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SC Court of Appeals

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM HORRY COUNTY

Court of Common Pleas

The Honorable B. Alex Hyman, Circuit Court Judge

Appellate Case No. 2026-001091

Lower Court Case No. 2025-CP-26-09089

Claran Lundgren,

Appellant,

v.

Ashton Glenn Homeowners' Association, Inc., Waccamaw Management, LLC, and Bob Sauthoff, individually and as agent of the HOA,

Respondents.

INITIAL BRIEF OF APPELLANT

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ISSUES PRESENTED

1. Whether the circuit court committed reversible error by treating Respondents' motion as one for summary judgment based on matters outside the pleadings while simultaneously denying Appellant's sworn Rule 56(f) motion for the limited discovery needed to contest those materials.

2. Whether the circuit court violated Rule 5(b)(3), SCRCP and due process by signing an adversary-drafted dispositive order that was transmitted electronically to the Court while Appellant, a Traditional Filer, received service only by U.S. Mail and had no meaningful pre-signature opportunity to object.

This prejudice is amplified by the service defect: Appellant, a Traditional Filer, was not electronically served and received delayed mail service, while the Court received the proposed order and related submissions electronically. As shown in Section IV, the operative dismissal theory and evidentiary package were introduced through the late February filing sequence, compounding the lack of timely notice and opportunity to respond.

3. Whether the circuit court erred by applying blanket res judicata and collateral estoppel to an independent action in equity alleging extrinsic fraud, fraud on the court, process corruption, and record-integrity defects affecting the prior proceedings.

This issue includes whether the circuit court was required to address Appellant's diligence and the absence of any alternative civil remedy after the judicial-disciplinary process declined to provide relief capable of preserving, testing, or restoring the disputed court record.

4. Whether the circuit court erred by treating later-accruing post-judgment acts - including collection escalation, ledger manipulation, attorney-fee/judgment entries, lien threats, foreclosure threats, and retaliatory conduct - as precluded by earlier proceedings.

5. Whether the circuit court erred by treating Fair Housing Act retaliation and discrimination claims as precluded where the magistrate court expressly refused to hear those claims and confined the earlier proceeding to a limited monetary / CMV dispute.

This issue includes the forum-limitation problem: the prior magistrate proceeding either expressly refused or lacked authority to adjudicate the equitable, federal civil-rights, and fraud-on-the-court relief sought in this independent action.

6. Whether the circuit court erred by dismissing claims that depended on failure of mandatory contractual conditions precedent - including certified-mail notice and hearing rights - where Appellant pleaded that the underlying fines and resulting debt were void from inception.

This issue includes whether Respondents could enforce unrecorded or extra-contractual HOA rules in conflict with the recorded governing documents and South Carolina's HOA recording requirements, including S.C. Code Ann. § 27-30-130.

7. Whether the circuit court erred by dismissing the action without addressing Appellant's challenge to the ex parte $1,020 attorney-fee submission and later September 15, 2025 ledger judgment entry.

8. Whether the circuit court committed a reversible error of law by explicitly denying Appellant's Ex Parte Motion for Emergency Preservation Order while simultaneously dismissing the case, thereby preventing preservation of potentially perishable electronic evidence central to Appellant's fraud-on-the-court allegations.

This issue includes whether the court erred by denying preservation after the pleadings and attached exhibits placed the court on notice that the native audio, metadata, chain-of-custody information, and any lawful records-disposition documentation were unique digital evidence central to the fraud-on-the-court claim.

This issue also includes whether the 101-day delay in addressing the emergency preservation request, contrasted with the expedited electronic processing of Respondents' proposed dismissal order and late-filed dispositive materials, deprived Appellant of a meaningful opportunity to protect and test unique digital evidence.

This issue further includes whether the court erred by refusing preservation and limited discovery after Appellant’s pleadings and supporting memoranda alleged a specific forensic seam in the recording itself: a digital “jump” or “skip” and an audible shift between distinct conversations at the point where Appellant contends material testimony was omitted. Those allegations made the native audio, metadata, export logs, and chain-of-custody materials essential rather than cumulative.

9. Whether reliance on the federal Report and Recommendation was misplaced where the federal court expressly declined to analyze collateral estoppel and therefore did not resolve the issue-preclusion questions the circuit court treated as settled.

10. Whether the circuit court erred by dismissing the complaint through a categorical preclusion ruling instead of analyzing the pleaded claims, capacities, and later conduct claim by claim and defendant by defendant.

STATEMENT OF THE CASE

This appeal arises from the dismissal of Appellant Claran Lundgren's Verified Complaint and Jury Demand in an independent action in equity filed in the Horry County Court of Common Pleas. The complaint alleged that the prior HOA-related proceedings were tainted by extrinsic fraud, fraud upon the court, process corruption, selective omission of material testimony, post-hearing fee insertion, and later retaliatory collection conduct. [Verified Complaint, filed Nov. 21, 2025, R. p. 22; Complaint Exhibits, R. p. 462].

Appellant did not plead a mere second merits action. She pleaded an independent action under the savings clause of Rule 60(b), SCRCP and the circuit court's inherent equitable authority, together with separate claims for later post-judgment acts, declaratory and injunctive relief, Fair Housing Act retaliation and discrimination, breach of contract, unconscionable debt collection, abuse of process, conversion, civil conspiracy, negligent hiring / retention / supervision, and slander of title / wrongful lien. [Verified Complaint, filed Nov. 21, 2025, R. p. 22].

Respondents moved to dismiss. At the February 23, 2026 hearing, the circuit court stated it was bound by the pleadings. Appellant objected to Respondents' untimely memorandum, objected to extra-pleading materials, requested that the court remain on a Rule 12 posture, and tendered transcript and affidavit materials concerning the disputed hearing record and her Rule 56(f) request for native audio and related discovery. [Hr'g Tr. pp. 5-6, 9-10, 14-16, 21, 27-28 (R. pp. 437-438, 441-442, 446-448, 453, 459-460)].

After taking the matter under advisement, the circuit court entered a written order signed March 9, 2026 and entered March 10, 2026 dismissing the entire case through a categorical preclusion ruling. [Dismissal Order, signed Mar. 9, 2026 and entered Mar. 10, 2026, R. p. 9]. Appellant timely filed a Rule 59(e) motion identifying, among other things, the omitted independent-action framework, the Rule 12 / Rule 56 problem, the magistrate court's refusal to hear retaliation and discrimination claims, the circuit court's express denial of the preservation motion, the ex parte fee defect, and the later-accruing post-judgment conduct. [Rule 59(e) Motion, filed Mar. 17, 2026, R. p. 336].

On April 20, 2026, the circuit court denied Rule 59(e) by Form 4 order stating, "After careful consideration and review, Plaintiff's Motion to Alter or Amend is respectfully DENIED." [Rule

59(e) Denial Form 4, filed Apr. 20, 2026, R. p. 19]. This appeal follows. [Notice of Appeal, filed Apr. 30, 2026, R. p. 409].

