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Jul 27 2026

SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM GREENVILLE COUNTY  
Court of Common Pleas

The Honorable Perry H. Gravely, Circuit Court Judge

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James Dustin Lucas.....Appellant,

v.

Andre Knox .....Respondent.

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Appellate Case No. 2025-001491

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**APPELLANT’S RETURN IN OPPOSITION TO RESPONDENT’S  
MOTION TO STRIKE**

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Respondent has moved to strike portions of the Initial Brief and Record on Appeal that acknowledge and confirm Respondent’s misconduct and improper judicial conduct during trial. During litigation, counsel for Respondent violated ADR Rule 6, which requires all parties to be present during mediation. As set forth below, that matter was presented to the trial court and is properly presented in Appellant’s Initial Brief and Designation of Matter. Respondent has also moved to strike affidavits that confirm prejudicial and improper judicial conduct during trial. As set forth below, this issue was raised and addressed multiple times with the trial court, and it is properly presented in Appellant’s Initial Brief and Designation of Matter.

Respondent seems to suggest that a document must be filed with the lower court on an issue in order for that issue to be included in an Initial Brief, Designation of Matter, or Record on Appeal. However, SCACR 210 refers to “matter,” and does not require an individual document

for each issue to be filed with the lower court. This is also clear from cases interpreting the Rule. (See *Elam v. South Carolina Dept. of Transp.*, 602 S.E.2d 772 (2004), which confirms “any point” raised and ruled on in the lower court may be considered according to SCACR 210(c).) Moreover, Appellant must include important matters raised with the lower court in the Record on Appeal so that they may be considered by this Court. “...South Carolina courts have traditionally held the appealing party accountable for failing to present the court with an adequate record on appeal for review.” *Johnson v. Dept. of Prob., Parole & Pardon*, 641 S.E.2d 895 (2007).

Of course, the two issues that Respondent seeks to keep from this Court are important. One is the issue of Respondent’s counsel willfully violating the ADR rules, which require parties to be present at mediation. Had counsel followed the rules, the case almost certainly would have been resolved, and there would have been no trial. Mandatory ADR exists for the very purpose of promoting resolution and disposing of cases before trial when pre-trial resolution is possible. The second issue involves inappropriate, prejudicial conduct from the bench, which fatally taints a trial. As set forth below, the issue of the trial court treating Appellant’s case and counsel with disdain was raised on multiple occasions with the trial court and was also raised in Appellant’s SCRCR 59(e) Motion to Reconsider the trial court’s denial of Appellant’s post-trial motions, including a motion for a new trial.

**I. Respondent’s counsel willfully violated the South Carolina Alternative Dispute Resolution Rules, and that violation was presented to the Trial court.**

Early on in this litigation, Respondent went into default. Counsel for Respondent contacted the undersigned and asked to be let out of default. The undersigned agreed as long as Respondent agreed to attend mediation and to negotiate between State Farm’s reserve amount and the policy limit. Instead of holding up Respondent’s end of the bargain, Respondent’s counsel showed up to

the mediation without the Respondent, in violation of the ADR rules and offered \$1,000.00, in violation of the agreement. Appellant tried everything – even filing a direct action and appealing that action – to find some redress for Respondent’s willful violation of the ADR rules and Respondent’s violation of the agreement he made to get out of default. Appellant even moved to compel State Farm’s reserve information, which the trial court refused, even though Respondent made an agreement based upon that information. It is obvious that Respondent and State Farm breached their agreement. To this day, Appellant’s offer stands: if Respondent or State Farm will offer some confirmation – any confirmation – that State Farm negotiated above its reserve amount at the mediation where it willfully violated the ADR rules, then Appellant will concede this issue.<sup>1</sup>

Appellant presented Respondent’s counsel’s violation of the ADR to the trial court, as shown by p. 58 of the trial transcript:

14 MR. HAWKINS: Your Honor, I don't think anything --  
15 mainly what it was, she didn't bring her client to mediation  
16 and there was a -- there was a bunch of issues related to  
17 that. We got a -- a case in Supreme Court right now over  
18 that.  
19 And when I asked questions at the meeting -- at the  
20 deposition, you know, did you even know of -- did State Farm  
21 even tell you about this mediation? And she would instruct  
22 him not answer and questions like that. None of that's going  
23 to come up 'cause we're not asking any questions about State  
24 Farm insurance.

