THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SUMTER COUNTY
COURT OF COMMON PLEAS

S. Bryan Doby, Circuit Court Judge

RECEIVED
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SC Court of Appeals

Appellate Case No. 2026-000197

Grand Bay, L.L.C., ... Respondent,

vs.

Burgess Brogdon Building Supply and
Subsidiary and Burgess-Brogdon, L.L.C., ... Appellants.

FINAL BRIEF OF APPELLANTS

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STATEMENT OF ISSUES ON APPEAL

I. Did the Circuit Court Judge err in ruling that the Appellants did not present to the Court any exception that allowed the Circuit Court to set aside or reverse the lower court's ruling?

II. Did the Circuit Court Judge err in construing Appellants' actual appeal to the Circuit Court as a Motion for Appeal and, as a result, considered and denied the appellate pleadings as a Motion?

III. Did the Circuit Court Judge err in denying Appellants' right to appeal the controversy from the Magistrate Court to the Circuit Court?

STATEMENT OF THE CASE

This case commenced with a letter dated June 29, 2023, from Willie H. Brunson, Esquire, attorney for the Respondent, addressed to the Appellants terminating a lease agreement between the parties for nonpayment of rent and giving the Appellants thirty (30) days to vacate the premises. Appellants operate a retail lumber and building-supply business on the property. Attached to the letter was a copy of a Commercial Lease Agreement dated May 24, 2022, between Grand Bay LLC "on behalf of Bruno Raschio," Landlord, of the first part, and Burgess Brogdon Building Supply & Subsidiary, Tenant, of the second part, and Burgess Brogdon, LLC, Tenant and Robert A. Burgess, III, Guarantor, and Eugene K. Weston, Jr., Guarantor, of the third part (hereinafter referred to as "Lease Agreement"). Under Definitions, the Lease Agreement provided as follows:

a. "Additional Rent" means all amounts payable by the Tenant under this Lease except Base Rent, whether or not specifically designated as Additional Rent elsewhere in this Lease.

e. "Premises" means the industrial premises at 220 Dingle St., Sumter, SC 29150, USA and comprises a Leasable Area of 26,608.00 square feet.

f. "Rent" means the total of Base Rent and Additional Rent.

Lease Agreement, Definitions, (R. p. 5), P. 2, pa. I.

Term

6. The term of the Lease commences at 12:00 noon on July 5, 2022 and ends at 12:00 noon on July 5, 2027 (the "Term").

7. Notwithstanding that the Term commences on July 5, 2022, the Tenant is entitled to possession of the Premises at 12:00 noon on May 20, 2022.

Lease Agreement, Term, (R. p. 5), P. 3, pa. 6-7.

Rent

9. Subject to the provisions of this Lease, the Tenant will pay a base rent of $4,933.48 plus the prorated portion of the property taxes, payable per month, for the Premises (the "Base Rent), without setoff, abatement or deduction. In addition to the Base Rent, the Tenant will pay for any fees or taxes arising from the Tenant's business.

10. The Tenant will pay the Base Rent on or before the first of each and every month of the Term to the Landlord at 3401 NW 82nd Ave, Doral, FL 33122, USA, or at such other place as the Landlord may later designate.

Lease Agreement, Rent, (R. p. 7) P. 3, pa. 9-10.

(Commercial Lease Agreement dated May 24, 2022, between Grand Bay LLC, "on behalf of Bruno Raschio, Landlord, of the first part, and Burgess Brogdon Building Supply & Subsidiary, Tenant, of the second part, and Burgess Brogdon, LLC, Tenant, and Robert A. Burgess, III, Guarantor, and Eugene K. Weston, Jr., Guarantor, of the third part; Appellants' Exhibit #1) (R. p.5)

When the Appellants did not vacate the premises by July 31, 2023, a Summary Court Rule to Vacate or Show Cause (Eviction) was filed on August 8, 2023, and served upon the Appellants on August 10, 2023. In the Application for Ejectment sworn to on August 2, 2023, by Willie H. Brunson, Esquire, Counsel for the Respondent, Mr. Brunson affirmed that a landlord-tenant relationship exists between Grand Bay, LLC, and Burgess Brogdon Building Supply and Subsidiary and Burgess-Brogdon LLC., that rent was past due in the amount of $4,933.38, and that the terms of the lease have been violated by Appellants' failing to pay taxes.

Appellants filed and served a Return to the Rule to Vacate or Show Cause (Eviction) on August 18, 2023, asserted a Counterclaim that the Magistrate's Court was without jurisdiction because Appellants' equity in title to the subject property was at issue, and requested a jury trial.

