

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas  
The Honorable George M. McFaddin, Jr., Circuit Court Judge

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C.A. No. 2023-CP-10-01512

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Charleston SC Property Holdings, LLC, Hanahan SC Property Holdings, LLC, and Michael Flanagan, Receiver.....Respondents,

v.

Rittenberg OP, LLC, Hanahan OP, LLC, Goldner Management, LLC, SC Two OP Holdings, LLC, and Samuel Goldner.....Appellants.

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NOTICE OF APPEAL

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Appellants Rittenberg OP, LLC, Hanahan OP, LLC, Goldner Management, LLC, SC Two OP Holdings, LLC, and Samuel Goldner (“Appellants”) appeal the Orders of the Honorable George M. McFaddin, Jr., Circuit Court Judge, Appointing Receiver, Denying Appellants’ Rule 59(e) Motion for Reconsideration, Request for Stay Pursuant to Rule 62(a), and Offer of Bond, and Motion, and Denying Appellants’ Rule 59(e) Motion for Reconsideration of Denial of Request for Stay and Offer of Bond. The Order Appointing Receiver was dated and filed on April 14, 2023. Appellants timely filed on April 14, 2023 a Motion for reconsideration of the appointment of the receiver and further requesting a stay of the April 14, 2023 Order Appointing Receiver pursuant to Rule 62(a) and offering a bond pursuant to Paragraph 26 of the Court’s April 14, 2023 Order. The Court issued a Form 4 Order on April 27, 2023 denying Appellants’ motion to reconsider and denying, without any explanation or justification, Appellants’ request for stay and offer of bond to obtain redelivery of the property in question. Due to the Court’s bald denial of Appellants’ request for stay and offer of bond in its April 27, 2023 Form 4 Order, which constitutes a clear abuse of discretion according to the Supreme Court’s recent decision in Morris v. BB & T Corp., 438 S.C. 582, 885 S.E.2d 394 (2023), Appellants timely filed on May 5, 2023 a Motion requesting the Court to reconsider the its April 27, 2023 Form 4 Order denying the requested stay and offer of bond and to “either approve Defendants’ Offer of Bond or provide an explanation of the Court’s denial thereof both identifying the relevant property and fixing the value of the property for which the bond may be given pursuant to S.C. Code Ann. § 15-65-60.” Despite timely filing the May 5, 2023 Motion requesting reconsideration of the April 27, 2023 Form 4 Order, a copy of the May 5, 2023 Motion was inadvertently not transmitted to Judge McFaddin via email or hardcopy as directed by Rule 59(g). Once the oversight concerning transmission of a copy of the timely filed May 5, 2023 Motion pursuant to Rule 59(g) was brought to the attention of Appellants’ Counsel on November 17, 2023, a copy of the May 5,

2023 Motion was emailed to Judge McFaddin on November 20, 2023. Judge McFaddin ultimately issued an Order on March 28, 2024 denying Appellants' May 5, 2023 Motion. Gallagher v. Evert, 353 S.C. 59, 63, 577 S.E.2d 217, 219 (Ct. App. 2002) (“There is no indication that the failure to transmit a copy of the [Rule 59(e), SCRCF,] motion to the circuit court affects the tolling provision of Rule 203(b)(1), SCACR. Therefore, the time for filing the notice of appeal did not begin to run until after the circuit court denied the motion....”); see also Farmer v. CAGC Ins. Co., 424 S.C. 579, 585, 819 S.E.2d 142, 145 (Ct. App. 2018) (citing Gallagher and rejecting that an appeal was untimely due to a delay resulting from appellant's failure to transmit a copy of a motion to reconsider to the trial judge pursuant to Rule 59(g), SCRCF). Copies of the Orders being appealed from are attached hereto.

April 29, 2024

BRUMBACK & LANGLEY, LLC

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Property Holdings, LLC, and Hanahan SC  
Property Holdings, LLC

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Attorney for Respondent Michael Flanagan,  
Receiver

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PROOF OF SERVICE

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I certify that on April 29, 2024 I served Appellant’s Notice of Appeal on Respondents Charleston SC Property Holdings, LLC and Hanahan SC Property Holdings, LLC by electronic filing and emailing a copy of the Notice of Appeal to their attorneys of record Charles P. Summerall, IV at summerall@wglfirm.com. Also served with the Notice of Appeal via electronic filing and email is counsel of record for the Receiver, Michael H. Weaver, at Michael.Weaver@rogerstownsends.com.

April 29, 2024

BRUMBACK & LANGLEY, LLC

s/Christopher T. Brumback

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SC Court of Appeals

BRUMBACK & LANGLEY, LLC

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BUSINESS & CORPORATE LAW  
APPELLATE PRACTICE  
CRIMINAL DEFENSE  
PERSONAL INJURY

April 29, 2024

**VIA FIRST CLASS U.S. MAIL &  
ELECTRONIC MAIL—[ctappfilings@sccourts.org](mailto:ctappfilings@sccourts.org)**

South Carolina Court of Appeals  
The Honorable Jenny Abbott Kitchings  
P.O. Box 11629  
Columbia, SC 29211

Re: *Charleston SC Property Holdings, LLC et al. v. Rittenberg OP, LLC et al.*  
*C.A. No. 2023-CP-10-01512*

Dear Ms. Kitchings:

Attached hereto, please find the Notice of Appeal that was filed today, April 29, 2024, with the Clerk of Court for Charleston County in the above-referenced case. A hardcopy of this letter containing a check for the Two Hundred Fifty Dollar (\$250.00) filing fee is also being sent via First Class U.S. Mail. Also attached hereto is the Proof of Service for the Notice of Appeal. If you require anything further from my office, please do not hesitate to contact me at (864) 414-9097. Counsel for Respondents, Charles Summerall, IV, and counsel for the Receiver, Michael H. Weaver, are being served with a copy of this filing via electronic mail at the following email addresses:

Charles Summerall, IV — [summerall@wglfirm.com](mailto:summerall@wglfirm.com); and  
Michael H. Weaver — [Michael.Weaver@rogerstownsend.com](mailto:Michael.Weaver@rogerstownsend.com).

With kindest regards, I am

Truly yours,

s/Christopher T. Brumback

Christopher T. Brumback, Esq.  
Brumback & Langley, LLC

CTB/

cc: Charles Summerall, IV (via email)  
Michael H. Weaver (via email)