

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SUMTER COUNTY
COURT OF COMMON PLEAS

R. Ferrell Cothran, Jr., Circuit Court Judge
C/A No. 2008-CP-43-02112

Appellate Case No. 2021-001293

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SC Court of Appeals

The Estate of Fannie M. Champion, by
Evelyn Champion Ludd, Personal
Representative, Samuel Champion,
Evelyn C. Ludd, Sarah C. Evans,
Rachel C. Brown, Henry Champion, Jr.,
Janie M. Champion, Mary Johnson and
John L. Champion,

Appellants,

v.

Ronald L. Hallman, Marjorie J. Hallman,
Elton J. Hallman, Conswalla E. Hallman,
Oron J. Hallman, Hazelee C. Hallman,
Edward G. Hamilton, Helen D. Hamilton,
Edward E. Hamilton, Raymond Forbes
Davenport, II, and Mary Ellen Davenport,

Respondents.

FINAL BRIEF OF APPELLANTS

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Attorney for Appellants

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STATEMENT OF ISSUES ON APPEAL

1. Does the plain and unambiguous language of the Settlement Order dated January 4, 2019, require specific performance on the part of the Appellants within the two (2) year Construction Period by stating that the “[d]efendants shall, within a time period not to exceed two (2) years from the date of this agreement, take all necessary action to clear and construct a private exclusive roadway for the purpose of ingress and egress to their real property along Parcel B”?
2. Did the Circuit Court Judge commit error in issuing his Order dated July 10, 2020, Granting a Temporary Injunction Regarding Shingle Mill Road?
3. Did the Circuit Court Judge commit error in his Order filed September 15, 2021, granting Defendants’ Motion for Specific Acts and Vesting Title Under Rule 70, SCRCP?
4. Did the Circuit Court Judge commit error in setting the amount and type of bond required to be posted by the Plaintiffs?

STATEMENT OF THE CASE

This case was commenced by Appellants Fannie M. Champion, Samuel Champion, Evelyn C. Ludd, Sarah C. Evans, Rachel C. Brown, Henry Champion, Jr., Janie M. Champion, Mary Johnson and John L. Champion with the filing of a Summons and Complaint in the Court of Common Pleas for Sumter County on September 17, 2008. (R., p. 63) The Complaint alleged the continuing willful, wanton, reckless and negligent trespass by the Respondents Ronald L. Hallman, Marjorie J. Hallman, Elton J. Hallman, Conswalla E. Hallman, Oron J. Hallman, Hazelee C. Hallman, and their guests upon land owned by the Appellants and, particularly, Respondents’ entry upon and wrongful use of a private roadway granted exclusively to Respondents by a Right-of-Way Easement (“Easement”) dated February 19, 1993, and recorded February 19, 1993, in the office of the Register of Deeds for Sumter County in Volume 564 at Page 1850. (R., p.72, 73) *(Please note that Pages 72,73 and 74 of this record are out of order)*

Contemporaneous with the filing of their Summons and Complaint on September 17, 2008, the Respondents filed a Motion for a Temporary Injunction citing as grounds for the motion the same allegations in their Complaint. (R., p. 63) Appellants sought to have the Respondents estopped, restrained, and enjoined from trespassing upon the property of the Appellants, and from harassing or annoying the Appellants or any of Appellants' family members pending a disposition of the case on the merits. (R., p. 67)

Defendants' Answer and Counterclaim was filed on December 31, 2008. Jack W. Erter, Jr., Counsel for the Defendants, filed an Affidavit of Title on December 31, 2008, asserting that the Defendants have a meritorious defense to Plaintiffs' claims and that Defendants will suffer irreparable harm if enjoined from access to their real property.

On February 12, 2009, a Consent Order of Reference was filed referring the case to the Honorable Richard L. Booth, Master-in-Equity for Sumter County ("Master"). The case was set for hearing and Notice of Hearing filed March 1, 2009. An Amended Notice of Hearing before the Master was filed March 26, 2009, for the purpose of making Findings of Fact and Conclusions of Law with full and complete authority to make a final decision without further order of the Court.

On March 30, 2009, Defendants filed a Motion for Summary Judgment.

On August 27, 2010, Plaintiffs filed the Affidavit of Denise C. Pavkov, Professional Real Estate Title Abstractor, concerning the Champion Easement. (R., p. 70)

On October 29, 2014, an Order Striking the Case from the Active Roster was filed. Upon Motion of Plaintiffs' Counsel filed December 5, 2014, the case was restored to the active roster by Order of the Master filed January 12, 2015.

On December 17, 2015, the Master entered an Order transferring the case back to the Court of Common Pleas for final resolution due to the Master's disclosure that he had certain personal and professional contacts with the parties and their representatives such that disqualification was appropriate under Canon 3E(1), Rule 501, SCACR, Code of Judicial Conduct.

By written Order filed August 17, 2016, Circuit Court Judge George C. James, Jr., denied Defendants' Motion for Summary Judgment.

A Status Conference was held on October 14, 2016, to discuss two primary issues with the Court; (1) the fact that Plaintiff Fannie M. Champion had passed away; and (2), the Plaintiffs' Motion to amend their Complaint to add additional defendants. On October 24, 2016, Judge James issued his Order in which he, *inter alia*, granted Plaintiffs' Motion to substitute the Personal Representative of the Estate of Fannie M. Champion as a Plaintiff and to amend their Complaint to add additional defendants.

On October 24, 2016, Plaintiffs' Counsel filed an Amended Summons and Complaint substituting The Estate of Fannie M. Champion, by Evelyn Champion Ludd, Personal Representative, as Plaintiff for Fannie M. Champion, deceased Plaintiff. Oron J. Hallman, Hazelee C. Hallman, Edward G. Hamilton, Helen D. Hamilton, Edward E. Hamilton, RaymondForbes Davenport, II, and Mary Ellen Davenport were added to the case as Defendants. (R., p. 74)

Defendants Ron(sic) Hallman, Marjorie J. Hallman, Elton J. Hallman, Conswalla E. Hallman, Oron J. Hallman, and Hazelee C. Hallman ("Hallman Defendants") filed an Amended Answer and Counterclaim on November 4, 2016.

Plaintiffs' Reply to the Hallman Defendants' Amended Answer and Counterclaim was filed on November 14, 2016. (R., p. 78)

Defendants Raymond Forbes Davenport, II, and Mary Ellen Davenport ("Davenport Defendants") filed an Answer and Counterclaim to the Amended Complaint on November 22, 2016.

Defendants Edward G. Hamilton, Helen D. Hamilton, and Edward E. Hamilton filed an Answer and Counterclaim to the Amended Complaint on November 24, 2016.

