RECEIVED
Nov 07 2022
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HAMPTON COUNTY
Court of Common Pleas

Daniel DeWitt Hall, Circuit Court Judge

Appellate Case No. 2022-001533
Case No. 2019-CP-25-00111

Renee S. Beach, as Personal Representative of the Estate of Mallory Beach,……Respondent,

v.

Gregory M. Parker, Inc. d/b/a Parker's Corporation, Richard Alexander Murdaugh, Richard Alexander Murdaugh, Jr., John Marvin Murdaugh, as P.R. of the Estate of Margaret Kennedy Branstetter Murdaugh, and Randolph Murdaugh, IV, as P.R. of the Estate of Paul Terry Murdaugh,………………………………………...…………………………Defendants.

Of whom Gregory Parker, Inc. d/b/a Parker's Corporation, is the Appellant.

RESPONSE AND MOTION TO DISMISS APPEAL

Pursuant to Rule 240, SCACR, Respondent Renee Beach, as Personal Representative of the Estate of Mallory Beach, submits this Response to the Court's letter of November 3, 2022, and moves the Court to dismiss this appeal. The order that is subject to this purported appeal is not immediately appealable pursuant to South Carolina law.

BACKGROUND

This matter arises from a boat crash after the appellant sold alcohol to a minor resulting in the death of Mallory Beach. Paul Murdaugh used his older brother's driver's license to buy alcohol at Parker's convenience store. The clerk who was not trained on Parker's policies failed to follow the policies and made the sale to the underaged Paul

Murdaugh. Parker's had previously been told that its training program was ineffective and that its employees had too much to do to be able to follow all of Parker's policies. Despite the warnings, Parker's failed to take any action to improve its training program and it failed to retrain its employees, including the cashier who made the sale.

Shortly after purchasing the alcohol, Paul Murdaugh drove a boat entrusted to him by his parents while under the influence of the alcohol purchased from Parker's. Mallory Beach was a passenger on the boat when Paul Murdaugh collided with a piling or dolphin head at the Archer's Creek Bridge in Beaufort County. During the collision, Mallory was ejected from the boat and later died. Her body was recovered from the marsh a week later.

Renee Beach, as Personal Representative of the Estate of Mallory Beach, filed both wrongful death and survival claims against Gregory M. Parker, Inc. d/b/a Parker's Corporation, Richard Alexander Murdaugh, Richard Alexander Murdaugh, Jr., John Marvin Murdaugh, as P.R. of the Estate of Margaret Kennedy Branstetter Murdaugh, and Randolph Murdaugh, IV, as P.R. of the Estate of Paul Terry Murdaugh as joint tortfeasors, alleging that the acts and omissions of all the defendants combined and concurred to cause Mallory's death as a joint tort for an indivisible injury. Parker's moved to bifurcate or sever the case, requesting that the claims against Parker's be tried first and separately from the claims against the other defendants. *See*, Motion to Sever, attached hereto as **Exhibit A.**

On September 13, 2022, the trial court entered an order granting Parker's motion and severing the case. *See*, Order Granting Motion to Sever, attached hereto as **Exhibit B.** Thereafter, Beach moved the court to reconsider. *See*, Motion to Reconsider, attached hereto as **Exhibit C**. On September 27, 2022, the court granted Beach's motion to

reconsider, which in effect results in the denial of Parker's motion to bifurcate or sever. See, Form 4 Order, attached hereto as **Exhibit D**, and referred to herein as "the order"**.** This order granting the motion to reconsider is the subject of this appeal.

DISCUSSION

The trial court's order is not immediately appealable under S.C. Code Ann. § 14-3-330 and the related case law. The Court should therefore dismiss this appeal without prejudice and remand the case for further proceedings.

I. SECTION 14-3-330 DOES NOT SUPPORT APPEALABILITY

In the Notice of Appeal, Appellant asserts that it "appeals the Honorable Daniel DeWitt Hall's Form 4 Order Granting Plaintiff's Motion for Reconsideration and reversing the September 13, 2022 Order", without any citation to authority as to how or why the order is appealable. This order does not involve the merits nor does it affect substantial rights of the Appellant; therefore, it is not immediately appealable under either S.C. Code Ann. §§ 14-3-330(1) or (2). This is the settled law of South Carolina.

The right of appeal in South Carolina arises from and is controlled by statute. *See, Ex parte Capital U-Drive-It, Inc.,* 369 S.C. 1, 630 S.E.2d 464 (2006). The determination of whether a party may immediately appeal an order issued before or during trial is governed primarily by § 14-3-330, and absent a specialized statute, an order must fall into one of several categories set forth in § 14-3-330 to be immediately appealable. In pertinent part, § 14-3-330 provides:

> The Supreme Court shall have appellate jurisdiction for correction of errors of law in law cases, and shall review upon appeal:
>
> (1) Any intermediate judgment, order or decree in a law case involving the merits in actions commenced in the court of common pleas and general sessions, brought there by original process or removed

> there from any inferior court or jurisdiction, and final judgments in such actions; *provided,* that 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;
>
> (2) An order affecting a substantial right made in an action when such order (a) in effect determines the action and prevents a judgment from which an appeal might be taken or discontinues the action, (b) grants or refuses a new trial or (c) strikes out an answer or any part thereof or any pleading in any action.

S.C. Code Ann. § 14-3-330 (1977 & Supp. 2011)(emphasis in original). Neither of these two subdivisions of §14-3-330 applies in this case or presents a basis for Appellant's appeal of the trial court's interlocutory order.

A. The order is not immediately appealable under § 14-3-330(1).

The trial court's order on appeal does not "involve the merits" and is therefore not immediately appealable under § 14-3-330(1). This Court should reject any assertion that it does.

To be immediately appealable under § 14-3-330(1), the order must involve the merits. An interlocutory order "involves the merits," as that term is used in § 14-3- 330(1) and is therefore immediately appealable, only when it finally determines some substantial matter forming the whole or part of some cause of action or defense. *Ex parte Capital U-Drive-It, Inc.,* 369 S.C. 1, 630 S.E.2d 464 (2006); *Knowles v. Standard Savings & Loan Assn.,* 274 S.C. 58, 261 S.E.2d 49 (1979). *See also, Peterkin v. Brigman,* 319 S.C. 367,461 S.E.2d 809 (1995) (order denying motion to enforce alleged settlement agreement was not immediately appealable); *Mid-State Distributors, Inc. v. Century Importers, Inc.,* 310 S.C. 330, 334, 426 S.E.2d 777, 780 (1993)(order denying motion to dismiss case based on lack

of personal jurisdiction was not immediately appealable, as the litigant had "not arrived at the end of the road"); *Tatnall v. Gardner,* 350 S.C. 135, 138, 564 S.E.2d 377, 379 (Ct. App.2002)(order denying motion to amend pleadings to assert third party claims was not immediately appealable because the order did not determine a substantial matter forming the whole or part of some cause of action). The phrase "involving the merits" is **narrowly** construed in modern precedent. *Ex parte Capital U-Drive-It, Inc.* In fact, "[a]n order usually will be deemed interlocutory and not immediately appealable when there is some further act that must be done by the trial court prior to a determination of the parties' rights." *Id.* (citing *Mid-State Distributors*, 310 S.C. 330, 426 S.E.2d 777 (1993).

The order at issue here--an order granting reconsideration of the trial court's order granting severance--is in essence an order denying a motion to sever which does not finally determine any substantial matter that forms the whole or part of any cause of action or defense. South Carolina case law makes this clear. In *Flagstar Corporation v. Royal Surplus Lines*, 341 S.C. 68, 533 S.E.2d 331 (2000), the court held that an order granting bifurcation of issues in a contract case is not immediately appealable. In *Senter v. Piggly Wiggly Co., Inc.*, 341 S.C. 74, 533 S.E.2d 575 (2000), the court held that an order denying bifurcation of the issues of liability and damages in a tort case is not immediately appealable. Likewise, in *N.C. Federal Sav. and Loan Ass'n v. DAV Corp.*, 294 S.C. 27, 362 S.E.2d 308 (Ct.App. 1987), the court held that an order denying a motion for severance and separate trials is not immediately appealable. The reasoning behind each of these holdings is simply that the litigant "has not reached the end of the road." By denying Parker's motion to sever, the trial court did not finally determine any substantial matter

that forms the whole or part of any cause of action or defense; rather, there are further acts that must be done by the trial court, i.e., the actual trial, before the parties' rights will be finally determined.

Like the orders at issue in cases like *Peterkin v. Brigman*--an order denying a motion to enforce a settlement agreement--and *Tatnall v. Gardner*--an order denying a motion to amend a pleading to assert third party claims, the order in this appeal deals with a discretionary ruling by a trial court regarding matters of procedure. Section 14-3-330(1) does not support immediate appeal of this order; rather, this order can be adequately reviewed at the end of the case.

The Court should find that the order does not "involve the merits" under § 14-3-330(1) as that term is narrowly construed by the Supreme Court.

B. The order is not immediately appealable under § 14-3-330(2).

As noted above, § 14-3-330(2) permits immediate appeal of an interlocutory order that affects "a **substantial** right made in an action **when such order (a)** in effect determines the action and prevents a judgment from which an appeal might be taken or discontinues the action, **(b)** grants or refuses a new trial **or (c)** strikes out an answer or any part thereof or any pleading in any action." (emphasis added). In other words, to be immediately appealable under § 14-3-330(2), the order must satisfy **both** prongs of subsection (2). The order must affect a substantial right **and** satisfy either element (a), (b), or (c).

1. The order does not satisfy the first prong because it does not affect a substantial right.

To be immediately appealable under § 14-3-330(2), the orders must "affect a substantial right." Appellant has not, and cannot, identify any substantial right affected by

the trial court's order granting reconsideration, the effect of which is a denial of the motion to sever. Such a run-of-the-mill docket management decision does not impact anything "substantial."

