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Oct 12 2026

SC Court of Appeals

PETITION FOR A WRIT OF CERTIORARI TO
THE COURT OF APPEALS

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM AIKEN COUNTY
Court of Common Pleas

APPELLATE CASE NUMBER 2026-001556
Associated Supreme Court Case 2026-002108

Elvira Perez

Plaintiff-Appellant

V

Edgefield Community Healthcare, LLC

Defendant-Appellee

PETITION FOR A WRIT OF CERTIORARI

Respectfully Submitted

/S/

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October __12th__, 2026

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CERTIFICATE OF COUNSEL

Petitioner certifies that the Petition for rehearing was made and finally **constructively denied** by the Court of Appeals on October 8th, 2026. Ms Perez’ action was constructively denied as defined by State v Wilson , 693 SE 2d 923, 387 SC 597 (2010) citing *Hagood v. Sommerville*, 362 S.C. 191, 194, 607 S.E.2d 707, 708 (2005) and S.C.Code Ann. § 14-3-330(1) (1976);

Moreover, the US Supreme Court has explained that : “Appellate courts have jurisdiction to review interlocutory orders that have “the practical effect of refusing an injunction.” Carson v. American Brands, Inc., 450 U. S. 79, 84 (1981). A district court's inaction in the face of extreme urgency and a high risk of “serious, perhaps irreparable,” consequences may have the effect of refusing an injunction. 16 C. Wright, A. Miller, & E. Cooper, Federal Practice and Procedure § 3924.1, pp. 174, 180–181 (3d ed. 2012) (quoting Baltimore Contractors, Inc. v. Bodinger, 348 U. S. 176, 181 (1955)). The Loss of First Amendment rights constitutes irreparable injury . ¹

¹ Elrod v Burns , 427 US 347 , 373-74 (1976) (citing N.Y. Times Co. v. United States, 403 U.S. 713 (1971))

QUESTIONS PRESENTED

- 1- Did the Court of Appeals err when it failed or refused to grant or deny Ms. Perez' Motion to Proceed in Forma Pauperis?
- 2- Did the Court of Appeals October 8th, 2026 Order constructively denying Ms. Perez Motion to proceed IFP affect a substantial right and effectively determined the action within the meaning of section 14-3-330 of the South Carolina Code?
- 3- Did the Court of Appeals October 8th, 2026 Order constructively denying Ms. Perez Motion for Injunctive relief affect a substantial right and effectively determined the action within the meaning of section 14-3-330 of the South Carolina Code?
- 4- Did the Court of Appeals err when it ruled on October 5th, 2026 that non lawyer Jose A Perez could not prosecute Ms. Perez' cause of action in SC courts?

Statement of the Case

- 1- Petitioner Elvira Perez, filed a complaint for declaratory and injunctive relief in the Aiken County Court of Common Pleas by and through her son and next of Friend , Jose A. Perez. The cause of action was against her nursing

home , to wit, Edgefield Post Acute for depriving her of her Constitutional and Medicare Rights².

- 2- Elvira Perez is a 97 years old Hispanic female who suffers of (a) non compos mentis secondary to dementia, (b) blindness, (c) social isolation and numerous comorbidities;
- 3- On Saturday February 7th, 2026 Jose A Perez found his mother in a stuporous³ state and she could not be fed or hydrated . Defendant Edgefield Post Acute revealed that Ms. Perez had been surreptitiously placed on several anti-psychotic medicine in order to medically restrain her. Thereafter Ms Perez complained to several nursing home regulatory agencies.
- 4- Consequently , on June 17th, 2026 the defendant informed Ms Perez that thirty days therefrom it was going to **INVOLUNTARILY TRANSFER** Ms Perez out of the nursing home.
- 5- On July 9th, 2026 while residing at the Defendant's nursing home, Ms Perez was assaulted , her face pummeled and subsequent imaging at the emergency room showed several of her ribs , sternum and Left knee fractured. Edgefield Police issued Incident Report EPD260FF000249(01) by police sergeant G. A.

