

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM BEAUFORT COUNTY

Court of Common Pleas

The Honorable Carmen T. Mullen, Circuit Court Judge

Case No. 2025-CP-07-00718

Appellate Case No. 2025-002399

Geraldine White, Appellant,

v.

John R.C. Bowen and Kori Brett McKeithan, Respondents.

FINAL BRIEF OF APPELLANT

Geraldine White, Appellant Pro Se
141 Lamotte Drive, Apartment A3
Hilton Head Island, South Carolina 29926
(843) 681-3947
whitegeraldine91@gmail.com

Stephen Lynwood Brown, Esq
Donald Jay Davis, Jr., Esq
Kara Shea Grevey, Esq
Russell Grainger Hines, Esq
Graydon V. Olive, IV
Joseph Dubois, Esq

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SC Court of Appeals



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Rule 8.3, South Carolina Rules of Professional Conduct	1,3,4,7,8, 10
Rule 12(b)(6), SCRCP	1,2,3,4,5,10
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STATEMENT OF ISSUES

1. Whether the circuit court erred in granting summary judgment to Respondent Bowen where the order resolved disputed facts, weighed credibility, and treated contested allegations as established contrary to Rule 56, SCRPC.
2. Whether the circuit court erred in applying attorney-immunity principles without first addressing Appellant's allegations that Bowen's conduct was fraudulent, deceptive, and used to reach property proceeds allegedly not subject to any valid lien.
3. Whether the circuit court mischaracterized Appellant's action as an impermissible collateral attack on a prior order when Appellant's filings also challenged present enforcement conduct, present seizure of sale proceeds, and present reliance on alleged misrepresentations.
4. Whether the circuit court erred by dismissing McKeithan under Rule 12(b)(6) where the complaint sought equitable and restitutionary relief arising from a specific disbursement of \$15,665.73 from sale proceeds, not merely disciplinary enforcement of Rule 8.3.
5. Whether the circuit court failed to address material record evidence concerning the absence of a perfected lien, the asserted lack of title proof of vessel ownership, and the corporate-dissolution¹ (See R.p. 234) timeline of Benny Hudson Seafood Corp.

STATEMENT OF THE CASE

This appeal arises from two final orders entered in Beaufort County Common Pleas, Case No. 2025-CP-07-00718. In one order, the circuit court granted Respondent Kori Brett McKeithan's Rule 12(b)(6) motion and dismissed Appellant's claims with prejudice, reasoning

¹ S.C. Code § 33-14-210 :the Secretary of State shall dissolve the corporation administratively by signing a certificate of dissolution that recites the grounds for dissolution and its effective date 3/2015-5/2017

that Rule 8.3² of the South Carolina Rules of Professional Conduct does not create a duty running from McKeithan to Appellant. In the other, the court granted Respondent John R. C. Bowen summary judgment, holding that the 2018 judgment was valid and binding and that Bowen was immune from liability for conduct undertaken within the scope of representation.

Appellant's filings, however, alleged much more than a bare disciplinary-reporting failure (See R.P. 17-31). The petition and supporting memorandum asserted that sale proceeds in the amount of \$15,665.73 were transferred to Bowen without a valid lien³ (See R.P. 238-231), without lawful proof that Appellant owned the vessel⁴ (See R.P.) at issue, and through reliance on prior misrepresentations that infected the present disbursement. Appellant also filed a separate declaration listing the issues now raised on appeal, including the court's alleged misapplication of attorney immunity, improper weighing of facts under Rule 56, and failure to analyze fraud upon the court.

This appeal followed.

STATEMENT OF FACTS

Appellant's March 2025 petition alleged that in a 2018 action Bowen obtained a judgment⁵ (See R.p. 10-16) against Geraldine White and Craig White after representing to the court that Appellant owned a shrimp boat called "Papa Grace," and that the resulting judgment was later used to divert \$15,665.73 from trust-related sale proceeds in January 2025. The petition

² (a) A lawyer who knows that another lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to that lawyer's honesty, trustworthiness or fitness as a lawyer in other respects, shall inform the appropriate professional authority.