Determining the orders do not meet the first prong of §14-3-330(2) is consistent with Supreme Court jurisprudence which makes clear the order does not affect a substantial right. As set forth above, in *Flagstar Corp. v. Royal Surplus Lines,* 341 S.C. 68, 533 S.E.2d 331 (2000), the Supreme Court held that an order granting bifurcation of issues for trial in a contract case was not immediately appealable under § 14-3-330. The court stated that trial of all issues in a single proceeding is not a mode of trial to which parties are entitled as a matter of right; therefore, no substantial right is affected. If trial of all issues in one case in a single proceeding does not involve a "substantial right," it follows that the trial court's refusal to sever the claims against Appellant into a separate case likewise does not involve a "substantial right." In *Senter v. Piggly Wiggly Co., Inc.*, 341 S.C. 74, 533 S.E.2d 575 (2000), the court held that an order denying bifurcation of the issues of liability and damages in a tort case is not immediately appealable because a substantial right is not affected. Likewise, in *N.C. Federal Sav. and Loan Ass'n v. DAV Corp.*, 294 S.C. 27, 362 S.E.2d 308 (Ct.App. 1987), the court held that an order denying a motion for severance and separate trials is not immediately appealable, again because a substantial right is not affected.

This Court should reject any assertion by Appellant that the order affects a substantial right and accordingly should dismiss this appeal.

2. Even if Appellant could show a substantial right is affected, the order does not satisfy the second prong because it does not satisfy element (a), (b), or (c).

Even if the order involved a "substantial right" (which it does not), Appellant has not asserted in the Notice, nor can Appellant establish, the second prong of § 14-3-330(2); that is, that the order:

a) in effect determines the action **and** prevents a judgment from which an appeal might be taken **or** discontinues the action;

b) grants or refuses a new trial; or

c) strikes out an answer or any part thereof or any pleading in any action.

Clearly, the order does not meet any of these elements. It does not determine the action, nor does it prevent a judgment from which an appeal might be taken. It does not discontinue the action in any fashion. It does not grant a new trial, nor does it refuse one. Finally, it does not strike out an answer or any part of the answer, nor does it strike any pleading in the action. *Cf. Hagood v. v. Sommerville,* 362 S.C. 191, 607 S.E.2d 707 (2005)(the provisions of § 14-3-330(2) are **narrowly construed** and immediate appeal of various orders issued before or during trial generally have not been allowed; piecemeal appeals should be avoided and most errors can be corrected by the remedy of a new trial).

The Court should rule that the order does not affect any substantial right, and even if it does affect a "substantial right", Appellant cannot establish that the order meets any of the remaining elements. The Court should therefore dismiss the appeal.

II. EXISTING CASE LAW DOES NOT SUPPORT IMMEDIATE APPEALABILITY

Apart from § 14-3-330, existing South Carolina jurisprudence does not support appealability of this order. In fact, as discussed above, all relevant case law is clear that the order is not immediately appealable. *See*, *Flagstar Corporation v. Royal Surplus Lines*, 341 S.C.

68, 533 S.E.2d 331 (2000)(an order granting bifurcation of issues in a contract case is not immediately appealable); *Senter v. Piggly Wiggly Co., Inc.*, 341 S.C. 74, 533 S.E.2d 575 (2000)(an order denying bifurcation of the issues of liability and damages in a tort case is not immediately appealable); *N.C. Federal Sav. and Loan Ass'n v. DAV Corp.*, 294 S.C. 27, 362 S.E.2d 308 (Ct.App. 1987)(an order denying a motion for severance and separate trials is not immediately appealable); s*ee also, Goodson v. R. A. Taylor Const. Co.,* 266 S.C. 33, 221 S.E.2d 102 (1975)(order vacating a previous order joining respondents as party defendants and granting appellant the right within twenty days to make a further motion to join the respondents as defendants was not immediately appealable).

CONCLUSION

As the Supreme Court has announced:

> The rule in restriction of piecemeal appellate procedure, dating back to the common law, is based upon sound reason and practical utility. If it were otherwise, endless delays would be encountered-delays which are unnecessary in cases similar to the one now before us, which can be decided upon an appeal from such final judgment as may later be entered by the trial Court.

Good v. Hartford Acc. & Indem. Co., 201 S.C. 32, 42, 21 S.E.2d 209,213 (1942). *See also, Senter v. Piggly Wiggly Carolina Co., Inc.,* 341 S.C. 74, 533 S.E.2d 575 (2000)(requiring a party to wait to appeal pretrial rulings "because any error in the order can be corrected on appeal following the trial" and noting this procedure "will advance the salutary consideration of avoiding piecemeal litigation which would occur if immediate review of such pretrial motions were either mandated or permitted"); *Breland v. Love Chevrolet Olds, Inc.,* 339 S.C. 89, 94, 529 S.E.2d 11, 13 (2000)("The basic policy behind denying immediate review of pretrial motions is avoidance of piecemeal litigation where the rights of the parties have not been substantially impacted."). Appellants are not denied the ability

to challenge either order at the end of the case, should that challenge even become necessary.

Simply put, the order is not immediately appealable pursuant to § 14-3-330 or the settled jurisprudence of South Carolina, and the Court therefore should dismiss the appeal and instruct the trial court to proceed.

Respectfully submitted,

s/Mark B. Tinsley

Mark B. Tinsley – S.C. Bar #15597
Gooding and Gooding, P.A.
P. O. Box 1000
Allendale, SC 29810
(803) 584-7676
mark@goodingandgooding.com

Dated: November 7, 2022

ELECTRONICALLY FILED - 2022 Aug 19 4:28 PM - HAMPTON - COMMON PLEAS - CASE#2019CP2500111

STATE OF SOUTH CAROLINA COUNTY OF HAMPTON	IN THE COURT OF COMMON PLEAS 14th JUDICIAL CIRCUIT
RENEE S. BEACH, as Personal Representative of the Estate of MALLORY BEACH., Plaintiff, v. GREGORY M. PARKER, INC. d/b/a PARKER'S CORPORATION, RICHARD ALEXANDER MURDAUGH, RICHARD ALEXANDER MURDAUGH, JR., JOHN MARVIN MURDAUGH, as P.R. OF THE Estate of MARGARET KENNEDY BRANSTETTER MURDAUGH, and RANDOLPH MURDAUGH, IV, as P.R. of the Estate of PAUL TERRY MURDAUGH, Defendants.	Civil Action No. 2019-CP-25-00111 **DEFENDANT GREGORY M. PARKER, INC. d/b/a PARKER'S CORPORATION'S MOTION TO SEVER**

Pursuant to Rules 20(b) and 42(b) of the South Carolina Rules of Civil Procedure, Defendant Gregory M. Parker, Inc., d/b/a Parker's Corporation (hereinafter referred to as "Parker's") respectfully requests that this Court exercise its broad discretion to sever Parker's and afford it a separate trial from the other named defendants in this case, specifically Defendants Richard Alexander Murdaugh, Richard Alexander Murdaugh, Jr., John Marvin Murdaugh as P.R. of the Estate of Margaret Kennedy Branstetter Murdaugh, and Randolph Murdaugh, IV, as P.R. of the Estate of Paul Terry Murdaugh (hereinafter collectively referred to as "Murdaugh Defendants").

Plaintiff and Parker's, separate and apart from the Murdaugh Defendants, are prepared to try this case on October 3, 2022. The exceptional and unique circumstances presented by the high-profile drama now surrounding the Murdaugh name, all of which are wholly unrelated to Plaintiff's claims against Parker's, should not delay this trial any further and, moreover, only

serve to warrant the very relief sought herein to avoid such undue delay and clear manifest prejudice to Parker's. In support of this motion, Parker's shows this Honorable Court as follows:

INTRODUCTION

The Court is well-aware of the factual underpinnings of this matter. The pivotal framework for this motion is premised upon the recent motions to continue trial filed by the Murdaugh Defendants, which were not joined by Parker's, along with the unprecedented national and international sensationalism by the media of the Murdaugh family and the continued association of the Murdaugh Defendants with Parker's as being named defendants in this case. While it is not hyperbole to describe the recent criminal indictments and civil lawsuits surrounding the Murdaugh family as potentially the most divisive and publicized proceedings in the history of the South Carolina judiciary, the fact remains that none of this is due to any conduct of Parker's and has nothing to do with Plaintiff's allegations against Parker's in this case.

Yet, Parker's, by virtue of being tethered to the Murdaugh Defendants, is being deprived of its fair day in Court starting on October 3, 2022, given the recent continuance of the trial date requested by the Murdaugh Defendants. For these extraordinary circumstances, Parker's submits that severance is not only warranted, but indeed necessary to avoid undue delay and prejudice.

RELEVANT PROCEDURUAL HISTORY

Plaintiff filed this action on March 29, 2019, which is 1,239 days prior to the filing of this present Motion to Sever. Multiple Amended Complaints were filed by Plaintiff to which Defendant Parker's timely filed its Answers and Affirmative Defenses. Since that time, there has been extensive discovery conducted between and amongst the parties, including multiple sets of interrogatories, requests for production of documents, requests for admission, as well as numerous party, fact, and expert witness depositions. The Court docket is replete with a multitude of motions, many of which have nothing to do with Plaintiff's claims against Parker's, rather primarily dealing with the

ELECTRONICALLY FILED - 2022 Aug 19 4:28 PM - HAMPTON - COMMON PLEAS - CASE#2019CP2500111

ELECTRONICALLY FILED - 2022 Aug 19 4:28 PM - HAMPTON - COMMON PLEAS - CASE#2019CP2500111

Murdaugh Defendants. There have also been multiple status conferences and hearings on motions filed by the parties throughout the pendency of this matter.

