

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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**Jul 17 2026**

**SC Court of Appeals**

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

Jocelyn Newman  
Circuit Court Judge

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Appellate Case No. 2026-001144

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Renee Wicks, ..... Respondent,

v.

ER Construction, LLC; OJC, LLC;  
Richard McDaniel, individually and  
d/b/a ER Construction; and Kenneth L.  
Edwards, individually, ..... Defendants,

*of which* Kenneth L. Edwards *is the* ..... Appellant.

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INITIAL BRIEF OF RESPONDENT

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## **STATEMENT OF THE CASE**

This is the appeal of an order denying Rule 60(b), SCRCF, motions to set aside a default judgment in a construction dispute. Because the Appellant's submissions in this matter are not a model of clarity, Respondent offers the following Statement of the Case:

1. Respondent/Plaintiff Renée Wicks is the owner of the real property located at 56 and 58 Dunnemann Avenue, Charleston, South Carolina (the "Property"). (03/31/25 Order p.1). Around June 28, 2021, Respondent entered into construction agreements with Defendant ER Construction, LLC; Defendant OJC, LLC, Defendant Richard McDaniel, and Appellant/Defendant Kenneth L. Edwards to perform renovation work at the Property. (Id.; Compl. p. 5). Pursuant to these agreements, work was to be completed on the Property by January 22, 2022. (Id.). The agreements did not contemplate Plaintiff having to move out during construction. (03/31/25 Order at 2). Respondent made Defendants aware that she intended to use the additional dwelling unit (the "Cottage") as an income property upon completion. (Id.). Disregarding her expressed intention, in early 2022 Defendants demolished the Cottage without obtaining permits for the demolition, then informed Respondent that she would have to vacate the Property for approximately two months while work continued at the Property. (Id.).

2. As a result, Respondent was actually required to obtain a rental for a period of thirteen (13) months, for which she was required to pay \$26,200.00. (Id.). Respondent

was also required to obtain and maintain storage units for the storage of her personal property following the January 22, 2022, promised completion date, for which she was required to pay a total of \$24,262.87. (Id.). Further, during construction Respondent purchased antique windows and marble tiles for use at the Property, which cost her a total of \$8,043.28, which were destroyed due to Defendants' actions or omissions. (Id.).

3. In July of 2022, when Defendants were paid a sum of over \$200,000.00 for work, they stopped work at the Property and failed and/or refused to return. (Id.; Compl. p. 5). The work the Defendants did perform contained various construction defects and deficiencies, including violations of relevant building codes and industry standards. (03/31/25 Order at 3). Respondent was required to pay various tradesmen and subcontractors to perform limited scopes of work so Respondent and her husband could live at the Property. (Id. at 2). Respondent paid these tradesmen and subcontractors a total of \$29,061.00 to perform work which was supposed to be performed by Defendants pursuant to their agreements. (Id.). As the Cottage was demolished and never reconstructed by Defendants, Plaintiff also lost rental income in the amount of \$266,000.00. (Id.). It will cost an additional \$649,903.74 to reconstruct the Cottage, correct the issues with the construction performed by Defendants, and complete the scope of work originally intended to be performed by Defendants. (Id.).

4. Respondent filed suit against the Defendants on July 12, 2024, for negligent construction, breach of contract, and breach of warranty, including a request to pierce

the corporate veil. (Complaint). The Defendants were duly served, with Appellant served on August 14, 2024. (Entry of Default). The Defendants failed to answer or otherwise respond to the Complaint, were held in default, and a default damages hearing was scheduled for March 26, 2025. (Notice of Hearing). Pursuant to Rule 55(b), SCRCF, on February 26, 2025, the Appellant was served with notice of the default damages hearing at 4532 Hwy 162, Hollywood, SC 29449. (Notice of Hearing; Cert. of Service).

5. At the March 26, 2025, hearing, the Circuit Court heard testimony from Respondent Renee Wicks, her husband Robin Wicks, and Respondent's expert D. Kent Lesley. (03/31/25 Order p. 1). No Defendant, including the Appellant, appeared.