Plaintiffs' Reply to the Davenport Defendants' Answer and Counterclaim was filed on December 2, 2016. (R., p. 84)

Plaintiffs' Reply to the Hamilton Defendants' Answer and Counterclaim was filed on December 2, 2016.

The Settlement Order of Circuit Court Judge R. Ferrell Cothran, Jr., which incorporated the Settlement Agreement of the parties, was filed January 4, 2019. (R., p. 57)

Defendants' Motion for Specific Acts and Vesting Title Under Rule 70, SCRCF, was filed June 2, 2020 (R., pp. 87-93), and the following additional filings ensued:

Order of Judge R. Ferrell Cothran, Jr., Granting Temporary Injunction regarding Shingle Mill Road filed July 10, 2020, (R., p. 53);

Plaintiffs' Memorandum in Opposition to Defendants' Motion for Specific Acts and Vesting Title Under Rule 70, SCRCF, filed July 10, 2020, (R., p. 94);

Plaintiffs' Motion to Implead Owner(s) of Adjoining Land filed July 10, 2020, (R., p. 124);

Plaintiffs' Motion to Dissolve Order Granting Temporary Injunction Regarding Shingle Mill Road filed July 20, 2020, (R., p. 141);

Plaintiffs' Motion to Vacate Settlement Order filed July 21, 2020, (R., p. 152);

Plaintiffs' Amended Memorandum in Opposition to Defendants' Motion for Specific Acts and Vesting Title Under Rule 70, SCRCPP, filed July 24, 2020, (R., p. 101);

Plaintiffs' Supplement to Motion to Vacate Settlement Order filed July 28, 2020, (R., p. 163);

Plaintiffs' Supplement to Motion to Implead Owners of Adjoining filed July 28, 2020, (R., p. 130);

Order of Judge R. Ferrell Cothran, Jr., dated and filed September 15, 2021, (R., p. 9);

Plaintiffs' Motion to Alter or Amend Judgment dated September 25, 2021, and filed September 27, 2021, (R., p. 174);

Form 4, Judgment in a Civil Case, filed by Judge R. Ferrell Cothran, Jr., on October 4, 2021, (R., p. 6);

Form 4, Amended Judgment in a Civil Case, filed by Judge R. Ferrell Cothran, Jr., on October 6, 2021, (R., p. 3).

Plaintiffs' Motion In Re Bond on Appeal filed October 18, 2021, (R., p. 183);

Plaintiffs' Filing of Executed Conveyances To Stay Judgment During Appeal filed November 2, 2021(R., p. 187);

Plaintiffs/Appellants Notice of Appeal filed in the South Carolina Court of Appeals on November 4, 2021, (R., pp. 180-222); and

Form 4, Judgment in a Civil Case, filed by Judge R. Ferrell Cothran, Jr., on March 10, 2022. (R., p. 1)

STANDARD OF REVIEW

“In South Carolina jurisprudence, settlement agreements are viewed as contracts.” *Pee Dee Stores, Inc. v. Doyle*, 381 S.C. 234, 672 S.E.2d 843, 845 (2001) (finding enforcement of the terms of a settlement agreement is a matter of contract law); *Ecclesiastes Prod. Ministries v. Outparcel Assocs.*, 374 S.C. 483, 497, 649 S.E.2d 494, 501 (Ct. App. 2007) (stating a release agreement is a contract and contract principles of law should be used to determine what the parties intended); *Mattox v. Cassady*, 289 S.C. 57, 61 344 S.E.2d 620, 622 (Ct. App. 1986) (applying the general rules of contract construction to a settlement agreement). An action to construe a contract is an action at law. *Silver v. Aabstract Pools & Spas, Inc.*, 376 S.C. 585, 590, 658 S.E.2d 539, 541 (Ct. App. 2008). In an action at law, on appeal of a case tried without a jury, the judge’s findings will not be disturbed unless they are without evidentiary support. *Townes Assocs. V. City of Greenville*, 266 S.C. 81, 86, 221 S.E.2d 773, 775 (1976) However, this court is free to decide questions of law with no particular deference to the trial court. *Silver*, 376 S.C. at 590, 658 S.E.2d at 542.) *Byrd v. Livingston*, 398 S.C. 237, 727 S.E.2d 620 (Ct. App. 2012), *Reh’g Denied* June 22, 2012, *Cert. Denied* May 7, 2014.

FACTS

This case was commenced by the Appellants with the filing of a Summons and Complaint on September 17, 2008. (R., p. 63) The Complaint alleged the continuing willful, wanton, reckless and negligent trespass by the Respondents Ronald L. Hallman, Marjorie J. Hallman, Elton J. Hallman, Conswalla E. Hallman, Oron J. Hallman, Hazelee C. Hallman, and their guests upon land owned by the Appellants and, particularly, Respondents’ entry upon and wrongful use of a private roadway granted exclusively to Appellants by a Right-of-Way Easement (“Easement”) dated February 19, 1993, and recorded February 19, 1993, in the office

of the Register of Deeds for Sumter County in Volume 564 at Page 1850. (R., p.72, 73) *(Please note that Pages 72,73 and 74 of this record are out of order)* The Easement is for ingress and egress across, over, upon and through a tract of land now or formerly identified as the Barnett Tract, bearing Tax Map Number 194-00-01-037, which tract of land lies between Cannery Road and two tracts of land owned by Plaintiffs. (Affidavit of Denise C. Pavkov dated August 27, 2010, R., p. 70) The said Easement from H. C. Edens, Jr., and Sons, a Partnership, by H. C. Edens, Jr., grants to Henry Champion and Fannie Champion, their heirs and assigns forever, a perpetual easement and right-of-way twenty (20) feet in width for ingress and egress across the Barnett Tract land from Cannery Road to the two tracts owned by Appellants, to which it shall be appurtenant. The two tracts referenced in the Easement are owned by Appellants and are described as being situate, lying and being in Sumter County, South Carolina; to wit: 18.34 acres on Shingle Mill Road, Tax Map Number 197-00-01-023, and 22.31 acres on Shingle Mill Road, Tax Map Number 197-00-01-019. The private roadway is now Shingle Mill Road and used by Appellants for ingress and egress to homes they have placed on the aforementioned two tracts of land.