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<sup>1</sup> This issue is discussed in Appellant’s Motion to Reconsider an order awarding certain costs to Respondent pursuant to an offer of judgment. The Motion is attached as Exhibit 1 to this Return. As set forth in the Motion, Respondent filed an offer of judgment for more than twice the amount it offered at mediation - \$1,000.00 – which supports Appellant’s position that Respondent advanced deception in order to escape default before willfully violating the ADR rules.

**II. The Court's improper and prejudicial remarks in the presence of the jury were addressed with the trial court orally and in post-trial motions.**

Appellant raised the issue of prejudicial conduct from the bench multiple times with the trial court. Appellant properly submitted the following to the trial court:

The plaintiff was prevented from impeaching witnesses and testimony on multiple occasions with documents and prior under-oath statements that directly contradicted sworn statements from the witness stand. The Court admonished plaintiff's counsel several times in the presence of the jury, once even doing so unsolicited, proclaiming that plaintiff's counsel was making faces during closing argument. This surprised and baffled the undersigned, appeared to surprise defense counsel, and probably surprised and confused the jury. The Court would not allow the plaintiff's counsel to show the jury the plaintiff's permanent facial scar, which was discussed thoroughly in the presentation of evidence. Eventually, closing devolved into defense counsel objecting to words she did not want the plaintiff's counsel to use, with no legal basis, and the Court sustaining those objections.

(Exhibit 1). As shown by the trial transcript, Appellant's counsel immediately asked to approach after the fatally prejudicial accusation. (Trial Transcript. 500:11-14). Appellant's counsel then raised the matter with the trial court outside the presence of the jury, stating the following:

23 MR. HAWKINS: Your honor, with all due respect and  
24 deference to the Court, this has been the most prejudicial  
25 experience I have ever had In a closing argument. I was  
1 sitting here at my table minding my own business, going over  
2 what my reply was going to be, and the Court sua sponte  
3 indicated that I was making faces. There were -- I looked up  
4 and surprised I wasn't even looking at the jury. So that's  
5 number one. That prejudiced me in front of the jury and  
6 prejudiced my client in front of the jury.

The matter referenced in the affidavits Respondent seeks to eliminate from the appeal, attached hereto as Exhibit 2, was raised and presented to the Trial court on multiple occasions. As a result, the matter is properly included in the appeal pursuant to SCACR 210(c).

### **Conclusion**

It is not surprising Respondent seeks to hide matters from this Court that confirm Respondent's willful violation of ADR rules and that Appellant did not receive a fair trial. Because these matters were presented to the trial court, they are properly included in Appellant's Initial Brief and Designation of Matter. Appellant therefore respectfully requests that Respondent's motion be denied.

Respectfully submitted,

s/ Joshua T. Hawkins

Joshua T. Hawkins, S.C. Bar #78470

Helena L. Jedziniak, S.C. Bar #100825

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Attorneys for Appellant

July 27, 2026

Greenville, South Carolina

# EXHIBIT 1

|                         |   |                                   |
|-------------------------|---|-----------------------------------|
| STATE OF SOUTH CAROLINA | ) | IN THE COURT OF COMMON PLEAS      |
|                         | ) |                                   |
| COUNTY OF GREENVILLE    | ) | CASE NO. 2020-CP-23-02877         |
|                         | ) |                                   |
| James Dustin Lucas,     | ) |                                   |
|                         | ) | <b>PLAINTIFF'S MOTION TO</b>      |
| Plaintiff,              | ) | <b>RECONSIDER THE DEFENDANT'S</b> |
|                         | ) | <b>MOTION FOR COSTS</b>           |
| vs.                     | ) |                                   |
|                         | ) |                                   |
| Andre Knox,             | ) |                                   |
|                         | ) |                                   |
| Defendant.              | ) |                                   |
| _____                   | ) |                                   |

The plaintiff, James Dustin Lucas, by and through their undersigned counsel, submit this Motion to Reconsider pursuant to Rules 54, 59 including subpart (e), 60, and all other applicable rules of the South Carolina Rules of Civil Procedure, to have the Court alter or amend its judgment and preserve all issues for appeal. This motion is filed within ten (10) days of the Court's July 7, 2025, order.

