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SC Court of Appeals

APPELLANT'S INITIAL BRIEF

Samuel Tucker Collins, Jr.

Steward Trustee, STCJ Network Revocable Living Trust

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IN THE SOUTH CAROLINA COURT OF APPEALS

Samuel Tucker Collins, Jr.,

Appellant,

Appellate Case No. 2025-002352

v.

West Palmetto Holdings, LLC,

Respondent.

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Steward Trustee, STCJ Network Revocable Living Trust

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OF ORIGINAL FILED IN THIS OFFICE**
DATE 07/23/2024
Shanita Bramman
CLERK OF COURT
CLARENDON COUNTY, SC

Appearing in his own proper person (in propria persona), in a fiduciary capacity, not as an attorney for any person or entity

PRELIMINARY STATEMENT REGARDING EQUITY JURISDICTION AND CITATIONS

The undersigned appears in equity, not merely at law. He invokes the exclusive jurisdiction of the court of conscience, where maxims govern and clean hands are required. Citations to statutes, court rules, and case law are provided solely to

demonstrate that even under the positive law, the lower courts erred. All such citations are offered in the nature of equity, in harmony with the maxim that "equity follows the law, but does not bow to it." Every citation in this brief is to be understood as fully within equity jurisdiction, not as a submission to statutory jurisdiction as the exclusive basis for relief. All rights under [UCC 1-308] are expressly reserved.

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<i>Fort v. Fort</i>	260 S.C. 322, 195 S.E.2d 616 (1973)	Equity will not suffer a wrong without a remedy	6

Authority	Citation	Equity Maxim	Page(s)
<i>Town of Mount Pleasant v. Jones</i>	413 S.C. 607, 777 S.E.2d 399 (Ct. App. 2015)	Equity follows the law	7
<i>Ex parte S.C. Dep't of Soc. Servs.</i>	373 S.C. 572, 646 S.E.2d 873 (2007)	He who seeks equity must do equity	8
<i>Ex parte Carson</i>	5 S.C. 117 (1874)	Equity acts in personam	6
<i>Bd. of Trs. of Clemson Univ. v. Provost</i>	306 S.C. 310, 412 S.E.2d 400 (1991)	Equity will not suffer a wrong without a remedy	6
<i>State v. Baccus</i>	367 S.C. 41, 625 S.E.2d 216 (2006)	Equity follows the law, but does not bow to it	7
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STATEMENT OF THE CASE

This appeal arises from an ejectment order entered by the Clarendon County Magistrate Court on August 15, 2024. Appellant appealed to the Circuit Court. On May 30, 2025, the Honorable Clifton B. Newman, retired judge sitting by assignment, held a hearing on the appeal. The transcript of that hearing is part of the Record on Appeal, filed with this Court on April 25, 2026. Judge Newman denied the appeal and affirmed the magistrate. Appellant timely appealed to this Court.

STATEMENT OF THE FACTS

Appellant is the Steward Trustee of the STCJ Network Revocable Living Trust, which holds the beneficial interest in the property at 2398 Hotel Street, Alcolu, South Carolina. The property was sold at a tax sale for delinquent taxes of approximately \$3,500. Respondent West Palmetto Holdings, LLC purchased the property for \$25,000. The magistrate court ordered ejectment. Appellant appealed.

At the Circuit Court hearing, Appellant invoked exclusive equity jurisdiction, raised a subject-matter jurisdiction challenge to the magistrate court, identified himself as trustee, and asserted equitable defenses including subrogation and clean hands. The transcript reveals that Judge Newman:

- Refused to consider equity (Tr. p. 6, ll. 18-21; p. 13, l. 3)
- Never ruled on the jurisdictional challenge (Tr. p. 11, ll. 16-18; p. 12, ll. 2-4)
- Applied the wrong standard of review (Tr. p. 17, ll. 6-7)
- Engaged in improper fact-finding and speculation (Tr. p. 23, ll. 3-6; ll. 16-19; p. 26, ll. 12-15)
- Failed to recognize Appellant's fiduciary capacity (Tr. p. 3, ll. 11-14; p. 5, ll. 20-22)
- Failed to consider equitable defenses (Tr. p. 3, ll. 12-14; p. 5, ll. 2-13)

ISSUES ON APPEAL

[Rule 208(b)(1)(B), SCACR], Presented in harmony with and in the nature of equity jurisdiction - ISSUE I: Whether the Circuit Court erred by affirming the magistrate court's ejectment order where the magistrate court lacked subject-matter jurisdiction under [S.C. Code Ann. § 22-3-10(2)] and [§ 22-3-20(2)], rendering the judgment void ab initio.