Attached to Appellants' Return as Defendants' Exhibit #1 was a Real Estate Purchase Option Agreement dated May 24, 2022, between Bruno Raschio, Seller/Landlord, of the first part, and Burgess Brogdon Building Supply & Subsidiary, and Burgess-Brogdon, LLC, (collectively and individually the "Buyer/Tenant") of the second part (hereinafter referred to as "Option Agreement"). The Option Agreement provided as follows:

> WHEREAS Seller/Landlord is the fee owner of certain real property being, lying and located at **220 Dingle St, Sumter, SC 29150** (the "Property"), NOW, THEREFORE, for and in consideration of the covenants and obligations contained on the LEASE AGREEMENT ("the Lease Agreement") signed between the parties and dated this same date of 05/24/2022 and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Seller/Landlord hereby grants to Buyer/Tenant an exclusive option and the privilege of purchasing property at any time during the term of the Lease Agreement or any extension thereof. The Buyer/Tenant shall notify the Seller/Landlord in writing of the exercise of this option at least ten (10) days prior to the expiration of the initial term of this Lease or the expiration of any extension thereof, by mail to the last-provided address of Seller/Landlord.
>
> *Option Agreement, (R. p. 17, P. 1.)*

(Real Estate Purchase Option Agreement dated May 24, 2022, between Bruno Raschio, Seller/Landlord, of the first part, and Burgess Brogdon Building Supply & Subsidiary and Burgess-Brogdon, LLC, (collectively and individually the "Buyer/Tenant") of the second part; Appellants' Exhibit #2), (R. p. 17)

Issues pertaining to bond were tried before Summary Court Judge Kimberly W. Land on September 18, 2023, at the conclusion of which she issued the following written Judgment dated September 18, 2023:

> Bond is set at $9,866.96 to be paid to the Court by Oct 5, 2023. Payment will be late on Oct 11, 2023 and the writ will be issued on that date.

The Appellants made the October 2023 bond payment of $9,866.96, to the Court as required. Thereafter, the Appellants made monthly payments to the Respondent in the amount of $9,866.96 until June of 2025.

On July 23, 2025, the Appellants were served with another Writ of Ejectment alleging failure to pay rent. Appellants filed and served a Return to the Rule to Vacate or Show Cause (Eviction) on August 1, 2025, in which they asserted a Counterclaim that the Magistrate's Court was without jurisdiction because Appellants' equity in title to the subject property was at issue, and requested a jury trial.

On August 11, 2025, Appellants and their counsel were served with a Magistrate Summons to appear for a bench trial (Motion Hearing) in this case.

At the Motion Hearing before Summary Court Judge B. Keith Griffin, Appellants' Attorney presented arguments on the issues raised in Appellants' Return and Counterclaim and restated Appellants' Motion that the Application for Ejectment be dismissed for lack of jurisdiction. At no time did Counsel waive or withdraw Appellants' request for trial by jury.

Judge Griffin filed his Order on August 22, 2025, in which he denied Appellants' Motion that the Court lacks jurisdiction, issued a new Writ of Ejectment, and gave the Appellants twenty-four hours after service of the writ of ejectment to voluntarily vacate the premises located at 220 Dingle Street. The Order also provided that in the event of an appeal to the Circuit Court, a new appeal bond hearing shall be held.

Appellants filed and served a Motion for a New Trial on September 2, 2025, reciting facts in the record which supported Appellants' contention that the case at bar is not an arm's length real estate rental action.

At the same time the Motion for a New Trial was filed on September 2, 2025, the Appellants filed and served a Notice of Motion and Motion to Stay Ejectment. The Motion sought a stay of the Writ of Ejectment which Ordered that the Appellants would have twenty-four hours after service of the Writ of Ejectment to voluntarily vacate the premises located at 220 Dingle Street.

On September 3, 2025, Judge B. Keith Griffin issued his Order in which he denied Appellants' Motion for a New Trial and directed that the writ of ejectment may proceed as previously Ordered. The Order did not address Appellants' separate Motion to Stay Ejectment, and the Motion to Stay was not mentioned in Judge Griffin's Order dated September 3, 2025.

On September 4, 2025, Counsel for the Appellants sent the following email to Judge Griffin acknowledging receipt of the Court's Order denying Appellant's Motion for a New Trial and requesting that the Court rule on his Motion to Stay Ejectment in the case.

From: moorelawfirm@ftc-i.net <moorelawfirm@ftc-i.net>
Sent: Thursday, September 4, 2025 4:32:49 PM
To: Bryan K. Griffin <bgriffin@sumtercountysc.gov>; 'Willie H. Brunson' <wbrunson@thebrunsonlawfirm.com>; Gary Beaver <gbeaver@sumtercountysc.gov>
Subject: RE: ORDER 2023CV4310103666

⚠ CAUTION: External Email
This message came from outside of Sumter County Government. Do not click links or open attachments unless you are certain of the sender's identity and trust the content.

