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Jun 10 2022

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM BEAUFORT COUNTY
COURT OF COMMON PLEAS
CARMEN T. MULLEN, CIRCUIT COURT JUDGE

Appellate Case No. 2022-000784

In re: IN THE MATTER OF: Estate of Paul Brandon Barringer II

Hampton Barringer Luzak,Appellant,

v.

Merrill B. Light, Merrill U. Barringer, as Personal Representative of the Estate of Paul Brandon Barringer II, J. Randolph Light Jr., Merrill B. Light as Putative Trustee of the Paul B. Barringer II Revocable Trust dated December 4, 1998, and Merrill B. Light as Trustee of the Merrill Barringer Light Revocable Trust, Defendants.

Of whom

Merrill B. Light, Merrill U. Barringer, as Personal Representative of the Estate Of Paul Brandon Barringer II, Merrill B. Light as Putative Trustee of the Paul B. Barringer II Revocable Trust dated December 4, 1998, And Merrill B. Light as Trustee of the Merrill Barringer Light Revocable Trust, are Respondents,

--and--

Hampton B. Luzak,Appellant,

v.

Merrill U. Barringer,Respondent.

PETITION TO REINSTATE APPEAL

Appellant Hampton B. Luzak hereby moves this Court for an order reconsidering its order of dismissal in the above-captioned matter dated June 9, 2022. As set forth below, Appellant respectfully submits that dismissal was improper because Notice of Supplemental Appeal was timely made and served pursuant to Rule 203(b)(1) of the South Carolina Appellate Court Rules.

The order addressed in the Supplemental¹ Notice of Appeal is dated December 30, 2020, but it was an interlocutory order, and as such not immediately appealable at that time. The trigger for filing the current Supplemental Notice of Appeal was a Supreme Court order dated April 29, 2022, which dismissed a separate appeal that could have (but did not) address the merits of the December 30, 2020 order.

It is important to note that on April 29, 2022, the Supreme Court issued two separate orders. On April 29, 2022, at 9:36 AM, Supreme Court staff emailed all counsel to provide a copy of one of those two orders. See **Exhibit A**, which includes a copy of the attachment to that referenced email, which was the Supreme Court's order dismissing Appellate Case No. 2021-001022. Later that same date, staff at the Court of Appeals emailed to counsel about that order. See **Exhibit B**, which includes the same attachments sent by the Court of Appeals at that time, which were copies of the same Supreme Court order (dismissing Case No. 2021-001022) as well as a remittitur order from the Court of Appeals.

Neither the Supreme Court nor the Court of Appeals sent a copy of the Supreme Court's other order issued April 29, 2022, the relevant order that triggered the ability of Appellant in this matter to file a Supplemental Notice of Appeal. The existence of that second order was only discovered by counsel for Appellant on Monday, May 2, 2022. Upon notice by one of the involved

¹ Appellant respectfully submits that this Court also erred in assigning a new case number the Supplemental Notice of Appeal filed on June 1, 2022, because that Notice of Appeal supplemented Appellate Case No. 2021-001337, which remained pending when the Supplemental Notice of Appeal was filed and remains pending now.

counsel, an email was sent to the remainder of counsel, which served as the initial notice to the remaining counsel as to the existence of that order. See **Exhibit C** is a copy of that email sent on May 2, 2022 between counsel, evidencing initial discovery of the existence of that order on that date. On May 11, 2022, Supreme Court staff later expressly acknowledged a failure to send out notice of the entry of that second order sooner. **Exhibit D**.

The Supplemental Notice of Appeal was filed in this matter on June 1, 2022, and notice thereof sent to all parties as referenced in the Proof of Service filed on that date. Accordingly, the Notice of Supplemental Appeal was filed and served “within thirty (30) days after receipt of written notice of entry of the order” as required by Rule 203, SCACR. That is true when using either the date of May 11, 2022, when formal notice of the order came from Supreme Court, or by calculation based on May 2, 2022, when counsel for Appellant first discovered entry of the order on their own.

Accordingly, Appellant moves to reinstate her Supplemental Notice of Appeal. She further requests that the matter be treated as appropriately within Appellate Case No. 2021-001337, rather than as a new and separately numbered appeal. In the alternative, she requests that the matters be consolidated.