## **PLAINTIFF'S POST-TRIAL MOTIONS**

The defendant moved for costs pursuant to a November 7, 2022, offer of judgment. After the defendant went into default for a significant period of time, State Farm agreed to negotiate between the amount of its reserve and its policy limit at a mediation if the plaintiff would let its insured, the defendant, out of default. The plaintiff agreed and came to mediation in good faith. State Farm appeared without its insured in violation of the South Carolina ADR rules and offered less than half of the less-than-nuisance amount of its \$2,500.00 offer of judgment. That alone indicates that State Farm used deception to get its insured out of default with no real intention of mediating in good faith or pursuant to the terms it agreed to.

Notwithstanding, the case proceeded forward. The defense refused to give any reserve amount information or give an affidavit showing State Farm negotiated above the reserve,

underscoring State Farm's deception. Defense counsel resisted the plaintiff taking the defendant's deposition in person and filed a protective order before a deposition even took place, based on what defense counsel thought the plaintiff's counsel might ask (which was denied for obvious reasons).

The case proceeded to trial. Many issues were contested, and the plaintiff respectfully submits that some of the rulings were reversible error. The plaintiff was prevented from impeaching witnesses and testimony on multiple occasions with documents and prior under-oath statements that directly contradicted sworn statements from the witness stand. The Court admonished plaintiff's counsel several times in the presence of the jury, once even doing so unsolicited, proclaiming that plaintiff's counsel was making facing during closing argument. This surprised and baffled the undersigned, appeared to surprise defense counsel, and probably surprised and confused the jury. The Court would not allow the plaintiff's counsel to show the jury the plaintiff's permanent facial scar, which was discussed thoroughly in the presentation of evidence. Eventually, closing devolved into defense counsel objecting to words she did not want the plaintiff's counsel to use, with no legal basis, and the Court sustaining those objections.

Not surprisingly, the jury returned a defense verdict. The plaintiff requested 10 days to make post-trial motions, which was denied, so the plaintiff made post-trial motions in Court, which were denied. The plaintiff then filed a motion to reconsider, and the defendants did not file anything for more than 10 days, which is the cut-off for a motion for costs. The Court essentially ruled that because the plaintiff filed a motion to reconsider, the defendant is excused for his failure to file any motion for costs within 10 days pursuant to SCRCP 54(d). The plaintiff respectfully submits that the defendant is not entitled to time computations applicable to the plaintiff. The plaintiff filed a motion to reconsider within 10 days of the Court's ruling on post-trial motions and

has 30 days from the ruling on that motion to file an appeal of the denial of his motion for JNOV and a new trial. The defendant, on the other hand, was required to file motions with 10-day limits within 10 days from the end of trial. The defendant did not do that, and his motion for costs is untimely.

While the defendant's motion was not timely, several costs requested were not recoverable even if it was. The Court rightly acknowledged this as to several costs. However, the Court awarded other costs, such as witness fees, even though the defendant did not call any witnesses. The Court also awarded the defendant travel costs associated with his travel from Florida. It is not the plaintiff's doing that the defendant moved to Florida after the wreck. The plaintiff respectfully requests that the Court reconsider its ruling and deny the defendant's motion or, in the alternative, reduce the amount awarded.

Respectfully submitted,

HAWKINS & JEDZINIAK, LLC

s/ Joshua T. Hawkins

Joshua T. Hawkins, S.C. Bar # 78470

Helena L. Jedziniak, S.C. Bar # 100825

Sulaiman S. Ahmad, S.C. Bar # 106665

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Greenville, South Carolina  
July 8, 2025

Jul 27 2026

SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY  
Court of Common Pleas

The Honorable Perry H. Gravely, Circuit Court Judge

James Dustin Lucas .....Plaintiff/ Appellant,

v.

Andre Knox .....Defendant/Respondent.

Case No. 2025-001491

**AFFIDAVIT OF SULAIMAN S. AHMAD**

I, Sulaiman Shah Ahmad, Esq., being duly sworn, do swear and affirm as follows:

I am an attorney licensed to practice law in the State of South Carolina and was counsel of record for the plaintiff in the matter of *Lucas v. Knox*, Case No. 2020-CP-23-02877. I served as second chair during the trial of this matter and worked at Hawkins & Jedziniak, LLC from February 2025 to March 2026. I have personal knowledge of the events described herein and am competent to testify to the matters set forth in this affidavit.

