RECEIVED
Nov 16 2026
S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM HORRY COUNTY
Court of Common Pleas

B. Alex Hyman, Circuit Court Judge

COA Opinion No. 6162 (S.C. Ct. App. filed August 26, 2026)

A. Tebele & Sons, a South Carolina General Partnership, Respondent-Petitioner,

v.

Certain Underwriters at Lloyd's, HDI Global Specialty SE, General Security Indemnity Company of Arizona, and Crescent Coast Insurance, LLC, Defendants,

Of which Crescent Coast Insurance, LLC is the Petitioner-Respondent.

Appellate Case No. 2026-002295

A. TEBELE & SONS' RETURN TO CRESCENT COAST'S PETITION FOR A WRIT OF CERTIORARI

RUFFIN LAW FIRM
Adam Sinclair Ruffin
SC Bar No. 101350
1320 Main Street, Suite 300
Columbia, SC 29201
(803) 470-5629
adam@ruffinappeals.com

DESCHAMPS LAW FIRM
William W. DesChamps, III
SC Bar No. 77150
1357 21st Avenue North, Suite 102
Myrtle Beach, SC 29577
(843) 448-2391
trey@deschampslaw.com

KELAHER, CONNELL, & CONNOR, P.C.
Gene M. Connell, Jr.
SC Bar No. 1358
PO Box 14547
Surfside Beach, SC 29547
(843) 238-5648
gconnell@classactlaw.net

Attorneys for A. Tebele & Sons

INDEX

COUNTERSTATEMENT OF QUESTIONS PRESENTED.....1

STATEMENT OF THE CASE.....1

ARGUMENT.....6

1.

Certiorari should be denied on Crescent Coast's first question because Crescent Coast never moved for judgment notwithstanding the verdict under Rule 50(b), SCRCP, which prevents this Court from giving it the relief it seeks.....6

2.

Certiorari should be denied because the Court of Appeals announced no new rule of fiduciary duty but merely affirmed the denial of a directed verdict after properly viewing the evidence and all reasonable inferences in the light most favorable to Tebele.....8

CONCLUSION.....15

COUNTERSTATEMENT OF QUESTIONS PRESENTED

1.

Whether certiorari should be denied on Crescent Coast's first question where Crescent Coast never moved for judgment notwithstanding the verdict under Rule 50(b), SCRCP, which prevents this Court from giving it the relief it seeks?

2.

Whether certiorari should be denied where the Court of Appeals announced no new rule of fiduciary duty but merely affirmed the denial of a directed verdict after properly viewing the evidence and all reasonable inferences in the light most favorable to Tebele?

STATEMENT OF THE CASE

Procedural History

A. Tebele & Sons (Tebele) filed a summons and complaint against Certain Underwriters at Lloyd's, HDI Global Specialty SE, General Security Indemnity Company of Arizona (Insurers), and Crescent Coast Insurance on February 3, 2020. Tebele brought causes of action for breach of contract and bad faith against the Insurers. In the alternative, Tebele pled causes of action against Crescent Coast for negligence and breach of fiduciary duty.

The case proceeded to a jury trial before the Honorable Alex Hyman on December 4 – 13, 2023. Crescent Coast moved for a directed verdict on both causes of action against it which the trial judge denied. The jury found in favor of Crescent Coast on Tebele's negligence claim, but found in Tebele's favor on the breach of fiduciary duty claim. The jury awarded $15,000 in damages against Crescent Coast.

Tebele filed a post-trial motion for a new trial absolute or a new trial nisi additur against Crescent Coast which Crescent Coast opposed. Crescent Coast did not file a post-verdict motion for a JNOV. The trial judge denied Tebele's post-trial motions.

Tebele and Crescent Coast filed cross appeals. The Court of Appeals affirmed. *A. Tebele & Sons v. Certain Underwriters at Lloyd's*, Op. No. 6162 (S.C. Ct. App. filed Aug. 26, 2026). Both parties petitioned for rehearing and both petitions were denied. Tebele petitioned this Court for a writ of certiorari on the coverage and damages questions. Crescent Coast petitioned on the question of whether it owed Tebele a fiduciary duty.