Respectfully submitted,

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Attorneys for Appellant Hampton B. Luzak

June 10, 2022

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Attorney admitted *pro hac vice* for Respondents, Merrill B. Light, J. Randolph Light, Jr., Merrill B. Light as Putative Trustee of the Paul B. Barringer, II Revocable Trust dated December 4, 1998, and Merrill B. Light as Trustee of the Merrill Barringer Light Revocable Trust

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Attorney for Respondent Merrill U. Barringer, individually and Respondent Merrill U. Barringer, as Personal Representative of the Estate of Paul Brandon Barringer, II

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Attorneys for Respondent Merrill U. Barringer, as Personal Representative of the Estate of Paul Barringer, II



From: [Thompson, Ashli](#)
To: [hruff@ruffllc.com](#); [dcollins@ruffllc.com](#); [twombley@twlawfirm.com](#); [kjohnson@johnsonlawyers.com](#); [leeanne@walterslawsc.com](#); [apaylor@rosenhagood.com](#); [bghom@rosenhagood.com](#); [jim@gilreathlaw.com](#); [bhogan@gilreathlaw.com](#); [Desa Ballard](#); [amedlin@sc.rr.com](#); [macloskielawfirm@hargray.com](#); [tom.traxler@carterlawpa.com](#)
Subject: Matter of Barringer
Date: Friday, April 29, 2022 9:36:07 AM
Attachments: [Order of Dismissal \(29\).pdf](#)

For your records.

Ashli Thompson
Case Management Specialist
Supreme Court of South Carolina
(803) 734-1080

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# The Supreme Court of South Carolina

In the Matter of Estate of Paul Brandon Barringer, II

Hampton B. Luzak, Petitioner,

v.

Merrill B. Light, Merrill U. Barringer, as Personal Representative of the Estate of Paul Brandon Barringer, II, J. Randolph Light, Jr., Merrill B. Light as putative trustee of the Paul B. Barringer, II Revocable Trust dated December 4, 1998, and Merrill B. Light as Trustee of the Merrill Barringer Light Revocable Trust, Respondents,

AND

Hampton Barringer Luzak, Petitioner,

v.

Merrill U. Barringer, Respondent.


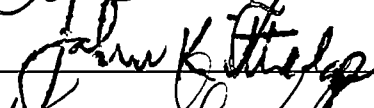
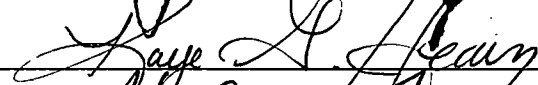

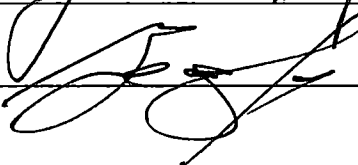
Appellate Case No. 2021-001022

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## ORDER

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Respondents have filed a motion to dismiss the petition for a writ of certiorari to the court of appeals filed by Petitioner. Because the court of appeals correctly held the circuit court's bifurcation order was not immediately appealable, the petition for a writ of certiorari is denied. *Flagstar Corp. v. Royal Surplus Lines*, 341 S.C. 68, 73, 533 S.E.2d 331, 333–34 (2000). Therefore, the motion to dismiss is denied as moot. *Curtis v. State*, 345 S.C. 557, 567, 549 S.E.2d 591, 596 (2001).

  
\_\_\_\_\_ C.J.  
  
\_\_\_\_\_ J.  
  
\_\_\_\_\_ J.  
  
\_\_\_\_\_ J.  
  
\_\_\_\_\_ J.

Columbia, South Carolina  
April 29, 2022

cc:

Harley Delleney Ruff, Esquire  
Denise K. Collins, Esquire  
James Ashley Twombly, Esquire  
Kevin C. Johnson, Esquire  
Lee Anne Walters, Esquire  
Alice F. Paylor, Esquire  
Bijan Khaladj-Ghom, Esquire  
James R. Gilreath, Esquire  
William Mitchell Hogan, Esquire  
Desa Ballard, Esquire  
S. Alan Medlin, Esquire  
Charles B. Macloskie, Esquire  
Thomas W. Traxler, Esquire  
The Honorable Jenny Abbott Kitchings



