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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
In the Court of Common Pleas for the Ninth Judicial Circuit

The Honorable Charles B. Simmons, Jr., Circuit Court Judge

Appellate Case No. 2026-000524

Timothy Jones as the Personal Representative for Dewitt Jones....................................Appellant,

v.

Innovative Scientific Solutions, LLC, J. Ryan Flanagan, Jay A. Flanagan, Jr., and Marion L. Snyder..Respondents.

INITIAL BRIEF OF RESPONDENTS

Respectfully submitted,

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September 11, 2026
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TABLE OF CONTENTS

TABLE OF AUTHORITIES……………………………………………………………..2,3,4

STATEMENT OF ISSUES ON APPEAL……………………………………………………...4

STATEMENT OF THE CASE……………………………………………………………….5

STATEMENT OF FACTS…………………………………………………………………….8

STANDARD OF REVIEW…………………………………………………………………14

A. Standard of Review Governing Grant of Summary Judgment …………………………..14

B. Standard of Review Governing Discovery Orders………………………………………14

ARGUMENT……………………………………………………………………………….15

I. Swanson Bound the Estate to the Agreed-Upon Fair Market Value……………………..17

a. Whether Appellant agreed with the value contained in the September 9th Appraisal is Immaterial………………………………………………………………………..17

b. There is no evidence in the record supporting the Estate's claim that it revoked Swanson's authority before he agreed to the September 9th Appraisal…………..21

II. The Two Appraisers Appointed by the Parties Did Determine Fair Market Value as Defined in the Operating Agreement …………………………………………………………..25

III. Summary Judgement was Not Premature, Because the Estate Had a Full and Fair Opportunity to Conduct Discovery and the Discovery It Sought Would not have Created a Genuine Issue of Material Fact……………………………………………………………..27

IV. The Trial Court Did Not Abuse Its Discretion in Denying the Estate's Motion to Compel and Granting a Protective Order, Because the Poste-Death Financial Information the Estate Sought is Irrelevant Under the Operating Agreement…………………………………….30

CONCLUSION……………………………………………………………………………..33

TABLE OF AUTHORITIES

CASES

Baughman v. Am. Tel. & Tel. Co., 306 S.C. 101, 410 S.E.2d 537 (1991) 28

Care One, LLC v. Straus, No. A-1215-20, 2022 WL 17072371 (N.J. Super. Ct. App. Div. Nov. 18, 2022) 15-16

Carmichael v. Buck, 44 S.C.L. 332 (S.C. App. L. 1857) 24

Carr v. Moragne, 136 S.C. 218, 131 S.E. 424 (1926) 22

Clary v. Borrell, 398 S.C. 287, 727 S.E.2d 773 (Ct. App. 2012) 15, 17

Cowburn v. Leventis, 366 S.C. 20, 619 S.E.2d 437 (Ct. App. 2005) 23

David v. McLeod Reg'l Med. Ctr., 367 S.C. 242, 626 S.E.2d 1 (2006) 14

Dawkins v. Fields, 354 S.C. 58, 580 S.E.2d 433 (2003) 28

Dunn v. Dunn, 298 S.C. 499, 381 S.E.2d 734 (1989) 14, 15, 30, 32

Fernander v. Thigpen, 278 S.C. 140, 293 S.E.2d 424 (1982) 23

First S. Bank v. Rosenberg, 418 S.C. 170, 790 S.E.2d 919 (Ct. App. 2016) 23

Fleming v. Rose, 350 S.C. 488, 567 S.E.2d 857 (2002) 14

Fontaine v. Peitz, 291 S.C. 536, 354 S.E.2d 565 (1987) 15

Gecy v. S.C. Bank & Tr., 422 S.C. 509, 812 S.E.2d 750 (Ct. App. 2018) 28, 29

Guinan v. Tenet Healthsystems of Hilton Head, Inc., 383 S.C. 48, 677 S.E.2d 32 (Ct. App. 2009) 28

Hamm v. S.C. Pub. Serv. Comm'n, 312 S.C. 238, 439 S.E.2d 852 (1994) 30, 31

Hollman v. Woolfson, 384 S.C. 571, 683 S.E.2d 495 (2009) 30

Jackson v. Speed, 326 S.C. 289, 486 S.E.2d 750 (1997) 32

Kitchen Planners, LLC v. Friedman, 440 S.C. 456, 892 S.E.2d 297 (2023) 14

Lewis v. Premium Inv. Corp., 351 S.C. 167, 568 S.E.2d 361 (2002) 21

McCallum v. Grier, 86 S.C. 162, 68 S.E. 466 (1910) 24

McMillan Pazdan Smith, LLC v. Mattison, 445 S.C. 35, 911 S.E.2d 412 (Ct. App. 2024) 30

N. Am. Rescue Prods., Inc. v. Richardson, 411 S.C. 371, 769 S.E.2d 237 (2015) 15, 17

Owens v. Stirling, 438 S.C. 352, 882 S.E.2d 858 (2023) 14, 15, 30

Quail Hill, LLC v. Cnty. of Richland, 387 S.C. 223, 692 S.E.2d 499 (2010) 14

R & G Const., Inc. v. Lowcountry Reg'l Transp. Auth., 343 S.C. 424, 540 S.E.2d 113 (Ct. App. 2000) 23

Renney v. Dobbs House, Inc., 275 S.C. 562, 274 S.E.2d 290 (1981) 15

Roberson v. S. Fin. of S.C., Inc., 365 S.C. 6, 615 S.E.2d 112 (2005) 23

Spence v. Spence, 368 S.C. 106, 628 S.E.2d 869 (2006) 23

Stevens Aviation, Inc. v. DynCorp Int'l LLC, 407 S.C. 407, 756 S.E.2d 148 (2014) 14

Town of Kingstree v. Chapman, 405 S.C. 282, 747 S.E.2d 494 (Ct. App. 2013)...........................23

Wachovia Bank, N.A. v. Coffey, 404 S.C. 421, 746 S.E.2d 35 (2013) 14

STATUTES/RULES/REGULATIONS

Del. Code Ann. tit. 6, § 18-1101 16

S.R.C.P., Rule 26..30, 31

S.R.C.P., Rule 37..32

S.C.R.C.P., Rule 56 ....14, 33

S.C. Code Ann. § 33-44-103 ....15, 17

SECONDARY MATERIALS

Barnes, et. al., *South Carolina Limited Liability Companies*, at p. 2 5th ed. (2020) 15

STATEMENT OF THE ISSUES ON APPEAL

1. Did the lower court err in granting summary judgment to Respondents where the binding Operating Agreement makes the two appraisers' agreed value of the Company binding without the Estate's separate assent, rendering immaterial whether Appellant revoked Mr. Swanson's authority?

2. Did the lower court err in granting summary judgment to Respondents where the two appraisers appointed by the parties determined Fair Market Value as defined in the Operating Agreement?

3. Did the lower court err in finding that summary judgment was not pre-mature, where the Estate had a full and fair opportunity to conduct discovery and the discovery it sought would not have created a genuine issue of material fact?

4. Did the lower court abuse its discretion in denying the Estate's motion to compel and granting Respondents' motion for a protective order, where the post-death financial information the Estate sough is irrelevant under the Operating Agreement?