Relevant Trial Testimony

Mr. Tebele met Joey Sutherland in 2011 when Sutherland was working in the restaurant business. R. 715, ll. 4 – 15. Sutherland managed a restaurant called Kansas City Steakhouse in 2011 and again in 2014. R. 712, l. 1 – 713, l. 9. That restaurant operated out of Tebele's 1901 North Kings Property. R. 713, ll. 10 – 16.

In 2017, while working for Global Risk Partners, Sutherland approached Mr. Tebele about insuring his properties, including 1901 North Kings. R. 958, ll. 1 – 23; R. 959, l. 24 – 960, l. 3. Sutherland did not sell Mr. Tebele any insurance at that time. R. 719, ll. 21 – 25. Sutherland left Global Risk Partners in 2018 and went to work for Crescent Coast as a "producer," i.e., a person who sells insurance. R. 711, ll. 6 – 13; R. 716, ll. 1 – 4. While working for Crescent Coast in 2018, Sutherland sold an insurance policy to Tebele's tenant, Melissa Garcia, who was operating a Mexican restaurant called La Casona at 1901 North Kings. R. 721, ll. 10 – 19.

Sutherland continued to approach Mr. Tebele about selling him insurance on his properties. R. 720, ll. 1 – 6. Mr. Tebele recalled: "He would come around the office or anytime I was at the building he would, like, warm up to me and say: You know, Mr. Tebele, I could save you a lot of

money, let's sit down." R. 960, ll. 16 – 25. In August 2018, Mr. Tebele met with Sutherland and David Egan, the managing member of Crescent Coast, to begin the process of filling out insurance applications. R. 739, l. 24 – 740, l. 4. Crescent Coast used a company called Amwins to help obtain a policy for Tebele, and on August 20, 2018, Egan prepared an ACORD form application and submitted it to Amwins. R. 848, ll. 3 – 25; R. 858, ll. 5 – 18; R. 1684 – 1709.

Even though Mr. Tebele told Sutherland the sprinkler system was not completed in the building, Crescent Coast listed the property as 100% sprinklered in both Ms. Garcia's insurance application and the coverage quote ACORD form submitted to obtain quotes for Mr. Tebele. R. 746, ll. 11 – 22; R. 1684 – 1709; R. 1711 – 1723; R. 1744 – 1778. The coverage quote ACORD form was never provided to Mr. Tebele for review. R. 858, ll. 3 – 11.

Sutherland acknowledged that his producer's license was first issued on March 5, 2023, long after he solicited Mr. Tebele to purchase insurance through him and Crescent Coast. R. 723, l. 7 – 724, l. 2; R. 1813 – 1822. Even though Sutherland was apparently not licensed to sell insurance in 2019, his name appears at the top of Tebele's application. R. 724, ll. 14 – 22; R. 1744.

Just days before coverage was bound, and before Tebele's application was submitted to Amwins, Sutherland received an email from Crescent Coast employee Sandra Neena, copied to Amwins, stating that the sprinkler system at 1901 North Kings was not yet operational. R. 726, l. 14 – 727, l. 12; R. 1742 – 1743. Sutherland also received a telephone call from Ms. Garcia, who was in a panic because the inspector who looked at the building told her the sprinkler system was not operational. R. 731, l. 12 – 732, l. 10. Crescent Coast never disclosed that email or its knowledge of the sprinkler system's status to Tebele. R. 943, ll. 14 – 20; R. 946, ll. 10 – 14. Egan testified that Crescent Coast had no obligation to notify Mr. Tebele of what it knew, and that he

provided the email to Mr. Tebele only after the loss claim was submitted. R. 875, ll. 8 – 17; R. 943, ll. 14 – 20.

Egan testified that the schedule of values was a document Amwins required as part of the underwriting process. R. 860, ll. 18 – 23. Egan was the person who input the data into the schedule of values, including that the 1901 North Kings property had a sprinkler system covering 100% of the property. R. 862, ll. 5 – 14. He entered that notation on or before December 17, 2018, and he knew the information in the schedule of values would affect Tebele's terms of coverage "to a degree." R. 862, ll. 12 – 18; R. 927, l. 22 – 928, l. 11; R. 863, ll. 6 – 10.