The Appellants allege that they have repeatedly demanded that the Respondents stay off their property. Appellants have posted "No Trespassing" signs and erected a fence to protect their property. Appellants contend that the Respondents have shown a willful, wanton, reckless and negligent disregard for Appellants' rights by continuing to trespass upon Appellants' private roadway. Respondents have cut trees located on Appellants' property in order to widen the private roadway, digging with a backhoe, and using other heavy equipment on Appellants' land over the objection of Appellants. Respondents removed the fence Appellants placed on their property to keep out trespassers. Respondents have come onto Appellants' property carrying

guns, directing foul, profane and obscene language toward the Appellants when Appellants objected to Respondents' trespassing upon the lands owned by the Appellants. Respondents have come unto Appellants' property revving the engines of recreational vehicles being operated by Respondents, spinning the wheels, and driving at a reckless and high rate of speed. Appellants have small children who reside in the densely populated family community. Due to the reckless, willful and wanton conduct of the Respondents in putting them and their children at risk while trespassing, Appellants fear for the life and safety of themselves, their children and other family members. Respondents have repeatedly called law enforcement because of the dangerous conduct and harassment by the Respondents while they were trespassing upon Appellants' private property.

Contemporaneous with the filing of their Summons and Complaint on September 17, 2008, the Appellants' also filed a Motion for a Temporary Injunction citing the same allegations in their Complaint as grounds for the motion. (R., p. 67) Appellants sought to have the Respondents estopped, restrained, and enjoined from trespassing upon the property of the Appellants, and from harassing or annoying the Appellants or any of Appellants' family members pending a disposition of the case on the merits.

ARGUMENT

- 1. Does the plain and unambiguous language of the Settlement Order dated January 4, 2019, require specific performance on the part of the Respondents within the two (2) year Construction Period by stating that the “[d]efendants shall, within a time period not to exceed two (2) years from the date of this agreement, take all necessary action to clear and construct a private exclusive roadway for the purpose of ingress and egress to their real property along Parcel B”?**

During the fourteen years that this case has been in litigation, Appellants have consistently demonstrated a good faith effort to bring about a resolution. (Complaint filed

September 17, 2008, R., p. 63) The issue which brought the parties to this juncture is a land swap agreement whereby the parties agreed to relocate the roadway a distance from the Appellants' residences on land that the Appellants exchanged with the Respondents for another parcel the Respondents would convey to the Appellants.

The matter was called for trial on April 25, 2017, at which time the Settlement Agreement was placed upon the record in open court in accordance with Rule 43(k), SCRC. The Court instructed Respondents' counsel to prepare the order setting forth the Settlement Agreement as approved by the Court. The attorneys for the Respondents prepared the Settlement Order, which was signed, filed and served on January 4, 2019. (R., p. 57) Among the terms of the Settlement Order is the following provision:

5. Defendants shall, within a time period not to exceed two (2) years [hereinafter "Construction Period"] from the date of this agreement, take all necessary action to clear and construct a private exclusive roadway for the purpose of ingress and egress to their real property along Parcel B. Upon completion of the private exclusive roadway along Parcel B, and subject to the Fifty (50) feet non-exclusive easement in perpetuity of ingress and egress across certain real property as described in Parcel A, and shown on the LAND SWAP plat. Defendants shall no longer use that portion of Shingle Mill Road (Shingle Mill current situs) that transverses through the center of Plaintiff' real property.

(Settlement Order, 01/04/2019, Terms of the court approved settlement agreement, p. 4, pa. 5, (R., p. 60, pa. 5)

More than two years passed and no work had been performed on the proposed roadway during the two-year construction period.

On June 2, 2020, Respondents filed a Motion for Specific Acts and Vesting Title Under Rule 70, SCRC. (R., p. 87) Respondents moved the Court for an Order directing: (1) That the Appellants execute a conveyance of land or deliver deeds within 30 days of the filing of the motion; or in the alternative, (2) for an Order holding Appellants in contempt of court to include costs and attorneys' fees incurred in the filing of the motion and Appellants' failure to comply

with the land swap settlement; and (3) for an Order directing the Clerk of the Sumter County Register of Deeds to enter conveyance of the subject property.

On July 21, 2020, Appellants filed a Memorandum in Opposition to Respondents' Motion for Specific Acts and Vesting Title under Rule 70, SCRPC. (R., p. 94) Appellants asserted that the litigation was not ripe for the Rule 70, SCRPC, Motion because issues of fact were still unresolved, that the Respondents had breached the Settlement Agreement incorporated in the Court's Order by failing and refusing to comply with the plain language of the Settlement Agreement, which is treated as a contract under South Carolina Law. The Settlement Agreement was approved by the Court on April 25, 2017, and entered into the record on April 25, 2017. The two-year "Construction Period" approved by the Court was "not to exceed two (2) years from the date of this agreement," which was April 25, 2017. Thus, the Construction Period began on April 25, 2017, and ended on April 24, 2019.

On July 21, 2020, Appellants filed a Motion to Vacate the Settlement Order on the grounds that the Respondents did not comply with the two-year construction period time-line in the Settlement Order, and that Respondents had negotiated in bad faith. (R., p. 152, 163) *(Please note that Pages 153-158 in this record are out of order)* Appellants recounted that the Respondents had contended during the negotiations that they had no other avenue of ingress and egress except through Appellants' property. While, in fact, during the two-year construction period when no work was done toward constructing the agreed-upon roadway, Respondents had established and used another road to travel back and forth to their property. As further grounds for their Motion to Vacate, Appellants asserted that the action originated due to the misconduct of the Respondents, that the track of the litigation had been marked by efforts of the Respondents to gain control over and use of the Appellants' property without regard for the rights of the

property owners, and that the Respondents were using the court system to harass, manipulate and to gain unfair advantages over the Appellants.

Counsel for Respondents prepared the Settlement Order and, in addition to having the issue fully vetted at the settlement hearing, they were at liberty to and did use words and phrases of their own choosing. The Respondents have knowingly and willfully failed to comply with the terms and conditions of the Settlement Order, all to the detriment of the Appellants. Therefore, the Settlement Order should be vacated and the case remanded to the Court of Common Pleas for disposition.

2. Did the Circuit Court Judge commit error in issuing his Order dated July 10, 2020, Granting a Temporary Injunction Regarding Shingle Mill Road?

On July 10, 2020, the Respondents e-filed the proposed order, submitted the document to Circuit Court Judge R. Ferrell Cothran, Jr., by email, and copied Appellant's counsel with the email. Plaintiffs' Memorandum in Opposition to the grant of a Temporary Injunction was filed at 6:29 P.M. on July 10, 2020, and asserted that the allegations set forth in the proposed order, even if they were true, do not satisfy the requirements set forth in Rule 65, SCRCP, for the issuance of a temporary restraining order. (*Email from Kimberly Land, Law Clerk to Judge Ferrell Cothran, dated Friday, July 10, 2020, at 12:58 P.M., addressed to the following email addresses: moorelawfirm@ftc-i.net; Daisy Moore; David Holler, tmays@sumtercountysc.org; Cothran, Ralph Ferrell, Jr.; Cothran, Ralph Jr. Secretary (Gayle Brunson), (R., p. 223)*) The Order Granting Temporary Injunction Regarding Shingle Mill Road was filed at 4:37 P.M. on July 10, 2020, before Plaintiffs had an opportunity to respond. (R., p. 53) Plaintiffs urge that this Court dissolve the Temporary Injunction on the grounds that the Injunction is unlawful in that it does not comply with the prerequisites set forth in Rule 65, SCRCP; in particular with regard to the Notice provision and the absence of factual allegations to support the injunction.

