “same parties and their privies,” such that there is identity of the parties in this case. *See Plum Creek Dev. Co.*, 334 S.C. at 34, 512 S.E.2d at 108.

Second, the record clearly reflects an identity of subject matter among the three actions at issue in this case. Under South Carolina law, “[a] litigant is barred from raising any issues which were adjudicated in the former suit and any issues which might have been raised in a former suit.” *Judy*, 393 S.C. at 172, 712 S.E.2d at 414. Thus, identity of subject matter is established “when the claims arise out of the same transaction or occurrence that was the subject of a prior action between those parties.” *Plum Creek Dev. Co.*, 334 S.C. at 34, 512 S.E.2d at 109 (internal citation omitted). *See also id.* (“For purposes of res judicata, ‘cause of action’ is not the form of action in which a claim is asserted but, rather the ‘cause for action, meaning the underlying facts combined with the law giving the party a right to a remedy of one form or another based thereon.’”) (internal citation omitted). Here, the record is clear that the Original State Court Action, the Federal Court Action, and the Second State Court Action are all based on the same allegations and subject matter. Each action is premised on allegations of abuse of process, selective enforcement, harassment, inappropriate sexual comments by Sauthoff, and retaliation related to the enforcement and enforceability of Ashton Glenn HOA rules that area alleged to have occurred prior to the filing of the Original State Court Action and/or the Federal Court Action (R pp. ____; Complaint pp. 29-34). Indeed, Appellant expressly incorporated her filings in both the Original State Court Action and the Federal Court Action into her operative complaint in the Second State Court Action by reference (R pp. ____; Complaint pp. 6-7, 13-14, 29-34). Furthermore, Appellant raised her allegations of “fraud” on appeal in the Original State Court Action, as well as in the Federal Court Action, such that identity of subject matter is also

established with regard to those allegations. That leaves only the September 8, 2025 and October 21, 2025 collection letters referenced in the operative Complaint and attached as exhibits, but those documents reflect that no new “fines” were issued after June 2024 (R pp. ____; Complaint at p.1, Exhibits 4 and 7). Indeed, the letters are omitted entirely from Appellant’s recitation of “all relevant factual and procedural events” in the Complaint (R pp. ____, Complaint at pp. 29-34). Thus, they do not constitute new or different “causes of action,” but rather arise from the same alleged transaction(s) and occurrence(s) as were adjudicated or that could have been raised and adjudicated in the Original State Court Action and/or the Federal Court Action.¹ Accordingly, there is identity of subject matter among the Original State Court Action, the Federal Court Action, and the Second State Court Action, and the trial court committed no error in so finding.

Third, and finally, the record indisputably reflects that there was an adjudication on the merits in both the Original State Court Action and the Federal Court Action such that res judicata applies in this case. “A final judgment is one that ends the action and leaves the court with nothing to do but enforce the judgment by execution.” *Tillman v. Tillman*, 420 S.C. 246, 249, 801 S.E.2d 757, 759 (Ct. App. 2017) (citing *Good v. Hartford Acc. & Indem. Co.*, 201 S.C. 32, 41-42, 21 S.E.2d 201, 212 (1942)). Here, the State Court Judgment issued May 21, 2024 constitutes a final judgment under South Carolina law, as it disposed of all claims and issues asserted in the Original State Court Action without exception and awarded Respondents the amount of \$1,020.00 in attorney’s fees to be enforced by execution (R pp ____; State Court

¹ To the extent Appellant also suggests that an attempt to collect the attorney’s fees awarded by the trial court in the Original State Court Action and affirmed on appeal in that action constitutes, in and of itself, a new “cause of action” sufficient to defeat res judicata preclusion, that claim must fail. If a defeated litigant was permitted to sue a prevailing opposing party from a prior lawsuit based only on an attempt to execute a final judgment imposed by lawful order of the court, then litigation would never end and the principles of finality upon which the doctrine of res judicata is anchored would be rendered meaningless.

