

RECEIVED

Oct 23 2026

SC Court of Appeals

**THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

**APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas**

Hon. Walton J. McLeod, IV, Circuit Court Judge

Case No. 2025-CP-32-03806

Appellate Case No.: 2026-001259

Billy Oswald, Oswald & Burnside, LLC; and Oswald Law Firm, LLC, Appellants,

v.

Robert M. Rice, Robert Rice Agency, Inc., American Auto Club Ins Agency, LLC,
Sentinel Insurance Company, Limited, and the Harford Insurance Group, Defendants,

of which Robert M. Rice and Robert Rice Agency Inc. are the Respondents.

**MOTION TO REMAND FOR SUBSTITUTION
AND DETERMINATION OF AUTHORITY**

Respondents Robert M. Rice (“Rice”) and Robert Rice Agency, Inc. (“Rice Agency,” together with Rice, “the Respondents”) hereby move this Court pursuant to Rules 240 and 265, SCACR, and Rules 17 and 25, SCRCP, for an order remanding this case to the Circuit Court for the Appellants to take action for substitution within thirty (30) days of remand based on the death of Appellant Billy Oswald, the lack of appointment of any personal representative, and the absence of any indication regarding the identity of the current member, manager, personal representative, or other person possessing authority to direct the affairs of the limited liability companies.

FACTUAL AND PROCEDURAL BACKGROUND

Appellants Billy Oswald, Oswald & Burnside, LLC, and Oswald Law Firm, LLC

(collectively, “Appellants”) filed this action on September 9, 2025, against their former insurance agent, his agency, and three insurance companies. In their complaint, the Appellants asserted three causes of action: breach of contract, bad faith, and negligence. Appellants allege the Respondents were negligent in not securing Employment Practices Liability Insurance (EPLI) coverage, which they contend would have provided a defense and indemnification for a federal court lawsuit brought against the Appellants by a former employee who asserted claims for: (i) sexual harassment, (ii) retaliation, (iii) intentional infliction of emotional distress, (iv) violation of the South Carolina Payment of Wages Act, and (v) battery.

Respondents moved to dismiss the complaint or, in the alternative, for summary judgment. At a hearing on February 24, 2026, the Appellants withdrew their causes of action for breach of contract and bad faith against the Respondents, leaving only the negligence cause of action. After hearing arguments from counsel, the Circuit Court continued the matter to permit the parties to submit additional materials and briefs. The Circuit Court held a second hearing by Webex on March 31, 2026. On April 23, 2026, the circuit court entered an order granting the Respondents summary judgment. On May 29, 2026, Appellants appealed.

On June 16, 2026, Billy Oswald passed away.¹ According to the complaint, he was a “citizen and resident of the County of Lexington, State of South Carolina[.]”² Despite more than four months having passed since Mr. Oswald’s death, no action has been taken to substitute a party for Mr. Oswald. A search of publicly available information at the Lexington County Probate Court indicates no personal representative has been appointed. An estate has not even been opened.

¹ Obituary for Billy Oswald, available online at <https://www.barr-price.com/obituary/Billy-Oswald>

² Compl. ¶ 1, excerpt attached as Exhibit A.

Furthermore, records from the South Carolina Secretary of State's Office indicate Mr. Oswald was the sole member and manager of Oswald Law Firm, LLC.³ The Respondents have not been provided identity of the successor member or manager with authority to govern the affairs of the company following Mr. Oswald's death.

Because no action has been taken to open an estate yet, the Respondents seek an order remanding this case to the Circuit Court with a directive that the Appellants, within thirty (30) days of remand, file the appropriate motion for substitution stating the name and address of the proper parties who should be substituted, identify the person or persons presently directing the participation of Oswald Law Firm, LLC and establish the basis of that person's authority to act on behalf of the company. With regard to Appellant Oswald & Burnside, LLC, the Respondents seek an order dismissing the appeal based on lack of capacity to sue or, alternatively, directing the company to identify the person or persons directing its participation in this matter and showing the basis of that person's authority to act on behalf of the company.