Plaintiffs' Counsel's first knowledge of Defendants' request for a Temporary Injunction Regarding Shingle Mill Road came via a copy of an email sent at 12:58 P.M. on 7/10/20 from Kimberly Land, Law Clerk to Judge R. Ferrell Cothran, addressed to moorelawfirm@ftc-i.net, davidholler@smithrobinsonlaw.com, tmays@sumtercountysc.org, RCothranJ@sccourts.org, and RCothranSC@sccourts.org, which stated:

Good afternoon,

In light of the recent developments in the above captioned matter, Judge Cothran is willing to sign a Temporary Restraining Order allowing the Hallman's to access their home and have the original order enforced until a hearing can be held next week.

Mr. Holler, if you could draw up that order for the judge's review, we can proceed forward with this matter.

Please let me know if I can be of further assistance.

Warm regards,

Kimberly Land

Law Clerk to Judge Ferrell Cothran
3rd Circuit
P.o. Box 32
3 West Keitt Street
Manning, SC 29102
803-433-3270

At 1:14 P.M. on Friday, July 10, 2020, the undersigned received a copy of the following email from Tripp Mays addressed to rcothranlc@sccourts.org, moorelawfirm@ftc-i.net, and davidholler@smithrobinsonlaw.com, which was copied to RCothranJ@sccourts.org, and RCothranSC@sccourts.org.

Can yuat(sic) be done as soon as possible and get me a signed copy in case we have further incidents? I will also advise the parties of this email as well.

Thanks,

Lt. Tripp Mays
SRO Supervisor
Sumter County Sheriff's Office
1281 N. Main St.

Sumter, SC 29153

At 2:47 P.M. on Friday, July 10, 2020, Plaintiffs' Counsel received the following email from Attorney David Holler addressed to Tripp Mays; Cothran, Ralph F. Jr., Law Clerk (Kimberly Land); moorelawfirm@ftc-i.net; copied to Cothran, Ralph Ferrell Jr. Secretary (Gayle Brunson); Alex Atkinson; Julie Murray:

Judge Cothran,

I have attached for your review a proposed temporary restraining injunction/order. I have included a PDF, MS Word, and Corel WordPerfect version for your convenience. Please let me know if you need any further information from me. Again, I apologize for the intrusion.

David

The proposed order was transmitted as an attachment to the email. Judge Cothran's Order granting Temporary injunction regarding shingle Mill Road was filed at 4:37 P.M. on July 10, 2010. The Order recites that:

Upon *ex parte* application by Defendants, pursuant to Rule 65, South Carolina Rules of Civil Procedure, the Court hereby issues the following temporary order of injunction. This Order is based upon the previous Orders of this Court, and the filings herein. No affidavit or verified pleadings are necessary.

On January 4, 2019, this Court entered an order of settlement resolving the dispute between the parties. The settlement was specific and resolved the property dispute between the parties. On June 2, 2020, Defendants moved for specific acts transferring property rights and easements as set forth in the settlement agreement. This motion is pending. The court is familiar with the dispute and the settlement agreement and has retained jurisdiction over the parties and the dispute.

By *ex parte* representation¹ of counsel for Defendants, it appears that on or about July 10, 2020, one or more persons have blocked or threatened to block access to Shingle Mill Road, an unpaved road in the Providence Township of Sumter County, and that representatives of the Sumter County Sheriff's office have been dispatched to the location to maintain order. It appears that one or more persons have been denied access, or have

¹Statements of counsel, including unverified and unsworn statements, are controlled by Rule 3.3, of Rule 407, Appellate Court Rules, and satisfy the requirements of Rule 65 for the issuance of a TRO.

threatened that access will be denied, to use Shingle Mill Road for ingress and egress (travel to and from) purposes. Based upon the Court's knowledge of the underlying settlement agreement, and the pending motion for specific acts, this Court hereby issues the following Order, without requirement for security or bond, as follows:

IT IS THEREFORE THE ORDER OF THIS COURT,

1. Defendants in seeking temporary and permanent relief, by means of a motion to enforce settlement and for specific acts, are extraordinarily likely to prevail on the merits. This dispute was fully settled, resolved, and the settlement has been placed upon the record and entered into a court order dated January 4, 2019. This settlement order was not appealed and is the law of the case. No bond is necessary for the relief sought by Defendants, as this is the relief agreed upon by the parties;

2. No person or persons shall block, or threaten to block, access of any person or persons seeking to use Shingle Mill Road;

3. No person or persons shall be denied, or shall be threatened to deny, access to use Shingle Mill Road;

4. Any person or persons who denies, or threatens to deny, access to Shingle Mill Road shall be in contempt of this Court Order, and may be lawfully arrested, restrained and held in contempt until further Order of this Court;

5. Any person authorized with the power of arrest may take all reasonable actions consistent with this Court Order to ensure the peaceful and quiet use of Shingle Mill Road, including without limitations, the arrest and restraint of any person or persons who violate or attempt to violate this Court Order;

6. At the earliest time practicable, the Court shall convene a hearing at which time the parties to this action, and others who may be affected by this Court Order, shall be allowed an opportunity to present evidence and argument to the Court as to this temporary restraining order. The Court will entertain whether the costs and attorneys' fees are appropriate based upon any violation of this or any prior Order of this Court;

7. This Order shall remain in effect until further Order.

AND IT IS SO ORDERED.

(R., p. 53)

The applicable part of Rule 65, SCRPC, gives the following criteria for a temporary injunction:

(a) **Temporary Injunction; Notice.** No temporary injunction shall be issued without notice to the adverse party.

