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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas
The Honorable Dale Van Slambrook, Circuit Court Judge

Appellate Case No. 2024-001734

Olga Teslenko, Appellant,

v.

Joe Kocsis and Carpet King & Flooring, Respondents.

FINAL BRIEF OF APPELLANT

Olga Teslenko (Appellant, Pro Se)
100 Fountain Pointe Ln Unit 103
Myrtle Beach, SC 29579
Email: osenochen@gmail.com
Tel: (510) 388-2780

APPELLANT PRO SE

October 12, 2026

**PRELIMINARY NOTICE OF FILING SUBJECT TO PENDING MOTIONS AND UNDER
PROTEST**

- I. This brief is filed in express reliance on Appellant's Emergency Motion for Leave to File Amended Initial Brief to Correct Erroneous Foundational Terminology and Adjust Briefing Schedule (filed Oct. 5, 2026) and the Supplement thereto (filed Oct. 12, 2026), which remain pending. Portions of this brief reflect the corrections sought in that motion. This filing is made without waiver of Appellant's right to conform this brief fully to any order granting that motion.
- II. Appellant additionally submits this brief under procedural compulsion in reliance on the following pending motions:
 - Motion for Reasonable Disability Accommodation (filed Sept. 28, 2026). Portions of this brief are incomplete because the briefing schedule and accommodation relief sought in that motion remain pending and undecided. This filing is made without waiver of Appellant's right to complete, supplement, and conform this brief pursuant to any order granting that motion.
 - Fourth Motion to Compel Transmission (filed Sept. 4, 2025). Appellant respectfully requests that this Motion be adjudicated by written order.
- III. Appellant submits this brief under procedural compulsion, under protest, preserving all objections to, and all rights of appellate and collateral review of, the following Court Orders and Letters:
 - Court Letter dated Sept. 21, 2026, denying the Sept. 11, 2026 Emergency Motion for Clarification of November 26, 2025 Order and ADA Accommodation (Docketed as Correspondence);
 - Court Order dated Sept. 2, 2026, denying the Aug. 10, 2026 Motion for Clarification of

November 26, 2025 Order and Reasonable ADA Accommodation;

- Court Letter dated June 24, 2026, denying the May 5, 2026 Petition and May 21, 2026 Amended Petition for Rehearing of the April 21, 2026 Order with Suggestion for Rehearing En Banc (Docketed as Correspondence);
- Court Order dated Apr. 21, 2026, denying the unopposed Feb. 3, 2026 Emergency Motion to Supplement using ambiguous phraseology; granting the Apr. 8, 2026 Motion for Reasonable Accommodation but failing to provide the requested accommodation; denying the unopposed Apr. 6, 2026 Emergency Motion for Leave to Exceed Page Limit; and threatening sanctions;
- Court Order dated Nov. 26, 2025, granting the Aug. 28, 2025 Motion to Compel Transmission of original Exhibits (Third Motion to Compel) but omitting a critical part of the requested relief which requested that the transmitted exhibits be received into the Record as of the date of their filing below, nunc pro tunc;
- Court Letter dated Aug. 28, 2025, denying the unopposed Aug. 25, 2025 Renewed Motion to Compel Transmission of Original Exhibits (Second Motion to Compel) and unopposed Aug. 20, 2025 Motion for Reconsideration Of [the Aug. 18, 2025] Order Denying Leave to Exceed Page Limit;
- Court Order dated Aug. 18, 2025, denying the unopposed July 28, 2025 Motion for Leave to Exceed Page Limit and unopposed Aug. 13, 2025 Supplement to Motion for Leave to Exceed Page Limit; and
- Court Order dated Jan. 14, 2025, denying the unopposed Nov. 12, 2024 Motion for Release and Transfer of Original Exhibits Filed with the Trial Court on July 22, 2024 in Appellant's Letter Submitting Exhibits Omitted in Lower Court's Return (First Motion to Compel).

IV. Due to her disability, Appellant was unable to complete all components of this brief within the

time allotted. Appellant's requests for reasonable accommodation and for an extension of the briefing schedule remain pending and unresolved (see Emergency Motion for Reasonable Disability Accommodation, filed Sept. 28, 2026; Emergency Motion for Leave to File Amended Initial Brief and Adjust Briefing Schedule, filed Oct. 5, 2026). Without the requested extension of the briefing schedule, Appellant's disability did not permit the completion of this brief, and Appellant is compelled to file an incomplete brief. Appellant reserves the right to file a substituted, complete final brief once the Court rules on the pending motions.

See Notice of Reliance on Pending Motions and Filing Under Protest at the conclusion of this brief.

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Constitution

S.C. Const., art. I, § 3

S.C. Const., art. 5, § 5

S.C. Const., art. I, § 9

Statutes and Rules

SCACR 210. 208, 209

S.C. Code § 18–7–130

S.C. Code § 18–7–170

S.C. Code § 18–7–80

S.C. Code § 18–1–140

CJC, Preamble, Rule 501, SCACR

CJC, Canon 3, Rule 501, SCACR

Case Law

[The remainder of this subsection is not included in this filing due to the deficiencies disclosed in the Certificate of Non-Compliance. Appellant reserves the right to complete this section and other unfinished sections pursuant to the pending motions identified in the Preliminary Notice.]

CONSTITUTIONAL PROVISIONS INVOLVED

This appeal involves the following constitutional guarantees:

- **U.S. Const. amend. XIV, § 1:** ". . . nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."
- **S.C. Const. art. I, § 3:** ". . . nor shall any person be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws."
- **S.C. Const. art. I, § 9:** "All courts shall be public, and every person shall have speedy remedy therein for wrongs sustained."
- **S.C. Const., art. 5, § 5:** "In appeals from courts of equity, the appellate court shall review the findings of fact as well as the law."

STATEMENT OF ISSUES ON APPEAL

All references herein to corrective exhibits are subject to Appellant's Emergency Motion for Leave to File Amended Initial Brief (filed Oct. 5, 2026), which remains pending.

- I. Whether the magistrate's judgment was procured by fraud on the court, where the magistrate misrepresented admission of Appellant's trial exhibits; the summary of findings appeared on the circuit court docket only after the hearing; and the judgment rested on a structurally altered return and findings unsupported by the exhibits presented at trial?
- II. Whether the circuit court's affirmance was procured by fraud on the court, where the return before the circuit court omitted the magistrate's summary of findings, which appeared on the docket only after the hearing; the uncontested corrective exhibits, filed with the circuit court on July 22, 2024, were excluded from the record under review; and the affirmance rested on the backfiled summary

and a structurally incomplete record?

III. Whether Appellant was denied access to the public courts and speedy remedy guaranteed by Article I, § 9 of the South Carolina Constitution, and due process guaranteed by Article I, § 3 and the Fourteenth Amendment, where Appellant's exhibits were returned in altered form and dismissed in the summary that appeared on the docket only after the hearing and contradicted the original trial exhibits; Appellant's uncontested corrective exhibits were excluded from the record under review by the circuit court; and Appellant's substantive motions miscaptioned or misconstrued and administratively denied without review?

STANDARD OF REVIEW

This appeal is a suit in equity to set aside the magistrate's judgment and circuit court orders allegedly procured by fraud on the court, raising due process violations and systematic denial of access to courts. It presents substantive constitutional questions, including denial of due process, denial of access to courts, and affirmance of a judgment grounded in an altered record and findings contradicted by the trial exhibits, which subverted the judicial process and affected proceedings across multiple courts.

This Court reviews all questions of law *de novo*. In cases of equity, this Court reviews the findings of fact as well as the law. See S.C. Const. art. V, § 5 ("[t]he Court shall have appellate jurisdiction only in cases of equity, and in such appeals, they shall review the findings of fact as well as the law, except in cases where the facts are settled by a jury."). Where the judgment and affirmance orders under review were procured through the structural alteration of the return, findings contradicted by the trial exhibits, and obstruction of the judicial process, the equitable claim is evaluated against the full Record, and the findings underlying the claim of fraud are reviewed *de novo*.

INTRODUCTION

When a straightforward contract dispute resulted in a judgment materially inconsistent with trial exhibits, this appeal became necessary to address the integrity of the judicial process by which that judgment was reached and affirmed.

The process, which began with the magistrate's judgment founded on the altered return and findings withheld from the docket until after the hearing and contradicted by the trial exhibits, continued in the circuit court's exclusion of the uncontested corrective exhibits and affirmance founded solely on the backfiled findings.

The magistrate treated Appellant's trial exhibits as part of the trial record, without any objection. The magistrate's judgment was materially inconsistent with those exhibits and the magistrate's summary was not available. The return omitted or altered those exhibits and the summary appeared on the circuit court docket only after the hearing. The circuit court affirmance orders dismissed Appellant's uncontested corrective exhibits and affirmed based solely on the backfiled summary. At every stage, Appellant was denied the opportunity to be heard on the merits. (See Arguments I–III.)

This appeal presents fundamental questions of procedural and substantive fairness under the South Carolina and United States Constitutions. Because the documented pattern of conduct affected the integrity of the judicial process itself, this Court's intervention is required to ensure that a tainted judgment is not enforced and that Appellant receives the constitutionally guaranteed process.

NOTE ON RECORD CITATIONS

The Record Flashdrive is the flash drive reviewed and retained by the magistrate without any objection at trial, re–filed in the circuit court on July 22, 2024 and uncontested at the hearing,

transmitted to this Court on December 1, 2025 in compliance with this Court's November 26, 2025 Order (Rec. p. 535), designated into the Record on Appeal in compliance with this Court's January 13, 2026 Order, and accepted as filed in the Designation of Matter by this Court's April 21, 2026 Order. Citations to its contents are in the form 'Flashdrive F2,' referring to Folder 2 on the Record Flashdrive and all subfolders and files contained within it, as exemplified below:

Record Flashdrive: Folder '2. LVP, first ten days', subfolders and files – Flashdrive F2.

Record Flashdrive: Folder '4. Mr. Kocsis inspecting', files – Flashdrive F4.

The paper exhibits appear in the Record citations in three forms: [Trial] cites the trial exhibits transmitted to this Court on December 1, 2025 in compliance with this Court's November 26, 2025 Order (Rec. pp. 449–535); [Return] cites the return exhibits on the circuit court's docket (Rec. pp. 100–123, 125–179); and [Corrective] cites the circuit court's scans of the corrective exhibits Appellant filed on July 22, 2024 (Rec. pp. 181–264).

FACTUAL BACKGROUND AND STATEMENT OF THE CASE

In November 2023, Appellant contracted with Respondent to install glue-down luxury vinyl plank flooring; the contract, returned by the magistrate, explicitly specified this method of installation (Rec. pp. 100–101; 278–280). Immediately after completion, Appellant observed widespread lifting of the planks (Rec. pp. 466–510 [Trial]; 135–179 [Return]; Flashdrive F2). Within ten days, the majority of the flooring had detached from the subfloor (Rec. p. 38, lines 2–11).

Respondent inspected the failed installation in person (Rec. p. 28; Flashdrive F4) and admitted to omitting critical installation protocols (Rec. pp. 53–75). When offered an opportunity to cure, Respondent proposed only patching, which was again in violation of the required installation protocols: “all the planks that aren't adhered, you'd have to pull them up and put them back down” (Flashdrive F4, File 10; Rec. p. 70, lines 4–14). Appellant declined the proposed method, and

Respondent agreed to issue a full refund: “I’ll go get your money. I’ll return it tomorrow for you, okay?” (Flashdrive F4, File 11; Rec. p. 72, line 13–p. 75, line 15).