³ See S.C. Code Ann. § 15-35-810 "by act of Congress, shall be declared to create a lien, shall constitute a lien upon the real estate of the judgment debtor situate in any county in this State in which the judgment or transcript thereof is entered upon the book of abstracts of judgments and duly indexed"—Sunbelt Rentals, Inc. v. Gowdy, 383 S.C.120, 678 S.E.2d 819 (2009)

⁴ See S.C. Code Ann. § 50-23-55(A) A certificate of title to a watercraft or outboard motor is prima facie evidence of ownership of a watercraft or outboard motor.

⁵ Order Of Judgment August 22, 2018

sought relief tied to that transfer, including a damages hearing or judgment in the amount of \$46,997.19, described as three times \$15,665.73.

The petition attached and incorporated exhibits. Those exhibits included: a letter from Rosa White Cromwell stating Craig White—not Geraldine White ^{R.102-103} made a \$40,000 loan in July 2018 to purchase a shrimp/fishing boat; a notarized bill of sale; and correspondence involving Bowen and McKeithan.

The memorandum Appellant later filed argued that a bill of sale is not itself legal proof of vessel ownership⁶ (See R.p. ¹⁹⁰⁻¹⁹⁵) under South Carolina law, that no perfected judgment lien existed on the real-estate sale proceeds, and that Benny Hudson Seafood Corp. had been dissolved in 2015 before later reinstatement in 2017.

Bowen moved to dismiss or alternatively for summary judgment. The circuit court ultimately granted summary judgment, finding there was “no evidence” Bowen made knowingly false statements in the 2018 action, finding Appellant did not deny vessel ownership in that earlier case, and concluding Bowen was immune because his actions were taken in his role as an attorney for Benny Hudson Seafood Corp.

As to McKeithan, the court dismissed under Rule 12(b)(6), framing Appellant’s claim as solely an assertion that McKeithan failed to report Bowen under Rule 8.3 and holding that Rule 8.3 does not create a duty between McKeithan and Appellant.

Appellant’s later declaration on issues for appeal directly challenged those rulings, asserting the judge applied immunity too broadly, improperly weighed facts, mischaracterized the relief sought, ignored the unclean-hands and fraud issues, failed to address corporate dissolution, and misapplied the summary-judgment standard.

⁶ Pennell v. Foster, 388 S.C. 9, 15, 524 S.E.2d 630, 633 (Ct. App. 1999): “A certificate of title constitutes prima facie evidence of ownership ... this presumption may be rebutted only by evidence establishing that someone other than the titleholder is the true owner.”

STANDARD OF REVIEW

A Rule 12(b)(6) dismissal is reviewed de novo. The appellate court accepts the complaint's factual allegations as true and determines whether the facts alleged state any claim upon which relief may be granted.

Summary judgment is likewise reviewed under the same standard that governed the circuit court. Under Rule 56, SCRCP, summary judgment is proper only when there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law; the evidence and all reasonable inferences must be viewed in the light most favorable to the nonmoving party.

ARGUMENT

I. The summary-judgment order is reversible because it resolves disputed facts instead of identifying the absence of disputed facts.

The core defect in the order granting Bowen summary judgment is that it does not merely identify undisputed facts; it chooses one version of sharply disputed events and labels that version true. The order states there was “no evidence” Bowen made knowingly false statements in the 2018 action and further states Appellant “did not dispute her ownership of the vessel involved.” Those are not neutral Rule 56 observations. They are findings on the merits.

But Appellant's own filings and exhibits presented contrary material. Her declaration on appeal states the judge accepted Bowen's version as fact and rejected Geraldine's, even though Geraldine had submitted affidavits, trust records, evidence that the boat was never hers⁷ (See

⁷ Odom v. Walker, 365 S.C. 416, 618 S.E.2d 706 (Ct. App.2005) vehicle case reaffirming that “the certificate of title is prima facie evidence of ownership”.

