

THE STATE OF SOUTH CAROLINA COURT OF APPEALS
APPEAL FROM DORCHESTER COUNTY

Molly Morpew, Appellant

v.

Stephan Dudek, Doreen Cross, David Collins,
Allison Williams, First Federal, Michael Scarafile,
Susan Nicholson, Carolina One Real Estate,
Carrie Boyer, Woody Law Firm, Respondents.

Appellate Case No. 2018-002185

INITIAL BRIEF OF RESPONDENT DAVID COLLINS



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SC Court of Appeals

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RULES

South Carolina Rule of Civil Procedure 12(b)(6)

South Carolina Rule of Civil Procedure 55

South Carolina Rule of Civil Procedure 56

STATEMENT OF THE CASE

This appeal arises out of the dismissal of certain claims made by the Appellant in her initial complaint pursuant to South Carolina Rule of Civil Procedure 12(b)(6) and the subsequent granting of summary judgment as to her remaining claims.

Appellant filed her initial complaint on September 8, 2016 alleging seventeen causes of action against numerous Defendants. All of the Defendants filed timely Motions to Dismiss all causes of action pursuant to South Carolina Rule of Civil Procedure 12(b)(6). After hearing arguments from all parties, the trial court issued an order dismissing all but four of the causes of action. The remaining causes of action were based on (1) Extrinsic Fraud on the Court; (2) Bad faith and Unfair Dealing and/or Accompanied by Fraudulent Action; (3) Intentional Infliction of Emotional Distress and lastly (4) Tortious Interference with Existing Contractual Relations. This Respondent was initially represented by attorney Michael Scarafile who filed the Motion to Dismiss on his behalf.

After the aforementioned order dismissing the bulk of the Appellants claims, the Appellant sought to have this Respondent held in default. The counsel for this Respondent had filed for and received an order of this Court seeking leave to substitute counsel. The Respondent, upon learning of this event filed a responsive pleading. This responsive pleading requested that any issues regarding any such default be decided in his favor. The trial court, in at least two decisions, declined to hold this Respondent in default as demanded by the Appellant. The

trial court, by written order dated November 13, 2017, specifically denied Appellants attempts to hold this Respondent in default.

On October 1, 2018, a hearing was held before the Honorable Maite Murphy on fifteen different motions. Among those were motions for summary judgment filed by all Respondents as to the remaining four causes of action, the motion to hold this Respondent in default, and various motions for sanctions against the Appellant based on her threat of criminal charges against the Respondents. The trial court converted this Respondents Motion to Dismiss pursuant to South Carolina Rule of Civil Procedure 12(b)(6) to a Motion for Summary Judgment. After hearing from all parties the court issued an order granting the parties motion for Summary Judgment as to the remaining causes of action and declining, once again, to hold this Respondent in default. This appeal followed.

STATEMENT OF THE FACTS

This frivolous appeal follows an equally frivolous series of filings by the Appellant regarding her loss of a case in November of 2014. This respondent represented the Respondents Dudek and Cross in an action for specific performance in that initial action. Dudek and Cross had entered into a contract to purchase a home located in Dorchester county, South Carolina. The Appellant subsequently entered into a "secondary", or back-up contract with regard to the same property. Both of the prospective buyers filed *lis pendens* claiming legal rights to purchase the property. A trial was held before the Honorable James

Chellis, Master in Equity for Dorchester County. The Appellant was represented by attorney John Massalon of the Charleston County Bar. Mr. Massalon is an extremely competent trial attorney and the hearing was hotly contested.

After hearing the testimony and reviewing the evidence, Judge Chellis issued an order granting to the Respondents Dudek and Cross specific performance of their contract and awarding them the home. Dissatisfied with the outcome of the trial. The Appellant filed an appeal of the order. This Court affirmed the order of Judge Chellis. (Appellate Case No. 2014-002633).

Still dissatisfied with the decisions of every level of the South Carolina court system, the Appellant filed a complaint in Dorchester County naming as Defendants every person and entity involved in the transaction and trial including the original Plaintiffs (Respondents Dudek and Cross), the attorney for Dudek and Cross (Respondent Collins), the lender for the original Plaintiffs (First Federal), the loan officer at First Federal in her personal capacity (Respondent Allison Williams), the original real estate agent for the Plaintiffs (Susan Nicholson), the President of the real estate firm (Michael Scarafile), the closing law firm (The Woody Law Firm) and the closing paralegal in her personal capacity (Carrie Boyer). All of the defendants in this action filed Motions to Dismiss the complaint pursuant to South Carolina Rule of Civil Procedure 12(b)(6). At this time, this Respondent was represented by Michael Scarafile, an attorney licensed to practice in the State of South Carolina.