STATEMENT OF THE CASE

This litigation commenced when Timothy Jones, as the personal representative for Dewitt Jones (the "Estate") filed a complaint against Innovative Scientific Solutions, LLC (the "Company"), J. Ryan Flanagan, Jay A. Flanagan, Jr., and Marion L. Snyder on January 3, 2023 (collectively, "Respondents") (See generally Pl.'s Compl., Jan. 3, 2023) over the value of the Estate's shares in the Company. Respondents answered and asserted counterclaims on September 15, 2023. (See generally Ans. and Counterclaims to Pl.'s Compl.). Both parties served and responded to written discovery in 2023. (See Pl.'s and Defs.' 2023 Disc. Reqs.). The case was first set for trial the week of March 11, 2024. On March 6, 2024, the Estate moved to continue the trial, stating that the continuance was needed to afford both parties "necessary time to conduct discovery, including written discovery and deposition." (See Mot. to Continue Trial, at 1, Mar. 6, 2024). Respondents consented to that first continuance, and the trial was continued.

Following the first continuance, the parties deposed one another's principal witnesses. Respondents deposed Timothy Jones on September 5, 2024. The Estate deposed J. Ryan Flanagan on February 11, 2025, and the Company's appraiser, Alex Hartel, on April 3, 2025. The Estate also served a second set of discovery requests on Respondents on February 5, 2025, more than two years after the case was filed. (See Pl.'s Second Set of Interrog. to Defs.'); (See Pl.'s Second Set of Req. for Produc. to Defs.').

On April 23, 2025, the Estate named a new expert witness when it disclosed "Greer Walker" as a testifying expert in the case. (See P's Suppl. Resp. to Defs.' Req. for Produc., Apr. 23, 2025) The Estate's Supplemental Responses provided only brief, summary information about the Greer Walker's anticipated testimony in response to Respondents' discovery requests. Although the Estate titled its April 23rd supplemental responses as supplemental responses to requests for production, what it provided was actually supplemental responses to Respondents' interrogatories. The Estate never provided supplemental responses to Respondents' requests for production seeking documents related to the Estate's newly named expert.

Following the disclosure of a new expert witness more than two years after the case was filed, Respondents served a subpoena on Greer Walker (the "Subpoena") seeking a number of documents that should have been provided by the Estate in supplemental response to requests for production. (See Subpoena to Greer Walker, Apr. 24, 2025). That same day, counsel for the Estate sent a letter to Greer Walker asking it to first provide all documents requested by the Subpoena to counsel for the Estate so the Estate could review and produce those documents to Respondents. (See Letter from Pl.'s Counsel, Devon M. Puriefoy to Greer Walker, April 24, 2025).

Neither Greer Walker nor the Estate provided any documents in response to the Subpoena. On July 2, 2025, the case was set for trial a second time, this time for the week of August 11, 2025. (See Docket Notice). On July 9, 2025, Respondents followed-up with the Estate's counsel on Greer Walker's Subpoena response. The Estate responded claiming for the first time that the Subpoena was improper and that it would only respond to a proper subpoena. On July 18, 2025, Respondents filed a motion to compel responses to the Subpoena. (See Defs.' Mot. to Compel Subpoena Response from Pl. and/or GreerWalker and Exs.).

Respondents moved for summary judgment on July 16, 2025, two-years and six months after the action was filed. (See generally Mot. for Summ. J. of Defs.', July 16, 2025). The very next day, on July 17, 2025, the Estate filed a second motion for a continuance, this time seeking to continue the trial set for August 11, 2025. It again claimed that it needed more time for discovery, and it asserted that Greer Walker's expert report and testimony would not be ready until "at least September 2025." (See Mot. to Continue, July 17, 2025). Respondents filed a response in opposition to Plaintiff's second continuance request on July 22, 2025. As Respondents explained, the Estate had "now had over two years to conduct discovery in this matter," and its late-identified expert and late-requested documents were no cause to delay trial further. (See Mem. in Opp. to Pl.'s Mot. to Continue, July 22, 2025). In lieu of a hearing on the Estate's request for a second continuance, the parties agreed to refer the case to the Master in Equity for Greenville County, the Honorable Charles B. Simmons, Jr., for further handling and disposition. (See Consent Order to Refer Case to Master in Equity, August 7, 2025).

Following transfer, the Master in Equity scheduled a hearing on Respondents' summary judgment motion for September 17, 2025. On September 15, 2025, Respondents' filed their memorandum in support of their motion for summary judgment (See Mem. in Supp. Of Defs.' Mot. for Summ. J., Sept. 15, 2025). That same day, the Estate filed its memorandum in opposition to the motion. (See Mem. of Law in Opp'n of Defs.' Mot. for Summ. J., Sept. 15, 2025). The Estate's sole basis for opposing the motion was its claim that "critical discovery remains outstanding…" (*Id.* at 3-4). The "critical discovery" was Respondents' request to take the depositions of Greer Walker and Mark Swanson, not discovery requested by the Estate. The Estate also pointed to the "recent production of newly identified discovery documents," which referred to about 100 pages the Respondents produced in June 2025 in response to the supplemental requests served in February 2025. (*Id.*).

The hearing went forward on September 17, 2025. At the hearing, counsel for the Estate claimed that "no agreement was ever reached between" the appraiser for the Estate, Mark Swanson, and the appraiser for Respondents, Alex Hartel, on the value of the Estate's shares in the Company. (See Sept. 17, 2025 Hrg. Tr. at 3:21-4:1; 20:13-15). As a result, the Trial Court ordered that Mark Swanson's deposition be taken specifically to determine whether Hartel and Swanson reached an agreement as to the value of the Estate's shares. (See Sept. 17, 2025 Hrg Tr. at 38:12-39:6).

Swanson's deposition took place on October 17, 2025. (See generally Mark Swanson Dep. Tr.). Following that deposition, the trial court scheduled a second hearing on Respondents' motion for summary judgment for December 17, 2025. Respondents submitted supplemental briefing in support of summary judgment prior to that hearing. (See Suppl. Memo in Supp. Of Defs.' Mot. for Summ. J., Dec. 12, 2025). On January 21, 2026, Judge Simmons entered an order granting Respondents' motion for summary judgment, holding that the Swanson and Hartel agreed on the value of the Estate's shares and that the agreed valuation is binding on the parties under the plain language of the Operating Agreement. (See generally Order Grant. Defs.' Mot. for Summ. J., Jan. 21, 2026). The Estate moved to reconsider, and the court denied that motion on February 4, 2026. (See Form 4 Order, Feb. 4, 2026).

Despite claiming in multiple filings that an expert report from its new expert Greer Walker would be ready by the end of September 2025, the Estate never produced any report or valuation from Greer Walker and never complied with the Subpoena. On March 4, 2026, Plaintiff filed a Notice of Appeal attaching and appealing from multiple orders. (See generally Notice of Appeal, Mar. 4, 2026).

STATEMENT OF FACTS

Dewitt Jones was a member of the Company. He died on June 16, 2021.[1] The Company's Amended and Restated Operating Agreement ("Operating Agreement") controls what happens to Dewitt Jones's Membership Units following his death. (See Op. Agr't, filed under seal). Section 11.2 of the Operating Agreement makes the sale of a deceased member's units mandatory. (See

[1] Throughout the record, the date of Dewitt Jones's death varies between June 11, 2021 and June 16, 2021. However, the accurate date of death is June 16, 2021.

Op. Agr't ¶ 11.2). Section 11.4 sets the price as fair market value as defined by the Operating Agreement ("Fair Market Value"). (Id. at ¶ 11.4). It first gives the Company and the Estate twenty-one days to agree on the Fair Market Value of the Company. If they cannot agree, each side must appoint an appraiser within thirty (30) days. (Id.). If these two appraisers cannot agree, a third appraiser is appointed and Fair Market Value is set as the average of the two closest appraisals.

