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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

Appeal from Richland County Circuit Court
The Honorable Jean Toal, retired Chief Justice
2024-001626

Rhonda Meisner,

Appellant,

v.

Grant Meisner, Grant Meisner,
MD, LLC; Sheila Robinson; Erwin
Mangubat, MD; Moore, Taylor, &
Thomas, P.A.; Moore Taylor
Lawfirm; Moore Bradley Myers Law
Firm, LLC; Tricia L. Flowers;
Flowers Consulting, LLC; Richard
G. Whiting, Esquire; Law Offices of
Richard Whiting, P.A.; John Doe
(1-10) a fictional name assigned to
identify parties that are not yet
known or not yet determined.

Respondents.

INITIAL REPLY BRIEF OF THE APPELLANT

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The Appellant respectfully submits her reply brief and her reply designation of matter.

COUNTERSTATEMENT OF RESPONDENT'S CHARACTERIZATION OF THE ISSUES BEFORE THE COURT

The orders issued in this case were based on granted Motions to Dismiss for various reasons including failure to state a claim, quasi judicial immunity, litigation privilege, subject matter jurisdiction, and personal jurisdiction, among other reasons. The reason the circuit court dismissed several defendants in December of 2022, did not state a reason until in 2024 when the circuit court questioned its authority. The appellant avers the 2022 Form 4 orders should be considered interlocutory because the orders were silent as to jurisdiction and did not end the case.

There was discussion that the lawsuit was a continuation of the divorce proceedings from family court and the circuit discussed the lack of jurisdiction in the hearing on December 5, 2022; however, it was not until the 2024 form 4 where the jurisdiction of the Court was questioned.

The Honorable Jean Toal issued three orders, the first two (December 15, 2022 and December 20, 2022) dismissed several but not *all* defendants via a Form 4 (the the Flowers defendants were not dismissed) and there were *no* findings of fact or conclusions as to why the Court dismissed the other individual defendants.(R___) The Form 4's indicated the dismissals did *not* end the case. (R___)At the time of the 2022 dismissals, it was brought to the attention of the trial court that Tricia Flowers and Flowers Consulting, LLC were default defendants.(R___) As such, the

orders did not certify the dismissals pursuant to Rule 54 and did not indicate the dismissals were immediately appealable and did not include language that indicated the dismissals were based on lack of subject matter jurisdiction.

On August 19, 2024 via Form 4 the circuit court for the first time reduced to writing the fact the Court questioned the jurisdiction of the circuit court in writing. The 2024 dismissal included Defendants Tricia Flowers and Flowers Consulting, LLC to the extent the Court did not have subject matter jurisdiction making the order immediately appealable because it effectively dismissed the entire case, including the default defendants.

After the dismissals and while on appeal, the appellant/plaintiff discovered Moore Bradley Myers Law Firm, P.A. did not possess a business license to conduct business. As such, the appellant avers whether their filings are properly before the Court including the Motion to Dismiss and the answer to the complaint along with any litigation privilege or quasi judicial immunity by the defendants based on the concept that Moore Bradley Myers Law Firm, P.A. was improperly practicing law without the requisite licenses to conduct business in Richland County or the City of Columbia.

I. The trial Court did *not* properly dismiss Tricia Flowers or Flowers Consulting, LLC because the 2024 form 4 that questioned the authority of the court did not properly determine the circuit court did not have subject matter jurisdiction.(____)

The Circuit Court had subject matter jurisdiction over the claims as alleged. Under S.C.R. Civ. P. Rule 54(b), "any order or other form of decision, however designated, which adjudicates fewer than all the claims or the rights and liabilities

of fewer than all the parties shall *not* terminate the action as to any of the claims *or* parties, and the order or other form of decision is subject to revision at any time before the entry of judgment adjudicating all the claims and the rights and liabilities of all the parties." (R___)The previous appeal appellate case no 2023-000232 was dismissed as “untimely.” The appellant avers the appeal *was* untimely in that not all claims were adjudicated and the Form 4’s were silent as to the reason for dismissals and were therefore interlocutory in nature pursuant to S.C. R. Civ. P. Rule 54(b). (R___)

Once the Honorable Jean Toal entered her 2024 Form 4 order, with the additional comments of “To the extent the Motion to Alter or Amend Pursuant to SCRCP Rule 60(a) and (b) filed December 1, 2023 is under my authority, I hereby DENY all relief contained in this Motion” questioned the subject matter jurisdiction of the Court, the underlying orders became ripe to appeal (R___)S.C. Code Ann. § 14-3-330.