At the hearing, the Court expressly acknowledged Appellant's Opposition Memorandum and stated on the record that it would review it prior to issuing a ruling. The resulting Order does not address several fully briefed arguments contained therein, including the independent-action posture, the Rule 12 limitations, and the effect of excluded claims on preclusion.

The complete record necessary to resolve the issues presented—including the Magistrate Court transcript, sworn affidavits addressing missing testimony and courtroom conduct, and Appellant's Opposition Memorandum—was before the Court at the hearing.

Because those materials were attached to or incorporated into the pleadings, Rule 10(c), SCRCP placed the court on formal notice that the case involved a disputed original/native court record, not a collateral fishing expedition. The court was therefore asked to preserve and permit limited testing of a unique digital asset—the May 16, 2024 magistrate-court audio, metadata, export/audit logs, and any chain-of-custody or lawful-disposition records—before treating the challenged record as final.

Before filing this independent action, Appellant also pursued non-court remedial channels. She reported the missing-testimony and record-integrity concerns to South Carolina judicial disciplinary authorities, requested preservation or forensic review of the court audio, and later supplied transcript and affidavit materials supporting the allegation. The disciplinary disposition did not adjudicate the truth of those allegations, restore the record, compel production of the native audio, or provide civil relief. That history demonstrates diligence and explains why an independent action under Rule 60(b)'s savings clause and the circuit court's inherent equitable authority was necessary rather than repetitive.

STATEMENT OF FACTS

Appellant owns property within Ashton Glenn and is subject to the recorded covenants, bylaws, and related governing documents of the homeowners association. The controversy began with HOA enforcement activity directed at Appellant's commercial motor vehicle and other alleged violations. Appellant pleaded that Respondents enforced unrecorded or extra-contractual rules and imposed fines without first complying with mandatory contractual conditions precedent requiring certified-mail notice and a hearing opportunity. [Verified Complaint, R. p. 22; Complaint Exhibits, R. p. 462].

At the May 16, 2024 magistrate hearing, the tribunal expressly narrowed the proceeding. When Appellant attempted to raise retaliation and discrimination, the magistrate stated: "Retaliation. Discrimination. No, ma'am. All I can do is, you are out monetarily, so the violations, the fees, and administrative charges." [Mag. Tr. p. 12, R. p. 507]. Later, in announcing the ruling, the magistrate stated she was "taking everybody's testimony as truth" in resolving the CMV issue. [Mag. Tr. p. 41, R. p. 536]. Appellant also placed on the record that HOA President Bob Sauthoff had made sexually inappropriate comments and that she had asked that he make no decisions affecting her. [Mag. Tr. p. 12, R. p. 507].

Appellant also preserved an appearance-of-impropriety concern tied to the decisionmaker and the HOA president. Appellant alleged that Judge Clayton placed on the record that she had known HOA President Bob Sauthoff since she was sixteen years old, while Appellant had also placed Sauthoff's alleged sexually inappropriate comments and decision-making role at issue. That allegation was relevant not as a standalone personal attack, but because it reinforced the need for an independent record-integrity inquiry before later courts presumed the magistrate record was complete and regular. [Mag. Tr. p. 4, R. p. 499]

Appellant also pleaded a specific allegation of retaliatory animus by HOA President Bob Sauthoff. According to Appellant's verified pleadings and supporting memoranda, when Appellant questioned the enforcement campaign, Sauthoff linked the enforcement to Appellant's personal life by stating it was "because your boyfriend is loud." Appellant does not ask this Court to decide the truth of that retaliation allegation in the first instance. The point is narrower: the allegation demonstrates that the complaint contained substantive, non-precluded retaliation facts that required Rule 12 analysis, Rule 56(f) discovery if extra-pleading materials were considered, and adjudication rather than categorical dismissal. [Federal R&R, Complaint Ex. 19, R. p. 555]

The scope of the earlier proceeding was expressly limited. As defense counsel acknowledged, “since we’re just going to deal with the commercial vehicles,” [Mag. Tr. p. 38, R. p. 533] the hearing was confined to a narrow CMV/monetary dispute, and other claims were excluded.

The later Magistrate's Return created a separate record-integrity problem because, according to Appellant, it framed issues as adjudicated that the hearing transcript showed were narrowed, excluded, or not reached. Appellant specifically challenged the Return's treatment of trash-can allegations, collection items, and the commercial-motor-vehicle covenant as though the prior proceeding had resolved the broader controversy. Later courts then relied on that return as if it were a neutral and complete procedural history, even though the independent action alleged that the return itself was part of the tainted record.

During the hearing, Appellant physically tendered the Magistrate Court transcript and supporting materials, which the Court acknowledged it had in hand, engaged with, and accepted for review. The Court further questioned Appellant regarding the content of the affidavits and the allegedly omitted testimony, confirming its awareness of the record-integrity issues raised.

The transcript reflects that the Court acknowledged it had these materials in hand, engaged with them, and accepted them for review. The Court referenced Blaire Jaeger by name and asked Appellant what testimony she contended was missing; Appellant identified HOA manager Chris DeLuca. These exchanges confirm that the record-integrity materials were before the Court and understood prior to ruling.

The $1,020 attorney-fee and judgment entry is not merely a background detail. It represents the concrete financial consequence of the alleged off-record fee submission and demonstrates the prejudice flowing from the compromised hearing record. Because the fee was allegedly inserted after the evidentiary hearing and outside the adversarial process, it exemplifies the type of post-judgment conduct that cannot be dismissed through categorical preclusion.

Appellant further alleged that the magistrate record itself was compromised. The Legal Eagle transcript preserves a profane bench-level aside ("F*** that"), showing the recording system was functioning, while Appellant contends later transcript versions omit material testimony from HOA manager Chris DeLuca concerning board review of Appellant's violation challenges and her complaints about Sauthoff. [Verified Complaint, R. p. 22; Affidavit of Hearing Conduct, R. p. 301; Blaire Jaeger Affidavit, Ex. 12, R. p. 495; Ex. 14, R. p. 539]. The magistrate transcript also reflects counsel's admission that he did not have a fee affidavit at the hearing. [Mag. Tr. p. 42, R. p. 537].

The omitted testimony was material: DeLuca confirmed multiple complaints and board-level awareness of Appellant’s challenges and reports concerning Sauthoff. Omission of that testimony goes to the integrity of the adjudicative record and supports the pleaded fraud-on-the-court theory.

As alleged in the Verified Complaint and supporting memoranda, Appellant's record-integrity challenge was not limited to a generalized assertion that testimony was missing. Appellant alleged that her audio review revealed a digital "jump" or "skip" and an audible shift between distinct conversations at the point where Appellant contends the record becomes discontinuous and material DeLuca testimony is omitted. Appellant characterized that break as a jarring discontinuity in the procedural flow, supporting her allegation that the certified transcript could not be treated as conclusive without production of the native audio, metadata, export logs, and chain-of-custody materials.

The record-integrity dispute also implicated public-record preservation. The native audio, recording metadata, export logs, backup records, and any records-disposition paperwork are not interchangeable with a later certified transcript. They are the only materials capable of testing whether the transcript accurately reflects the proceeding and whether any missing or altered recording material was lawfully disposed of, migrated, overwritten, or preserved.