² *Health and Hospital Corporation of Marion County v. Talevski*, 599 U.S. 166 (2023) affirming *Talevski v Health and Hospital Corporation*, 6 F. 4th 713 (7th Cir-2021); *Health and Hospital Corporation v Talevski*, 137 Harv. L. Rev. 380 (2023).

³ <https://www.merckmanuals.com/home/brain-spinal-cord-and-nerve-disorders/coma-and-impaired-consciousness/stupor-and-coma>

Schultz who referred the matter to the South Carolina Attorney General. The Police Sergeant advised the Perez' that since this was the 2nd violent incident against a resident at that facility that Ms. Perez ought to be relocated.

6- The Nursing Home refused to permit Ms. Perez to install a GrannyCam in her room. The GrannyCam would have permanently recorded the fact that Ms Perez was being chemically restraint . Secondly the GrannyCam could have also prevented the July 9th, 2026 assault and battery. In the alternative, it would have provided the evidentiary basis for charging and prosecuting the aggressor(s).

7- As a US Citizen Ms Perez has the Constitutional right to seek a redress of her grievances , the right to be heard and to marshal evidence in support thereof⁴. A hearing is functionally useless if a nursing home resident is prohibited from or denied the ability to collect evidence to support her claim and/or defend herself. ⁵ . Ms Elvira Perez also has a right to life and to defend the same using an assistive device⁶ , which is guaranteed by, inter

⁴ Goldberg v Kelly, 397 US 254 (1970) , *Grannis v. Ordean*, 234 U. S. 385 (1914),

⁵ [Opportunity for Meaningful Hearing | U.S. Constitution Annotated | US Law | LII / Legal Information Institute](#)

⁶ District of Columbia v Heller, 554 US 570 (2008) citing William Blackstone1 Blackstone 136, 139–140 (1765). cited the arms provision of the Bill of Rights as one of the fundamental rights of Englishmen. See 1 Blackstone 136, 139–140 (1765). It was, he said, “the natural right of resistance and self-preservation,” *id.*, at 139, and “the right of having and using arms for self-preservation and defence,” *id.*, at 140; see also 3 *id.*, at 2–4 (1768). Other contemporary authorities concurred. See G. Sharp, Tracts, Concerning the Ancient and Only True Legal Means of National Defence, by a Free Militia 17–18, 27 (3d ed. 1782); 2 J. de Lolme, The Rise and

alia, the Second and Fifth Amendments⁷ as well as the Privileges and Immunities Clause⁸.

III

ARGUMENT

(a)

**THE ORDERS ISSUED
BY THE COURT OF APPEALS ON OCTOBER 5th AND 8th , 2026
ARE VOID WITHIN THE MEANING OF RULE 60(b)(4)**

(1)

**THE COURT OF APPEALS HAS A MINISTERIAL DUTY TO PERMIT
MS PEREZ TO EXERCISE THE RIGHT TO
ACCESS STATE COURTS EFFECTIVELY AND MEANINGFULLY**

8- The right to meaningfully and effectively access the courts is basic to our system of government, and it is well established today that it is one of the fundamental rights protected by the Constitution⁹. The US Supreme Court characterized this right of access in the following terms:

Progress of the English Constitution 886–887 (1784) (A. Stephens ed. 1838); W. Blizard, Desultory Reflections on Police 59–60 (1785)..

⁷ Abigail Alliance v Von Eschenbach, 445 F. 3d 470, 484 (DC Cir-2006) citing Cruzan v Director, Missouri Department of Health , 497 US 261 (1990)

⁸ Corfield v Coryell, 6 F Cas 546 , 551-552 (3rd Cir-- 1823) citing U.S. CONST. art. IV, § 2, cl. 1

⁹ Ryland v Shapiro, 708 F. 2d 967 (5th Cir-1983) citing *Chambers v. Baltimore & Ohio Railroad*, [207 U.S. 142](#) (1907).