**From:** Clark, Tyler P.  
**To:** [hruff@ruffllc.com](mailto:hruff@ruffllc.com); [dcollins@ruffllc.com](mailto:dcollins@ruffllc.com); [twombly@twlawfirm.com](mailto:twombly@twlawfirm.com); [kjohnson@johnsonlawyers.com](mailto:kjohnson@johnsonlawyers.com); [receptionist@twlawfirm.com](mailto:receptionist@twlawfirm.com); [apaylor@rosenhagood.com](mailto:apaylor@rosenhagood.com); [bghom@rosenhagood.com](mailto:bghom@rosenhagood.com); [jim@gilreathlaw.com](mailto:jim@gilreathlaw.com); [bhogan@gilreathlaw.com](mailto:bhogan@gilreathlaw.com); [Desa Ballard](#)  
**Cc:** [dkcollins@gmail.com](mailto:dkcollins@gmail.com); [andrea@twlawfirm.com](mailto:andrea@twlawfirm.com); [leeanne@walterslawsc.com](mailto:leeanne@walterslawsc.com); [emahoney@rosenhagood.com](mailto:emahoney@rosenhagood.com); [emahoney@rosenhagood.com](mailto:emahoney@rosenhagood.com); [kathie@gilreathlaw.com](mailto:kathie@gilreathlaw.com); [kathie@gilreathlaw.com](mailto:kathie@gilreathlaw.com); [Mara Ballard](#)  
**Subject:** In the Matter of the Estate of Paul Brandon Barringer, II 2021-000159  
**Date:** Friday, April 29, 2022 4:20:00 PM  
**Attachments:** [Dismissal Order \(19\).pdf](#)  
[Rehearing Denied \(11\).pdf](#)  
[Supreme Court Order \(3\).pdf](#)  
[TC In the Matter of Barringer - Remittitur.pdf](#)

---

Dear Counsel,

Please find correspondence from the Court of Appeals.

Sincerely,

**Tyler Clark**

Appeals Specialist  
SC Court of Appeals  
1220 Senate St.  
Columbia, SC 29201  
Ph. (803) 734-1890  
F. (803) 734-1839

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The South Carolina Court of Appeals

In the Matter of Estate of Paul Brandon Barringer, II

Hampton B. Luzak, Appellant,

v.

Merrill B. Light, Merrill U. Barringer, as Personal Representative of the Estate of Paul Brandon Barringer, II, J. Randolph Light, Jr., Merrill B. Light as putative trustee of the Paul B. Barringer, II Revocable Trust dated December 4, 1998, and Merrill B. Light as Trustee of the Merrill Barringer Light Revocable Trust, Respondents,

AND

Hampton Barringer Luzak, Appellant,

v.

Merrill U. Barringer, Respondent.

Appellate Case No. 2021-000159

ORDER

After careful consideration of the parties' filings, this appeal is dismissed because the underlying orders are not immediately appealable under section 14-3-330 of the South Carolina Code (2017). *See Flagstar Corp. v. Royal Surplus Lines*, 341 S.C. 68, 73, 533 S.E.2d 331, 333-34 (2000) ("In short, trial of all issues in the case in a single proceeding is not a mode of trial to which the parties are entitled as a matter of right. Any abuse of discretion on the part of the trial court in severing issues for trial may be appealed after the trial, and after full development of the evidence.").

A handwritten signature in black ink, reading "James E. Leachery" with a stylized flourish at the end. Below the signature, the words "FOR THE COURT" are printed in a simple, black, sans-serif font.

FOR THE COURT

Columbia, South Carolina

cc:

James R. Gilreath, Esquire
William Mitchell Hogan, Esquire
Alice F. Paylor, Esquire
Bijan Khaladj-Ghom, Esquire
Harley Delleney Ruff, Esquire
Denise K. Collins, Esquire
James Ashley Twombly, Esquire
Kevin C. Johnson, Esquire
Lee Anne Walters, Esquire

FILED
May 04 2021

The South Carolina Court of Appeals

In the Matter of Estate of Paul Brandon Barringer, II

Hampton B. Luzak, Appellant,

v.