Relevant to this Motion to Sever, on May 26, 2022, this Court set this matter for trial on October 3, 2022, a date that was agreed upon by all counsel of record. Thereafter, on or about August 3, 2022, counsel for the Murdaugh Defendants (Elliot Condon, Esq., and Adam Yount, Esq.), filed a Motion to Withdraw as Counsel and Motion to Continue Trial. Additionally, joint counsel of record for Defendant Richard Alexander Murdaugh (James Griffin, Esq., and Richard Harpootlian, Esq.) filed a Motion to Stay Discovery and Continue Trial on August 5, 2022. These specific motions were heard by the Court on August 8, 2022, and August 10, 2022, respectively.

The Court granted the Murdaugh Defendants' motion to continue trial, but denied the request to stay discovery. The Honorable Daniel D. Hall, presiding, announced, *inter alia*, that the current trial date of October 3, 2022 would be continued as it relates to the Murdaugh Defendants, but indicated that Parker's, if appropriate and relevant motions were filed, should remain prepared to move forward with trial, which was scheduled for October 3, 2022. Parker's files this Motion for that very reason. Parker's remains prepared and should be able to move forward with trial as previously set for October 3, 2022, without any additional delay or prejudice.[1]

ARGUMENT AND CITATION OF AUTHORITY

As in any matter before this Court, Parker's is constitutionally entitled to a fair trial by an impartial and unbiased jury. Embedded in the notion of a fair trial without prejudice is also an expeditious trial. Indeed, the applicable rules relating to severance of trial contemplate these two fundamental aspects, avoiding undue delay and avoiding prejudice. Pursuant to Rules 20(b) and 42(b) of the South Carolina Rules of Civil Procedure, a trial court is granted the authority and

[1] Though Parker's has additional discovery to complete, such as the deposition of Alex Murdaugh, it is willing to forego his deposition and some additional discovery in order to proceed with trial as scheduled; however, if the Motion is not granted, Parker's reserves the right to conduct such discovery and requests sufficient time to do so.

broad discretion to order separate trials to prevent undue delay or prejudice to any party. Here, a more exceptional set of facts could not be imagined, and severance is warranted. Under Rule 20(b), a trial should be separated "to prevent delay or prejudice" in order to "prevent a party from being embarrassed, delayed, or put to expense by the inclusion of a party against whom he asserts no claim and who asserts no claim against him." No claims are being asserted by Parker's against the Murdaugh Defendants nor are there any claims being asserted by the Murdaugh Defendants against Parker's.

Continuing to tether Parker's to the Murdaugh Defendants has and will necessarily delay trial unless this Motion to Sever is granted. As it stands without a severance from the Murdaugh Defendants, Parker's will be deprived of the agreed upon trial date for an unknown, uncertain, and potentially endless duration of time. South Carolina law specifically allows for Courts to exercise sound and broad discretion to sever and order separate trials under these very circumstances to prevent such undue delays.

Additionally, Rules 20(b) and 42(b) specifically reference "prevent[ing] prejudice" and "avoid[ing] prejudice," respectively. Such a right cannot be afforded to Parker's in this case while the Murdaugh Defendants remain tethered to Parker's as Co-Defendants at trial. Beyond the national media sharing its view on every development in this story, the Murdaugh Defendants, individually and/or in concert, are being accused of intentional misconduct, tampering with the investigation of the very boat crash involved in this action, and other criminal acts, including murder, theft, fraud, and extortion. The jury pool in Hampton County will be inherently aware of the Murdaugh name and the media frenzy that surrounds it; no jury can be empaneled that will understand a delineation between the Murdaugh Defendants and Parker's if both are abutted to each other in the case caption and at trial. In the absence of a severance and disallowing the trial to move forward on October 3, 2022, Parker's will undoubtedly suffer prejudice and be denied its fundamental right to a fair trial.

ELECTRONICALLY FILED - 2022 Aug 19 4:28 PM - HAMPTON - COMMON PLEAS - CASE#2019CP2500111

CONCLUSION

The sole remedy for the undue delay and inherent prejudice detailed above is the severance of the Murdaugh Defendants from Parker's and to allow this action to go to trial as previously scheduled on October 3, 2022. A trial between Plaintiff and Parker's, separate and apart from the Murdaugh Defendants, is absolutely consistent with, and a correct application of, Rules 20(b) and 42(b) of the South Carolina Rules of Civil Procedure, which provide this Court with the sound authority and broad discretion to provide the relief sought herein.

Accordingly, Parker's respectfully requests that this Court grant this Motion to Sever and further Order that the trial of this matter relating to Plaintiff's claims against Parker's be tried on October 3, 2022.

Respectfully requested this, the 19th day of August, 2022.

Respectfully submitted,

s/David L. Williford

David L. Williford, Esq. (S.C. Bar # 73129)
Mitchell D. Appleby, Esq. (S.C. Bar # 103600)
Huff, Powell & Bailey, LLC
15 South Main Street, Suite 602
Greenville, SC 29601
(864) 400-5949
dwilliford@huffpowellbailey.com
mappleby@huffpowellbailey.com

and

Pankaj "PK" Shere, Esq. (*Pro Hac Vice*)
Huff, Powell & Bailey, LLC
3737 Glenwood Drive, Suite 370
Raleigh, NC 27612
(984) 238-2380
pkshere@huffpowellbailey.com

and

ELECTRONICALLY FILED - 2022 Aug 19 4:28 PM - HAMPTON - COMMON PLEAS - CASE#2019CP2500111

Sharonda B. Barnes, Esq.
Huff, Powell & Bailey, LLC
999 Peachtree Street, Suite 950
Atlanta, GA 30309
(404) 892-4022
sbarnes@huffpowellbailey.com

and

G. Murrell Smith, Jr., Esq.
Smith | Robinson
P.O. Box 580
Sumter, SC 29151-0580
(803) 778-2471
murrell@smithrobinsonlaw.com

Attorneys for Gregory M. Parker, Inc. d/b/a Parker's Corporation

August 19, 2022
Greenville, South Carolina

ELECTRONICALLY FILED - 2022 Aug 19 4:28 PM - HAMPTON - COMMON PLEAS - CASE#2019CP2500111

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF Hampton
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2019CP2500111

Renee S. Beach et al
PLAINTIFF(S)

Gregory M. Parker, Inc. et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

☐ **JURY VERDICT**. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☑ **DECISION BY THE COURT**. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled);
☐ Other

☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRCP; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
☐ Other

☐ **STAYED DUE TO BANKRUPTCY**

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*):
☐ Affirmed; ☐ Reversed; ☐ Remanded;
☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☑ Statement of Judgment by the Court:

Upon further review of South Carolina Rules of Civil Procedure, applicable case law, briefs of parties and oral arguments, Plaintiff's Motion for Reconsideration is GRANTED and the September 13, 2022 Order of this Court Granting Plaintiff's Motion to Sever is REVERSED.

This civil case is set for day certain trial on Monday, January 9, 2023 in Hampton County with the inclusion of all named Defendants.

ORDER INFORMATION

This order ☐ ends ☑ does not end the case.

☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 09/27/2022 .

Luther'S Rare And Well Done, Llc
Kristy C. Wood-Removed
James M. Wood-Removed
Randolph Murdaugh-Removed, III
Trustee Of The Murdaugh Residence Trust 2
Randolph Murdaugh, III
The Murdaugh Residence Trust 2-Removed
Randolph Murdaugh, IV
John Marvin Murdaugh Personal Representative
Margaret Kennedy Branstetter Murdaugh Estate

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

SCRCP Form 4CE (08/31/2017)

ELECTRONICALLY FILED - 2022 Sep 27 12:33 PM - HAMPTON - COMMON PLEAS - CASE#2019CP2500111

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

ELECTRONICALLY FILED - 2022 Sep 27 12:33 PM - HAMPTON - COMMON PLEAS - CASE#2019CP2500111

ELECTRONICALLY FILED - 2022 Sep 27 12:33 PM - HAMPTON - COMMON PLEAS - CASE#2019CP2500111

Hampton Common Pleas

Case Caption:	Renee S. Beach , plaintiff, et al VS Gregory M. Parker, Inc. , defendant, et al
Case Number:	2019CP2500111
Type:	Order/Electronic Form 4

So Ordered

s/Daniel D. Hall 2753

ELECTRONICALLY FILED - 2022 Sep 12 5:05 PM - HAMPTON - COMMON PLEAS - CASE#2019CP2500111

STATE OF SOUTH CAROLINA COUNTY OF HAMPTON	IN THE COURT OF COMMON PLEAS Civil Action No. 2019-CP-25-00111
Renee S. Beach, as Personal Representative of the Estate of Mallory Beach, Plaintiff, v. Gregory M. Parker, Inc. d/b/a Parker's Corporation, Richard Alexander Murdaugh, Richard Alexander Murdaugh, Jr., John Marvin Murdaugh, as P.R. of the Estate of Margaret Kennedy Branstetter Murdaugh, and Randolph Murdaugh, IV, as P.R. of the Estate of Paul Terry Murdaugh, Defendants.	**PLAINTIFF'S MOTION FOR RECONSIDERATION AND MEMORANDUM IN SUPPORT**

YOU WILL PLEASE TAKE NOTICE that Plaintiff, through her undersigned counsel, hereby moves the Court pursuant to Rule 59(e), SCRCP, to reconsider its Order Granting Parker's Motion to Sever in which the Court, relying on Rule 20(b), SCRCP, granted Parker's Motion to Sever and ordered a separate trial of Plaintiff's claims against Parker's to begin on January 9, 2023.