9- “The right to sue and defend in the courts is the alternative of force. In an organized society it is the right conservative of all other rights, and lies at the foundation of orderly government. It is one of the highest and most essential privileges of citizenship, and must be allowed by each state to the citizens of all other states to the precise extent that it is allowed to its own citizens. Equality of treatment in this respect is not left to depend upon comity between the states, but is granted and protected by the Federal Constitution.”¹⁰

10- The Right of Access is also protected by the First Amendment¹¹;

11- A third constitutional basis for the right of access to the courts is found in the due process clause¹². The right of access to the courts, is founded in the Due Process Clause and assures that no person will be denied the opportunity to present to the judiciary allegations concerning violations of fundamental constitutional rights¹³

12- A mere formal right of access to the courts does not pass constitutional muster. Courts have required that the access be “adequate, effective, and

¹⁰ Ibid

¹¹ Ibid citing *California Motor Transport Co. v. Trucking Unlimited*, 404 U.S. 508, 92 S.Ct. 609, 30 L.Ed.2d 642 (1972), the Supreme Court found in the first amendment a second constitutional basis for this right of access; The Fourth Circuit Court of Appeals has ruled that this right of access is encompassed by the first amendment right to petition. *See McCray v. Maryland*, 456 F.2d 1, 6 (4th Cir.1972)

¹² Ibid citing *Wolff v. McDonnell*, 418 U.S. 539, 94 S.Ct. 2963, 41 L.Ed.2d 935 (1974),

¹³ Ibid citing *Johnson v. Avery*, 393 U.S. 483, 89 S.Ct. 747, 21 L.Ed.2d 718 (1969)]

meaningful¹⁴". Interference with the right of access to the courts gives rise to a claim for relief under section 1983¹⁵.

(2)

AN INDIGENT LITIGANT LIKE MS PEREZ HAS THE RIGHT TO ACCESS THE STATE COURTS IN FORMA PAUPERIS

13- On July 13th, 2026 Ms. Perez filed a verified Motion to Proceed in Forma Pauperis . The Court of Appeals has failed or refused to explain the reason Ms. Perez is exempted from Rule 3(b)(1) SCRCF , which states that : “ **A presumption that the plaintiff is unable to pay the fee required to file the action shall be created if the plaintiff's net household income is less than or equal to the Poverty Guidelines** established and revised annually by the United States Department of Health and Human Services and published in the Federal Register. The Defendant did not, and could not , show that Ms Perez’ allegations of poverty were untrue; The Defendant did not, and could not show that Ms. Perez’ cause of action was frivolous and/or did not include fundamental constitutional rights¹⁶,

¹⁴ Ibid *Bounds v. Smith*, 97 S.Ct. at 1495; see also *Rudolph v. Locke*, 594 F.2d at 1078

¹⁵ . *Sigafus v. Brown*, 416 F.2d 105 (7th Cir.1969) *McCray v. Maryland*, 456 F.2d at 6 (“Of what avail is it to the individual to arm him with a panoply of constitutional rights if, when he seeks to vindicate them, the courtroom can be hermetically sealed against him by a functionary who, by refusal or neglect, impedes the filing of his papers?”);

¹⁶ [Ex Parte Martin](#), 321 S.C. 533, 471 S.E.2d 134 (1995)

(3)

**THE OCTOBER 5, 2026 ORDER VIOLATES
RULE 220 SCACR AND SC CODE § 14-8-250**

- 14- Under Rule 220 , SCACR and S.C. Code § 14-8-250 the Court of Appeals is mandated to issue written decisions that address **every distinct point necessary to the final ruling**, alongside the underlying legal reasons.
- 15- The Notice Of Appeal filed by Ms. Perez on July 10th, 2026 objected to the Court of Common Pleas’ decision to deny Ms. Perez’ Motion to Proceed in Forma Pauperis (IFP).
- 16- The Defendant did not, and could not , show that Ms Perez’ allegation of poverty were untrue;
- 17- In an adversarial system, courts act as neutral arbiters of the issues the parties choose to present, rather than hunting for unraised theories or taking over appeals¹⁷.
- 18- Ms Perez respectfully emphasizes that the Court of Appeals decision to ARBITRARILY , SURREPTIOUSLY and SUA SPONTE place the appeal on permanent abeyance is telling. Now it has sua sponte raised a new issue on appeal which was not briefed in the Court of Common Pleas ¹⁸. It has also

¹⁷ US v Sineneng-Smith, 590 US 371 (2020) citing Greenlaw v U.S. , 534 US 237 (2008)

¹⁸ Hormel v Helvering , 312 US 552, 556 (1941)

failed or refused to identify the basis for failing to grant or deny the motion to proceed IFP three months after its filing. Clearly the Court of Appeals has concluded that Ms Perez, who is a poor Hispanic female proceeding pro se , is not the Court of Appeals' favorite litigant and deserves to be treated disdainfully.