Egan said he "believed" he advised Mr. Tebele in December 2018 that a sprinkler system was required at 1901 North Kings but did not recall. R. 863, ll. 11 – 19. He later testified: "I believe I said, please review the conditions. I don't recall if I specifically said 1901 or any of the other properties that had a sprinkler system." R. 943, ll. 5 – 9. Egan admitted that Mr. Tebele was never given a copy of the schedule of values, and testified that he "assumed" Mr. Tebele would know a sprinkler system was required because of the 100% notation Egan had input. R. 862, ll. 12 – 18; R. 931, ll. 1 – 17.

Egan admitted that Crescent Coast knew the sprinkler system was not operational on January 10, the day before he sent the final insurance application to Mr. Tebele. R. 938, l. 20 – 940, l. 6; R. 1742 – 1743. Egan testified that if Mr. Tebele, rather than Ms. Garcia, had notified Crescent Coast of the sprinkler system's status on January 10, he would have immediately contacted the underwriter. R. 920, ll. 16 – 22; R. 939, l. 20 – 940, l. 6.

Egan emailed Mr. Tebele on January 15 and attached the premium finance agreement indicating that a down payment of $34,199.42 was required and that the check was to be made out to Crescent Coast. Mr. Tebele sent Crescent Coast the down payment that same day. R. 868, l. 6 –

869, l. 13; R. 871, l. 15 – 872, l. 14; R. 1779 – 1783. After receiving the check, Crescent Coast deposited it, withheld its commission, and distributed the remaining money to Amwins. R. 872, l. 15 – 873, l. 7. Crescent Coast's commission was 10% of the policy premium. R. 759, l. 22 – 762, l. 21.

Egan first received the full insurance policy on February 7, 2019, but did not forward it to Mr. Tebele. R. 873, ll. 11 – 18. Egan handed Mr. Tebele a copy of the policy for the very first time while the two of them stood in front of the burnt down 1901 North Kings property. R. 874, ll. 1 – 21. Tebele's loss claim was denied because of the 100% sprinklered notation Egan input into the schedule of values in December of 2018. R. 787, l. 10 – 788, l. 8; R. 2081 – 2084.

Trial Arguments and Rulings

At the close of Tebele's case, Crescent Coast moved for a directed verdict arguing that Tebele was a sophisticated insurance buyer and that there was no special relationship between the parties. R. 1262, l. 24 – 1263, l. 13; R. 1271, l. 10 – 1272, l. 3; R. 1272, ll. 3 – 25. The trial judge denied the motion, stating: "I'm going to send it to the Jury based on Mr. Sutherland's knowledge of the property, the fact that he had worked there for some period of time, and had been in that business, and it does appear that he was contacting the Plaintiff for years before when they were trying to get him to obtain insurance." R. 1275, l. 22 – 1276, l. 4. Crescent Coast renewed its motion at the close of all evidence and the trial judge again denied it. R. 1353, l. 13 – 1354, l. 1.

The jury found in Tebele's favor on the breach of fiduciary duty cause of action and awarded $15,000 in damages. In its memorandum opposing Tebele's motion for a new trial, Crescent Coast argued that the $15,000 verdict was explainable as representing the commissions Tebele paid Crescent Coast for the 1901 North Kings property. R. 326. Crescent Coast did not

renew its directed verdict motion by filing a motion for a JNOV on its claim that it was entitled to judgment as a matter of law on the breach of fiduciary duty claim against it.

ARGUMENT

1.

Certiorari should be denied on Crescent Coast's first question because Crescent Coast never moved for judgment notwithstanding the verdict under Rule 50(b), SCRCP, which prevents this Court from giving it the relief it seeks.

"When a defendant moves for a directed verdict under Rule 50, SCRCP at the close of the plaintiff's case, he must renew that motion at the close of all evidence." *Wright v. Craft*, 372 S.C. 1, 19, 640 S.E.2d 486, 496 (Ct. App. 2006). "[A] motion for JNOV under Rule 50(b), SCRCP is a renewal of a directed verdict motion." *Id*. at 20, 640 S.E.2d at 496.