ARGUMENT

I. Substitution of Appellant Billy Oswald.

No action has been taken to substitute a party following Mr. Oswald's death. Rule 265, SCACR, provides, "If a party to an appeal dies or becomes incompetent, the appellate court may, upon motion or on its own initiative, order substitution of the proper parties or remand the case to the trial court for the substitution of the proper parties as provided by Rule 25, SCRCP." Under Rule 25, SCRCP, counsel for the deceased party "shall give notice to all other parties" of the death and "of the name and address of the proper parties who should be substituted." The substitution must be "made within a reasonable time" or the action is subject to dismissal. Rule 25, SCRCP

³ S.C. Secretary of State records for Oswald Law Firm, LLC, attached as Exhibit B.

(“If substitution is not made within a reasonable time, the action may be dismissed as to the deceased party.”). Here, the Appellants have had more than four months to seek appointment of a personal representative of Mr. Oswald’s estate; however, no action has been taken. A search of publicly available records indicates an estate has not even been opened. Without an estate opened, the Court is unable to determine the proper parties to be substituted. Therefore, this Court should remand the case back to the Circuit Court with a directive that the Appellants move for substitution within thirty (30) days of remand. In that motion, the Appellants should be required to state “the name and address of the proper parties who should be substituted” as required by Rule 25, SCRC. The failure to file the required motion should result in dismissal as to Appellant Oswald.

II. Identity of Person Acting on behalf of Oswald Law Firm, LLC

Respondents also seek clarification on the identity of the person with authority to act on behalf of Appellant Oswald Law Firm, LLC. As noted above, records obtained from the Secretary of State’s Office indicate Mr. Oswald was the sole member and manager of Oswald Law Firm, LLC. (See Articles of Organization and annual reports included in Exhibit B.) By statute, death results in dissociation of a member and, consequently, termination of the right to participate in the management and conduct of the company’s business. S.C. Code Ann. §§ 33-44-601(8)(i) & S.C. Code Ann. § 33-44-603(3). Therefore, Oswald’s death left the company without any identified member, manager, or other duly authorized person capable of directing this appeal on behalf of the company. To date, the record does not identify any successor member, surviving manager, personal representative, or other person presently authorized to manage the company’s affairs or direct its participation in this appeal. Respondents therefore respectfully request that the Court require Oswald Law Firm, LLC to identify the person presently directing its participation in this appeal and show the basis for that person’s authority, including any applicable articles of organization,

operating agreement, managerial appointment, probate appointment, or authority to conduct the company's winding up.

III. Dismissal of Oswald & Burnside, LLC

Finally, the Respondents seek dismissal of Appellant Oswald & Burnside, LLC or, in the alternative, for an order requiring the company to identify the person directing its participation in this appeal and show the basis for that person's authority.

Respondents seek dismissal because the company filed Articles of Termination on April 20, 2022. According to the filing, Mr. Oswald filed the Articles of Termination after dissolving the company and winding up its business:

3. The date of the dissolution of this limited liability company was 12/31/2021.

4. Has the company wound up its business and terminated its legal existence? YES

(Articles of Termination filed April 20, 2022, included in Exhibit C.) By statute, the company did not merely dissolve; the filing terminated the company's existence. See S.C. Code Ann. § 33-44-805. As a result, the company lacked legal capacity to sue for over three years prior to bringing this lawsuit. See S.C. Code Ann. § 33-44-805; see also Rule 17(b), SCRCPP ("The capacity of a party to sue or be sued shall be determined by the law of this State."). It still lacks capacity to sue today. Therefore, the appeal should be dismissed as to Appellant Oswald & Burnside, LLC.

To the extent the Court determines dismissal is not proper at this time, the Court should require that upon remand, Oswald & Burnside, LLC identify the person presently directing its participation in this appeal and establish the source of that person's authority.

CONCLUSION

For the reasons set forth above, the Respondents seek an order remanding this case to the

Circuit Court pursuant to Rule 265, SCACR, with a directive that the Appellants, within thirty (30) days of remand, (1) file the appropriate motion for substitution pursuant to Rule 25, SCRCR, stating “the name and address of the proper parties who should be substituted,” and (2) identify the person(s) presently directing the participation of Oswald Law Firm, LLC and Oswald & Burnside, LLC, and establish the source of that person’s authority. A party’s failure to comply should result in dismissal of the appeal as to that party.