ARGUMENT

The Order Granting Parker's Motion to Sever abrogates the law of joint and several liability and denies the Beach family substantial rights in this case. During the hearing, the Court suggested a hypothetical scenario in which a jury returns a greater verdict in the second trial against the

Murdaugh Defendants, suggesting that Parker's would be responsible for that second verdict even though not a party. The answer is no; that is not how joint and several liability works. Parker's will not, under any circumstances, be bound by the second verdict. Rather, the jury's pronouncement of actual damages in the first trial will forever determine the amount of actual damages the Beach family can collect. Because of the astronomical net worth of Parker's, there is likely no verdict that Parker's cannot satisfy. Importantly, this means that the Murdaugh Defendants will never pay a penny for the Beach family's actual damages if the Court insists on severing these claims. Therefore, the Order has the effect not only of eliminating joint and several liability but most critically of essentially directing a verdict for the Murdaugh Defendants on actual damages and possibly completely dismissing them.[1] The irony is that Parker's motion to sever protects the Murdaughs, the people they have been screaming about for the past three years. This Order effects substantial prejudice to the Plaintiff and denies her a right to a jury trial against the Murdaugh Defendants. The Order further creates actual prejudice to the Plaintiff that outweighs any potential prejudice to Parker's and has the potential risk of creating even more substantial prejudice. All of these harms can be avoided by the mere delay of this case for a very short period of time.

I. SEVERANCE DOES NOT PREVENT DELAY.

The severance of Plaintiff's claims is not warranted and there will be no indefinite delay. In light of the fact the Court cannot set any trial until January 9, 2023, severance of the cases does

[1] Allowing this outcome violates the "sound policy to deter all wrongdoers by reducing the likelihood that any [joint tortfeasor] will entirely escape liability." *Northwest Airlines, Inc. v. Transp. Workers Union*, 451 U.S. 77, 87–88, 101 S.Ct. 1571, 67 L.Ed.2d 750 (1981) (footnotes omitted).

Th

ELECTRONICALLY FILED - 2022 Sep 12 5:05 PM - HAMPTON - COMMON PLEAS - CASE#2019CP2500111

not prevent any real delay. In fact, a January 9th trial date undermines every finding of delay made by the Court. Further, although this should not be the basis of any delay for the reasons argued against Alex Murdaugh's motion to stay, in January the murder charges will be tried against Alex Murdaugh according to his criminal lawyers. As such, this will not prevent Plaintiff from trying all of her claims. Moreover, by early February 2023, just days later, the new attorneys who appeared for the Murdaugh Estate Defendants will have been in the case for 180 days.[2]

Significantly, if the Court severs Plaintiff's claims, Plaintiff will be left with no choice but to appeal this Order. An appeal will certainly add more delay and expense than will otherwise occur. The reality of the delay from the appeal makes the Court's Order have the effect of creating substantial delay. In addition, severing the case against Parker's will greatly hinder the Receiver's as well as Plaintiff's ability to settle any portion of the case as trial gets closer because certain Murdaugh Defendants will "wait and see what happens". While they wait and see, the Estate assets are continuously being devoured by attorney fees from the Estates' lawyers.[3]

II. PARKER'S WILL NOT INCUR ADDITIONAL EXPENSE BUT THE PLAINTIFF WILL BE FORCED TO INCUR SUBSTANTIAL ADDITIONAL EXPENSES, DELAY AND EXCESSIVE EMOTIONAL DISTRESS BY TWO LENGTHY TRIALS OVER HER DAUGHTER'S DEATH.

Additional expenses will not be incurred by Parker's if the claims are not severed. In actuality, there is no evidence that a single trial of all parties would be more expensive than the

[2] The Plaintiff disputes the new attorneys are "entitled" to the 180 days afforded to new parties, since both estates have been parties for more than 180 days. Maggie's Estate and Paul's Estate were added February 23, 2022. Nonetheless, the new lawyers certainly do not get more time than the "new" lawyers of a newly joined party under the applicable Rule. Further, none of the new lawyers have expressed that they need time beyond January.

[3] Just last week one of the Maggie Murdaugh Estate lawyers filed seeking the approval of $57,713 in attorney fees—many of which purport to be a result of **talking** to the Estate's other lawyer. Since preservation of assets was one of the main justifications of this Court in finding that the appointment of a receiver was appropriate, the Court should take notice of the fact that the bulk of assets is being depleted by the disincentives of the Court's abrogation of joint and several liability.

ELECTRONICALLY FILED - 2022 Sep 12 5:05 PM - HAMPTON - COMMON PLEAS - CASE#2019CP2500111

multiweek trial Parker's is proposing because Parker's argues all the same issues that will ultimately be argued in Plaintiff's claims against the Murdaugh Defendants. For example, Parker's denies Paul was the driver of the boat; Parker's asserts that intervening negligence of other parties caused the crash; Parker's claims it was not the proximate cause of the crash; and so forth and so on. Conversely, significant additional expense is a certainty for the Plaintiff if she is forced into two full-blown multiweek trials with identical evidence and witnesses.[4] The relative prejudice of additional expense is much greater for the Beaches and essentially non-existent for Parker's.

III. THE ISSUES ARE NOT SEPARATE AND DISTINCT.

The Court should reconsider its Order because the claims against Parker's are not separate and distinct from the other claims. In fact, during the hearing on Parker's Motion to Sever, the Court recognized that Rule 42(b) is inapplicable because the issues are overlapping and the claims are not separate, distinguishing it from the ability to sever the cases under Rule 20. Therefore, the Court focused its attention on Rule 20(b). However, if it is not proper under Rule 42(b), ordering separate trials under Rule 20(b) is likewise not proper. As commentators consistently explain, the same requirement of separate issues that applies to Rule 42(b) also applies to Rule 20(b), and in fact, Rule 20(b) is regarded as being **narrower** than Rule 42(b):

> Rule 20(b) allows the Court to order separate trials "to protect a party against embarrassment, delay, expense, or other prejudice from including a person against whom the party asserts no claim and who asserts no claim against the party." Lastly, under Rule 42(b) the Court may, "for convenience, to avoid prejudice, or to expedite and economize . . . order a separate trial of one or more separate issues, claims, crossclaims, counterclaims, or third party claims." **The authority granted the Court under Rule 20(b) is a limited version of the same broad grant of discretion to provide for separate trials that is provided in Rule 42(b).**

---

[4] Again, these monetary costs are slight in comparison to the cost that will be placed on the Beach family by forcing them to endure two full blown trials.

ELECTRONICALLY FILED - 2022 Sep 12 5:05 PM - HAMPTON - COMMON PLEAS - CASE#2019CP2500111

Federal Trial Handbook: Civil, § 9:8. Bifurcating the issues; separate trials, October 2021 Update, (2021-2022 ed.). South Carolina law is clear that ordering separate trials is appropriate **only** if the specific claim or issue meets the "distinct issues" requirement.

> [A] trial may be bifurcated only if the issues are **so distinct that a trial of each alone would not result in injustice.** The very purpose of this principle is to cover cases in which separate juries decide separate issues. If SCRCP 42(b) [or 20(b)] contemplated bifurcation before the same jury only, there would be no need for the requirement that **the issues be distinct.** Indeed, it has been expressly recognized that the **"distinct issues"** requirement "'is dictated for the very practical reason that **if separate juries are allowed to pass on issues involving overlapping legal and factual questions the verdicts rendered by each could be inconsistent.'"**

Fortune v. Gibson, 304 SC 270 (Ct.App. 1991)(emphasis added); see also, Creighton v. Coligny Plaza, 334 S.C. 96.

Here, the issues are **not** distinct, since every factual and legal issue is overlapping. After all, Plaintiff will present the same evidence and testimony through the same witnesses in her claims against Parker's as well as in her claims against the Murdaugh Defendants. Of utmost importance is the fact that Plaintiff's damages are **indivisible** and necessarily will be proven through the same evidence and testimony in all claims. The overlapping factual and legal issues create a risk of inconsistent verdicts and result in the denial of the Plaintiff's right to a jury trial against the Murdaugh Defendants in a subsequent trial.

As the Fortune court explained, the critical rationale underlying the requirement of distinct or non-overlapping issues, is the **risk of inconsistent verdicts.** This risk is nearly a certainty, where all the same factual and legal issues pertaining to joint tortfeasors and indivisible damages are present. If a separate trial goes forward against Parker's, the Plaintiff, under principles of nonmutual collateral estoppel, will be bound by the jury's verdict on all issues while the Murdaugh Defendants will not. For example, in its Answer, Parker's claims Paul was not the driver of the

ELECTRONICALLY FILED - 2022 Sep 12 5:05 PM - HAMPTON - COMMON PLEAS - CASE#2019CP2500111

boat. If the jury finds that Paul was the driver, the Murdaugh Defendants can still relitigate that issue in the second trial with a different jury. However, if the jury in the Parker's trial finds that Paul was not the driver, the Plaintiff will be collaterally estopped from relitigating that issue in a second trial. The potential examples of inconsistent verdicts are endless, but they all have one thing in common: **the Plaintiff is the only party who bears that risk of prejudice and suffers tremendous prejudice as a result.** In short, the risk of inconsistent verdicts is the reason the issues and claims must be separate and distinct in order to justify separate trials. They are not separate and distinct here. There is simply no way to apply joint and several liability against these tortfeasors if separate trials take place. Again, if the jury returns a relatively small verdict against Parker's, the Murdaugh Defendants can hold the Plaintiff to the jury's decision on damages by raising a defense of collateral estoppel or satisfaction. On the other hand, if the jury returns a very large verdict against Parker's, the Murdaugh Defendants will not be bound because they were not parties to the trial against Parker's and the identity of parties requirement for collateral estoppel to apply will not be met. Rather, in that event, the Murdaugh Defendants could force Plaintiff to relitigate the amount of damages since a jury verdict against Parker's would have no collateral effect on their right to defend themselves before a jury of their own since they were not parties to the trial against Parker's.[5]

This demonstrates the prejudice from the order severing Parker's and the denial of Plaintiff's right to joint and several liability. The conundrum created for the Plaintiff by separate

[5] As noted above, due to Parker's net worth there is little likelihood of any verdict against any Murdaugh. The Beaches have the right to hold the Murdaughs accountable. If they were not interested in that, the Beaches could have simply accepted payment of the Murdaughs' insurance which has been offered the entire time this case has been pending.

