

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED

Sep 22 2022

SC Court of Appeals

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

Appellate Case No. 2021-001337
(Erroneously assigned Appellate Case Nos. 2021-000159¹ and 2022-000784)
Trial Court Case Nos. 2016-CP-07-01919, 2019-CP-07-01253 and 2019-CP-07-01294
most recently ruled on by the Court of Appeals in
Court of Appeals Order Filed August 24, 2022 bearing Appellate Case No. 2022-000784

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

Hampton Barringer 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, 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,

¹ The Court of Appeals' order dated August 23, 2022 erroneously cited Appellate Case No. 2021-000159. That appellate case number was concluded by this Court's order dated April 29, 2022 in Appellate Case No. 2021-001022, which denied Ms. Luzak's Petition for Certiorari to review the Court of Appeals' dismissal of Appellate Case No. 2021-000159. Nothing remains pending to Ms. Luzak's knowledge in Appellate Case No. 2021-000159, identified by this Court's assignment of Appellate Case No. 2021-001022. This Court's Appellate Case No. 2021-001022 is included here only because of the erroneous referral to it in the Court of Appeals' order dated August 23, 2022. The Court of Appeals issued another order the following day, August 24, 2022, bearing Appellate Case No. 2022-000784, which case number was erroneously assigned by the Court of Appeals to the Supplemental Notice of Appeal filed by Ms. Luzak in Appellate Case No. 2021-001337 on May 31, 2022. This Petition for Writ of Certiorari addresses only the Court of Appeals' order dated August 24, 2022 which bore Appellate Case No. 2022-000784 but which was filed by Ms. Luzak as a Supplemental Notice of Appeal in Appellate Case No. 2021-001337. Appellate Case No. 2021-001337 remains pending at the Court of Appeals.

--and--

Hampton B. Luzak, Petitioner,

v.

Merrill U. Barringer, Respondent.

PETITION FOR WRIT OF CERTIORARI
In re: Court of Appeals Order filed August 24, 2022
Erroneously assigned Appellate Case Nos. 2021-000159 and 2022-000784

and

PETITION TO CERTIFY AND CONSOLIDATE APPELLATE CASE 2021-001337

SUMMARY OF APPELLATE HISTORY

This Petition follows three separate appeals emanating from one complex case in which Hampton Luzak (hereafter Ms. Luzak), through multiple causes of action, contends that wills, trusts, and inter vivos transfers purportedly executed by her father, Paul B. Barringer (hereafter “decendent”), are invalid for numerous reasons.

FIRST APPEAL
(Appellate Case No. 2021-000159)

The first appeal was of a bifurcation order issued by Judge Mullen on December 30, 2020. That order of Judge Mullen ruled upon Defendant Merrill U. Barringer’s Motion to Bifurcate, which asserted that two of the numerous, previously consolidated causes of action — the two involving the validity and scope of her purported power of appointment over the decendent’s assets — could be tried separately and quickly, while the remaining causes of action

would involve a second trial lasting weeks.² The effect of Judge Mullen’s bifurcation order was that no other portion of the multiple consolidated cases could proceed until the two causes of action that were bifurcated were tried and finally determined. Judge Mullen’s order effectively required at least two (2) trials on related issues.

Ms. Luzak opposed the bifurcation, arguing that the equitable power of appointment issues (the ones which were bifurcated) were inextricably connected to the legal issues involving the validity of the wills and trusts and could not be tried separately or first. Ms. Luzak appealed Judge Mullen’s order granting the bifurcation; that appeal was assigned Appellate Case No. 2021-000159. That first stand-alone appeal eventually came before this Court which, in one of its two orders issued on April 29, 2022, agreed with the Court of Appeals that the appeal of the bifurcation order, standing alone, was interlocutory, and upheld the Court of Appeals’ dismissal of the appeal as being interlocutory.³

SECOND APPEAL
(Appellate Case No. 2021-000837)

While the first appeal was pending, Defendant Merrill Light and the corporation she controlled sought and obtained final orders from Judge Price emanating from a hearing held on May 27, 2021. Judge Price issued some of the final orders on June 7, 2021 and a separate final order on July 6, 2021, determining that a will and trust purportedly executed on February 28, 2012 were valid. Ms. Luzak appealed those final orders in her second appeal —the “Price

² Ms. Luzak disputed that argument, pointing out that bifurcation of the two causes of action and requiring them to be tried “first and prior to” all other causes of action would create confusion because all causes of action were related.

³ Judge Mullen had designated the cases as complex and assigned them to herself. However, due to the addition of a new lawyer to Ms. Luzak’s team, Judge Mullen recused herself. Certain discrete matters in the case were later heard by Circuit Court Judge Bentley Price, which led to the second appeal, and then to Circuit Court Judge Robert Bonds, which led to the third appeal.

appeal. ” Ms. Luzak also appealed the Mullen bifurcation order, which was proper pursuant to S.C. §14-3-330(1) because of the possibility that this Court would (and eventually did) conclude that the standalone appeal in Appellate Case No. 2021-000159 was interlocutory. The second appeal was captioned as Appellate Case No. 2021-000837.

THIRD APPEAL
(Appellate Case No. 2021-001337)

Respondent Merrill U. Barringer then sought and obtained a summary judgment from Judge Bonds on the two power of appointment causes of action. Judge Bonds issued that order on August 20, 2021 and denied Ms. Luzak’s motion for rehearing on October 8, 2021. Ms. Luzak appealed that order in her third appeal — the “Bonds appeal”. The third appeal was assigned Appellate Case No. 2021-001337.