Initially the parties worked to try to reach an agreement as to Fair Market Value. By June 2022, however, the parties were at an impasse and the Company informed the Estate it was time to start the appraisal process. (See Op. Agr't ¶ 11.4). The Company appointed Alex Hartel, then of HDH Advisors, LLC. (See Ryan Flanagan Dep. Tr. at 46:10-24); (See Alex Hartel Dep. Tr. at 36:25-37:8). The Estate appointed Mark Swanson of Moore Beauston & Woodham. (See Mark Swanson Dep. Tr. at 6:17-7:6); (See Mark Swanson Dep. Tr. Ex. 3); (See Timothy Jones Dep. Tr. at 52:3-8). As stated by the engagement letter executed by Timothy Jones dated August 5, 2022, Swanson was engaged "work with [Jones] and the finance team at Innovative Scientific Solutions, LLC to derive a reasonable fair market value for the estates membership interest in the company." (See Mark Swanson Dep. Tr. Ex. 3)

This was actually Swanson's second engagement by the Estate to value the Company. As explained by Swanson in his deposition testimony, he was originally hired by the Estate in September 2021. (See Mark Swanson Dep. Tr. at 6:7-12). He performed a valuation for the Estate for "estate tax purposes" that was dated December 2021 and released in January 2022 (the "January 2022 Appraisal"). (See Mark Swanson Dep. Tr. at 6:13-24). He was then reengaged in August 2022 to perform the valuation required by the Operating Agreement after the Estate and Respondents were unable to agree on the Fair Market Value for the Estate's shares. (See Mark Swanson Dep. Tr. at 6:17-24). Swanson understood that his "task from Mr. Jones [was] to confer with Mr. Hartel to try to come to a determination about the value of ISS as of the date of Dewitt's death." (See Mark Swanson Dep. Tr. at 7:7-13).

Once retained as the Estate's appraiser, Swanson and Hartel went to work to determine whether they could agree on the Fair Market Value for the Company as required by the Operating Agreement. By August 12, 2022, Swanson had spoken with Hartel and reported to counsel for the Company that he believed that he and Hartel "will be able to come to an agreement on the valuation prior to the end of the 30-day period," referring to the period the appraisers were afforded under the Operating Agreement to reach an agreed value. (See Mark Swanson Dep. Tr. at 12:2-8). By September 8, 2022, their work was complete, and Swanson reported to counsel for the Company and then-counsel for the Estate that Hartel and "I spoke this afternoon and have produced what I (Swanson) believe is a fair valuation for all parties…I have shared it with Tim. Tim would like some time to review and says he will contact me next week." (See Mark Swanson Dep. Tr. at 12:22-13:6). The next day, September 9, 2022, Hartel sent an email to Swanson and then-counsel for the Estate and the Company attaching the agreed-upon Fair Market Value of the Company as of Dewitt Jones's death (the "September 9th Appraisal"). (See Mark Swanson Dep. Tr. at 13:22-14:12). As summarized by Swanson, he and Hartel had discussed the valuation in detail and agreed on the September 9th Appraisal. (See Mark Swanson Dep. Tr. at 14:13-24; 15:21-25). As of the date of his deposition over four years later, Swanson still stands by the September 9th Appraisal. (See Mark Swanson Dep. Tr. at 16:14-21).

The day before the final valuation was sent to all parties by Hartel, Swanson forwarded the September 9th Appraisal to Timothy Jones with an explanation for why the September 9th Appraisal was so different from Swanson's January 2022 Appraisal. (See Mark Swanson Dep. Tr. at 17:9-23). As explained by Swanson, Hartel was provided with "much more accurate projections for future revenues than I was provided when I did my [January 2022] report." (See Mark Swanson Dep. Tr. at 17:9 – 18:1). Swanson further elaborated that when he reviewed the projections from Hartel they "looked like a much more reasonable approach to value the company" and that they seemed to be more "fair and reasonable." (See Mark Swanson Dep. Tr. at 31:11-23). Swanson confirmed the September 9th Appraisal was "far more accurate" than the January 2022 Appraisal because of inaccurate "assumptions" he made when preparing the January 2022 Appraisal. (See Mark Swanson Dep. Tr. at 18:1-17).

Swanson testified that after he forwarded the September 9th Appraisal to Timothy Jones, he does not recall any conversations with Timothy Jones about the number he and Hartel agreed upon. (See Mark Swanson Dep. Tr. at 19:9-18). Swanson also testified that Timothy Jones never informed him that he disagreed with the September 9th Appraisal or that he had any dispute with it. (See Mark Swanson Dep. Tr. at 19:19-23). In fact, Swanson testified that the rules of accounting ethics would prevent him from changing the appraisal value based on Timothy Jones's request. (See Mark Swanson Dep. Tr. at 48:1-15). If Jones had insisted that Swanson change his determination of Fair Market Value, Swanson would have terminated the engagement. (See Mark Swanson Dep. Tr. at 48:1-15). Swanson's engagement with Jones was never terminated.

Hartel's recollection matches Swanson. Hartel was engaged by Respondents to appraise the Company. (See Alex Hartel Dep. Tr. at 42:14-18). Hartel recalls discussions with Swanson about his appraisal that resulted in two material changes. (See Alex Hartel Dep. Tr. at 43:23-44:22). The first change was that Swanson suggested they use a market approach as opposed to an income approach for valuation. (Id.). The second was that Swanson requested, and Hartel agreed, to go back to the Company's accountant and obtain a forecast "that was prepared as of June 2021" and then incorporate that into an updated valuation. (Id.). The Company provided Swanson and Hartel with the requested forecast. (See Alex Hartel Dep. Tr. at 55:9-15).

There is no evidence that Swanson was ever told that he was fired by the Estate or that he no was no longer engaged to act as its appraiser. Swanson understood throughout that he was the Estate's selected appraiser. (See Mark Swanson Dep. Tr. at 6:7-24, 7:2-7, 20:2-9). There is no evidence that the Estate ever told the Company that Mark Swanson was not its selected appraiser. There is no evidence that the Estate ever told the Company that it had revoked, withdrawn, or fired Mr. Swanson.

Following the agreement between Hartel and Swanson as to the value of the Estate's shares, the Company completed the share buyout as Section 11.5 prescribes. It executed and tendered a negotiable promissory note to the Estate for the value of Dewitt Jones's Membership Units. (See Ryan Flanagan Dep. Tr. Ex. 9). Upon issuance of the promissory note, the Company canceled Dewitt Jones shares. (See Op. Agr't ¶ 11.5). The Estate filed suit.

From the outset of the litigation, all parties agreed that the relevant date for valuation was the date of Dewitt Jones death. (See Timothy Jones Dep. Tr. at 49:3-12; 86:20-87:4; 95:9-12) (See Ryan Flanagan Dep. Tr. at 57:2-9) (See Oct. 7, 2024 Hrg Tr. 13:1-8). Appraisers must use projections about company performance known to the company and to offering members as of the date of valuation for there to be a fixed date for valuation. (See Alex Hartel Dep. Tr. at 21:4-22:3). Despite agreement between the parties that the relevant date for valuing Dewitt Jones's share is the date of his death, the Estate sought extensive discovery into the Company's performance post-date of death. First, the Estate served discovery requests seeking this information. (See Mot. to Compel Ex. A, July 13, 2024). When Respondents objected based on relevancy, the Estate filed a motion to compel. (See Mot. to Compel, July 13, 2024). The Estate's motion to compel was heard on October 7, 2024. At the hearing, the Estate argued that it was entitled to the data showing the Company's actual performance after Dewitt Jones date of death so it could know "how closely those projected revenues are to the actual revenues…" (See Oct. 7, 2024 Hrg. Tr. at 5:16-21). The court disagreed and denied the motion.