ELECTRONICALLY FILED - 2022 Sep 12 5:05 PM - HAMPTON - COMMON PLEAS - CASE#2019CP2500111

ELECTRONICALLY FILED - 2022 Sep 12 5:05 PM - HAMPTON - COMMON PLEAS - CASE#2019CP2500111

trials is illustrated in Garner v. Wyeth Laboratories, Inc., 585 F.Supp. 189 (D.S.C. 1984)[6], a products liability case in which a wife and husband claimed personal injuries as the result of the wife being prescribed a contraceptive medication. The plaintiff first brought suit pursuant to the Federal Tort Claims Act against the United States of America, the employer of the prescribing physician. That case was tried without a jury and resulted in judgments for actual damages of $175,000 for the wife and $40,000 for the husband. The wife and husband then brought a separate action against the manufacturers of the medication for the same injuries. The manufacturer defendants immediately moved for summary judgment on their defense of satisfaction, relying on the "simple hornbook proposition: a plaintiff is entitled to but *one* compensation for his loss." Id. As the court explained, "[s]ince the plaintiffs fully litigated and received compensation for all compensable injuries, the defendants conclude that they are barred from filing a second suit premised upon the same injuries." Id. Conversely, the plaintiffs argued under the Restatement (Second) of Torts § 886 (1979) that "[t]he discharge of a judgment against one of several tortfeasors each of whom is liable for a single harm is treated like a release or covenant not to sue given to one of several tortfeasors for a claim not reduced to judgment'" Id. (citing Restatement (Second) of Torts (1979). Although, the court recognized that under South Carolina law "[a]n injured party is not precluded from bringing a subsequent action merely because one tortfeasor obtained a covenant not to sue or a release" and that "[a]n amount paid by one tortfeasor in

[6] Because the South Carolina Supreme Court had not yet answered the question presented, the district court sitting in diversity had to predict the determination the Supreme Court would reach. In the subsequent case of McGee vv. Bruce Hosp. System, 344 S.C. 466, 545 S.E.2d 286 (2001), the Supreme Court reviewed the issue of whether the satisfaction of an actual damages judgment precluded a subsequent action against a joint tortfeasor for punitive damages. In determining this issue, the Court noted that the district court predicted this particular issue on punitive damages incorrectly in Garner, but the remaining portion of Garner discussed above was not criticized by the Court in McGee.

consideration of a covenant not to sue or a release is regarded [merely] as satisfaction, *pro tanto*, so as to reduce the amount of damages recoverable against other tortfeasors," it concluded "satisfied judgments obtained as a result of a single injury prevent subsequent lawsuits.' Id. (citing Pendleton v. Columbia Ry. Gas and Electric Co., 133 S.C. 326, 131 S.E. 265 (1926). In other words,

> An injured person can sue any one or all of several tortfeasors whose negligent acts or omissions unite to produce an injury. Tortfeasors may be sued separately and a judgment rendered against each. If this is the case, the plaintiff must elect which judgment to collect. It is clear, however that a plaintiff is entitled to only one satisfaction. Once a judgment is satisfied, the injured party is precluded as a matter of law from bringing another action.

Id. (other citations omitted). The court focused on the **indivisible** nature of the injury and the effect of joint and several liability:

> Under South Carolina law, either tortfeasor is liable for the entire[7] loss sustained even though the acts of one concurred or combined with those of another to produce the result. This principle of liability, rests upon the simple rule that a defendant is liable for all consequences proximately cause by his wrongful conduct.
>
> The injuries which form the basis of the present lawsuits are *identical* to those adjudicated and compensated in the prior lawsuits. To put it another way, plaintiffs want two bites at the apple. The law, however, only gives them one.

Id. Even though the court concluded that the South Carolina Supreme Court would not adopt Section 886 of the Restatement as the plaintiffs advocated, the court noted that even if Section 886 were adopted, comment (b) would yield the same inevitable conclusion that the plaintiffs' claims against the manufacturer were precluded:

> If the adjudication of the loss has the effect of delimiting the injured party's entitlement to redress on the ground that the actual litigation

---

[7] "Liability" assumes the party is a defendant; if no Murdaugh is a defendant they will never be "liable" for actual damages and may never be "liable", period.

ELECTRONICALLY FILED - 2022 Sep 12 5:05 PM - HAMPTON - COMMON PLEAS - CASE#2019CP2500111

> of the issue of damages results in the injured person's being **precluded** from relitigating the damages question, … a payment in full of the judgment has the effect of satisfying in full the injured party's claim against any of the tortfeasors and there is no longer an enforceable claim.

Id. (citing Restatement (Second) of Torts § 886, Comment b (1979)). Moreover, the court noted that Comment (d), § 50 Restatement (Second) of Judgments (1983), was consistent:

> The adjudication of the amount of the loss also has the effect of establishing the limit of the injured party's entitlement to redress whoever the obligor may be. This is because the determination of the amount of the loss resulting from actual litigation of the issue of damages results in the injured person's being precluded from relitigating the damages question … Therefore when a judgment is based on actual litigation of the measure of a loss, and the judgment is thereafter paid in full, the injured party has no enforceable claim against any other obligor who is responsible for the same loss.

Id. Ultimately, relying on these principles, the court granted the defendants' motion for summary judgment on the grounds that the satisfaction of the prior judgment ended the plaintiffs' claims against other tortfeasors.

Applying these principles here, the Plaintiff will almost surely be bound to the amount of any judgment determined in the first trial. When the judgment is paid in full, that ends all claims against the Murdaughs.[8] In the unlikely event the whole judgment is not paid, then the Plaintiff could continue in a trial against the Murdaugh Defendants to establish negligence but would be limited to the amount determined in the first trial.[9] The only way the Beach family will get their right to have a jury determine all the issues, including damages, in a jury trial against the Murdaugh Defendants is a joint trial with all parties.

[8] There is no set of circumstances under which Parker's cannot satisfy any verdict.
[9] If the second verdict is less, again issues on appeal will occur allowing Parker's to argue the first verdict was motivated by passion, caprice or prejudice.

ELECTRONICALLY FILED - 2022 Sep 12 5:05 PM - HAMPTON - COMMON PLEAS - CASE#2019CP2500111

By creating a situation where the Plaintiff is bound by collateral estoppel but the remaining Defendants are not, the Order in fact denies the Plaintiff her right to a jury trial on the issues against the Murdaugh Defendants in violation of the Seventh Amendment. In Dodgeland, the court explained how separate trials can result in stripping the Plaintiff of this significant right:

> This factor [of separability] constitutes a threshold inquiry because bifurcation raises the possibility that any delay between separate trials may result in the loss of one or more jurors which would require the selection of a new jury. **In that instance, if the issues were not truly separable, the result would be that different juries would have considered the same issue, in violation of the Seventh Amendment.** *See* Wright, *supra* at 512 (p. 110, 1999 Pocket Part), *citing Matter of Rhone-Poulenc Rorer, Inc.,* 51 F.3d 1293, 1303 (7th Cir. 1995), *cert. denied,* 516 U.S. 867, 116 S.Ct. 184, 133 L.Ed.2d 122 (1995); *Castano v. American Tobacco Co.,* 84 F.3d 734 (5th Cir. 1996). Consequently, the issues must be truly separable before separate trials can be ordered without the risk of untoward consequences. Even if the issues are separable for purposes of the Seventh Amendment, a court will likely decline to bifurcate if there will be a significant overlap of evidence at the two trials which would make **separation inefficient and inexpedient**. Further, bifurcation is "improper where the issues are so closely interwoven that plaintiff would have to present the same evidence twice in separate trials. In such circumstances, judicial economy is fostered by a single trial." 8 Moore's Federal Practice 3d § 42.20[7][c].

Dodgeland of Columbia, Inc. v. Federated Mutual Ins. Co., 2009 WL 10710815 (D.S.C. 2009)(emphasis added). Here, in claims involving indivisible damages caused by the actions of joint tortfeasors who are jointly and severally liable, separate trials result in stripping the Plaintiff of her right to a jury trial of all the issues against the Murdaugh Defendants, as well as creating a situation where different juries will pass judgment on the same evidence. All of these things are in violation of Plaintiff's Seventh Amendment rights. The Court should reconsider its decision.

IV. SEVERANCE STRIPS PLAINTIFF OF HER SUBSTANTIAL RIGHT TO CHOOSE HER DEFENDANTS.

ELECTRONICALLY FILED - 2022 Sep 12 5:05 PM - HAMPTON - COMMON PLEAS - CASE#2019CP2500111

Of particular importance in illustrating why the Court should reconsider its Order Granting Parker's Motion to Sever is the case of Morrow v. Fundamental Long-Term Care Holdings, LLC, 412 S.C. 534, 773 S.E.2d 144 (2015). In Morrow, a nursing home resident and his wife brought an action against the nursing home operator and the corporate parent companies as a result of personal injuries. The plaintiffs alleged that the corporate entities were not only vicariously liable for the negligence of the nursing home operator but also directly negligent in underfunding the facility which led to understaffing that ultimately caused Plaintiff to suffer injuries. The corporate parent companies moved the trial court pursuant to Rule 42(b) to bifurcate the corporate negligence claims from the nursing home negligence claims arguing that the plaintiffs could proceed on the corporate negligence claims only if they were first successful in establishing negligence against the nursing home operator. Calling it an order of bifurcation, the trial court agreed and granted the motion, ordering separate trials of the claims. The plaintiffs appealed the order, but the Court of Appeals dismissed the appeal on the grounds that the order of "bifurcation" was not immediately appealable. On writ of certiorari, the Supreme Court disagreed, holding that the characterization of the order as one of "bifurcation" was not binding and it was immediately appealable because it affected the substantial right of the plaintiffs to be the architects of their lawsuit.