Good Afternoon Judge Griffin,

This will acknowledge receipt of your email sent at 12:18 P.M. today transmitting your Order denying my Motion for a New Trial in the case of *Grand Bay, L.L.C., v. Burgess Brogdon Supply And Subsidiary, et al.,* Case No. 2023-CV-43-10103666. The purpose of this email is to respectfully request that the Court rule on my Motion to Stay Ejectment filed contemporaneously with my Motion for a New Trial on September 2, 2025. Hopefully, a ruling will provide clarification of the following issue.

The most recent Order stated as follows: "The writ of ejectment may proceed as previously ordered."

Your previous Order dated August 22, 2025, Ordered that a new Writ of Ejectment be issued and that the Defendants would have twenty-four hours after service of the Writ of Ejectment to voluntarily vacate the premises located at 220 Dingle Street.

The Bond posted with the Court in 2023 insured the status quo pending a jury trial. I received a Notice dated August 12, 2025, that this case is on the Jury Trial Roster for the week of September 29 – October 3, 2025. Does not the bond posted with the Court and the double amount of the rent paid per month for approximately two years insure that the Defendants will remain in possession of the property pending the outcome of the jury trial? Thank you for your consideration and cooperation in this matter.

Dwight C. Moore
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Judge Griffin emailed the following response on September 5, 2025:

From: Bryan K. Griffin <bgriffin@sumtercountysc.gov>
Sent: Friday, September 05, 2025 9:17 AM
To: moorelawfirm@ftc-i.net; 'Willie H. Brunson' <wbrunson@thebrunsonlawfirm.com>; Gary Beaver <gbeaver@sumtercountysc.gov>
Subject: Re: ORDER 2023CV4310103666

Gentlemen: It is this court's position that any further matters relating to this case must be addressed via appeal to the Circuit Court. To clarify, my latest order denies any and all motions by the defendant. Regarding your inquiry regarding the amount of bond payments, any challenge to the bond amount set by Judge Land should have been made via motion to reconsider within 10 days of her order setting the bond. Because that time period has long passed, her bond order is the law of the case.

Respectfully,
B. Keith Griffin

Chain of two Emails between Judge B. Keith Griffin and Dwight C. Moore with copy of each to Willie H. Brunson and Gary Beaver, Appellants' Exhibit #2 (R. pp. 65, 67)

Judge Griffin's email was sent at 9:17 A.M. on Friday, September 5, 2025. By mid afternoon on Friday, September 5, 2025, Eugene K. Weston, Jr., a party to the Lease Agreement, received notice that the alarm system on the business, Burgess Brogdon Building Supply, had

been triggered. When business personnel inspected the premises, they found that the stock, building supplies, merchandise, equipment and other personal property belonging to the Appellants had been removed from the inside of the building(s) to the outside in the parking area and the locks on the building(s) had been re-keyed and/or changed. The items ejected from the building(s) had been left in the open parking lot adjacent to Dingle Street which runs between the property and a residential area. The Appellant's personal property was visible from Dingle Street and could be seen from the houses on the western side of Dingle Street. Much of the merchandise had been taken from the parking area. At 6:45 P.M. vehicles were seen inside the parking area and at least one truck was parked outside the fence on the edge of the Street which bounds the property on the south with merchandise on the back. A person was observed carrying a large square item in his hands from the edge of the parking lot across the street toward a house.

Affidavit of Eugene Weston, Jr., Appellant's Exhibit #3.(R. p. 76)

2 Photograph of Burgess Brogdon Building Supply. Appellant's Exhibits #4 and #5.(R. pp. 77-78)

On September 8, 2025, Appellants filed Notice of Appeal to the Third Circuit Court of Common Pleas.

Appellants also filed a Motion For Emergency Injunctive Relief on September 8, 2025, requesting the Circuit Court to grant the following specific relief:

1. Declare that the Magistrate Court lacks jurisdiction to adjudicate this case and order the case dismissed; or in the alternative

2. Order a trial by jury on the issues raised in the Appellants' Return to the Rule to Vacate or Show Cause, Answer and Counterclaim;

3. Set aside the Order of Ejectment;

4. Require a full and complete accounting of all funds paid by the Appellants and disbursement as warranted;

5. Order the full and fair payment of damages incurred by the Appellants arising from the wrongful, wanton and reckless ejection from the commercial property;

6. Order the return of possession of the property to the Appellants; and

7. Order the bond paid into Magistrate Court be converted to the appeal bond and transferred to the appropriate Court pending a disposition of this matter on appeal.

On September 17, 2025, Circuit Court Judge S. Bryan Doby filed his Order in which he declined to make any rulings regarding actions taken before Judge Griffin's Order granting the appeal bond. The Order set forth his finding that there was sufficient evidence in the record to support a stay of the ejectment of the Appellants until the matter has been heard. The Court Ordered that "the Summary Court Order for Eviction is stayed, and no further actions may be taken pending disposition of this matter by jury trial or otherwise according to South Carolina Statutory Law and South Carolina Rules of Court."

