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SC Court of Appeals

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY

Court of Common Pleas

The Honorable Bentley D. Price, Circuit Court Judge

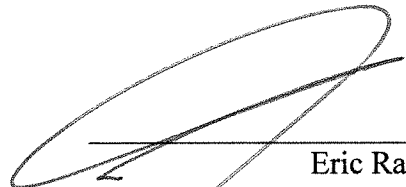
Appellate Case No.: 2024-000420

Crescent Roofing & Remodeling, LLC Respondent,

v.

Eric Ragsdale Appellant.

FINAL BRIEF OF APPELLANT



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October 1, 2026

TABLE OF CONTENTS

TABLE OF AUTHORITIES	4
STATEMENT OF ISSUES ON APPEAL	5
STATEMENT OF THE CASE.....	5
STANDARD OF REVIEW	7
ARGUMENT	8
I. The circuit court abused its discretion by striking Appellant's answer and counterclaims without an antecedent order compelling discovery and without a sufficient finding of bad faith aimed at the necessities of the situation.....	8
i. The hearing was a first motion to compel, not a hearing on violation of an existing discovery order.	8
ii. The record shows participation, not abandonment of discovery.	9
iii. Respondent's preservation objection does not bar review of the sanction.	9
iv. The ADR chronology does not convert discovery objections into bad faith.....	10
II. The sanction of striking meritorious pleadings was excessive, disproportionate, and not reasonably supported by the hearing record.	10
i. The Griffin / McNair factors do not support a terminal sanction.	11
ii. The counterclaim was not a jurisdictional trick.....	11
iii. Lesser sanctions were available and unused.....	12
III. The circuit court abused its discretion by treating Appellant's self-representation as a basis for a terminal sanction and by expanding the oral ruling in the written order.	12
i. The hearing remarks show the sanction was driven by self-representation.....	13
ii. The written order exceeds the oral ruling.....	13

iii. Respondent's remaining characterizations are not a substitute for the Record.	14
CONCLUSION.....	14
CERTIFICATE OF COMPLIANCE.....	16
CERTIFICATE OF SERVICE	17

TABLE OF AUTHORITIES

Cases

<i>Clark v. Ross</i> , 284 S.C. 543, 570 (Ct. App. 1985).....	7
<i>Downey v. Dixon</i> 362 S.E.2d 317 (S.C. App.1987).....	8
<i>Dunn v. Dunn</i> , 298 S.C. 499, 502 (1989)	7
<i>Griffin Grading & Clearing, Inc. v. Tire Serv. Equip. Mfg. Co.</i> , 334 S.C. 193, 198-99 (Ct. App. 1999).....	7
<i>Halsey v. Simmons</i> , 432 S.C. 54, 57 (2020).....	13
<i>Karppi v. Greenville Terrazzo Co.</i> , 327 S.C. 538, 542 (Ct. App. 1997)	7
<i>McNair v. Fairfield County</i> , 379 S.C. 462, 467 (Ct. App. 2008)	7
<i>Pioneer Elecs. (USA) Inc. v. Cook</i> , 294 S.C. 135, 137 (Ct. App. 1987).....	7
<i>Rickerson v. Karl</i> , 770 S.E.2d 767 (S.C. Ct. App. 2015).....	10
<i>Samples v. Mitchell</i> , 329 S.C. 105 (Ct. App. 1997).....	7
<i>State v. Burton</i> , 356 S.C. 259, 266 n.5 (2003).....	12
<i>Wilder Corp. v. Wilke</i> , 330 S.C. 71, 76 (1998).....	9

Rules

Rule 37(b)(2), SCRCF	12
Rule 37(a)(4), SCRCF	8, 12
Rule 37(a), SCRCF	8
Rule 37(b)(2)(C), SCRCF	8
Rule 37(d), SCRCF	8
Rule 5(b), SCADR.....	10
Rule 5(e), SCADR	10

STATEMENT OF ISSUES ON APPEAL

1. Whether the circuit court abused its discretion by striking Appellant's answer and counterclaims as a discovery sanction where no prior order compelling discovery had been entered, Appellant had served responses, and the court did not tailor a lesser sanction to the necessities of the situation.

2. Whether the sanction of striking meritorious pleadings was excessive and unsupported by the evidence because the record does not establish willfulness or gross indifference sufficient to foreclose a decision on the merits.

3. Whether the circuit court abused its discretion by using Appellant's *pro se* status as a predicate for a terminal sanction and by entering a written order that exceeds and conflicts with the oral ruling announced at the hearing.

