

Order Electronically filed September 24, 2026 denying Plaintiff's

**Motion for Reconsideration**

**RECEIVED**

**Oct 26 2026**

**SC Court of Appeals**

STATE OF SOUTH CAROLINA

COUNTY OF FLORENCE

Yvonne Brown-Burgess,

Plaintiff,

VS.

Florence County School District One,  
and John E. Hass, in his capacity as  
Court-Appointed Receiver

Defendants.

IN THE COURT OF COMMON PLEAS

## ORDER

Case No.: 2026-CP-21-00877

RECEIVED

**Oct 26 2026**

## SC Court of Appeals

The Plaintiff, Yvonne Brown-Burgess, requests the Court to reconsider the Order dated August 31, 2026 and in the Florence County Clerk of Court's office.

Having duly considered the motion of the Plaintiff, this Court has determined that its original ruling of August 31, 2026 is fully supported by the law and the evidence and is hereby ratified and reconfirmed. The motion is therefore DENIED.

AND IT IS SO ORDERED.

Dated: \_\_\_\_\_

H. Steven DeBerry, IV  
Judge, Twelfth Judicial Circuit



Florence Common Pleas

**Case Caption:** Yvonne Brown Burgess VS School District One Florence County ,  
defendant, et al  
**Case Number:** 2026CP2100877  
**Type:** Order/Other

H. Steven DeBerry, IV

**Circuit Court Judge 2771**

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| <p>STATE OF SOUTH CAROLINA<br/>COUNTY OF FLORENCE</p> <p>Yvonne Brown-Burgess,</p> <p>Plaintiff,</p> <p>v.</p> <p>Florence County School District One, and<br/>John E. Haas, in his capacity as<br/>Court-Appointed Receiver,</p> <p>Defendants.</p> | <p><b>IN THE COURT OF COMMON PLEAS<br/>TWELFTH JUDICIAL CIRCUIT</b></p> <p>C/A No. 2026-CP-21-00877</p> <p><b>PLAINTIFF'S COMPREHENSIVE<br/>RULE 59(e) MOTION TO ALTER<br/>OR AMEND DISMISSAL ORDERS<br/>ENTERED AUGUST 28 AND<br/>AUGUST 31, 2026</b></p> |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Plaintiff Yvonne Brown-Burgess, proceeding pro se, respectfully moves pursuant to Rule 59(e), SCRCP, to alter or amend (1) the Order Granting Motion by Defendant John E. Haas, in His Capacity as Court-Appointed Receiver, to Dismiss Complaint, electronically filed August 28, 2026 (the "Haas Order"), and (2) the Order Granting Defendant Florence County School District One's Motion to Dismiss, electronically filed August 31, 2026 (the "FSD1 Order"). Plaintiff received written notice of the challenged Orders on September 1, 2026. This Motion is therefore timely under Rule 59(e), SCRCP.

This Motion incorporates and renews the objections Plaintiff made to Defendants' proposed orders before entry of the final Orders. Plaintiff respectfully requests reconsideration, clarification, correction of errors of law, correction of internal inconsistencies, and express rulings on issues necessary to preserve the record for appellate review. Plaintiff does not seek merely to repeat the prior hearing. Rather, the final Orders adopt disputed factual propositions, rely upon materially different Rule 12 standards, resolve disputed ownership issues against Plaintiff notwithstanding her pleaded allegations of individual ownership, rely upon prior ALC proceedings that did not adjudicate her personal-property title in her individual capacity, and



contain rulings concerning collateral estoppel, judicial immunity, and S.C. Code Ann. § 59-40-120 that require clarification or amendment.

### **I. TIMELINESS, PURPOSE, AND PRESERVATION UNDER RULE 59(e)**

1. Rule 59(e), SCRCP, as amended effective in 2026, permits a motion to alter or amend to be served and filed within twenty days after receipt of written notice of entry of the order. Plaintiff received written notice of the challenged Orders on September 1, 2026, and this Motion is filed within that period.

2. Rule 59(e) permits a trial court to reconsider an order where the court misunderstood, failed fully to consider, or failed to rule upon an issue previously raised. It is also the proper vehicle to obtain a ruling on an issue necessary for appellate preservation. See *Elam v. S.C. Dep't of Transp.*, 361 S.C. 9, 21, 24, 602 S.E.2d 772, 778-80 (2004); *In re Michael H.*, 360 S.C. 540, 546, 602 S.E.2d 729, 732 (2004).

3. Plaintiff timely objected to the proposed orders and specifically challenged the proposed treatment of her personal property as PYA/PYS property, the use of prior ALC proceedings as if they adjudicated her individual ownership, the application of collateral estoppel, the Receiver's claimed immunity despite the express gross-negligence exception, the use of materials outside the pleadings, and the dismissal of claims with prejudice where any perceived pleading defect was potentially curable. The final Orders did not expressly resolve several of those objections.

### **II. THE TWO ORDERS APPLY MATERIALLY DIFFERENT RULE 12(b)(6)**

#### **STANDARDS**

4. The Haas Order states the South Carolina Rule 12(b)(6) standard: the court considers the allegations on the face of the complaint; the complaint must be viewed in the light most

favorable to the plaintiff; and dismissal is improper if the facts alleged and reasonable inferences would entitle the plaintiff to relief on any theory. See *Plyler v. Burns*, 373 S.C. 637, 645, 647 S.E.2d 188, 192 (2007). The Haas Order also recognizes that if matters outside the pleading are presented to and not excluded, the motion must be treated as one for summary judgment under Rule 56. See *Brazell v. Windsor*, 384 S.C. 512, 516, 682 S.E.2d 824, 826 (2009).

5. The FSD1 Order, however, repeatedly relies upon *Bell Atlantic Corp. v. Twombly* and *Ashcroft v. Iqbal* and applies the federal plausibility formulation. Plaintiff respectfully requests that the FSD1 Order be altered to apply the controlling South Carolina standard. Under South Carolina law, the complaint and all reasonable inferences must be construed in the light most favorable to Plaintiff, and dismissal is improper if the pleaded facts would entitle her to relief on any theory. *Rydde v. Morris*, 381 S.C. 643, 646, 675 S.E.2d 431, 433 (2009); *Doe v. Bishop of Charleston*, 407 S.C. 128, 134, 754 S.E.2d 494, 497-98 (2014); *Bergstrom v. Palmetto Health Alliance*, 358 S.C. 388, 395, 596 S.E.2d 42, 45 (2004).

6. Applying different pleading standards to two motions arising from the same Complaint creates uncertainty as to the legal basis for dismissal. Plaintiff requests that the Court apply one consistent South Carolina Rule 12 standard to both Defendants.