The following day, Respondent rescinded that agreement and referred Appellant to “speak to the owner of the company” (Rec. pp. 530–532 [Trial], 130–132 [Return]), whom Respondent identified in his answer as his father (Rec. p. 28). Appellant's trial statement, read at trial, describes the telephone call in which Respondent “changed his mind and tried to intimidate me into accepting his installation and into dealing with strange unknown people” (Rec. p. 21). Respondent’s answer stated that he had his father contact Appellant: “to schedule an appointment to inspect the installation to rectify any issues and she refused to have him go to her home and inspect the install” (Rec. pp. 28–29). No document in the Record predating Respondent's post-inspection change of mind reflects any mention of an owner other than Respondent or of Respondent's father; Respondent’s father is not a party to the contract. Appellant maintained that Respondent presented himself as the owner of Carpet King and Flooring (Rec. pp. 530–532 [Trial], 130–132 [Return]) and declined to engage with Respondent’s father.

Appellant retained an independent, industry–certified professional flooring inspector whose report concluded that Respondent’s work failed to comply with published installation protocols (Rec. pp. 24–25; 464–510 [Trial], 126–179 [Return]; p. 36, line 2–p.37, line 15¹).

1) The Magistrate Court and the Circuit Court

Unable to engage counsel, pro se Appellant filed a narrowly–tailored complaint in magistrate court, seeking recovery for material breach of contract (Rec. pp. 121–122; 345; 373–376). At the March 2024 trial, Appellant submitted paper exhibits, physical vinyl planks, and a flash

¹ The magistrate trial was not transcribed; references to trial events are drawn from Appellant's testimony at the August 21, 2024 circuit court hearing, preserved in the Record (Rec. pp. 31–43)

drive containing digital copies of the paper exhibits as well as “an immense amount of video and photo evidence that this [was] indeed a complete material breach of contract” (Rec. p. 35, line 24–p. 37, line 15). At the circuit court hearing, the Presiding Judge asked Appellant: “Were all of those documents submitted to the magistrate?” and Appellant confirmed: “Yes, not only did [I] submit the flash drive at the hearing...But I also printed out some distinct or distinctly critical documents were also printed out and submitted in a printed package” (Rec. p. 36, lines 6-14).

Included both in print and on the flash drive were Appellant's trial statement (Rec. p. 36, lines 13-14), the flooring inspection report (Rec. p. 36, lines 3–5), manufacturer's installation instructions (Rec. p. 40, lines 2–3), chapter on Resilient Flooring Standards excerpted from the South Carolina Residential Construction Standards regulatory document (Rec. p. 21), and other critical documents (Rec. p. 36, lines 11–13).

The Flashdrive.

Appellant’s flash drive contained video evidence of the widespread failure occurring within days of installation and digital copies of the paper exhibits: “[the] flash drive...contained all of the documents...as well as an immense amount of video and photo evidence” (Rec. p. 35, lines 22-25; Flashdrive F2, F3). The flash drive also contained the complete audio recording of Respondent’s inspection, his admissions of pervasive noncompliance with required protocols, and express intention to violate them again when offered to cure: “Please see Folder 4 for the audio record of Mr. Kocsis' inspection and admissions” (Rec. p. 21; Rec. pp. 53-76; Flashdrive F4). Appellant proffered the flash drive with specificity at trial: “Nearly all of the planks [Respondent] laid on the concrete slab in my condo have lifted off within ten days after the installation (please see Folder 2 for my date-stamped pictures and videos, as well as the two videos from the NFCA Reference Manual showing a failed bond test and a passed bond test, for comparison)” (Rec. pp. 21; 21-25;

Flashdrive F2). At the circuit court hearing, Appellant objected to the absence of the flash drive from the magistrate's return: "It was after I reviewed the return -- returned by the magistrate court that I discovered that the magistrate's court omitted my flash drive and preprinted documents were also omitted from the printed documents package that [I] turned in to the magistrate's court[...]" (Rec. p. 39, line 20–22),

The Inspection Report.

Appellant's inspection report exhibit was produced by a professional inspector, certified by a manufacturer-recommended training organization, FCITS (Floor Coverings Inspection and Training Services) (Rec. p. 128-129 [Return]). It detailed pervasive noncompliance with manufacturer requirements (Rec. pp. 24-25; 464–510 [Trial]). Pro se Appellant proffered the report with specificity at trial: "I hired an independent flooring inspector, recommended by the manufacturer and certified by FCITS...The complete inspection report is included in Folder 9 on your flash drive as well as printed in full and included in your printed package" (Rec. p. 22). She confirmed the same at the circuit court hearing: "The flash drive also contained the independent inspection report by [a] National Foundation certified inspector, independent inspector recommended by the manufacturer" (Rec. p. 36, line 2–5). Because the inspection report was returned, Appellant objected only to the omission of her inspection fee payment from the return (Rec. p. 40, line 3-5).

The Installation Instructions.

The installation instructions exhibit was a nineteen-page collation of three official manufacturer documents with installation instructions, a self-made summary created for convenience of reference, and photographs of the manufacturer labels on the glue bucket (Rec. p. 511–529 [Trial]).

The manufacturer instructions (Rec. pp. 511, 515-521, 522-526) specified the required installation protocols and requirements for glue-down flooring installations: “Substrates shall be smooth, structurally sound...clean and free of all foreign material....If any type of old adhesive is present, it must be removed...Concrete floors shall be flat and smooth...Flooring material and adhesive must be acclimated to the installation area for a minimum of 48 hours...Prior to application of adhesive, determine if the substrate is a porous or a non-porous substrate...Use appropriate trowel size” (Rec. pp. 464–510). The requirement that “all flooring must be rolled...immediately after installation with 100-lbs roller” is listed in bold lettering in every manufacturer’s document and label (Rec. pp. 521, 524, 529). The manufacturer instructions corroborated Appellant’s video evidence and the findings of the inspection report (Flashdrive F2, F3; 464–510 [Trial]). The photographs of the manufacturer labels on the glue bucket (Rec. pp. 527-529) showed the same requirements as in the manufacturer’s instructions. Appellant’s self-made summary (Rec. pp. 512-514) combined the protocols and requirements with the manufacturer’s customer support responses, including where the customer support recommended the training organization which certified the flooring inspector (Rec. p. 514).

At trial, Appellant proffered the instructions with specificity on the flash drive and in paper form, noting that the document All Instructions.PDF is a self-made reference: “I also downloaded Shaw installation instructions, please see Folder 6 for Shaw installation instructions, adhesive specifications, and material specifications, which are combined in a single document All Instructions and included in your printed package” (Rec. pp. 21; Flashdrive F6). Appellant’s statement also cited one of the submitted manufacturer documents as the source for the definition of luxury vinyl plank glue-down installation: “I enclose here the Shaw Floors "Installation Guidelines for Residential Resilient Direct Glue" installation method to show what is defined as LVP glue-down installation” (Rec. p. 23). At the circuit court hearing, Appellant objected to the absence of

the exhibit from the magistrate's return: "...after I reviewed the return...I discovered that the magistrate's court omitted...all the manufacturer's instructions" (Rec. p. 39, line 20–p. 40, line 3).

The Resilient Flooring Standards.

The Resilient Flooring Standards exhibit was a seven–page excerpt from the regulatory South Carolina Residential Construction Standards document (Rec. pp. 457–463 [Trial]). The first two pages of the exhibit consisted of the regulatory document's seal, title and table of contents, followed by the five pages with the complete chapter on Resilient Flooring Standards (Rec. pp. 457–463). Appellant proffered the exhibit with specificity on the flash drive and in paper form: "I consulted the South Carolina Residential Construction Standards for Resilient Flooring, please see Folder 5 for SC Residential Construction Standards, which are also included in your printed package" (Rec. pp. 21, 22; Flashdrive F5). It confirmed that the state builders board defines loosening of resilient flooring to be a defect only if it occurs after the warranty period: "Resilient flooring² should not loosen during the normal warranty period" (Rec. p. 460).

The Trial Statement.

At the time of the circuit court hearing, Appellant's trial statement was absent from the return: "The printed package also contained my Plaintiff's statement" (Rec. p. 36, lines 13-14). Appellant confirmed that she read the statement at trial: "And at the [magistrate] court hearing, I was able to read through my statement entirely" (Rec. p. 37, lines 14-15) and objected to its absence from the magistrate's return: "...after I reviewed the return...I discovered that the magistrate's court omitted...my statement" (Rec. p. 39, line 20–p. 40, line 3)

² "Resilient flooring" and "direct glue" are standard industry terms for glue–down vinyl installations (Rec. pp. 515, 522).

The Physical Planks.

The physical vinyl planks bore “the [trowel] marks and other evidence which [was] physical proof of what the inspector has found and put in his inspection report” (Rec. p. 37, lines 8-10).

Trial Exhibits Before the Magistrate.

At trial in magistrate court, Appellant proffered each exhibit with specificity and “was able to read through [her] statement entirely” (Rec. p. 37, lines 14-15; pp. 21—25). Appellant believed her exhibits “confirmed that this is not a defect but a complete material breach of contract” (Rec. p. 21). At the end, she “asked the court to review the evidence” (Rec. p. 37, lines 20-21). The magistrate reviewed; “the flash drive...and several videos were reviewed in the courtroom and showed explicitly that this installation was not at all actually installed. The planks were simply laid over the concrete, not rolled not pressed” (Rec. p. 38, lines 2–8).

The magistrate's summary records no objection by Respondent to any trial exhibit (Rec. pp. 270–271). Respondent entered no contradictory evidence. The only Respondent-designated documents in the return are his answer, contract and two paid invoices, a warranty page, and two pages of handwritten notations (Rec. pp. 114–116, 278–284). None contradicts Appellant's trial exhibits.

The magistrate’s judgment, while stating that it was “for the plaintiff”, partitioned liability for the failed installation without explanation (Rec. pp. 6, 121, 122). It shifted the financial burden of the botched installation onto Appellant, effectively rewarding Respondent for the damage caused to her property (Rec. p. 38, line 16–p. 39, line 8; 318–320). At the same time, Appellant believed that the magistrate recognized material breach, demonstrated in her exhibits, and expressed this belief in her notice of appeal to the circuit court: “This was a case of a complete material breach of contract, and the Magistrate Court recognized it as such” (Rec. p. 8).

Appellant didn't understand how the judgment could have been arrived at:

...the judgment...ruled in my favor [-] and I claimed a complete material breach of contract. So, the judge ruled in my favor but somehow [reduced my award] without any explanation. I actually felt unsafe when I received that judgment because at the magistrate court hearing, I...provided a flash drive...which I submitted to the Judge. I had a packet of printed documents, which I...also submitted to the Judge. And also, I had several physical...vinyl planks that contained the [trowel] marks and other evidence which [was] physical proof of what the inspector has found and put in his inspection report...And at the court hearing, I was able to read through my statement entirely...And at the end of my statement, I asked the Court to review the evidence and order that the full amount of the contract be...recovered to me as well as the inspection fee...the magistrate judge [had] actually had the flash drive reviewed and several videos were reviewed in the courtroom and showed explicitly that this installation was not at all actually installed. The planks were simply laid over the concrete not rolled, not pressed...So, the judge did have to rule in my favor, the amount of the judgment was what actually made me deadly concerned...There was no explanation provided..."

