

**RECEIVED**

**Jan 21 2025**

**SC Court of Appeals**

**STATE OF SOUTH CAROLINA**

**IN THE COURT OF APPEALS**

**APPEAL FROM OCONEE COUNTY CIRCUIT COURT**

**Order of Honorable Judge R. Lawton McIntosh**

Appellate Case No. 2024-001641

Dorothy Pierce-----Appellant,

v.

Samantha Leigh a/k/a Pierce, and Cody Hiott-----Respondents.

---

**INITIAL APPEAL BRIEF OF APPELLANT**

---

**JANUARY 21, 2025**

s/Dorothy Pierce

**DOROTHY PIERCE, Appellant.**

750 Mourning Dove Lane,

Seneca, South Carolina 29678

**TABLE OF CONTENTS**

TABLE OF CONTENTS .....2

STATEMENT OF ISSUES ON APPEAL .....4

STANDARD OF REVIEW .....6

STATEMENT OF THE CASE .....7

STATEMENT OF FACTS .....9

ARGUMENT ..... 17

    I. Plaintiff Has Legal Standing to Pursue This Action as Personal Representative of the Estate of Doyle Elton Pierce. .... 17

    II. Plaintiff’s Standing as an Heir to Enforce Payment of Rent ..... 18

    III. The October 25, 2024, Ruling Resolves The Issue Of Standing ..... 19

    IV. Portion Of October 25, 2024, Court Of Appeals Order Remanded To Circuit Court Does Not Affect Appellant’s Standing As Personal Representative ..... 19