If Respondents or the court system contend that the native recording no longer exists because of routine retention practices, the corresponding public-records documentation should exist as well, including any ARM-11 Report on Records Destroyed, retention-schedule citation, destruction date, custodian identity, or related court-administration / Archives documentation. The absence of such documentation would itself be relevant to the record-integrity and preservation issues raised in the pleadings.

After the magistrate proceeding, Respondents and their counsel allegedly escalated the matter through later notices and collection efforts, including a June 3, 2024 notice, a September 2025 ledger escalation, an October 2025 collection / lien-threat letter, and a $1,020 judgment or attorney-fee line item that Appellant contends was inserted through a post-hearing, non-

adversarial process. [Verified Complaint, R. p. 22; Complaint Exhibits concerning June 2024, September 2025, and October 2025 collection activity, R. pp. 465-66, 473-80, 489-90, 493-94]. Appellant pleaded that those were later, independently actionable post-judgment acts and also evidence of continuing retaliation for her protected complaints. [Verified Complaint, R. p. 22]. At the February 23, 2026 circuit-court hearing, Appellant reminded the court that the earlier matter was limited to the commercial motor vehicle issue and that the magistrate court had refused to hear retaliation and discrimination. During that hearing, defense counsel expressly disclaimed reliance on outside materials, stating: "I agree with Your Honor that I'm not asking you to consider any documents, or discovery, or anything like that." [Hr'g Tr. p. 21, ll. 19-21 (R. p. 453).] Earlier, when the circuit court asked whether Appellant was pursuing "an appeal," Appellant expressly corrected that characterization, stating: "No, Your Honor. We're not here for an appeal." [Hr'g Tr. p. 18 (R. p. 450)] Appellant also tendered the magistrate transcript materials, Blaire Jaeger's affidavit materials, her Rule 56(f) motion, and her affidavit regarding hearing-record omissions and courtroom conduct. The court acknowledged those materials, referenced Blaire Jaeger by name, and asked Appellant what testimony she contended was missing; Appellant identified Chris DeLuca's testimony. At the close of the hearing, after Appellant asked the court to read her opposition memorandum, the court responded: "I will." [Hr'g Tr. pp. 27-28 (R. pp. 459-460)]

This express disclaimer eliminates any basis for the Court’s later reliance on materials outside the pleadings. Having proceeded under a Rule 12 framework and acknowledged that limitation, the Court could not subsequently rely on extra-pleading materials without conversion and notice.

After Appellant expressly directed the Court to her Opposition Memorandum as the operative statement of her claims and arguments, the Court stated, “I will.” The resulting Order does not address those arguments.

Notwithstanding the Rule 12 boundary announced on the record, the resulting dismissal order relied on prior state and federal records through judicial notice, adopted a broad "no new substantive allegations" framing, and treated the case as a rehash of prior litigation. The proposed order was electronically submitted and served by attorney Jonathan G. Lane, who was not listed among the defense counsel appearing at the February 23 hearing. [Dismissal Order, entered Mar. 10, 2026, R. p. 9; Proposed Dismissal Order materials submitted Mar. 6, 2026, see NEF, R. pp. 978-79; Hr'g Tr. p. 2, R. p. 434].

While a court may take judicial notice of the existence of prior filings, it may not rely on such materials to resolve disputed factual issues or record integrity disputes at the pleading stage.

Chronology of Prejudice

The chronology matters because Appellant's emergency preservation request moved on a delayed paper track, while Respondents' late dispositive filings and proposed dismissal order moved through an electronic fast track. This procedural imbalance is central to prejudice: the court left potentially perishable native audio, metadata, audit/export logs, and chain-of-custody information unresolved for 101 days, then denied preservation and Rule 56(f) discovery while granting dismissal/summary judgment.

Event	**Date**	**Procedural Significance**
Emergency Preservation Order Filed	November 21, 2025	Clock began on a motion seeking protection of native

		audio, metadata, audit/export logs, backup-retention information, and chain-of-custody materials.
30-Day Decision Benchmark	December 21, 2025	Under Appellant's preserved reliance on the 15th Judicial Circuit divisional/pilot-program instructions, the emergency matter should have received priority and been addressed within the benchmark period.
Respondents' Expanded Dispositive Memorandum and Exhibits A-K Filed	February 17, 2026	Filed after the prehearing deadline and only four business days before the February 23, 2026 hearing, without electronic service on Appellant as a Traditional Filer.
Emergency Preservation Motion Denied	March 2, 2026	Denied by Form 4 after 101 days, alongside the grant of dismissal/summary judgment and the denial of Rule 56(f)

		limited discovery.
Respondents' Proposed Dismissal Order Submitted	March 6, 2026	Moved immediately through the electronic filing track, while Appellant remained limited to traditional mail service.
Dismissal Order Signed / Entered	March 9-10, 2026	Signed before Appellant had a meaningful mail-service opportunity to review or object, and entered the next morning.

This timeline reinforces why the presumption of regularity could not be used to defeat the independent action at the pleading stage. The court could not fairly treat the certified record as conclusively regular while leaving the native digital source unprotected and untested for more than three months, then accommodating Respondents' late dispositive memorandum and proposed order on an expedited electronic track.

STANDARD OF REVIEW

Where a trial court’s ruling rests on procedural irregularities that implicate due process or the integrity of the adjudicative process, appellate review is de novo as to legal conclusions and plenary as to whether the proceedings comported with fundamental fairness. Issues involving fraud on the court and the application of Rule 60(b)’s savings clause are likewise subject to independent review grounded in the court’s inherent equitable authority.

This case presents a threshold question of fundamental fairness: whether a court may dismiss an

independent action alleging fraud on the court while disregarding the evidentiary record placed before it and acknowledged on the record. The combined effect of procedural violations, reliance on void enforcement actions, and structural defects in the adjudicative process deprived Appellant of a full and fair opportunity to be heard.

A dismissal under Rule 12(b)(6), SCRCP is reviewed de novo. Rule 12 itself provides that if matters outside the pleading are presented to and not excluded, the motion shall be treated as one for summary judgment and all parties shall be given a reasonable opportunity to present material made pertinent by Rule 56. Rule 12, SCRCP.

Whether res judicata applies is a question of law reviewed de novo. See Judy v. Judy, 393 S.C. 160, 172-73, 712 S.E.2d 408, 414 (2011); Plum Creek Dev. Co. v. City of Conway, 334 S.C. 30, 34, 512 S.E.2d 106, 109 (1999). Whether the circuit court improperly considered matters outside the pleadings without converting the motion is likewise reviewed de novo. See Rule 12, SCRCP; Johnson v. Dailey, 318 S.C. 318, 321, 457 S.E.2d 613, 615 (1995). Questions concerning interpretation of the South Carolina Rules of Civil Procedure and whether a party was afforded a meaningful opportunity to be heard are also reviewed de novo.