In ordering separate trials, the trial court ruled that the plaintiffs' claims against the corporate entities could go forward only if the plaintiffs were firskt successful in proving negligence against the nursing home operator. In other words, the trial court had, in severing the case, effectively granted or potentially granted the corporate entities summary judgment on the direct negligence claims, in contrast to the vicarious liability claims asserted by the plaintiffs against them due to negligence of the nursing home operator. While the trial court was correct that to proceed with the vicarious liability claims, the plaintiffs must first prove underlying negligence

ELECTRONICALLY FILED - 2022 Sep 12 5:05 PM - HAMPTON - COMMON PLEAS - CASE#2019CP2500111

against the nursing home operator, the same was not true with the claims of direct negligence against the corporate parent companies. The Supreme Court explained:

> We therefore find that the trial court's order misapprehended the nature of the Morrows' claims against the Fundamental Entities. The order treats these claims as based solely on vicarious liability that can be tried only after a finding of negligence on the part of Magnolia Place, when instead they are grounded in direct corporate liability which follows independent, albeit interconnected, duties owed to the Morrows. By considering the Morrow's claims against the Fundamental Entities as dependent upon their claim against Magnolia Place, the trial court's order effectively grants the Fundamental Entities potential summary judgment on the issues of direct corporate liability.
>
> Accordingly, we find the trial court's order fits neatly within the statutory provision allowing immediate appeals where a substantial right is implicated. S.C.Code Ann. § 14–3–330(2)(a). **The effect of this order is to prevent the Morrows from being architects of their own complaint, and deprives them of bringing their case against the defendant of their own choosing.** *See Neeltec Enters., Inc., v. Long,* 397 S.C. 563, 566, 725 S.E.2d 926, 928 (2012) (**"The right of the plaintiff to choose her defendant is a substantial right within the meaning of [section 14–3330(2)(a)]"**). To prevent the Morrows from appealing the order immediately would encourage piecemeal litigation and limit their appellate remedies after the first trial on nursing home negligence and its subsequent appeal.

Morrow v. Fundamental Long-Term Care Holdings, LLC, 412 S.C. 534, 538–39, 773 S.E.2d 144, 146–47 (2015). As to the argument that an order for separate trials under Rule 42(b) was not immediately appealable, the Court responded:

> We decline the Fundamental Defendants' invitation to base our decision on the manner in which the motion was characterized—one of bifurcation. Our review of trial court orders is not constrained by how the order is styled. *See Thornton v. S.C. Elec. & Gas Corp.,* 391 S.C. 297, 304, 705 S.E.2d 475, 479 (Ct.App.2011) ("[A]n appellate court should look to the effect of an interlocutory order to determine its appealability.").
>
> The trial court's order is quite distinct from other orders of bifurcation which have come before this Court. *See e.g., Flagstar*

ELECTRONICALLY FILED - 2022 Sep 12 5:05 PM - HAMPTON - COMMON PLEAS - CASE#2019CP2500111

Corp. v. Royal Surplus Lines, 341 S.C. 68, 533 S.E.2d 331 (2000) (holding order bifurcating issue of exclusion under insurance contract from issue of occurrence was not appealable); *Senter v. Piggly Wiggly Carolina Co.,* 341 S.C. 74, 533 S.E.2d 575 (2000) (holding order bifurcating issues in contract case between liability and damages was not immediately appealable); *see also Durham v. Vinson,* 360 S.C. 639, 602 S.E.2d 760 (2004) (encouraging bifurcation of issues of actual and punitive damages in complex medical malpractice cases). We are therefore free to evaluate the trial court's order as what it is—not merely what it appears to be—and hold that it is one which is immediately appealable.[10]

[10] This distinction between bifurcation and severance is significant and blurred in the Court's Order here. As commentators consistently explain,

> Three rules inform a district court's power to sever or bifurcate claims or issues, and to order separate trials: Federal Rules of Civil Procedure 20(b), 21, and 42(b). **Rule 20(b)**, in the context of a permissive joinder of parties, allows the court to issue orders, including an order for **separate trials**, "to protect a party against embarrassment, delay, expense, or other prejudice that arises from including a personal against whom the party asserts no claim and who asserts no claim against the party." **Rule 21** allows the court to "**sever** any claim against a party" where there has been a **misjoinder** of parties. **Rule 42(b)** permits the court to order a **separate trial** of one or more separate issues or claims (including cross-claims, counterclaims, or third-party claims) when bifurcation is necessary for "convenience, to avoid prejudice, or to expedite and economize" the civil action.
>
> A separate trial under Rules 20(b) and 42(b) is **not** synonymous to severing a claim under Rule 21.
>
> Granting a separate trial under Rule 42(b) and severing a claim under Rule 21 are **not** synonymous procedures, as "**separate trials of claims originally sued upon together usually will result in the entry of one judgment, but severed claims become entirely independent actions to be tried, and judgment entered thereon, independently**."
>
> Thus, two claims severed under Rule 21 will result in two actions. Bifurcation under [Rule 20(b)] or Rule 42(b) does not so operate.

ELECTRONICALLY FILED - 2022 Sep 12 5:05 PM - HAMPTON - COMMON PLEAS - CASE#2019CP2500111

Just as in Morrow, the Court's Order Granting Parker's Motion to Sever is fatally flawed. First, "it is based on a material misunderstanding" of the connection between Plaintiff's claims against Parker's and the other defendants arising out of the concepts of indivisible damages and joint and several liability. Id. Second, "the effect of this order is to prevent the [Plaintiff] from being architect[] of [her] own complaint, and deprives [her] of bringing [her] case against the defendant[s] of [her] own choosing." Id. Third, while the Order purports to be made pursuant to Rule 20(b) which allows bifurcation and is typically not immediately appealable, the Order actually severs the Plaintiff's claim against Parker's abrogating the law of joint and several liability applicable to this case, thereby stripping the Plaintiff of her substantial right to choose her defendants as architect of her claim, denying her right to avoid the risk of inconsistent verdicts and collateral estoppel, and stripping her right to a jury trial against the Murdaugh Defendants. Just as in Morrow, the effect of the order of separate trials in effect grants summary judgment against the Plaintiff in her claims against the Murdaugh Defendants. This result is not allowed under Morrow,

---

Federal Trial Handbook: Civil, § 9:8. Bifurcating the issues; separate trials, October 2021 Update, (2021-2022 ed.)(citations omitted). In other words, severance, which results in two separate actions with free-standing final judgments, is only permitted under Rule 21. Rule 21 is applicable only in cases of **misjoinder.** Here, Parker's was properly joined as a joint tortfeasor who is subject to joint and several liability. Rule 20(a) is the rule that allowed Plaintiff to properly join Parker's and the other defendants in one action because they are joint tortfeasors and Plaintiff has asserted claims against them, jointly and severally, a right to relief arising out of the same series of transactions or occurrences and there are questions of law and fact common to all defendants. While Plaintiff could have chosen to bring separate actions, she chose to join Parker's with the other defendants as joint tortfeasors. After all, under the longstanding law of South Carolina, the Plaintiff, as the master of her complaint, gets to choose which tortfeasors to sue. There is simply no question that Parker's is properly joined under Rule 20(a). Therefore, Rule 21 does not apply because Parker's is not misjoined and severance is improper. Here, the Court has essentially severed the claims under Rule 21 which will in theory result in separate judgments, just as the trial court did in Morrow, even though the Order purports to be pursuant to Rule 20(b). The Court's reasoning is in error.

ELECTRONICALLY FILED - 2022 Sep 12 5:05 PM - HAMPTON - COMMON PLEAS - CASE#2019CP2500111

under our Supreme Court's pronouncement in that case, or under the Constitution. Further, this reality renders the Order Granting Parker's Motion to Sever immediately appealable.

This same sentiment of appreciating the substantial right a plaintiff has in choosing which tortfeasors to join in her suit is reflected in Smith v. Tiffany, where our Supreme Court was faced with a similar issue involving the application of 15-38-15. Smith, 419 S.C. 548, 799 S.E.2d 479 (2017). In Smith, the converse fact pattern developed in which the joint tortfeasors sued by the plaintiff sought to have other joint tortfeasors added as defendants pursuant to Rules 14 and 19, SCRCP. The Court quickly recognized that the existing defendants, through application of the SCRCP, were attempting to have the Court usurp the authority of the legislature exercised by the enactment of section 15-38-15, that contemplates both situations where a plaintiff may choose not to name all tortfeasors as well as situations where a plaintiff may choose to name all tortfeasors, but also the well-established common law making the plaintiff master of her lawsuit.[11] As to the trial court's abrogation of the statute, the Court explained:

> The most prominent obstacle to Appellants' approach is separation of powers, for we must defer to the will of the legislature as expressed in the Act. If the policy balance struck by the legislature in [the] Act is to be changed, that prerogative lies exclusively within the province of the Legislative Branch.
>
> . . .
>
> The point remains—absent a constitutional prohibition, where the General Assembly has spoken and established policy, separation of powers demands that courts honor the legislative policy determination. Moreover, Appellants' proposed result, advanced by the dissent, would turn the Act on its head to benefit nonsettling defendants at the expense of plaintiffs and those who do settle. That is not the balance the General Assembly struck in the Act. In honoring separation of powers, we adhere to the principle that a court must not reject the legislature's policy determinations merely

[11] By granting the severance, the Court misunderstood the significance of the Plaintiff's right to "sue" in one lawsuit the people of her choosing and denied her of this right.