R.p.¹⁴⁸⁻²⁰³), and evidence of misrepresentation to seize trust proceeds. Her memorandum likewise argued that legal ownership* (See R.P.¹⁴⁶⁻¹⁹⁵) of a watercraft is established through title, not merely a bill of sale, and that no title proof established Geraldine White as owner. The petition exhibits include materials offered by Appellant to show that Craig White, not Geraldine White, was connected to the boat purchase.

At the summary-judgment stage, the court may not decide which side's evidence is more believable. Rule 56 requires the opposite: all reasonable inferences must favor the nonmovant. Even if the court ultimately finds Respondent's view more persuasive after a hearing on the merits, that cannot justify summary judgment where the record itself reveals the existence of factual disputes about ownership, falsity, notice, and the basis for the later disbursement. The order therefore should be reversed and the Bowen claim remanded.

II. The circuit court applied attorney immunity as a shortcut, not as a legal analysis.

The order's second central premise is that Bowen is immune because the challenged acts were taken in his role as attorney for Benny Hudson Seafood Corp. South Carolina recognizes attorney immunity in appropriate circumstances, and decisions such as *Gaar* and *Hager* discuss immunity for professional conduct undertaken on behalf of a client. But those cases do not authorize a court to invoke immunity as a pleading- and fact-cutting device without first grappling with what conduct is actually being challenged.

That matters here because Appellant's theory was not merely, "Bowen represented an adverse party." Her filings alleged he used misrepresentations concerning vessel ownership and the validity of the prior judgment to facilitate the taking of unrelated sale proceeds years later.

* *Tollison v. Reaves*, 277 S.C. 443, 445, 289 S.E.2d 163, 164 (1982): (Ownership presumed in the person holding legal title unless clear contrary evidence exists.)

Appellant also argued the court ignored the doctrines of unclean hands, fraud, and improper enforcement.

Even taking no position here on the ultimate viability of every theory, the order still erred by assuming rather than analyzing whether the complained-of conduct was within the legitimate protected scope of representation. The question cannot be answered in the abstract. It depends on what was said, what was known, what lien existed, what ownership proof existed, and what role Bowen played in obtaining or receiving the \$15,665.73 disbursement. Those are record-sensitive questions, and the order bypassed them.

The Court of Appeals need not decide the outer bounds of attorney immunity in this appeal. It need only hold that the circuit court granted judgment too early because it treated immunity as categorical while Appellant's filings alleged conduct tied to deception and present property seizure, not merely routine advocacy. Reversal is warranted on that basis alone.

III. The order mischaracterizes the case as only an attempt to overturn the 2018 judgment, when the pleadings also challenge present-day enforcement conduct and present-day disbursement of proceeds.

The Bowen order relies heavily on the proposition that one circuit judge cannot simply overturn another's order, citing *Enoree Baptist Church*. That principle exists, but the order misuses it because it assumes the only thing Appellant sought was nullification of the 2018 ruling.

The record shows otherwise. The petition repeatedly focused on the January 2025 disbursement of sale proceeds and the lack of proper service and process in the current action. The memorandum argues not only that the underlying judgment was procured by fraud⁹(See

⁹ violation of Rule 60(b)(3), SCRCP. Fraud Upon The Court

R.p. ¹⁰⁻¹⁶), but also that no valid lien existed on the real-estate sale proceeds and that McKeithan, as closing attorney, breached duties by disbursing funds without proper lien verification. The declaration on issues likewise states the court mischaracterized the requested relief, because Appellant was seeking a stop to collection activity, review of allegedly fraudulent enforcement, and return of the \$15,665.73 taken from trust proceeds.