### **III. THE COMPLAINT ALLEGES SPECIFIC FACTS OF PLAINTIFF'S INDIVIDUAL OWNERSHIP**

7. Both Orders quote or acknowledge paragraphs 8 through 20 of the Complaint. Those paragraphs allege that Plaintiff purchased and owned personal property located at the premises; acquired the property solely with her personal funds; never transferred, assigned, or conveyed the property to FSD1, the Receiver, PYA, PYS, or any other entity; exercised ownership, possession, and control; prepared a detailed inventory; transmitted the inventory to the



Receiver's counsel and FSD1; repeatedly requested access to retrieve the property; Defendants had actual knowledge of her ownership claim and requests; and the structures containing the property were later demolished, resulting in destruction of her property.

8. These are factual allegations directed to acquisition, ownership, non-transfer, possession, notice, demand, exclusion, and destruction. They are not merely a formulaic recital of legal elements. Whether Plaintiff can ultimately prove them is a separate question from whether they must be accepted as true at the Rule 12 stage.

9. Conversion requires title to or a right to possession of personal property and an unauthorized assumption and exercise of ownership inconsistent with the owner's rights. *Crane v. Citicorp Nat'l Servs., Inc.*, 313 S.C. 70, 73, 437 S.E.2d 50, 52 (1993). Plaintiff's allegations of personal purchase, continued ownership, non-transfer, notice, demand, exclusion, and destruction directly address those elements.

10. Plaintiff therefore respectfully requests that the Court reconsider the FSD1 Order's statements that she alleged no facts supporting ownership and that her conversion claim consisted only of conclusory allegations.

#### **IV. THE ORDERS IMPROPERLY RESOLVE THE DISPUTED FACT OF OWNERSHIP AGAINST PLAINTIFF AT THE PLEADING STAGE**

11. Plaintiff's Complaint alleges that the property at issue was her individually owned property. The Orders nevertheless conclude or rely upon conclusions that the property was PYA/PYS property and therefore subject to the Receiver's authority and transfer to FSD1. That is a factual resolution of the very ownership dispute Plaintiff pleaded.

12. A Rule 12(b)(6) or Rule 12(c) motion does not authorize the Court to reject a well-pleaded factual allegation merely because Defendants dispute it. Under Rule 12(c), well-pleaded facts are treated as admitted for purposes of the motion, and judgment on the pleadings is a drastic procedure. *Falk v. Sadler*, 341 S.C. 281, 286-87, 533 S.E.2d 350, 353 (Ct. App. 2000); *Russell v. City of Columbia*, 305 S.C. 86, 89, 406 S.E.2d 338, 339 (1991).

13. Plaintiff respectfully requests reconsideration to the extent either Order resolved title against her rather than asking whether the pleaded ownership facts, accepted as true, state a claim.

**V. IF OUTSIDE MATERIALS WERE USED TO RESOLVE OWNERSHIP, RULE 12  
REQUIRED CONVERSION TO RULE 56**

14. Both Orders expressly considered matters beyond the four corners of the Complaint. The Haas Order states that the Court reviewed Plaintiff's July 29, 2026 letter and exhibits and then relies upon September 2023 and September 2025 ALC Orders. The FSD1 Order states that the Court reviewed Plaintiff's August 4 supplemental materials, treated them as exhibits, took judicial notice of records from the ALC proceeding, and relied upon those outside materials in deciding ownership and authorization.

15. Rule 12(b), SCRCF, expressly provides that when matters outside the pleading are presented to and not excluded on a Rule 12(b)(6) motion, the motion shall be treated as one for summary judgment under Rule 56, and all parties must be given a reasonable opportunity to present all material pertinent to the Rule 56 motion. Rule 12(c) contains the same conversion requirement.



16. Plaintiff requests an express ruling identifying whether either motion was decided solely under Rule 12 or was converted to Rule 56. If outside materials were used to resolve disputed ownership facts, Plaintiff requests that the dismissals be vacated and that the procedural safeguards of Rule 56 be applied.

## **VI. THE PRIOR ALC PROCEEDINGS DID NOT NECESSARILY ADJUDICATE PLAINTIFF'S INDIVIDUAL TITLE**

17. The ALC proceeding relied upon by the Orders was captioned Palmetto Youth Academy Charter School and Palmetto Youth Services, Inc. v. Florence County School District One. Plaintiff was not identified in that caption as an appellant in her individual capacity.

18. The present action is materially different: Plaintiff alleges title to personal property in her own name and alleges that the property was never transferred to PYA, PYS, FSD1, or the Receiver. The fact that personal property was physically located at PYA, or used by PYA, does not by itself determine ultimate title.

19. To the extent either Order applies collateral estoppel, Plaintiff respectfully requests express findings identifying: (a) the precise issue of Plaintiff's individual ownership that was actually litigated in the prior proceeding; (b) where that issue was directly determined; (c) why that determination was necessary to the prior judgment; and (d) why Plaintiff individually had a full and fair opportunity to litigate that issue. See *Shelton v. Oscar Mayer Foods Corp.*, 325 S.C. 248, 251-54, 481 S.E.2d 706, 707-09 (1997); *Ex parte Allstate Ins. Co.*, 339 S.C. 202, 206-07, 528 S.E.2d 679, 681 (Ct. App. 2000).

20. Plaintiff also requests clarification of the FSD1 Order's statement that she participated in the ALC matter and filed an appeal on her own behalf. To the extent the Court intends to treat



any appellate disposition as an adjudication on the merits of Plaintiff's personal-property ownership, Plaintiff requests identification of the specific decision and issue actually decided.

**VII. S.C. CODE ANN. § 59-40-120 DOES NOT, BY ITSELF, CONVERT THIRD-PARTY PROPERTY INTO A CHARTER-SCHOOL ASSET**

21. Plaintiff does not dispute that § 59-40-120 governs the disposition of assets belonging to a charter school upon dissolution. The threshold issue, however, is whether the property Plaintiff identified as personally owned was a PYA/PYS asset in the first instance.

22. Section 59-40-120 does not state that every item physically located on charter-school premises, every item used by a charter school, or every item temporarily possessed by a charter school automatically becomes property of the school or sponsor. The statute therefore does not eliminate the need to determine title to property alleged to belong to a third person.

23. Plaintiff respectfully requests that the Court distinguish between (a) the statutory disposition of assets belonging to PYA/PYS and (b) the separate threshold question whether the particular property alleged in the Complaint belonged to Plaintiff individually.

**VIII. THE RECEIVERSHIP ORDER'S CUSTODIAL AUTHORITY DID NOT NECESSARILY ADJUDICATE ULTIMATE TITLE**

24. The Haas Order quotes the September 22, 2023 receivership order as authorizing the Receiver to take custody, control, and possession of records, assets, funds, personal property, vehicles, accounts, real property, and other materials in the possession or under the direct or indirect control of PYA/PYS.