Judgment). Appellant's appeal of the State Court Judgment to the Horry County Circuit Court failed, the judgment was upheld, reconsideration was denied, and Appellant did not appeal the matter further. The Federal Court Judgment was likewise a final judgment sufficient to satisfy the third element of res judicata preclusion as a matter of black letter law. *Federated Dep't Stores v. Moitie*, 452 U.S. 394, 399 n.3, 69 L. Ed. 2d 103, 101 S. Ct. 2424 (1981) ("The dismissal for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6) is a 'judgment on the merits' [for purposes of res judicata]") (internal citation omitted).

Thus, all three elements are met based on the record properly before the Court, Appellants claims are barred by the doctrine of res judicata, and the trial court correctly dismissed the Second State Court Action pursuant to Rule 12(b)(6), S.C. R. Civ. P. Accordingly, the dismissal should be affirmed.

B. Appellant's Claims are Also Barred by Collateral Estoppel.

"Under the doctrine of collateral estoppel, once a court determines an issue necessary to its judgment, that decision may preclude re-litigation of the issue in a suit on a different cause of action involving a party to the first case." *Montana v. United States*, 440 U.S. 147, 153, 99 S. Ct. 970, 59 L. Ed. 2d 210 (1979); *see also State v. Hewins*, 409 S.C. 93, 106, 760 S.E.2d 814, 821 (2014) ("Collateral estoppel, also known as issue preclusion, prevents a party from relitigating an issue that was decided in a previous action, regardless of whether the claims in the first and subsequent lawsuits are the same."). "A party asserting collateral estoppel must show that the issue of fact or law in the present lawsuit was: '(1) actually litigated in the prior action; (2) directly determined in the prior action; and (3) necessary to support the prior judgment.'" *Carolina Renewal, Inc. v. S.C. Dep't of Transp.*, 385 S.C. 550, 554, 684 S.E.2d 779, 782 (S.C. Ct. App. 2009).

Here, all three elements are met on the record properly before the Court and Appellant's claims against Respondents are therefore barred by the doctrine of collateral estoppel. As noted above, the primary issues in all three lawsuits are the same – whether Respondents engaged in abuse of process, selective enforcement, harassment, inappropriate sexual comments by Sauthoff, and retaliation related to the enforcement and enforceability of Ashton Glenn HOA rules, as alleged by Appellant. Those issues were fully litigated in the Original State Court Action and/or the Federal Court Action. Indeed, the enforceability of Ashton Glenn's HOA rules and the lawful application of those rules resulting in fines issued to Appellant was fully adjudicated in both actions, and all issues related to claims of harassment, discrimination, and retaliation were litigated in the Federal Court Action as well, resulting in a final judgment on the merits that was not appealed by Appellant (R pp ____; State Court Judgment and Federal Court Judgment).

Accordingly, collateral estoppel bars Appellant's claims against Respondents and dismissal under Rule 12(b)(6), S.C. R. Civ. P., was justified on this basis as well.

C. Appellant's Complaint Fails to State a Claim Upon Which Relief Can Be Granted with Regard to Any Alleged Post-Judgment Act.

Even if the Court were to find that Appellant's scant reference to "post-judgment retaliation/collection acts that were never adjudicated" (R pp. ____; Complaint at p.1) is sufficient to defeat res judicata and/or collateral estoppel preclusion as to those alleged events, the Complaint fails to set forth facts sufficient to establish any claim upon which relief can be granted as to those allegations. The Complaint states no facts tying the September and October 2025 collection letters to any activity or characteristic protected under the FHA. *See* 42 U.S.C. § 3604(b), (f) (establishing that the FHA makes it unlawful to "discriminate against any person in the terms, conditions or privileges of ... rental of a dwelling, or in the provision of services or

facilities in connection therewith, because of race, color, religion, sex, familiar status, or national origin.”) (emphasis added). The Complaint likewise fails to allege facts sufficient to establish an entitlement to relief under any other purported cause of action asserted, as the Complaint fails to allege facts sufficient to establish the elements of any such purported causes of actions, and the letters are not mentioned under any of other “Counts” pleaded by Appellant or included in Appellant’s recitation of “all relevant factual and procedural events” included in the Complaint (R pp. ____; Complaint).