That distinction matters. A litigant may not evade finality by simply repackaging a direct attack as a new case. But neither may a court erase a present-tense claim by calling it only a collateral attack. Where the pleadings challenge current disbursement activity, current assertion of lien rights, and current retention of funds allegedly outside any lawful lien, the prior-order doctrine does not dispose of the case wholesale. The order should be reversed because it used the wrong frame.

IV. The McKeithan dismissal should be reversed because the complaint was broader than Rule 8.3 and sought equitable relief tied to a specific disbursement of money.

The McKeithan order narrows the complaint to one allegation: that McKeithan supposedly failed in a professional duty to report Bowen's misconduct under Rule 8.3. From that narrowed premise, the court concluded Rule 8.3 creates no duty between McKeithan and Appellant and dismissed with prejudice. It is true that Rule 8.3 is a disciplinary rule, not a general private cause of action. But that does not answer the question presented by a Rule 12(b)(6) motion.

The question under Rule 12(b)(6) is whether the pleaded facts, taken as true and liberally construed, state any claim for relief. Appellant's petition and memorandum alleged that McKeithan was the closing attorney or disbursing attorney in the sale, that she transferred \$15,665.73 from sale proceeds to Bowen, and that the transfer occurred without a valid lien and

without lawful proof that the money was subject to the old judgment. The memorandum expressly labeled this conduct a breach of fiduciary¹⁰ duty, negligence, and conversion-facilitating conduct.

Whether those theories ultimately succeed is not the Rule 12 question. The point is that the pleadings were not exhausted by Rule 8.3. The court dismissed the case it recast, not the one Appellant filed. Because the court ignored the disbursement-based and restitutionary allegations, the McKeithan dismissal should be reversed and remanded for further proceedings.

V. The orders fail to engage with the lien issue, even though Appellant made it central.

Appellant's filings repeatedly argued that the sale proceeds could not lawfully be reached absent a properly entered and indexed judgment lien. The memorandum cites section 15-35-810 and argues no perfected lien existed at closing.

The problem on appeal is not that this Court must presently find Appellant correct on the lien issue. It is that neither order meaningfully addresses it. The Bowen order calls the 2018 judgment valid and binding, but validity of a judgment is not the same thing as existence of a lien on specific real-estate proceeds years later. The McKeithan order does not analyze the lien issue at all because it truncates the claim into Rule 8.3 alone.

That omission is material. If no perfected lien existed, then Appellant's theory that the proceeds were wrongfully diverted becomes substantially different from a mere disagreement with the old judgment. On remand, that issue can be tested against the actual county records and proof. At this stage, however, the orders' failure to address the issue is itself reversible because it shows the claims were not analyzed in the form they were pleaded.

¹⁰ See R.p. 140-145 Memorandum of Law in Support of all Motions page 4 section F

VI. The orders also sidestep Appellant's ownership and corporate-capacity arguments, both of which were material to the present claims.

Appellant's memorandum argued a bill of sale alone did not establish legal vessel ownership and that no certificate of title or comparable title proof showed Geraldine White as owner. The exhibits packet contains the dissolution certificate for Benny Hudson Seafood Corp. dated May 23, 2015, together with later reinstatement materials dated March 2017. Appellant argued this timeline undermined the corporation's capacity and standing¹¹ (See R.P. 234) as to damages arising during the dissolution period. Her declaration on appeal specifically states the order ignored the dissolution issue.

Again, the Court of Appeals need not now hold that Appellant's every substantive position is correct. It is enough that these were material arguments supported by record materials, yet the orders either rejected them summarily or never addressed them in a legally meaningful way. The summary-judgment order turns the ownership issue into an established fact rather than a disputed one. The dismissal order never reaches it. That is not adequate appellate-grade reasoning for a case dismissed with prejudice in full.