Throughout the course of the trial, the Court made a series of rulings that were, in my professional judgment, highly irregular in terms of the *South Carolina Rules of Evidence* and were prejudicial to the plaintiff. The objections sustained by the Court frequently lacked a clear legal basis and substantially impaired plaintiff's counsel from articulating to the Court why certain objections should be overruled. It was apparent from my vantage point at plaintiff's counsel table that objections made by defense counsel were routinely sustained, often without allowing

plaintiff's counsel an opportunity to respond. At times, objections or arguments raised on behalf of the plaintiff were dismissed when dismissal seemed highly irregular.

In one specific instance, the Court accused Mr. Hawkins of "making faces" in response to defense counsel's closing statement. In fact, when the Court made its ruling, it surprised me as we were both preparing for the rebuttal. From my direct observation, at no point did Mr. Hawkins make dismissive faces, but rather maintained a stoic demeanor throughout trial. Despite repeated adverse rulings and public admonishments from the Court, Mr. Hawkins remained composed, professional, and respectful at all times. He advocated for his client within the bounds of professionalism and decorum. The effect of the Court's behavior; however, made it impossible for the plaintiff to be perceived fairly by members of the jury and I believe prejudiced his case.

This affidavit is provided to accurately reflect my perceptions and observations of the trial and to provide additional context regarding courtroom dynamics which may not be fully understood by the transcript.

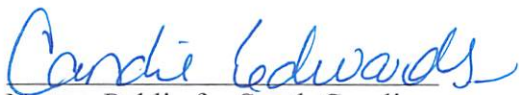
Affiant further sayeth not,



Sulaiman Ahmad, S.C. Bar #106665

SWORN to before me this

26<sup>th</sup> DAY of March 2026.



Notary Public for South Carolina

My Commission Expires: June 1, 2031



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In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY  
Court of Common Pleas

The Honorable Perry H. Gravely, Circuit Court Judge

James Dustin Lucas.....Appellant,

v.

Andre Knox .....Respondent.

Appellate Case No. 2025-001491

**AFFIDAVIT OF CANDIE EDWARDS**

I, Candie Edwards, being duly sworn, do swear and affirm as follows:

I am a paralegal at Hawkins & Jedziniak, LLC, counsel of record for the Plaintiff, Dustin Lucas, in the above-captioned matter.

I was present for the entirety of the trial and sat at counsel table with Mr. Hawkins, Mr. Ahmad, and Mr. Lucas.

Throughout the trial, numerous objections made by defense counsel were sustained before Mr. Hawkins was given an opportunity to respond, clarify, or be heard on the issue.

On more than one occasion, the Court admonished Mr. Hawkins in the presence of the jury for allegedly making facial expressions while defense counsel was speaking. I was seated on the side of the table, and could see Mr. Hawkins at all times, and at no point did he make any such expressions. Mr. Hawkins maintained a professional, neutral demeanor throughout the proceedings.

Based on my observations, it is my belief that the repeated admonishments directed at Mr. Hawkins in front of the jury, particularly where the conduct alleged did not occur, created a negative picture of Mr. Lucas' case and was prejudicial.

Affiant further sayeth not,

Candie Edwards

Candie Edwards

Paralegal

SWORN to before me this

30<sup>th</sup> DAY of March 2026.

Malinda Alexander

Notary Public for South Carolina

My Commission Expires: 6/3/2034



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**Jul 27 2026**

**SC Court of Appeals**

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APPEAL FROM GREENVILLE COUNTY  
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The Honorable Perry H. Gravely, Circuit Court Judge

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James Dustin Lucas.....Appellant,

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Appellate Case No. 2025-001491

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**PROOF OF SERVICE**

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I certify that I have served a copy of the Appellant's Return in Opposition to Respondent's Motion to Strike electronically to the Court of Appeals, at [ctappfilings@sccourts.org](mailto:ctappfilings@sccourts.org), and to the following attorneys of record for Respondent to the following electronic addresses, on this date, July 27, 2026:

Jeanmarie Tankersley  
CLAWSON AND STAUBES, LLC  
200 E. Broad Street, Suite 405  
Greenville, South Carolina 29601  
Tel.: (864) 331-8940

*Attorney for Respondent*

CC:  
The Honorable Jenny Abbott Kitchings  
Clerk of Court  
South Carolina Court of Appeals  
1220 Senate Street  
Columbia, South Carolina 29201

July 27, 2026  
Greenville, South Carolina

s/Joshua Hawkins  
Joshua T. Hawkins, S.C. Bar #78470  
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