19- Ms Perez respectfully submits that the only issue properly before the Court , within the meaning of Rule 220 , SCACR and S.C. Code § 14-8-250 was whether the Court of Common Pleas erred when it denied Ms. Perez' Motion to Proceed IFP,

(4)

**ASSUMING , ARGUENDO, THAT THE ISSUE OF
WHETHER OR NOT JOSE A PEREZ CAN REPRESENT HIS
MOTHER WAS PROPERLY BEFORE THE COURT THE ORDER
IS VOID WITHIN THE MEANING OF RULE 60(b)(4), SCRCF**

20- The Defendant has failed or refused to refute or rebut the issue of whether not Jose A Perez has a right to represent his non compos mentis mother in court therefore the issue ought to be considered as conceded and any objection thereto deemed waived¹⁹.

¹⁹ Creech v South Carolina Wildlife and Marine Resources Dep't, 328 SC 24, 491 SE 2d 571 (1997)

- 21- Under the Supremacy Clause of the U.S. Constitution (Article VI, Clause 2), federal law and constitutional interpretations by the U.S. Supreme Court take precedence over state constitutions and state laws²⁰.
- 22- The US Supreme Court has ruled that the fundamental Constitutional right to access the courts allow litigants to assert the rights of a third party – where as here, he has a close relationship with that third party²¹, and the third party has obstacles preventing her from suing on her own behalf²².
- 23- A void judgment is one where, as here, the litigant has been deprived of notice and the opportunity to be heard²³. The Court's failure or refusal to follow binding precedent constitutes a due process violation²⁴.
- 24- The US Supreme Court has also emphasized that “in keeping with the ancient tradition of the [next friend] doctrine”, that one necessary

²⁰ A rule stated in a decision by the United States Supreme Court and based on the United States Constitution is binding on state courts under the Supremacy Clause., *Henry v. City of Rock Hill*, 376 U.S. 776, 84 S.Ct. 1042, 12 L.Ed. (2d) 79 (1964)

²¹ The US Supreme Court has held that a parent-child relationship easily satisfies the close relationship requirement for next friend standing, *Sessions v. Morales-Santana*, 582 U.S. 47, 57 (2017).

²² *Powers v. Ohio*, 499 U.S. 400, 410-11, 111 S. Ct. 1364, 113 L. Ed. 2d 411 (1991) *Singleton v. Wulff*, 428 US 106 (1976)

²³ The definition of “void” within the meaning of Rule 60(b)(4) encompasses judgments from courts which failed to provide proper due process, or judgments from courts which lacked subject matter jurisdiction or personal jurisdiction. See *Thomas & Howard Co. v. T.W. Graham and Co.*, 318 S.C. 286, 457 S.E.2d 340 (1995); Flanagan, *South Carolina Civil Procedure* 487 (2nd ed.1996); 11 Wright, Miller, and Kane, *Federad Practice and Procedure: Civil 2d* § 2862, at 326-29 (1995); *McDaniel v. U.S. Fid. & Guar. Co.*, 324 S.C. 639, 644, 478 S.E.2d 868, 871 (Ct. App. 1996)

²⁴²⁴ Precedent and Preclusion, 93 Notre Dame Law Review 565, 580 (2017)

condition for “next friend” standing in federal court is a showing by the proposed “next friend” (prochein ami at common law) that the real party in interest is unable to litigate her own cause due to mental incapacity, lack of access to court, or other similar disability²⁵.

(5)

THE COURT OF APPEALS HAS A MINISTERIAL DUTY TO ADHERE TO SC SUPREME COURT PRECEDENTS

25- S.C. Const. art. V, § 9 state that The decisions of the state Supreme Court shall bind the Court of Appeals as precedents.