To the extent preservation is implicated, South Carolina requires a party to raise by Rule 59(e) any issue raised to but not ruled upon in order to preserve it for appellate review. See Elam v. S.C. Dep't of Transp., 361 S.C. 9, 24, 602 S.E.2d 772, 780 (2004); I'On, L.L.C. v. Town of Mt. Pleasant, 338 S.C. 406, 422, 526 S.E.2d 716, 724 (2000). Appellant did so here.

Appellant’s Rule 59(e) motion expressly raised the Rule 12/Rule 56 boundary violation, the court’s reliance on extra-pleading materials, the mischaracterization of the complaint as containing no new substantive allegations, the improper application of res judicata, and the lack of a meaningful opportunity to object to the adversary-drafted order. The circuit court denied that

motion through a summary Form 4 order without addressing those specific grounds. Accordingly, these issues were properly preserved for appellate review.

The Rule 59(e) motion also preserved the manifest-injustice consequence of denying preservation while a verified fraud-on-the-court claim was pending. Once the pleadings identified the native audio and metadata as unique digital evidence, the circuit court could not dismiss the action and deny preservation without leaving Appellant unable to test the record on which preclusion depended.

ARGUMENT

This appeal turns on a threshold legal error: the circuit court applied preclusion doctrines to dismiss an independent action alleging fraud on the court without first addressing whether the underlying judgment was procured through a fundamentally compromised process.

Appellant does not ask this Court to decide the merits of the HOA enforcement dispute, the FHA retaliation claim, or the disputed audio issue in the first instance. The facts summarized in this brief are offered to show prejudice, plausibility, preservation, and legal error: the circuit court dismissed too early, applied preclusion too broadly, denied preservation and Rule 56(f) discovery, and failed to address the independent-action gateway before treating the challenged record as final.

This appeal does not seek to relitigate a neighborhood dispute. It asks whether a circuit court may dismiss an independent action alleging fraud upon the court while disregarding the Rule 12 boundary it announced, relying on extra-pleading materials, and entering an adversary-drafted dispositive order without affording a meaningful opportunity to be heard.

This appeal does not arise from a routine adverse ruling. It arises from a proceeding in which the adjudicative process itself was compromised. The record reflects a convergence of procedural

violations, including reliance on matters outside the pleadings without Rule 56 safeguards, exclusion and suppression of material evidence, post-hearing submissions considered without adversarial testing, and enforcement actions predicated on void conditions precedent. These failures collectively deprived Appellant of any meaningful opportunity to be heard and constitute structural fraud on the court requiring reversal and remand.

These issues were not merely briefed—they were articulated on the record at the February 23, 2026 hearing. Appellant advised the Court that judicial notice could establish the existence of prior filings but could not resolve disputed facts or record-integrity issues at the Rule 12 stage; that the federal court had expressly declined to analyze collateral estoppel; and that the post-judgment foreclosure and collection conduct constituted new, unadjudicated acts of retaliation. [Hr'g Tr. pp. 5-6, 15, 19, 25-27 (R. pp. 437-438, 447, 451, 457-459)]. The circuit court did not engage these on-the-record arguments before entering the dismissal order.

I. The circuit court committed reversible error by granting summary-judgment treatment while explicitly denying Appellant's Rule 56(f) discovery rights.

As a threshold matter, this case cannot be resolved under Rule 12(b)(6) because the record demonstrates that the circuit court relied on materials outside the pleadings, including prior proceedings, transcripts, and evidentiary submissions whose authenticity and completeness were disputed. Once such materials are considered, Rule 56 governs, and the nonmoving party is entitled to discovery and an opportunity to test the evidence. The denial of Appellant’s Rule 56(f) motion while simultaneously relying on such materials constitutes reversible error.

The circuit court abandoned the Rule 12 boundary it announced at the hearing. The official Form 4 disposition entered March 2, 2026, states: "Defendant's Motion to Dismiss & Summary Judgment is GRANTED." [Form 4, filed Mar. 2, 2026, R. p. 6]. By officially recording that the

motion to dismiss and summary judgment was granted, the court treated the disposition as something more than a pure Rule 12 pleading review and, if it relied on matters outside the pleadings, necessarily invoked a Rule 56 framework.

At the hearing, Appellant objected on the record that Respondents' dispositive memorandum and exhibits were filed after the Court's deadline and requested that the Court strike or decline to consider those materials and remain within a Rule 12 posture. The Court was thus placed on direct notice that consideration of those materials would require Rule 56 conversion.

Rule 12(b), SCRCP provides that when matters outside the pleadings are presented to and not excluded, the motion shall be treated as one for summary judgment and disposed of as provided in Rule 56, and all parties must be given a reasonable opportunity to present material made pertinent by such a motion. Here, on the same March 2, 2026 Form 4, the court simultaneously ruled: "Plaintiff's Motion for Rule 56(F) Continuance & Limited Discovery is DENIED." [Form 4, filed Mar. 2, 2026, R. p. 6].

South Carolina courts likewise require a Rule 12(b)(6) ruling to be based solely on the complaint's allegations, and a Rule 12 dismissal is improper where the alleged facts and reasonable inferences would entitle the plaintiff to relief under any theory. See Baird v. Charleston County, 333 S.C. 519, 527, 511 S.E.2d 69, 73 (1999); Brown v. Leverette, 291 S.C. 364, 366–68, 353 S.E.2d 697, 698–99 (1987).

Appellant's Rule 56(f) request was not a generalized discovery request, but a targeted request to obtain native audio recordings and audit/export data necessary to test the integrity of the prior proceeding and prove the pleaded fraud-on-the-court allegations.

That targeted discovery necessarily included the native/original magistrate-court audio, recording metadata, chain-of-custody materials, export logs, backup-retention records, and any records-

retention or destruction documentation concerning the May 16, 2024 hearing. These materials were essential because the dispositive preclusion theory depended on the reliability and completeness of the prior record, while Appellant's complaint directly challenged that record's integrity.

Rule 56(f) is the procedural bridge for exactly this circumstance. A party opposing summary judgment cannot be required to prove record corruption without access to the native record, metadata, and legal-disposition paper trail capable of confirming or refuting the alleged omission. Denying that discovery while granting dismissal/summary judgment converted the disputed record into both the evidence against Appellant and the barrier preventing Appellant from testing it.

That sequence constitutes reversible error. The court used a disposition form reflecting summary-judgment treatment while denying Appellant's sworn Rule 56(f) request to obtain the native audio and audit/export logs needed to test the integrity of the very prior-record materials Appellant contended were disputed and incomplete. A court may not rely on contested outside materials and at the same time deny the limited discovery necessary to contest them. By doing so, the circuit court afforded Respondents the benefit of extra-pleading material while denying Appellant the discovery necessary to challenge it—precisely the imbalance Rule 12 forbids. This procedural posture allowed Respondents to benefit from extra-pleading materials while depriving Appellant of any opportunity to test them—precisely the imbalance the Rule 12/Rule 56 framework is designed to prevent.

II. The adversary-drafted dismissal order was entered through a Rule 5(b)(3) process that deprived Appellant of a meaningful opportunity to object.