South Carolina has not explicitly addressed whether the failure to move for a JNOV after a jury verdict forecloses the ability to raise a directed verdict motion on appeal. This question has been addressed by the United States Supreme Court and the Fourth Circuit, and because our Rule 50 is substantially the same as Rule 50 of the Federal Rules of Civil Procedure, those cases are instructive.

In *Cone v. W. Va. Pulp & Paper Co.*, 330 U.S. 212, 215 (1947), the Supreme Court of the United States considered whether a party's failure to move for judgment notwithstanding the verdict precludes an appellate court from directing entry of such a judgment. In *Cone*, "[t]he respondent failed to submit a motion for judgment notwithstanding the verdict to the trial judge in order that he might exercise his discretionary power to determine whether there should be such a judgment, a dismissal or a new trial." *Id*. at 217-18. Because of that failure, the Court held that

"the appellate court was without power to direct the District Court to enter judgment contrary to the one it had permitted to stand." *Id*. at 218.

The Supreme Court reaffirmed that view in *Unitherm Food Sys. v. Swift-Eckrich, Inc.*, 546 U.S. 394, 399 (2006), and again in *Ortiz v. Jordan*, 562 U.S. 180, 191-92 (2011), which held that an appellate court has no ability to upset a jury's decision on liability where the appealing party failed first to challenge that determination by way of a Rule 50(b) motion. *See also Morrash v. Strobel*, 842 F.2d 64, 70 (4th Cir. 1987) ("Where a motion for j.n.o.v. has not been presented to the trial court, this court will not direct the district court to enter judgment contrary to the one it had permitted to stand"); *Benner v. Nationwide Mut. Ins. Co.*, 93 F.3d 1228, 1234 (4th Cir. 1996) (holding that an appellate court can review the alleged error but that its remedial power is limited by the failure to move for JNOV after the verdict is issued and that "[i]n the absence of a proper Rule 50(b) motion after the verdict, we cannot order an entry of judgment contrary to that made by the district court").

Crescent Coast asks this Court to "hold that a fiduciary duty did not exist between Crescent Coast and A. Tebele & Sons." Pet. 25. That is a request for judgment as a matter of law. Respectfully, this Court cannot grant such relief where Crescent Coast never filed a Rule 50(b) motion in the circuit court. Crescent Coast does not ask this Court for a new trial but instead for a judgment in its favor as a matter of law. Because this Court cannot grant this relief, the question does not warrant granting the petition for certiorari on this question.

2.

Certiorari should be denied because the Court of Appeals announced no new rule of fiduciary duty but merely affirmed the denial of a directed verdict after properly viewing the evidence and all reasonable inferences in the light most favorable to Tebele.

Crescent Coast's petition rests primarily on the premise that the Court of Appeals found that a fiduciary relationship between an insurance agent and insurance purchaser may be established by two facts alone: a prior acquaintance in a non-insurance capacity and the solicitation of business. However, the Court of Appeals was reviewing the denial of a directed verdict. In that posture, the Court of Appeals merely found that "[g]iving the benefit of all inferences to Tebele, as we are required to do in reviewing a directed verdict motion, we conclude the circuit court did not err in denying Crescent Coast's motion." *A. Tebele & Sons*, at 19. It is well-established that, when ruling on a motion for a directed verdict, the trial court, and the appellate court, must view the evidence and all reasonable inferences in the light most favorable to the nonmoving party. *Elam v. S.C. DOT*, 361 S.C. 9, 27-28, 602 S.E.2d 772, 782 (2004). The Court of Appeals applied well-established law to the facts of this case and review by this Court is unwarranted on this question.