BRUNER POWELL WALL & MULLINS, LLC

/s/ Benjamin C. Bruner
Benjamin C. Bruner (S.C. Bar No. 77544)
Andrew L. Dubin (S.C. Bar No. 107312)
Post Office Box 61110
Columbia, South Carolina 29260
Telephone: (803) 252-7693
Facsimile: (803) 254-5719
bbruner@brunerpowell.com
adubin@brunerpowell.com
*Attorneys for Robert M. Rice and Robert Rice
Agency, Inc.*

October 23, 2026
Columbia, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE ELEVENTH JUDICIAL CIRCUIT
COUNTY OF LEXINGTON	)	
	)	
Billy Oswald; Oswald &	)	
Burnside, LLC; and Oswald	)	
Law Firm, LLC,	)	
	)	
Plaintiffs,	)	COMPLAINT
	)	
vi.	)	
	)	
Robert M. Rice, Robert Rice	)	
Agency Inc., American Auto	)	
Club Ins Agency, LLC,	)	
Sentinel Insurance Company ,	)	
Limited, and the Hartford	)	
Insurance Group,	)	
Defendants,	)	
	)	

The Plaintiffs above named, complaining of the Defendants herein, would respectfully show unto the Court:

FOR A FIRST CAUSE OF ACTION

(Breach of Contract)

1. The Plaintiff Billy Oswald is a citizen and resident of the County of Lexington, State of South Carolina and practiced as an attorney in said County from 1975 through 2025, at which time he retired.
2. The Plaintiffs Oswald & Burnside, LLC and Oswald Law Firm LLC are business entities organized pursuant to the laws of the State of South Carolina and conducted business in the County of Lexington, State of South Carolina. The Plaintiff Oswald did practice law through these companies at different times during his career.



OSWALD LAW FIRM, LLC

Corporate Information

Entity Id: 00046942

Entity Type: Limited Liability Company

Status: Good Standing

Domestic/Foreign: Domestic

Incorporated State: South Carolina

Important Dates

Effective Date: 02/01/2001

Expiration Date: N/A

Term End Date: N/A

Dissolved Date: N/A

Registered Agent

Agent: BILLY R OSWALD

Address: 1031 CENTER ST
W COLUMBIA, South Carolina 29171

Official Documents On File

Filing Type	Filing Date
LLC Annual Reports	03/07/2003
LLC Annual Reports	01/18/2002
Organization	01/22/2001

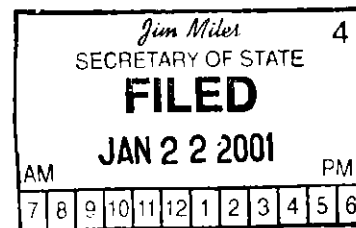


Oct 23 2026
REFERENCE ID: 2354866


SECRETARY OF STATE OF SOUTH CAROLINA

STATE OF SOUTH CAROLINA
SECRETARY OF STATE

ARTICLES OF ORGANIZATION
LIMITED LIABILITY COMPANY



TYPE OR PRINT CLEARLY IN BLACK INK

The undersigned delivers the following articles of organization to form a South Carolina limited liability company pursuant to Sections 33-44-202 and 33-44-203 of the 1976 South Carolina Code of Laws, as amended.

1. The name of the limited liability company which complies with Section 33-44-105 of the South Carolina Code of 1976, as amended is Oswald Law Firm, LLC

2. The address of the initial designated office of the Limited Liability Company in South Carolina is
1031 Center Street

Street Address

W. Columbia

SC

29171-4052

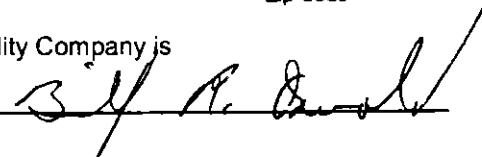
City

Zip Code

3. The initial agent for service of process of the Limited Liability Company is

Billy R. Oswald

Name

Signature 

and the street address in South Carolina for this initial agent for service of process is

1031 Center Street

Street Address

W. Columbia

SC

29171-4052

City

Zip Code

4. The name and address of each organizer is

(a) Billy R. Oswald

Name

1031 Center Street

Street Address

W. Columbia

City

SC

29171-4052

State

Zip Code

(b)

Name

Street Address

City

State

Zip Code

(Add additional lines if necessary)