[Rule 208(b)(1)(B), SCACR], Presented in harmony with and in the nature of equity jurisdiction - ISSUE II: Whether the Circuit Court erred by categorically denying that

equity has any application to an ejectment action, thereby precluding Appellant from presenting equitable defenses including subrogation, constructive trust, accounting, and clean hands.

[Rule 208(b)(1)(B), SCACR], Presented in harmony with and in the nature of equity jurisdiction - ISSUE III: Whether the Circuit Court applied the wrong standard of review, failing to conduct a de novo trial as required by [Rule 18(b), SCRMA], and instead reviewing only for errors of law.

[Rule 208(b)(1)(B), SCACR], Presented in harmony with and in the nature of equity jurisdiction - ISSUE IV: Whether the Circuit Court erred by failing to rule on Appellant's subject-matter jurisdiction challenge, a threshold issue that cannot be waived.

[Rule 208(b)(1)(B), SCACR], Presented in harmony with and in the nature of equity jurisdiction - ISSUE V: Whether the Circuit Court exceeded the scope of appellate review by engaging in improper fact-finding, speculation, and commentary demonstrating an appearance of partiality.

[Rule 208(b)(1)(B), SCACR], Presented in harmony with and in the nature of equity jurisdiction - ISSUE VI: Whether the Circuit Court erred by failing to recognize Appellant's fiduciary capacity as Steward Trustee, thereby depriving the trust of its right to be heard, silencing the real party in interest, and barring his fiduciary duty to defend the trust res.

[Rule 208(b)(1)(B), SCACR], Presented in harmony with and in the nature of equity jurisdiction - ISSUE VII: Whether the Circuit Court erred by failing to consider Appellant's properly raised equitable claims of subrogation and equitable tender.

EQUITABLE PLEAS

[Rule 208(b)(1)(B), SCACR], Presented in harmony with and in the nature of equity jurisdiction - EQUITABLE PLEA I: THE MAGISTRATE COURT LACKED SUBJECT-MATTER JURISDICTION, RENDERING ITS JUDGMENT VOID.

Standard of Review: Whether a court has subject-matter jurisdiction is a question of law reviewed de novo. [Brown v. State, 399 S.C. 75, 78, 731 S.E.2d 319, 320 (2012)] - Equity regards as done that which ought to be done. A judgment entered without subject-matter jurisdiction is void ab initio and may be attacked at any time. [Id.]; [Rule 60(b)(4), SCRCP] - Equity will not permit a statute to be used as a cloak for fraud.

Application: The magistrate court's jurisdiction in civil cases is limited to matters where the amount in controversy does not exceed \$7,500 when the action pertains to property. [S.C. Code Ann. § 22-3-10(2)] - Equity respects jurisdictional limits. Moreover, magistrates have no jurisdiction "[w]hen the title to real property shall come in question." [S.C. Code Ann. § 22-3-20(2)] - Equity looks to substance, not form.

Here, the tax sale price was \$25,000, more than three times the magistrate's \$7,500 limit. The magistrate's own return shows that she determined ownership based on tax deeds and quitclaim deeds, i.e., title to real property was necessarily at issue. (Tr. p. 7-9). Therefore, the magistrate court acted without subject-matter jurisdiction. Its ejectment order is void.

Remedy Sought: Appellant requests that this Court declare the magistrate court's judgment void ab initio and reverse the Circuit Court's order affirming it. This is not a discretionary remedy; it is required when jurisdiction is absent.

[Rule 208(b)(1)(B), SCACR], Presented in harmony with and in the nature of equity jurisdiction - EQUITABLE PLEA II: THE CIRCUIT COURT ERRED BY CATEGORICALLY DENYING THAT EQUITY HAS ANY APPLICATION TO AN EJECTMENT ACTION.

Standard of Review: The availability of equitable defenses is a question of law reviewed de novo. [Bd. of Trs. of Clemson Univ. v. Provost, 306 S.C. 310, 312, 412 S.E.2d 400, 401 (1991)] - Equity will not suffer a wrong without a remedy.

Application: Although ejectment is a legal action, equitable defenses are available. [Fort v. Fort, 260 S.C. 322, 326, 195 S.E.2d 616, 618 (1973)] - Equity will not suffer a wrong without a remedy. Judge Newman stated, "Evictions are not equitable" (Tr. p. 13, l. 3) and "this Court is dealing with a matter of law and not a matter of equity" (Tr. p. 18, ll. 10-12). He did not analyze whether Appellant's specific equitable claims, including subrogation, constructive trust, accounting, and clean hands, could apply. This was error.