APPELLATE ORDERS

In one of two orders issued on April 29, 2022, this Court certified the appellate case numbered 2021-000837—the second appeal — and vacated trial court orders, which this Court indicated rendered the second appeal moot. All parties were uncertain about the scope and meaning of that order and sought clarification through a petition for rehearing and a motion to alter or amend. That April 29, 2022 order was further explained in this Court’s order dated September 14, 2022.

Being uncertain about the impact and meaning of this Court’s April 29, 2022 order involving the second appeal,⁴ Ms. Luzak added her appeal of the bifurcation order to the third appeal —the Bonds appeal —pursuant to S.C. Code Ann. §14-3-330(1), by the filing of a

⁴ If this Court’s April 29, 2022 order vacated all of the underlying summary and final judgments and dismissed the appeal, Ms. Luzak would have lost the pendant appeals of final orders that made her related appeal of the bifurcation order ripe for determination in accordance with S.C. Ann. §14-3-330(1).

supplemental notice of appeal to the only appeal then pending before the Court of Appeals, Appellate Case No. 2021-000837.⁵ The Court of Appeals dismissed Ms. Luzak’s supplemental notice of appeal as untimely and denied her petition for rehearing.⁶ That order is the one for which this Petition for Certiorari is being brought. This Petition addresses only the Supplemental Notice of Appeal in Appellate Case No. 2021-001337 which has been dismissed by the Court of Appeals. Ms. Luzak asserts that the Court of Appeals did not recognize that the appeal from the bifurcation order had been pending on appeal since the timely filing of the first notice of appeal (Appellate Case No. 2021-000159) and continued pending after filing of the second notice of appeal (Appellate Case No. 2021-000837). The Court of Appeals erroneously treated the Supplemental Notice of Appeal in Appellate Case No. 2021-000837 as a new appeal, when the order to which the Supplemental Notice of Appeal had been before the Court of Appeals since the filing of the first appeal, Appellate Case No. 2021-000159.

After the Court of Appeals denied Ms. Luzak’s petition for rehearing regarding the supplemental notice of appeal in the third appeal, Appellate Case No. 2021-001337—the Bonds appeal—this Court issued its September 14, 2022 order responding to the parties’ petition for rehearing and motion to alter or amend its order of April 29, 2022. In the April 29, 2022 order, this Court stated that both the power of appointment summary judgment—the subject of the third appeal—and the will and trust summary judgment—a subject of the second appeal—were vacated.

⁵ She did so to ensure that she would have attached her appeal of the bifurcation order to the appeal of a final order, which the power of appointment summary judgment was.

⁶ The Court of Appeals issued orders denying Ms. Luzak’s petition for rehearing on August 23, 2022 and August 24, 2022, using different case numbers, which further complicates the history of the case.

That presents a problem because this Court's order of September 14, 2022, which stated it was certifying Appellate Case No. 2021-000837, vacated an order that was not a part of Appellate Case No. 2021-000837. The order vacated by this Court on September 14, 2022 was not pending in Appellate Case 2021-000837- the appeal certified by this Court's order – but was pending in the third appeal (Appellate Case No. 2021-001337). However, this Court has not certified the third appeal.⁷ That case remains pending in the Court of Appeals as Appellate Case No. 2021-001337, to which the Supplemental Notice of appeal was supposed to attach.

DETAILED CASE HISTORY

This Petition relates to a trial court order issued by Circuit Court Judge Carmen Mullen on December 30, 2020,⁸ and Judge Mullen's Form 4 order denying rehearing dated January 13, 2021 (collectively referred to hereafter as "the bifurcation order"). When the first notice of appeal of the bifurcation order was filed to the Court of Appeals on February 12, 2021, the Court of Appeals assigned Appellate Case No. 2021-000159 to the appeal.⁹ The order of bifurcation

⁷ Moreover, this Court's order of September 14, 2022 vacates Judge Price's order of "July 7, 2021" when his order was issued on July 6, 2021.

⁸ The orders on appeal arose from four cases, the first two of which were filed in 2016 by Mrs. Luzak against her sister Merrill B. Light, Merrill Light's husband Randolph Light, and Merrill U. Barringer in her capacity as personal representative of the estate of Paul B. Barringer in Case Nos. 2016-CP-07-1919 and 2016-CP-07-1961 (originating in probate court until its removal to circuit court and consolidated with Case No. 2016-CP-07-1919 by consent order dated May 19, 2017), and the third and fourth cases filed in 2019 in which Mrs. Luzak and her mother Merrill U. Barringer were the only parties. All four cases were consolidated for discovery and trial by consent order among all the parties dated December 3, 2019. By order dated December 30, 2020, Judge Mullen bifurcated from the consolidated cases the second and third causes of action in trial court case numbers 2019-CP-07-01253 and 2019-CP-07-01294 (originated in probate court as Case No. 2016-ES-07-00517 until its removal to circuit court) and ordered that those two causes of action be tried in a separate trial which "shall proceed first and prior to any separate and subsequent trial(s) of the remaining causes of action" in Case Nos. 2016-CP-07-1919, 2016-CP-07-1961, 2019-CP-07-01253 and 2019-CP-07-01294.