A hearing was held before the Honorable Deadra Jefferson on November 7, 2016. After hearing extensive arguments from all parties, Judge Jefferson issued an order dismissing all but four of the seventeen causes of action. Upon the

issuance of this order, Mr. Scarafile sought an order from the court substituting counsel for this Respondent. This Respondent continued pro se. Upon receiving the notice of substitution and Judge Jefferson's order, this Respondent filed a responsive pleading. This pleading included a renewed Motion to Dismiss.

On April 4, 2018, despite the Courts having ruled on this Respondent's default status, the Appellant then filed yet another request to have this Respondent placed in default. The Court again issued its order on November 13, 2018 that no default existed.

After extensive discovery, all of the parties except this Respondent filed Motions for Summary Judgment on the remaining four causes of action. A hearing was held before the Honorable Maite Murphy on October 1, 2018 to argue these motions. Also on the docket to be heard was another motion filed by the Appellant to hold this Respondent in Default and various motions for sanctions against the Appellant based on her continuous threats to prosecute the Respondents criminally unless they settled the dispute by paying her some sum of money.

Based upon arguments presented by the various parties, Judge Murphy issued an order again clarifying that this Respondent was not in default. The court then converted this Respondents Motion to Dismiss to a Motion for Summary Judgment under Rule 56 of the South Carolina Rules of Civil Procedure. The Court's order granted the Respondents Summary Judgment as to all of the remaining causes of action thereby finally ending this litigious debacle at the trial level. This appeal followed.

1. **DID THE TRIAL COURT ABUSE ITS DISCRETION IN RULING THAT THE RESPONDENT COLLINS WAS NOT IN DEFAULT**

The initial complaint in this case was filed on August 24, 2016. The pleadings were never properly served on this Respondent and no affidavit of service has been filed by the Appellant. There is a copy of a certified mail receipt attached to the Appellants first motion for entry of default but this Respondent raised the issue of proper service in his responsive pleading.

This respondent filed a Motion to Dismiss the Summons and complaint through his attorney of record, Michael Scarafile. A hearing was held on November 7, 2017 before the Honorable Deadra Jefferson on the Defendants Motion to Dismiss. Judge Jefferson dismissed seven of the eleven causes of action listed in the complaint. Extensive discovery then proceeded. This Respondent engaged in said discovery.

On November 27, 2018, the Appellant filed a Motion to Hold this Respondent in default. This respondent immediately filed a responsive pleading citing the reasons for the failure to file. These reasons included the facts that a receiver had the actual possession of his case files, the fact that he had not been properly served with any pleadings and that he had not received a copy of any order from the trial court advising him of Judge Jefferson's order. It was only upon the receipt of the Appellants Motion for Default that he became aware of the facts. The responsive pleadings filed by this Respondent included an Answer and Motion to Dismiss pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure.

On February 23, 2018 the trial court issued an order denying the Appellants Demand for Default Judgment.

On April 4, 2018, the Appellant again filed a Motion seeking to hold this Respondent in default. Again this motion was denied by the trial court. This appeal followed.

Rule 55 of the South Carolina Rules of Civil Procedure govern relief from default. The rule explicitly states that “for good cause shown the court may set aside default”. However, in the case involved here, no default had been entered against this Respondent. The matter of the alleged default in this case came before the trial court in two different hearings and both times the court ruled that no default existed. (See orders of February 23, 2018 and November 13, 2018)

Even if one assumes that some sort of default had been entered, the trial court may set aside such default under the “good cause” standard enunciated in Rule 55. The decision to grant relief from default is solely within the discretion of the trial court and will not be disturbed absent an error of law or evidentiary support. *Ricks v. Weinrach*, 293 S.C. 372, 360 S.E. 535 (Ct. App. 1987)

In this matter, this Respondent filed responsive pleadings immediately upon learning of the filed Motion for Default. (see filed Answer and Return to Motion). Absolutely no prejudice to the Appellant occurred.