Crescent Coast does not meaningfully dispute the standard governing whether a fiduciary duty exists between two parties. It acknowledges the standard articulated in *Smith v. Universal Prop. & Cas. Ins. Co.* 2017 U.S. Dist. LEXIS 134036 (D.S.C. Aug. 22, 2017), which was relied on by the Court of Appeals in this case. Cresent Coast Pet. at 20. The district court in *Smith* held that a fiduciary relationship may arise where "the transaction was not truly at arm's length or other factors demonstrate that the parties' relationship goes beyond the mere sale of insurance." *Smith*, at 12-13. This is also the same standard that the jury was charged with in this case. The circuit court instructed the jury that "[a] fiduciary relationship, if one is found to exist, flows not from the

mere fact of an insurance relationship between the parties. Something more than the mere fact of an insurance relationship is required to establish a fiduciary relationship. Other factors may demonstrate that the party's relationship goes beyond the mere sale of insurance." R. 1444, l. 20 – 1445, l. 3; *A. Tebele & Sons*, at 19 n.4.

Crescent Coast argues that the Court of Appeals "effectively relaxes" the standard. Pet. 19. In other words, Crescent Coast's argument is that the evidence *in this case* was insufficient to satisfy the standard as to whether a fiduciary duty existed between Tebele and Crescent Coast, not whether the Court of Appeals has established a new rule holding that all insurance agents stand in a fiduciary duty to insurance purchasers. That is an argument about the record and the specific facts of this case, not a question of law warranting review by this Court.

Furthermore, the record contains many more than the two facts Crescent Coast acknowledges. Sutherland had managed a restaurant that operated out of the very building at issue. Egan prepared the schedule of values at Amwins' insistence, entered the 100% sprinklered notation onto the schedule of values himself, knew that the information would affect Tebele's terms of coverage, and never gave Tebele a copy of the schedule of values. That 100% sprinklered notation entered by Egan onto the schedule of values is the sole reason the claim was denied. Crescent Coast learned from its own employee and from Ms. Garcia that the system was not operational before the final application went to Mr. Tebele, and said nothing. Tebele entrusted Crescent Coast with $34,199.42, from which Crescent Coast withheld its own commission before remitting the balance. And the producer who solicited the business was apparently not even licensed to sell insurance at the time. When those facts are taken together and with every inference drawn in Tebele's favor, the Court of Appeals correctly affirmed the circuit court's denial of Crescent Coast's directed verdict motion.

South Carolina law does not foreclose the fiduciary relationship that the jury found here. "A fiduciary relationship exists when one reposes special confidence in another, so that the latter, in equity and good conscience, is bound to act in good faith and with due regard to the interests of the one reposing confidence." *O'Shea v. Lesser*, 308 S.C. 10, 15, 416 S.E.2d 629, 631 (1992). Furthermore, a duty of an insurance agent to advise the insured may arise where "there is a course of dealing over an extended period of time which would put an objectively reasonable insurance agent on notice that his advice is being sought and relied on." *Trotter v. State Farm Mut. Auto. Ins. Co.*, 297 S.C. 465, 471, 377 S.E.2d 343, 347 (Ct. App. 1988).

Crescent Coast argues that there was no fiduciary duty between it and Tebele as a matter of law, relying primarily on *Beverly v. Grand Strand Reg'l Med. Ctr., LLC*, 429 S.C. 502, 839 S.E.2d 468 (Ct. App. 2020), *Pitts v. Jackson Nat'l Life Ins. Co.*, 352 S.C. 319, 574 S.E.2d 502 (Ct. App. 2002), *Gordon v. Fidelity & Cas. Co. of N.Y.*, 238 S.C. 438, 120 S.E.2d 509 (1961), and *O'Connor v. Bhd. of R.R. Trainmen*, 217 S.C. 442, 60 S.E.2d 884 (1950). None of these cases indicate that an insurance broker can never owe a fiduciary duty to his client, and in fact they suggest that, at least in some circumstances, a broker could owe such a duty.

In *Beverly*, the Court of Appeals held that a hospital did not owe a fiduciary duty to its patient in the submission of insurance claims because that relationship—as distinguished from that of doctor-patient—was a creditor-debtor relationship and not fiduciary in nature. 429 S.C. at 514, 839 S.E.2d at 474. Both *Gordon* and *O'Connor* were "failure to read" cases where the insured had physical possession of the policy for months but failed to review it. Under those circumstances, the courts found the insured was precluded from recovering from their agents for statements the agents made that were inconsistent with the coverages in the policy. *Gordon*, 238 S.C. at 451, 120 S.E.2d at 515-16; *O'Connor*, 217 S.C. at 448, 60 S.E.2d at 886. Of course, Tebele was never given

a copy of the insurance policy until after the fire. It was only then that Egan handed the policy to Mr. Tebele for the first time. These "failure to read" cases have little application in this case.