(b) **Temporary Restraining Order; Notice; Hearing; Duration.** No temporary restraining order shall be granted without notice of motion for the order to the adverse party unless it clearly appears from specific facts shown by affidavit or by a verified complaint that immediate and irreparable injury, loss or damage will result to the applicant before notice can be served and a hearing had hereon. Every temporary restraining order granted without notice shall be endorsed with the date and hour of issuance; shall be filed forthwith in the clerk's office and entered of record; shall be served, together with a summons and complaint in the event no summons and complaint have previously been served in the action, upon the adverse party in accordance with the provisions of Rule 4; shall define the injury and state why it is irreparable and why the order was granted without notice; and shall expire by its terms within such time after entry, not to exceed 10 days, as the court fixes, unless within the time so fixed the order, for good cause shown, is extended for a like period or unless the party against whom the order is directed consents that it may be extended for a longer period. The reasons for the extension shall be entered of record. In case a temporary restraining order is granted without notice, the motion for a temporary injunction shall be set down for hearing at the earliest possible time and takes precedence of all matters except older matters of the same character; and when the motion comes on for hearing the party who obtained the temporary restraining order shall proceed with the application for a temporary injunction and, if he does not do so, the court shall dissolve the temporary restraining order. On two days' notice to the party who obtained the temporary restraining order without notice or on such shorter notice to that party as the court may prescribe, the adverse party may appear and move its dissolution or modification and in that event the court shall proceed to hear and determine such motion as expeditiously as the ends of justice require.

(c) **Security.** Except in divorce, child custody and non-support actions where the giving of security is discretionary, no restraining order or temporary injunction shall issue except upon the giving of security by the applicant, in such sum as the court deems proper, for the payment of such costs and damages as may be incurred or suffered by any party who is found to have been wrongfully enjoined or restrained. ...

(d) **Form and Scope of Injunction or Restraining Order.** Every order granting an injunction and every restraining order shall set forth the reasons for its issuance; shall be specific in terms; shall describe in reasonable detail, and not by reference to the complaint or other document, the act or acts sought to be restrained; and is binding only upon the parties to the action, their officers, agents, servants, employees, and attorneys, and upon those persons in active concert or participation with them who receive actual notice of the order by personal service or otherwise.

...

Rule 65, SCRPC

Appellants were served with the Order granting Temporary Injunction on July 10, 2020 at 4:37 P.M, by Notice of Electronic Filing to the undersigned. (R., p. 53) At 6:29 P.M. on July 10, 2020,

Counsel for Appellants filed their Memorandum in Opposition to Proposed Order Granting Temporary Injunction Regarding Shingle Mill Road.

First, the temporary injunction is unlawful because it did not comply with the prerequisites set forth in Rule 65, SCRCF, for granting an injunction.

Rule 65 provides that “[n]o temporary injunction shall be issued without notice to the adverse party.” Appellants did not receive notice of the application for a temporary injunction, and did not receive a copy of the application or copies of any documents pertaining to the grounds for their application. This case is under active litigation, Appellants are represented by Counsel known to the Respondents, and contact information was readily available to the Respondents at all times on July 10, 2020, to be used to give notice to the Appellants of their application for an injunction. The foregoing emails constitute the entirety of the communication Respondents sent to the law firm email address of Appellants’ counsel.

“This Order is based upon the previous Orders of this court, and the filings herein. No affidavit or verified pleadings are necessary.” (*Order filed July 10, 2020, pg. 1*) (R., p. 53) According to Rule 65, [n]o temporary restraining order shall be granted without notice of motion for the order to the adverse party unless it clearly appears from specific facts shown by affidavit or by a verified complaint that immediate and irreparable injury, loss or damage will result to the applicant before notice can be served and a hearing had thereon.” It was error for the Court to issue an injunction without requiring the Respondents to either give notice to the Respondents or to require affidavit(s) setting forth specific facts including a showing that immediate and irreparable injury, loss or damage would result to the Respondents before notice can be served and a hearing held on their application. (*Rule 65(b), SCRCF, Temporary Restraining Order; Notice; Hearing; Duration.*)

Second, the Court erred in granting the injunction because the record is devoid of factual allegations to support the injunction issued in this case.

The factual recitations in the Order state that the instant Order is based upon previous Orders of the Court and the filings herein. The history of this case is that, except for Appellants’ 2008 Motion for a

Temporary Injunction, and the filing of Summons, Complaint, Amended Summons, Amended Complaint, Answers and Counterclaims, Replies to Counterclaims, and Motions and Orders related to administrative matters, the only relevant filings in this case dated before the issuance of the Order on July 10, 2020, were the Order filed by Judge Cothran on January 4, 2019, approving a settlement agreement between the parties and Respondents' Motion pursuant to Rule 70, SCRCP, filed on June 2, 2020, for specific acts transferring property rights and easements as set forth in the settlement agreement. (R., p. 57 and p. 87) Rule 65 requires that every order granting an injunction shall set forth the reasons for its issuance; shall be specific in terms; shall describe in reasonable detail, and not by reference to the complaint or other document, the act or acts sought to be restrained. (*Rule 65(d), SCRCP, Form and scope of Injunction or Restraining Order*)

Appellants deny defense counsel's *ex parte* representations to the Court concerning one or more persons blocking or threatening to block access to Shingle Mill Road. Appellants deny that there has been any blocking of Respondents' access to Shingle Mill Road. The layout of the land for access to Shingle Mill Road is the same as it was on April 26, 2017, when the Agreement whereby Respondents were to have a right-of-way easement was put on the record. The layout has remained the same from that date until July 10, 2020. The only exception now is that the Respondents have put in a makeshift roadway that runs through the wooded area and through the yard of Appellant Evelyn C. Ludd approximately 25 yards from the side of the Ludd's home. Nothing else has changed, no physical barriers have been put up or put in the way and no person has physically blocked access. Furthermore, and more noteworthy is the fact that the Respondents have not used the property for ingress or egress because they have used another access point since the date of the Agreement.

The facts recited in the order as the grounds for the *ex parte* application for a restraining order do not show any immediate and irreparable injury, loss or damage necessitating the issuance of a restraining order. There is no allegation or showing of exigency as the basis for granting the injunction. Familiarity with the dispute and the settlement agreement, the Court's knowledge of the underlying settlement

agreement, and the pending motion for specific acts are insufficient grounds upon which to issue an injunction. The Respondents' pending Motion for specific acts has been filed but not litigated. The Order makes several references to the said Motion, and it appears that the Court has accepted the filing as meritorious on its face and not subject to challenge or argument and, therefore, factored the mere allegations contained in Respondents' Motion into its decision to grant the unlawful injunction. This prospect is concerning because on or about June 20, 2020, Judge Cothran held a status conference and gave Appellants' counsel until July 24, 2020, to submit a Memorandum of Law and Argument in opposition to Respondents' pending Motion for specific acts. Likewise, the order, in referencing the likely outcome of the Respondents' Motion for specific acts, noted that the Respondents were "extraordinarily" likely to prevail on the merits. (R., p. 54, pa. 1) The Court qualified the likely outcome with a superlative distinction of extraordinary success which raises the issue of a predisposition to grant Respondent's relief notwithstanding the merit of any matters to be raised by the Appellants.