Merrill B. Light, Merrill U. Barringer, as Personal Representative of the Estate of Paul Brandon Barringer, II, J. Randolph Light, Jr., Merrill B. Light as putative trustee of the Paul B. Barringer, II Revocable Trust dated December 4, 1998, and Merrill B. Light as Trustee of the Merrill Barringer Light Revocable Trust, Respondents,

AND

Hampton Barringer Luzak, Appellant,

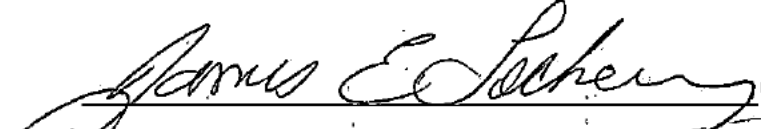
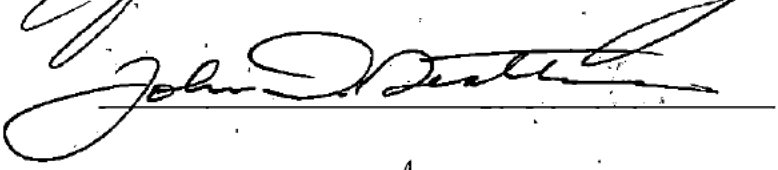
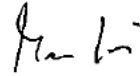
v.

Merrill U. Barringer, Respondent.

Appellate Case No. 2021-000159

ORDER

After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.


C.J.

J.

J.

Columbia, South Carolina

cc:

James R. Gilreath, Esquire
William Mitchell Hogan, Esquire
Alice F. Paylor, Esquire
Bijan Khaladj-Ghom, Esquire
Harley Delleney Ruff, Esquire
Denise K. Collins, Esquire
James Ashley Twombly, Esquire
Kevin C. Johnson, Esquire
Lee Anne Walters, Esquire

FILED
Aug 19 2021

The Supreme Court of South Carolina

In the Matter of Estate of Paul Brandon Barringer, II

Hampton B. Luzak, Petitioner,

v.

Merrill B. Light, Merrill U. Barringer, as Personal Representative of the Estate of Paul Brandon Barringer, II, J. Randolph Light, Jr., Merrill B. Light as putative trustee of the Paul B. Barringer, II Revocable Trust dated December 4, 1998, and Merrill B. Light as Trustee of the Merrill Barringer Light Revocable Trust, Respondents,

AND

Hampton Barringer Luzak, Petitioner,

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Merrill U. Barringer, Respondent.

Appellate Case No. 2021-001022


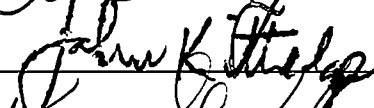
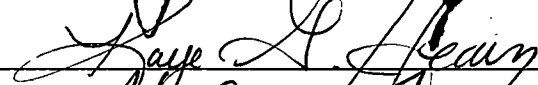

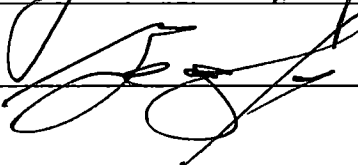
ORDER

Respondents have filed a motion to dismiss the petition for a writ of certiorari to the court of appeals filed by Petitioner. Because the court of appeals correctly held the circuit court's bifurcation order was not immediately appealable, the petition for a writ of certiorari is denied. *Flagstar Corp. v. Royal Surplus Lines*, 341 S.C. 68, 73, 533 S.E.2d 331, 333–34 (2000). Therefore, the motion to dismiss is denied as moot. *Curtis v. State*, 345 S.C. 557, 567, 549 S.E.2d 591, 596 (2001).

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Apr 29 2022

SC Court of Appeals


_____ C.J.

_____ J.

_____ J.

_____ J.

_____ J.

Columbia, South Carolina
April 29, 2022

cc:
Harley Delleney Ruff, Esquire
Denise K. Collins, Esquire
James Ashley Twombly, Esquire
Kevin C. Johnson, Esquire
Lee Anne Walters, Esquire
Alice F. Paylor, Esquire
Bijan Khaladj-Ghom, Esquire
James R. Gilreath, Esquire
William Mitchell Hogan, Esquire
Desa Ballard, Esquire
S. Alan Medlin, Esquire
Charles B. Macloskie, Esquire
Thomas W. Traxler, Esquire
The Honorable Jenny Abbott Kitchings



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
CHIEF DEPUTY CLERK

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FAX: (803) 734-1839
www.sccourts.org

April 29, 2022

The Honorable Jerri Ann Roseneau
PO Box 1128
Beaufort SC 29901-1128

REMITTITUR

Re: In the Matter of the Estate of Paul Brandon Barringer, II
Lower Court Case No. 2016CP0701919
Appellate Case No. 2021-000159

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

V. Claire Allen

CLERK

Enclosure

cc: James R. Gilreath, Esquire
William Mitchell Hogan, Esquire
Alice F. Paylor, Esquire