(Rec. p. 35, line 16—p. 38, line 17).

On appeal to the circuit court, the magistrate court denied the trial transcript (Rec. pp. 346–349). The filed return omitted key trial exhibits (Rec. pp. 99–123, 124–179). The magistrate's summary was notably absent from the filed return (Rec. p. 339).

On July 22, 2024, Appellant filed a corrective package, consisting of original copies of the omitted exhibits, as "evidence which I submitted to the Magistrate...and which has been omitted in the return documents...[sic]" (Rec. pp. 451–535 [Trial]). The filing was entered on the circuit court docket, date-stamped on every page but scanned into illegibility (Rec. pp. 181-264 [Corrective]; Horry County Docket Entry 7/22/2024). The docket entry was captioned “Exhibits Not Reviewed in Lower Court” (Rec. p. 266).

On August 14, 2024, Appellant requested that the caption be corrected to “Exhibits Omitted in Lower Court's Return,” stating that “...on 7/22/2024, Appellant filed evidence, which has been omitted in the return documents...but...which constitutes the original record. [At trial] this evidence was in fact reviewed in court” (Rec. p. 266). On August 15, 2024, the requested correction was made (Rec. p. 268).

At the August 21, 2024, circuit court hearing, Appellant objected to the missing summary and defective return (Rec. p. 38, line 16–17; p. 39, line 20–p. 40, line 6; p. 41, line 3–11).

The Presiding Judge acknowledged Appellant’s corrective filing and heard her sworn testimony (Rec. p. 35, line 21–p. 40, line 6). Respondent did not appear and no objections were raised (Rec. p. 34, lines 2–13; pp. 34–42).

The Presiding Judge confirmed the absence of the summary (Rec. p. 34, lines 20–23; p. 39, lines 14–16; p. 40, lines 10–13; p. 41, lines 3–11). Acting clerk Keeling stated under oath that she could see the summary and described that it was “from Judge Arrakis” and occupied the first two pages of a 30-page document (Rec. p. 34, line 13–p. 35, line 11). The Presiding Judge was unable to locate the summary after scrolling through the filed documents multiple times: "And I don't have the benefit of the order. I see the documents that were filed but I still don't see the return" (Rec. p. 39, lines 14–16); the return the judge referenced was the document containing the magistrate's summary of findings, which bears the title "MAGISTRATE'S RETURN ON APPEAL" in large bold letters on

the first page. By the end of the hearing, the judge had still not found it: "I need the opportunity to review all of those documents that are in that return and, and find the summary portion of it as well...I need to look at that document and if it's not there then I'll consider that as well" (Rec. p. 40, line 10–p. 41, line 11), and took the case under advisement (Rec. p. 42, lines 7–9).

The following day, Appellant observed that a new document appeared within the May 29, 2024 magistrate's return docket entry without notice (Rec. pp. 324–325; 340–342). The new document was 30 pages long and contained the magistrate's summary, which occupied the first two pages (Rec. pp. 270–299). The summary contained findings contradicted by the trial exhibits, including the characterization that the exhibits were "largely hearsay" (Rec. pp. 270–271).

The new document also contained the previously missing exhibits. Two exhibits—the Resilient Flooring Standards and the installation instructions — were included in altered form: select non-consecutive pages were omitted (Rec. pp. 457–463 [Trial], 297–299 [Return]; pp. 511–529 [Trial], 285–287 [Return]). The inspection report was included in full but illegible and bore an underscored letter "P" on the first page, an inscription not referenced in any contemporaneous ruling or in the summary (Rec. pp. 464–510 [Trial], 126–179 [Return]). Appellant's trial statement was included entirely (Rec. pp. 21–25). Appellant's flash drive remained entirely omitted.

On September 9, 2024, without notice, the circuit court issued orders affirming the magistrate's judgment (Rec. pp. 10–16). No order admitting Appellant's corrective filing was ever entered. The affirmance orders asserted that Respondent had appeared at the hearing, "both parties...had the opportunity to be heard", but Appellant "did not introduce any evidence that the magistrate's judgment was based on an error of law or fact" (Rec. p. 10; 12; 14).

The orders mirrored the back-filed summary nearly verbatim. Both replaced the glue down installation contract on the Record (Rec. p. 278); where the magistrate found it to be a contract to "replace the carpet with shaw prime plank" (R. p. 270), the affirmance order stated that the

“contract centered around the installation of new flooring” (Rec. p. 10). Both claimed that this installation was “performed and completed” (Rec. pp. 11, 270) but “subject to deficiencies” (Rec. p. 11) or “not installed 100% correct” (Rec. p. 271). Both found that Appellant “did not allow [Respondent] to perform or cure the issue as the contractual warranty dictates” (Rec. p. 271) or “refused to allow [Respondent] to cure the issue as required by the warranty”. Both found that “the evidence [Appellant] entered into evidence was largely hearsay, and could not be considered by the Court” (Rec. p. 271) or that Appellant “did not introduce any evidence” in support of her claim (Rec. p. 12, 14). Both shifted the matter into the magistrate’s discretionary jurisdiction; where the summary stated that “[t]he Court calculated the total cost to [Appellant]” (Rec. p. 271), the affirmance order stated that “the Magistrate estimated...the total damage to...Appellant” (Rec. p. 11).

Neither the back–filed summary nor the circuit court orders explicitly declared the inspection report “hearsay”; instead, the summary alleged a testimony that Appellant “contacted another flooring company and they stated [Respondent] installed the flooring incorrectly” (Rec. p. 270), and the orders found that “Appellant engaged another flooring company who opined that the Respondent’s work in installing the flooring did not meet industry standards” (Rec. p. 10).

On September 20, 2024, Appellant moved for a retrial, enclosing Screenprints E2 and E4 of the case docket saved before and after the hearing as newly discovered evidence of the docket back–filing and citing the denial of due process, materially incomplete record, and procedural irregularities (Rec. pp. 305–361; 324–325 [Screenprint E2]; 340–342 [Screenprint E4]).

Screenprint E2, saved before the hearing, showed that the May 29, 2024 magistrate’s return docket entry contained two documents (Rec. pp. 324–325). The rightmost document’s hyperlink returned a 24–page document that opened on the paid invoice bearing the large bold logotype “Carpet King and flooring” (Rec. pp. 82–84; 100–123). The leftmost document’s hyperlink

returned a 55–page document that opened on a full–page illegible black photograph (Rec. pp. 82–84; 125–179).

Screenprint E4, saved after the hearing, showed that the May 29, 2024 magistrate’s return docket entry reflected a new caption and contained three documents (Rec. pp. 340–342). The hyperlinks for the first two documents, right to left, were distinct from the corresponding hyperlinks in Screenprint E2, but returned the same 24–page and 55–page documents (Rec. pp. 87–91; 100–123; 125–179). The hyperlink for the new, third, document returned a 30–page document that opened on the magistrate’s summary bearing the large bold logotype “MAGISTRATE’S RETURN ON APPEAL” (Rec. pp. 87–91; 270–299).

The evidence in the screenprints was fully corroborated by the Presiding Judge at the hearing (Rec. pp. 324–325; 340–342; p. 34, line 13—p. 35, line 11; p. 39, lines 14–16; p. 40, lines 10–13; p. 41, lines 3–11; p. 42, lines 7–9).

Appellant’s motion for reconsideration, initially correctly captioned when filed, was subsequently re–captioned as “Motion/Reconsider (DV)” (Rec. p. 95). Appellant requested to correct the miscaptioning (Rec. p. 364). On the eve of the deadline to appeal, twenty days after the filing of the motion, the clerk issued an order removing the notation for Domestic Violence and stating that it was added because the “DV” stood “for the judge’s initials, Dale Van Slambrook” (Rec. p. 366). Appellant filed her Notice of Appeal to this Court of Appeals the following day, October 11, 2024 (Rec. p. 18).

2) The Court of Appeals

On November 12, 2024, because her corrective paper exhibits were scanned into illegibility on the circuit court docket and the flash drive remained a physical exhibit in the circuit court’s custody, Appellant moved to compel transmission of her original corrective exhibits filed with the

circuit court on July 22, 2024 (Rec. pp. 378–401; 451-535 [Trial], 181-264 [Corrective]). This Court construed the motion as one for “transportation” of exhibits and denied it by order dated January 14, 2025, signed by the Chief Judge: “Although Appellant provided a detailed list of the items she wishes to have transported to this court, she did not provide any specific exhibit numbers, which are required for identification by the circuit court Clerk of Court...To the extent Appellant wishes to have item 16 transported to this Court for review, she must provide the exhibit number from the circuit court. Accordingly, Appellant’s motion for transportation of exhibits from the circuit court is denied” (Rec. pp. 410–411). Appellant objected and requested clarification, demonstrating that the denial barred uncontested corrective exhibits fully presented below and was effectively dispositional (Rec. pp. 413–415). Appellant’s objections were disregarded by the Court (Rec. pp. 417–418).

Compelled to proceed on an incomplete record devoid of her trial exhibits, Appellant's initial briefing was unsupported and exceeded the standard page limit. Her motion to exceed unreviewed by the deadline, Appellant was forced to file a supplement and email it directly to the Chief Judge, explaining the procedural impossibility (Rec. pp. 425–426; 428–429). Still with no ruling, Appellant filed the oversized brief on August 15, 2025 (COA Docket entry 08/15/2025). The Court struck it and denied all motions to compel transmission and motions for leave to exceed (COA Docket Entries 7/28/2025, 8/13/2025, 8/18/2025, 8/20/2025, 8/28/2025, 11/12/2024, 1/24/2025, 8/25/2025; Rec. pp. 425–426).

Still with no access to her corrective exhibits, on September 18, 2025 Appellant was forced to file an unsupported brief reduced to the standard page limit and based on the incomplete record devoid of her trial exhibits (COA Docket entry 09/18/25).

In the course this Court’s proceedings, Appellant filed four motions to compel transmission of the corrective exhibits (COA Docket entry 11/12/2024, 8/25/2025; 8/28/2025, 9/04/2025, see also Rec. pp. 431–432; 436–445). The Court denied the first motion because the exhibits had been filed

unnumbered (Rec. pp. 410–411), construed the second and third motion as motions for reconsideration and denied them in letters (COA Docket Entries 8/28/2025, 9/03/2025, see also Rec. p. 434), then granted the third motion for the alternative relief but omitted the requested relief to receive the exhibits into the Record as of the date of their filing below (COA Docket Entry 11/26/2025). The fourth motion still remains adjudicated on the docket (Rec. pp. 436–445, see also COA Docket Entry 9/04/2025).

The Court’s November 26, 2025 Order granted Appellant’s previously denied third motion to compel transmission in the alternative relief, ordering her to transmit her own copies of the corrective exhibits filed with the circuit court on July 22, 2024 (Rec. pp. 431-432, 447). The Order omitted a critical part of the requested relief, which requested that the transmitted exhibits be received into the Record nunc pro tunc as of the date of their filing below, leading to ongoing procedural ambiguity and creating a risk of dismissal (COA Docket Entries 8/10/2026, 8/12/2026, 8/17/2026, 9/02/2026, 9/11/2026, 9/21/2026).