⁹ No appellate briefs, initial or final, were ever filed in Appellate Case No. 2021-000159. The Court of Appeals initiated inquiries regarding the appealability of the bifurcation order standing alone by letter to the parties on February 22, 2021, and all parties responded. The Court of Appeals dismissed the appeal by order dated May 4, 2021. Mrs. Luzak filed a Petition for Rehearing in Appellate Case No. 2021-000159 on May 19, 2021, and that petition for reconsideration remained pending until order dated August 19, 2021, in which the Court of Appeals denied rehearing. The Petition for Writ of Certiorari in Appellate Case 2021-000159 was assigned Appellate Case No. 2021-001022 by this Court. That Petition for Writ of Certiorari was denied on April 29, 2022, the same date

remained on appeal to the Court of Appeals in Appellate Case No. 2021-000837 (the second appeal). However, when certifying and finally concluding Appellate Case No. 2021-000837, this Court did not address the bifurcation order. As a result, the bifurcation order is now before this Court for a second time in a second Petition for Writ of Certiorari, seeking review of an erroneous order from the Court of Appeals issued on August 24, 2022.¹⁰ This Petition is necessary because the Court of Appeals erroneously treated the Supplemental Notice of Appeal in Case NO. 2021-001337 as a new appeal, despite it bearing the Appellate Case Number of the already existing (and only) appeal before the Court of Appeals.

The first appeal, which was only from Judge Mullen's order of bifurcation, assigned Appellate Case No. 2021-000159, remained pending before the Court of Appeals until an order denying rehearing was issued by a panel of that Court on August 19, 2021.

In response to the Court of Appeals' order denying rehearing from the appeal of Judge Mullen's bifurcation order, Ms. Luzak filed a Petition for Writ of Certiorari to this Court, which was assigned Appellate Case No. 2021-001022 (originally Appellate Case No. 2021-000159). Respondents filed a motion to dismiss the Petition for Writ of Certiorari. By order issued April 29, 2022, this Court denied the Petition for Writ of Certiorari and also denied the motion to dismiss as moot. Thus, Judge Mullen's order of bifurcation remained in the appellate courts under Case No. 2021-000159 until the remittitur was issued by the Court of Appeals on April 29, 2022 following this Court's order denying the petition for writ of certiorari on April 29, 2022.

In the interim, in August 2021, Ms. Luzak timely filed an appeal of multiple final orders issued by Judge Price and appealed for the second time an appeal of the December 30, 2020

this Court certified the appeal in Appellate Case No. 2021-000837 and issued its initial order which was served on the parties on May 11, 2022.

¹⁰ See footnotes 5 and 6, *supra*.

order of bifurcation issued by Judge Mullen. This time, in Appellate Case No. 2021-000837, the bifurcation order was reviewable because it was appealed with other final orders. S.C. Code Ann. § 14-3-330(1). In addition to Judge Mullen’s order, the final orders appealed in the second appeal were issued by Judge Price in orders filed on June 7, 2021 and July 6, 2021. The original appeal, 2021-000159, was an appeal only of the order of bifurcation, and the proceedings in the Court of Appeals in Appellate Case 2021-000159 were challenging whether the order of bifurcation, standing alone, was immediately appealable. In order to cure the potential interlocutory nature of the bifurcation order that may have (and eventually did) prevent Appellate Case No. 2021-000159 from moving forward as a stand-alone appeal, Ms. Luzak included in the second appeal filed on August 5, 2021 a second appeal of the order of bifurcation dated December 30, 2020. The Court of Appeals assigned Appellate Case No. 2021-000837 to the second appeal.

The second appeal of the order of bifurcation in Appellate Case No. 2021-000837 cured any inability of the Court of Appeals to address the order of bifurcation standing alone — *i.e.*, in Appellate Case No. 2021-000159 — since the appeal of the bifurcation order became immediately appealable and ripe for adjudication when it was joined with appeals of final orders in the second appeal. S.C. Code Ann. §14-3-330(1) (“if no appeal be taken until final judgment is entered the court may upon appeal from such final judgment review any intermediate order or decree necessarily affecting the judgment not before appealed from.”).

In her third appeal, Ms. Luzak appealed the issuance of a summary judgment order issued by Judge Bonds on August 20, 2021 and his denial of her motion for reconsideration filed

October 8, 2021 (the power of appointment order). The third appeal was Appellate Case No. 2021-001337 (assigned Appellate Case No. 2022-000784 in this Court).¹¹

The second appeal, Appellate Case No. 2021-000837, was in the process of being fully briefed (all initial briefs had been filed, including arguments related to the appeal from the order of bifurcation), but the Record on Appeal had not yet been filed when this Honorable Court certified Appellate Case No. 2021-000837 and issued a ruling on the case dated April 29, 2022. . This Court's order appeared to vacate at least a grant of summary judgment to Merrill U. Barringer which had been granted while Appellate Case No. 2021-00159 was pending, concluding that the pendency of the appeal in Appellate Case No. 2021-00159 precluded entry of summary judgment by Judge Price during the appeal.

On September 14, 2022, this Court issued an order explaining its order of April 29, 2022. The September 14, 2022 Order explained that this Court, in its April 29, 2022 order, was (1) vacating Judge Price's summary judgment order finding a February 28, 2012 will and a trust to be valid and (2) vacating Judge Bonds' order granting Merrill U. Barringer summary judgment on the two power of appointment issues, because the circuit court lacked jurisdiction to issue both of those summary judgment orders while the bifurcation order was being appealed. Judge Price's will and trust summary judgment order was included among the orders appealed in Appellate Case No. 2021-000837, which this Court had certified. Judge Bonds' power of appointment summary judgment order was being appealed in Appellate Case No. 2021-001337, which was not expressly certified by this Court.¹²

¹¹ The reason that several appeals were required is because the defendants sought and obtained summary judgments and other orders at different times.