Undeterred, the Estate next sent a list of 30(b)(6) topics to the Company. (See Am. Notice of 30(b)(6) Topics Innovative Scientific Solutions, Jan. 27, 2025). The list of topics included numerous requests for financial information and data through 2024. (Id.). The Company responded with objections to topics that sought information beyond Dewitt Jones's date of death consistent with the court's October 14, 2024 order. (See Letter from Adam Bach, Attorney for Respondents, to Devon Puriefoy, Attorney for Appellant, January 28, 2025). At the Company's 30(b)(6) deposition, the Estate asked questions about post death financials and, consistent with the court's October 14, 2024 Order, counsel for the Company instructed its designee not to answer those questions. (See Ryan Flanagan Dep. Tr. at 10:21-14-7, 50:19-51:13, 60:25-61:10, 62:3-9). The Company filed a timely motion for protective order, which was granted by the court on April 16, 2025. (See Mot. for Protective Order, Feb. 12, 2025); (See Order, Apr. 16, 2025).

During the eight-month dispute over the relevancy of the Company's post-date of death financials, the Estate never produced an expert statement or affidavit establishing that the information it sought was necessary for any valuation. The Estate never asked Swanson whether actual results after the date for valuation would be relevant to his appraisal as of the date of death. And Mark Swanson, the Estate's own appraiser, continues to stand by the September 9th Appraisal today. (See Mark Swanson Dep. Tr. at 15:21-16:9).

STANDARD OF REVIEW

A. Standard of Review Governing Grant of Summary Judgment

"When reviewing an order granting summary judgment, the appellate court applies the same standard as the trial court." David v. McLeod Reg'l Med. Ctr., 367 S.C. 242, 247 626 S.E.2d 1, 3 (2006) (citing Fleming v. Rose, 350 S.C. 488, 493 567 S.E.2d 857, 860 (2002)). "Summary judgment is appropriate when there is no genuine issue of material fact such that the moving party must prevail as a matter of law." Fleming v. Rose, 350 S.C. 488, 493 567 S.E.2d 857, 860 (2002) (*citing* S.C.R. Civ. P. 56(c)). The appropriate evidentiary "standard [under Rule 56(c)] is the genuine issue of material fact standard." Kitchen Planners, LLC v. Friedman, 440 S.C. 456, 463-464, 892 S.E.2d 297, 301 (2023) (rejecting the "mere scintilla" standard for summary judgment under Rule 56(c)). "In determining whether a genuine issue of material fact exists, the evidence and inferences that can be reasonably drawn therefrom are to be viewed in the light most favorable to the nonmoving party." Stevens Aviation, Inc. v. DynCorp Int'l LLC, 407 S.C. 407, 415, 756 S.E.2d 148, 152 (2014) (citing Quail Hill, LLC v. Cnty. of Richland, 387 S.C. 223, 235, 692 S.E.2d 499, 505 (2010)). This same standard of review applies even where the action is heard in equity and summary judgment is granted by a master-in-equity. Wachovia Bank, N.A. v. Coffey, 404 S.C. 421, 425, 746 S.E.2d 35, 37-38 (2013) (reviewing a master-in-equity's grant of summary judgment under the same standard applied by the trial court pursuant to the Rule 56 standard).

B. Standard of Review Governing Discovery Orders

"A trial court's ruling on a discovery matter will not be disturbed on appeal except where there is an abuse of discretion." Owens v. Stirling, 438 S.C. 352, 358, 882 S.E.2d 858, 861 (2023) (citing Dunn v. Dunn, 298 S.C. 499, 502 381 S.E.2d 734, 735 (1989)). "An abuse of discretion occurs when the judge's ruling is based upon an error of law or, when based on factual conclusions, is without evidentiary support." Fontaine v. Peitz, 291 S.C. 536, 538, 354 S.E.2d 565, 567 (1987) (citing Renney v. Dobbs House, Inc., 275 S.C. 562, 564, 274 S.E.2d 290, 291 (1981)). "The burden is upon the party appealing from the order to demonstrate the trial court abused its discretion. Owens, 438 S.C. at 358, 882 S.E.2d at 861 (quoting Dunn v. Dunn, 298 S.C. 499, 502 381 S.E.2d 734, 735 (1989)).

ARGUMENT

The Estate is unhappy with its own appraiser's work. The entirety of this litigation flows from that dissatisfaction. But the Estate's quarrel with its appraiser is one to take up with its appraiser. It has nothing to do with the only question that matters on appeal, which is whether the provisions of the Operating Agreement governing the valuation and purchase of Dewitt Jones's shares were followed.

The language of the Operating Agreement controls the buyout of the Dewitt Jones's membership units. S.C. Code § 33-44-103; Clary v. Borrell, 398 S.C. 287, 297, 727 S.E.2d 773, 778 (Ct. App. 2012) ("The operating agreement of a limited liability company is a binding contract that governs the relations among the members, managers, and the company."); N. Am. Rescue Prods., Inc. v. Richardson, 411 S.C. 371, 378, 769 S.E.2d 237, 240 (2015) ("If a contract's language is unambiguous, the plain language will determine the contract's force and effect."). As numerous courts and commentators have recognized, courts' enforcement of limited liability company's operating agreements provides parties' freedom to structure companies as they see fit and promotes predictability and stability when business partners are dealing with one another. S.C Code 33-44-103 Off. Cmt. ("The operating agreement is the essential contract that governs the affairs of a limited liability company"); Barnes, et. al., South Carolina Limited Liability Companies, at p. 2 5th ed. (2020) ("Total flexibility is the hallmark of South Carolina's LLC statutes."); (Care One, LLC v. Straus, No. A-1215-20, 2022 WL 17072371, at *12 (N.J. Super. Ct. App. Div. Nov. 18, 2022) (citing Del. Code Ann. tit. 6, § 18-1101(b) ("It is the policy of this chapter to give the maximum effect to the principle of freedom of contract and to the enforceability of [LLC] agreements.").

Here, the parties agree on what occurred. The Estate appointed Mark Swanson to be its appraiser. (See Mark Swanson Dep. Tr. at 6:17-7:6); (See Timothy Jones Dep. Tr. at 52:3-8). The Company appointed Alex Hartel to be its appraiser. (See Ryan Flanagan Dep. Tr. at 46:10-24). Mark Swanson and Alex Hartel then conferred and agreed on a Fair Market Value. (See Timothy Jones Dep. Tr. at 152:25-153:4); (See Alex Hartel Dep. Tr. at 159:24-160:9); (See Ryan Flanagan Dep. Tr. at 63:16-19); (See Mark Swanson Dep. Tr. at 12:9-14:24). Under the Operating Agreement, that Fair Market Value is "conclusive and binding" on the parties. (See Op. Agr't ¶ 11.4).

The Estate disputes the value agreed-upon by the Company and its appraiser on two grounds, neither of which has merit. First, the Estate contends that it revoked Mark Swanson's authority or did not approve of his work and is therefore not bound by his valuation. That contention is immaterial under the Operating Agreement and has no support in the record. Second, the Estate contends that Alex Hartel and Mark Swanson did not determine Fair Market Value as the Operating Agreement defines it because they used updated projections. That argument also fails because it misconstrues the record and testimony and, even if true, it was up to the Estate's appraiser, Mark Swanson to raise and object to this alleged issue before agreeing to the Fair Market Value of the Company.