The Form 4 Orders on December 15, 2022 and December 20, 2022 did not involve all parties because the Flowers defendants were in default and no written determination or even question regarding subject matter jurisdiction was noted in those written orders. (R___) To the extent the subsequent order entered by the Court in 2024 that questioned the authority of the court to hear the motion applied to the Flowers defendants, the appellant avers the circuit court **had** subject matter jurisdiction over the claims and all claims were well plead and sufficient to state a claim upon which relief could be granted because South Carolina requires only a

brief statement that alleges all of the elements to the tort. South Carolina specifically did not adopt the Federal pleading standards.(R__ Initial Brief of Appellant).

Personal Jurisdiction

All Respondents either waived personal jurisdiction by their appearance or were properly served. (R__) In the matter of Respondents Tricia Flowers and Flowers Consulting, LLC they filed a notice of appearance and answered the complaint prior to filing the motion to dismiss.(R__)

Subject Matter jurisdiction of the Court

Subject matter jurisdiction is defined as the "court's power to hear and determine cases of the general class to which the proceedings in question belong" *Dove v. Gold Kist, Inc.*, 314 S.C. 235, 442 S.E.2d 598 (1994). When a circuit court rules that it lacks this fundamental power or authority, it loses all structural authority to adjudicate *any* claims. Here, when Justice Toal questioned her authority to rule, she directly questioned the subject matter jurisdiction of the court because she was the judge that entered the initial orders.

To the extent the other judges referenced the dismissals on December 15 and 20th in their dismissals, the appellant avers the reliance on lack of subject matter jurisdiction was misplaced. A jury trial was demanded and available under the South Carolina Constitution as to the causes of action for slander, libel, civil conspiracy, trespass and trespass after notice. As such, for those causes of action,

the only Court with subject matter jurisdiction was the circuit court because federal claims were not plead. The comments that this was a continuation of the family court proceedings fails to evaluate the claims as alleged in the complaint which is the basis for the jurisdictional inquiries.

Respondents Tricia Flowers and Flowers Consulting, LLC were default defendants when the hearing took place on December 2, 2022. (T___) These defendants were also in default when court entered its Form 4 on December 15, 2022 and on December 20, 2022. (R___)

In Tricia Flowers and Flowers Consulting, LLC's initial brief, both claimed they **were properly dismissed**; however, whether the dismissal based on subject matter jurisdiction is the only dismissal related to this appeal.

As such, should this Honorable Court determine the circuit court had jurisdiction over the claims and the claims were properly plead, no other facts are associated with the Flowers defendants because no determination of the reasons for dismissal prior to the 2024 order applied to them. The Form 4's indicated the case did not end in 2022 and a review of the Form 4's from 2022 reflects Tricia Flowers and Flowers Consulting, LLC were **not** dismissed. (R___) Also, the court was aware that there were default defendants based on the arguments at the hearing. (R___) Nevertheless, the Honorable Jean Toal dismissed several defendants via Form 4 and indicated the case was not ended on her order by checking the box that the decision did not end the case. (R___) The appellant avers, as such, her previous

appeal was interlocutory and despite being dismissed as untimely was interlocutory and not a final order upon which an appeal could be taken.(R____)

A default defendant legally admits all well-pleaded factual allegations in the complaint. *Wham v. Shearson Lehman Bros., Inc.*, 298 S.C. 462, 381 S.E.2d 499 (Ct. App. 1989). Due to their default status, these defendants “admitted” the allegations against them, at the time of dismissal of the other defendants. Interestingly, other defendants were not properly represented by attorneys that had a business license and were the source for the litigation privilege or quasi-judicial privilege of the Flowers defendants. The appellant avers these defendants pleadings should not be considered. To the extent the third order entered by the Honorable Jean Toal in 2024 implicated the subject matter jurisdiction of the Court the appellant avers the determination of lack of subject matter jurisdiction was made in error based on the pleadings in the case.