On November 20, 2025, Magistrate Court Judge B. Keith Griffin filed an Order Dismissing Appeal on the ground that the "cashier's check for the payment due November 5, 2025, was presented to the court either on the tenth or twelfth of this month."

On November 21, 2025, Appellants filed a Motion To Dismiss Magistrate's Order Dismissing Appeal on the grounds that the filing and acceptance of the appeal in the Circuit Court divested the Magistrate Court of jurisdiction. The prayer in the Appellants' Motion is that the Circuit Court dismiss the Magistrate Court Order Dismissing the Appeal and order a complete and immediate retraction of all actions by any and all parties arising from the issuance of the Magistrate Court's Order Dismissing Appeal.

On November 21, 2025, the Appellants also filed a Motion For Order Disqualifying Magistrate Court Judge B. Keith Griffin on the ground that Judge Griffin has exemplified a

personal bias and prejudice against the Appellants and/or their attorney and in favor of the Respondent and/or its attorney such that his impartiality in adjudicating the case is at issue.

On September 8, 2025, Appellants filed Notice of Appeal to the Third Circuit Court of Common Pleas from the following Orders of Judge B. Keith Griffin of the Magistrate Court for Sumter County:

- Order filed August 22, 2025, and served upon Counsel for the Appellants on August 25, 2025;

- Order denying Motion for New Trial served upon Counsel for the Appellants on September 4, 2025; and

- Order served upon Appellants' Counsel on September 5, 2025, denying request to rule on Appellants' Motion to Stay Ejectment

The following issues were raised on appeal to the Circuit Court:

I. Did the Judge err in dismissing Appellants' Counterclaim that the Magistrate Court was without jurisdiction when Appellants' equity in title to the subject property was at issue?

II. Did the Judge err in refusing to rule on Appellants' Motion to Stay Ejectment?

III. Did the Judge err in summarily ejecting the Appellants without due process?

IV. Did the Judge err in denying Appellants' request for a trial by jury?

However, subsequent to the date of September 8, 2025, when the appeal was filed in the Circuit Court, several events occurred which prompted the Appellants to file Motions seeking relief. Orders were issued in response to some of the Motions, and these Orders deferred finality to a future event in the litigation process. There were some Motions still pending with no resolution at the time the case came before the Circuit Court Judge.

The matter was heard by Circuit Court Judge S. Bryan Doby on January 13, 2026. On January 20, 2026, Judge Doby filed a Form 4 Judgment in a Civil Case in which he stated the following:

On January 13, 2026, an in-person hearing was held on Plaintiff's Motion for Appeal from a magistrate court hearing and ruling. Judge Doby heard arguments from both parties and took the matter under advisement.

After careful review of the motion and arguments presented, the Plaintiff did not present to this court any exception that allows this circuit court to set aside or reverse the lower court ruling. Plaintiff offered no errors of law, and this court finds that no ground or grounds on which to reverse the factual findings or legal conclusions of the magistrate. Therefore, then Plaintiff's Motion For Appeal is DENIED and the lower court ruling is affirmed.

STANDARD OF REVIEW

"Whereas the circuit court maintains a broad scope of review in deciding an appeal of a magistrate's order, this court, when reviewing the circuit court's adjudication of an appeal of an ejectment proceeding in magistrate's court, does so under a more limited standard, under which (1) findings of fact are to be upheld if there is any supporting evidence and (2) absent an error of law, the circuit court's holding is to be affirmed. *McNair v. United Energy Distributors, 390 S.C. 44, 49, 699 S.E.2d 723, 726.(Ct. App. 2010).*

ARGUMENTS

I. Did the Circuit Court Judge err in ruling that the Appellants did not present to the Court any exception that allowed the Circuit Court to set aside or reverse the lower court's ruling?

Appellants contend that they presented to the Circuit Court ample exceptions to support setting aside or reversing the judgment of the Magistrate Court due to errors of law and fact.

The transcript of record from the proceeding on January 13, 2026, is a part of the Record. Appearing on behalf of the Appellants was Attorney Dwight C. Moore. Appearing for the Respondent was Attorney Willie Brunson. The following transpired at the beginning of the proceedings:

MR. MOORE: Your Honor, we're before you for the matter, one is a Motion for Emergency Relief and Injunction and Notice of Appeal to your Court from the Magistrate Court.

THE COURT: Just procedurally, Mr. Moore, from what I can tell, and tell me if I'm right or wrong, there was an initial appeal that was done and that appeal was dismissed for lack of payment of the bond and then you filed some subsequent motions for some emergency relief and indicated that the order of the magistrate dismissing the appeal should be set aside, is that correct?