26- Both the US an SC Supreme Court have ruled that Bruen²⁶ type Historical analyses are necessary to show that the common law protected right of litigants to proceed pro se, or to choose whomever they desired to represent them²⁷ is no longer applicable. The Order does not show that an analysis was conducted.

²⁵ Whitmore Ex Rel. Simmons v Arkansas , 495 US 149, 165 (1990)

²⁶ NY State Rifle & Pistol Association v Bruen , 597 US 1, 8-22 (2021) In *New York State Rifle & Pistol Association, Inc. v. Bruen* (2022), the Supreme Court overturned a century-old New York concealed-carry law. The ruling replaced traditional means-end scrutiny with a "text, history, and tradition" standard, requiring the government to prove modern gun regulations are consistent with the nation's historical tradition of [firearm] regulation. Accord : *Unisys Corp v South Carolina*, 551 SE 2d 263, 346 SC 158 (2001) Citing *W. Matthews Contracting Co. v. South Carolina Tax Comm’n*, 267 S.C. 548, 230 S.E.2d 223 (1976) (a Historical analysis is necessary in order to properly ascertain that the state intended to abolish common law or prochein ami practices.

²⁷ Ibid , @ page 2047 citing *Faretta v. California*, 422 U.S. 806, 828-30 (1975). For example, the influential Pennsylvania Frame of Government of 1682 explicitly provided that "in all courts all persons of all persuasions may freely appear in their own way, and according to their own

- 27- A Bruen Type analysis would have shown that South Carolina regulated the Practice of Law the First time in 1986²⁸. The Evidence shows that preventing non lawyers from practicing was based upon purely ECONOMIC reasons²⁹.
- 28- In a careful history of regulation of the unauthorized practice of law (UPL) completed for the American Bar Foundation in 1980³⁰, Barlow Christensen reached the “shocking” conclusion that UPL restrictions were no longer defensible.
- 29- In “The Unauthorized Practice of Law: Do Good Fences Really Make Good Neighbors—or Even Good Sense?” , 5 AM. B. FOUND. RES. J. 159, 215 (1980) (“Barring actual evidence of serious injury, **the profession has no justification, except perhaps for purely selfish reasons, for denying to the public the right to choose from whom it will purchase legal services.**”).
- 30- The US Supreme Court has held that a parent-child relationship easily satisfies the close relationship requirement for next friend standing³¹.

manner, and there personally plead their own cause themselves; or, if unable, by their friends." Id. at 828 n.37 (internal quotation marks omitted); see also Benjamin Hoorn Barton, Why Do We Regulate Lawyers?: An Economic Analysis of the Justifications for Entry and Conduct Regulation, 33 ARIZ. ST. L.J. 429, 429 (2001) ("In the middle of the nineteenth century the legal market was virtually unregulated."). See also NJ Bifurcated Bar, 12 Seton Hall Review, 242, 243 FN 11 (1982)

²⁸ In Re Unauthorized Practice of Law, 422 SE 2d 123, 309 SC 304 (1992).

²⁹ Benjamin Hoorn Barton, Why Do We Regulate Lawyers?: An Economic Analysis of the Justifications for Entry and Conduct Regulation, 33 ARIZ. ST. L.J. 429, 429 (2001) ("In the middle of the nineteenth century the legal market was virtually unregulated.")

³⁰ Legal Barriers to Innovation : The Growing Economic Cost of Professional Control over Legal Markets , 60 Stan. L. Review 1689, 1691 FN6 (2008)

³¹ Sessions v. Morales-Santana, 582 U.S. 47, 57 (2017).

31- The US Supreme Court has also ruled that litigants may assert the rights of a third party – where as here, he has a close relationship with that third party³², and the third party has obstacles preventing her from suing on her own behalf³³.

32- The US Supreme Court has emphasized that “in keeping with the ancient tradition of the [next friend]doctrine”, that one necessary condition for “next friend” standing in federal court is a showing by the proposed “next friend” (prochein ami at common law) that the real party in interest is unable to litigate her own cause due to mental incapacity, lack of access to court, or other similar disability³⁴.