I. Swanson Bound the Estate to the Agreed-Upon Fair Market Value

a. Whether Appellant agreed with the value contained in the September 9th Appraisal is Immaterial

Both Appellant and Respondents agree that the Operating Agreement governs the valuation of Dewitt Jones's membership units. (See Pl.'s Compl. ¶ 10). "The operating agreement of a limited liability company is a binding contract that governs the relations among the members, managers, and the company." Clary, 398 S.C. at 297, 727 S.E.2d at 778 (citing S.C. Code Ann. § 33-44-103(a)). "Where an agreement is clear and capable of legal interpretation, the court's only function is to interpret the lawful meaning, discover the intention of the parties found within the agreement, and give effect to it." Park Regency, LLC v. R & D Dev. of the Carolinas, LLC, 402 S.C. 401, 412-413, 741 S.E.2d 528, 534 (Ct. App. 2012) (quoting Heins v. Heins, 344 S.C. 146, 158, 543 S.E.2d 224, 230 (Ct. App. 2001)). "If a contract's language is unambiguous, the plain language will determine the contract's force and effect." N. Am. Rescue Prods., Inc. v. Richardson, 411 S.C. 371, 378, 769 S.E.2d 237, 240 (2015) (citations omitted).

The unambiguous language of the Operating Agreement caused no confusion for either Appellant or Respondents. Sections 11.2, 11.4, and 11.5 together set out the entire valuation and buyout process. Section 11.2 provides that "upon the death of a Member, the Company shall purchase, and the estate of the decedent…shall sell all of the decedent's Membership Units in the Company." (See Op. Agr't ¶ 11.2). Section 11.2 provides the purchase price of the Units shall be "computed in accordance with the provisions of SECTION 11.4 and paid in accordance with the provisions of SECTION 11.5." (Id.).

Section 11.4 begins the computation process by giving the Company and the Estate a chance to come to an agreement on the Fair Market Value of the Company. If they cannot, the

Operating Agreement provides a straightforward process for breaking the deadlock: the Company and the Estate each have thirty (30) days to appoint an appraiser. If one party or the other does not appoint an appraiser within the time required, then the "Fair Market Value of the Company [is] determined by the appraiser appointed by the other party…" (See Op. Agr't ¶ 11.4). Assuming both the Company and the Estate appoint an appraiser, then those appraisers get thirty (30) days to reach an agreement on Fair Market Value. If they cannot, then a third appraiser is appointed and the Fair Market Value is the average of "the two (2) appraisals which are closest to each other."

The point of Section 11.4 is to provide a process to break a deadlock where there is disagreement on the Fair Market Value of the Company. First, by having each side an appoint an appraiser and then, if deadlock remains, by having a third appraiser appointed and taking the average of the two closest. The Operating Agreement makes it crystal clear that this process is binding. (See Op. Agr't ¶ 11.4) ("The purchase price as determined herein shall be conclusive and binding on the parties, their personal representatives, heirs, successors, and assigns."). Nothing in 11.4 permits a party to override this process by their disagreement with their own appraiser's determination of Fair Market Value. If it did, the entire section would be meaningless because the jumping off point for the appraisal process is the parties' deadlock in agreeing on Fair Market Value.

The record confirms that each step of the process was carried out in accordance with the Operating Agreement. The parties were unable to agree on the Fair Market Value of the Company, so each side appointed its own qualified appraiser (Mark Swanson for the Estate and Alex Hartel for the Company), and those two appraisers conferred and reached an agreement on the value. (See Timothy Jones Dep. Tr. at 152:25-153:4); (See Alex Hartel Dep. Tr. at 159:24-160:9); (See Ryan Flanagan Dep. Tr. at 63:16-19); (See Mark Swanson Dep. Tr. at 12:9-14:24). The final Fair Market

Valuation was the product of both appraisers' input. (See Alex Hartel Dep. Tr. at 43:23-44:22); (See Mark Swanson Dep. Tr. at 15:7-20). One suggestion from the Estate's appraiser was to obtain forecasts as close as possible to Dewitt Jones's death. (See Alex Hartel Dep. Tr. at 43:23-44:25). This was done and Swanson confirmed that this increased Alex Hartel's initial valuation. (See Mark Swanson Dep. Tr. at 15:7-20, 32:10-21).

Once the Fair Market Value was agreed-upon by the appraisers, the Operating Agreement dispenses with the Estate's objections. Section 11.5 of the Operating Agreement governs payment and confirms that the buyout is completed without regard to the Estate's acceptance. Section 11.5 provides, in pertinent part:

> At the closing, the purchaser(s) shall execute and deliver to the seller a negotiable promissory note made payable to the order of the seller . . . . .Upon execution and delivery of the note, the Membership Units shall be endorsed and conveyed to the purchaser(s). If, after receiving the executed note, the Offering Member or the personal representative of his estate does not tender the Membership Units so purchased, as provided herein, the Company shall cause the records of the Company to reflect that such Membership Units have been canceled or transferred, as the case may be. After the records of the Company have been so modified and after the tender of such payment has been made (whether or not accepted by the Offering Member, his estate, or his personal representative) neither the Offering Member, his estate nor his personal representative shall be considered to own such Membership Units and shall have no right as a Member to the extent of the Membership Units so canceled or transferred.

(See Op. Agr't ¶ 11.5) (emphasis added). The parenthetical "(whether or not accepted by the Offering Member, his estate, or his personal representative)" is a direct textual answer to the Estate's argument that Mark Swanson was required to get approval from the Estate prior to reaching an agreement. (Id.). The Operating Agreement expressly contemplates that the buyout is completed regardless of whether one party or the other finds some reason to dispute the price determined pursuant to the Operating Agreement. Here, the Company executed and delivered the negotiable promissory note on October 1, 2022, thereby completing the buyout in precisely the manner Section 11.5 of the Operating Agreement prescribes. (See Order Grant. Defs.' Mot. for Summ. J., at 8 n.1, Jan. 21, 2026); (See Ryan Flanagan Dep. Tr. Ex. 9).

Sections 11.2, 11.4, and 11.5 of the Operating Agreement leave no room for a separate party-approval requirement. Section 11.2 makes the sale mandatory; Section 11.4 fixes the price; and Section 11.5 contemplates the transfer "whether or not accepted" by the Estate. As the trial court correctly found, "[t]he Estate does not point to any language in the Operating Agreement requiring the Estate's agreement to a valuation amount before it becomes binding on the Estate." (See Order Grant. Defs.' Mot. for Summ. J., at 5, Jan. 21, 2026). The Estate does no better in this appeal, arguing extensively about its disapproval of its own appraiser's work without bothering to identify what difference its approval or disapproval makes under the Operating Agreement. Permitting a member to disown its own qualified appraiser's valuation, or to dictate an acceptable number, "would defeat the purpose of the Operating Agreement" and return the parties to the very impasse the appraisal process was intended to resolve. (Id.).

