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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM AIKEN COUNTY
Eugene C. Griffith, Jr., Circuit Court Judge

Appellate Case No. 2024-000592
Case No. 2020-CP-02-2238

Cassiopia Rhoads, Respondent-Appellant,

v.

Aiken County Sheriff's Office, Appellant-Respondent.

**APPELLANT-RESPONDENT'S MOTION
FOR STAY OF APPEAL AND LIMITED REMAND**

The Appellant-Respondent Aiken County Sheriff's Office hereby moves this Court for an order staying this appeal and remanding jurisdiction to the Circuit Court for the limited purpose of allowing for the final adjudication of the pending Motion to Alter or Amend Order and/or Motion to Reconsider filed March 22, 2024.

This action was tried to a jury during the week of October 9, 2023. The jury return a verdict in the amount of \$950,000 actual damages in favor of the Respondent-Appellant Cassiopia Rhoads. Both parties filed timely post-trial motions, including motions for a JNOV and a new trial absolute filed by the Sheriff's Office. On March 12, 2024, Circuit Judge Eugene C. Griffith, Jr. issued two orders: (1) Order Relating to Post-Trial Motions and (2) Order Reducing Verdict to Statutory Cap. On March 22, 2024, the Sheriff's Office filed a timely Motion to Alter or Amend Order and/or Motion to Reconsider pursuant to Rule 59(e), SCRCF, to ensure that all issues were properly preserved for appellate review.

By April 11, 2024, Judge Griffith had not ruled on the pending Motion to Alter or Amend Order and/or Motion to Reconsider. On that date, which marked thirty days after the filing of the aforementioned orders, the Sheriff's Office proceeded with filing its Notice of Appeal. The Respondent-Appellant also filed a Notice of Appeal on that date.

The Sheriff's Office filed its Notice of Appeal out of an abundance of caution to avoid any timeliness questions. In *Elam v. South Carolina Department of Transportation*, 361 S.C. 9, 602 S.E.2d 772, 780 (2004), the Supreme Court held as follows:

If a party is unsure whether he properly raised all issues and obtained a ruling, he must file a Rule 59(e) motion or an appellate court may later determine the issue or argument is not preserved for review. But in filing the

motion, he may unwittingly forfeit the right to an appeal if an appellate court later determines the Rule 59(e) motion was unnecessary because he already had raised the issue and obtained a ruling.

602 S.E.2d at 780. The Sheriff's Office's filing of its Notice of Appeal and this motion for remand are made solely to protect its appellate rights and to ensure that appellate jurisdiction does not become an issue or that, in the Supreme Court's words, the Sheriff's Office "unwittingly forfeits the right to an appeal." *Id.* As the Supreme Court reaffirmed in *Elam*, if this Court were to later find that the Rule 59(e) was unnecessary or successive, this Court's jurisdiction would be automatically barred if the Sheriff's Office had failed to file a timely notice of appeal. *See, Elam*, 602 S.E.2d at 775-77 (citing cases in which appellate courts have found a Rule 59(e) motion was improper and did not stay the time to appeal).

The Sheriff's Office does not believe that its pending Motion to Alter or Amend Order and/or Motion to Reconsider is an unnecessary or successive motion because there are issues raised in the post-trial motions that are not mentioned, let alone addressed, in the Order Relating to Post-Trial Motions. However, as a precautionary measure and to avoid the potential for a jurisdictional bar, the Sheriff's Office proceeded with filing its Notice of Appeal and now requests the Court to stay the appeal and allow for a limited remand so that the pending Motion to Alter or Amend Order and/or Motion to Reconsider may be heard and ruled on by Judge

Griffith. That will ensure that all issues raised in the court below are properly preserved for appellate review.

Respectfully submitted,

LINDEMANN LAW FIRM, P.A.

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*Counsel for Appellant-Respondent
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April 19, 2024

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CERTIFICATE OF SERVICE

Pursuant to Section (d)(1) of the Supreme Court's Order Methods of Electronic Filing and Service Under Rule 262 of the South Carolina Appellate Court Rules (As Amended May 6, 2022), the undersigned employee of Lindemann Law Firm, P.A., counsel for the Appellant, does hereby certify that service of the **Appellant-Respondent's Motion for Stay of Appeal and Limited Remand** in the above-captioned matter was made upon all counsel of record by email only this the 19th day of April 2024 as follows:

Francis M. Hinson, IV, Esquire
HHP Law Group, LLC
Email: brink@hhplawgroup.com

Patrick J. McLaughlin, Esquire
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s/ Andrew F. Lindemann



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*Also Admitted in North Carolina

April 19, 2024

RECEIVED
Apr 19 2024
SC Court of Appeals

Via Email Only

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
Email: ctappfilings@sccourts.org

RE: Cassiopia Rhoads v. Aiken County Sheriff's Office
Appellate Case Number: 2024-000592
Civil Action Number: 2020-CP-02-2238
Claim Number: 2020G00077
Our File Number: 333.20304

Dear Ms. Kitchings:

Pursuant to Section (b)(2) the Supreme Court's Order Methods of Electronic Filing and Service Under Rule 262 of the South Carolina Appellate Court Rules (As Amended May 6, 2022), please find enclosed for filing **Appellant-Respondent's Motion for Stay of Appeal and Limited Remand** with regard to the above referenced matter. My firm's check for the \$50.00 filing fee will be mailed to the Court pursuant to Section (c) of the same Supreme Court Order.

By copy of this letter, I am serving copies on all counsel of record by email only pursuant to Section (d)(1) of the same Supreme Court Order. If you have any questions, please advise.

Thank you for your assistance.

Sincerely,

LINDEMANN LAW FIRM, P.A.

Andrew F. Lindemann

AFL/jmb
Enclosure

cc: Francis M. Hinson, IV, Esquire (w/ Enclosure, Via Email Only)
Patrick J. McLaughlin, Esquire (w/ Enclosure, Via Email Only)