STATEMENT OF THE CASE

This appeal is from an order of the Lexington County Court of Common Pleas striking Appellant Eric Ragsdale's answer and counterclaims as a discovery sanction and remanding the action to magistrate court. (R. pp. 2-9).

On July 27, 2022, Respondent Crescent Roofing & Remodeling, LLC commenced a magistrate-court collection action seeking \$4,902.56 as an alleged unpaid contract balance on roofing and painting work. (R. pp. 10-11). Appellant filed an answer denying liability and a counterclaim seeking \$21,627.64 in actual and punitive damages arising from the same transaction, including alleged misrepresentation, defective work by subcontractors, property damage, and related injuries. (R. pp. 12-15). Because the amount in controversy exceeded magistrate-court jurisdiction, the action was transferred to the Court of Common Pleas on November 16, 2022. (R. p. 3, lines 16-21; R. p. 12).

A Notice of ADR issued on June 14, 2023. (R. p. 32). Appellant contacted court-appointed mediator Yolanda Courie on July 6, 2023, and supplied available mediation dates, including September 8, 2023. (R. pp. 32-33). Respondent retained counsel on July 21, 2023, and served interrogatories and requests to produce on or about July 23, 2023. (R. p. 3; R. p. 20, lines 21-24; R. p. 33). Counsel then asked the mediator to postpone mediation pending discovery. (R. pp. 3-4; R. p. 21, lines 4-14). Appellant requested and received an extension to answer discovery until September 27, 2023, and transmitted discovery responses on that date, resubmitting them on October 4, 2023, after a transmission error. (R. pp. 33-34).

On October 25, 2023, Appellant filed a Response of Defendant to Alternate Dispute Resolution Rule to Show Cause, documenting his efforts to schedule mediation and requesting that Respondent be held to the ADR deadline. (R. pp. 31-34). Respondent filed a motion to compel discovery and a reply to Appellant's request for ADR sanctions on November 1, 2023, and a motion for an ADR extension on November 15, 2023. (R. p. 2). Those motions were heard by Webex on February 6, 2024. (R. pp. 2, 16). No exhibits were marked and no testimony was taken. (R. p. 17).

At the hearing, Respondent asked the court to award \$875.00 in attorney's fees and to strike the counterclaims under Rule 37. (R. p. 25, lines 2-15; R. p. 25, lines 22-24). Appellant appeared *pro se*, stated that he had responded in good faith with limited legal knowledge, that pictures and communications were known to both parties, and that he had not intended to evade discovery. (R. pp. 26-27). He asked the court to construe his papers as those of a citizen rather than a skilled attorney. (R. p. 28, lines 1-6).

The circuit court announced that it would grant the motion to extend ADR time, strike Appellant's answer, remand the case to magistrate court, and require mediation within sixty days. (R. p. 28, lines 18-24). The written order, electronically signed February 14, 2024, and filed

February 15, 2024, strikes both the answer and the counterclaims, requires mediation within sixty days of filing, and remands the action to the Swansea Magistrate Court. (R. pp. 8-9). The written order also finds that Appellant acted willfully and in bad faith. (R. pp. 7-8). Those written findings were not announced in those terms at the hearing. Compare (R. p. 28) with (R. pp. 7-8).

Appellant timely appealed.

STANDARD OF REVIEW

The imposition of discovery sanctions is entrusted to the sound discretion of the circuit court and will be reversed only for an abuse of that discretion. *Karppi v. Greenville Terrazzo Co.*, 327 S.C. 538, 542 (Ct. App. 1997); *Pioneer Elecs. (USA) Inc. v. Cook*, 294 S.C. 135, 137 (Ct. App. 1987). An abuse of discretion exists where the conclusion reached by the trial court was without reasonable factual support and resulted in prejudice to the rights of the appellant, amounting to an error of law. *Dunn v. Dunn*, 298 S.C. 499, 502 (1989); *Clark v. Ross*, 284 S.C. 543, 570 (Ct. App. 1985).

When the sanction itself results in default or dismissal, it is "harsh medicine that should not be administered lightly." *Karppi*, 327 S.C. at 542-43. Before invoking that remedy, the trial court must determine that there is some element of bad faith, willfulness, or gross indifference to the rights of other litigants. *Id.* at 543. The sanction must be reasonable, aimed at the specific misconduct, and must not go beyond the necessities of the situation to foreclose a decision on the merits. *Id.*; *Griffin Grading & Clearing, Inc. v. Tire Serv. Equip. Mfg. Co.*, 334 S.C. 193, 198-99 (Ct. App. 1999). In determining appropriateness, the court considers the precise nature of the discovery, the discovery posture of the case, willfulness, and the degree of prejudice. *McNair v. Fairfield County*, 379 S.C. 462, 467 (Ct. App. 2008); *Samples v. Mitchell*, 329 S.C. 105 (Ct. App. 1997).