Accordingly, the trial court did not err in dismissing the Second State Court Action pursuant to Rule 12(b)(6), S.C. R. Civ. P., as Appellant failed to allege facts establishing an entitlement to relief under any cause of action for alleged acts that she claims occurred after the issuance of the State Court Judgment and the Federal Court Judgment.

II. THE TRIAL COURT DID NOT ABUSE ITS DISCRETION IN DECLINING TO ALLOW APPELLANT’S PURPORTED RULE 60(b) ACTION TO PROCEED

Notwithstanding the legitimate bases for dismissal pursuant to Rule 12(b)(6), S.C. R. Civ. P. discussed above, the trial court was likewise correct in exercising its discretion not to allow Appellant’s purported Rule 60(b) equitable action to proceed.

In order to obtain equitable relief from a judgment based on fraud, the fraud must be extrinsic. *See Raby Constr. LLP v. Orr*, 358 S.C. 10, 19, 594 S.E.2d 478, 482 (2004) and *Bryan v. Bryan*, 220 S.C. 164, 66 S.E.2d 609 (1951). “Extrinsic fraud is ‘fraud that induces a person not to present a case or deprives a person of the opportunity to be heard.’” *Chewning v. Ford Motor Co.*, 354 S.C. 72, 81, 579 S.E.2d 605, 610 (2003). Relief may exist for extrinsic fraud due to the fact that extrinsic fraud could not have been discovered in the litigation itself. *See Raby*, 358 S.C. at 20, 594 S.E.2d at 483; *Mr. G. v. Mrs. G.*, 320 S.C. 305, 308, 465 S.E.2d, 101, 103 (Ct. App. 1995).

Here, the alleged fraud Appellant relies upon is alleged “fraud-on-the-court surrounding the May 16, 2024 magistrate proceeding and the tainted return/order.” (R pp. ____; Complaint at p. 1). The “fraud” alleged by Appellant includes the alleged absence of testimony from Chris DeLuca in the transcript in the Original State Court Action, as well as the alleged use of profanity during the trial (R pp. ____; Appellant Brief at pp. 26-30). She also alleges orders have treated unadjudicated issues as if they had been decided as evidence of this fraud (R pp. ____; *id.*). Appellant’s arguments do not evidence extrinsic fraud on the court for at least two reasons.

First, Appellant was able to present her case and be heard. In the Original State Court Action, she was heard by the magistrate and received a final judgment after a trial on the merits. She then appealed the dismissal by the magistrate to the Horry County Court of Common Pleas. After her appeal was denied, she again raised her allegations in her Motion for Retrial, which was likewise heard in the Horry County Court of Common Pleas. After that Motion was denied, she did not appeal the matter further. Instead, she brought the Federal Court Action, in which she again asserted her allegations and was heard and given a final judgment on the merits, which she did not appeal. Thus, to the extent there is any fraud, which is highly doubtful, it was not extrinsic fraud as it did not preclude Appellant from presenting her evidence and arguments to multiple judges at multiple levels.

Second, not only could Appellant have discovered what she now categorizes as extrinsic fraud in the Original State Court Action, she did discover it. Appellant identified the allegedly missing testimony from Mr. DeLuca and the other allegations of fraud in her appeal of the decision of the magistrate in the Original State Court Action. (R pp. ____; Brief of Appellant at pp. 5-6). She also argued the scope and extent of the magistrate’s rulings on appeal. (R pp. ____; Brief of Appellant at pp. 6-16). Then, she raised the allegations again in her Motion for

Retrial (R pp. __; Motion for Retrial at pp. 3-6). Next, she raised the allegations in her Complaint filed in the Federal Court Action (R pp. ____, Federal Complaint at pp. 6-7). She then raised them again in her Response in Opposition to Defendants' Motion to Dismiss and in her Objections (R pp. __; Response in Opposition; Objections). Thus, even if the absence of the testimony of Mr. DeLuca or the extent of the magistrate rulings could be extrinsic fraud, they were not in this case as they were discovered during the litigation and were addressed therein. They also could have further been addressed through the appellate processes in the Original State Court Action and the Federal Court Action, which Appellant chose not to pursue.