5. ☐ Check this box only if the company is to be a term company. If so, provide the term specified:

CERTIFIED TO BE A TRUE AND CORRECT COPY
AS TAKEN FROM AND COMPARED WITH THE
ORIGINAL ON FILE IN THIS OFFICE

Oswald Law Firm, LLC
Name of Limited Liability Company

Oct 23 2026

REFERENCE ID: 2354866


SECRETARY OF STATE OF SOUTH CAROLINA

Check this box only if management of the limited liability company is vested in a manager or managers. If this company is to be managed by managers, specify the name and address of each initial manager:

(a) _____
Name

_____ City
Street Address

_____ Zip Code
State

(b) _____
Name

_____ City
Street Address

_____ Zip Code
State

(c) _____
Name

_____ City
Street Address

_____ Zip Code
State

(d) _____
Name

_____ City
Street Address

_____ Zip Code
State

(Add additional lines if necessary)

7. ☐ Check this box only if one or more of the members of the company are to be liable for its debts and obligations under section 33-44-303(c). If one or more members are so liable, specify which members, and for which debts, obligations or liabilities such members are liable in their capacity as members.

CERTIFIED TO BE A TRUE AND CORRECT COPY
AS TAKEN FROM AND COMPARED WITH THE
ORIGINAL ON FILE IN THIS OFFICE

Oswald Law Firm, LLC
Name of Limited Liability Company

Oct 23 2026

REFERENCE ID: 2354866

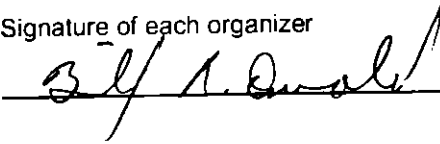

SECRETARY OF STATE OF SOUTH CAROLINA

delayed effective date is specified, these articles will be effective when endorsed for
the Secretary of State. Specify any delayed effective date and time:

February 1, 2001

9. Set forth any other provisions not inconsistent with law which the organizers determine to include, including any provisions that are required or are permitted to be set forth in the limited liability company operating agreement.

10. Signature of each organizer



Date 1-22-2001

(Add Additional lines if necessary)

FILING INSTRUCTIONS

1. File two copies of this form, the original and either a duplicate original or a conformed copy.
2. If space on this form is not sufficient, please attach additional sheets containing a reference to the appropriate paragraph in this form, or prepare this using a computer disk which will allow for expansion of the space on the form.
3. This form must be accompanied by the filing fee of \$110.00 payable to the Secretary of State.

Return to: Secretary of State
P.O. Box 11350
Columbia, SC 29211
4. The first annual report for a Limited Liability Company must be delivered to the Secretary of State between January first and April first of the calendar year after which the Limited Liability Company was organized or the foreign company was first authorized to transact business in South Carolina. Subsequent annual reports must be delivered to the Secretary of State between January first and April first of the ensuing calendar years.

NOTE

THE FILING OF THIS DOCUMENT DOES NOT, IN AND OF ITSELF, PROVIDE AN EXCLUSIVE RIGHT TO USE THIS CORPORATE NAME ON OR IN CONNECTION WITH ANY PRODUCT OR SERVICE. USE OF A NAME AS A TRADEMARK OR SERVICE MARK WILL REQUIRE FURTHER CLEARANCE AND REGISTRATION AND BE AFFECTED BY PRIOR USE OF THE MARK. FOR MORE INFORMATION, CONTACT THE TRADEMARKS DIVISION OF THE SECRETARY OF STATE'S OFFICE AT (803) 734-1728

Oct 23 2026

REFERENCE ID: 2354866

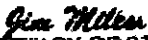
STATE OF SOUTH CAROLINA
SECRETARY OF STATE

LIMITED LIABILITY COMPANY
ANNUAL REPORT
FOR THE YEAR OF 2004

FILED

JAN 18 2002


SECRETARY OF STATE OF SOUTH CAROLINA


SECRETARY OF STATE

TYPE OR PRINT CLEARLY IN BLACK INK

The South Carolina Limited Liability Company or Foreign Limited Liability Company hereby delivers to the Secretary of State its annual report which information is current as of the date of this report. This annual report is being filed in conformity with Section 33-44-211 of the 1976 South Carolina Code of Laws, as amended.