¹² Ms. Luzak will file a petition for rehearing on the September 14, 2022, order of this Court seeking *inter alia* to have this Court certify Appellate Case No. 2021-001337, which she believes is technically required for this Court to

The orders on appeal in Appellate Case No. 2021-000837 were:

1. Judge Price's Order Granting CFRC's Motion for Intervention and Protective Relief issue on June 7, 2021;
2. Judge Price's Order on Motions issued July 13, 2021, which denied Ms. Luzak's Motion to Recuse the then-presiding Circuit Court Judge Bentley Price,¹³ and "four motions to reconsider filed by Plaintiff [Ms. Luzak] on June 17, 2021;
3. Judge Price's Order Granting Summary Judgment to Merrill Light (not Merrill Barringer) finding that the now-deceased Paul Barringer "as a matter of law . . . had testamentary capacity, was not subject to undue influence and was not mistaken when he executed the February 2012 Testamentary Documents, and that the February 2012 Testamentary Documents are valid"¹⁴ which order was dated July 6, 2021 (the will and trust Order).
4. Judge Price's Order Denying Plaintiff's Motion to Reconsider and Amend Order Granting Defendant Merrill Light's Summary Judgment as to the February 2012 will and First Amendment to the Paul B. Barringer, II Revocable trust filed August 4, 2021.
5. Judge Mullen's Order granting bifurcation issued December 30, 2022 (which was no longer interlocutory because it was joined with final orders on appeal).

have vacated Judge Bonds' power of appointment summary judgment order, which it did in its order dated April 29, 2022.

¹³ Mrs. Luzak did not appeal Judge Price's order denying recusal.

¹⁴ Among the many problems with the order finding the February 2012 testamentary documents to be valid was that the ruling was on summary judgment, but Judge Price's order contained 15 pages of "findings of fact" which are necessarily a part of an order granting summary judgment, when there is no genuine issue of material fact.

All counsel were confused by this Court's order dated April 29, 2022 which seems to have vacated an order that was not on appeal in Appellate Case No. 2021-000837 and perhaps did not address any of the orders that were on appeal in Appellate Case No. 2021-000837.¹⁵ On May 10, 2022, counsel for all parties jointly requested an extension of time to respond to the April 29, 2022 order. This Court granted the extension of time on May 11, 2022, and amended its grant of an extension on May 12, 2022.¹⁶

Until this Court issued its Order dated September 14, 2022, attempting to clarify its order of April 29, 2022, the parties were uncertain whether this Court intended in its April 29, 2022 Order to certify an appeal in which an order granting summary judgment to Merrill B. Light was on appeal as well as the bifurcation order in Appellate Case No. 2021-000837 or whether this Court meant to certify Appellate Case No. 2021-001337 (the third appeal), which appeal was filed by Ms. Luzak on November 8, 2021, appealing Judge Bonds' single order granting summary judgment to Merrill U. Barringer.

On April 29, 2022, when this Court certified the appeal in Appellate Case No. 2021-000837, the other pending appeal, Appellate Case No. 2021-000837 (which was of an order granting summary judgment to Merrill U. Barringer) also had progressed only to the initial briefing stage, with no Record on Appeal having been filed. Perhaps this Court intended to

¹⁵ Among Mrs. Luzak's concerns was that this Court's order dated April 29, 2022 disposed of the entire appeal in Appellate Case No. 2021-000837 without addressing her appeal of the December 30, 2020 order of bifurcation issued by Judge Mullen, which was properly before the Court of Appeals when this Court certified Appellate Case No. 2021-000837 for decision by this Court. This Court's order dated April 29, 2022 vacated an order which was not on appeal in that case, but this Court's order indicated that the entire appeal in Appellate Case No. 2021-000837 was fully and finally disposed of (even though not all of the orders on appeal were specifically addressed in the Court's April 29, 2022 order certifying Appellate Case No. 2021-000837).

¹⁶ In response to this Court's order dated April 29, 2022 in Appellate Case No. 2021-000837, Respondents Merrill Barringer, Merrill Light and Coastal Forest Resources Company (CFRC) filed petitions for rehearing on May 26, 2022; Ms. Luzak filed a Motion to Alter or Amend on May 26, 2022, and returns and replies were thereafter filed by various parties. This Court issued an order on the various motions/petitions on September 14, 2022. This Petition for Writ of Certiorari does not address the September 14, 2022 order, but addresses only the Court of Appeals order of August 24, 2022 in Appellate Case No. 2021-001337.

certify both Appellate Case No. 2021-000837 and 2021-001337, but its Order of April 29, 2022 and its clarifying Order of September 14, 2022 clearly only certified Appellate Case No. 2021-000837. In the September 14, 2022 clarifying Order, this Court stated that it was vacating both Judge Price's will and trust Order (appealed in Appellate Case No. 2021-000837) and Judge Bonds' power of appointment order (appealed in Appellate Case No. 2021-001337). While Ms. Luzak agrees that both orders should be vacated, Judge Bonds' power of appointment order is being appealed under Appellate Case No. 2021-001337, which has not yet been certified by this Court. Thus, this Court, in its September 14, 2022 Order clarifying its April 29, 2022 Order, vacated a case being appealed in an appellate case (Appellate Case No. 2021-001337) that this Court has not yet certified.