33- Early colonial documents protected the right of litigants to proceed pro se, or to choose whomever they desired to represent them³⁵

³² The US Supreme Court has held that a parent-child relationship easily satisfies the close relationship requirement for next friend standing, *Sessions v. Morales-Santana*, 582 U.S. 47, 57 (2017).

³³ *Powers v. Ohio*, [499 U.S. 400](#), 410-11, 111 S. Ct. 1364, 113 L. Ed. 2d 411 (1991) *Singleton v. Wulff*, 428 US 106 (1976)

³⁴ *Whitmore Ex Rel. Simmons v Arkansas*, 495 US 149, 165 (1990)

³⁵ *Ibid*, @ page 2047 citing *Faretta v. California*, 422 U.S. 806, 828-30 (1975). For example, the influential Pennsylvania Frame of Government of 1682 explicitly provided that "in all courts all persons of all persuasions may freely appear in their own way, and according to their own manner, and there personally plead their own cause themselves; or, if unable, by their friends." *Id.* at 828 n.37 (internal quotation marks omitted); see also Benjamin Hoorn Barton, *Why Do We Regulate Lawyers?: An Economic Analysis of the Justifications for Entry and Conduct Regulation*, 33 ARIZ. ST. L.J. 429, 429 (2001) ("In the middle of the nineteenth century the legal market was virtually unregulated."). See also *NJ Bifurcated Bar*, 12 Seton Hall Review, 242, 243 FN 11 (1982)

34- In Whitmore Ex Rel Simmons v Arkansas, 495 US 149, 163 FN 4 (1990) the US Supreme Court identified Federal and State courts which allowed next friend or prochein ami to prosecute lawsuits in support of third parties see also (1) In Re Moore , 209 US 490 (1908) the next of friend ‘s right to prosecute the lawsuit on behalf of an infant was not challenged by the federal nor Illinois Courts; (2) Morgan v Potter, 157 US 195 (1895) (The next friend, by whom the suit is brought on behalf of the infant, is neither technically nor substantially the party, but resembles an attorney ..., by whom a suit is brought or defended in behalf of another. The suit must be brought in the name of the infant, and not in that of the next friend. *Crandall v. Slaid*, 11 Met, 288; *Guild v. Cranston*, 8 Cush. 506)); *See also (3) Bertinelli v. Galoni*, 200 A. 58 , 331 Pa. 73 (1938) *Pennsylvania Supreme Court* (It is urged upon us by appellant (really the insurance company) that the grandmother cannot maintain the action in the infant’s behalf, the child’s parents being alive and supporting her in their home. We think this position not maintainable. The sole purpose in having a next friend is to supply the want of capacity in the minor, to afford someone responsible for the costs. He is in no sense a party, “**but resembles an attorney**, or a guardian ad litem, by whom a suit is brought or defended in behalf of another”: *Haines*

v. Fitzgerald, 108 Pa. Superior Ct. 290, 165 A. 52 (Pa. Super. Ct.- 1933).

Accord : *Mahoney v. Park Steel Co.*, 217 Pa. 20, [66 Atl. 90](#) (1907)

35- According to the following entities the ban on non-lawyer representation harm consumers and the poor : the Federal Trade Commission³⁶ , the Administrative Conference of the United States³⁷ and even the American Bar Association³⁸

36- But the SC Judiciary is precluded from transgressing upon Ms. Perez’ fundamental right to access the courts in order to have her grievances redressed; ³⁹.

37- The SC General Assembly is the only entity which is Constitutionally authorized to grant or remove subject matter jurisdiction ⁴⁰. The Supreme Court has held that a court should not treat a statutory limitation on a cause of action as a limitation on jurisdiction unless the General Assembly “‘clearly states’ that [the] requirement is ‘jurisdictional’⁴¹

³⁶ https://www.ftc.gov/sites/default/files/documents/advocacy_documents/ftc-staff-comment-mr.carl-e.testo-counsel-rules-committee-superior-court-concerning-proposed-rules-definition-practice-law/v070006.pdf

³⁷ <https://www.acus.gov/document/nonlawyer-assistance-and-representation>

³⁸ <https://www.americanbar.org/news/abanews/aba-news-archives/2025/02/non-lawyer-services-close-justice-gap/>