In deciding to issue the Order granting a temporary injunction, the Court stated that the dispute was fully settled, resolved, and the settlement placed upon the record and entered into the Court Order dated January 4, 2019; that the settlement order was not appealed and is the law of the case. (*Order filed 07/10/2010, pp. 1, 2, (R., p. 57)*). Appellants argue that the Order filed January 4, 2019, recognized that the dispute was not fully settled and resolved by including the following proviso:

6.All parties agree and consent to the Sumter County Court of Common Pleas retaining concurrent jurisdiction under this Order to resolve any disputes that may arise under the terms of this Agreement during the Construction Period.

7. This Court, the Honorable R. Ferrell Cothran, Jr., shall maintain concurrent jurisdiction for the purpose of resolving any matters that may arise under this court approved settlement agreement, including without limitation the remedy of specific performance and enforcement of the terms of this Agreement. In the event Judge Cothran is unavailable, the parties agree that any circuit court judge assigned to the Third Judicial Circuit may exercise jurisdiction over this matter..."

(*Order filed 01/04/2019, p. 4. §§ 6, 7, (R., p. 60, pa. 4)*)

Appellants contend that the Order filed January 4, 2019, was not appealable under S.C. Code Ann. § 14-3-330 (Supp. 2019). The Settlement Order did not foreclose on issues being raised subsequently “including without limitation the remedy of specific performance and enforcement of the terms of this Agreement.” Therefore, Appellants respectfully assert that the Court committed an error of law in concluding that it was appropriate to issue a temporary injunction in this case.

The Court determined that no bond is necessary for the relief sought by the Respondents, “as this is the relief agreed upon by the parties.” (R., p. 2, pa. 1) Appellants assert that there is no prospective agreement in the Settlement Order whereby the Appellants agreed to have a temporary injunction issued against them and they did not consent to waive bond in the event a temporary injunction was ever issued. The said Order filed January 4, 2019, is incorporated herein by reference as fully as if recited verbatim. Rule 65 provides one exception for when security is not required, which is not applicable in this case, and states that “no restraining order or temporary injunction shall issue except upon the giving of security by the applicant ...” *Rule 65(c), SCRPC*.

Appellants argue that the Court abused its discretion and committed errors of law in granting the Temporary Injunction on the grounds that the temporary injunction is unlawful in that it did not comply with the prerequisites set forth in Rule 65, SCRPC, for granting an injunction. Due to the wrongful temporary injunction, Appellants have suffered damages and have incurred attorney’s fees and cost arising from the initiation and defense of these proceedings for which Respondents are responsible.

For the foregoing reasons, Appellants respectfully request that this Court Dissolve the Temporary Injunction Regarding Shingle Mill Road Ordered by the Circuit Court Judge on July 10, 2020, and award compensation to the Appellants for damages including but not limited to attorney’s fees and costs arising from the wrongful issuance of the Temporary Injunction.

3. Did the Circuit Court Judge commit error in his Order filed September 15, 2021, granting Respondents’ Motion for Specific Acts and Vesting Title Under Rule 70, SCRPC?

The Respondents filed a motion to enforce settlement of an Order entered on January 4, 2019, and for judgment for specific acts and vesting title under Rule 70, SCRPC, which provides as follows:

If a judgment directs a party to execute a conveyance of land or to deliver deeds or other documents or to perform any other specific act, and the party fails to comply within the time specified, the court may direct the acts to be done at the cost of the disobedient party by some other person appointed by the court and the act when so done has like effect as if done by the party. On application of the party entitled to performance, the court may issue a writ of attachment or sequestration against the property of the disobedient party to compel obedience to the judgment. The court may also in proper cases adjudge the party in contempt. If real or personal property is within the state, the court in lieu of directing a conveyance thereof may enter a judgment divesting the title of any party and vesting it in others and such judgment has the effect of a conveyance executed in due form of law. When any order or judgment is for the delivery of possession, the party in whose favor it is entered is entitled to a writ of execution or assistance upon application to the clerk.

Rule 70, South Carolina Rules of Civil Procedure

This controversy involves a dispute over rights of ingress and egress easements relating to Shingle Mill Road, a private unpaved roadway in the Providence Township of Sumter County. Litigation commenced on September 17, 2008, and the case came on for trial on April 25, 2017¹, before the Honorable R. Ferrell Cothran, Jr. The parties had reached an agreement and the settlement was placed on the record pursuant to Rule 43(k), South Carolina Rules of Civil Procedure. The Settlement Agreement was incorporated in the Order filed on January 4, 2019 (hereinafter referred to as “Settlement Order”), the text of which follows:

This matter being called to trial on April 25, 2017, the parties reached the following agreement and the settlement was placed upon the record. Rule 43(k), South Carolina Rules of Civil Procedure. The Court enters the following Order consistent with the terms of the settlement.

¹ According to the Order filed January 4, 2019, the matter was called to trial on April 25, 2017. The Transcript of Record shows the date of the proceedings as April 26, 2017.

Statement of the facts

Plaintiffs and Defendants own certain tracts of real property in the Providence Township of Sumter County that are contiguous to Shingle Mill Road, a private unpaved roadway. Shingle Mill Road current transverses through the approximate center of Plaintiff's property and near certain dwellings (hereinafter "Shingle Mill current situs"). In this legal action, Plaintiffs assert, and Defendants deny, that Defendants do not have a right of ingress and egress access on Shingle Mill Road to their real property. Defendants assert, and Plaintiffs deny, that they have an express or implied easement of ingress and egress on Shingle Mill Road to access their real property.

Also in this legal action, Plaintiffs assert, and Defendants deny, that Defendants have trespassed upon their property by using Shingle Mill Road for ingress and egress, and that Plaintiffs have suffered damages. Defendants assert, and Plaintiffs deny, that Plaintiffs have blocked access and refused to allow maintenance of Shingle Mill Road, and that Defendants have also suffered damages.

The parties hereto hereby agree as follows:

1. Evelyn C. Ludd, as Personal Representative of the Estate of Fannie M. Champion, Samuel Champion, Evelyn C. Ludd, Sarah C. Evans, Rachel C. Brown, Henry Champion, Jr., Janie M. Champion, Mary Johnson and John L. Champion, hereby grant to Ronald L. Hallman, Marjorie J. Hallman, Elton J. Hallman, Conswalla E. Hallman, Oron J. Hallman and Hazelee C. Hallman, Edward G. Hamilton, Helen D. Hamilton, Edward E. Hamilton, Raymond Forbes Davenport, II, and Mary Ellen Davenport, including all agents and employees, an unconditional release and discharge of all causes of action, both known and unknown, arising at any time since the beginning of the world until the present.