ELECTRONICALLY FILED - 2022 Sep 12 5:05 PM - HAMPTON - COMMON PLEAS - CASE#2019CP2500111

> because the court may prefer what it believes is a more equitable result.

Id. Ultimately, the Court "reject[ed] the implication that a rule of civil procedure somehow trumps the Act." Id. In addition to that sound basis, also underlying this holding was the Court's unwillingness "to abrogate two centuries of common law establishing a plaintiff's right to choose which tortfeasors, if any, she will sue":

> Throughout the years, this Court has offered various reasons for refusing to allow defendants to bring in alleged joint tortfeasors a plaintiff has opted not to sue. Perhaps most often cited is the 'plaintiff chooses' rule: 'one who is injured by the wrongful act of two or more joint tort-feasors has an election or option to sue each of such tort-feasors separately or to joint them as parties in a single action. The election or option referred to is given to the plaintiff and not to the defendant. To allow a defendant against the will of the plaintiff to bring in other joint tortfeasors as defendants would deny the plaintiff the right to name whom he should sue.' The 'plaintiff has the choice of designating the party who she claims committed the tort alleged in the complaint.' 'She should not be required to sue someone against whom she makes no claim.' Indeed, this right of the plaintiff to choose her defendant has been recognized in South Carolina jurisprudence for almost two hundred years.[12]

Id. (citing Simon v. Strock, 209 S.C. 134, 39 S.E.2d 209 (1946); Doctor v. Robert Lee, Inc., 215 S.C. 332, 55 S.E.2d 68 (1949); Little v. Robert G. Lassiter & Co., 156 S.C. 286, 153 S.E. 128 (1930). The same principles apply here where the Plaintiff chose to name multiple joint tortfeasors, in accordance with almost two hundred years of South Carolina jurisprudence, who are subject to pure joint and several liability, by virtue of the legislative pronouncement in S.C. section 15-38-15(F). By severing Plaintiff's claim against Parker's, the Court is allowing Parker's to escape the application of 15-38-15 through a reading of the SCRCP in a way that trumps legislative power to enact the law, as well as the common law. Simply put, severance of claims

[12] Plaintiff recognizes the Court reasoned that her right to sue who she wanted had not been denied, but the Court misunderstood the rule. The right to control the presentation of her claims is in fact the right to be the architect of whom she sues.

ELECTRONICALLY FILED - 2022 Sep 12 5:05 PM - HAMPTON - COMMON PLEAS - CASE#2019CP2500111

involving joint tortfeasors and indivisible damages where the plaintiff has chosen to name multiple joint tortfeasors is not appropriate. See, in Holsenbeck v. Bravo Carpenters, Inc., 2019 WL 652198 (D.S.C. 2019)(holding that because "the Rico Defendants are potential joint tortfeasors as to Plaintiff's underlying claims, [u]nder the relevant rules, it would be premature and inappropriate for the Court to find that a direct claim by Plaintiff against the Rico Defendants would be dispensable and subject to severance").

V. RULE 20(b) DOES NOT APPLY BECAUSE DEFENDANTS ARE ASSERTING CLAIMS AGAINST EACH OTHER.

The Court should reconsider its Order because of the difference between a "right to relief" and "claim" as used in Rule 20. A close reading of Rule 20 reveals that subsection (b) does not apply to these facts. Under Rule 20(b), "the court may make such orders as will prevent a party from being embarrassed, delayed, or put to expense by the inclusion of a party against whom he asserts **no claim** and who asserts **no claim** against him, and may order **separate trials** or make other orders to prevent delay or prejudice." Rule 20(b), SCRCP (emphasis added). In contrast, subsection (a) of Rule 20 which allows joinder speaks in terms of a Plaintiff's "**right to relief**". The juxtaposition between "right to relief" and "claim" is significant and intentional; these terms can have different meanings under the rule. Under South Carolina law, rules of procedure are subject to the same rules that apply to statutory interpretation. As our Supreme Court has explained,

> It is axiomatic that statutory interpretation begins (and often ends) with the text of the statute in question. *See Timmons v. S.C. Tricentennial Comm'n*, 254 S.C. 378, 401, 175 S.E.2d 805, 817 (1970) ("If a statute is clear and explicit in its language, then there is no need to resort to statutory interpretation or legislative intent to determine its meaning."); *see also Transp. Ins. Co. v. S.C. Second Injury Fund*, 389 S.C. 422, 429, 699 S.E.2d 687, 690 (2010) ("The text of a statute as drafted by the legislature is considered the best evidence of the legislative intent or will." (citing *Hodges v.*

ELECTRONICALLY FILED - 2022 Sep 12 5:05 PM - HAMPTON - COMMON PLEAS - CASE#2019CP2500111

> *Rainey,* 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000))). Absent an ambiguity, there is nothing for a court to construe, that is, a court should not look beyond the statutory text to discern its meaning. "[T]here is no occasion for employing rules of statutory interpretation and the court has no right to look for or impose another meaning" unless a statutory provision is ambiguous. *Paschal v. State Election Comm'n,* 317 S.C. 434, 436, 454 S.E.2d 890, 892 (1995) (citing *Miller v. Doe,* 312 S.C. 444, 441 S.E.2d 319 (1994)); *see also Tilley v. Pacesetter Corp.*, 355 S.C. 361, 373, 585 S.E.2d 292, 298 (2003) (observing that unless a statute is ambiguous, "the application of standard rules of statutory interpretation is unwarranted"). Only "[w]here the language of an act gives rise to doubt or uncertainty as to legislative intent" may the construing court "search for that intent beyond the borders of the act itself." *Kennedy v. S.C. Ret. Sys.*, 345 S.C. 339, 348, 549 S.E.2d 243, 247 (2001) (citing *Lite House, Inc. v. J.C. Roy Co.,* 309 S.C. 50, 53, 419 S.E.2d 817, 819 (Ct. App. 1992).

Smith v. Tiffany, 419 S.C. 548, 555–56, 799 S.E.2d 479, 483 (2017). In Smith, the Court, ironically enough, was examining the language of S.C. Code Section 15-38-15 found in the South Carolina Contribution Among Tortfeasors Act. In some places in 15-38-15, the legislature used the term "defendants", while in other places, the legislature used the term "potential tortfeasors". One of the parties argued that the word "defendants" was synonymous with the term "potential tortfeasors". However, the Supreme Court found that the text of the statute was clear and no interpretation was necessary:

> In light of these well-established rules of statutory interpretation, we are unwilling to accept Appellants' invitation to look outside the text of the Act to justify the assumption that the legislature's use of **differing terms**—"defendants" and "potential tortfeasors"—in section 15-38-15 was not deliberate or that those words mean anything other than what they say. *See Hodges*, 341 S.C. at 87, 533 S.E.2d at 582 ("If the legislature's intent is clearly apparent from the statutory language, a court may not embark upon a search for it outside the statute." (citing *Abell v. Bell,* 229 S.C. 1, 91 S.E.2d 548 (1956))); *see also CFRE, LLC v. Greenville Cty. Assessor*, 395 S.C. 67, 74, 716 S.E.2d 877, 881 (2011) ("[T]he words found in the statute [must be given] their 'plain and ordinary meaning ' " and "if

ELECTRONICALLY FILED - 2022 Sep 12 5:05 PM - HAMPTON - COMMON PLEAS - CASE#2019CP2500111

the words are unambiguous, we must apply their literal meaning." (quoting *Sloan v. Hardee,* 371 S.C. 495, 498, 640 S.E.2d 457, 459 (2007))).

Smith v. Tiffany, 419 S.C. 548, 556, 799 S.E.2d 479, 483 (2017).

Applying this same rationale to the language of Rule 20, "right to relief" and "claim" are differing terms. The drafters of the rules used differing terms for a reason, and it is improper to look any further than the language of the rule itself when the plain and ordinary meaning of the terms is clear. As a number of commentators have explained,

> Rule 20(b) provides that the court may order separate trials to prevent delay or prejudice when an existing party to an action has **no dispute** with new parties added by other litigants. Rule 42(b) subsumes Rule 20(b), and the standards and procedure for separation under the rules are the same. Rule 20 merely permits the court to order separate trials where there has been joinder of a party having **no dispute** with an existing party. Rule 42 permits this and other separation whenever it will promote economy or justice.

Fundamentals of Litigation Practice, Herr, Haydock & Stempel, § 24.5. Motions Affecting the Scope of the Litigation—Separate Trials, August 2022 Update (2021 ed.). The "dispute" need not be a claim for money damages as argued by Parker's. In other words, "claim" is broader than "right to relief". "Claim" is defined generally as "[a] statement that something yet to be proved is true; the assertion of existing right" while "relief" is defined generally as involving "payment", "aid or assistance", or "redress or benefit". Black's Law Dictionary. Our case law makes it clear that "right to relief" is determined from the Plaintiff's perspective. Smith v. Tiffany, 419 S.C. 548, 799 S.E.2d 479 (2017); Botchie v. O'Dowd, 299 S.C. 329, 384 S.E.2d 727 (Ct.App. 1989); S.C. Dept. of Health & Environmental Control v. Fed. Serv. Indus., Inc., 294 S.C. 33, 362 S.E.2d 311 (Ct.App. 1987); Wade v. Berkeley County, 348 S.C. 224, 559 S.E.2d 586 (2002). Accordingly, when a plaintiff asserts a "right to relief" against a defendant, she is asserting a right to payment of damages, a right to redress or benefit. Conversely, when a defendant asserts defenses against a

ELECTRONICALLY FILED - 2022 Sep 12 5:05 PM - HAMPTON - COMMON PLEAS - CASE#2019CP2500111

co-defendant that involve blaming the co-defendant, the defendant is not asserting a right to relief by payment of damages. Rather, the defendant is asserting a claim of an existing right to blame another defendant in order to disprove a right to relief asserted by the plaintiff. The claims or defenses asserted by Parker's are disputes that satisfy the meaning of "claim" under the rule because the defendant is asserting an existing right in the form of a defense against another defendant and is making a statement that something yet to be proved is true. Otherwise, the authors of the rule would have consistently used "right to relief" in both subsections of Rule 20. The authors did not. That necessarily means that "claim" is broader than "right to relief" and includes the assertion by one defendant that another defendant is to blame. Therefore, Rule 20(b) by its very terms is inapplicable to the facts of this case, thereby making separate trials inappropriate under Rule 20(b).