Prevailing counsel may submit a proposed order. The defect is not submission itself, but the sequence and method of service, which deprived Appellant of any meaningful pre-signature opportunity to object to a dispositive, adversary-drafted order.

The proposed order was electronically submitted and certified as mailed on Friday, March 6, 2026, but the mailing was not delivered to Appellant until Monday, March 9, 2026 - the same day the court signed the order. The final signed order was entered March 10, 2026 at 8:13 a.m., and the mailing of Appellant's copy of the signed order was not reduced to a shipping label until later that day and was not delivered until March 13, 2026. [Proposed Dismissal Order submission, Mar. 6, 2026, R. pp. 978-79; Certificate of Service and postal proof, R. pp. 928, 930-31]. The Notice of Electronic Filing for the later Rule 59(e) denial likewise confirms that defense counsel were served electronically while Appellant, as a Traditional Filer, was not electronically served and instead had to be served by traditional means. [Rule 59(e) Denial NEF, Apr. 20, 2026, R. pp. 19-21].

Rule 5(b)(3), SCRCP requires proposed orders and similar papers to be served at the same time and by the same means. Here, the Court received the proposed dispositive order immediately through electronic submission while Appellant received only delayed U.S. Mail service. That mismatch mattered because the order adopted broad preclusion findings, tracked the defense's extra-pleading narrative, and was signed before Appellant had any realistic opportunity to review and object. Under Article I, section 3 of the South Carolina Constitution, due process requires a meaningful opportunity to be heard. The process used here did not satisfy that requirement.

The post-hearing sequence reflected in the court’s own Notices of Electronic Filing further confirms the procedural irregularity. Following the February 23, 2026 hearing, the Court entered an advisement Form 4 on February 27, 2026. That same date, the Court electronically signed a

Form 4 granting Respondents' motion and directing that "attorney [is] to prepare draft order," which was later file-stamped March 2, 2026. Respondents then submitted the proposed dismissal order on March 6, 2026. The Court signed that order on March 9, 2026, and it was entered March 10, 2026. Appellant's Rule 59(e) motion was later denied on April 20, 2026 through a summary Form 4 order that did not engage the issues raised. This sequence demonstrates that the dispositive order was developed through a post-hearing, adversary-driven process, reinforcing the lack of a meaningful opportunity for Appellant to review and respond before entry of judgment.

The December-to-February filing sequence described in Section IV—where a narrow December 30 motion was followed by a substantially expanded February 17 memorandum that the final Order tracks—further demonstrates the denial of a meaningful opportunity to be heard. Viewed together, the sequence operated as a procedural pincer. Appellant's November 21, 2025 emergency preservation motion remained unresolved for 101 days before the March 2, 2026 Form 4 denial, exceeding the 30-day benchmark by more than 70 days, while Respondents' late February 17, 2026 memorandum was accepted only four business days before the hearing and their March 6 proposed dismissal order was processed electronically and signed on March 9. The result was a two-track process: a slow-motion track for Appellant's preservation rights and a fast-track for Respondents' dismissal papers.

III. The court skipped the independent-action / fraud-on-the-court gateway before invoking preclusion.

The record reflects not isolated error, but a pattern of conduct that undermined the integrity of the proceeding itself. Material evidence was excluded or suppressed, corroborating testimony was omitted from the certified record, and post-hearing submissions were considered without

adversarial testing. Such conduct falls within the class of extrinsic fraud recognized by South Carolina courts as justifying relief under Rule 60(b)’s savings clause and the court’s inherent equitable powers.

The certified transcript itself corroborates these irregularities. It captures a profane bench-level aside (“F*** that”), demonstrating that the recording system was functioning and capable of preserving unscripted exchanges. That fact is not offered for its tone, but because it reinforces Appellant’s allegation that the absence of other material testimony—specifically the omitted DeLuca testimony—was not a technical failure, but a defect in the integrity of the record itself.

Appellant’s supporting memorandum made the forensic point more precise: the problem was not merely the absence of words in a transcript, but an alleged digital seam in the recording itself. Appellant alleged a jump or skip, accompanied by an audible conversational shift, at the point where the sequence becomes disjointed and where the omitted DeLuca testimony should appear. Whether that alleged seam reflects an edit, export defect, truncation, technical interruption, or other record-system event cannot be resolved on the pleadings; it is precisely why the native audio and metadata had to be preserved and tested before preclusion was applied.

At the February 23, 2026 hearing, the circuit court directly questioned Appellant regarding the nature of her record-integrity allegations and attempted to frame them as an accusation against the transcriptionist. When asked whether she was alleging that the court reporter was "fraudulent," Appellant clarified the nature of her claim, stating: "I'm just saying the record is incomplete and disputed, Your Honor." [Hr'g Tr. p. 17 (R. p. 449)].

This clarification is critical. Appellant's claim does not depend on assigning fault to any individual actor, but on the objective condition of the record itself. The certified record is

disputed and allegedly incomplete with respect to material testimony. That condition alone triggered the need for preservation of the native audio and limited discovery before any dispositive ruling could be entered.

Despite being placed on direct notice that the integrity of the record itself was contested, the circuit court denied Appellant's preservation motion and Rule 56(f) request and proceeded to dismiss the action. That sequence deprived Appellant of any meaningful opportunity to verify or challenge the completeness of the record upon which the dismissal relied.

The formal-notice problem is heightened by Rule 10(c), SCRCP. The transcript, affidavits, and record-integrity exhibits were part of the pleadings for purposes of the motion; they identified the native recording and related metadata as unique digital evidence. Once that issue was pleaded, the court’s preservation duty was not abstract. The court had before it a specific disputed court record and a specific request to preserve and test it before applying preclusion.

The same concern was not newly invented after dismissal. Appellant had already placed the record-integrity dispute before the judicial-disciplinary process and supplied supporting materials, but that process could not provide a civil mechanism to preserve, test, or restore the record. The circuit court therefore could not fairly treat the lack of a disciplinary merits ruling as a reason to presume the record was regular; the disciplinary channel did not decide the civil record question at all.

These irregularities were not speculative—they were specifically raised before the trial court, including through Plaintiff’s Affidavit of Courtroom Conduct submitted in the record, which documented the conditions under which the hearing was conducted.

Preclusion doctrines cannot attach to a judgment whose integrity is directly challenged through an independent action alleging extrinsic fraud and fraud upon the court.

This action is not a refiled dispute. Appellant pleaded an independent action in equity under the savings clause of Rule 60(b), SCRCP and the court's inherent equitable authority to relieve a party from a judgment and to set aside a judgment for fraud upon the court. Rule 60(b), SCRCP expressly states that the rule does not limit the court's power to entertain an independent action to relieve a party from a judgment, order, or proceeding, or to set aside a judgment for fraud upon the court.

The independent-action gateway is also supported by persuasive federal authority recognizing that equity may intervene where fraud corrupts the judicial process itself. See Hazel-Atlas Glass Co. v. Hartford-Empire Co., 322 U.S. 238, 245-46 (1944); United States v. Beggerly, 524 U.S. 38, 45-47 (1998). Those authorities do not ask this Court to retry the underlying HOA dispute. They reinforce the same procedural principle reflected in Rule 60(b)'s savings clause: a court should not apply finality doctrines mechanically before addressing a pleaded attack on the integrity of the process that produced the judgment.