Accordingly, Appellant is not entitled to relief under Rule 60(b) and the trial court did not abuse its discretion in declining to permit the purported Rule 60(b) action to proceed.

III. APPELLANT'S CLAIMS OF PROCEDURAL ERROR ARE BASELESS AND FAIL TO ESTABLISH ANY REVERSIBLE ERROR BY THE TRIAL COURT.

Finally, in her Initial Brief, Appellant raises a variety of procedural challenges with regard to the trial court's handling of the case below (R pp. __; Initial Brief of Appellant). These challenges lack merit and fail to establish any reversible error by the trial court as a matter of law.

First, Appellant asserts that "[t]he circuit court committed reversible error by granting summary-judgment treatment while explicitly denying Appellant's Rule 56(f) discovery rights." (R pp. __; Initial Brief of Appellant at p.22). While Appellant's argument is difficult to follow, this claim appears to be based on Appellant's mistaken understanding of the law – specifically, her belief that a court is not permitted to consider documents incorporated into a pleading by reference, or to take judicial notice of court records from prior proceedings, in ruling on a Rule 12(b)(6) Motion to Dismiss (R pp. __; Initial Brief of Appellant at pp. 22-24). However, as noted above, it is well established in South Carolina that a trial court may dismiss claims based

on res judicata preclusion pursuant to Rule 12(b)(6), S.C. R. Civ. P., and may consider documents incorporated into a pleading by reference and take judicial notice of court records from prior proceedings in deciding such a motion without converting the motion to one for summary judgment under Rule 56, S.C. R. Civ. P. *See cases cited supra* at pp. 10-11.

Second, Appellant claims that “[t]he adversary-drafted dismissal order was entered through a Rule 5(b)(3) process that deprived Appellant of a meaningful opportunity to object.” (R pp. ____; Initial Brief of Appellant at p.24). The basis for this allegation appears to be that Appellant was served with a proposed order through U.S. mail simultaneous to it being filed on the public index, but Appellant offers no citation or legal support for the premise that this is improper under the circumstances or constitutes reversible error. Regardless, this cannot be the basis for reversal for at least two reasons. First, as noted in the Notes to the 1994 Amendments to Rule 5(b)(3), “[t]he rule does not require the court to delay entering any proposed order.” Rule 5(b)(3), S.C. R. Civ. P., Notes to 1994 Amendments. Thus, the trial court committed no error here based on the manner of service. Second, the trial court was not required to issue a detailed order granting the Motion to Dismiss under Rule 12(b)(6), S.C. R. Civ. P., and could have simply relied on the Form 4 Order granting the Motion to Dismiss. *See* Rule 52(a), S.C. R. Civ. P. (“Findings of fact and conclusions of law are unnecessary on decisions of motions under Rule 12 or 56 or any other motion except as provided in Rule 41(b).”). Thus, even if there was error in the manner of service, which is denied, it was harmless and certainly does not justify reversal.