Bijan Khaladj-Ghom, Esquire
Harley Delleney Ruff, Esquire
Denise K. Collins, Esquire
James Ashley Twombly, Esquire
Kevin C. Johnson, Esquire
Lee Anne Walters, Esquire
Desa Ballard, Esquire



From: [Bill Hogan](#)
To: [Alan Medlin](#); [Desa Ballard](#); [Gilreath, Jim](#); [Macloskie Law Firm](#); [Thomas W. Traxler](#)
Subject: supreme court order
Date: Monday, May 2, 2022 12:24:15 PM
Attachments: [2022.04.29 Order.pdf](#)

Did y'all see this order from Friday?

William M. Hogan
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The Supreme Court of South Carolina

In the Matter of Estate of Paul Brandon Barringer, II

Hampton Barringer Luzak, Appellant,

v.

Merrill B. Light, Merrill U. Barringer, as Personal Representative of the Estate of Paul Brandon Barringer, II, J. Randolph Light, Jr., Merrill B. Light as putative trustee of the Paul B. Barringer, II Revocable Trust dated December 4, 1998, and Merrill B. Light as Trustee of the Merrill Barringer Light Revocable Trust, Respondents,

AND

Hampton Barringer Luzak, Appellant,

v.

Merrill U. Barringer, Respondent.
and

Coastal Forest Resources Company ("CFRC"),
Intervenor/Respondent.

Appellate Case No. 2021-000837

ORDER

The Court certifies the appeal in Appellate Case No. 2021-000837 to this Court pursuant to Rule 204(b), SCACR.

Because the circuit court did not have the authority to grant Respondent Merrill U. Barringer's motion for summary judgment while Appellant Hampton Barringer Luzak's appeal of the circuit court's bifurcation order was still pending, the circuit

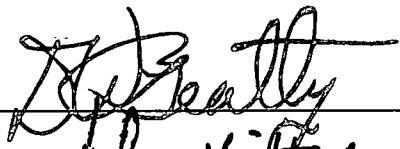
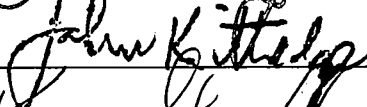
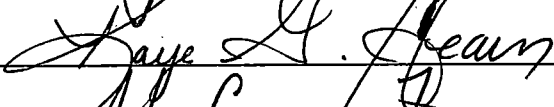
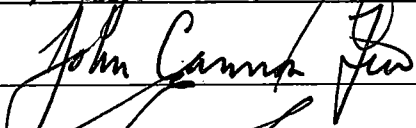

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Apr 29 2022

SC Court of Appeals

court's motion granting summary judgment is vacated. Rule 241(a), SCACR (providing ". . . the service of a notice of appeal in a civil matter acts to automatically stay matters decided in the order, judgment, decree or decision on appeal, and to automatically stay the relief ordered in the appealed order, judgment, or decree or decision. . . . The lower court or administrative tribunal retains jurisdiction over *matters not affected by the appeal* including the authority to enforce any matters not stayed by the appeal.") (emphasis added); *see also Ware v. Ware*, 404 S.C. 1, 11, 743 S.E.2d 817, 822 (2013) (holding a judgment is void if a court acts without jurisdiction).

Because the circuit court's order granting summary judgment is vacated, this appeal is dismissed as moot. *Curtis v. State*, 345 S.C. 557, 567, 549 S.E.2d 591, 596 (2001).

| | | |
|--|-------|------|
|  | _____ | C.J. |
|  | _____ | J. |
|  | _____ | J. |
|  | _____ | J. |
|  | _____ | J. |

Columbia, South Carolina
April 29, 2022

cc:
Desa Ballard, Esquire
James R. Gilreath, Esquire
William Mitchell Hogan, Esquire
S. Alan Medlin, Esquire
Charles B. Macloskie, Esquire
Thomas W. Traxler, Esquire
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James Ashley Twombly, Esquire
Lee Anne Walters, Esquire
Kevin C. Johnson, Esquire
Harley Delleney Ruff, Esquire
Denise K. Collins, Esquire
Ryan George Rich, Esquire
Charles B. Molster, III, Esquire
Edward J. Fuhr, Esquire
Johnathon E. Schronce, Esquire
The Honorable Jenny Abbott Kitchings