The corrective exhibits were transmitted on December 1, 2025 (Rec. pp. 449–535). On December 10, 2025, Appellant moved for leave to amend the designation of matter and initial brief to “conform to the newly transmitted trial evidence” (Rec. pp. 540–546). On January 13, 2026, this Court granted that motion (COA Docket Entry 1/13/2026). On February 12, 2026, Appellant filed the amended designation and initial brief designating the transmitted corrective exhibits to be included into the Record on Appeal. On April 21, 2026, this Court accepted appellant’s amended designation and initial brief as filed (COA Docket 4/21/2026).

The exhibits, transmitted in the same raw format as originally reviewed at trial, required two ministerial aids to enable their appellate review:

1. The transcript of the audio recording of Respondent’s inspection on the Record flashdrive, re-filed with the circuit court on July 22, 2024 (Rec. pp. 53–76; Flashdrive F4). The audio

recording shows that Respondent was not denied access or opportunity to cure (Rec. p. 272; p. 68, line 18—p. 75, line 19; Flashdrive F4, files 9, 10).

2. Appellant’s testimony for Screenprints E2 and E4, submitted in the September 20, 2024 motion for reconsideration as newly discovered evidence of docket back-filing (Rec. pp. 50–51; 78–93; 324–325; 340–342). The motion was delayed past the appeal window, depriving Appellant of an opportunity to provide this testimony to the Presiding Judge (Rec. p. 362, 364, 366). Screenprints E2 and E4 document the docket entry's condition before and after the hearing and demonstrate the method by which a new document appeared in the return entry after the hearing (Rec. pp. 50–51; 78–93).

On January 28, 2026, in view of the imminent briefing deadline, Appellant moved for an extension of time (Rec. pp. 548–556).

On February 3, 2026, Appellant moved for leave to supplement the Record with the transcript and testimony—as two ministerial aids to Record exhibits, and a screenprint of the circuit court docket, saved after her motion for reconsideration had been re-captioned “Motion/Reconsider (DV)” —as newly discovered evidence (Rec. pp. 45–97).

These unopposed motions pending, on February 12, 2026, Appellant filed the amended designation and initial brief under procedural duress and intent to rely on the pending motions (COA Docket Entries 2/09/2026, 2/12/2026).

On February 23, 2026, Appellant supplemented the February 3 motion with additional argumentation (COA Docket Entry 2/23/2026).

In view of the looming procedurally-based final briefing deadline, on April 6, 2026, Appellant moved for leave to exceed the standard page limit for her final brief (COA Docket entry 4/06/2026).

On April 8, 2026, Appellant moved for a reasonable disability accommodation pursuant to the Americans with Disabilities Act, citing the pending January 28, February 3, and April 6 motions

directly impacting Appellant’s ability to prepare a compliant brief: ”Because these motions remain unresolved on the eve of the April 13, 2026 deadline, and in light of Appellant’s neurological disability, strict adherence to existing briefing deadlines would prevent Appellant from preparing a compliant brief and would effectively deny meaningful access to the appellate process”. The motion requested “[a]n extension of time, commencing upon entry of orders resolving the identified pending motions and continuing for 30 days thereafter, to allow preparation of a compliant brief” (COA Docket Entry 4/08/2026).

On April 21, 2026, this Court accepted the February 12, 2026 designation and initial brief. The Order granted the April 8 accommodation motion but failed to provide the accommodation requested, stating instead: “This motion is granted, and as noted above, Appellant's amended initial brief and designation of matter filed on February 12, 2026, are accepted as filed”. Likewise, the Order granted the January 28 extension motion: “On January 28, 2026, Appellant filed a motion seeking a 30-day extension of time to file an amended initial brief and designation of matter. The motion is granted and Appellant's amended initial brief and designation of matter filed on February 12, 2026, are accepted as filed”. The Order denied the April 6 motion for leave to exceed construing it as a request to reconsider its previous denials concerning Appellant’s initial brief (COA Docket Entries 7/28/2025, 8/13/2025, 8/18/2025, 1/28/2026, 4/06/2026, 4/08/2026, 4/21/2026).

The Order denied the unopposed February 3, 2026 motion to supplement as follows: “the motion to transcribe the videos is denied. To the extent Appellant wishes to supplement the record with matters not presented below, the motion is denied” (Rec. pp. 45-97; COA Docket Entry 4/21/2026).

Corrective Exhibits and Ministerial Aids.

Appellant's corrective exhibits, filed with the circuit court on July 22, 2024—including the trial flash drive—have now been transmitted into the Record. Screenprints E2 and E4, submitted to the circuit court on September 20, 2024, are also part of the Record. By its own terms, the April 21, 2026 Order

denied supplementation only of "matters not presented below." The ministerial aids (Rec. pp. 53–76; 78–93) present no new matter: the audio recording is on the flash drive within the Record, and Screenprints E2 and E4 are within the Record; the aids enable review of what is already there. Appellant therefore preserves her position that the ministerial aids pertain to matter already within the Record and fall outside the terms of the denial.

The status of the corrective exhibits and ministerial aids within the Record on Appeal and this Court's obligation to review the complete record are preserved for review by the Supreme Court of South Carolina and by the Supreme Court of the United States. Appellant respectfully requests that this Court review the corrective exhibits as part of the Record on Appeal and decide this appeal upon the complete record.

[The remainder is not included in this filing due to the deficiencies disclosed in the Certificate of Non-Compliance. Appellant reserves the right to complete this section and other unfinished sections pursuant to the pending motions identified in the Preliminary Notice.]

ARGUMENT

Appellant has made every effort to comply with applicable citation rules to the extent practicable. Due to limited access to legal research tools, cited authorities are provided for the general legal principles they establish. Appellant will refer to these authorities by name in the argument and respectfully requests the Court's indulgence in relying on the full text of the cited decisions for their specific articulations.

I. The magistrate's judgment was procured by fraud on the court, where the magistrate misrepresented admission of Appellant's exhibits at trial; the summary of findings

appeared on the circuit court docket only after the hearing; and the judgment rested on a structurally altered return and findings unsupported by the exhibits presented at trial.

A. The magistrate's treatment of Appellant's exhibits at trial induced Appellant's reliance that they were admitted; the summary of findings that dismissed them appeared on the circuit court docket only after the hearing.

Consistent Reliance.

Appellant's opening statement, returned by the magistrate, and the magistrate's summary show that Appellant's trial exhibits were before the magistrate and no objections were raised (Rec. pp. 21–25; 270–271). Had the magistrate not retained any of the proffered exhibits, the record would have reflected a ruling to strike; Appellant would have known that the exhibit was stricken and objected or made an offer of proof and preserved the issue for review, which would also have been reflected in the record. Had the magistrate found any of the proffered exhibits defective and admitted it as proffer only, or had Respondent objected to any exhibit, the record would show that ruling or objection. Instead, the record contains no such ruling or objection (Rec. pp. 270–271).

The magistrate's treatment of Appellant's exhibits at trial induced Appellant's reasonable, good-faith reliance that the exhibits were admitted in evidence (Rec. p. 37, lines 3–23; p. 38, line 2–13).

Appellant's reliance continued after she received the judgment in the mail. In her notice of appeal to the circuit court, Appellant stated that the magistrate recognized that her exhibits proved her claim: "[t]his was a case of a complete material breach of contract, and the Magistrate Court recognized it as such" (Rec. p. 8).

Because the returned record was deficient (Rec. pp. 99–179), Appellant re-filed the omitted exhibits on July 22, 2024 as "the evidence which I submitted to the Magistrate...and which has

been omitted in the return documents...I would like to propose to include this evidence in the Record on Appeal as the evidence omitted in the Magistrate return" (Rec. p. 181).

When the filing was miscaptioned on the circuit court docket, Appellant moved to correct the miscaptioning: "on 7/22/2024, Appellant filed evidence, which has been omitted in the return documents, returned by the Magistrate, but which was originally submitted to the Magistrate court and which constitutes the original record...On [the] court day, this evidence was in fact reviewed in court"—again confirming that the exhibits had been reviewed in court (Rec. p. 266). The circuit court corrected the miscaptioning, but Appellant's legible corrective exhibits had been scanned into illegibility on the docket (Rec. pp. 268; 449–535; 181–264).

Appellant's corrective exhibits were original copies of the trial exhibits (Rec. pp. 21–25; 451–535 [Trial], 181–266 [Corrective]). At the circuit court hearing, Appellant testified under oath that the exhibits were submitted and reviewed at trial (Rec. p. 35, lines 22–25; p. 36, lines 2–14; p. 37, lines 3–23) and confirmed that the magistrate retained them without objection: "The magistrate...actually had the flash drive reviewed and several videos were reviewed in the courtroom and showed explicitly that this installation was not at all actually installed...So, the judge did have to rule in my favor; the amount of the judgment was what actually made me [very] concerned" (Rec. p. 38, lines 2–13).

Respondent did not appear at the circuit court hearing and no objection to the corrective exhibits was raised at any point (Rec. pp. 34–42).

No Summary at the Hearing.

At the circuit court hearing, the magistrate's summary was not on the docket (Rec. p. 34, lines 14–23; p. 39, line 14–16; p. 40, line 10–12; p. 41, line 3–11). Because the summary was not

available and Appellant couldn't know its content, she couldn't rebut its assertions at the hearing and objected only to the omissions in the magistrate's return (Rec. p. 39, line 20–p. 40, line 6).

The Presiding Judge acknowledged Appellant's corrective filing as a motion to admit (Rec. p. 34, line 12). Because the magistrate's summary was absent and the corrective exhibits scanned into illegibility on the docket, the Presiding Judge took the case under advisement, intending to "review all of those documents that are in that return and, and find the summary portion of it as well" (Rec. p. 40, line 10–12; p. 42, line 7–9).

Post-hearing evidence showed that a new document, containing the previously missing summary, appeared within the magistrate's return docket entry after the hearing (Rec. pp. 324–325 [Screenprint E2]; 340–342 [Screenprint E4]). The newly appeared summary dismissed Appellant's trial exhibits: "the evidence the plaintiff entered into evidence was largely hearsay, and could not be considered by the Court" (Rec. p. 271; pp. 324–325, 340–342). See Argument II.A.

Appellant moved for a retrial (Rec. pp. 305–351), submitting these violations and demonstrating that the corrective exhibits are, of necessity, identical copies of the trial exhibits in form, content and substance (Rec. pp. 451–535 [Trial], 181–264 [Corrective]). Appellant's motion was delayed past the deadline to appeal (Rec. pp. 362–366; p. 18). See Argument II.C.

Misrepresented Admission. Reasonable Reliance.

The retroactive dismissal of Appellant's exhibits in the summary that appeared on the docket only after the hearing, set against Appellant's consistent reliance that these exhibits were properly in evidence, exposes a material inconsistency not reasonably attributable to inadvertence. Where Appellant proffered each exhibit with specificity at trial, filed a corrective record as evidence omitted in the return, testified under oath that the exhibits were before the magistrate, and where her testimony stands uncontradicted in this Record; where Respondent offered no objection at any stage; and the

magistrate's summary contains no ruling to strike, no reasonable inference remains other than that the magistrate misrepresented admission of Appellant's exhibits, inducing Appellant's reasonable reliance that they were properly in evidence.