6. On March 31, 2025, the Circuit Court found facts as set forth in paragraphs 1-3 above, and also found the Defendants were acting as a single business enterprise, and that the corporate entities were the alter egos for Defendant Richard McDaniel and Appellant Kenneth L. Edwards. (Id. pp. 3-4). The Circuit Court issued a judgment against the Defendants (including Appellant), jointly and severally, for One Million Three Thousand Four Hundred Seventy and 80/100 dollars (\$1,003,470.80) in actual damages and Three Million Ten Thousand Four Hundred Twelve and 40/100 (\$3,010,412.40) dollars in punitive damages, for a total judgment of Four Million Thirteen Thousand Eight Hundred Eighty-Three and 20/100 dollars (\$4,013,883.20). (Id. at 4). Respondent subsequently proceeded with obtaining writ(s) of execution for this judgment.

7. On or about October 21, 2025, Appellant appeared *pro se*.<sup>1</sup> On October 22, 2025, Appellant filed his first Motion to Set Aside Default. (04/22/26 Order p.1). On December 5, 2025, Appellant filed his second Motion to Set Aside Default (12/02/25 motion, “amended motion”, and memorandum). On April 22, 2026, the Circuit Court denied Appellant’s motions. (04/22/26 Order).

8. The Appellant filed his Notice of Appeal with this Court on May 14, 2026, and served it on Respondent’s attorney the same day.<sup>2</sup> This submission also included a document titled: “APPELLANT’S COUNTER-AFFIDAVIT TO RESPONDENT’S AFFIDAVIT FOR DEFAULT”, which appears to be an affidavit executed May 14, 2026, with multiple exhibits related to this case that were never provided to the Circuit Court.

9. Because the Notice of Appeal was not filed with the Charleston County Clerk of Court and lacked a copy of the order appealed, this Court issued a deficiency letter on May 15, 2026, and the Appellant filed the Notice of Appeal with the Clerk of Court that day and provided a copy of the April 22, 2026, Order appealed.

10. On June 9, 2026, Appellant filed his Initial Brief. He also filed a Designation of Matter with multiple exhibits matching those in his May 14, 2026, affidavit and a document titled “Record on Appeal” which appeared to be an index to a Record on Appeal. On June 11, 2026, this Court returned the exhibits and the “Record on

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<sup>1</sup> Prior to this appearance, Appellant had filed a separate lawsuit against Respondent requesting identical relief; this lawsuit was dismissed on December 2, 2025 (See Footnote 9, *infra*).

<sup>2</sup> All of the following documents are on file with this Court.

Appeal” to the Appellant.

11. On July 11, 2026, undersigned Counsel appeared for the Respondent and contemporaneously filed a motion for an extension to file her Initial Brief and Designation of Matter. This Court granted that motion by order dated July 14, 2026.

## STANDARD OF REVIEW

The courts of this state have consistently held relief from default is solely within the sound discretion of the trial judge. *Ammons v. Hood*, 288 S.C. 278, 341 S.E.2d 816 (Ct. App. 1986). The appellate court cannot substitute its judgment for that of the trial judge and will not disturb the trial court's decision absent a clear showing of abuse of discretion. *Id.* 341 S.E.2d at 818; *see also Ex Parte Carter*, 422 S.C. 623, 631, 813 S.E.2d 686, 690 (2018) (When reviewing decisions to grant or deny motions under Rule 60, SCRCP, appellate courts use an abuse of discretion standard.). An abuse of discretion occurs when the ruling is controlled by an error of law, or when based on factual conclusions, is without evidentiary support. *McKinney v. Pedery*, 413 S.C. 475, 482, 776 S.E.2d 566, 570 (2015).

