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SC Court of Appeals

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM YORK COUNTY

Court of Common Pleas

William A. McKinnon, Circuit Court Judge

Case No. 2024-CP-46-01354

Latif Taheri-Azar.....Appellant,

v.

Tim Haake and Justin Marlow.....Respondents

Appellate Case No. 2025-000971

APPELLANT'S FINAL CONSOLIDATED REPLY BRIEF
TO RESPONDENTS' BRIEFS

July 3, 2026

s/ Rolf M. Baghdady

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STATEMENT OF ISSUES ON APPEAL

1. Did the Circuit Court err in granting Respondents' motions for summary judgment because the Respondents made false and defamatory statements concerning the Appellant?
- 2a. Did the Circuit Court err in granting Respondents' motions for summary judgment because the record shows Respondents' February 28, 2024 e-mail to Mike Nugent, Building Official for the City of Rock Hill, is false?
- 2b. Did the Circuit Court err in granting Respondents' motions for summary judgment because the Respondents' February 28, 2024 e-mail is indicative of what was communicated in the February 22, 2024 meeting with Mike Nugent, Building Official for the City of Rock Hill?
3. Did the Circuit Court err in granting Respondents' motions for summary judgments because the record supports the elements of Respondents' defamation of the Appellant?
4. Did the Circuit Court err in granting Respondents' motions for summary judgments because the Appellant expressly argued, innuendo, showing how Respondents called Appellant a liar in his business by reference to the surrounding circumstances of this defamation?

ARGUMENTS

I. BECAUSE RESPONDENTS MADE FALSE AND DEFAMATORY STATEMENTS CONCERNING THE APPELLANT, THE CIRCUIT COURT ERRED IN GRANTING RESPONDENTS' MOTIONS FOR SUMMARY JUDGMENTS.

Respondent Tim Haake's brief asserts facts in its Statement of Brief that are contested.

1. Respondent ignored the February 22, 2024 meeting between Respondent and Mike Nugent, Building Official for the City of Rock Hill, [Nugent's e-mail to Haake on February 21, 2024 setting up meeting date / time] (R. p. 822) was the cause of Appellant's damages instead of recognizing that the subsequent February 28, 2024 e-mail [Respondent Justin Marlow's e-mail / Letter to Nugent and neighbors errantly representing himself as President of a nonexistent HOA] (R. pp. 836-841) memorialized the defamatory statements made about Appellant in writing.
2. Respondent ignored that he had stated that Appellant had lied on his building permit

application [Building permit application] (R. p. 809). Respondent sought to limit the statements to the following: that there was an HOA , that there was an architectural review committee, and that Appellant was in violation of certain covenants. This is in error because the hearer, Mike Nugent, Building Official for the City of Rock Hill, heard that there was an HOA, that there was an architectural review committee, and that the Appellant was in violation of certain covenants; however, simultaneously, Nugent knew that Appellant had filed an application for a building permit [Building permit application] (R. p. 809) for his business in order to build a residential structure and that Appellant's application stated:

Deed Restrictions/Restrictive Covenants

Are there any recorded deed restrictions or restrictive covenants that apply to this property which are contrary to, conflict with, or prohibit the permitted activity being requested? For example, is there a mandatory architectural review or homeowner association approval required? ☐ Yes ☒ No

Therefore, Respondents' statement that there was an HOA, that there was an architectural review committee, and that Appellant was in violation of certain covenants is directly contrary to Appellant's statement that he made in the permitting application, as follows:

Deed Restrictions/Restrictive Covenants

Are there any recorded deed restrictions or restrictive covenants that apply to this property which are contrary to, conflict with, or prohibit the permitted activity being requested? For example, is there a mandatory architectural review or homeowner association approval required? ☐ Yes ☒ No

3. Respondents errantly argue that even if they had not falsely asserted themselves to be representatives from the HOA and/or an architectural review committee, which they could not be because the recorded covenants for Poplar Forest Corporation, which is now dissolved and nonexistent, had no HOA and/or architectural review committee, Respondents, as near

neighbors, could have freely lied about Appellant. However, those are not the facts of this case.

Therefore, because Respondents made false and defamatory statements concerning the Appellant, the Circuit Court erred in granting Respondents' motions for summary judgments.

IIA. BECAUSE THE RECORD SHOWS RESPONDENTS' FEBRUARY 28, 2024 E-MAIL TO MIKE NUGENT, BUILDING OFFICIAL FOR THE CITY OF ROCK HILL, IS FALSE, THE CIRCUIT COURT ERRED IN GRANTING RESPONDENTS' MOTIONS FOR SUMMARY JUDGMENTS.