B. The magistrate's treatment of the inspection report at trial induced Appellant's reliance that it was admitted; in the return, the report was marked with an underscored "P" and dismissed in the summary.

Pro se Appellant didn't know of the requirement for the inspector's live testimony and believed the report itself was sufficient to be evidence because it was produced by a professional certified flooring inspections company recommended by the manufacturer and bore the prima facie insignia of a professional inspection report (Rec. pp. 21, 24, 25, 464–510). Had the magistrate instructed Appellant of the requirement for the inspector's appearance, Appellant would have necessarily requested permission to subpoena the inspector, made an offer of proof, or otherwise preserved the issue (Rec. p. 317). Had the magistrate not retained the report or admitted it with restriction, Appellant would have necessarily objected and the magistrate's summary would have reflected that objection, ruling to strike or ruling to admit with restriction. Appellant would have known that the report had been stricken or admitted as proffer only, and would not have consistently relied on it as her key evidence. Instead, the magistrate's summary contains no notice at trial that the report would be treated as inadmissible and no objection, ruling to strike or to admit as proffer only (Rec. pp. 270–271). The magistrate's treatment of the inspection report at trial induced Appellant's reasonable reliance that it was properly in evidence (Rec. p. 36, line 2–8).

Appellant's reliance is demonstrated in her notice of appeal to the circuit court: "The entire installation was botched, as is fully evidenced and confirmed by the independent certified inspection" (Rec. p. 8). Because the report was returned in the form of illegible scans (Rec. pp.

126–179), Appellant re-filed the original legible copy as trial evidence, further confirming her detrimental reliance (Rec. pp. 449–535 [Trial], 181, 193–229 [Corrective]; 266). At the circuit court hearing, Appellant testified under oath that the magistrate reviewed and retained the report without objection (Rec. p. 36, line 2–14; p. 37, line 7–23). No objections were raised at the hearing.

Because the magistrate's summary was not on the docket at the hearing (See Section I.A), Appellant didn't know that it dismissed the report and objected only to the omission of her inspection fee payment from the return (Rec. p. 39, line 20–p. 40, line 6). When a new document, containing the previously missing summary, appeared within the magistrate's return docket entry after the hearing (Rec. pp. 324–325; 340–342; See Section II.A), Appellant moved for a retrial confirming that she didn't know about the requirement for the inspector's live testimony: "the only mistake I made was that I didn't bring the inspector to testify in person to magistrate court; I didn't know I was supposed to" (Rec. p. 317).

Even though the inspection report was included in the magistrate's return completely, it bore an underscored letter "P" on the front page—the underscoring made without notice at trial (Rec. pp. 126–179; 270–271). Had the magistrate instructed Appellant of the requirement for the inspector's live testimony and ruled to admit the report as proffer only, that instruction and ruling would have been reflected in the record and Appellant would have necessarily moved right then to subpoena the inspector—rather than forfeiting this opportunity at trial only to engage in a devastating multi-year litigation to defend the report as her trial evidence (Rec. pp. 270–271; 312–318).

Misrepresented Admission. Reasonable Reliance.

The underscored letter "P" on the returned report, inscribed without notice at trial, and the dismissal of the report in the summary withheld from the docket until after the hearing, set against Appellant's consistent, reasonable reliance that the report was properly in evidence, expose a

material inconsistency not reasonably attributable to inadvertence. Where Appellant proffered the report with specificity at trial, re-filed it with the circuit court as evidence omitted in the return, testified under oath that the report was before the magistrate, and where her testimony stands uncontradicted in this Record; where Respondent offered no objection at any stage; and where the magistrate's summary contains no restriction, instruction or ruling to strike, no reasonable inference can be made other than that the magistrate misrepresented the report's admission at trial, inducing Appellant's reasonable reliance that it was properly in evidence.

Because no objection to the inspection report was raised at trial, because the magistrate affirmatively misrepresented its admission in evidence, and because the magistrate's summary was not available prior to and at the hearing, Appellant couldn't object to the retroactive dismissal of the report at the hearing.

C. The magistrate's return was structurally altered.

The Resilient Flooring Standards exhibit.

When a new return document appeared on the docket after the hearing (Rec. pp. 324–325; 340–342), it contained the previously missing summary and an altered Resilient Flooring Standards exhibit (Rec. pp. 270–271; 297–299 [Return]; See Section II.A). The summary asserted that: "[t]he evidence the plaintiff entered into evidence was largely hearsay, and could not be considered by the Court" (Rec. p. 272). The returned exhibit was structurally altered: the pages removed were the non-consecutive pages 3, 5, 6, and 7 of the original exhibit, containing the beginning and end of the excerpted chapter. The removed pages left the remaining pages an incomplete excerpt (Rec. pp. 457–463 [Trial], cf. pp. 186–192 [Corrective], cf. pp. 297–299 [Return]).

This alteration is not consistent with a scanning error, routine clerical mishandling, or inadvertence, which typically produce contiguous truncation or uniform defects. Instead, the alteration removed select pages from the middle and end of the original exhibit, leaving only pages 1, 2, and 4, and thereby transforming a properly excerpted chapter into three disconnected pages (Rec. pp. 457–463, cf. pp. 297–299). No mechanical process produces this pattern.

The structural alteration of the returned exhibit, which matched its retroactive dismissal in the summary, set against Appellant's consistent, reasonable reliance that the exhibit was properly in evidence, exposes a material inconsistency not reasonably attributable to inadvertence. Instead, this record strongly supports the inference that the magistrate reviewed, authenticated, and retained the Resilient Flooring Standards exhibit at trial, then structurally altered it in the return in a way that matched its dismissal in his summary.

The Installation Instructions exhibit.

When a new document appeared in the magistrate's return docket entry after the hearing (Rec. pp. 324–325; 340–342; See Section II.A), it contained the previously missing magistrate's summary and Appellant's self-made reference document (Rec. pp. 270–271; 285–287 [Return]); the three official manufacturer documents with installation instructions and photographs of the manufacturer labels were omitted (Rec. pp. 511–529 [Trial], cf. pp. 285–287 [Return]). The magistrate's summary dismissed Appellant's trial exhibits as "largely hearsay" (Rec. p. 272). The sixteen pages removed from the entered trial exhibit were the non-consecutive pages containing the manufacturer instructions and labels, leaving only Appellant's self-made reference document in the return (Rec. pp. 511–529 [Trial], cf. pp. 240–259 [Corrective], cf. pp. 285–287 [Return]).

The magistrate's return failed to include even the document explicitly referenced in Appellant's opening statement and later re-filed in the corrective record: "I enclose here the Shaw

Floors 'Installation Guidelines for Residential Resilient Direct Glue' installation method to show what is defined as LVP glue-down installation" (Rec. pp. 23, 515–521 [Trial]; 244–250 [Corrective]). No reasonable suggestion could be made that Appellant entered only her self-made reference document at trial (Rec. pp. 285–287) and then filed three official manufacturer documents and photographs within the corrective filing (Rec. pp. 511–529), when the trial opening statement explicitly references one of these documents as proffered within the trial exhibit.

This alteration is not consistent with a scanning error or inadvertence—it removed sixteen of the nineteen pages, including all of the official manufacturer documents and labels, retaining only the three pages of Appellant's self-made reference summary (Rec. pp. 511–529 [Trial], 285–287 [Return]).

Because the magistrate's summary was not available at the circuit court hearing (See Section I.A), Appellant couldn't know its content and objected only to the omission of the installation instructions from the return (Rec. p. 40, lines 2–3).

The structural alteration of the returned exhibit, which matched its retroactive dismissal in the summary, set against Appellant's consistent, reasonable reliance that the exhibit was properly in evidence, exposes a material inconsistency not reasonably attributable to inadvertence. Instead, this record strongly supports the inference that the magistrate reviewed, authenticated, and retained the nineteen-page exhibit at trial, then structurally altered it in the return in a way that matched its dismissal in his summary.

The Flashdrive.

Because the magistrate's summary was not available at the circuit court hearing (See Section I.A), Appellant couldn't know its content and objected only to the flash drive's omission from the return (Rec. p. 39, lines 20–25).

When a new document appeared in the magistrate's return docket entry without notice (Rec. pp. 324–325; 340–342), it contained the previously missing summary (Rec. pp. 270–271), which revealed that the magistrate dismissed all trial exhibits as "largely hearsay," and Appellant's opening statement, which confirmed that the flash drive had been entered (Rec. pp. 21–25).

Had Appellant not entered the flash drive at trial or had Respondent objected to, or disputed, any materials on the flash drive, the magistrate's summary would have reflected that inconsistency. Instead, the summary contained no such notice while Appellant testified consistently that the flash drive was entered as proffered and reviewed by the magistrate (Rec. pp. 35, line 22–p. 36, line 14; p. 37, lines 3–21; p. 38, lines 2–12).

The omission of the flash drive was complete: no digital media was transmitted, and no ruling excluding it appears in the magistrate's summary. When Appellant moved for a retrial, the motion demonstrated by logical necessity that the corrective flash drive cannot be distinct from the trial flash drive (Rec. pp. 312–318).

The omission of the flash drive from the return, set against Appellant's consistent, reasonable reliance that the flash drive was admitted in evidence as proffered, exposes a material inconsistency not reasonably attributable to inadvertence.

Where Appellant proffered the flash drive with specificity at trial, re-filed it with the circuit court as evidence omitted in the return, testified under oath that the flash drive was before the magistrate, and where her testimony stands uncontradicted in this Record; where Respondent offered no objection at any stage; and where the magistrate's summary contains no ruling to strike, no reasonable inference can be made other than that the magistrate reviewed and retained the flash drive at trial, and the return omits it, leaving the return devoid of materials contradictory to the assertions in his summary.

The magistrate's summary contains no notice at trial that Appellant's exhibits would be treated as

inadmissible or, as to the flash drive, as non-existent (Rec. pp. 270–271). Because no notice was given at trial, because the magistrate misrepresented admission of the exhibits, and because the magistrate's summary was not available prior to and at the hearing, Appellant could not address the dismissal of her exhibits at the hearing (See Argument I.A).

D. The magistrate's judgment rested on the altered return and findings unsupported by the exhibits presented at trial.

Appellant's exhibits demonstrated material breach (Rec. pp. 466–510; Flashdrive F2, F3). Respondent entered no contradictory evidence (Rec. pp. 114–116; 278–284). The subsequent judgment, while stating that it was "for the Plaintiff," shifted liability onto Appellant (Rec. p. 6; p. 38, lines 1–13).

Post-hearing evidence showed that a new document, containing the previously missing summary, was back-filed into the docket after the hearing (Rec. pp. 324–325; 340–342). The back-filed summary dismissed Appellant's trial exhibits as "largely hearsay" and contained additional assertions unsupported by the Record, used to justify the judgment (Rec. p. 271; See Argument I.A and II.A). Because the magistrate's summary was not available until after the hearing, Appellant could not rebut its assertions at the hearing, and the summary's assertions supplanted the actual trial record (See Argument I.A and II.A).

1) The “plank replacement” contract.