Moreover, the Circuit Court sits as a court of general jurisdiction with both law and equity powers. [S.C. Code Ann. § 14-11-10] - Equity acts in personam. When a litigant invokes equity, the court has discretion to hear the case in equity. The categorical rejection without analysis was an abuse of discretion. Equity is a practice of South Carolina courts, as demonstrated by their power to issue extraordinary writs such as mandamus and habeas corpus. [Ex parte Carson, 5 S.C. 117, 1874 S.C. LEXIS 15].

Remedy Sought: Appellant requests that this Court reverse the Circuit Court's order and remand the case to a different judge sitting as a Chancellor in Equity for a new hearing in equity.

[Rule 208(b)(1)(B), SCACR], Presented in harmony with and in the nature of equity jurisdiction - EQUITABLE PLEA III: THE CIRCUIT COURT APPLIED THE WRONG STANDARD OF REVIEW.

Standard of Review: The proper standard for a circuit court hearing an appeal from a magistrate court is de novo. [Rule 18(b), SCRMA; *Town of Mount Pleasant v. Jones*, 413 S.C. 607, 612, 777 S.E.2d 399, 402 (Ct. App. 2015)] - Equity follows the law.

Application: Judge Newman stated his role was to "review whether that magistrate committed any error of law" (Tr. p. 17, ll. 6-7). This is the standard for an appeal on the record, not for a trial de novo. He did not take new evidence, make independent factual findings, or consider the case anew. This structural error infected the entire proceeding.

Because the circuit court did not conduct a proper de novo review, this Court is now the first court to review the case anew. This Court may examine the magistrate's exercise of jurisdiction and other legal questions without deference to either the magistrate or Judge Newman.

Remedy Sought: Appellant requests that this Court reverse and remand for a proper de novo trial in equity before a different judge, or, in the alternative, conduct a de novo review based on the existing record and rule on the jurisdictional and equitable issues directly.

[Rule 208(b)(1)(B), SCACR], Presented in harmony with and in the nature of equity jurisdiction - EQUITABLE PLEA IV: THE CIRCUIT COURT FAILED TO RULE ON APPELLANT'S SUBJECT-MATTER JURISDICTION CHALLENGE.

Standard of Review: A court must rule on a properly raised jurisdictional challenge. [*Brown v. State*, 399 S.C. 75, 78, 731 S.E.2d 319, 320 (2012)] - Equity regards as done that which ought to be done.

Application: Appellant explicitly raised the jurisdictional issue: "the magistrate's jurisdiction in South Carolina is \$7500 when it's pertaining to property. The magistrate — that exceeded the magistrate's jurisdiction" (Tr. p. 11, ll. 16-18). Judge Newman never ruled on the challenge. Instead, he stated he could not remand to a higher court (Tr. p. 16, ll. 3-4) and that the magistrate had filed a "complete return" (Tr. p. 16, ll. 9-14). Neither response addresses jurisdiction. The failure to rule is reversible error.

Remedy Sought: Appellant requests that this Court declare the magistrate's judgment void for lack of subject-matter jurisdiction and reverse the Circuit Court's order affirming it.

[Rule 208(b)(1)(B), SCACR], Presented in harmony with and in the nature of equity jurisdiction - EQUITABLE PLEA V: THE CIRCUIT COURT ENGAGED IN IMPROPER FACT-FINDING AND SPECULATION.

Standard of Review: In an appellate capacity, a circuit court may not make new factual findings or engage in speculation outside the record. [State v. Baccus, 367 S.C. 41, 48, 625 S.E.2d 216, 220 (2006)] - Equity follows the law, but does not bow to it.

Application: Judge Newman stated that Appellant "seem[s] to be hung up on this notion of equity and the — the lack of jurisdiction ... and that's landed you in the spot that you're in" (Tr. p. 23, ll. 3-6); that Appellant "was given many warnings and notices that you better pay your taxes" (Tr. p. 23, ll. 16-19); and that Appellant was "off on a tangent claiming equity" (Tr. p. 26, ll. 12-15). These statements have no evidentiary support and exceed the proper role of an appellate judge. They demonstrate an appearance of partiality.

Remedy Sought: Appellant requests that this Court reverse and remand to a different judge to ensure impartiality.

[Rule 208(b)(1)(B), SCACR], Presented in harmony with and in the nature of equity jurisdiction - EQUITABLE PLEA VI: THE CIRCUIT COURT ERRED BY FAILING TO RECOGNIZE APPELLANT'S FIDUCIARY CAPACITY AS STEWARD TRUSTEE, THEREBY DEPRIVING THE TRUST OF ITS RIGHT TO BE HEARD, SILENCING THE REAL PARTY IN INTEREST, AND BARRING HIS FIDUCIARY DUTY TO DEFEND THE TRUST RES.

Standard of Review: A trustee holds legal title and is the real party in interest. [S.C. Code Ann. § 62-7-816] - Equity recognizes the trustee as the real party in interest.