    V. The September 23, 2024, Circuit Court Order Failed To Address The Merits Of The Case...20

    VI. Respondents, Non-Heirs, Are Unjustly Enriching Themselves at the Expense of the Estate and Its Heirs.....20

    VII. Respondents Lack Standing to Challenge Appellant’s Actions on Behalf of the Estate...21

    VIII. The Estate’s Financial Interest Requires Immediate Action .....21

    IX. Respondents and Their Attorney's Deliberate Interference with Estate Management .....22

    X. Appellant has Right to Collect Rent from Non-Heirs .....23

    XI. Respondents’ Attorney Intentionally Misrepresented Facts to Mislead the Court.....23

    XII. Conflict of Interest and Improper Interference by Attorney Richard Hunt McDuff.....24

CONCLUSION .....26

**TABLE OF AUTHORITIES**

**Graham v. Graham**, 301 S.C. 128, 390 S.E.2d 469 (Ct. App. 1990).....6

**Charleston Cnty. Sch. Dist. v. Harrell**, 393 S.C. 552, 713 S.E.2d 604 (2011).....6

**Santee Cooper Resort, Inc. v. S.C. Pub. Serv. Comm’n**, 298 S.C. 179, 379 S.E.2d 119 (1989)..6

**S.C. Code Ann. § 19-11-20**..... 15

**S.C. Code Ann. § 62-3-703** .....21

**SCRCP Rule 43(k)**..... 11

**Smith v. Smith**, 359 S.C. 34, 596 S.E.2d 346 (2004) ..... 15

**South Carolina Rule 241(a)** .....6

**South Carolina Rules of Professional Conduct, Rule 1.7**.....24

**South Carolina Rules of Professional Conduct, Rule 3.3**.....23

## STATEMENT OF ISSUES ON APPEAL

1. **Error in Dismissing Under Rule 12(b)(6), SCRCF:** Whether the Circuit Court erred in dismissing the Appellant's claims under Rule 12(b)(6), SCRCF, for lack of standing, and whether the dismissal failed to consider the sufficiency of the allegations in the complaint when viewed in the light most favorable to the Appellant.
2. **Automatic Stay Under Rule 241(a), SCACR:** Whether the Circuit Court improperly dismissed the Appellant's claims without considering the automatic stay provisions of Rule 241(a), SCACR, which preserved the Appellant's authority as Personal Representative pending resolution of her appeal.
3. **Reliance on November 2, 2023, Probate Court Order:** Whether the Circuit Court improperly relied on the November 2, 2023, Probate Court Order removing the Appellant as Personal Representative, despite that order being automatically stayed under Rule 241(a), SCACR, upon the Appellant's timely notice of appeal.
4. **Failure to Address Substantive Merits:** Whether the Circuit Court's dismissal order failed to address the substantive merits of the Appellant's claims, including the Respondents' prolonged nonpayment of \$17,760 in rent, which constitutes unjust enrichment and financial harm to the estate.
5. **Standing as a 50% Heir to the Estate:** Whether the Circuit Court erred in dismissing the Appellant's claims by failing to consider her independent standing as a 50% heir to the Estate of Doyle Elton Pierce, granting her the right to protect her inheritance and pursue claims necessary to preserve estate assets.
6. **October 25, 2024, Court of Appeals Decision:** Whether the October 25, 2024, ruling by the South Carolina Court of Appeals, which affirmed the Appellant's standing as Personal Representative for purposes of preserving the estate under Rule 241(a), SCACR, and authorized actions necessary to recover estate assets, resolves the issues raised in this case on appeal, including the Appellant's authority to collect unpaid rent.
7. **Violation of Fiduciary Duty and Statutory Obligations:** Whether the Circuit Court violated South Carolina law, including S.C. Code Ann. §§ 62-3-703 and 62-3-709, by concluding that the

Appellant lacked authority to pursue recovery of unpaid rent from non-heirs, despite such actions being necessary to preserve estate assets and fulfill fiduciary duties.

8. **Unjust Enrichment by Respondents:** Whether the Respondents' prolonged rent-free occupation of estate property, as non-heirs with no legal or equitable interest in the estate, constitutes unjust enrichment, thereby warranting the Appellant's legal action for recovery of unpaid rent.
9. **Failure to Address Respondents' Lack of Standing:** Whether the Circuit Court erred in failing to recognize that the Respondents, as non-heirs, lacked standing to challenge the Appellant's actions as Personal Representative and were obligated to pay rent for estate property under S.C. Code Ann. § 62-3-709.
10. **Denial of Procedural Remedies:** Whether the Circuit Court abused its discretion and denied the Appellant due process by dismissing her claims without providing an opportunity to amend her complaint or address procedural deficiencies.
11. **Conflict of Interest by Respondents' Attorney:** Whether Attorney Richard Hunt McDuff, by simultaneously representing heirs and non-heirs (Defendants Samantha Leigh and Cody Hiott), created a conflict of interest and interfered with the proper administration of the estate, causing harm to the estate and its rightful heirs.

## **STANDARD OF REVIEW**

This appeal challenges the Circuit Court's dismissal of the Appellant's claims under Rule 12(b)(6), SCRPC, for lack of standing. Dismissals under Rule 12(b)(6) are reviewed de novo, meaning the appellate court gives no deference to the trial court's decision. The court must determine whether, viewed in the light most favorable to the plaintiff and with all reasonable inferences resolved in her favor, the complaint states a valid claim for relief. As held in *Charleston Cnty. Sch. Dist. v. Harrell*, 393 S.C. 552, 713 S.E.2d 604 (2011), dismissal is appropriate only if no set of facts could entitle the plaintiff to relief.

The interpretation of Rule 241(a), SCACR, which mandates an automatic stay of lower court orders upon the filing of a timely appeal, is also reviewed de novo. In *Graham v. Graham*, 301 S.C. 128, 390 S.E.2d 469 (Ct. App. 1990), and *Santee Cooper Resort, Inc. v. S.C. Pub. Serv. Comm'n*, 298 S.C. 179, 379 S.E.2d 119 (1989), the courts emphasized that Rule 241(a) preserves the status quo during an appeal, preventing the enforcement of contested orders while the appeal is pending. Here, the automatic stay provisions of Rule 241(a), SCACR, preserved the Appellant's authority as Personal Representative. The Circuit Court's failure to account for this rule when dismissing the Appellant's claims constitutes reversible error.

## STATEMENT OF THE CASE

This appeal challenges the Circuit Court’s dismissal of the Appellant’s complaint, which sought to recover \$17,760 in unpaid rent from Respondents Samantha Leigh and Cody Hiott. The Circuit Court erroneously dismissed the case under Rule 12(b)(6), SCRCF, on the grounds that the Appellant lacked standing. Dorothy Pierce, acting as both the Personal Representative and a 50% heir to the Estate of Doyle Elton Pierce, contends that the Respondents—non-heirs with no legal claims to the estate or involvement in its pending proceedings—have unlawfully occupied estate property rent-free for over 50 months.