VI. THE NOTORIETY OF THE MURDAUGH DEFENDANTS IS NOT A PROPER CONSIDERATION IN GRANTING SEVERANCE.

The Court should not find that the "notoriety" surrounding the Murdaugh Defendants creates prejudice to Parker's that supports severance of the claims. That Parker's is "tethered" to the Murdaughs is a situation of their own making by **illegally selling alcohol to an underage Paul Murdaugh.** Parker's has no one to blame but itself for the situation in which it finds itself. Certainly, its wrongful conduct is not a basis to deny the Plaintiff of her rights as described above.

CONCLUSION

For each of these reasons, the Plaintiff respectfully request the Court's reconsideration of its Order Granting Parker's Motion to Sever which is immediately appealable and fraught with errors that will result in reversal and a gargantuan waste of money and judicial economy, not to mention the unfathomable and unnecessary emotional burden that will be endured by the Beach family—who happen to be the only victims in this saga.

ELECTRONICALLY FILED - 2022 Sep 12 5:05 PM - HAMPTON - COMMON PLEAS - CASE#2019CP2500111

GOODING AND GOODING, P.A.

By: s/Mark B. Tinsley

Mark B. Tinsley – S.C. Bar #15597
P.O. Box 1000
Allendale, SC 29810
803-584-7676
Attorneys for Plaintiff

September 12, 2022

ELECTRONICALLY FILED - 2022 Sep 12 5:05 PM - HAMPTON - COMMON PLEAS - CASE#2019CP2500111

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF Hampton
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2019CP2500111

Renee S. Beach et al
PLAINTIFF(S)

Gregory M. Parker, Inc. et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

☐ **JURY VERDICT**. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☑ **DECISION BY THE COURT**. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other

☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other

☐ **STAYED DUE TO BANKRUPTCY**

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*): ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☑ Statement of Judgment by the Court:

Upon further review of South Carolina Rules of Civil Procedure, applicable case law, briefs of parties and oral arguments, Plaintiff's Motion for Reconsideration is GRANTED and the September 13, 2022 Order of this Court Granting Plaintiff's Motion to Sever is REVERSED.

This civil case is set for day certain trial on Monday, January 9, 2023 in Hampton County with the inclusion of all named Defendants.

ORDER INFORMATION

This order ☐ ends ☑ does not end the case.

☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 09/27/2022 .

Luther'S Rare And Well Done, Llc
Kristy C. Wood-Removed
James M. Wood-Removed
Randolph Murdaugh-Removed, III
Trustee Of The Murdaugh Residence Trust 2
Randolph Murdaugh, III
The Murdaugh Residence Trust 2-Removed
Randolph Murdaugh, IV
John Marvin Murdaugh Personal Representative
Margaret Kennedy Branstetter Murdaugh Estate

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

ELECTRONICALLY FILED - 2022 Sep 27 12:33 PM - HAMPTON - COMMON PLEAS - CASE#2019CP2500111

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

ELECTRONICALLY FILED - 2022 Sep 27 12:33 PM - HAMPTON - COMMON PLEAS - CASE#2019CP2500111

Hampton Common Pleas

Case Caption: Renee S. Beach , plaintiff, et al VS Gregory M. Parker, Inc. , defendant, et al

Case Number: 2019CP2500111

Type: Order/Electronic Form 4

So Ordered

s/Daniel D. Hall 2753

Electronically signed on 2022-09-27 11:45:07

ELECTRONICALLY FILED - 2022 Sep 27 12:33 PM - HAMPTON - COMMON PLEAS - CASE#2019CP2500111

RECEIVED
Nov 07 2022
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HAMPTON COUNTY
Court of Common Pleas

Daniel DeWitt Hall, Circuit Court Judge

Appellate Case No. 2022-001533
Case No. 2019-CP-25-00111

Renee S. Beach, as Personal Representative of the Estate of Mallory Beach,……Respondent,

v.

Gregory M. Parker, Inc. d/b/a Parker's Corporation, Richard Alexander Murdaugh, Richard Alexander Murdaugh, Jr., John Marvin Murdaugh, as P.R. of the Estate of Margaret Kennedy Branstetter Murdaugh, and Randolph Murdaugh, IV, as P.R. of the Estate of Paul Terry Murdaugh,……………………………………...…………………………Defendants.

Of whom Gregory Parker, Inc. d/b/a Parker's Corporation, is the Appellant.

PROOF OF SERVICE

I certify that I have served Respondent's Response and Motion to Dismiss Appeal by electronic mail on November 7, 2022, to the following:

David L. Williford, Esquire
Mitchell D. Appleby, Esquire
Huff Powell & Bailey, LLC
15 South Main Street, Suite 602
Greenville, SC 29601
dwilliford@huffpowellbailey.com
mappleby@huffpowellbailey.com

Sharonda B. Barnes, Esquire
Huff, Powell, & Bailey, LLC
999 Peachtree Street, Suite 950
Atlanta, GA 30309
sbarnes@huffpowellbarnes.com

Austin Tyler Reed, Esquire
Smith Robinson Holler DuBose Morgan, LLC
2530 Devine Street
Third Floor
Columbia, SC 29205
austin.reed@smithrobinsonlaw.com

Pankaj "PK" Shere, Esquire
Joshua M. Hiller, Esquire
Huff, Powell & Bailey, LLC
3737 Greenwood Drive, Suite 370
Raleigh, NC 27612
pkshere@huffpowellbailey.com
jhiller@huff powellbailey.com

G. Murrell Smith, Jr., Esquire
Smith | Robinson
P.O. Box 580
Sumter, SC 29151-0580
murrell@smithrobinsonlaw.com

Roberts "Tabor" Vaux, Jr., Esquire
Vaux Marscher Berglind, P.A.
PO Box 769
Bluffton, SC 29910
tabor.vaux@vmblawfirm.com

s/ Mark B. Tinsley
Mark B. Tinsley – S.C. Bar #15597
Gooding and Gooding, P.A.
P.O. Box 1000
Allendale, S.C. 29810
(803) 584-7676
mark@goodingandgooding.com

November 7, 2022

GOODING AND GOODING, P.A.

ATTORNEYS AT LAW

265 BARNWELL HIGHWAY
POST OFFICE BOX 1000
ALLENDALE, SOUTH CAROLINA 29810

H. WOODROW GOODING
ELIZABETH KEARSE GOODING
MARK B. TINSLEY
LAINE BRABHAM GOODING

TELEPHONE NUMBER
(803) 584-7676
FACSIMILE NUMBER
(803) 584-3614

November 7, 2022

RECEIVED
Nov 07 2022
SC Court of Appeals

VIA ELECTRONIC MAIL ctappfilings@sccourts.org

The Honorable Jenny A. Kitchings
Clerk of Court
South Carolina Court of Appeals
1220 Senate Street
Columbia, South Carolina 29201

Re: Renee S. Beach, as Personal Representative of the Estate of Mallory Beach v. Gegory M. Parker, Inc., d/b/a Parker's Corporation, Richard Alexander Murdaugh, Richard Alexander Murdaugh, Jr., John Marvin Murdaugh as P.R. of the Estate of Margaret Kennedy Branstetter Murdaugh and Randolph Murdaugh, IV as P.R. of the Estate of Paul Terry Murdaugh
Appellate Case No. 2022-001533

Dear Ms. Kitchings:

Please find attached for filing the Respondent's Response and Motion to Dismiss Appeal with Exhibits in reference to the above matter. I have also enclosed a Proof of Service upon all counsel for Appellant. Furthermore, I am mailing a check today in the amount of $50.00 with a copy of this letter.

If you have any questions or need any additional information, please do not hesitate to contact me.

With kind regards, I remain

Sincerely,

s/ Mark B. Tinsley

MBT/rfl
enc

cc: David L. Williford, Esquire
Mitchell D. Appleby, Esquire
Huff Powell & Bailey, LLC
15 South Main Street, Suite 602
Greenville, SC 29601
dwilliford@huffpowellbailey.com
mappleby@huffpowellbailey.com

Sharonda B. Barnes, Esquire
Huff, Powell, & Bailey, LLC
999 Peachtree Street, Suite 950
Atlanta, GA 30309
sbarnes@huffpowellbarnes.com

Austin Tyler Reed, Esquire
Smith Robinson Holler DuBose Morgan, LLC
2530 Devine Street
Third Floor
Columbia, SC 29205
austin.reed@smithrobinsonlaw.com

Pankaj "PK" Shere, Esquire
Joshua M. Hiller, Esquire
Huff, Powell & Bailey, LLC
3737 Greenwood Drive, Suite 370
Raleigh, NC 27612
pkshere@huffpowellbailey.com
jhiller@huff powellbailey.com

G. Murrell Smith, Jr., Esquire
Smith | Robinson
P.O. Box 580
Sumter, SC 29151-0580
murrell@smithrobinsonlaw.com

Roberts "Tabor" Vaux, Jr., Esquire
Vaux Marscher Berglind, P.A.
PO Box 769
Bluffton, SC 29910
tabor.vaux@vmblawfirm.com