ARGUMENT

I. The circuit court abused its discretion by striking Appellant's answer and counterclaims without an antecedent order compelling discovery and without a sufficient finding of bad faith aimed at the necessities of the situation.

Respondent's first argument is that Rule 37(d), SCRPC, authorized the circuit court to strike pleadings without first entering an order compelling discovery, and that Appellant's responses were evasive as a matter of law. That reading overstates both the record and the governing cases.

i. The hearing was a first motion to compel, not a hearing on violation of an existing discovery order.

The circuit court convened the matter as a motion to compel. (R. p. 18, lines 9-13). Respondent's counsel described the pending papers as a motion to compel and a motion to enlarge ADR time. (R. p. 18, lines 22-25). Appellant had already served discovery responses on September 27, 2023, and resubmitted them on October 4, 2023. (R. p. 34). The dispute was therefore about the sufficiency of answers already given, not a total failure to appear for discovery. Rule 37(a), SCRPC, supplies the ordinary path: an order compelling more complete answers, with expenses if the opposition is not substantially justified. Rule 37(a)(4), SCRPC. Striking pleadings is reserved for disobedience of an order under Rule 37(b)(2)(C), SCRPC or for a complete failure to serve answers under Rule 37(d), SCRPC.

Griffin confirms that striking pleadings is authorized "[i]f a party fails to obey an order to provide or permit discovery." 334 S.C. at 198 (citing Rule 37(b)(2)(C), SCRPC). No such order existed. Respondent never obtained an order requiring supplementation. The February 6, 2024 hearing was the first judicial examination of the discovery dispute. (R. pp. 16-29).

Downey v. Dixon 362 S.E.2d 317 (S.C. App.1987), on which Respondent relies, involved a complete failure to serve answers, not a first hearing on objections and incomplete answers. *Downey*, 362 S.E.2d at 318 n.1. Treating every imperfect *pro se* response as a Rule 37(d), SCRCF default collapses Rule 37(a), SCRCF into Rule 37(d), SCRCF and eliminates the intermediate step the rules require when answers have in fact been served.

ii. The record shows participation, not abandonment of discovery.

Appellant requested a thirty-day extension, received it, and served answers. (R. p. 4; R. pp. 33-34). At the hearing he stated that he had responded in good faith with limited legal knowledge; that pictures and communications were already known to Respondent; that he had not hired experts; and that he had not tried to impede or evade his responsibilities. (R. pp. 26-27). He asked for an opportunity to respond further. (R. p. 28, lines 1-3). Those facts distinguish this case from a litigant who ignores discovery altogether.

Respondent's own request at the hearing was first for \$875.00 in fees under Rule 37(d) and then, additionally, for an order striking counterclaims. (R. p. 25, lines 2-15). The court did not award the modest fee sanction Respondent identified as the cost of the motion. (R. p. 25, lines 22-24). It jumped to the terminal remedy. That choice was not required by Rule 37, SCRCF and was not the least restrictive means of securing compliance.

iii. Respondent's preservation objection does not bar review of the sanction.

Respondent contends that the absence of a prior compel order was not preserved. *Wilder Corp. v. Wilke*, 330 S.C. 71, 76 (1998). The issue on appeal is whether the sanction actually entered was an abuse of discretion. Appellant appeared, opposed the motion, explained his responses, and asked the court not to treat his papers as those of a skilled attorney. (R. pp. 26-28). The court then struck the answer. (R. p. 28, lines 18-21). The lawfulness of that sanction, including whether a

lesser order should first have issued, is the ruling on review. Appellant is not required to have recited Rule 37, SCRCP subsection numbers to preserve the claim that the sanction went too far.

iv. The ADR chronology does not convert discovery objections into bad faith.

Respondent argues that Appellant used mediation to deflect from discovery. The Record shows the opposite sequence. Appellant initiated contact with the mediator and offered dates. (R. pp. 32-33). Respondent's counsel then asked to postpone mediation so discovery could precede it. (R. pp. 3-4; R. p. 21). Appellant transmitted discovery by the extended date. (R. p. 34). When an ADR rule-to-show-cause issued, Appellant explained that postponement had been driven by Respondent and that no court order deferring ADR had been served. (R. pp. 33-34). Rule 5(b), SCADR, provides that the ADR conference shall not delay discovery or motions except by order of the court. Rule 5(e), SCADR, requires a motion to defer. Those rules bind both parties.