The Circuit Court failed to consider the automatic stay provisions of Rule 241(a), SCACR, which preserve the status quo during an appeal. The Appellant’s timely appeal of the Probate Court’s November 2, 2023, order removing her as Personal Representative (PR) automatically stayed the removal order, maintaining her authority to act on behalf of the estate. Despite this clear mandate, the Circuit Court dismissed the Appellant’s claims based on her alleged lack of standing, disregarding her continued authority to pursue claims necessary to preserve estate assets under the stay.

The Appellant’s removal as PR was not due to fiduciary misconduct but instead was an act of retaliation for exercising her constitutional right to appeal a probate court settlement order, which was fraught with procedural irregularities and legal conflicts. Such retaliatory actions undermine due process and the fundamental right to judicial review without fear of reprisal.

The Circuit Court’s dismissal also contravened well-established South Carolina precedent, including *Graham v. Graham*, 301 S.C. 128, 390 S.E.2d 469 (Ct. App. 1990), and *Santee Cooper Resort, Inc. v. South Carolina Pub. Serv. Comm’n*, 298 S.C. 179, 379 S.E.2d 119 (1989). These rulings emphasize that the automatic stay under Rule 241(a) protects legal rights during the appellate process, ensuring fairness and preventing procedural injustice.

Furthermore, the Circuit Court failed to address the substantive merits of the Appellant’s claims. The Appellant’s lawsuit seeks to recover rent crucial to preserving the estate’s financial stability and protecting the interests of its rightful heirs. The court’s sole focus on procedural standing left the estate unable to recover critical funds or address its financial losses.

Following the Circuit Court’s dismissal, the Appellant filed a motion in the South Carolina Court of Appeals under Case No. 2024-00455 seeking clarification of her standing as PR and the enforcement of

the automatic stay in the lower court. On October 25, 2024, the South Carolina Court of Appeals resolved the issue of the Appellant's standing. The Court unequivocally ruled:

"The automatic stay mandated by Rule 241(a) of the South Carolina Appellate Court Rules applies in this case to stay the circuit court's order affirming the probate court's removal of Appellant as personal representative (PR)."

The Court further confirmed that the Appellant retained standing as PR for purposes of preserving the estate's assets and remanded the matter to the Circuit Court only to evaluate whether she should be enjoined from actions beyond estate preservation. This ruling applies directly to this case, as the Circuit Court's dismissal was predicated on the Appellant's alleged lack of standing in estate matters. The October 25, 2024, order unequivocally resolved the standing issue, affirming the Appellant's authority to act as PR under the automatic stay provisions of Rule 241(a).

This appeal seeks reversal of the Circuit Court's dismissal and recognition of the Appellant's continued authority as PR under Rule 241(a). The Appellant requests remand for proper adjudication of her claims, asserting her right to judicial review free from retaliation and ensuring compliance with South Carolina law and established judicial precedent.

## STATEMENT OF FACTS

In June 2020, Samantha Leigh and her boyfriend approached Doyle Elton Pierce, accompanied by Appellant, to discuss renting a property located at 745 Mourning Dove Lane, Oconee County, South Carolina. Appellant, as Doyle Elton Pierce's spouse, was directly involved in these initial discussions and the subsequent agreement. Following this meeting, a rental agreement was established, requiring respondents to pay \$370 per month in rent. As part of the arrangement, they were granted a two-month rent credit (August and September 2020) in exchange for repairing the trailer stand.

Unfortunately, Appellant's husband, Doyle Elton Pierce, passed away on September 14, 2020.

After the two-month rent credit period, Samantha Leigh and Cody Hiott's rent obligations began in October 2020. Despite residing in the trailer for over 50 months, they have failed to pay any rent since October 2020.

**Appellant's Removal as Personal Representative on August 18, 2021, Was Based on Fraud, Not Fiduciary Misconduct:** Following her husband's death on September 14, 2020, the Appellant was appointed as the Personal Representative (PR) of the Estate on September 23, 2020. Jared Adam Pierce, the decedent's son, contested the validity of his father's July 7, 2020, will.

