

The Supreme Court of South Carolina

In the Matter of Estate of Paul B. 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 B. Luzak, Appellant,

v.

Merrill U. Barringer, Respondent,
and

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




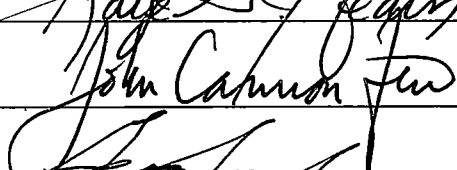
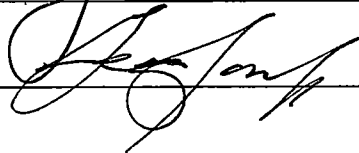
Appellate Case No. 2021-000837

ORDER

By order dated April 29, 2022, this Court vacated Judge Price's July 7, 2021 order granting partial summary judgment to Merrill Light in Case No. 2016-CP-07-01919 and Judge Bonds' August 20, 2021 order granting summary judgment to Merrill Barringer in Case No. 2019-CP-07-01253. The summary judgment orders

granted summary judgment on claims at issue in the December 30, 2020 bifurcation order while the appeal of the bifurcation order was pending. Therefore, both summary judgment orders were matters affected by the appeal of the bifurcation order, and the circuit court did not have jurisdiction to issue them during the pendency of the appeal. *See* Rule 241(a), SCACR (providing the service of the notice of appeal in a civil matter generally automatically stays matters decided below; however, "[t]he 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"); *see also Morrow v. Fundamental Long-Term Care Holdings, LLC*, 412 S.C. 534, 537–39, 773 S.E.2d 144, 145–46 (2015) (holding the trial court's bifurcation order was immediately appealable because it affected a substantial right, and whether a trial court's order is immediately appealable is determined on a case-by-case-basis).

Respondents Merrill U. Barringer and Merrill B. Light and Intervenor-Respondent Coastal Forest Resources Company (CFRC) have filed petitions for rehearing of the April 29, 2022 order. Appellant Hampton B. Luzak has filed a motion to alter or amend the April 29, 2022 order. The motions are all granted in part to clarify that the April 29, 2022 order did not vacate the June 7, 2021 order granting CFRC's motion for intervention and protective relief, dismissing Luzak's cause of action for civil conspiracy, finding the circuit court lacked subject matter jurisdiction to consider claims arising out of the internal affairs of a foreign corporation, striking various categories of Luzak's claims for damages and finding Luzak could not recover on those claims because the court lacked subject matter jurisdiction to adjudicate them, finding Luzak was not entitled to recover for her second category of damages because of *res judicata*, and finding Luzak may not litigate any derivative claims on behalf of CFRC in this action. Because those rulings were not affected by the appeal of the bifurcation order, the circuit court had jurisdiction to rule on the issues while the bifurcation order was on appeal. *See* Rule 241(a), SCACR ("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."); *Tillman v. Oakes*, 398 S.C. 245, 255, 728 S.E.2d 45, 51 (Ct. App. 2012) ("[T]he lower court's power to proceed is determined by whether the issue sought to be litigated in the lower court during the appeal is a 'matter affected by the appeal' under Rules 205 and 241(a).").


_____ C.J.

_____ J.

_____ J.

_____ J.

_____ J.

Columbia, South Carolina
September 14, 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
Alice F. Paylor, Esquire
Bijan Khaladj-Ghom, Esquire
James Ashley Twombly, Esquire
Lee Anne Walters, Esquire
Kevin C. Johnson, Esquire
Harley Delleney Ruff, Esquire
Ryan George Rich, Esquire
Charles B. Molster, III, Esquire
Edward J. Fuhr, Esquire
Johnathon E. Schronce, Esquire