The case that most strongly supports Crescent Coast's position is *Pitts*, in which the Court of Appeals held that no fiduciary relationship existed between the insured and the insurer at the application stage. 352 S.C. at 331, 574 S.E.2d at 507-08. *Pitts* did not hold that a fiduciary relationship can never exist between an insurance agent and an insured. In fact, *Pitts* and the other cases relied on by Crescent Coast leave open the possibility that a fiduciary relationship between an agent and an insured may arise if there are factors evidencing a relationship beyond the mere sale of insurance. "[T]o determine whether a fiduciary relationship existed between [the parties], we must look at the particulars of their relationship." *Pitts*, 352 S.C. at 330, 574 S.E.2d at 507.

In *Smith v. Universal Prop. & Cas. Ins. Co.*, the South Carolina federal district court was presented with a motion by the plaintiffs to remand an insurance lawsuit back to state court. 2017 U.S. Dist. LEXIS 134036 (D.S.C. Aug. 22, 2017). The defendants argued that the plaintiffs had no hope of succeeding on their breach of fiduciary duty claim against the insurance agent because *Pitts* established that there could never be a fiduciary relationship between an insured and his agent. *Id*. at 10-11. The district court rejected that argument, explaining that "[n]either *Pitts* nor cases following it state that, as a categorical matter, a fiduciary relationship can never arise between an insurance agent and an insured," and that they "implicitly leave open the possibility that a fiduciary relationship might arise between an agent and an insured if, for instance, the transaction was not truly at arm's length or other factors demonstrate that the parties' relationship goes beyond the mere sale of insurance." *Id*. at 12-13.

Crescent Coast also points to another federal decision, *Great Am. Ins. Co. v. Mills*, 2008 U.S. Dist. LEXIS 42570 (D.S.C. May 29, 2008) to support its argument that there could be no

fiduciary relationship between it and Tebele. *Mills* does not support Crescent Coast's position. The district court in *Mills* wrote that it was "reluctant to recognize a fiduciary relationship between an insurance company and an insured where South Carolina courts have not done so." *Id*. at 31. In other words, the *Mills* Court did not determine that such a relationship can never exist as a matter of law. Instead it declined to expand South Carolina law because South Carolina's courts had not yet explicitly done so. Furthermore, *Mills* was decided more than nine years before *Smith*, and as Crescent Coast itself acknowledges, the *Smith* court cited *Mills* in the very passage in which it concluded that *Pitts* and the cases that followed it left open the possibility of a fiduciary relationship between an insurance agent and an insured. Pet. 20.

Consider also this Court's decision in *Darby v. Furman Co.*, 334 S.C. 343, 513 S.E.2d 848 (1999). The question presented there was whether a real estate broker who represented the seller of real property could retain his sales commission when he ultimately became the purchaser of that property without disclosing that to the seller. *Id*. at 345-46, 513 S.E.2d at 849. The Court noted that "[r]eal estate agents occupy a fiduciary relationship with their clients and are under a legal obligation as well as a high moral duty to give loyal service to the principal." *Id*. at 346-47, 513 S.E.2d at 849 (citing *Hamby v. St. Paul Mercury Indem. Co.*, 217 F.2d 78, 80 (4th Cir. 1954)). The Court also noted that the broker was required to "make full disclosure to his principal of all material facts relevant to the agency [which] is fundamental to the fiduciary relationship of principal and agent." *Darby*, 334 S.C. at 347, 513 S.E.2d at 850. Although our appellate courts have never explicitly held that an insurance broker owes a fiduciary duty to his client, there is no reason to treat an insurance broker differently from a real estate broker.