An order dismissing fewer than all defendants "shall not terminate the action as to any of the claims or parties." *Caldwell v. Mid-Atlantic, Inc.*, 305 S.C. 175, 407 S.E.2d 2 (1991).Rule 58(a) of the South Carolina Rules of Civil Procedure (SCRCP) explicitly requires that every judgment be set forth on a separate document and signed by the judge. The Form 4's entered in this case in 2022 specifically did *not* mention the *basis for the dismissal* and the form specifically did indicate the judgment was *not* final because the “does not end the case” box was checked as to the case.(R____) The appellant avers the first time the appeal could have been considered was when the dismissals were issued with prejudice in 2024. (R.____)

To the extent the order on August 19, 2024 is interpreted as implicating subject matter jurisdiction of the circuit court, this Order would apply to all defendants despite the fact the defendants themselves continued in the litigation after the entry of the order. (R___) If this Honorable Court determines the Form 4 implicates the subject matter jurisdiction, then the Court should remand the case to the Circuit Court with a finding the Court had subject matter jurisdiction. To the extent a privilege is alleged, there was no reference to judicial immunity or quasi-judicial immunity in any of the form 4 orders and the only way the 2024 implicates these defendant/respondents is if the Court determines that order implicated subject matter jurisdiction making the appeal apply to all defendants/respondents.(R___).

II. The trial court did not correctly find there was no subject matter jurisdiction because the circuit court routinely hears cases demanding a jury trial for the claims as alleged in the complaint and amended complaint.¹

A. Oral Rulings by a Trial Judge Are Not Final and Cannot Support an Order of Dismissal when not reduced to writing

In South Carolina, it is a foundational principle of procedure that oral rulings delivered from the bench are not final, binding, or effective until they are reduced to writing, signed by the judge, and delivered to the clerk of court for filing. The Form 4 entered in this case specifically did not mention the basis for the dismissal and the form specifically did indicate the judgment was not final because the “does not end the case” box was checked as to the case. Pursuant to Rule 58 (a) the written

¹ As previously argued the Court did not explicitly rule on subject matter jurisdiction, but rather questioned the authority of the circuit court to act. To the extent the comment regarding authority implicates the subject matter jurisdiction the appellant avers the circuit court has subject matter jurisdiction. The Form 4's previously entered on December 15, 2020 and December 20, 2022 were silent as to subject matter jurisdiction. It was later when the Court questioned its ability to hear the claims but did not definitely state it lacked subject matter jurisdiction.

order controls and the trial court erred by not including facts and conclusions of law in its order. Oral statements that are not included in the written order are a nullity. *Bowman v. Richland Memorial Hospital*, 335 S.C. 88, 515 S.E.2d 259 (Ct. App. 1999)

B. The Trial Court's Order failing to certify pursuant to Rule 54 or further explain that the dismissal was with prejudice or should not be delayed or implicated the subject matter was interlocutory.

While the circuit court commented from the bench this was a continuation of the family court proceedings or words to this effect, this determination never made it to the written order and no such determination was included in the Form 4. (R___) The Form 4 specifically stated the case did not end with the dismissals issued. (R___) Because the trial court made a verbal determination during the hearing but entirely omitted that determination from the final written order, the oral finding regarding subject matter jurisdiction is legally non-existent for the purposes of enforcement and appeal. Furthermore, the Form 4 order contains no express direction for the entry of final judgment pursuant to Rule 54(b), SCRCF.

In fact the Form 4 specifically contradicts the dismissals of the other parties ended the case. (R___) While subject matter jurisdiction must be explicitly determined and supported by the record, here the complaint evidences the circuit court had jurisdiction. Defendants Tricia Flowers and Flowers Consulting, LLC default status at the time of December of 2022 dismissals fixes the fact that they admitted the well plead allegations until such time as their default status was overturned. The problem with the silence regarding the reason for the dismissal in

the December 15, and 20th of 2022 orders is that the silence makes the orders interlocutory until such time as the Court put in writing its concern of subject matter jurisdiction in the Order of August 19, 2024, making the previous orders finally appealable. This silence effectively insulates the error from proper scrutiny and violates the plaintiff's due process right to a reasoned adjudication.