## ARGUMENT

### **I. The Appellant's first issue on appeal is not properly before this Court**

"The statement of each issue on appeal shall be concise and direct, and broad general statements of issues may be disregarded by this Court." *Jones v. Lott*, 387 S.C. 339, 348, 692 S.E.2d 900, 904 (2010) (citing Rule 208(b)(1)(B), SCACR). "Ordinarily, no point will be considered which is not set forth in the statement of the issues on appeal." *Id.* "Every ground of appeal ought to be so distinctly stated that the reviewing court may at once see the point which it is called upon to decide without having to 'grope in the dark' to ascertain the precise point at issue." *Id.* (quoting *Forest Dunes Assocs. v. Club Carib, Inc.*, 301 S.C. 87, 89, 390 S.E.2d 368, 370 (Ct. App. 1990) (citation omitted)).

In *Jones*, the South Carolina Supreme Court considered the following issue on appeal: "Did the trial court err in finding the use of deadly force by the Richland County deputies was objectively reasonable, as a matter of law, and that the officers were not negligent, as a matter of law?" *Jones* at 348-349, 692 S.E.2d at 904. The *Jones* court found this issue did not preserve an exception to the use of a gross negligence standard or to the use of Tort Claims Act immunity under S.C. Code § 15-78-60(6). *Id.*

Appellant's first issue is: "DID THE LOWER COURT ERR IN GRANTING AN ORDER OF DEFAULT, AFFECTING A SUBSTANTIAL RIGHT OF APPELLANT, MADE UPON A SUMMARY APPLICATION IN THIS ACTION AFTER JUDGMENT?" This issue is considerably more general and vague than the issue the

*Jones* court found insufficient. Accordingly, Appellant's first issue on appeal (and thus its first argument) is not properly before this Court.

**II. The Circuit Court's findings regarding the Appellant's address and mail receptacle are supported by evidence.**

Appellant's second issue<sup>3</sup> appears to complain of the address used by the Respondent in her February 26, 2026, Notice of Hearing for the Rule 55(b), SCRC, damages hearing. (Notice of Hearing; Cert of Service). Regarding this issue, the Circuit Court's April 22, 2026, order found: "He [Appellant] has shown only that his address had no mail receptacle (i.e., "NMR"), a problem of his own making." (04/22/26 Order p.1).

The Circuit Court's finding was not an abuse of discretion. The envelope attached as an exhibit to Appellant's December 2, 2025, motion to set aside default contains the notation "NMR". (Envelope). Thus, the Circuit Court's finding was supported by evidence. Further, United States Postal Service standards establish it is the addressee's responsibility to maintain a mail receptacle. *See* U.S. Postal Serv., *Mailing Standards of the United States Postal Service, Domestic Mail Manual* § 507.1.4.1, Exhibit 1.4.1 (2026) ("No Mail Receptacle" means "[a]ddressee failed to provide a receptacle for receipt of mail.")<sup>4</sup>; U.S. Postal Serv., *Postal Bulletin*

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<sup>3</sup> "DID THE LOWER COURT ERR IN DENYING APPELLANT RELIEF FROM JUDGMENT BASED ON RESPONDENT'S CERTIFICATE OF SERVICE ADDRESSED TO A NON-EXISTENT ADDRESS AND BASED ON THE ABSENCE OF PROVIDING APPELLANT NOTICE OF THE DATE, TIME AND PLACE OF THE OPPORTUNITY TO BE HEARD ON THE CLAIM FOR UNLIQUIDATED DAMAGES?"

<sup>4</sup> Available at: <https://pe.usps.com/text/dmm300/507.htm> (last visited July 12, 2026).

No. 22214, *All Offices With Rural Delivery: Changes to Handbook PO-603* at 20 (Aug. 30, 2007) (“No Mail Receptacle (NMR). Addressee has failed to provide a receptacle for the receipt of mail.”)<sup>5</sup>. Respondent would also point out that the returned envelope in question does not contain notations indicating 4532 Highway 162 was not a valid address or uninhabited (*e.g.*, ANK, NSN, or NSS). *See Id.* Accordingly, the Circuit Court did not abuse its discretion.<sup>6</sup>