Additionally, as the Fourth Circuit noted in *Hamby*, "[c]ertainly there can be no question as to the existence of the fiduciary capacity in a case where the agent has been entrusted with

money to be used for a specific purpose." 217 F.2d at 80. Egan emailed Mr. Tebele on January 15 and attached the premium finance agreement indicating that a down payment of $34,199.42 was required to purchase the insurance coverage, and Mr. Tebele sent Crescent Coast the down payment that same day. R. 868, l. 6 – 869, l. 13; R. 871, l. 15 – 872, l. 14; R. 1779 – 1783. After receiving the check, Crescent Coast deposited it, withheld its commission, and distributed the remaining money to Amwins. R. 872, l. 15 – 873, l. 7. Tebele entrusted Crescent Coast with this money to be used for the specific purpose of buying insurance coverage, including fire coverage for 1901 North Kings. That entrustment has nothing to do with how long the parties had known one another.

Other states have found the existence of a fiduciary duty in an insured-insurance broker relationship. For instance, the Fifth District Appellate Court of Illinois in *Econ. Fire & Cas. Co. v. Bassett* found that "the relationship between an insured and his broker, acting as the insured's agent, is a fiduciary one even though the broker may be compensated by some third party." 170 Ill. App. 3d 765, 772, 525 N.E.2d 539, 543 (1988). There, the broker was liable for failing to obtain coverage because it was aware the insured conducted a babysitting business out of her home and failed to advise her that injuries sustained in that business would not be covered. *Id*., 170 Ill. App. 3d at 772-73, 525 N.E.2d at 544. *Bassett* is not unlike the situation here, where Crescent Coast was aware that the sprinkler system was not yet functional but still represented to the Insurers that 1901 North Kings was 100% sprinklered. *See also Poluk v. J.N. Manson Agency*, 258 Wis. 2d 725, 739, 653 N.W.2d 905, 912 (2002) ("While we do not expect insurance agents to be clairvoyant, when they are presented with information suggesting an exemption clause might be triggered in a policy being renewed, they have a duty to inquire further").

Finally, Crescent Coast's characterization of this transaction as an ordinary sales transaction minimizes the size and scope of the policy at issue. The policy at issue was for more

than $22 million in coverage across twenty-three properties. Crescent Coast describes itself as having "simply acted as a liaison between A. Tebele & Sons and insurance carriers and brokers," Pet. 21, and that their relationship was "no different from other customers and sellers negotiating sales and contracts," Pet. 18. However, a broker who assembles a twenty-three-property commercial policy through a managing general agent, prepares the underwriting document that fixes the terms of coverage, and withholds a ten percent commission from the insured's own funds is not a merely party to an ordinary over-the-counter sale. R. 759, l. 22 – 762, l. 21; R. 860, ll. 18 – 23; R. 872, l. 15 – 873, l. 7.

Nor does Tebele's experience as a property owner make it a sophisticated purchaser of insurance. Crescent Coast says Mr. Tebele is a "sophisticated insurance buyer who has managed millions of dollars of property," Pet. 20, and that Tebele's own expert conceded he was "not a novice," Pet. 21. But Mr. Tebele testified that his "area is real estate," that he is "not really an insurance person," and that he has "had to learn way more about insurance than [he] ever set out to learn" since this loss. R. 994, l. 24 – 995, l. 1; R. 963, ll. 5 – 12. Mr. Tebele explained that he went to "agents that hold numerous licenses and continuing ed" precisely because they were "seasoned." R. 995, ll. 1 – 3. Owning commercial buildings that must be insured does not make Tebele an expert in insurance. This Court should deny Crescent Coast's petition for a writ of certiorari.

CONCLUSION

By reason of the foregoing arguments, this Court should deny Crescent Coast's petition for a writ of certiorari.

s/Adam Ruffin
Adam Sinclair Ruffin
SC Bar No. 101350
1320 Main Street, Suite 300
Columbia, SC 29201
(803) 470-5629
adam@ruffinappeals.com

William W. DesChamps, III
SC Bar No. 77150
1357 21st Avenue North, Suite 102
Myrtle Beach, SC 29577
(843) 448-2391
trey@deschampslaw.com

Gene M. Connell, Jr.
SC Bar No. 1358
PO Box 14547
Surfside Beach, SC 29547
(843) 238-5648
gconnell@classactlaw.net

Attorneys for A. Tebele & Sons

This 16th day of November, 2026.