MR. MOORE: That's correct Your Honor.

. . ..

THE COURT: I want to make sure I've got procedurally what – where we are now.

MR. MOORE: Yes sir. The issues on appeal and issues that we put before the court by way of the injunction were the following: Did the judge err in dismissing the Appellants' Counterclaim that the Magistrate Court was without jurisdiction when the appellants' equity and title to the subject property was at issue?

The second was: Did the Court error in refusing to rule on Appellants' motion to stay ejectment?

The third: Did the Court error in summarily ejecting the Appellants without due process?

Lastly: Did the Court or did the judge error in denying Appellants' request for a jury trial?

Your Honor, we should have before you also a return from the Magistrate Court, and I would --

THE COURT: Is that the one that was filed January the 6th, Mr. Moore? I think that's the one that I've actually got.

MR. MOORE: That's correct.

THE COURT: Yes, sir.

MR. MOORE: If you will look at the very last paragraph of that Return. My concern is whether or not the Court, or the lower court in this case, the Magistrate's Court, provided to the Court its record or its file. The reason I'm concerned about that is most of the legal activity occurred on that – on that – on that level, the Magistrate's Court level. There were two major proceedings, one in 2023. The second, the latter part of 2025, and now in 2026, in order for the record to be complete before this Court for consideration as to the basis for the appeal and basis for the injunction, I think that record is necessary. I think the return without those documents will make argument here incomplete as far as the record is concerned and before I start argument, I would like the Court to request or require the Court, the lower court, the Magistrate's Court, to provide its file for both proceedings over the complete file, but certainly those two proceedings in which the Court made decisions that impact what we'll be doing here today.

THE COURT: How is the 2023 case relevant to this action, Mr. Moore?

MR. MOORE: That's the Motion to Question regarding the actual bond. If the Court was referred to as my memorandum, there was a bond set initially that was for the amount of $9,800, approximately.

THE COURT: Yes, sir.

MR. MOORE: My client paid that, but continued to pay that for another year and a half. So that portion of this matter which emanated from 2023.

THE COURT: How did – what happened to that case, procedurally?

MR. MOORE: Procedurally it was – we asked for a jury trial to dispose of the issue of equitable interest. We were never before a jury trial. We had a motion hearing that was had and

an order given from that hearing, dismissing everything, basically. So there was nothing ever done on our issue of request for a jury trial and any counterclaims that we had filed pursuant to that action.

THE COURT: Okay.

MR. BRUNSON: (sic) And then we moved forward to a second ejectment and by this time, from 2023 up until 2025, my client had paid duplicious (sic) payments $4,800 approximately to 96, $9,800 for a year and a half.

THE COURT: The agreed upon rent would have been the $4,800, and the bond was set at some $9,000?

MR. MOORE: $9,800 approximately.

THE COURT: Okay.

MR. MOORE: And so he paid that for a year and a half and so that impacts, I believe, our argument, relative to a further equal interest, because he paid two times the amount of rent for a year and a half, and so that file. That record, that Court's file and the Court's file for this proceeding that we had most recently, I think, I sent you for the record.

THE COURT: All right. So you are saying that the Court does not have all the records you believe necessary to consider this appeal?

MR. MOORE: That's correct.

THE COURT: All right. Let me do this: Mr. Brunson.

MR. BRUNSON: Yes, sir, Your Honor.

THE COURT: What's your position in regards to Mr. Moore's request of this Court to have additional records produced from the Summary Court in regards to this matter?

MR. BRUNSON: Well, Your Honor, not being privy as to what the Summary Court provided Your Honor. I can say this, that the matters before appeal that are presented today, the Court does, in fact, have sufficient records and the reason I say that is because Mr. Moore's argument is that he requested a jury trial together with an answer and counterclaim and this was responsive to a writ of ejectment and so if it pleases the Court, I'd like to give the Court just a little background. *(R. p.* 125, line *1 - p. 129, ln. 13)*

(At this point, Mr. Brunson presents background of the case and argument that this appeal is without merit.) *(R. p. 129, ln. 14 - p. 131, ln. 7)*

THE COURT: All right. Thank you. Mr. Moore, I'm looking at the return of the Magistrate, let me do this: I'm going to go ahead and listen to your arguments in regards to this case. If, after I've listened to the arguments of both you and Mr. Brunson, if I believe that I need some additional information, I can certainly ask for that from the Magistrate's Court. But I'm ready to hear arguments in regards to the issues that are before us today.

MR. MOORE: Your Honor, certainly, and I will be obedient to the Court order, I will say only that you heard mention of a lease agreement and another option to buy agreement, those documents are not in the record and that's exactly why I say to the Court that those documents would be necessary for arguing and for the Court's consideration going forward, and so I make the argument in obedience to your order under the objection that these documents will need as a basis for their reasoning and their return.