Jared's attorney, Richard McDuff, submitted a series of forged and manipulated signature exemplars to challenge the will. The original documents from which these signatures were extracted were not made available during discovery and were deliberately withheld from the Appellant. Instead, the signature exemplars were copied and pasted onto a single sheet of paper. These outdated and unverifiable exemplars included documents allegedly signed by the decedent in 1965, 1971, 1972, 1975, 1976, 1979, and 2016, as well as a FEMA letter dated May 18, 2020, which Jared claimed bore his father's signature.

The FEMA document, in particular, was clearly forged. On May 18, 2020, Jared was not present at the Appellant's home or anywhere near the decedent. Although he had scheduled a meeting with the Appellant at the decedent's home for that day, he later sent a text message canceling the appointment, making it impossible for him to have obtained his father's signature on that date. In his message, Jared stated: *"Sorry for the delay. Worked last night, took a rest until 12:30 and woke with a headache. Still not feeling well. Sandy has the letter for dad (FEMA) completed. Will be*

*there in the morning, early. Maybe leave the side roll-up door unlocked so that I can get in without having to disturb anyone in the morning.”*

Despite his assurances, Jared did not show up on May 18, May 19, or May 20, 2020. The FEMA letter, which was allegedly signed by the decedent on May 18, 2020, was in the possession of Jared’s wife, Sandra. Sandra unequivocally stated that Jared had attempted to coerce her into falsely signing an affidavit claiming that she witnessed Doyle Pierce sign the FEMA letter. Sandra refused, affirming that she had not witnessed the decedent sign the letter and had no recollection of such a document being executed. She did, however, recall typing the letter for her husband, which further confirmed that Jared could not have legitimately obtained his father’s signature on May 18, 2020.

There is absolutely no way Jared could have secured his father’s signature on May 18, 2020. The signature on the FEMA letter and other exemplars presented to the court were clearly forged. These fraudulent documents were used to mislead the court and challenge the decedent’s will without any credible or factual basis. Jared’s attempts to fabricate evidence, including coercing his wife, further undermine the integrity of the evidence presented against the Appellant.

On August 18, 2021, the Probate Court relied on fraudulent evidence to set aside the valid Last Will and Testament of the Appellant’s husband and remove the Appellant as PR, despite no evidence of fiduciary misconduct. The documents presented by the handwriting expert were withheld from the Appellant before trial, preventing her from challenging their authenticity and validity in a timely manner. This denial deprived the Appellant of the opportunity to adequately defend the will. To preserve her right to appeal, the Appellant filed a motion for a new trial, highlighting these irregularities.

Judge Kenneth Earl Johns, who was suspended at the time, denied the Appellant’s Motion for a New Trial. Unbeknownst to the Appellant, Judge Johns signed the denial order on his final day in office before his suspension became public. The Appellant subsequently filed an appeal; however, the Circuit Court declined to hear the case, stating that the Appellant, as a non-attorney, could not represent the estate. This matter is currently pending before the South Carolina Court of Appeals for consideration.

Upon the Appellant’s timely appeal, her removal on August 18, 2021, was automatically stayed under South Carolina Rule 241(a), preserving her authority to act as PR. Despite the automatic stay,

the Probate Court improperly appointed a new Special Administrator, rendering the appointment invalid and void.

In August 2022, following the filing of a petition by one of the heirs to appoint a Special Administrator, Judge Rice reviewed the matter and confirmed that the Appellant had not misappropriated any estate assets; on the contrary, she had preserved them. Despite this finding, the court appointed a third-party Special Administrator, Adam Lee, and granted him full powers over the estate. Judge Rice also restrained the Appellant from acting as PR, citing disputes among the heirs. This decision was both improper and unlawful, as it directly contradicted the court's own determination that the Appellant had fulfilled her duties appropriately and had not mismanaged the estate.

On October 11, 2023, the Special Administrator, Adam Lee, who had requested the Status conference abruptly resigned. The Appellant remained the Personal Representative of the estate, as her fraudulent removal on August 18, 2021, was automatically stayed under South Carolina Rule 241 due to her pending appeal.