The summary asserted that Appellant and Respondent entered into a contract where Respondent would "replace the carpet with shaw prime plank"—when the contract exhibit, returned by the magistrate in five copies, specifies "LVT glue down installation" (Rec. pp. 100–101; 278–280; 270). The difference is categorical: in glue down installations, the flooring must adhere to the

subfloor permanently; detachment within the warranty period constitutes fundamental failure (Rec. p. 460). Glue down installations are held to defined industry standards (Rec. pp. 511, 515–525; Flashdrive F2, "NFCA=BOND test passed" and "NFCA=BOND test failed"). By contrast, "replacing a carpet with prime plank" is not a recognized industry term carrying any standard of performance.

The assertion is inserted twice in the magistrate's summary: as a finding and as Appellant's testimony (Rec. p. 270). Appellant never made that testimony and could not make it; she referred to the contract as "glue down" or "resilient glue" installation nineteen times in her opening statement (Rec. pp. 21–25). Respondent also cites "glue down LVP" installation in his answer (Rec. p. 27).

Because the magistrate heard and returned Appellant's statement in full (Rec. pp. 21–25; p. 37, lines 13–21) and because the magistrate's return included five copies of the contract exhibit, Appellant's statement, and Respondent's answer, the magistrate had to know that the contract in question was for glue down installation and that Appellant never testified otherwise (Rec. pp. 100–101; 278–280; 270). The substitution of the contract, inserted twice in the summary, could not have been an inadvertence.

The contract substitution voided any standard by which the installation could be judged a material breach, and obscured the significance of the widespread failure still discernable in the returned illegible photographs and clearly demonstrable in Appellant's photo and video evidence (Rec. pp. 135–179; Flashdrive F2).

2) The hearsay evidence.

The summary asserted, as fact, that Appellant's evidence was "largely hearsay" (Rec. p. 271). The record contains no objection, ruling, or restriction supporting this characterization (See

Argument I.A, I.B). To the contrary, the record demonstrates that the magistrate's return was specifically altered to match this characterization (See Argument I.C).

Because the magistrate reviewed the flash drive and videos, misrepresented admission of the exhibits at trial, and the summary records no ruling to strike, the exhibits' admissibility was never determined otherwise (Rec. pp. 35, line 22–p. 38, line 13; pp. 312–318; 449–535). The "largely hearsay" characterization could not have been an inadvertence.

Because the magistrate's return included exhibits specifically altered to match this characterization in the summary, and because the summary was withheld from the docket until after the hearing, no reasonable inference could be made that these events are unrelated or coincidental. The characterization directly supported the judgment and its implication that Appellant's complaint fell within the magistrate's discretionary domain.

3) The “completed” work.

The summary asserted, as fact, that Respondent "performed and completed the agreed upon work" (Rec. p. 270). The record contains no evidence to support that assertion. To the contrary, the record demonstrates pervasive noncompliance with required protocols and widespread failure fundamentally larger than a defect by state standards (Flashdrive F2, F3; See Argument I.C). The summary also asserted, as fact, that Appellant "pulled multiple planks up...possibly causing more damage than was necessary" (Rec. p. 271). The record contains no evidence to support that assertion. A third, similar assertion was inserted in the summary as Appellant's testimony, that she "could peel the flooring up with her bare hands" (Rec. p. 270). Appellant never made that testimony and could not make it; in her opening statement, she described the failure as the planks "lifted off", "peeled", "bubbled", "squelched" and "detached" spontaneously: "[i]n the following few days, most planks lifted off with no glue on the back" (See Argument I.C; Rec. p. 24). "During that week, all of

the planks in my family room started to peel and lift off, as well as most of the planks in my master bedroom. I tripped over them, they squelched under foot, or they gaped in sight" (Rec. p. 22).

Because the magistrate heard and returned Appellant's statement in full, he had to know that Appellant never testified to pulling the planks up. Because the magistrate retained the trial exhibits, including the complete inspection report (Rec. pp. 464–510), he had to know the glue down contract was not completed.

Had the record contained any evidence that Appellant caused the damage, the magistrate would have had no need to misrepresent admission of her exhibits at trial, dismiss them retroactively in a summary withheld from the docket, alter his return to match that dismissal, and substitute the glue down installation contract with an undefined "plank replacement." Had the record contained any evidence that Appellant caused the damage, the magistrate would have had no need to remove the flash drive—the flash drive containing videos of the widespread detachment he reviewed at trial—from the return (See Argument I.A and I.C). Had there been any such evidence, the magistrate would have preserved it in his return, not removed it.

These assertions manufactured a narrative supporting the transfer of the complaint to the magistrate's discretionary domain, necessary to justify the judgment. Inserted in three different places in the summary, they could not have been an inadvertence. The contract substitution supported the fiction that the "work" was completed but Appellant pulled some of it up.

4) "Another Flooring Company".

The summary never declared the inspection report to be hearsay. Instead, it inserted as Appellant's testimony an assertion that she "contacted another flooring company" who "stated that [Respondent] installed the flooring incorrectly" (Rec. p. 270). The record contains no evidence to support that assertion. To the contrary, the record demonstrates that Appellant retained a

professional, certified inspector recommended by the manufacturer and relied on his report as her key trial evidence (Rec. p. 36, lines 2–14; p. 37, lines 3–10). The record reflects no evidence of any other flooring company; Appellant never made that testimony and could not make it (Rec. pp. 21–25).

Because the magistrate heard and returned Appellant's statement in full, he had to know that Appellant never testified to contacting another flooring company. The substitution of a professional inspection report with an assertion attributed to testimony never made could not have been an inadvertence. It justified the dismissal of the inspection report implicitly—through the undisclosed underscored letter "P" and this assertion, purportedly Appellant's own testimony (See Argument I.B).

E. The pattern of conduct, viewed together, is not attributable to inadvertence, coincidence, or Appellant, but constitutes fraud on the court.

This record establishes not an isolated error but a sequence, common to every exhibit: Appellant proffered each exhibit with specificity at trial; Respondent raised no objection to any exhibit; the summary records no ruling to strike; the summary that dismissed the exhibits as "largely hearsay" appeared on the docket only after the circuit court hearing; and the returned exhibits were altered to match the summary's assertions — the Resilient Flooring Standards exhibit reduced by non-consecutive pages, the Installation Instructions stripped of every official manufacturer document, the inspection report inscribed with an undisclosed underscored "P," the flash drive omitted entirely (See Argument I.A–I.D). Each alteration removed evidence contradicting the judgment; no alteration removed anything else.

These alterations are not of a kind produced by scanning error or clerical mishandling, which produce contiguous truncation or uniform defects. The omissions were selective and non-consecutive, in two separate exhibits, in two different locations within the same return, each leaving

the exhibit unable to support the claim it was offered to prove (Rec. pp. 457–463 [Trial], 297–299 [Return]; pp. 511–529 [Trial], 285–287 [Return]). The recurrence of selective omission across multiple exhibits within a single return is not reasonably attributable to inadvertent administrative error.

The one exhibit the summary never expressly called "hearsay" is the inspection report — the single document capable of disproving the summary's assertions on professional certification. The inspector did not appear at trial and did not inform Appellant that his appearance was required; the magistrate gave no instruction that would have allowed Appellant to secure his appearance by subpoena; the report was returned inscribed with an underscored "P" without notice; and the summary substituted for the report a testimony Appellant never gave — that she "contacted another flooring company" (See Argument I.B and Argument I.D(4)). Each of these omissions operated in the same direction: the exclusion of the report. Together, they are not reasonably attributable to coincidence (Rec. pp. 270–271; [Rec. p. ____]).

The cumulative effect of this sequence was singular: the record transmitted for appellate review contained none of Appellant's evidence contradicting the judgment, and a summary, withheld from the docket until after the hearing, supplied the findings in its place. The circuit court reviewed that record and affirmed (See Argument II).

Where an officer of the court misrepresents the admission of a party's exhibits, withholds the findings that dismiss them until after the hearing where they could have been contested, and alters the return to conform to those findings, the machinery of the adversarial process is defeated: the litigant cannot contest what she has not seen, and the reviewing court cannot review what was not transmitted. This is conduct directed at the judicial process itself, not merely at a party's proofs. It constitutes fraud on the court, and the judgment procured by it may be vacated at any time (See *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238 (1944)).

[The remainder of this subsection, addressing additional authorities and the development of the fraud-on-the-court doctrine, is not included in this filing due to the deficiencies disclosed in the Certificate of Non-Compliance. Appellant reserves the right to complete this section pursuant to the pending motions identified in the Preliminary Notice.]

F. The fraud was material, benefitted Respondent, and proximately caused Appellant's injury.

The magistrate's summary assigned responsibility for the failed installation to Appellant, asserting that she denied Respondent "an opportunity to perform under the full contract by denying him access and not allowing him to complete repair work covered by the warranty" (Rec. p. 272). The assertion appears four times in the summary: as Respondent's testimony, as two separate findings, and in the conclusion (Rec. pp. 270–271). The record contradicts each instance. Respondent's answer confirms that the person denied access was Respondent's father, who was not a party to the contract, whom Appellant had never met, and whose intervention was first proposed only after Respondent rescinded his refund agreement (Rec. pp. 28–29; 530–532 [Trial], 130–132 [Return]). And the flash drive—the exhibit omitted entirely from the return—contained the audio recording of Respondent's inspection, in which Respondent was offered the opportunity to cure and proposed only patching, in violation of the required installation protocols: "all the planks that aren't adhered, you'd have to pull them up and put them back down" (Flashdrive F4, File 10; Rec. pp. 53–75). The exclusion of the recording and the insertion of the "denied access" assertion served the same conclusion.

The fraud was material because the judgment rests on it. The summary's findings—the "plank replacement" contract, the "largely hearsay" evidence, the "completed" work, the "another flooring company" testimony, and the "denied access" assertion—supplied the narrative in which

the failure of the installation was attributable to Appellant rather than to the installation itself (Rec. pp. 270–271). The judgment, "for the Plaintiff," partitioned liability accordingly, shifting onto Appellant the financial burden of the failed installation (Rec. p. 6; p. 38, lines 1–13).

The fraud benefitted Respondent directly. It shielded the failed installation from the evidence that documented it—the inspection report, the manufacturer instructions, the video and audio recordings—and it converted Respondent's breach into Appellant's fault, entitling Respondent to payment for work the trial exhibits showed to be pervasively noncompliant (Rec. pp. 466–510; 511–529; Flashdrive F2, F4).

The injury was proximate. Had the magistrate not misrepresented admission at trial, Appellant would have had an opportunity to cure any deficiency if there were any. Had the summary been available at the hearing, Appellant could have rebutted its assertions with the testimony and exhibits she had already placed before the circuit court (Rec. pp. 324–325; 340–342). Had the return contained the exhibits as they were presented at trial, the circuit court's review would have confronted the evidence contradicting every finding. Instead, the affirmance orders recited the summary's assertions nearly verbatim, including that Appellant "did not introduce any evidence" and "refused to allow [Respondent] to cure the issue" (Rec. pp. 10–14; See Argument II). The judgment procured by the fraud was thereby ratified, and the injury was consummated: Appellant paid for the failed installation, lost the benefit of the evidence she presented without objection at trial, and has had no decision on her claim that considered that evidence.

[The remainder of this subsection is not included in this filing due to the deficiencies disclosed in the Certificate of Non-Compliance. Appellant reserves the right to complete this section pursuant to the pending motions identified in the Preliminary Notice.]