25. That language defines the Receiver's authority to obtain custody and control. It does not necessarily adjudicate ultimate ownership of every item physically present at the premises. The

Complaint specifically alleges that some property was individually owned by Plaintiff and never transferred to PYA/PYS.

26. Plaintiff therefore requests clarification whether the Court interpreted the September 22, 2023 ALC Order as a final adjudication that every item located at the premises was owned by PYA/PYS. If so, Plaintiff requests reconsideration because the text quoted in the Orders speaks in terms of possession and control as well as ownership and assets.

**IX. THE HAAS ORDER SHOULD BE ALTERED TO ADDRESS THE EXPRESS  
GROSS-NEGLIGENCE AND INTENTIONAL-MISCONDUCT EXCEPTION**

27. The Haas Order expressly quotes the September 22, 2023 ALC Order as providing immunity for loss or damage arising from acts or omissions connected with the receivership except for “an act of gross negligence or intentional misconduct.” The Haas Order later expressly states that, under section 15 of the ALC Order, Plaintiff is not barred from bringing her gross-negligence cause of action.

28. Nevertheless, the Haas Order’s decretal portion dismisses all causes of action against Mr. Haas based upon common-law judicial immunity and ALC-conferred immunity. Plaintiff respectfully requests an express ruling explaining why common-law judicial immunity independently bars the gross-negligence claim notwithstanding the ALC Order’s express exception.

29. O’Laughlin v. Windham, 330 S.C. 379, 385-86, 498 S.E.2d 689, 692 (Ct. App. 1998), frames the common-law inquiry in terms of whether the officer was performing a judicial act and whether the officer acted in the clear absence of jurisdiction. Plaintiff respectfully requests that the Court apply that inquiry to the particular conduct alleged, including notice of claimed third-



party ownership, repeated requests for access, alleged failure to safeguard property after notice, transfer of control to FSD1, and the subsequent destruction of the property.

30. Plaintiff does not contend that the ALC exception automatically defeats common-law immunity. She asks the Court to reconcile the express exception in the appointing Order with the conclusion that common-law immunity bars every claim, including gross negligence, so the basis of the ruling is clear and reviewable.

#### **X. THE FSD1 ORDER CONTAINS AN INTERNAL CONFLICT CONCERNING PREJUDICE**

31. The FSD1 Order states in its analysis that Plaintiff's negligence and gross-negligence claims are dismissed without prejudice. Paragraph 2(b) of the decretal section likewise dismisses those claims without prejudice. Paragraph 3, however, states broadly that Plaintiff's claims against FSD1 are dismissed with prejudice pursuant to Rule 12(c).

32. These provisions conflict. Plaintiff respectfully requests that paragraph 3 be amended to conform to the specific without-prejudice disposition of negligence and gross negligence in paragraph 2(b), or that the Court expressly state which disposition controls and why. The distinction materially affects Plaintiff's rights to amend, refile, and seek appellate review.

#### **XI. DISMISSAL WITH PREJUDICE SHOULD BE RECONSIDERED WHERE THE PRINCIPAL DEFECT IDENTIFIED WAS FACTUAL SPECIFICITY**

33. The FSD1 Order faults Plaintiff for not providing more detail concerning particular items, how she acquired them, and proof of title. Even if the Court concludes additional specificity was required, those concerns identify potentially curable pleading deficiencies rather than a legal impossibility of recovery under any set of facts.



34. Rule 15(a), SCRCP, provides that leave to amend shall be freely given when justice so requires and does not prejudice another party. South Carolina's pleading rules favor disposition on the merits.

35. Plaintiff therefore alternatively requests that, if the Court does not reinstate a claim outright, the Court alter the judgment to dismissal without prejudice and/or permit amendment rather than permanently foreclosing a potentially curable claim.

**XII. THE CONVERSION CLAIM AGAINST FSD1 SHOULD BE REINSTATED OR, AT  
MINIMUM, DISMISSED WITHOUT PREJUDICE**

36. The FSD1 Order dismisses conversion with prejudice after concluding that Plaintiff failed to allege facts showing title or a right to possession and failed to allege unauthorized dominion. Yet paragraphs 8 through 20 allege personal purchase, personal ownership, non-transfer, continued possession and control, notice to Defendants, repeated demand for access, refusal of access, and destruction.

37. Those factual allegations, accepted as true, are sufficient at minimum to present a disputed ownership issue under Crane. Whether the ALC ultimately authorized control over property belonging to PYA/PYS does not answer whether property alleged to belong to Plaintiff personally could lawfully be retained and destroyed after Defendants received notice of her ownership claim.

38. Plaintiff respectfully requests that the Court vacate the dismissal with prejudice of conversion and reinstate the claim. Alternatively, if the Court believes additional ownership details are required, Plaintiff requests leave to amend.

### **XIII. SPECIFIC RULINGS REQUESTED TO COMPLETE AND PRESERVE THE RECORD**

39. To avoid uncertainty and preserve the issues for any appellate review, Plaintiff respectfully requests express rulings on the following:

1. Whether the South Carolina Rule 12(b)(6) standard stated in Plyler, Rydde, Doe, and Bergstrom controls both dismissal motions, rather than a federal Twombly/Iqbal plausibility test;
2. Whether paragraphs 8 through 20 of the Complaint constitute factual allegations of Plaintiff's individual purchase, ownership, non-transfer, possession, notice, demand, exclusion, and destruction;
3. Whether either Order resolved disputed ownership facts against Plaintiff and, if so, under what procedural authority;
4. Whether either motion was converted to Rule 56 because matters outside the pleadings were considered, and whether Plaintiff received the reasonable opportunity required by Rule 12;
5. Whether collateral estoppel applies to Plaintiff's individual ownership claim, including identification of the precise issue actually litigated and determined and the basis for finding a full and fair opportunity to litigate it;
6. Whether § 59-40-120 governs only assets belonging to the charter school upon dissolution and whether the statute itself determines that third-party property physically located at the school was a charter-school asset;
7. Whether the receivership order's reference to property in PYA/PYS possession or control adjudicated ultimate title to property alleged to belong to Plaintiff individually;

8. Why common-law judicial immunity bars Plaintiff's gross-negligence claim against Haas notwithstanding the ALC Order's express exception for gross negligence or intentional misconduct;
9. Whether Plaintiff individually was a party or privy in the prior ALC proceeding for purposes of issue preclusion and whether any appellate disposition adjudicated the merits of her personal-property ownership;
10. Whether negligence and gross negligence against FSD1 are dismissed without prejudice as stated in paragraph 2(b) or with prejudice under paragraph 3 of the FSD1 Order; and
11. Whether Plaintiff should be granted leave to amend any pleading deficiency the Court deems curable under Rule 15(a), SCRCP.