Considering the facts and reasonable inferences in the light most favorable to Appellant, (*Sauner v. Public Serv. Auth.*, 354 S.C. 397, 581 S.E.2d 161 (S.C. 2003)), the record shows Respondents' February 28, 2024 e-mail to Mike Nugent, Building Official for the City of Rock Hill, was false [Respondent Justin Marlow's email / Letter to Mike Nugent and neighbors errantly representing himself as President of a nonexistent HOA] (R. pp. 836-841).

Respondents errantly argue that even if they had not falsely asserted themselves to be representatives from the HOA and/or the architectural review committee, which they could not be because the recorded covenants for Poplar Forest Corporation, which is now dissolved and nonexistent, had no HOA and/or architectural review committee, Respondents, as near neighbors, could have freely lied about Appellant. However, those are not the facts of this case.

Therefore, because the record shows Respondents' February 28, 2024 e-mail to Mike Nugent, Building Official for the City of Rock Hill, is false, the Circuit Court erred in granting Respondents' motions for summary judgments.

IIB. BECAUSE THE RESPONDENTS' FEBRUARY 28, 2024 E-MAIL IS INDICATIVE OF WHAT WAS COMMUNICATED IN THE FEBRUARY 22, 2024 MEETING WITH MIKE NUGENT, BUILDING OFFICIAL FOR THE CITY OF ROCK HILL, THE

CIRCUIT COURT ERRED IN GRANTING RESPONDENTS' MOTIONS FOR
SUMMARY JUDGMENT.

Respondents ignore the fact that the February 22, 2024 meeting between Respondent and Mike Nugent, Building Official for the City of Rock Hill, was the cause of Appellant's damages [Exhibit shows Nugent's e-mail to Haake on February 21, 2024 setting up meeting date / time] (R. p. 822) [Exhibit shows stop work order dated February 22, 2024] (R. p. 821) instead of recognizing that the subsequent February 28, 2024 e-mail memorialized the defamatory statements which were made about Appellant on February 22, 2024 in writing. It can be reasonably inferred that this was the cause of the stop work order and nothing in the record opposes that inference. [Ryan Hammond notes of non-approval being HOA /ARC allegation] (R. p. 823) [Zoning review paused pending determination of HOA requirements] (R. p. 826) [Ryan Hammond e-mail to Appellant and Respondents pausing work pending reference to Rock Hill City Attorney for HOA issue] (R. p. 830).

Therefore, because the Respondents' February 28, 2024 e-mail is indicative of what was communicated in the February 22, 2024 meeting with Mike Nugent, Building Official for the City of Rock Hill, the Circuit Court erred in granting Respondents' motions for summary judgment.

III. BECAUSE THE RECORD SUPPORTS THE ELEMENTS OF RESPONDENTS'
DEFAMATION OF THE APPELLANT, THE CIRCUIT COURT ERRED IN
GRANTING RESPONDENTS' MOTIONS FOR SUMMARY JUDGMENTS.

As in the previous arguments, Respondents' arguments sought to ignore the fact that Mike Nugent, Building Official for the City of Rock Hill's permitting department, knew that Respondents had called Appellant's following statement a lie:

Deed Restrictions/Restrictive Covenants

Are there any recorded deed restrictions or restrictive covenants that apply to this property which are contrary to, conflict with, or prohibit the permitted activity being requested? For example, is there a mandatory architectural review or homeowner association approval required? ☐ Yes ☒ No

Furthermore, Respondents sought to ignore the damages Appellant suffered due to their lie about Appellant. The special damages caused a forty-five (45) day delay of the project, because Respondents called Appellant a liar. Furthermore, once the city of Rock Hill's legal counsel studied the issue, counsel learned that Appellant was telling the truth and Respondents were actually the ones who had lied. Therefore, of course Appellant's reputation improved in the eyes of the permitting department. Nonetheless, Respondents still caused real special damages to Appellant, because of the delay.

*Q Okay. All right. What are you asking that my
4 client do or what are you asking from my client in
5 this case? You're the plaintiff. What are you
6 asking from my client?
7 A I'm asking the damages he imposed on me because of
8 this false representation.
9 Q Which are how much?...*

*I think
18 that he imposed damages of \$50,000 including my
19 attorney fees and ...
20 Q Where does that 50,000 -- tell me how you calculate
21 that?
22 A It was 45 days exactly from the time this guy
23 put -- I mean, the City put my project on hold
24 until they started working on it and released the
25 hold. Right? For that 45 days, a full-time...*

*1 superintendent and project manager -- the domino
2 effect of later on losing the subs, rescheduling
3 them. Because they don't only work for me.
4 There's a sub for the plumbing. They have their*

5 own schedule.