The pleaded defects are not isolated irregularities but a pattern of process breakdown that deprived Appellant of a fair adversarial proceeding, placing the integrity of the resulting judgment itself at issue.

Appellant expressly clarified on the record that this action is not an appeal of prior rulings, but an independent action in equity under the Rule 60(b) savings clause and the Court's inherent authority, attacking extrinsic fraud and process corruption that prevented a fair adversarial proceeding.

South Carolina distinguishes extrinsic fraud from intrinsic fraud. Extrinsic fraud is fraud that induces a person not to present a case or deprives a person of the opportunity to be heard. Chewning v. Ford Motor Co., 354 S.C. 72, 81, 579 S.E.2d 605, 610 (2003); Hagy v. Pruitt, 339 S.C. 425, 431-32, 529 S.E.2d 714, 718 (2000); Hilton Head Ctr. of S.C. v. Pub. Serv. Comm'n, 294 S.C. 9, 11, 362 S.E.2d 176, 177 (1987). Rule 60(b) and the court's inherent power remain available where a judgment's finality is attacked on that basis.

The complaint alleged more than disagreement with the merits of a prior result. It alleged selective omission of Chris DeLuca's testimony, later fee insertion outside the evidentiary hearing, judicial intervention in foundational questioning, reliance on a compromised witness after Appellant placed sexual misconduct and decision-making bias on the record, and a later adversary-shaped order built on a tainted record. [Verified Complaint, R. p. 22; Complaint Exhibits, R. p. 462; Affidavit of Hearing Conduct, R. p. 301; Blaire Jaeger Affidavit, Ex. 12, R. p. 495; Ex. 14, R. p. 539; Mag. Tr. p. 42, R. p. 537]. Those are threshold attacks on the integrity of the prior judgment itself.

It also alleged that the Magistrate's Return and later orders mischaracterized the scope and effect of the earlier proceeding, including by treating excluded or unadjudicated issues as if they had been decided. That matters because preclusion cannot be built on a procedural record whose completeness and accuracy are themselves the subject of the independent action.

The circuit court’s categorical preclusion ruling bypassed this threshold inquiry and assumed the validity of the very judgment under attack. But preclusion presupposes a valid, fairly obtained prior judgment. Where the complaint pleads extrinsic fraud and fraud upon the court, the court had to address that threshold theory before invoking res judicata as though finality were unquestioned.

IV. Blanket preclusion cannot bar later post-judgment acts and newly accrued claims.

Preclusion cannot attach where the prior tribunal expressly limited the scope of adjudication and declined to hear the claims at issue. Issues not heard, and claims not actually litigated, cannot be precluded. Moreover, subsequent acts of enforcement and collection constitute independent wrongs that fall outside the scope of any prior judgment.

The complaint and supporting memorandum carefully separated two lanes: the independent-action lane attacking the integrity of the prior judgment, and the later-acts lane seeking relief for post-judgment collection escalation, attorney-fee / judgment line items, lien threats, foreclosure threats, and retaliatory conduct occurring after the earlier proceeding. [Verified Complaint, R. p. 22; Complaint Exhibits, R. p. 462; Opposition Memorandum, R. p. 245].

Appellant specifically argued that claims the prior tribunal expressly refused to hear cannot be treated as "actually litigated" or "necessarily decided" for purposes of preclusion. The transcript confirms that the prior proceeding was expressly limited in scope and excluded retaliation and discrimination claims, defeating both claim and issue preclusion as a matter of law.

Appellant further clarified on the record that the Complaint includes post-judgment conduct not previously adjudicated, including new retaliation and foreclosure-related actions occurring after the Magistrate proceeding.

Respondents' late dispositive memorandum was not merely untimely. The court's own Notices of Electronic Filing reflect an amended February 16, 2026 submission in which "not all documents within the filing were approved," followed by the actual official file-stamped memorandum and exhibit filing on February 17, 2026. This occurred after the scheduling notice's ten-day deadline and without electronic service on Appellant, who was required to be served by traditional means. The filing itself was not a minor supplement, but a substantial

evidentiary package forming the basis of the arguments ultimately adopted in the dismissal order. This sequence demonstrates both procedural irregularity and resulting prejudice to Appellant. The final Order closely tracks the structure and arguments of that late-filed memorandum, further underscoring the prejudice resulting from Respondents' untimely and irregular submission.

The record further shows that Respondents' originally noticed December 30, 2025 motion was narrow and primarily asserted a general res judicata theory based on alleged relitigation of prior proceedings. It did not present the later-developed collateral-estoppel framework, nor did it rely on an extensive evidentiary submission. By contrast, the February 17, 2026 memorandum introduced a substantially expanded dismissal theory, supported by Exhibits A–K drawn from prior state and federal proceedings, and argued that Appellant's complaint "does not contain any new allegations." The final dismissal order closely tracks that later memorandum—rather than the originally noticed motion—demonstrating that the operative basis for dismissal was formed through the late-filed submission. This shift in theory and evidentiary scope further underscores the prejudice resulting from Respondents' untimely filing.

The Order's conclusion that Appellant alleged no new substantive claims is contradicted by the Complaint's express allegations of post-judgment collection conduct, foreclosure threats, and continuing retaliation, none of which were previously adjudicated.

Res judicata does not extinguish later-accruing claims merely because they relate to an earlier dispute. The doctrine requires identity of parties, identity of subject matter, and adjudication by a court of competent jurisdiction. Judy, 393 S.C. at 172-73, 712 S.E.2d at 414; Johnson v. Greenwood Mills, Inc., 317 S.C. 248, 250-51, 452 S.E.2d 832, 833 (1994). South Carolina likewise recognizes that new wrongful acts occurring after a prior judgment may support a later

action even when the parties and background controversy overlap. See Lawlor v. Nat'l Screen Serv. Corp., 349 U.S. 322, 327-28 (1955).

The June 3, 2024 notice, the 2025 collection and lien-threat letters, the ledger escalation, and the post-hearing fee / judgment entries did not exist when the magistrate hearing concluded. Those acts therefore could not have been adjudicated there. The circuit court erred by merging later, separately accrued conduct into the earlier CMV / monetary dispute and dismissing all such claims under a single categorical preclusion rationale.

V. The magistrate court's own narrowing of the earlier proceeding defeats blanket preclusion as to FHA retaliation and discrimination claims.

Appellant's FHA retaliation and discrimination arguments were not adjudicated in the magistrate court because the magistrate expressly refused to hear them. When Appellant attempted to raise retaliation and discrimination, the magistrate stated: "Retaliation. Discrimination. No, ma'am. All I can do is, you are out monetarily, so the violations, the fees, and administrative charges." [Mag. Tr. p. 12, R. p. 507]. That record statement is not interpretation; it is a direct limitation by the prior tribunal itself.