#### **XIV. REQUEST FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests that the Court grant this Rule 59(e) Motion and:

1. Alter or amend the August 31, 2026 FSD1 Order to apply the controlling South Carolina Rule 12 standard and reconsider dismissal of Plaintiff's claims under that standard;
2. Vacate the dismissal with prejudice of Plaintiff's conversion claim against FSD1 and reinstate that claim, or alternatively permit amendment if the Court concludes additional ownership facts are required;
3. Alter or amend the August 28, 2026 Haas Order to address the gross-negligence/intentional-misconduct exception and reconsider dismissal of Plaintiff's gross-negligence claim;
4. Reconsider application of collateral estoppel to Plaintiff's individual property claims unless the Court identifies an identical issue actually litigated and necessarily determined against Plaintiff individually after a full and fair opportunity to litigate;



5. Clarify that § 59-40-120 governs assets belonging to the charter school upon dissolution but does not, standing alone, establish title to property alleged to be owned by a third person;
6. Clarify whether consideration of outside materials converted either motion to summary judgment and, if so, vacate the dismissals unless the procedural requirements of Rules 12 and 56 were satisfied;
7. Amend the FSD1 Order to eliminate the conflict between the without-prejudice disposition of negligence/gross negligence and the later blanket statement of dismissal with prejudice;
8. Alternatively, grant Plaintiff leave to amend any pleading deficiency the Court determines is curable;
9. Enter express rulings on the preservation questions identified above; and
10. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted,



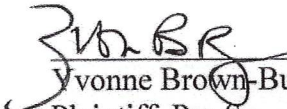
Yvonne Brown-Burgess  
Plaintiff, Pro Se  
3319 Stockton Drive  
Florence, South Carolina 29501  
Date: September 11, 2026

## CERTIFICATE OF SERVICE

I, Yvonne Brown-Burgess, Plaintiff pro se, hereby certify that on September 11, 2026, I served a true and correct copy of the foregoing Plaintiff's Comprehensive Rule 59(e) Motion to Alter or Amend Dismissal Orders Entered August 28 and August 31, 2026 upon counsel of record by electronic mail and/or another authorized method of service:

Michael H. Montgomery, Esquire  
Attorney for Florence County School District One  
[MHM@Montgomery-Willard.com](mailto:MHM@Montgomery-Willard.com)

M. McMullen Taylor, Esquire  
Attorney for John E. Haas, Court-Appointed Receiver  
[MTaylor@rplfirm.com](mailto:MTaylor@rplfirm.com)

  
\_\_\_\_\_  
Yvonne Brown-Burgess  
Plaintiff, Pro Se  
3319 Stockton Drive  
Florence, South Carolina 29501

Date: September 11, 2026

STATE OF SOUTH CAROLINA

COUNTY OF FLORENCE

Yvonne Brown-Burgess,

Plaintiff,

vs.

Florence County School District One, and  
John E. Haas, in his capacity as Court-  
Appointed Receiver,

Defendants.

IN THE COURT OF COMMON PLEAS  
FOR THE TWELFTH JUDICIAL CIRCUIT

C/A No.: 2026-CP-21-00877

**PLAINTIFF'S OBJECTIONS TO  
DEFENDANT FLORENCE COUNTY  
SCHOOL DISTRICT ONE'S PROPOSED  
ORDER OF DISMISSAL AND REQUEST  
FOR CORRECTION**

Plaintiff, Yvonne Brown-Burgess, proceeding pro se, respectfully submits these Objections to Defendant Florence County School District One's Proposed Order Granting Defendant Florence County School District One's Motion to Dismiss ("Proposed Order"). Plaintiff respectfully requests that the Court decline to enter the Proposed Order in its present form because several findings are inconsistent with the factual allegations expressly contained in Plaintiff's Complaint, improperly resolve disputed factual issues against Plaintiff at the pleading stage, expand the scope of the Receiver's authority beyond the language of the applicable receivership order, and contain an internal contradiction concerning whether Plaintiff's negligence and gross-negligence claims are dismissed with or without prejudice.

Plaintiff does not ask the Court to disregard the Administrative Law Court's ("ALC") Orders. Plaintiff asks only that those Orders be applied according to their actual terms and that



disputed questions concerning ownership, possession, notice, and the scope of the Receiver's authority not be resolved against Plaintiff on a Rule 12(b)(6) or Rule 12(c) motion.

**I. THE PROPOSED ORDER ACKNOWLEDGES FACTUAL ALLEGATIONS THAT DIRECTLY CONTRADICT ITS CONCLUSION THAT PLAINTIFF PLEADED NO FACTS SUPPORTING OWNERSHIP**

**The Proposed Order states that Plaintiff's Complaint alleges:**

- Plaintiff purchased and owned personal property located within buildings and structures associated with PYA;
- the property was acquired solely with Plaintiff's personal funds;
- the property was never transferred, assigned, or conveyed to FSD1, the Receiver, or any other entity;
- Plaintiff exercised ownership, possession, and control over the property;
- Plaintiff created a detailed inventory identifying her personal property;
- Plaintiff separately identified personal property belonging to other staff and teachers;
- Plaintiff transmitted the inventory to counsel for the Receiver;
- Plaintiff repeatedly requested access to retrieve her property;
- Defendants had actual knowledge of Plaintiff's ownership claims and requests; and
- Defendants nevertheless refused access and failed to safeguard the property.

The Proposed Order then concludes, however, that Plaintiff's allegations are merely conclusory and that she "fails to include averments of fact to support the causes of action she seeks to plead."

**Those findings cannot reasonably be reconciled.**

Plaintiff's Complaint does not merely state, "I own the property." It alleges **how the property was acquired, who paid for it, that it was never transferred to PYA/PYS/FSD1/the** Plaintiff's Objections to FSD1'

**Receiver, that Plaintiff exercised ownership and control, that she separately inventoried the property, that she notified the Receiver's counsel, and that she requested its return before the property was destroyed.**

Whether those allegations will ultimately be proven is a question for discovery and the merits of the case. They are not properly disregarded as nonexistent factual allegations at the pleading stage.

South Carolina law requires that, on a Rule 12(b)(6) motion, the Court consider the allegations in the light most favorable to the plaintiff. *Plyler v. Burns*, 373 S.C. 637, 645, 647 S.E.2d 188, 192 (2007). If the facts alleged and reasonable inferences from those facts would entitle the plaintiff to relief under any theory, dismissal is improper. See also *Sloan Construction Co. v. Southco Grassing, Inc.*, 377 S.C. 240, 247, 659 S.E.2d 158, 162 (2008).