In order to obtain appellate review of the order of bifurcation of December 30, 2020, which was briefed and should have been ruled on in Appellate Case No. 2021-000837, Ms. Luzak filed a Supplemental Notice of Appeal on June 1, 2022 in Appellate Case No. 2021-001337 (the only appeal which remained pending), seeking to add the appeal of the order of bifurcation to Appellate Case No. 2021-001337, as she was permitted to do by S.C. Code §14-3-330(1), and which she had already done in Appellate Case No. 2021-000837, where the issue had been fully briefed.

The Supplemental Notice of Appeal to the Court of Appeals clearly stated that the June 1, 2022 Notice of Appeal was a supplement to an existing appeal — *i.e.*, Appellate Case No. 2021-001337. Since this Court had not specifically addressed the order of bifurcation in its April 29, 2022 order which at that time appeared to conclude Appellate Case No. 2021-000837, Ms. Luzak's only avenue to assure appellate review of the order of bifurcation was to append her appeal of the December 30, 2020 bifurcation order to the remaining appeal in Appellate Case No

2021-001337, appealing the final order of summary judgment for two power of appointment causes of action in favor of Merrill U. Barringer. Ms. Luzak was put in this position because this Court's April 29, 2022 order, before being clarified by its September 14, 2022 Order, may have been read at that time to vacate all the orders in Appellate Case No. 2021-000837, thereby leaving Ms. Luzak's appeal of the bifurcation order with no appealed final judgment to which it could append in that appeal, pursuant to S.C. Code Ann. §14-3-330(1). To avoid being placed in a position of not having an appealed final order to append her appeal of the bifurcation order, Ms. Luzak sought to append her duly filed appeal of the bifurcation order to the appeal of Judge Bonds' power of appointment order in Appellate Case No. 2021-001337.

Instead of recognizing the Supplemental Notice of Appeal as an additional appeal in Appellate Case No. 2021-001337 (despite the Supplemental Notice of Appeal so designating) of an issue previously pending before the Court of Appeals in Appellate Case No. 2021-000837, the Court of Appeals erroneously treated the Supplemental Notice of Appeal as a new appeal, assigning it Appellate Case No. 2022-000784. Mistakenly believing this was a new appeal, the Court of Appeals issued an order on June 9, 2022, concluding that the Supplemental Notice of Appeal had not included "proof of timely service upon the respondents as required by Rule 203(b)(1)"

On June 10, 2022, Ms. Luzak filed a Petition to Reinstate the Supplemental Notice of Appeal (which had properly been labeled as Supplemental in connection with Appellate Case No. 2021-001337), properly pointing out that the trigger date for filing the Supplemental Notice of Appeal was May 11, 2022, when Ms. Luzak's counsel received this Court's order of April 29, 2022 via email from this Court. (Exhibit D to Petition to Reinstate, attached hereto and incorporated by reference). Because Ms. Luzak's counsel (and, on information and belief, any

other appellate counsel) was not served with the April 29, 2022 order certifying Appellate Case No. 2021-000837 until May 11, 2022, that date (May 11, 2022) was the trigger date for filing the Supplemental Notice of Appeal in Appellate Case No. 2021-001337 (erroneously labeled as Appellate Case 2022-000784).

The Court of Appeals erred in (1) treating the Supplemental Notice of Appeal as a new appeal; (2) finding the Supplemental Notice of Appeal was not timely served on Respondents; and (3) failing to supplement Appellate Case No. 2021-001337 with the Notice of Appeal filed on June 10, 2022.

PETITION FOR CERTIFICATION OF APPELLATE CASE NO. 2021-1337

Ms. Luzak respectfully requests this Supreme Court to certify Appellate Case No. 2021-001337 for several reasons, but primarily because this Court's September 14, 2022 Order attempts to vacate the order on appeal in Appellate Case No. 2021-001337 — *i.e.*, the order granting summary judgment to Merrill U. Barringer on the power of appointment issues—without certifying Appellate Case No. 2021-001337.

In addition, on September 14, 2022, this Supreme Court issued an order addressing the motions and petitions filed in response to this Supreme Court's order dated April 29, 2022 in Appellate Case No. 2021-000837. However, the September 14, 2022 order failed to address all issues raised in the motions and petitions which followed this Supreme Court's order dated April 29, 2022 in Appellate Case No. 2021-000837. Ms. Luzak will timely file a Petition for Rehearing pursuant to Rule 221, SCACR in response to this Court's order dated September 14, 2022, pointing out the unresolved issues from that appeal, including those discussed above.

It is respectfully asserted that this Court has already addressed some of the issues pending in Appellate Case No. 2021-001337, which remains pending at the Court of Appeals. It is further

respectfully asserted that this Supreme Court may have intended to certify Appellate Case No. 2021-001337 by its order dated April 29, 2022, when it certified Appellate Case No. 2021-000837 but addressed the order that was on appeal in Appellate Case No. 2021-001337.