### **III. All of Appellant’s remaining arguments are not properly before this Court.**

It is well-settled: “No point will be considered which is not set forth in the statement of issues on appeal.” *State v. Dunbar*, 356 S.C. 138, 142, 587 S.E.2d 691, 693 (2003) (citing Rule 208(b)(1)(B), SCACR; *State v. Bray*, 342 S.C. 23, 535 S.E.2d 636 (2000)); *see also Babb v. Noble*, Op. No. 2007-UP-493 (S.C. Ct. App. Oct. 16, 2007) (dismissing an appeal because appellant’s statement of issues and arguments in body of brief “do not coincide” and because the arguments were cursory). Any points or arguments not encompassed by Appellant’s second Issue on Appeal (*i.e.*, any issue other than the address of the Notice of Hearing) are not properly before this Court,

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<sup>5</sup> Available at:

<https://about.usps.com/postal-bulletin/2007/html/pb22214/updt.3.12.html> (last visited July 12, 2026).

<sup>6</sup> If this Court considers the documents submitted as part of Appellant’s June 9, 2026 Designation of Matter and his May 14, 2026, affidavit (See Argument IV, *infra*), these documents do not change the fact that the Circuit Court’s findings were based on evidence, and was thus not an abuse of discretion. Particularly, the May 8, 2026, emails of Sydney Lyons establish that 4532 Highway 162 was at one time Appellant’s address. South Carolina’s Rules of Civil procedure require only that a movant mail notice of a default damages hearing to a party in default’s last known address. Rule 55(b), SCRPC.

and therefore cannot be considered.

**IV. Appellant's failure to follow the Rules of Appellate Procedure demands dismissal of this appeal.**

A *pro se* appellant is not relieved from compliance with the rules of this Court.<sup>7</sup> See *State v. Burton*, 356 S.C. 259, 265 n.5, 589 S.E.2d 6, 9 n.5 (2003) (finding a *pro se* litigant has full responsibility for complying with substantive and procedural requirements of the law); *Goodson v. Am. Bankers Ins. Co. of Fla.*, 295 S.C. 400, 403, 368 S.E.2d 687, 689 (Ct. App. 1988) (“Lack of familiarity with legal proceedings is unacceptable and the court will not hold a layman to any lesser standard than is applied to an attorney.”). Further, this Court (and its Clerk) are empowered to dismiss an appeal where the appellant fails to comply with its rules. *Henning v. Kaye*, 307 S.C. 436, 437-438, 415 S.E.2d 794, 794 (1992) (“The South Carolina Appellate Court Rules are not mere technicalities,” and dismissal would be “completely justified” where appellant’s brief contained numerous rule violations and failed to facilitate appellate review); Rule 260(a), SCACR (“Whenever it appears that an appellant or a petitioner has failed to comply with the requirements of these Rules, the clerk shall issue an order of dismissal...” ) (emphasis added).

Appellant’s May 14, 2026, affidavit and his June 9, 2026, Designation of Matter exhibits 4, 7, 8, 9, 10, 11, 12, & 14 were never presented to the Circuit Court. These documents are not appropriately part of the Record on Appeal and they are not appropriate for this Court to consider. See Rule 210(b), SCACR (“The Record shall

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<sup>7</sup> Though Appellant is *pro se*, he is also a licensed South Carolina attorney (S.C. Bar No. 62877).

not, however, include matter which was not presented to the lower court or tribunal.”); *Williamsburg Rural Water and Sewer Co., Inc. v. Williamsburg Cty. Water and Sewer Auth.*, 367 S.C. 566, 571, 627 S.E.2d 690, \_\_ (2006) (“Nothing in the appellate court rules permits a party to unilaterally add after-created evidence to the record.”); Rule 210(h), SCACR (“Except as provided by Rule 212 and Rule 208(b)(1)(C) and (2), the appellate court will not consider any fact which does not appear in the Record on Appeal.”).