**2. DID THE TRIAL COURT ERR IN GRANTING THIS RESPONDENTS
MOTION TO DISMISS THE CLAIMS IN APPELLANTS COMPLAINT**

The Trial Court granted in part and denied in part this Respondents Motion to Dismiss. This holding should be affirmed.

The Appellant initiated this tortured litigation on August 24, 2016 by filing her Complaint against ten different Defendants alleging fifteen causes of action. These were:

- A. Fraud, Extrinsic Fraud (Against all Defendants)
- B. Perjury (Against all Defendants)
- C. Violation of the South Carolina Frivolous Civil Proceedings Act (Against this Respondent only)
- D. Violation of ABA Rules of Professional Conduct (Against this Respondent only)
- E. Violation of the Federal Rules of Civil Procedure (Against this Respondent, First Federal and Scarafile)
- F. Violation of ABA Rules of Professional Conduct (Against Scarafile and Woody Law Firm)
- G. Bad Faith and Fair Dealings (Against all Respondents)
- H. Slander of Title (Against this Respondent and Dudek)
- I. Breach of Contract Accompanied by Fraudulent Act (Against Respondents Dudek and Cross)

- J. Breach of Fiduciary Duty
(Against this Respondent and Williams, Nicholson)
- K. Violation of Real Estate Code of Conduct
(Against Respondents Nicholson, Scarafile and Carolina One)
- L. Fraud (Against all Respondents)
- M. Action for Declaratory Judgment (Against this Respondent, Dudek and Cross and First Federal)
- N. Forgery (Against this Respondent, Dudek, Cross, Williams and Nicholson)
- O. Violation of Federal Rules and Regulations
(Against Williams and First Federal)
- P. Obstruction of Justice (Against all Defendants)
- Q. Intentional Infliction of Emotional Distress
(Against all Respondents)
- R. Tortious Interference with Contractual Relations
(Against all Respondents)

On November 7, 2017 the Honorable Deadra Jefferson held a hearing on the Respondents Motions To Dismiss the claims pursuant to South Carolina Rule of Civil Procedure 12(b)(6). The Trial Court dismissed all but four causes of action against this Respondent. Only the First Cause of Action (Fraud), Seventh Cause of Action (Bad Faith), Seventeenth Cause of Action (Intentional Infliction of Emotional Distress) and the Eighteenth Cause of Action (Tortious Interference with Contract) remained. As far as can be determined, the Appellant has only appealed the dismissal of her Causes of Action premised on the issuance of a declaratory

judgment (Thirteenth Cause of Action) and that cause of Action alleging a Breach of Fiduciary Duty (Tenth Cause of Action) that pertain to this Respondent. The remaining Causes of Action against this Respondent dismissed by the Trial Court are unchallenged and, thus, have been abandoned on appeal. *Lindsay v. Lindsay*, 328 S.C. 329, 338, 491 S.E. 2d 583, 588 (Ct. App. 1997) (It is a fundamental rule of law that an appellate court will affirm a ruling by a lower court if the offended party does not challenge that ruling. Failure to challenge the ruling “is an abandonment of the issue and precludes consideration on appeal.” The unchallenged ruling, “right or wrong is the law of the case and requires affirmance.” (internal citation omitted)).

A. Standard of Review

“On appeal from the dismissal of a case pursuant to Rule 12(b)(6), an appellate court applies the same standard of review as the trial court.” *Brouwer v Sisters of Charity Providence Hospital*, 409 S. C. 514, 519, 763 S. E. 200, 202 (2014) (citing, *Rydde v. Morris*, 381 S.C. 643, 646, 675 S.E. 2d 431, 433 (2009)). “That standard requires the Court to construe the Complaint in a light most favorable to the nonmovant and determine if the facts alleged and the inferences reasonably deducible from the pleading would entitle the Plaintiff to relief on any theory of the case” *Id.* The Court may sustain the dismissal when the facts alleged in the Complaint do not support any relief under any theory of law”. *Id.* (citing *Flateau v. Harrelson*, 355 S. C. 197, 202, 584 S.E. 2d 413, 416 (Ct. App. 2003)).