6 So all these extensions of time and not being

7 able to schedule the material and time they

8 imposed -- over \$50,000. Probably, maybe 80-,

9 \$90,000. So I'm consenting to \$50,000.

[Deposition of Appellant pages 69 -70] (R. p. 705, line 3 – p. 706, line 9). Therefore, because the record supports the elements of Respondents' defamation of the Appellant, the Circuit Court erred in granting Respondents' motions for summary judgments.

IV. BECAUSE THE APPELLANT EXPRESSLY ARGUED, INNUENDO, SHOWING HOW RESPONDENTS CALLED APPELLANT A LIAR IN HIS BUSINESS BY REFERENCE TO THE SURROUNDING CIRCUMSTANCES OF THIS DEFAMATION, THE CIRCUIT COURT ERRED IN GRANTING RESPONDENTS' MOTIONS FOR SUMMARY JUDGMENTS.

The transcript from the hearing which took place on March 11, 2025 before the Honorable William A. McKinnon, shows the following argument:

6 MR. BAGHDADY: It's defamatory because it is a false
7 statement about my client that harmed my client. The false
8 statement is that my client's building a house in a
9 subdivision that has an HOA when he said there is no HOA,
10 that was a false statement.

11 THE COURT: No. But -- but the -- your client was
12 building a house. The -- the part of it that's false is
13 there's an HOA and I'm just now sure that that's defamatory.

14 MR. BAGHDADY: Yeah, it's a defamatory because he is
15 saying, my client is building a house in an HOA where there
16 is an HOA and that he -- he's -- he lied about it being not
17 in an HOA, not subject to an HOA. And that therefore he was
18 not building it properly, that he was building it in
19 violation of the HOA restrictions.

20 So I think that the actual more particular area of the
21 law that that would fall under is innuendo. It's more than
22 just the fact of the fact that it was not an HOA, but it's
23 all the surrounding circumstances that -- that show that my
24 client is acting improperly, wrongfully and harming him.

[Page 14, lines 6 – 24] (R. p. 556, lines 6-24).

Exhibit 6, page 6 of the deposition of Appellant shows the statement that Appellant made on his building permit application, in connection with his trade and business of construction:

Deed Restrictions/Restrictive Covenants

Are there any recorded deed restrictions or restrictive covenants that apply to this property which are contrary to, conflict with, or prohibit the permitted activity being requested? For example, is there a mandatory architectural review or homeowner association approval required?

Yes ☐ No ☒

Therefore, Respondents' affirmatively and errantly stated that they were the representatives of the nonexistent HOA and/or architectural review committee and that there are recorded deed restrictions or restrictive covenants which applied to this property and which conflicted with or prohibited the permitted activity the Appellant requested.

The defamatory meaning of a message or statement may be obvious on the face of the statement, in which case the statement is defamatory *per se*. An example of defamation *per se* is "A is a thief." If the defamatory meaning is not clear unless the hearer knows facts or circumstances not contained in the statement itself, then the statement is defamatory *per quod*. In cases involving defamation *per quod*, the plaintiff must introduce facts extrinsic to the statement itself in order to prove a defamatory meaning. An example of defamation *per quod* is "A had a baby" where the extrinsic fact is that A is unmarried. See *Capps v. Watts*, 271 S.C. 276, 246 S.E.2d 606 (1978). *Holtzscheiter v. Thomson Newspapers, Inc.*, 506 S.E.2d 497, 332 S.C. 502 (S.C. 1998).

Therefore, this case is analogous because Respondents stated that the Appellant was a liar, because the hearer, Mike Nugent, Building Official for the City of Rock Hill, knew that the Appellant, in pursuit of his trade or business, filed an application for a building permit where he had answered "No" in response to the following question:

Are there any recorded deed restrictions or restrictive covenants that apply to this property which are contrary to, conflict with, or prohibit the permitted activity being requested? For example, is there a mandatory architectural review or homeowner association approval required?

Therefore, because the Appellant expressly argued, innuendo, showing how Respondents called Appellant a liar in his business by reference to the surrounding circumstances of this defamation, the Circuit Court erred in granting Respondents' motions for summary judgments.

CONCLUSION

For the reasons stated above, this Court of Appeals should:

1. Reverse the order denying the motion for reconsideration;
2. Reverse the order granting summary judgment; and
3. Remand the case for further proceedings.

Respectfully submitted,

July 3, 2026

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