Further, the Estate's dissatisfaction with its own appraiser's number does not entitle it to a third appraiser, nor does it entitle it to a do-over on its selection of its appraiser. By its plain terms, Section 11.4 of the Operating Agreement provides for a third appraiser only "[i]f the two (2) appraisers cannot agree on the Fair Markert Value of [ISS]." (See Op. Agr't ¶ 11.4) (emphasis added). Mr. Swanson and Mr. Hartel agreed on the Fair Market Value of the Company. (See Timothy Jones Dep. Tr. at 152:25-153:4); (See Alex Hartel Dep. Tr. at 159:24-160:9); (See Ryan Flanagan Dep. Tr. at 63:16-19); (See Mark Swanson Dep. Tr. at 12:9-14:24). The Estate wants the court to revise this process so that it continues until such time as the Estate has obtained an appraisal that is to its liking. But permitting successive appraisers until each side gets the valuation it wants is just a road back to the deadlock the process was designed to break. Regardless, the trial court is not authorized to rewrite the Operating Agreement. Lewis v. Premium Inv. Corp., 351 S.C. 167, 171, 568 S.E.2d 361, 363 (2002) ("Basic contract law provides that when a contract is clear and unambiguous, the language alone determines the contract's force and effect. It is not the function of the court to rewrite contracts for parties.") (internal citations omitted).

b. There is no evidence in the record supporting the Estate's claim that it revoked Swanson's authority before he agreed to the September 9th Appraisal

The Estate claims there exists a question of material fact as to "whether Plaintiff revoked any authority granted to Swanson to act on his behalf…" (See Appellant Br. at 17). According to Appellant there is "significant evidence" that Appellant revoked Swanson's ability to bind him. (Id.). The Appellant cites four pieces of evidence, none of which support Appellant's claim.

The first piece of "significant evidence" identified by Appellant is an August 3, 2022 email that was from the Estate to Swanson **two days before** the Estate retained Swanson as the Estate's appraiser. (Compare Appellant Br. at 20-21, with Engagement Letter between Jones and Swanson dated August 5, 2022); (See Mark Swanson Dep. Tr. Ex. 3). The email cited by Appellant is an email from Timothy Jones to Swanson forwarding Hartel's appraisal and asking Swanson to schedule a time to discuss. Whatever was discussed on that call, the Estate signed an engagement letter and identified Swanson as its chosen appraiser **two days later**. The Estate obviously could not "revoke" authority before Swanson was retained.

The second piece of "significant evidence" cited by the Estate is an email from Swanson to Timothy Jones after Swanson had completed his work with Hartel. (See Appellant Br. at 21). In this email, Swanson is explaining how he came to an agreement with Hartel on valuation. Nothing in this email indicates that any authority has been revoked. And no one from the Company was copied on this email even if it did.

The third piece of "significant evidence" is an email written by Hartel to Swanson and others reporting that he and Swanson had been able to agree on a valuation of the Company. Again, nothing in this email indicates any revocation of authority or any disagreement with the valuation. In fact, it indicates exactly the opposition, that Hartel, Swanson, and everyone else copied understood that Swanson was the Estate's appraiser and that a purchase price had been reached by the appraisers agreeing on the Fair Market Value of the Company. According to Appellant, Timothy Jones "promptly notified Mr. Swanson of his strenuous disagreement with Mr. Hartel's appraisal." Leaving aside there is no written evidence that this ever happened, as discussed above nothing in the Operating Agreement requires the Estate to agree with his appraiser's valuation and no evidence of his alleged disagreement was ever communicated to the Company.

Fourth, the Estate cites to Timothy Jones's own affidavit where the Estate swears he never authorized any of his representatives to agree to a valuation of the Fair Market Value of Dewitt Jones's membership interest in the Company. (<u>Appellant Br.</u> at 24). This is incorrect. By appointing Swanson as its appraiser, that is exactly what the Estate did – it authorized Swanson to engage with the Company's appraiser and to come to an agreement, if possible, on the Fair Market Value of the Company. (<u>See</u> Op. Agr't ¶ 11.4).

None of these pieces of "significant evidence" support the Estate's contention that it withdrew Swanson's authority. Swanson understood that he was the Estate's appraiser from start to finish. There is no writing, email, or communication terminating him at any point in time. And even assuming there was some evidence that Swanson was terminated as the Estate's appraiser, there is no evidence such termination was ever communicated to the Company. <u>See Carr v.</u>

Moragne, 136 S.C. 218, 131 S.E. 424, 427 (1926) (recognizing that a revocation of an agent's authority does not become effective as to third persons dealing with the agent until they receive notice of the revocation, and that such persons may assume the authority continues as originally conferred until they are otherwise informed); See Town of Kingstree v. Chapman, 405 S.C. 282, 315, 747 S.E.2d 494, 511 (Ct. App. 2013) (quoting R & G Const., Inc. v. Lowcountry Reg'l Transp. Auth., 343 S.C. 424, 433, 540 S.E.2d 113, 118 (Ct. App. 2000) ("When a principal, by any such acts or conduct, has knowingly caused or permitted another to appear to be his agent, either generally or for a particular purpose, he will be estopped to deny such agency to the injury of third persons who have in good faith and in the exercise of reasonable prudence dealt with the agent on the faith of such appearances.").

The Estate spends a number of pages citing to general principals of agency law but almost all of their citations concern whether an agency relationship was created in the first instance. See e.g., Cowburn v. Leventis, 366 S.C. 20, 619 S.E.2d 437 (Ct. App. 2005); See e.g., Roberson v. S. Fin. of S.C., Inc., 365 S.C. 6, 615 S.E.2d 112 (2005); See e.g., Fernander v. Thigpen, 278 S.C. 140, 293 S.E.2d 424 (1982). That law is not relevant to the rights of third parties in dealing with agents the principal admits it hired. On that score, the law protects the reasonable expectations of third parties in dealing with a principal's agent. See Spence v. Spence, 368 S.C. 106, 126, 628 S.E.2d 869, 879 (2006). That is particularly true where, as here, the agent is appointed pursuant to the parties' contract to accomplish some act the agent is expressly empowered to do by that contract. First S. Bank v. Rosenberg, 418 S.C. 170, 180-181, 790 S.E.2d 919, 925-926 (Ct. App. 2016) (holding an agent expressly empowered by the parties' instrument possessed actual authority to bind the principal to the resulting contract).

The Estate relies on McCallum v. Grier, 86 S.C. 162, 68 S.E. 466, 468 (1908) for the proposition that a principal may revoke its agents authority at any time. While this may be true, it does not address the question here. In McCallum, the plaintiff attempted to sue the defendant on a real estate contract executed by the plaintiff's broker. Id. at 467. The McCallum court noted that the plaintiff's broker was a "special agent" whose authority was limited to listing the property, not executing contracts. Id. 467-468. Here, there is no question that Swanson's was expressly empowered by the Operating Agreement to perform the actions he performed and to bind the Estate to his opinion on Fair Market Value. (See Op. Ag. § 11.4). As consistently held by our courts for over two centuries:

> [A] special agent can bind his principal only to the extent of the authority conferred by the principal; but in relation to agency this rule is modified by a principle which prevades all cases of agency, whether it be a general or a special agency, to act. The principal is bound by all acts of his agent within the scope of the authority, which he holds him out to the world to possess, although he may have given him more limited private instructions, unknown to the persons dealing with him; and this is founded on the doctrine that where one of two persons must suffer by the act of a third person, he who has held that person out as worthy of trust and confidence, and having authority in the matter, shall be bound by it.

Carmichael v. Buck, 44 S.C.L. 332, 336 (S.C. App. L. 1857) (internal quotations omitted).

Swanson was not appointed to be a spokesperson for the Estate's opinion on value. He was empowered under the Operating Agreement to bind the Estate to his conclusions about value. (See Op. Agr't ¶ 11.4) ("The purchase price as determined herein shall be conclusive and binding on the parties, their personal representatives, legal representatives, heirs, successors and assigns"). Under these circumstances, Timothy Jones's testimony about Swanson's authority is irrelevant. There is no need to delve into questions surrounding Swanson's agency when, as here, the Estate selected Swanson as its appraiser to do what was required by the parties' contract. The Company was entitled to rely on Swanson's authority to act for the Estate.