VII. The trial court's reasoning is internally inconsistent.

Appellant's declaration points out that the order simultaneously says Bowen is immune, says there is no evidence of fraud, and says Appellant cannot challenge what happened because another judge already entered the prior judgment. Those are distinct rationales serving different legal functions. If the claim is barred because the old judgment cannot be revisited, then the court need not weigh evidence and decide there was no misrepresentation. If the court is deciding there

¹¹ S.C. Code § 33-14-105, a dissolved corporation may not carry on business or maintain a lawsuit other than winding up affairs. Therefore, it lacked standing to pursue damages for events in 2016 and could not lawfully obtain a judgment in 2018. Any such judgment is void ab initio.

was no misrepresentation, then it is adjudicating facts. If it is invoking immunity, then it should first identify the actionable conduct and explain why that conduct is covered. The order does all three without cleanly resolving any one of them.

That stacking of inconsistent rationales matters because it obscures the standard of decision and impedes meaningful appellate review. The Court of Appeals should not affirm on a record where the dispositive theory keeps changing inside the order itself. Reversal and remand are the cleaner course.

CONCLUSION

The two orders below did not merely reject Appellant's claims. They reshaped them, compressed them, and then disposed of the compressed version. The Bowen order granted summary judgment by resolving disputed facts and by applying attorney immunity without first confronting the conduct actually alleged. The McKeithan order was dismissed under Rule 12(b)(6) by reducing a disbursement-based equitable claim to a single disciplinary-rule theory. Neither order meaningfully addressed the lien issue, and neither order adequately engaged with Appellant's ownership and corporate-dissolution arguments.

For those reasons, Appellant respectfully requests that this Court reverse both orders and remand for further proceedings.

RELIEF REQUESTED

Appellant asks that the Court of Appeals:

1. Reverse the order granting Respondent Bowen summary judgment;
2. Reverse the order granting Respondent McKeithan's Rule 12(b)(6) motion;

3. Order of restitution in the amount \$15,665.73 that **was** taken from Appellant plus treble damages¹.

4. Remand for **further proceedings** on the merits; and

5. Grant such other relief as **this Court** deems just and proper.

Respectfully submitted

s/ Geraldine White

September 18, 2026

Geraldine White Appellant, pro se

141 Lamotte Drive A3

Hilton Head Island SC 29926

843-681-3947

whitegeraldine91@gmail.com

¹ **12 S.C. Code § 39-5-140(a)** (South Carolina Unfair Trade Practices Act), a party injured by such willful unfair **or deceptive acts** **is** entitled to treble damages when the violation is found to be knowing or intentional. The same measure of damages **is** recognized for willful and wanton conversion under South Carolina common law.

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PROOF OF SERVICE

Geraldine White, Appellant Pro Se
141 Lamotte Drive, Apartment A3
Hilton Head Island, South Carolina 29926
(843) 681-3947
whitegeraldine91@gmail.com

Joseph Dubois Esquire

Donald Jay Davis Esquire

Kara Shea Grevey Esquire

Stephen Lynwood Brown Esquire

Russell Grainger Hines Esquire

Graydon Olive IV, Esquire

PROOF OF SERVICE

I, Geraldine White, hereby certify that a true copy of the Appellant's Final Brief and Record On Appeal was served on the the Attorneys of record on September 21, 2026 or shortly thereafter via US Postal Service with postage paid and/or via email to the following:

Clement Rivers LLP
Attorneys for John R C Bowen

Donald Jay Davis, Esquire
jdavis@ycrlaw.com

Kara Shea Grevey Esquire
kgrevey@ycrlaw.com

Stephen Lynwood Brown,
Esquiresbrown@ycrlaw.com

Russell Grainger Hines,
rhines@ycrlaw.com

Graydon Olive IV, Esquire
Golive@ycrlaw.com

25 Calhoun Street 400
Charleston, SC 29402

Attorney for Kori Brett McKeithan:
Joseph Dubois Esquire
71 Lighthouse Rd Ste 230
Hilton Head Island, SC 29928 843-671-5550

Respectfully Submitted,

s/Geraldine White
Geraldine White Appellant Pro Se

September 18, 2026