In *Ross v. Waccamaw Community Hospital*, 744 S.E.2d 547 (S.C. 2013), the Court held that missing an ADR deadline is a nonjurisdictional procedural defect and that harsh sanctions are inappropriate where a party has attempted to work through discovery toward mediation. *Ross*, 744 S.E.2d at 551; *Rickerson v. Karl*, 770 S.E.2d 767 (S.C. Ct. App. 2015). The circuit court granted Respondent the ADR extension it requested. (R. p. 28, lines 18-19; R. p. 8). Having excused Respondent's delay, the court could not reasonably treat Appellant's insistence on mediation as independently sanctionable conduct justifying the striking of all defensive pleadings.

II. The sanction of striking meritorious pleadings was excessive, disproportionate, and not reasonably supported by the hearing record.

Respondent's second argument is that the sanction was "reasonable" because it merely returned the case to magistrate court. That characterization is incorrect. Striking the answer and

counterclaims eliminates Appellant's defenses and his affirmative claims and exposes him to default. (R. p. 8; R. p. 28, lines 22-24). That is the functional equivalent of dismissal.

i. The Griffin / McNair factors do not support a terminal sanction.

Nature of the discovery. The requests were standard interrogatories and document requests directed to a homeowner in a \$4,902.56 collection case. (R. p. 3; R. p. 25, lines 21-23). Appellant served responses and stated that photographs and messages already in Respondent's possession addressed the claimed damage. (R. pp. 26-27).

Discovery posture. The case had not been tried. No compel order had issued. The hearing was the first judicial opportunity to require more complete answers. (R. pp. 16-29). A tailored order identifying deficient interrogatories and setting a short deadline would have addressed any prejudice.

Willfulness. Appellant apologized for limited legal knowledge, denied any intent to impede discovery, and asked to be allowed to respond further. (R. pp. 26-28). That is not the "gross indifference" *Karppi* requires before pleadings are stricken. 327 S.C. at 543. The written order's finding of willful bad faith (R. pp. 7-8) is not supported by testimony.

Prejudice. Respondent identified \$875.00 as the cost of the motion. (R. p. 25, lines 22-24). That figure measures the prejudice actually claimed. An award of fees, or an order precluding particular damage theories until supplementation, would have matched that prejudice. Striking every defense and every counterclaim did not.

ii. The counterclaim was not a jurisdictional trick.

Respondent argues that Appellant manufactured jurisdiction by pleading \$21,627.64 in order to force Respondent to hire counsel. The counterclaim itemizes concrete property and workmanship grievances arising from the same job: alleged use of subcontractors rather than

employees, gutter and shrubbery damage, sod damage, satellite and generator damage, vinyl and fascia damage, warranty issues, and collection tactics. (R. pp. 14-15). Those allegations, if proved, are not frivolous as a matter of law. Transfer followed because the amount claimed exceeded magistrate jurisdiction. (R. p. 12; R. p. 15). Respondent may dispute the merits. It may not convert an unadjudicated merits dispute into proof that the pleadings themselves were sanctionable.

iii. Lesser sanctions were available and unused.

Rule 37 authorizes fees, establishment of designated facts, preclusion of particular claims or defenses, and other orders "as are just." Rules 37(a)(4), SCRCF, 37(b)(2), SCRCF. Respondent asked first for \$875.00. (R. p. 25). The court granted none of the intermediate remedies and instead struck the entire answer. (R. p. 28, lines 19-21; R. p. 8). That choice went "beyond the necessities of the situation to foreclose a decision on the merits." *Karppi*, 327 S.C. at 543; *Griffin*, 334 S.C. at 198-99.

Respondent's reliance on remand to magistrate court as a mitigating feature is misplaced. Once the answer and counterclaims are stricken, remand does not restore a trial on those claims. It implements the sanction. The oral ruling even coupled the strike with a threat of default and a damages hearing if mediation did not occur in sixty days. (R. p. 28, lines 22-24). That is not a modest procedural adjustment. It is case-ending relief on a first compel hearing.

III. The circuit court abused its discretion by treating Appellant's self-representation as a basis for a terminal sanction and by expanding the oral ruling in the written order.