The Proposed Order therefore should not state that Plaintiff pleaded no factual basis for ownership when the Proposed Order itself identifies the specific factual allegations concerning ownership.

## **II. THE PROPOSED ORDER IMPROPERLY TREATS THE PHYSICAL LOCATION OF PROPERTY AS PROOF THAT THE PROPERTY BELONGED TO PYA/PYS**

The Proposed Order repeatedly reasons that because the property was located at the school and the school had allegedly used certain items in its operations; the property must have belonged to PYA/PYS.

**That reasoning improperly converts location and uses into ownership.**

Plaintiff specifically alleges that the property was personally purchased, personally owned, and never transferred to PYA/PYS or FSD1.

The South Carolina Supreme Court has expressly rejected the proposition that ownership of the real property where personal property is stored determines ownership of the personal property. In *Moseley v. Oswald*, 376 S.C. 251, 254-55, 656 S.E.2d 380, 382 (2008), the Supreme Court held that a conversion claim depends upon whether the defendant exercised unauthorized control over the plaintiff's personal property and explained that ownership of the real property where the chattels were stored does not determine the conversion claim. The Court further recognized that genuine factual issues existed concerning conversion.

**That principle is directly relevant here.**

The Proposed Order should not conclude that Plaintiff's property belonged to PYA/PYS merely because the property was located within buildings or structures associated with PYA. The relevant question is **who owned the personal property and whether Defendants had lawful authority to exercise control over it.**

### **III. THE PROPOSED ORDER IMPROPERLY EXPANDS THE RECEIVER'S AUTHORITY BEYOND THE PROPERTY COVERED BY THE APPOINTMENT ORDER**

The Proposed Order states that the Receiver was authorized to take possession of property pursuant to the ALC Order and then reasons that the Receiver was therefore authorized to take the property Plaintiff claims as her own. That conclusion improperly assumes that the disputed property was receivership property.

The South Carolina Supreme Court recently addressed this precise principle in *Welch v. Atlas Turner, Inc.*, 445 S.C. 640, 916 S.E.2d 320 (2025). The Court explained that a receiver is an officer of the court who exercises power over the defendant's assets and property **specified in the appointment order** and that the receiver must administer the estate in compliance with the appointing order and South Carolina law. The Supreme Court specifically reversed the portion of Plaintiff's Objections to FSD1'



a receivership order that granted the receiver authority beyond the assets for which the receiver had been appointed.

Rule 66(a), SCRCPP, likewise requires a receiver to administer the estate in compliance with the appointing order and South Carolina law. Thus, the question is not simply whether Mr. Haas was appointed Receiver.

The question is:

**What property did the ALC Order actually place within his authority?**

Plaintiff's position is that the property at issue was personally owned property and was never transferred to PYA/PYS. The Receiver's authority over PYA/PYS property therefore cannot automatically be transformed into authority over property personally owned by Plaintiff merely because that property was located on premises associated with PYA/PYS.

*Welch* is particularly important because it demonstrates that a receiver's appointment does not create unlimited authority over property merely because the receiver believes the property is related to the receivership. The authority must remain within the scope of the appointing order.

**IV. THE PROPOSED ORDER IMPROPERLY RESOLVES THE CENTRAL OWNERSHIP DISPUTE IN FSD1'S FAVOR**

The Proposed Order states that Plaintiff's evidence "fails to establish" ownership and that the only evidence available demonstrates that the property was owned by PYA or PYS. That is not a determination of the sufficiency of the pleadings. It is a factual determination concerning the ultimate ownership of the property.

**Plaintiff disputes that determination.**

Plaintiff alleges:

Plaintiff's Objections to FSD1'

- the property was purchased with her personal funds;
- the property was never transferred to PYA/PYS;
- she retained ownership and control;
- she identified the property in a written inventory;
- she separately identified property belonging to teachers and staff;
- the inventory was provided to the Receiver's counsel;
- she repeatedly requested access to retrieve the property; and
- Defendants knew of those ownership claims before the property was destroyed.

**Those allegations create a factual dispute that cannot properly be resolved by accepting FSD1's characterization of the property as school property.**

The Proposed Order itself recognizes that Plaintiff filed additional evidence and that the Court reviewed those submissions and treated them as though they were exhibits to the Complaint.

**That creates an additional procedural concern.**

Rule 12(c), SCRCF expressly provides that when matters outside the pleadings are presented and not excluded, the motion must be treated as one for summary judgment and the parties must be given a reasonable opportunity to present all material pertinent to Rule 56. The South Carolina appellate courts have repeatedly recognized this requirement. Therefore, the Court should not use Plaintiff's supplemental evidence to reject her factual allegations while simultaneously treating the matter as an ordinary Rule 12(b)(6) determination.

#### **V. RULE 12(c) DOES NOT AUTHORIZE JUDGMENT WHERE THE PLEADINGS PRESENT A MATERIAL FACTUAL DISPUTE**

**The Proposed Order grants judgment on the pleadings under Rule 12(c).**

South Carolina law imposes an important limitation on that procedure. In *Rosenthal v. Unarco Industries, Inc.*, 278 S.C. 420, 422, 297 S.E.2d 638, 640 (1982), the Supreme Court held that judgment on the pleadings is appropriate where the pleadings entitle a party to judgment without proof because the pleadings disclose all necessary facts or present no issue of fact.

The opposite is also true: where the pleadings present an issue of fact that, if resolved in Plaintiff's favor, would entitle her to relief, judgment on the pleadings is improper.

South Carolina courts have expressly stated:

"A judgment on the pleadings against the plaintiff is not proper if there is an issue of fact raised by the complaint which, if resolved in favor of the plaintiff, would entitle him to judgment."

*Lydia v. Horton*, 343 S.C. 376, 540 S.E.2d 102 (Ct. App. 2001), quoted in South Carolina authority addressing Rule 12(c).

Here, there are plainly factual issues concerning:

1. who purchased the property;
2. who owned the property;
3. whether the property was ever transferred to PYA/PYS;
4. whether the property was subject to the receivership;
5. whether the Receiver had authority to take the property;
6. whether Plaintiff notified the Receiver of her ownership;
7. whether Plaintiff requested the return of the property before destruction;
8. whether the property was abandoned;
9. whether FSD1 had notice of Plaintiff's ownership claims; and
10. whether Defendants were legally authorized to destroy property claimed by Plaintiff.



If those facts are resolved in Plaintiff's favor, Plaintiff may be entitled to relief. Therefore, Rule 12(c) does not provide a proper basis for disposing of the claims by resolving those disputed facts in Defendants' favor.