From: Thompson, Ashli
To: twombly@twlawfirm.com; leeanne@walterslawsc.com; kjohnson@johnsonlawyers.com; hruff@ruffllc.com; dcollins@ruffllc.com; rrich@hunton.com; efuhr@huntonAK.com; jschronce@huntonAK.com; apaylor@rosenhagood.com; bghom@rosenhagood.com; cmolster@molsterlaw.com; Desa Ballard; jim@gilreathlaw.com; bhogan@gilreathlaw.com; amedlin@sc.rr.com; macloskielawfirm@hargray.com; tom.traxler@carterlawpa.com
Subject: Barringer Order
Date: Wednesday, May 11, 2022 12:19:40 PM
Attachments: [0537202204291408image.pdf](#)

Good afternoon,

Attached is a copy of the order of this Court dated April 29, 2022. I apologize for any inconvenience this may have caused by not receiving this order sooner.

Thank you,

Ashli Thompson
Case Management Specialist
Supreme Court of South Carolina
(803) 734-1080

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# The Supreme Court of South Carolina

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Hampton Barringer Luzak, Appellant,

v.

Merrill B. Light, Merrill U. Barringer, as Personal Representative of the Estate of Paul Brandon Barringer, II, J. Randolph Light, Jr., Merrill B. Light as putative trustee of the Paul B. Barringer, II Revocable Trust dated December 4, 1998, and Merrill B. Light as Trustee of the Merrill Barringer Light Revocable Trust, Respondents,

AND

Hampton Barringer Luzak, Appellant,

v.

Merrill U. Barringer, Respondent.  
and

Coastal Forest Resources Company ("CFRC"),  
Intervenor/Respondent.

Appellate Case No. 2021-000837

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ORDER

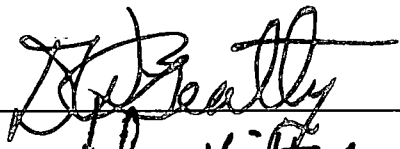
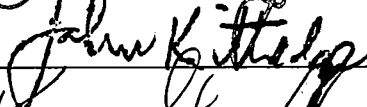
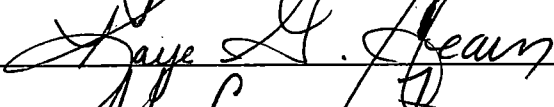
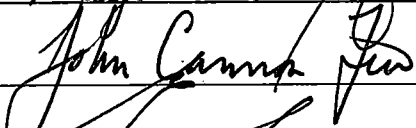

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The Court certifies the appeal in Appellate Case No. 2021-000837 to this Court pursuant to Rule 204(b), SCACR.

Because the circuit court did not have the authority to grant Respondent Merrill U. Barringer's motion for summary judgment while Appellant Hampton Barringer Luzak's appeal of the circuit court's bifurcation order was still pending, the circuit

court's motion granting summary judgment is vacated. Rule 241(a), SCACR (providing ". . . the service of a notice of appeal in a civil matter acts to automatically stay matters decided in the order, judgment, decree or decision on appeal, and to automatically stay the relief ordered in the appealed order, judgment, or decree or decision. . . . The lower court or administrative tribunal retains jurisdiction over *matters not affected by the appeal* including the authority to enforce any matters not stayed by the appeal.") (emphasis added); *see also Ware v. Ware*, 404 S.C. 1, 11, 743 S.E.2d 817, 822 (2013) (holding a judgment is void if a court acts without jurisdiction).

Because the circuit court's order granting summary judgment is vacated, this appeal is dismissed as moot. *Curtis v. State*, 345 S.C. 557, 567, 549 S.E.2d 591, 596 (2001).

|                                                                                      |       |      |
|--------------------------------------------------------------------------------------|-------|------|
|    | _____ | C.J. |
|    | _____ | J.   |
|   | _____ | J.   |
|  | _____ | J.   |
|  | _____ | J.   |

Columbia, South Carolina  
April 29, 2022

cc:  
Desa Ballard, Esquire  
James R. Gilreath, Esquire  
William Mitchell Hogan, Esquire  
S. Alan Medlin, Esquire  
Charles B. Macloskie, Esquire  
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Denise K. Collins, Esquire  
Ryan George Rich, Esquire  
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Edward J. Fuhr, Esquire  
Johnathon E. Schronce, Esquire  
The Honorable Jenny Abbott Kitchings