II. The Two Appraisers Appointed by the Parties Did Determine Fair Market Value as Defined in the Operating Agreement.

Appellant contends that Hartel and Swanson did not determine the "Fair Market Value" as the Operating Agreement defines it because they relied on projections and information that did not "exist" as of the date of Dewitt Jones's death, meaning "that all assumptions and projections used to value the Membership Units must be those that would have existed on June 16, 2021." According to Appellants, this did not occur because "Hartel subsequently provided [Swanson] with 'post-death projections.'" (Appellant Br. at 28).

First, if the Company's appraiser was trying to use data that was not permitted by the Operating Agreement, it was up to Swanson to object. Swanson valued the Company twice for the Estate, once in January 2022 and again in September 2022. If Swanson felt that his first valuation used the correct data, he certainly could have stood by his original appraisal. At that point, the Operating Agreement would have required that a third appraiser be appointed and the Fair Market Value would be the average of the two closest appraisals. But that is not what happened because Swanson and Hartel agreed on the September 9th Appraisal and it "became conclusive and binding on the parties, their personal representatives, heirs, successors, and assigns." (See Op. Ag. § 11.4).

Second, Appellant misreads Swanson's testimony. The projections utilized by Swanson for both his first and second appraisals were "post-death projections" because anything that occurred before Dewitt Jones's death is actual results. The "post-death projections" Swanson utilized in his first appraisal did not accurately account for diminishing COVID revenue. (See Mark Swanson Dep. Tr. at 18:8-17). As explained by Hartel, the "more accurate projections" were the Company's projections that were closest to Dewitt Jones's date of death. (See Alex Hartel Dep. Tr. at 44:15-22) ("we went back to management and asked for if they could provide a forecast that was prepared as close to the date of death as possible.") (See Alex Hartel Dep. Tr. at 79:7-81:4, 82:4-15, 108:11-110-14). Swanson testified that "I'm not positive when the updated projections were done. I mean, they could have been done prior to June 16th." (See Mark Swanson Dep. Tr. at 22:25-24:7). Read correctly, Swanson's testimony was that he did not have the more accurate projections when he did his January 2022 valuation, not that they did not exist prior to that date.

Further, even if the projections were updated post date of death, this would not be inconsistent with the Operating Agreement's definition of Fair Market Value. Section 11.4 of the Operating Agreement defines Fair Market Value as the price a "hypothetical willing buyer and a hypothetical willing seller," both "well informed" and "having reasonable knowledge of relevant facts," would agree upon. (See Op. Agr't ¶ 11.4). The Operating Agreement fixes the date on which value is measured—the date of death—not the date which the appraisers must gather their information. Appraisers necessarily assemble the relevant information after the triggering date. They are not required to accept inaccurate or incomplete information just because it was assembled before the triggering date. Doing so would mean that they were not "well informed" as required by the Operating Agreement because no "well-informed" buyer would offer a purchase price to a "well-informed" seller based on inaccurate or erroneous information.

The Estate's position is that the parties must behave as if they are uninformed or incapable of analyzing inaccurate information. According to the Estate, if a clerical error caused the Company to overstate its revenue so that $1 million in revenue shows $10 million of revenue, the Company's appraiser is stuck with misvaluing the Company by an order of magnitude simply because the wrong information preceded the valuation date. Of course, this would not be in keeping with the function of a "well-informed," "qualified appraiser," who is to analyze information, not just accept it. The projections utilized by the appraisers were those that were as close as possible to Dewitt Jones's death. They were informed by many factors, including discussions with management, other contemporaneous documents, and industry standards. (See Alex Hartel Dep. Tr. at 58:23-60:22, 80:4-81:5, 84:7-20, 149:3-152:10); (See Mark Swanson Dep. Tr. at 30:2-31:23). That is the legitimate work of appraisers trying to become "well-informed" about a company's value as of a certain date. It is what occurred here. And again, if it was not, it was up to Swanson to object, to stick to his January 2022 Appraisal, and to trigger the appointment of a third appraiser.

Finally, Appellant points to nothing in the record demonstrating that the information the appraisers used was not the most accurate available or that the Fair Market Value arrived at was inaccurate. To the contrary, Appellant's own appraiser testified that the numbers that were ultimately used were the "more accurate" numbers and he stands by the September 9th Appraisal to this day. (See Mark Swanson Dep. Tr. at 15:21-18:17, 28:23-29:6). The point of the appraisal process is to arrive at an accurate "Fair Market Value." That is what occurred here as testified to by both appraisers.

III. Summary Judgment Was Not Premature, Because the Estate Had a Full and Fair Opportunity to Conduct Discovery and the Discovery It Sought Would not have Created a Genuine Issue of Material Fact.

Appellant contends that summary judgment was premature because discovery was ongoing—chiefly, a forthcoming expert valuation report. (See Sworn Aff. Of Timothy Jones, at 2). While "[s]ummary judgment…must not be granted until the opposing party has had a full and fair opportunity to complete discovery," the party opposing the motion "must demonstrate the likelihood that further discovery will uncover additional relevant evidence and that the party is 'not merely engaged in a 'fishing expedition''". Dawkins v. Fields, 354 S.C. 58, 69, 580 S.E.2d 433, 439 (2003) (quoting Baughman v. Am. Tel. & Tel. Co., 306 S.C. 101, 112, 410 S.E.2d 537, 544 (1991)). The nonmovant must "advance a good reason why the time was insufficient under the facts of the case, and why further discovery would uncover additional relevant evidence and create a genuine issue of material fact." Guinan v. Tenet Healthsystems of Hilton Head, Inc., 383 S.C. 48, 54-55, 677 S.E.2d 32, 36 (Ct. App. 2009) (citations omitted). Whether to allow further discovery or a continuance before rulings rests in the trial court's sound discretion and will not be disturbed absent a clear abuse of that discretion. Gecy v. S.C. Bank & Tr., 422 S.C. 509, 524-525, 812 S.E.2d 750, 758-759 (Ct. App. 2018). The Estate satisfies none of these requirements.

First, the Estate had a full and fair opportunity to conduct discovery. This action was filed on January 3, 2023, and summary judgment was not granted until January 2026—more than three (3) years later. (See generally Order Grant. Defs.' Mot. for Summ. J., at 7, Jan. 21, 2026); (See generally Pl.'s Compl., Jan. 3, 2023). During these three (3) years Appellant served two sets of discovery requests, took two depositions, and never produced an expert report or disclosed any expert opinion. The case was set for trial and continued twice.

Appellant was granted additional discovery after the original summary judgment hearing. At that hearing, the trial court directed that appraiser Mark Swanson "be deposed within the next 30 days," and stated that "[o]nce I receive that deposition, I'm gonna rule on the motion." (See Sept. 17, 2025 Hrg. Transcr., at 38:5-8). As the trial court found, "both parties have been afforded more than sufficient time to conduct whatever discovery they deem necessary." (See generally Order Grant. Defs.' Mot. for Summ. J., at 7, Jan. 21, 2026). A three-year opportunity to conduct discovery is sufficient and far exceeds other instances when South Carolina courts have declined to delay summary judgment because of allegedly needed discovery. See Gecy, 422 S.C. at 524-

525, 812 S.E.2d at 758 (rejecting delay for additional discovery because case had been pending for two years).