**VI. PLAINTIFF'S CONVERSION CLAIM IS SUFFICIENTLY PLED BECAUSE SHE ALLEGED TITLE AND RIGHT TO POSSESSION**

The Proposed Order correctly cites *Crane v. Citicorp National Services, Inc.*, 313 S.C. 70, 437 S.E.2d 50 (1993), for the proposition that conversion involves the unauthorized assumption and exercise of ownership over another's personal property and that the plaintiff must establish title or a right to possession. But the Proposed Order then concludes that Plaintiff failed to allege facts supporting title or possession.

**The Complaint does allege those facts.**

Plaintiff alleges that she purchased the property with her personal funds, that she owned it, that it was never transferred to PYA/PYS/FSD1/the Receiver, and that she exercised ownership, possession, and control before Defendants' actions.

That is sufficient factual pleading of title or right to possession for purposes of Rule 12(b)(6).

**The ultimate truth of those allegations is a merits question.**

Indeed, *Moseley* is particularly instructive because the Supreme Court held that an action for conversion does not depend upon ownership of the real property on which the plaintiff's personal property was located and recognized genuine factual issues concerning the alleged conversion. Accordingly, Plaintiff's conversion claim should not be dismissed based upon the assumption that the location of the property establishes that PYA/PYS owned it.

**VII. THE ALLEGATION THAT THE SCHOOL USED THE PROPERTY DOES NOT ESTABLISH OWNERSHIP AS A MATTER OF LAW**

Plaintiff's Objections to FSD1'

The Proposed Order relies substantially upon the fact that certain property was used in operating the school and concludes that such use demonstrates ownership by PYA/PYS.

**But use is not necessarily ownership.**

Property may be used by a school while remaining owned by an individual. A teacher, director, employee, contractor, or other individual may permit property to be used for school purposes without transferring title. The Complaint specifically alleges that the property was purchased with Plaintiff's personal funds and was never transferred to PYA/PYS. Whether those allegations are ultimately proven is a factual issue. The Court therefore should not infer ownership solely from the property's use.

**VIII. THE WRITTEN INVENTORY AND REQUESTS FOR RETURN ARE MATERIAL FACTS THAT THE PROPOSED ORDER DOES NOT PROPERLY ADDRESS**

The Proposed Order acknowledges that Plaintiff created an inventory identifying her property separately from property belonging to other teachers and staff and that the inventory was provided to counsel for the Receiver. It also acknowledges Plaintiff's repeated requests for access to retrieve her property and Defendants' knowledge of those requests.

**Those allegations are material.**

They demonstrate that this is not simply a case in which Plaintiff first claimed ownership after the Receiver completed the receivership. Plaintiff alleges that she asserted ownership and requested access **before the property was destroyed.**

Consequently, the question of whether Defendants had a duty to preserve or return property after receiving notice of an individual ownership claim cannot be resolved simply by stating that the Receiver had authority over PYA/PYS property. The Proposed Order should

address the distinction between property of PYA/PYS and property claimed as individually owned property.

**IX. THE PROPOSED ORDER'S NEGLIGENCE ANALYSIS DEPENDS UPON A FACTUAL CONCLUSION THAT HAS NOT BEEN ESTABLISHED**

The Proposed Order concludes that FSD1 could not have owed Plaintiff a duty because the property was taken pursuant to court order. That conclusion depends upon another disputed factual and legal proposition: that the property at issue was property covered by the court order. If Plaintiff's property was not property of PYA/PYS and was not otherwise subject to the Receiver's authority, then the fact that an ALC Order existed does not automatically establish that FSD1 had authority to take or destroy Plaintiff's individually owned property.

The negligence claim therefore should not be dismissed by first assuming the disputed issue of ownership and then using that assumption to eliminate the duty element. Plaintiff has alleged that Defendants had actual knowledge of her ownership claims and requests for access and nevertheless refused access and failed to preserve the property.

Whether those allegations establish a legal duty and breach should be determined after the Court applies the appropriate pleading standard to the facts alleged, not by resolving the underlying ownership dispute against Plaintiff.

**X. THE PROPOSED ORDER'S BAILMENT ANALYSIS ALSO DEPENDS UPON DISPUTED FACTS**

The Proposed Order concludes that no bailment could exist because Plaintiff did not deliver property directly to FSD1 or the Receiver. Plaintiff recognizes that traditional bailment principles generally require delivery of personal property for a particular purpose. See *Home*



*Indemnity Co. v. Harleysville Mutual Insurance Co.*, 252 S.C. 452, 460, 166 S.E.2d 819, 824 (1969).

However, the Proposed Order again assumes that Plaintiff voluntarily transferred her property to PYA/PYS and that the property therefore became school property. Plaintiff alleges instead that she retained ownership, that Defendants subsequently assumed control over the premises and contents, that she requested access to retrieve her property, and that Defendants refused access while knowing of her ownership claim. At minimum, the Court should not use the disputed ownership issue to resolve all factual questions against Plaintiff at the pleading stage.

**X. THE CONSTITUTIONAL CLAIM SHOULD NOT BE DISMISSED BY CONCLUDING THAT THERE WAS NO DEPRIVATION OF PLAINTIFF'S PROPERTY BEFORE RESOLVING OWNERSHIP**

The Proposed Order concludes that Plaintiff failed to allege that FSD1 deprived her of property or prevented her from exercising due-process rights.

But Plaintiff expressly alleges that:

- she owned the property;
- Defendants assumed control over the premises;
- Defendants exercised dominion over the contents;
- Plaintiff requested access to retrieve her property;
- Defendants knew of her ownership claim;
- Defendants refused access; and
- the property was ultimately destroyed.

**Those allegations describe an alleged deprivation of property.**

Whether the property was in fact Plaintiff's property and whether Defendants' conduct was legally authorized are disputed questions. The Court should not eliminate the constitutional claim by assuming the disputed conclusion that the property belonged to PYA/PYS.

**XI. PLAINTIFF DOES NOT CLAIM OWNERSHIP ON BEHALF OF OTHER TEACHERS OR STAFF, BUT THEIR PROPERTY CLAIMS ARE RELEVANT TO NOTICE AND THE SCOPE OF THE RECEIVER'S AUTHORITY**

Plaintiff acknowledges that she cannot assert independent property claims belonging to other persons. However, the fact that teachers and staff separately identified personal property is relevant to the factual circumstances surrounding Defendants' possession and destruction of property.