Should this Court certify Appellate Case No. 2021-001337, it is respectfully asserted that it can address all issues on appeal at one time. If this Court certifies Appellate Case No. 2021-001337, it can validate its ruling that Judge Bonds' summary judgment order of August 20, 2021 is vacated since Appellate Case No. 2021-001337, which pertains to that circuit court order, is still before the Court of Appeals.¹⁷ Consolidation of the appeals in Appellate Case Nos. 2021-000837 and -001337, after the completion and filing of the Record on appeal in Appellate Case No. 2021-000837, will provide a more complete picture for this Court to adjudicate the order of June 7, 2021 pertaining to CFRC's intervention motion and address the bifurcation order included in Appellate Case No. 2021-000837 pursuant to S.C. Code Ann. § 14-3-330(1).¹⁸ It is necessary, in Ms. Luzak's opinion, that the Record on Appeal in Appellate Case No. 2021-000837 be completed and filed so this Court can have the benefit of the record below and address all issues on appeal in a single proceeding. That would necessarily require this Court to consider the merits of the issues raised in this Petition for Writ of Certiorari, which the Court of Appeals erroneously treated as a new appeal, when the issue related to the bifurcation order was already before this Court in Appellate Case No. 2021-000837.

Wherefore, Ms. Luzak moves this Court for an order:

¹⁷ While this Court's orders of April 29 and September 14, 2022 left standing other June 7, 2021 orders of Judge Price, this Court's aforesaid orders vacated Judge Price's will and trust Order of July 6, 2021 and perhaps Judge Bonds' summary judgment order of August 20, 2021. Those circuit court orders are, or should no longer be, before the appellate courts. Ms. Luzak agrees that those two orders were properly vacated.

¹⁸ Respondents Merrill Barringer and Merrill Light have also asked this Court to certify all pending appeals among the parties for this Court to consolidate and decide on the merits. See Respondents' Pet. for Reh'g of May 26, 2022 at pp. 1, 6 (n.4) and 9.

- A. Certifying Appellate Case No. 2021-001337 and confirming that its April 29, 2022 and September 14 2022 Orders vacated Judge Bonds' power of appointment summary judgment order, which would conclude Appellate Case No. 2021-001337;
- B. If it does not confirm the vacation of Judge Bonds' power of appointment order, meaning that Appellate Case No. 2021-001337 remains viable, then (1) grant the Petition for Writ of Certiorari in Appellate Case Nos. 2021-000159 and 2022-000784, dispense with briefing, and issue an order consolidating the Supplemental Notice of Appeal with existing Appellate Case No. 2021-001337 (for the reasons stated in Ms. Luzak's Petition to Reinstate Appeal attached hereto as **Exhibit 1**); and (2) consolidate Appellate Case No. 2021-000837 and Appellate Case No. 2021-001337;
- C. Directing the filing of final briefs and the Records on Appeal in Appellate Case No. 2021-000837; and
- D. Such other and further relief as will assist this Honorable Court in addressing and ruling on all issues pending on appeal in Appellate Case No. 2021-000837 and Appellate Case No. 2021-001337, including the Supplemental Notice of Appeal.

Respectfully submitted,

BALLARD & WATSON

s/ Desa Ballard

Desa Ballard (S.C. Bar No. 498)

226 State Street

West Columbia, South Carolina 29169

Telephone 803.796.9299

Facsimile 803.796.1066

desab@desaballard.com

James R. Gilreath (S.C. Bar No. 2133)

William M. Hogan (S.C. Bar No. 5272)

The Gilreath Law Firm, PA

110 Lavinia Avenue (zip 29601)

P.O. Box 2147
Greenville, South Carolina 29602
Telephone: 864.242.4727
Facsimile: 864.232.4395
jim@gilreathlaw.com
bhogan@gilreathlaw.com

S. Alan Medlin (S.C. Bar No. 3924)
1713 Phelps Street
Columbia, South Carolina 29205
Telephone: 803.777.7465
Facsimile: 803.777.7465
amedlin@sc.rr.com

Charles B. Macloskie (S.C. Bar No. 3514)
Macloskie Law Firm
P.O. Box 280
Beaufort, South Carolina 29901
Telephone: 843.524.0909
Fax: 843.521.1379
macloskielawfirm@hargray.com

Thomas W. Traxler (S.C. Bar No. 5624)
CARTER, SMITH, MERRIAM, ROGERS &
TRAXLER, P.A.
900 East North Street (29601)
P.O. Box 10828 (29603)
Greenville, South Carolina
Telephone: 864.242.3566
Facsimile: 864.232.1558
tom.traxler@carterlawpa.com

Attorneys for Appellant Hampton B. Luzak

September 22, 2022

RECEIVED

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,

BALLARD & WATSON

s/ Desa Ballard
Desa Ballard (S.C. Bar No. 498)
226 State Street
West Columbia, South Carolina 29169
Telephone 803.796.9299
Facsimile 803.796.1066
desab@desaballard.com

James R. Gilreath (S.C. Bar No. 2133)
William M. Hogan (S.C. Bar No. 5272)
The Gilreath Law Firm, PA
110 Lavinia Avenue (zip 29601)
P.O. Box 2147
Greenville, South Carolina 29602
Telephone: 864.242.4727
Facsimile: 864.232.4395
jim@gilreathlaw.com
bhogan@gilreathlaw.com

S. Alan Medlin (S.C. Bar No. 3924)
1713 Phelps Street
Columbia, South Carolina 29205
Telephone: 803.777.7465
Facsimile: 803.777.7465
amedlin@sc.rr.com

Charles B. Macloskie (S.C. Bar No. 3514)
Macloskie Law Firm
P.O. Box 280
Beaufort, South Carolina 29901
Telephone: 843.524.0909
Fax: 843.521.1379
macloskielawfirm@hargray.com