**The Appellant's Removal by the Probate Court on November 2, 2023, Was Retaliatory, Unwarranted, and Not Based on Any Misconduct or Failure to Perform Fiduciary Duties:**

Following Adam Lee's resignation, Judge Danny Singleton pressured and coerced the parties into discussing a settlement agreement, targeting the Appellant with particular intensity.

The October 11, 2023, status conference, which served as the basis for the October 17, 2023, settlement order, was not conducted in open court as required under SCRPC Rule 43(k). The judge explicitly stated, *"This is not open court. This is just a discussion for the parties to try to resolve something."* The meeting was informal, lacked public notice, and was neither recorded nor placed on the court record, rendering the settlement agreement procedurally invalid.

The Appellant attended the status conference without prior knowledge of its agenda because the Respondents and Special Administrator Adam Lee deliberately withheld this information, further denying the Appellant a fair opportunity to prepare or respond.

On October 12, 2023, after Respondents' attorney, Mr. McDuff, sent a draft order that failed to accurately reflect the discussions from October 11, 2023, the Appellant began raising objections to the settlement agreement via email to Judge Singleton. These objections highlighted procedural and

substantive irregularities, including the inclusion of unauthorized clauses that had not been agreed upon by the Appellant.

On October 13, 2023, the appellant filed a Notice of Appeal of the Order Affirming the Private Family Agreement with the Circuit Court. Subsequently, Judge Singleton held a telephone conference on October 17, 2023, to address the appellant's objections. However, the court and other parties continued to object to the appellant's submissions, except for agreeing to extend the timeline for debt payments.

**Unwarranted Reappointment of the Appellant as Personal Representative:** On October 19, 2023, Judge Singleton inexplicably reappointed the Appellant as PR, despite her existing legal status as the duly appointed PR due to the automatic stay of the prior removal order upon appeal. This reappointment was entirely unnecessary and unwarranted, serving only to complicate the Appellant's position further. The Certificate of Appointment imposed "no restrictions except those required by law," while simultaneously binding the Appellant to an Amended Order Affirming a Private Family Agreement dated October 17, 2023.

**Contradiction Between Court Orders and PR Affidavit:** The Appellant was required to sign an affidavit, witnessed by Judge Singleton in his chambers and in the absence of all other parties, affirming her obligation not to distribute estate assets before the payment of debts. However, the October 17, 2023, settlement order signed by the judge explicitly mandated the distribution of assets to heirs within 30 days, while requiring debts to be paid within 60 to 90 days. This blatant contradiction forced the Appellant into an impossible situation: complying with the affidavit would violate the court order, and executing the court order would violate the sworn affidavit.

**Immediate Demands from Heirs and Legal Chaos:** Following the issuance of the settlement order, heirs began demanding their designated items immediately, disregarding the timeline for debt payments. This placed the Appellant in a legally untenable position, caught between conflicting directives from the court and mounting pressure from the heirs. The Appellant's fiduciary duty to preserve the estate's assets and comply with South Carolina law was directly undermined by the contradictory instructions imposed by the Probate Court.

**Forced Appeal to Protect Fiduciary Obligations:** On October 24, 2023, faced with this irreconcilable dilemma, the Appellant was left with no choice but to appeal the settlement order to safeguard her fiduciary obligations and ensure compliance with South Carolina law. Any attempt to

execute the settlement order would have conflicted with the sworn affidavit, while enforcing the affidavit would have violated the terms of the settlement order. The Appellant's appeal was a necessary and lawful response to the judge's untenable directives.

**The purported settlement order Violated of South Carolina Law;** The settlement agreement violated South Carolina law by proposing the distribution of estate assets before debts were paid. Furthermore, it failed to meet the procedural requirements of Rule 43(k), as it was not validly placed on the court record, lacked the signatures of all parties, and was agreed upon during an informal status conference rather than an open court proceeding.

**Removal of Appellant from PR position by Judge in Retaliation for filing an appeal:** The Appellant's subsequent removal as PR was based on her refusal to comply with this invalid and unenforceable settlement agreement. Her actions consistently demonstrated her commitment to preserving the estate and fulfilling her fiduciary duties under South Carolina law. The removal was not only retaliatory but also lacked any legal foundation, underscoring significant judicial overreach and procedural violations.