Second, the discovery the Estate identifies would not create a genuine issue of material fact. By the Estate's own account, the outstanding item was a forthcoming expert report, which the Estate "anticipate[d]" would show "a significant difference" from the Company's valuation. (See Sworn Aff. Of Timothy Jones, at 2). An anticipated competing valuation is immaterial. As stated by the trial court, "given the plain language of the Operating Agreement, any new valuation is irrelevant," because once the appraisers appointed by the Estate and the Company agreed on a price, that controls. Additionally, even if a third appraiser was permitted, the controlling price is the average of the two closest appraisals. (See Order Grant. Defs.' Mot. for Summ. J., at 7, Jan. 21, 2026). Swanson and Hartel's appraisal was identical and the average of the two identical numbers is the same number. Because the Estate's expert's anticipated opinion, "would not have changed the analysis of the merits of the summary judgment motions" refusing to wait for it is not an abuse of discretion by the lower court. See Gecy, 422 S.C. at 524-525, 812 S.E.2d at 758 ("All parties had a full and fair opportunity to develop the record. For these reasons, and because the additional depositions would not have changed the analysis of the merits of the summary judgment motions, the circuit court did not abuse its discretion by denying Gecy's motion for a continuance.") (citations omitted).

Because the Estate had a full and fair opportunity to develop the record and the discovery it sought would not have created a genuine issue of material fact, and runs contrary to the plain terms and purpose of the Operating Agreement, the trial court acted well within its discretion in granting summary judgment. Therefore, the trial court's judgment should be affirmed.

IV. The Trial Court Did Not Abuse Its Discretion in Denying the Estate's Motion to Compel and Granting a Protective Order, Because the Post-Death Financial Information the Estate Sought is Irrelevant Under the Operating Agreement.

As set out in the standard of review above, a trial court's rulings on discovery matters are reviewed only for an abuse of discretion, and "[t]he burden is upon the party appealing from the order to demonstrate that the trial court abused its discretion." Owens, 438 S.C. at 358, 882 S.E.2d at 861 (quoting Dunn v. Dunn, 298 S.C. 499, 502 381 S.E.2d 734, 735 (1989)). Rule 26 of the South Carolina Rules of Civil Procedure, affords the trial judge "broad latitude in limiting the scope of discovery" when discovery "threatens to become abusive or to create a particularized harm." Hamm v. S.C. Pub. Serv. Comm'n, 312 S.C. 238, 241, 439 S.E.2d 852, 853-854 (1994) (citations omitted). The estate cannot meet its burden.

The discovery the Estate sought—the Company's financial performance in the years after Dewitt Jones's death—is irrelevant under the plain language and purpose of the Operating Agreement. The Operating Agreement fixes Fair Market Value as of the date of the member's death, and both parties agreed that "the date of Dewitt Jones's death is controlling regarding the point in time at which Dewitt Jones's shares are to be valued." (See Order at 2, Apr. 16, 2025). How the Company performed after that date cannot bear on what the Company was worth on the date of Dewitt Jones's death. Thus, information about how the Company performed after Dewitt Jones's death is not relevant to the value of the company as of his death. Hollman v. Woolfson, 384 S.C. 571, 579, 683 S.E.2d 495, 499 (2009) (discovery must be "specifically relevant to the issues involved in the litigation, not merely relevant to the subject matter of the litigation.") (citation omitted). A trial court accordingly does not abuse its discretion in limiting discovery to the issue that controls the case. See McMillan Pazdan Smith, LLC v. Mattison, 445 S.C. 35, 59-

61, 911 S.E.2d 412, 425-426 (Ct. App. 2024) (affirming, as within the trial court's discretion, the limitation of discovery to the controlling issue and declining to permit discovery into the merits).

Appellant's contention that the discovery is needed to test the "accuracy" of Alex Hartel's projections does not change the analysis. As explained above, the two qualified appraisers' agreed valuation is binding under the Operating Agreement. Further post-death financial results are not the measure of a date-of-death valuation, and the accuracy of the qualified appraisers' date-of-death projections is not tested by how the Company actually performed in later years. Otherwise, a company could erase a deceased member's value by shutting down or moving operations to a new company and thereby eliminating date-of-death value by post-death manipulation. The trial court was therefore well within its discretion to confine discovery "to the financial information known at the time of Dewitt's death." (See Order at 2, Apr. 16, 2025).

The April 16, 2025 Protective Order was likewise a proper exercise of discretion. Rule 26, SCRCP authorizes the court to "make any order which justice requires" to limit discovery for good cause, and issue a protective order tailored to protect a party from discovery into irrelevant maters is no abuse of discretion. See Hamm v. S.C. Pub. Serv. Comm'n, 312 S.C. 238, 241-242, 439 S.E.2d 852, 853-854 (1994). The October 14, 2024 Order held that post-date of death financials were irrelevant. (See Order at 2, Apr. 16, 2025); (See Order, Oct. 14, 2024) The Estate moved to alter or amend that ruling and the court denied that motion as well on November 6, 2024. (See Order at 2, Apr. 16, 2025); (See Order Den. Plaintiff's Rule 59 Mot.)

On January 27, 2025, the Estate noticed a Rule 30(b)(6) deposition of the Company and "sought information deemed irrelevant by Judge Kinlaw's order of October 14, 2024," prompting the Respondents to object in writing the following day. (See Order at 2, Apr. 16, 2025). Then the Estate proceeded to question The Company's 30(b)(6) witness about the same information the court had ruled irrelevant and to which the Company objected. "[C]ounsel for [the Company] properly instructed the witness not to answer these questions." (See Id.). The Company was then forced to move for a protective order, which was properly granted.

By continuing to seek documents and testimony ruled irrelevant by the Court's October 14, 2024 Order, the Estate effectively ignored the trial court's ruling. While the Estate may have disagreed with that ruling, the proper course is to abide by the order and then appeal at the conclusion of the case. Instead, the Estate tried to ignore the order and obtain discovery deemed irrelevant by other discovery methods. It was appropriately sanctioned. (See Order Apr. 16, 2025).

Nor did the lower court abuse its discretion in awarding attorney's fees under Rule 37(b) of the South Carolina Rules of Civil Procedure. Rule 37(b) of South Carolina Rules of Civil Procedure directs the court to require a noncompliant party to pay the reasonable expenses caused by the failure to comply with a discovery order "unless the court finds the failure was substantially justified or that other circumstances make an award of expenses unjust." The Estate offers no basis to conclude the court exceeded its discretion. Dunn v. Dunn, 298 S.C. 499, 502, 381 S.E.2d 734, 735 (1989) (quoting Rule 37, SCRCP). The Estate chose to ignore the trial court's October 14, 2024 Order and continue to seek discovery it had already ruled was irrelevant. Doing so required the Company to incur attorneys' fees for motion practice that would not have been incurred if the Estate had adhered to the trial court's order. (See Order Apr. 16, 2025).

Finally, the court found that Respondents' counsel correctly considered and applied the attorney's-fee factors of Jackson v. Speed, 326 S.C. 289, 486 S.E.2d 750 (1997), and reduced the attorney's fees award to $3,000.00 plus $31.74 in costs, demonstrating that the court tailored the sanction to the nature and complexity of the motion rather than imposing it reflexively. (See Form 4 Order, at 2, May 23, 2025). There was no abuse of discretion here.

CONCLUSION

For the reasons stated above, this Court should affirm the order of the lower court filed January 21, 2026, granting Respondents Innovative Scientific Solutions, LLC, J. Ryan Flanagan, Jay A. Flanagan, Jr., and Marion L. Snyder's motion for summary judgment pursuant to Rule 56 of the South Carolina Rules of Civil Procedure.

Respectfully submitted,

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