B. The Trial Court's dismissal of Appellants Twelfth Cause of Action for Fraud was proper and should be upheld.

The Trial court dismissed Appellant's Twelfth Cause of Action captioned "Fraud- Untrue assertions of fact: Assertion made with knowledge of falsity and intent to deceive" on the basis that "Plaintiff pleads a claim of perjury rather than fraud." (See Order of the Honorable Deadra Jefferson Granting in Part Defendant Collins' Motion to Dismiss). Because perjury is a criminal charge-not a civil cause of action.

The trial Court accurately describes the allegations made by the Appellant in her Complaint. The substance of the Complaints allegations is that many of the witnesses told half-truths or outright lied on the witness stand. This version of the facts, if true, might constitute perjury. There is no allegation contained in the Complaint, however, that this Respondent testified at all. In fact, this Respondent acted as the trial attorney during the trial.

There is no civil cause of action for perjury, regardless of the manner in which it is pled. "as a general rule, no civil action lies for damages resulting from false statements made under oath constituting perjury or from subornation of false testimony. Thus no action for damages lies for false testimony in a civil suit whereby the litigant fails to recover a judgment, or a judgment is rendered against him or her." 60A Am Jur 2d Perjury. "Authorities are unanimous in holding that generally a person who is damaged by perjured testimony in a civil suit does not have a cause of action for damages arising out of such perjured testimony." *Frist v. Gallant*, 240 F. Supp. 827, 828 (D. S.C. 1965) Because no such cause of

action exists, Appellant cannot support any claim for relief based on perjury. As such, the dismissal of this cause of action was proper and should be upheld.

C. The Trial court's dismissal of Appellants Tenth Cause of Action for Breach of Fiduciary Duty was proper and should be upheld

The Trial Court dismissed Appellants Tenth cause of Action captioned "Breach of Fiduciary Duty; Duty of Care; Duty of Full Disclosure; Duty to Act Fairly; and Duty of Good Faith and Fair Dealing; Tortious Conduct" finding:

In the present case, the Plaintiff was not a party to contract between Collins, Nicholson, Scarafile, or the Buyers Dudek and Cross. As the Plaintiff was not a party to that transaction, there could be no duty owed to her and no fiduciary relationship created between Carolina One, its agents or employees and the Plaintiff. (Amended order Granting in part and denying in part Collins' Motion To Dismiss)

In South Carolina, "A confidential or fiduciary relationship exists when one imposes a 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 imposing the confidence." *Island Car Wash, Inc. v. Norris*, 292 S.C. 595, 358 S.E. 2d 150, 152 (Ct. App. 1987) "As a general rule, mere respect for another's judgment or trust in his character is usually not sufficient to establish a fiduciary relationship. The facts and circumstances must indicate that one reposing the trust has foundation for his belief that the one giving advice or presenting arguments is acting not in his own behalf but in the interests of the other party."

Burwell v. South Carolina National Bank, 288 S.C. 34, 41, 340 S.E. 2d 786, 790 (1986).

The Plaintiff in her Complaint attempts to create a fiduciary relationship between herself and this Respondent by alleging that “the Defendant Collins had a fiduciary duty to disclose to the plaintiff’s attorney and the court, true facts and/or representations as to the status or conditions of the Dudek/Cross loan or file”. Such rambling and incoherent allegations do not state facts sufficient to create liability on this Respondent’s part for any breach of fiduciary duty.

The trial Court’s dismissal of this Cause of Action was proper and should be upheld.

D. The Trial Court’s dismissal of Appellants Thirteenth Cause of Action for Declaratory Judgment was proper and should be upheld.

Appellants Thirteenth Cause of Action captioned “Declaratory Judgment that no Contract exists, as no valid contract exists was received by First Federal” seeks a declaratory judgment that no legal contract ever existed between the original sellers and buyers of the property in question. This issue was the subject matter of the original trial. The trial judge in that trial, the Honorable James Chellis, found that a contract did exist and ordered specific performance of that contract. This court later upheld his findings.

This is the foundation of the dismissal of this Cause of Action by Judge Jefferson. She states:

“Here, all of the issues raised in the Plaintiff’s Complaint arose during the underlying suit and were either asserted, or could have been asserted during the previous lawsuit. Accordingly, her claims are barred by the doctrines of res judicata and issue preclusion.”