Evidence of retaliation is clearly demonstrated by an email Judge Singleton sent to the appellant within minutes of receiving her amended notice of appeal on October 24, 2023. In that email, he directly linked her decision to appeal with a forthcoming hearing to reassess her position as Personal Representative. He stated: *"All, I am in receipt of an amended notice of appeal from Mrs. Pierce. Part of the family agreement was to withdraw all appeals. This appears to be a violation of the agreement. A hearing will be scheduled to determine what actions, if any, the court will take. Should any potential heir petition the court for the removal and placement of the current PR, please file and a hearing will be scheduled the same day."*

He further escalated his retaliatory tone, stating: *"Mrs. Pierce, if it is your intent to violate the family agreement, I believe an emergency hearing needs to take place to determine if you should immediately be removed as PR. Again, the appeal issue was part of the agreement. If it is your intent to appeal, you have every right to do so; however, it violates the agreement and it was stated in court that the appeals were to be removed. It was proper to remove Item 13 from the order/agreement, you indicated that was fine. Also, on the day of appointment as PR, it was reiterated to you again in which you agreed and stated that would not happen. A hearing will be scheduled soon to determine the status of the personal representative."*

In response to this clear threat, the appellant sent an email back to Judge Singleton. [See Appellant's Email to Judge Singleton marked Exhibit U.] In her response, the appellant stated: "*Judge Singleton, threatening to remove me as a personal representative because I filed an appeal is retaliation and a violation of my due process rights and civil rights under the Constitution of the United States. Everything that has been threatened in the last few hours since I filed my appeal is retaliation.*" This exchange highlights the retaliatory nature of Judge Singleton's actions and the appellant's immediate recognition of the violation of her rights. The email from Judge Singleton clearly shows his intent to take immediate and punitive action against the appellant solely because she exercised her legal right to appeal.

Moreover, there was no provision in the purported settlement agreement—withdrawn by the appellant—that stated filing an appeal would constitute a violation of fiduciary duties. The appellant's appeal was a lawful exercise of her rights and had no bearing on her obligations as Personal Representative. Judge Singleton's claims linking the appeal to a breach of fiduciary duty were unfounded, further underscoring the retaliatory and improper nature of his actions. These actions not only contradict his claim that no retaliation occurred but also raise significant concerns about his impartiality and judicial overreach.

On November 2, 2023, the appellant was removed by the probate court. This removal was retaliatory, unwarranted, and not based on any misconduct or failure to perform fiduciary duties. Instead, it arose from respondents' reliance on a flawed and improperly conducted settlement agreement.

The appellant appealed to the Circuit Court; however, the Circuit Court erroneously, without reviewing the evidence in its own record, ruled that it was divested of jurisdiction based on the respondents' fraudulent submission claiming that the appellant had missed a deadline. In reality, the deadline had not been missed, and the evidence proving this was clear and available.

The appellant has appealed this case to the Court of Appeals, where it is currently pending under Case No. 2024-00455.

Under South Carolina Rule 241(a), the orders removing the appellant as Personal Representative on August 21, 2020, and November 2, 2021, were automatically stayed. Moreover, both removals were not based on any fiduciary misconduct on the part of the appellant.

**This current Appeal:** Acting as the Personal Representative of the Estate of Doyle Elton Pierce and on her own behalf as an heir to the estate, the appellant filed this lawsuit to recover rent arrears from non-heirs Samantha Leigh and Cody Hiott in the amount of \$17,760.

September 23, 2024, The Circuit Court dismissed the case, citing that the appellant had been removed as the Personal Representative by the Probate Court and, therefore, allegedly lacked standing to pursue the claim.

Appellant appealed the Circuit Court's decision to the South Carolina Court of Appeals. The appeal has been perfected and is currently pending the filing of briefs.

While the South Carolina Court of Appeals has not yet ruled specifically on the case involving Samantha Leigh and Cody Hiott, it has addressed the issue of Appellant's standing as the Personal Representative in a related case, **2024-000455**, which also involves the Estate of Doyle Elton Pierce and the scope of Appellant's authority as Personal Representative.