2. Ronald L. Hallman, Marjorie J. Hallman, Elton J. Hallman, Conswalla E. Hallman, Oron J. Hallman and Hazelee C. Hallman, Edward G. Hamilton, Helen D. Hamilton, Edward E. Hamilton, Raymond Forbes Davenport, II, and Mary Ellen Davenport, hereby grant to Evelyn C. Ludd, as Personal Representative of the Estate of Fannie M. Champion, Samuel Champion, Evelyn C. Ludd, Sarah C. Evans, Rachel C. Brown, Henry Champion, Jr., Janie M. Champion, Mary Johnson and John L. Champion, an unconditional release and discharge of all causes of action, both known and unknown, arising at any time since the beginning of the world until the present.

Terms of the court approved settlement agreement: The settlement agreement is particularly shown and delineated on a certain plat entitled “LAND SWAP: SHINGLE MILL ROAD ACCESS” prepared by Louis White Tisdale, RLS, dated May 26, 2017, as recorded in the Office of the Register of Deeds for Sumter County in Plat Book 2017, at page ____ (hereinafter referred to as “LAND SWAP plat”), and made a part of this record by reference.

3. Plaintiffs shall, to the extent each may have a financial interest in the subject property, convey to Defendants a Fifty (50) foot non-exclusive easement in perpetuity of ingress and egress across certain real property as described as Parcel A and shown on the LAND SWAP plat. Defendants shall immediately be entitled to use and maintain the easement in its current location, provided however, that within a period of time not to exceed two (2) years from the date of this Agreement, Defendants shall maintain the traveled portion of the roadway as far as practicable away from the residence of Evelyn C. Ludd. Nothing in this Agreement shall prevent Plaintiffs, at any time and at their own expense, from maintaining and moving the traveled portion of the roadway further away from the Ludd residence, provided however, that such conduct does not interfere with Defendants right to quiet use, enjoyment and maintenance.

4. Plaintiffs shall, to the extent each may have a financial interest in the subject property, convey in fee simple certain real property consisting of several tracts of land equaling 0.96 acres and more fully described as Parcel B in the LAND SWAP plat to Defendants; and in exchange Defendants shall, to the extent each may have a financial interest in the subject property, convey in fee simple certain real property consisting of several tracts of land equaling 0.97 acres and more fully described as Parcel C in the LAND SWAP plat to Plaintiffs. Both fee simple properties are also shown on the LAND SWAP plat.

5. Defendants shall, within a time period not to exceed two (2) years [hereinafter “Construction Period”] from the date of this Agreement, take all necessary action to clear and construct a private exclusive roadway for the purpose of ingress and egress to their real property along Parcel B. Upon completion of the private exclusive roadway along Parcel B, and subject to the Fifty (50) foot non-exclusive easement in perpetuity of ingress and egress across certain real property as described in Parcel A and shown on the LAND SWAP plat. Defendants shall no longer use that portion of Shingle Mill Road (Shingle Mill current situs) that transverses through the center of Plaintiffs’ real property.

6. Plaintiffs warrant not to interfere with Defendants quiet use, enjoyment, and maintenance of the Fifty (50) foot non-exclusive easement in perpetuity of ingress and egress across certain real property as described as Parcel

was entered upon the record of this case on April 25, 2017. Judge Cothran's Order incorporated the terms of the Court-Approved Settlement Agreement and set a specified time for the Defendants to construct the agreed-upon road; to wit:

Defendants shall, within a time period not to exceed two (2) years [hereinafter "Construction Period"] from the date of this Agreement, take all necessary action to clear and construct a private exclusive roadway for the purpose of ingress and egress to their real property along Parcel B. Upon completion of the private exclusive roadway along Parcel B, and subject to the Fifty (50) foot non-exclusive easement in perpetuity of ingress and egress across certain real property as described in Parcel A and shown on the LAND SWAP plat. Defendants shall no longer use that portion of Shingle Mill Road (Shingle Mill current situs) that transverses through the center of Plaintiffs' real property.

(Order filed 01/04/2019, p. 4, ¶5, R., p. 60, pa. 5)

Clearly, the Settlement Order requires that the Respondents shall, within a period not to exceed two years from the date of the Agreement, take all necessary action to clear and construct a private exclusive roadway, and the Settlement Order clearly describes the location where the said roadway was to have been constructed.

On the other hand, the Court summarily ordered that the parties execute documents to effectuate the settlement as set forth in the Settlement Order. No specific date or time frame is mentioned with regard to execution of the documents to effectuate the settlement. However, there is no ambiguity in the terms of the Settlement Order, and there is no need to construe the plain and unambiguous language requiring the construction of the roadway "not to exceed two (2) years hereafter." However, there is no contingency involved and no qualification attached to the mandate that the roadway shall be constructed within the two year period. In deciding the case of Willms Trucking Company, Inc. v. JW Construction Co., Inc., 314 S.C. 170,178, 442 S.E.2d 197,202 (Ct. App. 1994), the South Carolina Court of Appeals cited the following

illuminating holdings which apply to a party who, as here, does not come to the court with clean hands: (1) “a party cannot take advantage of his own default in the performance of a contract,” and (2) “where a contract is not performed, the party who is guilty of the first breach is generally the one upon whom all liability for the nonperformance rests. (Internal Cites Omitted) Willms Trucking, 314 S.C. at 178, 442 S.E.2d at 201.

The Settlement Order is silent as to the time within which the deeds were to be executed. Therefore, Rule 70, SCRCF, is not applicable to the Appellants in this case. Of concern to the Appellants is the fact that Respondents are attempting to force a transfer of the property when they have failed to comply with the Settlement Agreement to construct the roadway which they claimed to be of grave necessity. Respondents’ push to obtain title to Appellants’ property without showing a willingness to perform under the Settlement Agreement follows a pattern apparent from the history of this litigation. This action originated due to the misconduct of the Respondents, and the course of this litigation has been marked by efforts on the part of the Respondents to gain control over and use of Appellants’ property to the detriment of the Appellants. (*Affidavit of Evelyn C. Ludd dated July 21, 2020*; R., p. 224) From the actions of the Respondents in disregarding the Court-Approved Settlement, it can be inferred that the Respondents are using the courts as a means to further manipulate, harass and gain an advantage over the Appellants.

Respondents have breached the Settlement Agreement, the Appellants deny any breach on their part. Appellants have been forced to defend against wrongful litigation precipitated by the Respondents and have suffered damages thereby.