Thomas W. Traxler (S.C. Bar No. 5624)
CARTER, SMITH, MERRIAM, ROGERS &
TRAXLER, P.A.
900 East North Street (29601)
P.O. Box 10828 (29603)
Greenville, South Carolina
Telephone: 864.242.3566
Facsimile: 864.232.1558
tom.traxler@carterlawpa.com

Attorneys for Appellant Hampton B. Luzak

June 10, 2022

OTHER COUNSEL OF RECORD:

Alice Paylor, Esquire
Bijan Ghom, Esquire
ROSEN, ROSEN & HAGOOD, LLC
P.O. Box 893
Charleston, South Carolina 29402
apaylor@rrhlawfirm.com
bghom@rosenhagood.com

Attorneys 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

Charles B. Molster, III, Esquire
THE LAW OFFICES OF CHARLES B. MOLSTER, III PLLC
2141 Wisconsin Avenue, N.W., Suite M
Washington, D.C. 20007
cmolster@molsterlaw.com

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

J. Ashley Twombly, Esquire
Kevin Johnson, Esquire
Lee Anne Walters, Esquire
TWENGE + TWOMBLY LAW FIRM
311 Carteret Street
Beaufort, South Carolina 29902
Twombly@twlawfirm.com
kjohnson@twlawfirm.com
lwalters@rosenhagood.com

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

Harley D. Ruff, Esquire
Denise Collins, Esquire
RUFF & RUFF, LLC
17 Professional Village Circle
Beaufort, South Carolina 29907
hruff@ruffllc.com
dcollins@ruffllc.com

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](#); [twombly@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.

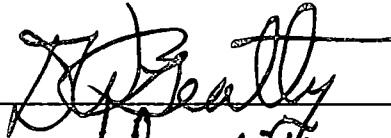
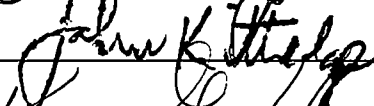
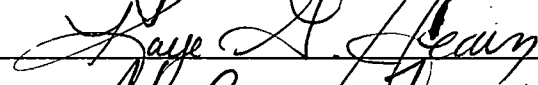


Appellate Case No. 2021-001022

---

## 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).

  
\_\_\_\_\_ 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,

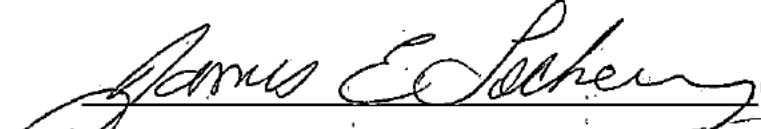
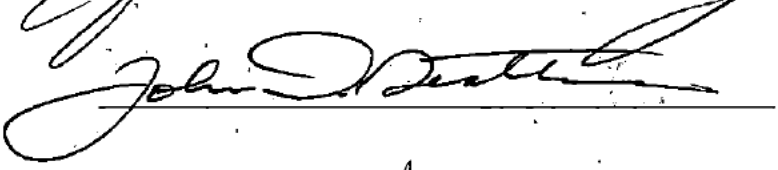
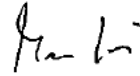
v.

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,

v.

Merrill U. Barringer, Respondent.

Appellate Case No. 2021-001022

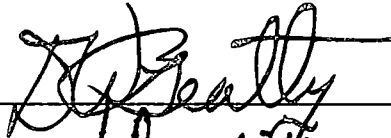
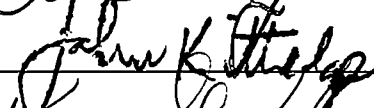


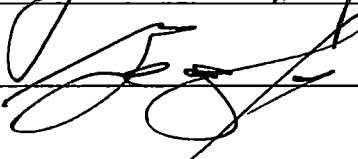
ORDER

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

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
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
The Gilreath Law Firm, P.A.
110 Lavinia Ave. (ZIP 29601)
P.O. Box 2147
Greenville, SC 29602
Phone: (864) 242-4727
Fax: (864) 232-4395
E-mail: bhogan@gilreathlaw.com

Website: www.gilreathlaw.com

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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

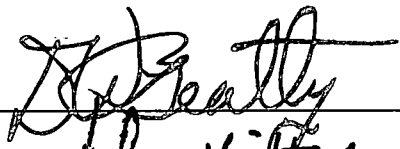
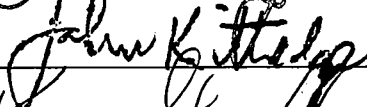
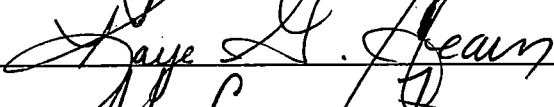
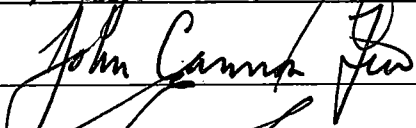

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Apr 29 2022

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
Alice F. Paylor, Esquire

Bijan Khaladj-Ghom, Esquire
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

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

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ORDER

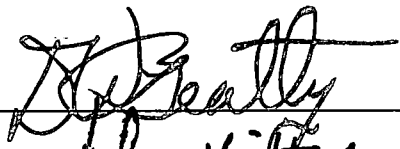
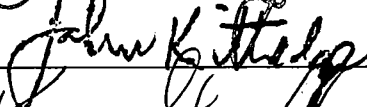
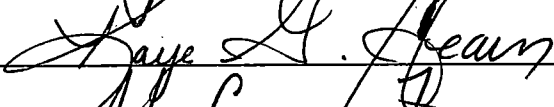
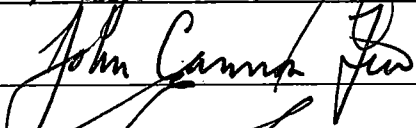

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The Court certifies the appeal in Appellate Case No. 2021-000837 to this Court pursuant to Rule 204(b), SCACR.