Any attempt by Samantha Leigh to claim that Doyle Elton Pierce permitted her to live in the trailer rent-free is null and void under the Dead Man's Statute, codified in **S.C. Code Ann. § 19-11-20**. This statute prohibits interested parties, such as Samantha Leigh, from testifying about transactions or communications with a deceased person to assert a personal benefit. Since Doyle Elton Pierce is deceased and cannot confirm or refute the alleged agreement, such testimony is inadmissible, rendering the alleged agreement legally invalid. Consequently, any claim by Samantha Leigh based on this alleged agreement is invalid and further supports the estate's right to recover the unpaid rent owed by her and Cody Hiott.

The South Carolina Supreme Court, in **Smith v. Smith**, 359 S.C. 34, 596 S.E.2d 346 (2004), reaffirmed that assets belonging to a decedent immediately vest in the estate upon death and may only be distributed in accordance with the terms of the will or, in the absence of a will, under the laws of intestate succession. Any unauthorized use or occupation of estate assets by third parties, including non-beneficiaries such as Samantha Leigh and Cody Hiott, is prohibited and subject to legal recourse by the personal representative.

Samantha Leigh, the step-granddaughter of Doyle Elton Pierce, and her fiancé, Cody Hiott, do not qualify as heirs or beneficiaries under the decedent's will or under South Carolina's intestate

succession laws. Neither Samantha Leigh nor Cody Hiott has laid a claim to the estate, nor are they parties to any proceedings currently pending on appeal.

As non-heirs, Samantha Leigh and Cody Hiott have no legal or equitable interest in the estate of Doyle Elton Pierce. Their continued occupation of estate property without paying rent constitutes unjust enrichment at the expense of the rightful beneficiaries, including Appellant.

On October 25, 2024, the South Carolina Court of Appeals issued a ruling in case **2024-000455**, resolving the question of Appellant's standing as the Personal Representative. The Court of Appeals unequivocally held that Appellant remains the Personal Representative of the estate and, as such, has standing to pursue claims necessary to preserve the estate, including the recovery of rent arrears. A portion of the order was remanded to the Circuit Court for a determination regarding Appellant's powers beyond the preservation of the estate.

The appellate court's ruling in **2024-000455** directly impacts this case, as it affirms Appellant's standing as the Personal Representative to preserve the estate. Since this issue was the primary basis for the Circuit Court's dismissal, the appellate ruling also has a direct bearing on the present case, requiring reconsideration and remand.

Samantha Leigh and Cody Hiott, as non-heirs, have no legal or equitable right to occupy the estate property without paying rent. Their continued occupation without payment constitutes unjust enrichment and directly harms the estate and its rightful heirs.

## ARGUMENT

### **I. Plaintiff Has Legal Standing to Pursue This Action as Personal Representative of the Estate of Doyle Elton Pierce.**

Upon removal of Plaintiff as personal representative on November 02, 2023, Plaintiff filed a notice of appeal to the circuit court on November 03, 2023. Under South Carolina Appellate Court Rule 241 (Automatic Stay Provision), a timely appeal automatically stays the enforcement of the appealed order. This means that the lower court's decision cannot be enforced while the appeal is pending unless the court issues a specific order lifting the stay. The rule is intended to preserve the status quo during the appeal process. As stated in Rule 241(a):

**"The service of a notice of appeal in a civil matter acts to automatically stay matters decided in the order, judgment, decree, or decision on appeal, and to automatically stay the relief ordered in the appealed order... This automatic stay continues in effect for the duration of the appeal unless lifted by order of the lower court... or appellate court."** This provision clearly divests the lower court of jurisdiction over the specific matters on appeal unless an order is granted lifting the stay.

In the current case, no motion has been filed in the lower court to lift the stay as required by Rule 241. The appeal does not meet any exceptions that would justify lifting the stay, such as harm to the prevailing party or other exceptional circumstances. Therefore, the automatic stay remains in effect, preventing enforcement of the order, including the removal of the personal representative. The lower court cannot proceed on matters that are directly impacted by the appeal.