In other words, the claims made in this Cause of Action have already been litigated and decided and appealed and upheld. The doctrine of res judicata prevents the re-litigation of issues previously litigated or which might have been litigated in the first action. See *Mungo v. Rental Uniform Service of Florence*, 383 S. C. 270, 284, 678 S.E. 2d 825, 832 (Ct. App. 2009).

The dismissal of this Cause of Action was proper and should be upheld.

3. The Trial Court Properly granted Summary Judgment as to the remaining causes of action.

The Trial Court correctly ruled that the remaining causes of action against this Respondent fail as a matter of law. These causes of action are: (1.) Fraud, Extrinsic Fraud, fraud on the Court, (2) Bad Faith and Unfair dealings accompanied by Fraudulent Actions, Conspiracy to Defraud, (3.) Intentional Infliction of Emotional Distress and (4.) Tortious Interference with Existing Contractual Relations. This Respondent clearly demonstrated that he was entitled to summary judgment as a matter of law and that there was no issue of material fact with regard to any of the claims of the Appellant.

A. Standard of Review

“Summary Judgment is appropriate where the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits,

if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.” *Rife v. Hitachi Construction Machinery Co., LTD.*, 363 S. C. 209, 213, 609 S. E. 2d 565, 568 (Ct. App. (2005). “In reviewing the grant of summary judgment motion, the court applies the same standard as the trial court under Rule 56(c), SCRPC: “summary judgment is proper when ‘there is no genuine issue as to any material fact and... the moving party is entitled to judgment as a matter of law.” *Dawkins v. Fields*, 354 S.C. 58, 69, 580 S.E.2d 433, 438-38 (2003).

This Respondent’s Answer to the Appellants complaint contained a Motion to Dismiss the Complaint pursuant to South Carolina Rule of Civil Procedure 12 (b)(6). At the hearing on all pending motions held before the Honorable Maite Murphy, this Motion to Dismiss was treated as a Motion for Summary Judgment. “A trial court may treat a 12 (b)(6) motion as a motion for summary judgment and consider matters presented outside the pleadings as long as the parties are given notice and an opportunity to respond. *Brown v. Leverette*, 291 S. C. 364, 353 S.E. 2d 697, 699 (1987).

B. The Trial Court’s grant of summary judgment as to Appellants cause of action for Fraud on the Court or extrinsic fraud was proper and should be upheld.

The trial court correctly stated that the Plaintiff, both in her pleadings and her deposition, claimed that this Respondent committed fraud on the court by falsely testifying and failing to disclose pertinent documents in a previous trial. The Supreme Court of South Carolina has held that the

nondisclosure of material facts, and even perjury, amounts to intrinsic fraud, not extrinsic fraud. *Chewing v. Ford Motor Company*, 354 S.C. 72, 78 579 S.E. 2d 605, 608 (2003).

The *Chewing* court defines fraud on the Court as “the species of fraud which does, or attempts to subvert the integrity of the court itself, or is a fraud perpetrated by officers of the court so that judicial machinery cannot perform in the usual manner its impartial task of adjudicating cases that are presented for adjudication.” However, to prevail on a theory of fraud on the court, one must allege extrinsic fraud, meaning “fraud that induces a person not to present a case or deprives a person of an opportunity to be heard.” *Hilton Head Ctr. v. Public Service Commission* 294 S.C. 9, 11, 362 S.E. 2d 176, 177 (1987).

In this case, the Appellant alleges that certain documents were concealed by parties to the litigation, including this Respondent. She however admits that those documents were provided to her attorney shortly before the previous trial. (see Order of the Honorable Maite Murphy granting this Respondents Motion to Dismiss). Based upon this, the court properly granted this Respondents Motion to Dismiss.

C. The Trial Court’s grant of summary judgment as to Appellants cause of action for Bad Faith and Unfair Dealings and/or Accompanied by Fraudulent action, Conspiracy to Defraud was proper and should be upheld.

The Appellant claims that this Respondent somehow perpetrated a fraud on the initial trial court by concealing documents and making fraudulent

misrepresentations concerning whether the co-defendants Cross and Dudek had been able to obtain financing with regard to the subject property. Despite the total lack of evidentiary support for these allegations, the Appellant claimed same sort of civil conspiracy in her Seventh cause of action.