Res judicata requires adjudication by a court of competent jurisdiction. Judy, 393 S.C. at 172-73, 712 S.E.2d at 414; Johnson, 317 S.C. at 250-51, 452 S.E.2d at 833. If the prior tribunal expressly refused to hear a category of claims and narrowed the proceeding to a limited monetary / CMV dispute, later claims outside that scope were not actually litigated. Nor can identity of subject matter be assumed where the first tribunal itself confined the case to a much smaller slice of the controversy. See Judy, 393 S.C. at 171-72, 712 S.E.2d at 413-14. Collateral estoppel requires that the issue was actually litigated, directly determined, and necessary to support the prior

judgment. Carolina Renewal, Inc. v. S.C. Dep't of Transp., 385 S.C. 550, 554–55, 684 S.E.2d 779, 782 (Ct. App. 2009).

This is particularly significant for the Fair Housing Act claims. Section 3617 makes it unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of protected fair-housing rights, or on account of having exercised such rights. 42 U.S.C. § 3617. The circuit court erred by treating those claims as precluded despite the magistrate's express refusal to hear them.

The FHA allegations are cited for their procedural significance, not to request a merits ruling from this Court. Appellant pleaded sexually inappropriate conduct by a person exercising HOA authority, retaliation after she objected, and selective enforcement that escalated after protected complaints. Federal authority confirms that such theories can be legally cognizable under the Fair Housing Act. See Honce v. Vigil, 1 F.3d 1085, 1089 (10th Cir. 1993); Quigley v. Winter, 598 F.3d 938, 946-47 (8th Cir. 2010). The circuit court therefore erred by treating those claims as precluded without first determining whether the prior forum actually heard, could hear, or did hear the FHA retaliation and harassment issues.

The forum limitation is independently dispositive. The earlier magistrate proceeding did not provide the procedural vehicle for the equitable relief, record-preservation relief, fraud-on-the-court inquiry, or full federal civil-rights adjudication requested here. A litigant cannot be precluded from claims or remedies the prior tribunal refused to hear or lacked power to adjudicate. Treating that refusal as a merits adjudication would turn the magistrate court's limitation into a preclusion weapon against the very claims it declined to reach.

VI. The court failed to address the void-ab-initio / conditions-precedent lane.

The governing documents do not merely guide enforcement; they impose mandatory conditions

precedent to the imposition of fines. Where those conditions—certified notice, defined cure period, and hearing rights—are not satisfied, the resulting charges are not merely defective but void ab initio. Because the alleged debt lacks a lawful foundation, all subsequent enforcement actions, including attorney referral, ledger entries, and collection efforts, are likewise invalid as a matter of law.

The Verified Complaint separately pleaded that the HOA's fines and resulting debt were void from inception because Respondents failed to satisfy mandatory contractual conditions precedent before imposing and escalating charges. Specifically, Appellant alleged that the governing documents required certified-mail notice and hearing rights, yet Respondents used regular mail, denied any meaningful hearing mechanism, and then built later fines, fees, collection letters, and lien threats on that defective foundation. [Verified Complaint, R. p. 22; governing documents attached to Complaint, Declaration Art. VIII § 8.02, R. p. 797; Bylaws § 6.10, R. p. 819].

The pleaded conditions-precedent lane is anchored in specific governing-document requirements, not merely in general fairness. Appellant alleged noncompliance with recorded provisions requiring certified-mail notice and a meaningful hearing opportunity before fines and enforcement consequences could attach. Appellant also challenged enforcement based on unrecorded or extra-contractual policies, including any blanket commercial-motor-vehicle rule inconsistent with the recorded covenant language. South Carolina's HOA recording statute, S.C. Code Ann. § 27-30-130, reinforces why an HOA cannot use unrecorded rules or shifting informal policies as the foundation for fines, attorney referral, lien threats, or foreclosure leverage.

This is not background rhetoric; it is a distinct breach-of-contract and contractual invalidity theory. If the underlying charges were imposed without the prerequisites the contract required,

then the downstream collection efforts are not automatically legitimized through a later preclusion ruling. The circuit court's blanket dismissal failed to grapple with that pleaded lane at all.

The Magistrate's Return and later preclusion rulings therefore could not bypass the recorded-document question. If the debt was generated through unrecorded rules or without the contractual preconditions that vested enforcement authority, the later ledger entries and collection letters rested on a void foundation and required separate analysis.

VII. The order ignored Appellant's challenge to the ex parte $1,020 attorney-fee submission and later ledger judgment entry.

Appellant specifically challenged the $1,020 attorney-fee / judgment entry as a concrete manifestation of the off-record process she alleged. The certified magistrate transcript reflects that defense counsel did not have a fee affidavit at the hearing itself. [Mag. Tr. p. 42, R. p. 537]. Yet the magistrate return later recited that counsel submitted an affidavit at a later time and that attorney's fees were awarded thereafter. [Magistrate Return / related magistrate-court materials, R. p. 828]. Appellant further alleged that the same amount later appeared as a September 15, 2025 ledger judgment entry. [Verified Complaint, R. p. 22; ledger exhibits, R. p. 494].

That alleged ex parte submission is not a trivial bookkeeping dispute. It goes directly to whether a material financial consequence was inserted after the evidentiary hearing and outside the adversarial process. The circuit court nevertheless dismissed the action without separately analyzing that defect, even though Appellant preserved it in Rule 59(e). A categorical preclusion ruling could not substitute for actual analysis of this pleaded due-process and fraud-on-the-court theory.

VIII. The circuit court expressly denied preservation of potentially perishable electronic evidence central to Appellant's fraud-on-the-court allegations.

Appellant filed an Ex Parte Motion for Emergency Preservation Order seeking preservation of the magistrate court's native audio, export data, and related audit logs because the integrity and completeness of the hearing record were themselves at issue. That request was directly tied to the pleaded allegations of selective omission, process corruption, and fraud upon the court. [Emergency Preservation Motion, filed Nov. 21, 2025, R. p. 230; Verified Complaint, R. p. 22, and exhibits, R. p. 462].

The preservation request therefore targeted the forensic seam itself. Appellant was seeking the native file because only the native audio, metadata, audit/export logs, backup-retention records, and chain-of-custody materials could show whether the alleged jump/skip and audible shift resulted from a lawful recording/export process, a technical interruption, a later alteration, or some other record-management event. A certified transcript cannot answer that question; only the native recording environment can.

The delay itself was prejudicial. Appellant filed the emergency preservation request on November 21, 2025 to protect unique digital evidence. The court did not address that request until March 2, 2026, a 101-day delay. For native audio, metadata, audit logs, export history, and backup-retention information, that lapse created the very window of vulnerability the preservation motion sought to prevent.

Appellant does not rely on the 101-day delay as an isolated scheduling complaint. The prejudice arises because the delayed ruling concerned unique digital evidence whose preservation was the subject of the motion itself, while Respondents' dispositive materials and proposed order were processed on an accelerated electronic track. The disparity matters because the court denied

preservation only when it also disposed of the case, leaving no meaningful window for the native record to be protected or tested.