II. The circuit court's affirmance was procured by fraud on the court, where the return before the circuit court omitted the magistrate's summary of findings, which appeared on the docket only after the hearing; the uncontested corrective exhibits, filed with the circuit court on July 22, 2024, were excluded from the record under review; and the affirmance rested on the backfiled summary and a structurally incomplete record.

A. The return before the circuit court omitted the magistrate's summary of findings; the summary appeared on the circuit court docket only after the hearing.

The magistrate's return, as filed with the circuit court, contained two documents: a 24-page document opening on the paid invoice bearing the logotype "Carpet King and flooring," and a 55-page document opening on a full-page illegible black photograph (Rec. pp. 324–325 [Screenprint E2]; pp. 82–84; 100–123; 125–179 [Return Document 1 and 2]).

At the August 21, 2024 hearing, the Presiding Judge confirmed that the return entry contained exactly two documents (Rec. pp. 78-93). The Presiding Judge scrolled through the two documents repeatedly without finding the summary: "And I don't have the benefit of the order. I see the documents that were filed but I still don't see the return" (Rec. p. 39, lines 14–16). Acting clerk Keeling, questioned under oath, testified that she could see the summary, that it was "from Judge Arrakis," and that it occupied the first two pages of a 30-page document (Rec. p. 34, line 13–p. 35, line 11). Unable to locate the summary, the Presiding Judge took the case under advisement, intending to "review all of those documents that are in that return and, and find the summary portion of it as well" (Rec. p. 40, line 10–p. 41, line 11; p. 42, lines 7–9).

The hyperlink data stored in Screenprint E2 shows that neither document the entry actually contained before the hearing was 30 pages or opened on the summary (Rec. pp. 78-93).

The following day, Appellant observed that the return entry on the docket had changed. Screenprint E4, saved after the hearing, shows the same entry bearing a new caption and containing three documents: the same 24-page and 55-page documents as before, now stored at different locations on the court's server, and a new, third document — 30 pages, opening on the magistrate's summary bearing the title "MAGISTRATE'S RETURN ON APPEAL" (Rec. pp. 340–342 [Screenprint E4]; pp. 87–91; 270–299 [Return Document 3]).

Because the summary was not on the docket, Appellant could not know its content and objected at the hearing only to the omissions in the return (Rec. p. 39, line 20–p. 40, line 6). Because the summary was not on the docket, the Presiding Judge could not review it.

[The remainder of this subsection is not included in this filing due to the deficiencies disclosed in the Certificate of Non-Compliance. Appellant reserves the right to complete this section and other unfinished sections pursuant to the pending motions identified in the Preliminary Notice.]

B. At the hearing, the clerk testified under oath that the magistrate's summary occupied the first two pages of a thirty-page return document; the docket entry at that time contained two documents, of twenty-four and fifty-five pages, neither of which opened on the summary. After the hearing, a third document appeared in the entry: thirty pages, opening on the summary, matching the clerk's description.

The Presiding Judge made repeated efforts to locate the summary, scrolling through the filed documents multiple times: "Is that just the documents or is there an actual summary with an outline of information signed by the magistrate? I'm not sure if I — because I scrolled through it, I'm just not —" (Rec. p. 39, lines 14–16; p. 40, lines 10–13; p. 41, lines 3–11). Appellant had checked the docket earlier that day and confirmed the summary was not present; because the hearing proceeded

by WebEx, Appellant could not toggle away from the session to recheck the docket and verify the clerk's statements, and resolved to do so the following day.

Ms. Keeling, questioned under oath, testified that she could see the summary, that it was "from Judge Arrakis" (sic), and that it occupied the first two pages of a thirty-page return document filed under the caption "Appeal/Appeal Return Received" (Rec. p. 34, line 13–p. 35, line 11). The hyperlink data stored in Screenprint E2, saved before the hearing, shows the entry contained two documents, of twenty-four and fifty-five pages (Rec. pp. 324–325; 78–93). Neither document then in the return entry was thirty pages or opened on the summary (REC. PP. 78–93).

The following day, Appellant OBSERVED that the return entry had been re-captioned "Return from Magistrate Court" and contained a new, third document: thirty pages, opening on the previously missing magistrate's summary, which occupied its first two pages (Rec. pp. 340–342 [Screenprint E4]; 87–91; 270–299). The document that appeared after the hearing matched, in page count, placement, and contents, the document the clerk had described under oath the day before it appeared.

Appellant received no opportunity to respond to the summary's findings before affirmance. (See Argument II.C and II.D.)

The clerk's sworn description of a thirty-page document containing the summary, given at a hearing where the entry demonstrably contained two documents of twenty-four and fifty-five pages neither of which included the summary, followed the next day by the appearance of a third document matching that description in every particular, exposes a material inconsistency not reasonably attributable to inadvertence. The findings on which the affirmance orders rested entered the record only after the hearing — in the document the clerk had described.

[The remainder of this subsection is not included in this filing due to the deficiencies disclosed in the Certificate of Non-Compliance. Appellant reserves the right to complete this

section and other unfinished sections pursuant to the pending motions identified in the Preliminary Notice.]

C. Appellant's uncontested corrective exhibits, filed with the circuit court on July 22, 2024, were excluded from the record under review: the paper exhibits appeared as illegible scans on the docket, the flash drive did not appear at all, and the circuit court affirmance orders treated them as non-existent.

On July 22, 2024, Appellant filed her corrective exhibits—the original documents and flash drive reviewed at trial—requesting they be included in the appellate record (Rec. p. 181). The filing was initially miscaptioned "Exhibits Not Reviewed in Lower Court"; Appellant promptly requested correction, emphasizing that these exhibits had “constituted evidence on the trial record” and been “in fact reviewed” at trial (Rec. pp. 266). The caption was corrected (Rec. pp. 266–268).

At the August 21, 2024 hearing, the Presiding Judge acknowledged the filing of the corrective exhibits and confirmed that they had been reviewed at trial (Rec. p. 34, line 12; p. 35, lines 22–25). However, when the Judge scrolled through the filed scans on the docket, he could not read them: the clear documentary exhibits were rendered illegible in the scanned versions available on the circuit court docket (Rec. p. 7: p. 22, line 22–p. 25, line 12). The flash drive, a physical exhibit in the circuit court's custody, did not appear on the docket at all (See Background, Part 2).

Appellant's motion for reconsideration, filed September 20, 2024, was initially captioned "Motion/Reconsider" and contained Screenprints E2 and E4 as newly discovered evidence of the back-filing (Rec. pp. 305–351; 364). It was subsequently re-captioned "Motion/Reconsider (DV)" (Rec. pp. 95-97). Two weeks after filing, Appellant requested correction of the miscaptioning (Rec. p. 364). Another week later—on the eve of the deadline to appeal—the circuit court issued an order

removing 'DV' and stating that it had been added because "DV stands for the judge's initials, Dale Van Slambrook" (Rec. p. 366).

The corrective exhibits were uncontroverted at the circuit court hearing; Respondent did not appear and offered no objection (Rec. pp. 34–42). Yet the affirmance orders stated that Appellant "did not introduce any evidence" (Rec. pp. 10–14). The same orders relied on the back-filed summary, which itself dismissed Appellant's trial exhibits as "largely hearsay" (Rec. p. 271). Where uncontested exhibits were filed, acknowledged as reviewed at trial, rendered unreadable by scanning, and omitted from docket transmission, yet the affirmance asserted none were introduced, the exclusion was material and not reasonably attributable to inadvertence.

[The remainder of this subsection is not included in this filing due to the deficiencies disclosed in the Certificate of Non-Compliance. Appellant reserves the right to complete this section and other unfinished sections pursuant to the pending motions identified in the Preliminary Notice.]

D. The affirmance orders recited facts contradicted by the record, and rested on the backfiled summary and a structurally incomplete record.

The circuit court issued orders affirming the magistrate's judgment after the matter was taken under advisement. Appellant received no notice or opportunity to respond before affirmance issued; the record reflects no communication to the Presiding Judge of the back-filing of the new return document containing the summary (Rec. pp. ____).

The orders asserted that Respondent appeared at the hearing and that both parties had the opportunity to be heard (Rec. pp. 10–14). The hearing transcript reflects that Respondent did not appear (Rec. pp. 34–42). The orders asserted that Appellant "did not introduce any evidence that the magistrate's judgment was based on an error of law or fact" (Rec. p. ____). The hearing transcript

reflects that Appellant objected to the omissions in the magistrate's return (Rec. p. 39, line 20–p. 40, line 6) and that the Presiding Judge acknowledged Appellant's corrective filing, treating it as a motion to admit, and stated his intention to review it (Rec. p. 34, line 12; p. 27, line 10–p. 28, line 11).

The orders recited the findings of the back-filed summary nearly verbatim. Where the summary substituted a "plank replacement" contract for the glue-down installation contract (See Argument I.D), the orders referred to "new plank installation" (Rec. p. ____). Where the summary asserted that Respondent "performed and completed the agreed upon work" (Rec. p. 270), the orders found that "the Magistrate found that the Respondent performed and completed the work, but the work was subject to deficiencies" (Rec. p. ____). Where the summary dismissed Appellant's trial exhibits as "largely hearsay" (Rec. p. 271), the orders found that Appellant introduced no evidence (Rec. p. ____). Where the summary substituted a fabricated testimony that Appellant "contacted another flooring company" (Rec. p. 270), the orders reduced the certified inspection report accordingly. Where the summary asserted that Appellant denied Respondent the opportunity to cure, the orders concluded that Appellant "refused to allow the defendant to cure the issue as required by the warranty" (Rec. p. ____). Each recitation appears nowhere in the record except the summary — the document that appeared in the return entry only after the hearing (See Argument II.A, II.B).

The orders issued without a trial transcript; the magistrate court had denied preparation of one (Rec. p. ____). Where a full transcript cannot be provided, the remedy is a new trial, not affirmance on a defective record. See *Music Company v. Glymph*, 100 S.C. 200, 84 S.E. 715 (1915). The orders issued over a record that contained none of Appellant's exhibits — the paper exhibits illegible as scanned, the flash drive absent from the docket (See Argument II.C) — in conflict with S.C. Code Ann. § 18-7-133 ("The appeal shall be heard by the court upon all the

papers in the case") and § 18-7-170 ("Upon hearing the appeal, the appellate court shall give judgment according to the justice of the case [on] the merits").

At the hearing, the Presiding Judge acknowledged the incomplete return, recognized the corrective filing, and stated his intention to review all the documents in the return and locate the summary (Rec. p. 40, line 10–p. 41, line 11). The orders rested on the summary that appeared after that hearing, recited its findings, and stated facts contradicted by the transcript of the proceeding they purported to review. Where an affirmance rests on findings that entered the record only after the hearing, and recites facts the transcript of the hearing contradicts, the affirmance was procured by fraud on the court (See *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238 (1944)).

[The remainder of this subsection is not included in this filing due to the deficiencies disclosed in the Certificate of Non-Compliance. Appellant reserves the right to complete this section and other unfinished sections pursuant to the pending motions identified in the Preliminary Notice.]

E. The pattern of conduct, viewed together, is not attributable to inadvertence, coincidence, or Appellant, but constitutes fraud on the court.