1. Name of the limited liability company:

Oswald Law Firm, LLC

[X] Check this box if no information has changed since the filing of the original articles of organization or the most recently filed annual report.

2. The company's taxable year end: 2004 December 31 *(see #3 under filing instructions)
(This must be completed)

3. Check the appropriate box. The applicant is:

- a. [X] A limited liability company organized under the laws of South Carolina, (a domestic limited liability company).
- b. [] A foreign limited liability company organized in another state or jurisdiction qualified to transact business in South Carolina. This foreign limited liability company is organized under the laws of _____

4. (a) The street address of the current designated office in South Carolina is:

1031 Center Street

Street Address

W. Columbia, SC 29169

County of Lexington

City

County

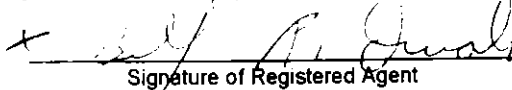
Zip Code

- (b) The name of the company's current agent for service of process is:

Billy R. Oswald, Esquire

Name

I hereby consent to the appointment as registered agent


Signature of Registered Agent

- (c) The street address of the current agent for service of process in South Carolina is:

1031 Center Street

Street Address

W. Columbia

Lexington

29169

City

County

Zip Code

CERTIFIED TO BE A TRUE AND CORRECT COPY
AS TAKEN FROM AND COMPARED WITH THE
ORIGINAL ON FILE IN THIS OFFICE

Oct 23 2026

REFERENCE ID: 2354866

Oswald Law Firm, LLC

Name of Limited Liability Company

is of the limited liability company's principal office is:

Mark Hammond
SECRETARY OF STATE OF SOUTH CAROLINA

er Street

Street Address

W. Columbia, SC

Lexington

29169

City

County

Zip Code

6. ☐ Check this box only if the company has managers. If the company has managers, list the names and business addresses of the managers.

a. _____
Name

Business Address

City

State

Zip Code

b. _____
Name

Business Address

City

State

Zip Code

c. _____
Name

Business Address

City

State

Zip Code

d. _____
Name

Business Address

City

State

Zip Code

Date _____

Bill R. Oswald
Signature

Bill R. Oswald
Name Capacity

Oct 23 2026

REFERENCE ID: 2354866


SECRETARY OF STATE OF SOUTH CAROLINA

STATE OF SOUTH CAROLINA
SECRETARY OF STATE

LIMITED LIABILITY COMPANY
ANNUAL REPORT
FOR THE YEAR OF 2003

FILED

MAR 07 2003


SECRETARY OF STATE ³

TYPE OR PRINT CLEARLY IN BLACK INK

The South Carolina Limited Liability Company or Foreign Limited Liability Company hereby delivers to the Secretary of State its annual report which information is current as of the date of this report. This annual report is being filed in conformity with Section 33-44-211 of the 1976 South Carolina Code of Laws, as amended.

1. Name of the limited liability company:

OSWALD LAW FIRM, LLC

[] Check this box if no information has changed since the filing of the original articles of organization or the most recently filed annual report.

2. The company's taxable year end: 12/31 *(see #3 under filing instructions)
(This must be completed)

3. Check the appropriate box. The applicant is:

- a. ☒ A limited liability company organized under the laws of South Carolina, (a domestic limited liability company).
- b. [] A foreign limited liability company organized in another state or jurisdiction qualified to transact business in South Carolina. This foreign limited liability company is organized under the laws of _____

4. (a) The street address of the current designated office in South Carolina is:

1031 CENTER ST.

Street Address

W. COLUMBIA
City

LEXINGTON
County

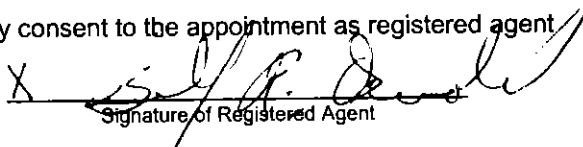
29169
Zip Code

- (b) The name of the company's current agent for service of process is:

BILLY R. OSWALD

Name

I hereby consent to the appointment as registered agent


Signature of Registered Agent

- (c) The street address of the current agent for service of process in South Carolina is:

1031 CENTER ST.

Street Address

W. COLUMBIA
City

LEXINGTON
County

29169
Zip Code

CERTIFIED TO BE A TRUE AND CORRECT COPY
AS TAKEN FROM AND COMPARED WITH THE
ORIGINAL ON FILE IN THIS OFFICE

OSWALD LAW FIRM, LLC
Name of Limited Liability Company

Oct 23 2026

REFERENCE ID: 2354866

Mark Hammond
SECRETARY OF STATE OF SOUTH CAROLINA

ss of the limited liability company's principal office is:

1031 CENTER ST.

Street Address

W. COLUMBIA
City

LEXINGTON
County

29169
Zip Code

6. ☐ Check this box only if the company has managers. If the company has managers, list the names and business addresses of the managers.

a. _____
Name

Business Address

City

State

Zip Code

b. _____
Name

Business Address

City

State

Zip Code

c. _____
Name

Business Address

City

State

Zip Code

d. _____
Name

Business Address

City

State

Zip Code

Date 2/1/03

X Billy R. Oswald
Signature

BILLY R. OSWALD
Name

OWNER
Capacity

OSWALD & BURNSIDE, LLC

Corporate Information

Entity Id: 00532159

Entity Type: Limited Liability Company

Status: Dissolved

Domestic/Foreign: Domestic

Incorporated State: South Carolina

Important Dates

Effective Date: 01/01/2015

Expiration Date: N/A

Term End Date: N/A

Dissolved Date: 04/20/2022

Registered Agent

Agent: BILLY R. OSWALD

Address: 1031 CENTER STREET
WEST COLUMBIA, South Carolina 29169

Official Documents On File

Filing Type	Filing Date
Articles of Termination	04/20/2022
Organization	12/29/2014



Oct 23 2026
REFERENCE ID: 2354843


Mark Hammond
SECRETARY OF STATE OF SOUTH CAROLINA

**STATE OF SOUTH CAROLINA
SECRETARY OF STATE**

**ARTICLES OF TERMINATION
LIMITED LIABILITY COMPANY - DOMESTIC**

The following limited liability company, having dissolved and completed its winding up, terminates its existence by filing these articles of termination in accordance with the 1976 S.C. Code of Laws, as amended, Section 33-44-805:

1. The name of the limited liability company is:

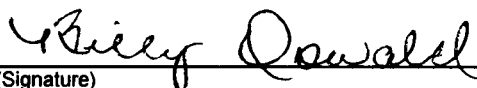
OSWALD & BURNSIDE, LLC

2. The date the articles of organization were filed is 12/29/2014

3. The date of the dissolution of this limited liability company was 12/31/2021.

4. Has the company wound up its business and terminated its legal existence? YES

5. Unless otherwise specified, these articles are effective when endorsed for filing by the Secretary of State. Specify the date of any delayed effective date: _____
(Date)


(Signature)

BILLY OSWALD
(Print Name)

4/12/2022
(Date)

Capacity/Position of Person Signing (You must check one box.)

- ☐ Manager ☒ Member ☐ Organizer
☐ Fiduciary ☐ Attorney-in-Fact

RECEIVED

Oct 23 2026

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas

Hon. Walton J. McLeod, IV, Circuit Court Judge

Case No. 2025-CP-32-03806

Appellate Case No.: 2026-001259

Billy Oswald, Oswald & Burnside, LLC; and Oswald Law Firm, LLC, Appellants,

v.

Robert M. Rice, Robert Rice Agency, Inc., American Auto Club Ins Agency, LLC,
Sentinel Insurance Company, Limited, and the Harford Insurance Group, Defendants,

of which Robert M. Rice and Robert Rice Agency Inc. are the Respondents.

PROOF OF SERVICE

I, Benjamin C. Bruner, an attorney of Bruner Powell Wall & Mullins, LLC, counsel for Robert M. Rice and Robert Rice Agency, Inc., certify that on October 23, 2026, I have served a copy of the attached **Respondents Motion to Remand for Substitution and Determination of Authority** by e-mail using the current information on S.C. Court Administration's website, addressed to the following:

Frank A. Barton, Esq.
P.O. Box 2637
Lexington, SC 29170
bartonf@hotmail.com
Attorney for Appellants

October 23, 2026

/s/ Benjamin C. Bruner
Benjamin C. Bruner