Third, Appellant asserts various challenges to the manner and order in which she believes the trial court addressed her claims. Specifically, she alleges that: “[t]he court skipped the independent-action / fraud-on-the-court gateway before invoking preclusion.” (R pp. ____; Initial Brief of Appellant at p. 26); “[t]he court failed to address the void-ab-initio / conditions-

precedent lane” (R pp. ____; Initial Brief of Appellant at p. 34); “[t]he order ignored Appellant’s challenge to the ex parte \$1,020 attorney-fee submission and later ledger judgment entry” (R pp. ____; Initial Brief of Appellant at p. 36); “[t]he order failed to analyze the complaint claim by claim and defendant by defendant” (R pp. ____; Initial Brief of Appellant at p. 40). However, as discussed above, the trial court did not such thing. Rather, the trial court recognized that Appellant had already adjudicated her allegations or had the opportunity to do so in her prior proceedings, including the underlying allegations and her allegations of fraud, in both the Original State Court Action and the Federal Court Action, and therefore granted dismissal under Rule 12(b)(6), S.C. R. Civ. P. As the trial court was not even required to issue a written order explaining its rational for that decision, there was no reversible error with regard to the manner in which it did so. *See* Rule 52(a), S.C. R. Civ. P.

Fourth, Appellant argues that “[b]lanket preclusion cannot bar later post-judgment acts and newly accrued claims.” (R pp. ____; Initial Brief of Appellant at p. 30). But, as noted above, Appellant’s complaint fails to allege any such claims upon which relief could be granted, and thus there was no reversible error in the trial court’s 12(b)(6) dismissal.

Fifth, Appellant claims that “[t]he magistrate court’s own narrowing of the earlier proceeding defeats blanket preclusion as to the FHA retaliation and discrimination claims.” (R pp. ____; Initial Brief of Appellant at p. 33), and that “[r]eliance on the federal Report and Recommendation was misplaced because the federal court expressly declined to analyze collateral estoppel” (R pp. ____; Initial Brief of Appellant at p. 39). But, once again, Appellant misunderstands the applicable law. As noted above, res judicata precludes the re-litigation of any issues that were adjudicated in the prior proceeding and any issues that could have been raised and adjudicated in the prior proceeding. As Appellant raised these claims against the same

parties and their privies in both the Original State Court Action and the Federal Court Action, received final judgments on the merits in both of those actions, and declined to appeal those judgments further, res judicata applies and there was no reversible error in the trial court's decision. If Appellant wanted to challenge the rulings issued by Judge Clayton, Judge Hood, and Judge Morgan in the Original State Court Action, the only available manner in which to do so was to timely appeal to this Court in that action. Likewise, if Appellant disagreed with the decision of Judges West and Dawson in the Federal Court Action, her only available remedy was to timely appeal to the United States Court of Appeals for the Fourth Circuit in that action. It is undisputed that she failed to do so, and she cannot remedy that admitted failure now through a back-door action as she seeks to do here.

Sixth, and finally, Appellant asserts that “[t]he circuit court expressly denied preservation of potentially perishable electronic evidence central to Appellant’s fraud-on-the-court allegations.” (R pp. ____; Initial Brief of Appellant at p. 36). While the trial court did deny Plaintiff’s motion seeking an emergency preservation order, there was certainly no error in the trial court’s ruling. As noted above, Appellant has no colorable action for “fraud-on-the-court” and, regardless, the denial of any such request in relation to Rule 60(b) is committed to the sound discretion of the trial judge. Appellant makes no legitimate argument that the trial court abused this discretion, nor could she do so. Appellant was well aware of the alleged facts giving rise to her purported “fraud-on-the-court” claim during the pendency of the Original State Court Action and the subsequent Federal Court Action, yet she waited a full eighteen months after her trial in magistrate’s court, and almost six months after the Federal Court Action was dismissed, to seek a court order requesting preservation of those trial records. In light of these facts, there can be no serious argument that Judge Hyman abused his discretion in denying her motion.

In sum, Appellant's points of attack fail to establish any reversible error by the trial court.

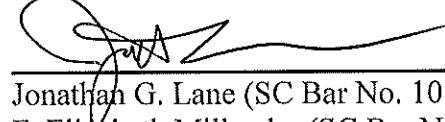
CONCLUSION

For the reasons stated herein, this Court should affirm the decision of the trial court in dismissing the Second State Court Action.

Respectfully submitted,

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