Plaintiff's own Complaint alleges that she separately identified her property from property belonging to other staff and teachers. That allegation supports Plaintiff's contention that the contents of the premises were not necessarily one undifferentiated pool of PYA/PYS property. Plaintiff therefore does not rely upon the teachers' or staff members' ownership claims as independent causes of action belonging to her. She relies upon those facts to demonstrate that the premises contained property that was claimed as individually owned property and that ownership was not necessarily synonymous with physical location.

**XII. THE CIVIL CONSPIRACY CLAIM SHOULD NOT BE DISMISSED BY RESOLVING THE UNDERLYING FACTS IN DEFENDANTS' FAVOR**

The Proposed Order concludes that Plaintiff failed to plead any acts in furtherance of an alleged conspiracy and that the allegations merely repeat the conduct alleged in the other causes of action. Plaintiff respectfully objects to that conclusion to the extent it depends upon resolving disputed factual allegations concerning the conduct of FSD1 and the Receiver.

A civil conspiracy claim requires proof of an agreement or combination and acts in furtherance of the conspiracy, together with resulting damages. See *Kuznik v. Bees Ferry Associates*, 342 S.C. 579, 594, 538 S.E.2d 15, 23 (Ct. App. 2000). Whether Plaintiff can ultimately prove such an agreement is different from whether the factual allegations in her Complaint, viewed in the light most favorable to her, are sufficient to permit discovery concerning the alleged coordinated conduct.

The circumstances surrounding the hearing on Defendants' Motions further support Plaintiff's allegation that Defendants were acting in coordination. Although FSD1 and the Receiver filed separate motions and are separate defendants, their attorneys jointly presented their respective motions at the hearing. During the presentation, counsel for the two Defendants were observed communicating with one another, including passing notes and conferring while the motions were being argued. Plaintiff respectfully submits these circumstances as evidence relevant to the alleged coordination between the Defendants.

Plaintiff does not contend that counsel's communication during a court hearing, standing alone, establishes a civil conspiracy. Rather, the conduct is relevant when considered together with the other facts alleged in the Complaint concerning the Defendants' coordinated positions and actions relating to Plaintiff's property.

Plaintiff therefore respectfully requests that the Court evaluate the conspiracy claim under the Rule 12(b)(6) standard rather than resolve factual questions concerning communications, coordination, knowledge, and acts in furtherance in Defendants' favor.

**XIII. THE PROPOSED ORDER CONTAINS A MATERIAL AND INTERNAL CONTRADICTION CONCERNING WHETHER THE NEGLIGENCE CLAIMS ARE DISMISSED WITH OR WITHOUT PREJUDICE**



Plaintiff specifically objects to the Proposed Order because its dispositive provisions are internally inconsistent.

Paragraph 2 states:

“Plaintiff’s claim for Negligence and Gross Negligence is dismissed without prejudice.”

The Proposed Order therefore expressly recognizes that those claims are dismissed **without prejudice**.

However, immediately thereafter, paragraph 3 states:

“Plaintiff’s claims against Defendant Florence County School District One are dismissed with prejudice pursuant to Rule 12(c), SCRCP.”

Those provisions cannot both operate as written.

A dismissal without prejudice does not have the same legal effect as a dismissal with prejudice. A dismissal without prejudice preserves the plaintiff’s ability, subject to applicable procedural and substantive limitations, to pursue the claim again or amend when permitted. A dismissal with prejudice is final as to the dismissed claim. The Court should therefore correct the Proposed Order before entry so that its decretal language clearly identifies **which causes of action are dismissed with prejudice and which, if any, are dismissed without prejudice**.

The inconsistency is particularly significant because the body of the Proposed Order states: “Those claims are dismissed without prejudice.” with respect to negligence and gross negligence. The final paragraph then purports to override that specific disposition by stating that **all claims** are dismissed with prejudice.

**Plaintiff respectfully requests that the Court not enter contradictory provisions.**

If the Court intends to dismiss negligence and gross negligence without prejudice, paragraph 3 should be modified to exclude those causes of action. The final order should

accurately reflect the Court's actual ruling and should not leave the parties to determine which conflicting provision controls.

**XIV. REQUEST THAT THE PROPOSED ORDER BE CORRECTED TO CONFORM TO THE COURT'S ACTUAL RULING**

For all of the foregoing reasons, Plaintiff respectfully requests that the Court decline to enter the Proposed Order as presently drafted.

Plaintiff specifically requests that the Court:

1. Recognize that the Complaint contains specific factual allegations concerning Plaintiff's ownership, acquisition, possession, and control of the property;
2. Recognize that Plaintiff alleged the property was purchased with her personal funds and never transferred to PYA/PYS, FSD1, or the Receiver;
3. Recognize that Plaintiff alleged she separately identified her property and property belonging to teachers and staff in a written inventory;
4. Recognize that Plaintiff alleged the inventory was provided to counsel for the Receiver and that Defendants had actual notice of Plaintiff's ownership claims before destruction;
5. Decline to treat the physical location of the property on PYA/PYS premises as conclusive proof of ownership;
6. Apply the September 22, 2023 ALC Order according to its actual terms and decline to expand the Receiver's authority beyond the property and powers expressly placed within the receivership;
7. Apply *Welch v. Atlas Turner, Inc.*, 445 S.C. 640, 916 S.E.2d 320 (2025), and Rule 66(a), SCRC, concerning the limited scope of a receiver's authority;

8. Decline to resolve disputed questions of ownership, possession, notice, abandonment, or authority under Rule 12(b)(6) or Rule 12(c);
9. Apply *Plyler v. Burns*, *Sloan Construction Co. v. Southco Grassing, Inc.*, *Rosenthal v. Unarco Industries, Inc.*, *Lydia v. Horton*, and related South Carolina authority requiring well-pleaded facts and reasonable inferences to be considered in Plaintiff's favor at the pleading stage;
10. Correct the Proposed Order's characterization that Plaintiff pleaded no facts supporting ownership;
11. Correct any finding that FSD1's or the Receiver's authority over PYA/PYS property necessarily authorized possession or destruction of individually owned property;
12. Correct the internal inconsistency between paragraph 2(b), which dismisses negligence and gross negligence **without prejudice**, and paragraph 3, which purports to dismiss **all claims with prejudice**; and
13. Enter an order that accurately identifies the disposition of each cause of action and does not contain contradictory provisions concerning the effect of dismissal.

**XV. THE PROPOSED ORDER IMPROPERLY PRESENTS THE RECEIVER'S UNPROVEN ASSERTIONS AS ESTABLISHED FACT AND FAILS TO EXPLAIN HOW THOSE ASSERTIONS AUTHORIZE THE DESTRUCTION OF PLAINTIFF'S PERSONAL PROPERTY**

Defendants continue to rely upon the following statement in the Proposed Order:

“During his service, Mr. Haas identified numerous fiscal and operational irregularities and sought recovery of assets wrongfully appropriated and transferred by Plaintiff or at Plaintiff's direction. Every action that the Plaintiff alleges in this Complaint stems from actions taken and ordered by the Administrative Law Court.”