THE COURT: Do you have the lease agreement and the option to purchase?

MR. MOORE: I do not have that with me, but I think it's necessary to know what the Court has in its file, that is the Magistrate Court. Again, before we move forward, I'll be glad to make argument based upon your direction. That's my concern.

THE COURT: Yes, sir, and I'm not saying I'm not going to ask for that. I'm just saying that I'm ready to hear arguments and then I'll make a decision as to what I need based on those arguments. *(R. p.131, ln. 9 - p. 132, ln. 12)*

According to the South Carolina Rules of Court, the Circuit Court Judge was required to have the Magistrate's return, the record and a statement of all proceedings in the case and, if necessary, the testimony taken at trial from the Magistrate within thirty days of the date of filing of the notice of appeal. *SCRMC, Rule 18(b).* Despite persistent urging to obtain the Magistrate Court's record of the case before proceeding with arguments, the Circuit Court Judge decided to consider the contents of the Notice of Appeal and hear arguments from counsel without the record. This error of law supports the conclusion that errors of law and grounds for reversal exist in the record.

Arguments in the case proceeded in the following manner:

MR. MOORE: Your Honor, would you prefer me to do the injunctive – the request for injunction relief first or the appeal?

THE COURT: Let's do the appeal first.

MR. MOORE: Your Honor, I gave the issues when I first got it. I want to be redundant in that regard (sic).

We are appealing from an order filed on August 22, 2025 and an order for – denying motion for a new trial and an order served on Appellants' counsel on September 5, 2025, denied request on the rule for Appellant's Motion to Stay objective (sic). (At this point Appellants' counsel continued with arguments before the Court concerning letters from June 2020, June 2023, dated June 29, from Respondent's attorney, the lease agreement and payments made by the Appellants, equitable interest in the property, the bond and rent payments, a bench trial/motion

hearing, the damage suffered by the Appellants as a result of the hasty eviction, and that controversy is basically due to the dispute over lease payments. *(R. p. 132, ln. 13 – p. 147, ln. 7)*

(After Mr. Brunson made his argument, the following is a portion of the exchange that took place between the Court and Mr. Moore concerning the lease agreement and the request to have the Court get the record from the Magistrate Court. The last paragraph of the Return stated that the Magistrate would send the record to the Circuit Court Judge if he needed it.)

THE COURT: I understand. How about specifically as to the lease agreement though. I understand you want me to get the complete file, but as to the lease agreement that Mr. Brunson is presenting to the Court, your objection to that is what?

MR. MOORE: Is that, again, in order to have there's an option to buy a portion of this file, not just a lease agreement. I'd ask the Court to have it all at one time, so you can view it completely.

THE COURT: All right. Overruled, Mr. Moore.

Mr. Brunson, if we can get a copy of that to submit, we'll make that as Respondent's Number 1.

(WHEREUPON Respondent's No. 1 was admitted into evidence.) *(R. p. 151, ln. 1 – 14)*

Appellants contend that the Rule 18, SCRMC was violated by the Magistrate when he submitted a Return outside the required time period and stated in his Return that he would provide the record to the Circuit Court if he requested. The Circuit Court Judge violated said Rule when he overruled Appellants counsel's request for the entire record instead of admitting only the lease agreement into evidence submitted by Respondent's counsel.

These errors of law committed by the Magistrate and the Circuit Court Judge, in flagrant disregard of Rule 18, SCRMC, promulgated by the Supreme Court of South Carolina require the judgments of both Courts to be set aside.

II. Did the Circuit Court Judge err in construing Appellants' appeal to the Circuit Court as a Motion for Appeal and, as a result, considered and denied the appellate pleadings as a Motion instead of addressing the grounds set forth in the appeal and the controversies which arose after the appeal was filed?

The Notice of Appeal to the Circuit Court set forth the following issues on appeal and the argument for each:

I. Did the Judge err in dismissing Appellants' Counterclaim that the Magistrate Court was without jurisdiction when Appellants' equity in title to the subject property was at issue?

Appellants filed Returns to both the 2023 and 2025 Rules to Vacate filed by the Respondents. Each Return contained a request for a jury trial and a Counterclaim contending that the Magistrate Court is without jurisdiction to entertain this case because "no magistrate shall have cognizance of a civil action when the title to real property shall come into question." *S. C. Code Ann. §22-3-20 (1976).*

The Appellants cited the Lease Agreement dated May 24, 2022 between the Respondent, Grand Bay LLC "on behalf of Bruno Raschio," the "Landlord" of the First Part, and the Appellants, Burgess Brogdon Building Supply & Subsidiary Burgess-Brogdon, LLC, the "Tenant", of the Second Part. The subject of the Lease Agreement is property described as industrial premises located at 220 Dingle Street, Sumter, SC 29150, Map Number 227-04, Block 3.