C. The Trial Court's comments from the bench questioning jurisdiction were not reduced to writing until the August 24, 2024 order.

The Richland County Circuit Court has a presumption of jurisdiction unless the complaint itself affirmatively demonstrates a lack of jurisdiction such as a federal claim, claims reserved for family court, or a claim outside of the statute of limitations. A court of general jurisdiction-the Court of Common Pleas- is presumed to possess subject matter jurisdiction. Here all elements of Civil Conspiracy, Trespass after Notice, Trespass, Abuse of Process were properly plead and requested a jury trial.(R___) As such, the Plaintiff/ Appellant avers the Circuit Court had jurisdiction over the claims and they were properly plead without any affirmative defenses of the Defendant/Respondents.

III. The trial Court made no determinations about the quasi-judicial immunity of the defendants in its order.

Again, the arguments by the Defendants/Respondents regarding quasi-judicial immunity were not captured in any written order related to the orders in this appeal as none of the form 4's issued commented on this issue.

Nevertheless, the Plaintiff/Appellant avers any quasi-judicial immunity of Defendants Tricia Flowers and Flowers Consulting, LLC originate from Moore

Bradley Myers Law Firm, P.A. As such, because it was discovered that Moore Bradley Myers Law Firm, P.A. did not have a license to conduct business including hiring process servers for Richland County residents and participating in motions by paying fees and going before the Court, the plaintiff/ appellant avers there is no quasi-judicial immunity extended to parties operating outside of the law.

As such, Tricia Flowers, and Flowers Consulting, LLC's actions should be reviewed without any restrictions as to the claims against them. But even if they were afforded the litigation privilege, it ends once their official reason for being on the property is completed. As such, it is a question for the jury whether the defendant/appellants Tricia Flowers and Flowers Consulting, LLC exceeded the claimed privilege and to what extent the Plaintiff should be afforded relief or if the actions of the Respondents were allowed under these theories. The appellant avers their actions were not allowed and abused the process by co-mingling approved actions such as serving papers and once completed then attacking the subject of her service in front of her children on private property after notice not to do that again as alleged in the amended complaint.

The Plaintiff avers a legal reason for being on the property cannot be co-mingled with torts depriving the victim of relief when the process is abused and trespass is presumed based on the previous warning to not involve the Plaintiff/Appellant's children. Particularly as here when the "dispatching" attorney firm failed to obtain the appropriate business license to conduct business in Richland County or to file motions or pay for the motions. Clearly, in addition to the abuse of process

claims the “dispatching” attorney firm appears to also be gaming the system by paying lower taxes in West Columbia and then failing to obtain licenses to work in Richland County or the City of Columbia where the court house is located, as required by ordinance. Importantly, a business license is required *prior* to doing business in both the City of Columbia and Richland County.

IV. The appellant avers the trial Courts’ dismissal on December 15, 2022 and December 20, 2022 was interlocutory as to all defendants. To the extent the August 19, 2024 form 4 implicated the Subject matter jurisdiction, the appellant avers the circuit court did have subject matter jurisdiction.

To the extent the 2024 Form 4 implicated the subject matter jurisdiction of the Court, the appellant avers this was in error because all elements of each tort were plead properly and the circuit court is the only court with jurisdiction to settle the issues based on the jury demand and no federal questions and injury claims.

V. The appellant avers trial court did not make any determinations on quasi-judicial immunity because this is the prevue for the jury.

Contrary to the arguments of the Respondents, the Court made no determinations as to any affirmative defenses in the Form 4’s. The appellant avers the Court should review the four corners of the complaint for sufficiency if the Court determines, like the appellant argues the Circuit court did have subject matter jurisdiction and remand the case for discovery and trial.

Having addressed flowers respondents arguments, the appellant incorporates her initial brief with all references to the record in requesting this Honorable Court return this case to the Circuit Court for discovery and trial or at least a hearing on

the Rule 60 motion because the attorneys were not licensed to conduct business in Richland County.

Respectfully Submitted,

June 22, 2026

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