³⁹ *Unisys Corp v South Carolina*, 551 SE 2d 263, 346 SC 158 (2001) citing *Hodges v Rainey* , 341 SC 79 , 532 SE 2d 578 (2000); *Ryland v Shapiro* , 708 F.2d 967 (1987) citing *Chambers v. Baltimore & Ohio Railroad*, 207 U.S. 142, 28 S.Ct. 34, 52 L.Ed. 143 (1907),

⁴⁰ *Ibid*

⁴¹ *Ibid*

- 38- There are no Constitutional provisos or statutes preventing non-lawyers from representing others in state courts. Actually , the opposite is true, the General Assembly recognizes that **any individual** may represent another individual before any tribunal⁴² In Re Unauthorized Practice of Law Rules, 309 SC 304 , 422 SE 2d 123 (1992) citing S.C. Code Ann. § 40-5-8 (1986)
- 39- The South Carolina Bar have not , and can not , show that denying Ms Perez’ right to be heard in State Courts by and through her non-lawyer son is consistent with the Nation’s historical tradition of the regulation of the practice of Law⁴³.
- 40- Furthermore, SC Constitution Article V, Section 15 states : Justices of the Supreme Court must have been **“licensed attorneys at law for at least 8 years”** – Ms Perez respectfully submits that the proviso disqualifies the SC Judiciary imposing restrictions upon non lawyers in “unauthorized practice of law cases ” because the US Supreme Court has ruled that Judges are precluded by the maxim which states that “No man is allowed to be a judge in his own cause, because his interest would certainly bias his judgment, and, not improbably, corrupt his integrity” . Gutierrez de Martines v.

⁴² S.C. Code Ann. § 40-5-8 (1986):

⁴³ Unisys Corp v South Carolina, 551 SE 2d 263, 346 SC 158 (2001) *Citing W. Matthews Contracting Co. v. South Carolina Tax Comm’n*, 267 S.C. 548, 230 S.E.2d 223 (1976) (a Historical analysis is necessary in order to properly ascertain that the state intended to regulate the practice of law) ; NY State Rifle & Pistol Association v Bruen , 597 US 1, 8-22 (2021) (Same)

Lamagno, 515 US 417 (1995) citing See *In re Murchison*, [349 U. S. 133, 136](#) (1956) .”); *Spencer v. Lapsley*, [20 How. 264, 266](#) (1858) and The Federalist No. 10, p. 79 (C. Rossiter ed. 1961).

41- As a US Citizen Ms Perez has the Constitutional right to seek a redress of her grievances , the right to be heard and to marshal evidence in support thereof⁴⁴. A hearing is functionally useless if a nursing home resident is prohibited from or denied the ability to collect evidence to support her claim and/or defend herself. ⁴⁵ Therefore the right to seek a redress of grievance is intertwined with Ms Perez right to life and to defend the same using an assistive device⁴⁶ , which is guaranteed by, inter alia, the Second and Fifth Amendments⁴⁷ as well as the Privileges and Immunities Clause ⁴⁸.

42- In a nutshell, the Defendant have failed or refused to show that Ms. Perez does not have the Constitutional and Medicare right to access the court in

⁴⁴ *Goldberg v Kelly*, 397 US 254 (1970) , *Grannis v. Ordean*, [234 U. S. 385](#) (1914),

⁴⁵ [Opportunity for Meaningful Hearing | U.S. Constitution Annotated | US Law | LII / Legal Information Institute](#)

⁴⁶ *District of Columbia v Heller*, 554 US 570 (2008) citing William Blackstone1 Blackstone 136, 139–140 (1765). cited the arms provision of the Bill of Rights as one of the fundamental rights of Englishmen. See 1 Blackstone 136, 139–140 (1765). It was, he said, “the natural right of resistance and self-preservation,” *id.*, at 139, and “the right of having and using arms for self-preservation and defence,” *id.*, at 140; see also 3 *id.*, at 2–4 (1768). Other contemporary authorities concurred. See G. Sharp, Tracts, Concerning the Ancient and Only True Legal Means of National Defence, by a Free Militia 17–18, 27 (3d ed. 1782); 2 J. de Lolme, The Rise and Progress of the English Constitution 886–887 (1784) (A. Stephens ed. 1838); W. Blizard, Desultory Reflections on Police 59–60 (1785)..