Not included in or referred to by the documents served upon the Appellants is that certain Real Estate Purchase Option Agreement made and entered into on May 24, 2022, between Bruno

Raschio, the "Seller/Landlord", of the First Part, and Burgess Brogdon Building Supply & Subsidiary Burgess-Brogdon, LLC, Collectively and individually, the "Buyer/Tenant", of the Second Part (hereinafter referred to as the "Option Agreement"). The Option Agreement was executed by the parties at the same time as the Lease Agreement, which was incorporated in the Option Agreement by reference, and the Option Agreement was appended to the Lease Agreement.

The introductory paragraph of the Option Agreement established the subject of the Option Agreement as the same property in the Lease Agreement, described in Item 1 above, and goes on to recite, in pertinent part, as follows:

> NOW, THEREFORE, for and in consideration of the covenants and obligations contained on the LEASE AGREEMENT ("the Lease Agreement" signed between the parties and dated this same date of 05/24/2022, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Seller/Landlord hereby grants to Buyer/Tenant an exclusive option and the privilege of purchasing property at any time during the term of the Lease Agreement or any extension thereof. …
> *(R. p. 17, Option Agreement,p. 1)*

The Lease Agreement provides that the Tenant will pay a base rent of $4,933.48 plus the prorated portion of the property taxes, payable per month. *(R. p. 5, Lease Agreement, Rent p. 7)*

(Real Estate Purchase Option Agreement dated 05/24/2022, Appellants' Exhibit #2) (R. p. 17)

By virtue of the Lease Agreement dated May 24, 2022, under which the agreed-upon payments were made and the Option Agreement dated May 24, 2022, made part and parcel of the Lease Agreement, the Appellants have acquired equity in the subject property and hereby assert their claim to their interest in title to the real property at issue, Counterclaim for damages on account of this litigation, and demand a jury trial.

No Magistrate shall have cognizance of a civil action: …

(2) When the title to real property shall come in question, except as provided in Article 11 of this Chapter. *S.C. Code Ann. § 22-3-20 (2005)*

Appellants argue that the evidence in the record consists of a Lease Agreement, an Option Agreement, Contract to Buy and Sell Real Estate, and Title to Real Estate, all for the same property, all for the same consideration and all involving some or all of the same parties. *(R. pp. 5, 17, 158)* Furthermore, the payment of the base rent plus an equal amount each month from 2023 to 2025 compels the Court to at least inquire into the matter of equitable interest and the claim to title by the Appellants.

When the title to real property shall come in question in an action brought in a court of a magistrate the defendant may, either with or without other matter of defense, set forth in his answer any matter showing that such title will come in question. … *S.C. Code Ann. § 22-3-1110 (2005)*

The Court took into account that the Appellants had not exercised the option to purchase and that by defaulting on the rent payment, the Appellants had forfeited any rights to purchase the property under the Option Agreement. The Court referred to Page 2, paragraph 2, Subsection iii in Respondent's Exhibit 1, which states in bold type: **"The Buyer/Tenant may exercise the purchase option after 2 years of payments."** *Order, 08/22/2025 (R. p. 30).* Appellants respectfully direct the attention of this Court to the same Option Agreement which states on Page 1 that "Seller/Landlord hereby grants to Buyer/Tenant an exclusive option and the privilege of purchasing property at any time during the term of the Lease Agreement or any extension thereof." *Option Agreement, Page 1, Appellants' Exhibit #2 (R. p. 17)* If for no other reasons, further inquiry is required concerning these two statements to determine the issue of jurisdiction.

II. *Did the Judge err in refusing to rule on Appellants' Motion to Stay Ejectment?*

The Court's failure to rule on Appellants' Motion to Stay Ejectment was an error which precipitated the wanton and reckless ejectment of the Appellants causing property damage and

business losses by depriving Appellants of their ability to conduct business. Consequently, a determination must be made as to the party liable for such damages, and the party to respond in damages.

III. *Did the Judge err in summarily ejecting the Appellants without due process?*

The record reflects that the Appellants timely filed a Return to the Rule to Vacate or Show Cause (Eviction), Counterclaimed that the Magistrate Court was without jurisdiction because title to real estate will come into issue, and requested a jury trial. Bond was set and paid into the Court pending a jury trial. The Appellants paid the base rent monthly plus an equal amount which would have covered any additional rent and taxes, which payments were made over a period of approximately two years. There were no exigent circumstances to move with such reckless haste to the point of trampling upon the rights of the Appellants.