Respondent's third argument is that a *pro se* litigant is held to the same standard as a lawyer and therefore cannot complain. Appellant does not seek a license to ignore the rules. *State v. Burton*, 356 S.C. 259, 266 n.5 (2003). He seeks application of the settled limit on sanctions: even

a represented party is not stripped of pleadings for imperfect discovery on a first motion unless bad faith and necessity are shown. *Pro se* status does not lower that bar; it also does not raise it.

i. The hearing remarks show the sanction was driven by self-representation.

After Appellant asked the court to construe his papers as those of a citizen, the court answered that "that's the problem that you run into," that everyone else on the call had an attorney, and that ignorance of the rules is no excuse. (R. p. 28, lines 7-14). The court then immediately struck the answer. (R. p. 28, lines 18-21). Those remarks connect the sanction to Appellant's lack of counsel rather than to a measured application of the *Griffin* factors. A court may require compliance with the rules. It may not treat the decision to appear *pro se* as itself the misconduct being punished.

Due process requires a meaningful opportunity to be heard. *Halsey v. Simmons*, 432 S.C. 54, 57 (2020). Appellant was heard for a few minutes on a Webex motion calendar. (R. pp. 26-28). He was not told before the hearing that the court was considering striking all pleadings. Respondent's papers sought compulsion and fees; the request to strike was pressed orally. (R. p. 25, lines 6-15). An order compelling answers, or even an order to show cause why pleadings should not be stricken if supplementation failed, would have supplied the notice the terminal sanction required.

ii. The written order exceeds the oral ruling.

At the hearing the court said it would strike "your answer," remand, extend ADR, and consider default later if mediation failed. (R. p. 28, lines 18-24). The written order, prepared after the hearing, strikes both the answer and the counterclaims, finds "clear, convincing and substantial evidence" of prejudice and "willful disregard," and finds that Appellant agreed to delay mediation

and then "willfully and in bad faith refused to comply." (R. pp. 7-8). Those findings were not announced on the record. Compare (R. p. 28) with (R. pp. 6-8).

The discrepancy matters. Appellate review of discretion depends on the reasons actually given and the evidence actually heard. No testimony supported a "clear, convincing and substantial evidence" finding. (R. p. 17). Appellant's hearing presentation was an explanation and a request for leniency, not a concession of willful discovery abuse. (R. pp. 26-28). A written order that upgrades the oral ruling into a bad-faith adjudication, without additional evidence, is not a reasonable exercise of discretion.

iii. Respondent's remaining characterizations are not a substitute for the Record.

Respondent's brief repeatedly describes Appellant's position as false or fabricated. Those adjectives are argument. The Record shows a homeowner who answered, asked for an extension, served discovery, contacted the mediator, and appeared at the hearing. (R. pp. 26-28, 31-34). It also shows a contractor with a \$4,902.56 claim who obtained the ADR extension it requested and the striking of every opposing pleading. (R. pp. 8, 28). The governing cases require proportionality between those facts and the sanction. The order under review does not meet that standard.

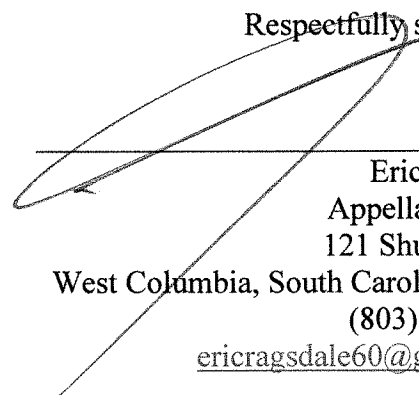
CONCLUSION

The circuit court abused its discretion by striking Appellant's answer and counterclaims on a first motion to compel, without an antecedent discovery order, without testimony supporting a finding of willful bad faith, and without employing available lesser sanctions. The written order exceeds the oral ruling and forecloses a decision on the merits of claims arising from the same roofing contract that produced Respondent's \$4,902.56 collection action.

Appellant respectfully requests that this Court reverse the order filed February 15, 2024, reinstate Appellant's answer and counterclaims, and remand for further proceedings, including an order compelling any specific discovery still due and good-faith mediation on the entire case.

Dated: October 1, 2026

Respectfully submitted,



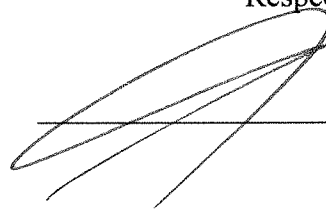
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CERTIFICATE OF COMPLIANCE

I certify that this Final Brief of Appellant complies with Rule 211, SCACR. This brief does not exceed the page limitation of Rule 208(b)(5), SCACR. I further certify that this brief complies with the form requirements of Rule 267, SCACR.

Dated: October 1, 2026

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