⁴⁷ *Abigail Alliance v Von Eschenbach*, 445 F. 3d 470, 484 (DC Cir-2006) citing *Cruzan v Director, Missouri Department of Health* , 497 US 261 (1990)

⁴⁸ *Corfield v Coryell*, 6 F Cas 546 , 551-552 (3rd Cir-- 1823) citing U.S. CONST. art. IV, § 2, cl. 1

order to seek a redress of her grievances , to wit: (a) the right to prevent the nursing home from chemically restraining her , (b) the right to have a assistive device, i.e. a granny cam to marshall evidence in support thereof and (c) the right not to be removed from the nursing home against her will

43- There were no findings that Ms Perez’ allegation of poverty were untrue;

44- Rule 3(b)(1) SCRCF states that : “ **A presumption that the plaintiff is unable to pay the fee required to file the action shall be created if the plaintiff’s net household income is less than or equal to the Poverty**

Guidelines established and revised annually by the United States Department of Health and Human Services and published in the Federal Register.

45- Furthermore, there were no court findings that Ms. Perez’ cause of actions , including her Motion seeking injunctive relief – are frivolous or do not involve fundamental Constitutional Rights⁴⁹.

46- The Federal Trade Commission⁵⁰ , the Administrative Conference of the United States⁵¹ and the American Bar Association⁵² have concluded . that the

⁴⁹ Harrison v Harrison, 646 SE 2d 180, 373 SC 524 (SC COA- 2007)

⁵⁰ https://www.ftc.gov/sites/default/files/documents/advocacy_documents/ftc-staff-comment-mr.carl-e.testo-counsel-rules-committee-superior-court-concerning-proposed-rules-definition-practice-law/v070006.pdf

⁵¹ <https://www.acus.gov/document/nonlawyer-assistance-and-representation>

⁵² <https://www.americanbar.org/news/abanews/aba-news-archives/2025/02/non-lawyer-services-close-justice-gap/>

ban on non-lawyer representation harm consumers and the poor. The

Defendants did not, and could not refute that finding.

47- There were no findings of fact or conclusions of law stating that Ms. Perez can't prove no facts entitling her to relief.⁵³

(6)

THE COURT OF APPEALS FAILED OR REFUSED TO CONSIDER THE ADVERSE-DISPARATE EFFECT OF THE RULING PURSUANT TO THE ADA AND THE REHABILITATION ACT OF 1973

48- Ms Perez sought the jurisdiction of the Court of Common Pleas pursuant to Title I of the Americans with Disabilities Act (“ADA”), 42 U.S.C. §§ 12111, et seq. , and The Rehabilitation Act of 1973. She introduced evidence showing that according to the following entities the ban on non-lawyer representation harm consumers and the poor : the Federal Trade Commission⁵⁴ , the Administrative Conference of the United States⁵⁵ and even the American Bar Association⁵⁶ .

⁵³ Skydive Myrtle Beach, Inc v Horry County , 826 SE 2nd 585, 426 SC 175 (2019) citing Spence v Spence , 368 SC 106, 117-127, 628 SE 2nd 869 (2006)

⁵⁴ https://www.ftc.gov/sites/default/files/documents/advocacy_documents/ftc-staff-comment-mr.carl-e.testo-counsel-rules-committee-superior-court-concerning-proposed-rules-definition-practice-law/v070006.pdf

⁵⁵ <https://www.acus.gov/document/nonlawyer-assistance-and-representation>

⁵⁶ <https://www.americanbar.org/news/abanews/aba-news-archives/2025/02/non-lawyer-services-close-justice-gap/>

49- The October 5th, 2026 Order failed or refused to take into consideration the disparate and adverse impact of the ruling upon individuals who are non compos mentis.

7

CONCLUSION

WHEREFORE Ms Perez respectfully submits that the relief sought herein ought to be granted.

Respectfully Submitted ,

_____/S/_____

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APPENDIX

- 1- October 5th, 2026 Decision
- 2- October 8th, 2026 decision