IV. *Did the Judge err in denying Appellants' request for a trial by jury?*

"If the tenant appear and contest ejectment the magistrate shall forthwith hear and determine the case as any other civil case, allowing trial by jury if demanded by either party." *S.C. Code Ann. § 27-37-60 (2005)* Either landlord or tenant may demand trial by jury. In such case a jury shall be summoned and a jury trial had as in any other civil case. Upon the testimony offered, under instructions by the magistrate as to the law, the jury shall find for either the landlord or tenant as in any other case." *S.C. Code Ann. § 27-37-80 (2005)*

South Carolina statute gives guidance concerning the disposition to be made of cases in this category. "In the event a jury trial is requested and upon motion of either party or upon his own motion, the magistrate may order that the commercial lease ejectment case be heard at the next term of court following the tenant's appearance." S.C. Code Ann. § 27-37-155(B)(1) (1976 as amended)

III. Did the Circuit Court Judge err in denying Appellants' right to appeal the controversy from the Magistrate Court to the Circuit Court?

Appellants assert that the Circuit Court Judge denied the Appellants the right to appeal their case to the Circuit Court by construing their appellate pleadings as a Motion for Appeal. Hence, the Judge conducted a motion hearing on January 13, 2026, denied what the Court considered a Motion for Appeal, and ended the case by checking the Order Information block on the Form 4 Order.

"Appeal may be taken, as provided by law, from any final judgment, appealable order or decision." *SCACR, Rule 201(a).*

"All appeals of judgments rendered by the magistrates court shall be to the circuit court of the county where the judgment was rendered. Within thirty (30) days after delivery of written notice of judgment to the parties or their attorneys, a party wishing to appeal shall serve on the respondent and file a notice of appeal containing a statement of the grounds for appeal with the magistrate rendering the judgment and with the Circuit Court of the County where the judgment was rendered." *SCRMC, Rule 18(a).*

(At the conclusion of Mr. Brunson's argument, the Court allowed a rebuttal from Mr. Moore.)

THE COURT: Thank you, Mr. Brunson.

Mr. Moore, give me the last word.

MR. MOORE: Thank you. Just briefly. Mr. Brunson is a smart guy, except we come out here—we come here today, Your Honor, about this one thing, a order from a hearing in the Magistrate's Court from a trial that we did not hear with argument on, because there was never a trial that was requested. The order that came from the first Magistrate does not say in the

language that this is pursuant to any lease agreement or option to buy, she just said bond. It doesn't say –

THE COURT: Well, it just says bond.

MR. MOORE: That's correct.

THE COURT: I mean, he's saying that the rent should have been twice what the initial amount was according to the lease and he's saying that it's rent. You're telling me that it really should be credited towards future rent or towards the purchase price under the option to purchase, aren't you?

MR. MOORE: No, sir, I'm just – I'm just telling you – kind of sort of, I guess, but we are basing our position on what was written or not written in the bond -- bond order. The order said bond. It didn't tie it to a lease agreement, it didn't tie it to an option to buy, it simply said bond payment.

Now, they wanted to be a duplicious (sic) payment, that's to their advantage, they make two times the rent on the issue. But that's not what the Court's order said and so I hope that we won't deductively decide or add language to that order that the order does not give a basis for doing, because that's not what order said and what we don't have here, we're just appealing from a motion in both the return on the denial of motion.

I remind the Court that if Mr. Brunson says that Court had jurisdiction, we never had a trial which we asked for, never happened, and three years later, it's yet to happen and so that's my position and I believe that you should be further adjourned until we get our hearing on the merits so that the Court can rule on facts instead of argument and so we have everything in front of the Court so the Court can make a proper judgment. *(R p 153, ln. 23 – p. 155, ln. 19)*

By failing to accept Appellants' Notice of Appeal for its intended purpose, conduct a hearing on the grounds set forth therein, give due consideration to the issues raised as related to the facts and pertinent law, and rule accordingly, the Circuit Court Judge denied the Appellants their lawful right to appeal their grievances.

CONCLUSION

For the foregoing reasons, the Appellants ask this Court to inquire into the matter and render relief as follows:

1. Decree that the Magistrate Court lacks jurisdiction to adjudicate this case and Order that the case be dismissed; or in the alternative

2. Order a trial by jury on the issues raised in the Appellant's Return to Rule to Vacate or Show Cause, Answer and Counterclaim;

3. Set aside the Order of Ejectment;

4. Order a final disposition of all pending Motions filed by the Appellants;

5. Order a full and complete accounting of all funds paid by the Appellants and the disbursement of such payments;

6. Order the full and fair payment of damages incurred by the Appellants arising from the impulsive, wrongful, wanton and reckless ejection from the commercial property

7. Order the bond paid into Magistrate Court be converted to the appeal and transferred to the appropriate Court pending a disposition of this matter on appeal; and

8. For such other and further relief as deemed appropriate by this Court.

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October 7, 2026