It is incumbent on the Appellant to properly assemble a Record on Appeal and to generally comply with South Carolina’s appellate court rules. Appellant’s past and future noncompliance with our rules, and the inevitable delays his noncompliance will cause, will prevent the orderly consideration of this appeal, and for this reason Appellant’s appeal must be dismissed.<sup>8</sup>

**V. If this Court were to consider Appellant’s arguments, they fail.**

Every argument in Appellant’s brief, save his objection to the consideration of a supposedly “non-existent” address, is not properly before this Court and cannot be considered. Further, these arguments are presented in such a cursory and conclusory manner that they are nearly impossible to respond to. This constitutes an independent ground for declaring them abandoned. *See, e.g., Glasscock, Inc. v. U.S. Fid. & Guar. Co.*, 348 S.C. 76, 81, 557 S.E.2d 689, 691 (Ct. App. 2001) (An appellant

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<sup>8</sup> Alternatively, Respondent asks this Court to disregard the May 14, affidavit and exhibits 4, 7, 8, 9, 10, 11, 12, & 14 to the Designation of Matter. Respondent would prefer to not have these matters stricken, as it will require the Appellant to revise his Record on Appeal and Initial Brief, adding months, if not years, to the appellate process.

abandons an issue when the brief fails to develop the argument with supporting authority or treats the issue only in a conclusory manner.). In an abundance of caution (and as potential additional sustaining grounds), they, to the extent they can be ascertained, are addressed below:

- 1) To the extent the Appellant is appealing the denial of a Rule 55(c), SCRPC, motion to set aside an entry of default, such a motion was untimely because the Circuit Court had entered a default judgment on March 31, 2025, and Appellant's motions were filed on October 22, 2025 and December 2, 2025. *See Sundown Operating Company, Inc. v. Intedge Industries, Inc.*, 383 S.C. 601, 681 S.E. 2d 885 (2009).
- 2) To the extent the Appellant argues that the September 24, 2024, Entry of Default in this matter was improper, there exists no evidence of technical difficulties in e-filing<sup>9</sup> or of service on Respondent's counsel below. *Bowers v. Bowers*, 304 S.C. 65, 68, 403 S.E.2d 127, 129 (Ct. App. 1991) (The Rule 60(b) movant has the burden of presenting evidence proving the facts essential to entitle him to relief; additionally, the arguments of counsel are not evidence); *see also* Section 9, SCEF ("Technical Difficulties").

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<sup>9</sup> While Appellant argues that he was unable to e-file his answer in this matter, he was fully capable of filing on August 19, 2025, a separate frivolous lawsuit against Respondent requesting vacatur of the March 31, 2025, Order of Judgment against him. This case, *Kenneth L. Edward v. Renee Wicks*, 2025-CP-10-04653, is referenced in Argument I of Appellant's brief. This lawsuit was dismissed on December 2, 2025. This Court may take judicial notice of this action and its filings. *See Masters v. Rodgers Dev.*, 283 S.C. 251, 256, 321 S.E.2d 194, 197 (Ct. App. 1984) (Bell, J.) (appellate judicial notice).

- 3) To the extent Appellant is appealing a denial of relief under Rule 60(b)(1), SCRCF (a particularized finding of “mistake, inadvertence, surprise, or excusable neglect”). The Circuit Court found “no explanation for the entry of default” and no evidence of mistake. (04/22/26 Order p. 1). Further, the record reflects a nearly seven month delay between the Order of Default and Appellant’s first motion to Set Aside Default (and over a year delay from the Entry of Default to the first motion). *See Sundown* at 606, 681 S.E. 2d at 888 (upholding refusal to relieve defendant from default when default was entered just 35 days after service of summons and complaint), *citing Harbor Island Owners' Ass'n v. Preferred Island Properties, Inc.*, 369 S.C. 540, 544, 633 S.E.2d 497, 499 (2006) (upholding default judgment where default was entered 34 days after service of the complaint upon registered agent for defendant).
- 4) To the extent Appellant is appealing a denial of relief under Rule 60(b)(3), SCRCF, the Circuit Court found no showing of fraud. (04/22/26 Order p. 1). This finding is no abuse of discretion, as the record, such as it is, contains no evidence supporting a finding of extrinsic fraud. *E.g. Raby Constr., L.L.P. v. Orr*, 358 S.C. 10, 20, 594 S.E.2d 478, 484 (2004).

## CONCLUSION

The Circuit Court should be affirmed and/or the Appellant's appeal should be dismissed.

Dated: 07/17/2026

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