Application: Appellant repeatedly stated he appeared as "Steward Trustee" (Tr. p. 3, ll. 11-14; p. 5, ll. 20-22; p. 21, ll. 10-13). Judge Newman acknowledged these statements but treated Appellant as an individual, even asking opposing counsel how Appellant came to possess the property (Tr. p. 20). The court's failure to recognize the trust's interest deprived the trust of its right to be heard. It is the court's obligation, not the trustee's request, to recognize the trustee as such in law and equity. The real party in interest's voice was silenced, and the Steward Trustee's fiduciary duty to defend the trust res was barred by the court. This also addresses unauthorized practice of law concerns: Appellant was not "representing" another; he was performing fiduciary duties as the real party in interest.

Remedy Sought: Appellant requests that on remand, the court recognize his capacity as Steward Trustee and permit him to appear in that fiduciary role, as is the court's duty.

[Rule 208(b)(1)(B), SCACR], Presented in harmony with and in the nature of equity jurisdiction - EQUITABLE PLEA VII: THE CIRCUIT COURT FAILED TO CONSIDER APPELLANT'S EQUITABLE CLAIMS OF SUBROGATION AND EQUITABLE TENDER.

Standard of Review: The failure to consider properly raised equitable claims is an abuse of discretion. [Ex parte S.C. Dep't of Soc. Servs., 373 S.C. 572, 581, 646 S.E.2d 873, 878 (2007)] - He who seeks equity must do equity.

Application: Appellant invoked subrogation (Tr. p. 3, ll. 12-14; p. 5, ll. 2-13) and equitable tender. Judge Newman stated he did not understand subrogation (Tr. p. 5, ll. 14-15) but made no effort to seek clarification or to rule on the claim. A court has a duty to consider all properly raised claims or to explain why they are inapplicable. Moreover, no court ever fixed the amount of a supersedeas bond under [S.C. Code Ann. § 18-9-170], making compliance impossible.

Remedy Sought: Appellant requests that on remand, the Chancellor in Equity consider whether Appellant's tender of funds constitutes equitable security in lieu of statutory sureties.

CONCLUSION

[Rule 208(b)(1)(B), SCACR], Presented in harmony with and in the nature of equity jurisdiction - CONCLUSION

For the foregoing reasons, Appellant respectfully requests that this Court grant settlement and closure by ordering the following relief:

1. DECLARE the magistrate court's ejectment judgment void ab initio for lack of subject-matter jurisdiction;
2. REVERSE the May 30, 2025, order of the Circuit Court affirming the magistrate;
3. REMAND the case to the Circuit Court with instructions to conduct a new trial de novo in equity before a different judge sitting as a Chancellor in Equity, with Appellant permitted to appear as Steward Trustee protecting the trust res;
4. GRANT settlement and closure by ordering such other and further relief as equity may require to bring this matter to a final, just, and equitable resolution.

Appellant has demonstrated clean hands, made equitable tender, and exhausted all available remedies. The errors below are clear, and the record is complete. Only this Court's intervention can provide the settlement and closure that equity demands.

DESIGNATION OF MATTER AND RECORD

In compliance with [Rule 208(b)(1)(C), SCACR], and in the nature of equity jurisdiction, Appellant designates the following portions of the Record on Appeal as necessary for the determination of this appeal:

The transcript of the May 30, 2025, hearing before Judge Clifton B. Newman (filed April 25, 2026); The magistrate court's return (contained in the transcript); The Circuit Court's Form 4 Judgment and order (referenced in the transcript); All equitable filings made in this Court (Plea of Release, Motion to Remand, Supplemental Lodgment, Notice of Lis Pendens).

The transcript is already part of the Record. No further designation is required at this time. This designation is made in accordance with the rules, without waiving any equitable rights.

CERTIFICATE OF SERVICE

I, Samuel Tucker Collins, Jr., Steward Trustee, hereby certify that on this 8th day of June, 2026, a true and correct copy of the foregoing Appellant's Initial Brief was served upon Respondent's counsel by hand delivery and by certified mail, return receipt requested, addressed as follows:

Party	Address	Method
James Martin Page, Esquire Bell, Carrington, Price & Gregg, LLC	339 Heyward Street, Second Floor Columbia, South Carolina 29201	☒ Hand Delivery ☒ Certified Mail

I further certify that this Certificate of Service complies with [Rule 262, SCACR] and Form 7, Appendix C, Part 2, SCACR.

Executed this 8th day of June, 2026, at Alcolu, South Carolina.

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SC Court of Appeals

By: Samuel Tucker Collins Jr

Samuel Tucker Collins, Jr.

Steward Trustee, STCJ Network Revocable Living Trust

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