For the foregoing reasons, the Order of the Circuit Court should be reversed, and Appellants should be awarded attorney fees and the costs of this litigation.

4. Did the Circuit Court Judge commit error in setting the amount and type of bond required to be posted by the Plaintiffs?

In response to Appellants' Motion To Alter or Amend Judgment, this Court denied the Motion by way of a Form 4, Judgment in a Civil Case, filed October 4, 2021, and issued a Form 4, Amended Judgment in a Civil Case, on October 6, 2021. (R., p. 178 and p. 9) Both Orders left intact the judgment in the Order dated September 15, 2021, which contained the following provision:

In the event any party appeals and seeks a stay of any one or more of the Orders entered in this matter, the appealing party shall be required to post with the Sumter County Clerk of Court cash surety in an amount not to exceed Fifty Thousand and no/100 (\$50,000.00) dollars, or such other amounts as may be determined to be sufficient by the Court. *South Carolina Code §18-9-130*, and *South Carolina Code §18-9-170*. All limitations set forth in (7) above shall be immediately stayed until further Order of the court upon the filing of any appeal. *Order, P. 2, pa. 8; R. p. 10, pa. 8*).

Appellants respectfully assert that the Circuit Court, in determining an amount of the bond and the nature of the undertaking, failed to take into consideration the value of the land at issue, the likelihood of harm to the real estate, and the potential for damage or loss to which the Respondents could be exposed during the process of an appeal.

The Order required that the appealing party shall be required to post a "cash surety" in an amount not to exceed \$50,000.00. For purposes of this argument, Appellants draw a distinction between a cash bond and a surety bond. As commonly used a "cash bond" means the posting of actual legal tender in United States currency. A surety bond constitutes the promise of a person who assumes liability for a debt or performance of an action or actions; that is to say, a written undertaking.

The Court cites Section 18-9-130, which addresses the "Effect of notice of an appeal on execution of judgment; sale of defendant's property; appeal in civil action involving signatory of Master Settlement Agreement." *S.C. Code Ann. §18-9-130 (2014)* Appellants contend that this section is

inapplicable to the facts of Champion v. Hallman, which is being litigated here. The judgment here is not for cash, or for the sale of Respondent's property, and it does not involve the signatory of a Master Settlement agreement. The phase before the Court revolves around Respondents' failure to timely comply with the Settlement Agreement. Appellants assert that such failure constitutes a breach of contract and renders the Settlement Agreement void. Hence, the subject Order itself is premature in that there is no adjudication of the issues raised to the Court as a prerequisite to any Order ending the case.

The Order also relies upon Section 18-9-170, "Staying Judgment for sale or delivery of land," which provides as follows:

If the judgment appealed from direct the sale or delivery of real property, the execution of the judgment shall not be stayed unless a written undertaking be executed on the part of the appellant, with two sureties, to the effect that during the possession of such property by the appellant he will not commit or suffer to be committed any waste thereon and that if the judgment be affirmed he will pay the value of the use and occupation of the property from the time of the execution of the undertaking until the delivery of possession thereof pursuant to the judgment, not exceeding a sum to be fixed by a judge of the court by which the judgment was rendered and which shall be specified in the undertaking. ... *S.C. Code Ann. §18-9-170 (2014)*

Appellants direct the Court's attention to the portion of Section 18-9-170 which requires two sureties upon "a written undertaking ..." There is no requirement for a "cash surety" as mandated in the Order, thus making it contrary to and in opposition to the statute.

Specifically reserving their position that the disposition of this case is premature, and that the Court erred in its Order, Appellants cite, *arguendo*, the following Section 18-9-160, Staying judgment to execute conveyance, as the operative statute.

If the judgment appealed from directs the execution of a conveyance or other instrument, the execution of the judgment shall not be stayed by the appeal until the instrument shall have been executed and deposited with the clerk with whom the judgment is entered, to abide the judgment of the appellant court. *S.C. Code ann. §18-9-160 (2014)*

This statute does not, on its face, require the execution of a bond in any form. It only dictates that the executed instrument be deposited with the Clerk “to abide the judgment of the appellant court.” The fact that the posting of a bond is mandated in this case, the point that a “cash surety” is required, and the excessive amount of the bond in relation to the value of the real estate, appears to and does impose a chilling effect upon the Appellants’ right to seek legal redress in our judicial system. Therefore, the Order of the Court with regard to bond should be reversed.

CONCLUSION

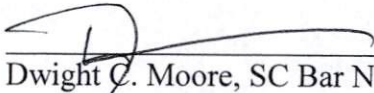
For the foregoing reasons, Appellants respectfully urge the Court to grant relief as appropriate to serve the ends of justice, promote judicial economy and facilitate a just, fair, equitable and final resolution of this controversy as follows:

1. Vacate the Settlement Order and Remand the case to the Court of Common Pleas for actions consistent with the holdings and Opinion of this Court;
2. Provide guidance to the lower Court and Counsel by making specific rulings with regard to appealed Orders filed in this action subsequent to the date of the Settlement Order;
3. Dissolve the Order Granting a Temporary Injunction Regarding Shingle Mill Road; and
4. Dissolve, set aside, vacate, and/or nullify all actions required as a result of substantive errors in the written Orders and Judgments of the Court in granted relief emanating from Respondents’ Motion for Specific Acts and Vesting Title Under Rule 70, SCRCF.

[Signature on Next Page]

March 17, 2023

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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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APPEAL FROM SUMTER COUNTY
COURT OF COMMON PLEAS

SC Court of Appeals

R. Ferrell Cothran, Jr., Circuit Court Judge
C/A No. 2008-CP-43-02112

Appellate Case No. 2021-001293

The Estate of Fannie M. Champion, by
Evelyn Champion Ludd, Personal
Representative, Samuel Champion,
Evelyn C. Ludd, Sarah C. Evans,
Rachel C. Brown, Henry Champion, Jr.,
Janie M. Champion, Mary Johnson and
John L. Champion,

Appellants,

v.

Ronald L. Hallman, Marjorie J. Hallman,
Elton J. Hallman, Conswalla E. Hallman,
Oron J. Hallman, Hazelee C. Hallman,
Edward G. Hamilton, Helen D. Hamilton,
Edward E. Hamilton, Raymond Forbes
Davenport, II, and Mary Ellen Davenport,

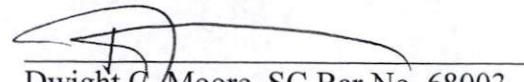
Respondents.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Final Brief of the Appellants in the above-captioned case complies with Rule 211(b), SCACR.

March 17, 2023

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