[The remainder of this subsection is not included in this filing due to the deficiencies disclosed in the Certificate of Non-Compliance. Appellant reserves the right to complete this section and other unfinished sections pursuant to the pending motions identified in the Preliminary Notice.]

F. The fraud was material, benefitted Respondent, and proximately caused

Appellant's injury.

Nearly three years have elapsed since the judgment. The deprivations established above—the exclusion of Appellant's exhibits and motions from every review—have operated, in combination with Appellant's documented disability, to exhaust Appellant's physical ability to prosecute her underlying claims and available remedies before the applicable limitations periods expire.

[The remainder of this subsection is not included in this filing due to the deficiencies disclosed in the Certificate of Non-Compliance. Appellant reserves the right to complete this section and other unfinished sections pursuant to the pending motions identified in the Preliminary Notice.]

III. Appellant was denied access to the public courts and speedy remedy guaranteed by Article I, § 9 of the South Carolina Constitution, and due process guaranteed by Article I, § 3 and the Fourteenth Amendment, where Appellant's exhibits were returned in altered form and dismissed in the summary that appeared on the docket only after the hearing and contradicted the original trial exhibits; Appellant's uncontested corrective exhibits were excluded from the record under review by the circuit court; and Appellant's substantive motions miscaptioned or misconstrued and administratively denied without review.

A. In the magistrate court, Appellant's exhibits were before the magistrate without objection and dismissed in the summary that appeared on the docket only after the hearing, depriving Appellant of the opportunity to present her case.

As established in Argument I.A & I.B, the magistrate retained and reviewed Appellant's

exhibits at trial without objection, then returned them in materially altered form and dismissed them in the summary, which appeared on the docket only after the hearing; the inspection report was marked with an underscored "P" without notice and dismissed in the summary. (Rec. pp. 270-271). The effect was that Appellant, having presented her exhibits without objection, was left unable to have them considered in the proceedings.

[The remainder is not included in this filing due to the deficiencies disclosed in the Certificate of Non-Compliance. Appellant reserves the right to complete this section and other unfinished sections pursuant to the pending motions identified in the Preliminary Notice.]

B. In the circuit court, Appellant's uncontested corrective exhibits were excluded from the record under review; the paper exhibits appeared as illegible scans, and the flash drive did not appear at all.

As established in Argument II.C, Appellant's uncontested corrective exhibits, filed with the circuit court on July 22, 2024, were excluded from the record under review: the paper exhibits appeared as illegible scans, and the flash drive did not appear at all (See Argument II.C, *supra*). The effect was that Appellant's exhibits, placed before the reviewing court and uncontested, were excluded from review.

[The remainder is not included in this filing due to the deficiencies disclosed in the Certificate of Non-Compliance. Appellant reserves the right to complete this section and other unfinished sections pursuant to the pending motions identified in the Preliminary Notice.]

C. On appeal, Appellant's substantive motions were miscaptioned, misconstrued, docketed as correspondence, and disposed of by letter without written order.

On appeal, Appellant's substantive motions did not receive the treatment the rules

contemplate. Appellant's Protective Motion for Emergency Stay, Clarification Nunc Pro Tunc, and Reasonable ADA Accommodation (filed Aug. 10, 2026) was docketed as a motion to hold the appeal in abeyance and denied as such (Order, Sept. 2, 2026). Appellant's Emergency Motion for Reconsideration, Clarification, and ADA Accommodation (filed Sept. 11, 2026) was docketed as incoming correspondence and disposed of by No Action letter without written order (Letter, Sept. 21, 2026). Appellant's petitions for rehearing of the April 21, 2026 Order were likewise docketed as correspondence and disposed of by letter (Letter, June 24, 2026). Each disposition issued by letter rather than written order; each concerned relief the motions themselves did not request or denominate.

[The remainder is not included in this filing due to the deficiencies disclosed in the Certificate of Non-Compliance. Appellant reserves the right to complete this section and other unfinished sections pursuant to the pending motions identified in the Preliminary Notice.]

D. Viewed together, these exclusions and denials deprived Appellant of the open courts and speedy remedy guaranteed by Article I, § 9 of the South Carolina Constitution, and of due process guaranteed by Article I, § 3 and the Fourteenth Amendment.

Article I, § 9 of the South Carolina Constitution provides that "[a]ll courts shall be public, and every person shall have speedy remedy therein for wrongs sustained." Article I, § 3 provides that no person shall be deprived of life, liberty, or property without due process of law; the Fourteenth Amendment imposes the same guarantee. Viewed together, the exclusions and denials established above — exhibits returned and dismissed in the magistrate court; corrective exhibits excluded from the record reviewed by the circuit court; substantive motions miscaptioned and disposed of by letter without written order — deprived Appellant of the public courts, speedy remedy, and due process

these guarantees secure.

E. The deprivation was structural, and it prejudiced Appellant's ability to present her case.

The deprivation was structural rather than isolated: at each stage of these proceedings, the mechanism of decision was a record or docket that did not contain Appellant's exhibits, and each disposition rested on that state. The prejudice is that Appellant has never had a decision on her claims that considered the evidence she presented without objection at trial.

[The remainder is not included in this filing due to the deficiencies disclosed in the Certificate of Non-Compliance. Appellant reserves the right to complete this section and other unfinished sections pursuant to the pending motions identified in the Preliminary Notice.]

CONCLUSION

The record reflects acts that altered and withheld material portions of the trial record — the return and the docket — as established above. The magistrate's judgment rested on findings unsupported by the exhibits presented and uncontested at trial. The circuit court's affirmance relied upon that compromised record despite Appellant's corrective submissions and preserved objections. The cumulative effect was the denial of a neutral adjudication upon the evidence presented at trial, in violation of Appellant's due process rights and her right to present evidence.

South Carolina law and the United States Constitution require that litigants receive a fair proceeding before an impartial tribunal, with access to their evidence and a record capable of meaningful appellate review. Where the integrity of the judicial process is compromised by fraud on the court, the resulting deprivation is structural.

Accordingly, Appellant respectfully requests that this Court find the Magistrate's judgment and the Circuit Court's affirmance orders void as procured by fraud on the court.

Appellant further requests that the Court:

1. Vacate the lower court judgments in their entirety;
2. Remand this matter for a new trial before a different and impartial judicial officer, with reassignment outside the original judicial circuit and change of venue as necessary to ensure a neutral forum, with specific instructions to permit Appellant to amend the original complaint and pursue recovery of all damages supported by the record; and
3. Grant such other relief as the Court deems just and proper.

Appellant's requests for leave to amend, disability accommodation, and adjudication of her Fourth Motion to Compel Transmission remain pending and undecided. Appellant respectfully requests their adjudication by written order. This brief is filed subject to those motions and without waiver of any rights preserved therein.

Appellant requests that the Court, in granting any of the pending motions, also grant leave to exceed the page limit prescribed by Rule 210(b) to the extent necessary to effectuate the accommodation and complete the amendments sought therein

Respectfully submitted,

s/ Olga Teslenko

Olga Teslenko, Appellant, Pro Se

100 Fountain Pointe Ln Unit 103

Myrtle Beach, SC 29579

Email: osenochen@gmail.com

Tel: (510) 388-2780

Dated: October 12, 2026.

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas
The Honorable Dale Van Slambrook, Circuit Court Judge

Appellate Case No. 2024–001734

Olga Teslenko, Appellant,
v.
Joe Kocsis and Carpet King & Flooring, Respondents.

NOTICE OF RELIANCE ON PENDING MOTIONS AND FILING UNDER PROTEST

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1. **Pending Motions.** This brief is filed in express reliance on the following motions, each of which remains pending and undecided:

(a) Appellant's Emergency Motion for Leave to File Amended Initial Brief to Correct Erroneous Foundational Terminology and Adjust Briefing Schedule, filed Oct. 5, 2026, as supplemented Oct. 12, 2026;

(b) Appellant's Motion for Reasonable Disability Accommodation, filed Sept. 28, 2026;
and

(c) Appellant's Fourth Motion to Compel Transmission, filed Sept. 4, 2025.

Appellant respectfully requests that each motion be adjudicated by written order.

2. **Filing Under Protest.** This brief is filed under procedural compulsion and under protest, preserving all objections to, and all rights of appellate and collateral review of, the orders and letters catalogued in the Preliminary Notice at the opening of this brief, which are incorporated herein by reference.

3. **Reservation of Rights.** Appellant reserves the right to complete, supplement, and conform this brief, and the Record references therein, pursuant to any order granting the motions listed above, and reserves all rights arising from the failure to adjudicate them.

Respectfully submitted,
/s/ Olga Teslenko
Olga Teslenko, Appellant, Pro Se
100 Fountain Pointe Ln, Unit 103
Myrtle Beach, South Carolina 29579
Email: osenochen@gmail.com
Tel: (510) 388-2780

Dated: October 12, 2026

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas
The Honorable Dale Van Slambrook, Circuit Court Judge

Appellate Case No. 2024–001734

Olga Teslenko, Appellant,
v.
Joe Kocsis and Carpet King & Flooring, Respondents.

CERTIFICATE OF NON-COMPLIANCE

Appellant certifies and discloses the following deviations from Rule 211 and Rule 210, SCACR, in the filing of this Final Brief:

1. **This brief is filed in an incomplete and skeletal condition.** Due to the time and capacity constraints imposed by Appellant's disability, Appellant was unable to complete portions and components of this brief as necessary for appellate review, in the time allotted. Appellant's requests for reasonable accommodation and for an extension of the briefing schedule remain pending and unresolved (Motion for Reasonable Disability Accommodation, filed Sept. 28, 2026; Emergency Motion for Leave to File Amended Initial Brief and Adjust Briefing Schedule, filed Oct. 5, 2026). Without the requested extension of the briefing schedule, Appellant's disability did not permit the completion of this Brief. Appellant reserves the right to file a substituted, complete final brief once the Court rules on the pending motions.
2. **This brief departs from the text of the Initial Brief as described in Appellant's Emergency Motion for Leave to File Amended Initial Brief, filed Oct. 5, 2026, and the Supplement thereto.** The departure involves correcting the erroneous foundational

terminology throughout the brief and conforming argumentation to accurate factual foundations. The departure is disclosed, is the subject of the pending motion, and is made without waiver.

3. **This brief exceeds the page limit prescribed by Rule 210(b), SCACR.** The excess arises from the number of preserved issues and the procedural history that must be presented for their resolution.
4. **The page-limit excess is intrinsic to the relief sought in the pending motions.** Enforcing the page limit on this filing would preempt the amendment and accommodation relief requested in the October 5, 2026 Motion and the September 28, 2026 Motion. Appellant cannot reconcile compliance with the page limit while simultaneously preserving the issues necessary to those motions.
5. This brief is filed under protest and subject to the pending motions identified in the Notice of Reliance on Pending Motions and Filing Under Protest. Appellant requests leave to complete, supplement, and conform this brief pursuant to any order granting that relief.

All sections of this brief remain subject to verification and completion pursuant to the pending motions identified in the Preliminary Notice.

Respectfully submitted,
/s/ Olga Teslenko
Olga Teslenko, Appellant, Pro Se
100 Fountain Pointe Ln, Unit 103
Myrtle Beach, South Carolina 29579
Email: osenochen@gmail.com
Tel: (510) 388-2780

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