Civil conspiracy consists of three elements: (1) a combination of two or more persons; (2) for the purpose of injuring the Plaintiff, (3) which cause him special damage. *Charles v. Texas Co.*, 192 S. C. 82, 5 S. E. 2d 464 (1939). "To be actionable, therefore, a conspiracy's primary purpose or object must be to injure the Plaintiff." *Lee v. Chesterfield General Hospital, Inc.*, 289 S. C. 10, 344 S. E. 2d 379, 382 (Ct. App. 1986). The South Carolina Court of Appeals has held that "if a Plaintiff merely repeats the damaged from another claim instead of specifically listing damages as part of their civil conspiracy claim, their conspiracy claim should be dismissed." *Hackworth v. Greywood Hammett, LLC*, 385 S. C. 110, 117, 682 S. E. 2d 871, 875 (Ct. App. 2009).

As the trial court noted in its order dismissing this cause of action against the Respondent Collins, the Plaintiff made no showing, or made any allegation, of special damages. "in fact, Plaintiff, in her deposition, admitted that all of the causes of action, together, support her claim for damages and that if the conspiracy claim were dismissed, the damages sought would not change.

(plaintiff's deposition, pages 298-299). Based upon her own testimony, summary judgment was appropriate and should be upheld.

D. The Trial Court's grant of summary judgment as to Appellants cause of action for Intentional Infliction of Emotional Distress was proper and should be upheld.

The Plaintiff in her Complaint the Appellant alleges that the "Defendants Dudek, Cross and Defendant Collins or its agents subjected or intentionally and/or recklessly subjected Morphew to (again) unnecessary spending, time, effort, lost work hours and extreme emotional distress by subjecting Morphew to an unlawful and frivolous motion."

To recover for a claim of intentional infliction of emotional distress, the Appellant must show extreme and outrageous conduct which intentionally or recklessly causes severe emotional distress to another. *Ford v. Hutson*, 276 S.C. 157 S.E. 2d 776 (1981). The conduct complained of must be so extreme and outrageous as to exceed all possible bounds of decency and must be regarded as atrocious, and utterly intolerable in a civilized society." *Gattison v. S.C. State College*, 318 S.C. 148, 151 458 S.E. 2d414, 416 (Ct. App. 1995). It is for the court to determine whether the alleged conduct arises to the level of being so extreme that it is actionable.

There is absolutely no evidence in the record to allow any claim for the Intentional infliction of Emotional Distress to pass summary judgment. The Appellant references stress-related symptoms which occurred twelve years prior to the filing of the underlying suit as potential evidence to support her claim. The trial court correctly that there was no genuine issue of material fact as to whether this cause of action should be allowed to survive summary judgment. This decision should be upheld.

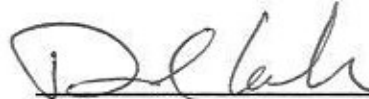
E. The Trial Court's grant of summary judgment as to Appellants cause of action for Tortious Interference with Existing Contractual Relations was proper and should be upheld.

To recover under a cause of action for tortious interference with an existing contract one must show (1) a contract; (2) knowledge of the contract by the tortfeasor; (3) intentional procurement by the tortfeasor of the contract's breach; (4) absence of justification and (5) resulting damages. *Vortex Sports v. Ware*, 378 S.C. 197, 205, 662 S.E. 2d 444, 449 (Ct. App. 2008). Obviously, "where there is no breach of contract there can be no recovery." *Edelco, Inc. v. Charleston County School District* 372 S. C. 470, 642 S.E. 2d 726 (2007).

The Appellant failed to produce even a scintilla of evidence to establish any of the aforementioned elements needed to recover under a theory of Tortious Interference with Contractual Relations. She had what amounted to a back-up contract and her contract was contingent on the termination of the primary contract. Once the underlying case was decided against her, her contract evaporated. The trial court properly granted summary judgment as to this cause of action as there was absolutely no genuine issue of material fact surrounding this issue. It should be upheld.

CONCLUSION

For all the reasons set forth herein, the reasons set forth by the trial court, and for any grounds appearing in the record, this court should affirm the orders of the trial court.

A handwritten signature in black ink, appearing to read "D. Collins", written over a horizontal line.

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PROOF OF SERVICE

I certify that on June 25, 2020, I served copies of Respondent David Collins Initial brief and Designation of Matter by electronic mail at the email address as stated in the Attorney Information System and also by depositing a true and correct copy of same in the United States Mail, postage prepaid, addressed to:

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