Plaintiff respectfully objects to this language because it presents the Receiver's characterization of events as though it were an established fact and then improperly uses that characterization to support dismissal of Plaintiff's claims.

**The Receiver's characterization of alleged "irregularities" and "wrongfully appropriated" assets is not a judicial finding**

The statement that Mr. Haas "identified numerous fiscal and operational irregularities" and that assets were "wrongfully appropriated and transferred by Plaintiff or at Plaintiff's direction" is, absent a specific judicial finding establishing those facts, an allegation or opinion of the Receiver, and not an adjudicated fact.

**Plaintiff specifically disputes that characterization.**

The Proposed Order should not convert an allegation made by the Receiver into an established factual finding for purposes of dismissing Plaintiff's claims. Whether any particular transaction was improper, whether Plaintiff personally received or appropriated any PYA/PYS asset, whether an asset belonged to PYA/PYS in the first place, and whether any particular transaction was authorized are factual and legal questions that cannot be established merely by repeating the Receiver's characterization.

The distinction is particularly important because Plaintiff's claims in this action include claims concerning **personal property that Plaintiff alleges belonged to her individually and was not property of PYA/PYS**. A receiver's assertion that he identified irregularities concerning PYA/PYS assets does not establish that Plaintiff's separately owned personal property became property of the receivership.

The central issue in Plaintiff's property claims is **ownership and lawful authority over the specific property that was destroyed, not whether the Receiver believed that financial irregularities existed during his administration of PYA/PYS.**

**XVI. PLAINTIFF WAS NOT A PARTY TO THE ALC PROCEEDING AND THEREFORE HAD NO OPPORTUNITY TO LITIGATE HER INDIVIDUAL PROPERTY RIGHTS**

Furthermore, Plaintiff was **not a party to the referenced ALC proceeding in her individual capacity.** Plaintiff was not represented by counsel in that proceeding concerning her individual interests, was not permitted to participate as a party, and was not afforded an opportunity to litigate her individual ownership rights to the personal property at issue in this action.

This distinction is further demonstrated by the subsequent South Carolina appellate proceedings. When Plaintiff attempted to seek appellate review concerning matters arising from the ALC proceeding, the South Carolina Court of Appeals determined that Plaintiff lacked standing to pursue the appeal. Plaintiff respectfully submits that this is significant because the lack of standing arose in the context of Plaintiff's status in the underlying proceeding: **Plaintiff was not the party whose charter decision was being adjudicated and was not an appellant in the ALC proceeding in her individual capacity.** Thus, Plaintiff was effectively left without a procedural vehicle in either proceeding through which she could litigate her separate claim that certain property was personally owned by her.

Plaintiff cannot fairly be treated as though she litigated and lost her individual property rights in a proceeding in which she was not a party, was not represented in her individual capacity, and did not have standing to assert those individual rights.

**XVII. CORRECTIONS TO MATERIAL FACTUAL AND PROCEDURAL STATEMENTS IN THE PROPOSED ORDER**

Plaintiff respectfully requests that the Court correct Footnote 1 of the Proposed Order because it inaccurately states that **“Palmetto Youth Academy and Palmetto Youth Services, the entity that operated the school, moved for a stay of the school board's decision pursuant to the Charter Schools Act.”**

The record reflects that **PYA, not PYA and PYS jointly, initiated the appeal to the Administrative Law Court (“ALC”) following FSD1's decision not to renew PYA's charter.** PYA was the charter school whose charter renewal had been denied and was the entity exercising the statutory right to seek review of that decision under the South Carolina Charter Schools Act, S.C. Code Ann. §§ 59-40-10 et seq.

**PYS was not an original appellant in the ALC proceeding. PYS was added as a party by the ALC's September 22, 2023 Order.** Accordingly, the Proposed Order should not state or imply that PYS joined PYA in initiating the ALC appeal or in seeking the stay before PYS was added to the proceeding.

Plaintiff further objects to any implication that PYS's subsequent addition to the ALC proceeding establishes that PYS was an original appellant or that PYS independently initiated the appeal from FSD1's charter-renewal decision. The procedural history is material because the rights, status, and participation of PYA and PYS in the ALC proceeding were not identical.

Plaintiff also respectfully notes that PYS's addition to the ALC proceeding occurred pursuant to the **September 22, 2023 ALC Order after counsel for FSD1 presented information concerning PYS that Plaintiff contends was inaccurate.** Plaintiff requests that the Court rely Plaintiff's Objections to FSD1'



upon the actual ALC record concerning when and why PYS was added rather than characterize PYA and PYS as having jointly initiated the appeal.

The distinction is important to the issues presently before this Court because the Proposed Order relies upon the ALC proceedings and subsequent ALC Orders in determining the nature and scope of the Receiver's authority and the property subject to the receivership. The procedural history should therefore be stated accurately and without implying that PYS was an original appellant when it was not.

### **CONCLUSION**

Plaintiff respectfully submits that the Proposed Order goes beyond the proper function of a Rule 12(b)(6) and Rule 12(c) proceeding by resolving disputed factual issues concerning ownership and the scope of the Receiver's authority in Defendants' favor.

The Complaint alleges specific facts that, if proven, establish that Plaintiff personally owned the property, purchased it with her personal funds, never transferred it to PYA/PYS, asserted ownership before destruction, identified the property in writing, requested access to retrieve it, and placed Defendants on notice of her claim before the property was destroyed.

Those allegations must be accepted as true for purposes of Rule 12(b)(6), and a Rule 12(c) judgment is inappropriate where the pleadings present factual issues which, if resolved in Plaintiff's favor, could entitle her to relief.

Moreover, a receiver's authority is not unlimited merely because a receiver has been appointed. Under *Welch* and Rule 66(a), SCRCR, the Receiver's authority is tied to the property and powers granted by the appointing order.

Finally, the Proposed Order should not be entered while its dispositive provisions contradict one another concerning whether negligence and gross negligence are dismissed without prejudice or whether all claims are dismissed with prejudice.

WHEREFORE, Plaintiff respectfully requests that the Court sustain these objections, decline to enter the Proposed Order in its present form, and enter an order consistent with the applicable South Carolina Rules of Civil Procedure, South Carolina statutes, and controlling precedent.

Respectfully submitted,

*Yvonne Brown-Burgess*

**Yvonne Brown-Burgess**

Plaintiff, Pro Se

Date: August 31, 2026

Florence, South Carolina