The preservation request was also grounded in the public-records nature of the evidence. South Carolina's Public Records Act treats court records and electronic materials maintained by public offices as public records subject to protection, retention, and lawful-disposition requirements. See S.C. Code Ann. §§ 30-1-10 et seq.; 30-1-20; 30-1-30; 30-1-70; 30-1-90. A retention schedule may authorize lawful destruction only after applicable conditions are met; it does not authorize silent disappearance of a disputed record while its integrity is being challenged. Accordingly, the court had two fair options: preserve and permit limited testing of the native audio and metadata, or require production of the lawful-disposition paper trail if any such record had been destroyed, overwritten, migrated, or otherwise disposed of. That paper trail would include any ARM-11 Report on Records Destroyed, retention-schedule citation, destruction date, custodian identity, backup-retention record, export log, or related court-administration / Archives correspondence. The court did neither.

The circuit court did not merely overlook that request. The official Form 4 disposition entered March 2, 2026, expressly states: "Plaintiff's Motion for Emergency Preservation Order is DENIED." [Form 4, filed Mar. 2, 2026, R. p. 6]. By affirmatively denying preservation of potentially perishable electronic evidence central to Appellant's fraud-on-the-court and record-integrity allegations, the court materially prejudiced Appellant's ability to test the completeness and integrity of the prior record. Dismissing an independent action attacking the integrity of a prior proceeding while denying preservation of the very forensic evidence needed to evaluate that challenge was reversible error as a matter of law.

The manifest injustice is concrete. The native recording and metadata are not cumulative evidence; they are the evidentiary object needed to determine whether the certified transcript is complete. If the audio exists, it must be preserved and produced for limited testing. If it no longer exists, the lawful-destruction or records-disposition documentation must be produced. A dismissal that refuses both paths leaves the disputed record insulated from review and then uses that same record to defeat the action brought to test it.

IX. Reliance on the federal Report and Recommendation was misplaced because the federal court expressly declined to analyze collateral estoppel.

Appellant raised each of these issues in her Rule 59(e) motion, including the Court's departure from the Rule 12 framework, reliance on outside materials, misapplication of preclusion doctrines, failure to address the independent-action posture, and the defense-drafted nature of the final Order.

The Court denied the motion without addressing these arguments.

Because these issues were expressly raised both in Appellant's Opposition Memorandum and at the hearing—where the Court acknowledged it would review those materials—they are fully preserved for appellate review.

The circuit court relied in part on the federal proceedings as though they established a settled preclusion framework for this case. But the federal court expressly declined to analyze whether collateral estoppel warranted dismissal. [Federal Report and Recommendation, R. pp. 554-72, specifically R. p. 570; Order adopting Report and Recommendation; Opposition Memorandum, R. p. 245]. That matters because issue-preclusion questions concerning retaliation, discrimination, and hearing-record integrity were not resolved by the federal court and therefore could not be imported into this case as though they had already been conclusively decided.

The point is not that the federal proceedings are irrelevant, but that the circuit court treated an issue the federal court expressly declined to decide as settled. Reliance on that incomplete preclusion premise reinforced the overbroad categorical dismissal entered here.

Because collateral estoppel applies only where an issue was actually litigated and necessarily decided, the federal court's express decision not to analyze issue preclusion confirms that no court has adjudicated the specific issues presented here. Those issues include the integrity and completeness of the underlying record and the alleged omission of material testimony. Accordingly, the federal proceedings cannot be used to bar this independent action, which presents issues that have never been decided on the merits.

Nor did the federal dismissal cure the state record-integrity problem. The federal proceeding functioned, at most, as a procedural mirror of the state record presented to it; it did not conduct discovery into the native audio, did not resolve the alleged omission of testimony, and did not adjudicate fraud on the court through the state court's independent equitable authority. The circuit court therefore erred by using the federal dismissal to close the very gateway the federal court did not open or decide.

X. The order failed to analyze the complaint claim by claim and defendant by defendant.

The dismissal order did not separately analyze the Verified Complaint's distinct theories, parties, and later conduct. Instead, it treated the entire case as a rehash of prior litigation. But the complaint pleaded Fair Housing Act retaliation and discrimination, extrinsic fraud / fraud upon the court, spoliation, judicial misconduct / process-integrity theories, declaratory and injunctive relief concerning unrecorded rules and recording defects, breach of contract, unconscionable debt collection, abuse of process, conversion, civil conspiracy, breach of fiduciary duty,

negligent hiring / retention / supervision, and slander of title / wrongful lien. [Verified Complaint, Counts I-XVIII, R. p. 22, and attached exhibits, R. p. 462].

A categorical preclusion ruling cannot substitute for claim-by-claim analysis where the pleading alleges distinct theories, distinct defendants and capacities, and later-occurring conduct. At a minimum, the case should be remanded for a proper Rule 12 analysis confined to the pleadings or, if extra-pleading materials are to be considered, for conversion to Rule 56 with an opportunity for appropriate discovery.

Appellant's arguments are grounded not in speculation, but in the record placed before the Court and acknowledged at the hearing.

The Order does not address multiple dispositive arguments raised in Appellant's Opposition Memorandum and reiterated at the hearing, including the independent-action posture, the limits of Rule 12, the effect of excluded claims on preclusion, and the necessity of Rule 56(f) discovery.

CONCLUSION AND RELIEF REQUESTED

This case is not an attempt to relitigate prior rulings. It presents a threshold question: whether a court may dismiss an action alleging fraud on the court while disregarding the very record, affidavits, and materials placed before it and acknowledged on the record. Under South Carolina law and fundamental principles of due process, the answer is no.

For these reasons, Appellant respectfully requests that the Court reverse or vacate the March 10, 2026 dismissal order and the April 20, 2026 denial of Rule 59(e), and remand for proceedings consistent with the Rule 12/Rule 56 safeguards, the independent-action framework, and the preservation relief necessary to adjudicate the record-integrity allegations.

At a minimum, the case should be remanded for one of two paths: either (1) a true Rule 12 analysis confined to the allegations of the Verified Complaint and the exhibits attached to the pleading under Rule 10(c), or (2) if the court elects to consider matters outside the pleadings, conversion to Rule 56 with a reasonable opportunity for discovery and submission of Rule 56 material.

Any remand should also require preservation of the native May 16, 2024 magistrate-court audio, associated metadata, export/audit logs, backup-retention information, chain-of-custody materials, and any lawful-destruction or records-disposition documentation, including any ARM-11 or equivalent Archives / court-administration record. Without that preservation and production, the record-integrity allegations cannot be meaningfully adjudicated.

That preservation should expressly include the materials necessary to test Appellant's alleged forensic seam in the recording, including the alleged digital jump/skip, audible conversational shift, and any associated metadata or export history showing whether the discontinuity resulted from a lawful system process, a technical event, or alteration.

Appellant further requests such other and further relief as the Court of Appeals deems just and proper.

The dismissal below did not resolve a dispute—it bypassed the adjudicative process required to fairly decide one.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on May 22, 2026, I served a copy of the foregoing Initial Brief of Appellant upon counsel for Defendants-Respondents by electronic mail and U.S. Mail at the addresses listed below:

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