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  
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  
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

**RECEIVED**  
**Sep 22 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. 2021-001337  
(Erroneously assigned Appellate Case Nos. 2021-000159 and 2022-000784)  
Trial Court Case Nos. 2016-CP-07-01919, 2019-CP-07-01253 and 2019-CP-07-01294  
Most recently ruled on by the Court of Appeals in  
Court of Appeals Order filed August 24, 2022 bearing 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.

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**PROOF OF SERVICE**

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I, Beth Cogan, an employee with Ballard & Watson, Attorneys at Law, do hereby certify that on September 22, 2022, I served a copy of the **Petition for a Writ of Certiorari** in the above-captioned case on the following individuals by electronic mail using their email address listed in the Attorney Information System, addressed as follows:

**Honorable Jenny Kitchings  
South Carolina Court of Appeals  
ctappfilings@sccourts.org**

**Bijan Khaladj-Ghom, Esquire  
Saxton & Stump, LLC  
bkg@saxtonstump.com**

**Alice Paylor, Esquire  
Saxton & Stump, LLC  
afp@saxtonstump.com**

**Charles Molster, Esquire  
The Law Offices of Charles B. Molster, III, PLLC  
cmolster@molsterlaw.com**

**J. Ashley Twombly, Esquire  
Twenge & Twombly, LLC  
twombly@twlawfirm.com**

**Kevin Johnson, Esquire  
Johnson & Johnson Attorneys at Law, LLC  
kjohnson@johnsonlawyers.com  
kjohnson@twlawfirm.com**

**Harley Ruff, Esquire  
Ruff & Ruff, LLC  
hruff@ruffllc.com**

**Joy France, Esquire  
Ruff & Ruff, LLC  
jfrance@ruffllc.com**

  
Beth Cogan, Paralegal

September 22, 2022  
West Columbia, South Carolina

## Beth Cogan

---

**From:** Beth Cogan  
**Sent:** Thursday, September 22, 2022 5:28 PM  
**To:** Alice Paylor; Bijan Ghom; Charles Molster; Ashley Twombly; Ensley Mahoney; Kevin Johnson; Kevin Johnson; Harley D. Ruff; jfrance@ruffllc.com  
**Cc:** Desa Ballard; Bill Hogan; kathie@gilreathlaw.com; Alan Medlin, Esquire; Tom Traxler; 'Macloskie Law Firm'; 'Gilreath, Jim (Gilreath, Jim)'  
**Subject:** (Luzak v. Light, et al. 2022-000784) Ltr to Supreme Court encl Petition for Cert.  
**Attachments:** 2022 09 22 Ltr to Supreme Court encl Petition for Cert.pdf; 2022 09 22 Petition for Certiorari.pdf; 2022 09 22 POS Petition for Cert.pdf

Good afternoon,

Please see the attached Petition that is being filed today with the Supreme Court and Court of Appeals.

Kindest Regards,  
-Beth

Beth Cogan, Paralegal  
Ballard & Watson, Attorneys at Law  
226 State Street  
West Columbia, South Carolina 29169  
803.796.9299  
803.796.1066 Facsimile  
[beth@desaballard.com](mailto:beth@desaballard.com)  
[www.desaballard.com](http://www.desaballard.com)



**Ballard & Watson**  
Attorneys at Law  
PERSISTENT. UNWAVERING.

Desa Ballard  
Harvey M. Watson III

September 22, 2022

Post Office Box 6338 | West Columbia, SC 29171  
226 State Street | West Columbia, SC 29169  
ph 803.796.9299 | fx 803.796.1066 | [desaballard.com](http://desaballard.com)

Via Email ([supctfillings@sccourts.org](mailto:supctfillings@sccourts.org))

Honorable Patricia Howard  
Supreme Court Clerk of Court  
Post Office Box 11330  
Columbia, South Carolina 29211

Re: *Hampton Luzak v. Merrill B. Light, et al.*  
Appellate Case No.: 2022-000784

**RECEIVED**

**Sep 22 2022**

**SC Court of Appeals**

Dear Ms. Howard:

Please find enclosed a Petition for a Writ of Certiorari. Pursuant to paragraph (c) of the Supreme Court's administrative order dated August 25, 2021 ("Methods of Electronic Filing and Service Under Rule 262 of the South Carolina Appellate Court Rules") a check for the filing fee is being forwarded via US mail.

By copy of this letter and as evidenced by the Proof of Service, these filings have been served upon counsel for the Respondents. Thank you for your time in this matter. If you have any questions, please do not hesitate to contact our office.

With warm personal regards, I am,

Sincerely yours,

*Desa Ballard Llc*

Desa Ballard  
[desab@desaballard.com](mailto:desab@desaballard.com)

Enclosures

cc: Via Electronic Mail  
Court of Appeals  
Alice Paylor, Esquire  
Bijan Ghom, Esquire  
Charles Molster, Esquire  
J. Ashley Twombly, Esquire  
Kevin Johnson, Esquire  
Harley D. Ruff, Esquire  
Joy France, Esquire  
Thomas W. Traxler, Esquire  
S. Alan Medlin, Esquire  
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Hampton Luzak