This notice of appeal automatically stayed Probate court's order removing Plaintiff. As established in *Santee Cooper Resort, Inc. v. S.C. Pub. Serv Commn.*, 298 S.C. 179, 184, 379 S.E.2d 119, 122 (1989), the court explains that to "stay" an order means "to hold it in abeyance or refrain from enforcing it." Further, a "stay" is defined as "a stopping," preserving the status quo. In this case, the stay prevents enforcement of Plaintiff's removal as personal representative until the appeal is resolved. The principle was further elaborated in *Graham v. Graham*, 301 S.C. 128, 130, 390 S.E.2d 469, 470 (Ct. App. 1990), where the court clarified that the stay "preserves the status quo" at the time the appeal is brought. The purpose of a stay, or supersedeas, is not to reverse or annul the lower court's order, but to *suspend its enforcement* while the appeal is pending. This ensures that the appellant can still benefit from a potentially meritorious appeal without losing their legal position or

rights during the interim. With an appeal pending the Probate court or the circuit court is divested of jurisdiction to appoint personal representative.

Plaintiff remains the Personal Representative of the estate of Doyle Pierce, notwithstanding Judge Danny Singleton's order of removal, which is currently on appeal. Under South Carolina law (S.C. Code Ann. § 62-3-607), a personal representative continues to act in their capacity during an appeal unless a court specifically orders otherwise. No such court order has been issued in this case, meaning Plaintiff retains the authority to bring actions on behalf of the estate, including collecting debts such as rent owed by Defendants. As such, Plaintiff's standing as personal representative remains intact pending the outcome of the appeal.

## **II. Plaintiff's Standing as an Heir to Enforce Payment of Rent**

In addition to her role as personal representative, Plaintiff also has standing as an heir to the estate of Doyle Pierce, holding a 50% interest in the estate. Under South Carolina law, heirs possess the right to protect their interest in estate assets and ensure the estate is managed appropriately. As an heir, Plaintiff has a legal right to take action to preserve the financial health of the estate, especially when estate assets, such as rental income, are jeopardized due to non-payment.

The Defendants' failure to pay rent for their continued occupancy of estate property directly diminishes the value of the estate, affecting Plaintiff's rightful inheritance share. This non-payment constitutes unjust enrichment for the Defendants at the expense of the estate and its beneficiaries, including Plaintiff. Consequently, Plaintiff has a vested interest in enforcing payment to protect the estate from financial harm and to safeguard her individual rights as an heir under South Carolina law.

By asserting her rights as both personal representative and heir, Plaintiff seeks to uphold her fiduciary responsibilities while also ensuring that her inheritance, along with that of other beneficiaries, is not unjustly diminished through the Defendants' non-compliance. This dual standing reinforces Plaintiff's right to pursue claims on behalf of the estate and herself as an heir, making the pursuit of unpaid rent a valid legal action.

**Plaintiff's Right as Heir to 50% of Rental Proceeds.** As a 50% heir to the estate, Plaintiff is entitled to her rightful share of any proceeds, including rental income generated from the estate property. By refusing to pay rent, Defendants are not only jeopardizing the financial stability of the

estate but are also unjustly enriching themselves at the expense of Plaintiff's inheritance. The rental income directly affects Plaintiff's share of the estate, and by withholding it, Defendants are essentially depriving Plaintiff of her rightful inheritance. Therefore, Plaintiff is entitled to recover the unpaid rent to preserve both her interests as an heir and the overall financial health of the estate.

### **III. The October 25, 2024, Ruling Resolves The Issue Of Standing**

The **October 25, 2024, Court of Appeals order** unequivocally affirmed that the automatic stay under **Rule 241(a)** of the South Carolina Appellate Court Rules applies to stay the Circuit Court's order affirming the Probate Court's removal of Appellant as Personal Representative (PR). This automatic stay preserves Appellant's legal authority to act as PR pending the resolution of her appeal.

The Court of Appeals further held that Appellant retains her status as the Personal Representative of the estate and, as such, has standing to pursue claims necessary to preserve the estate's assets, including the recovery of rent arrears. Additionally, the Court remanded a portion of the matter to the Circuit Court to determine the extent of Appellant's powers beyond those required for preservation of the estate.

The collection of unpaid rent falls squarely within the duties necessary to preserve the estate's financial health and integrity. This ruling affirms Appellant's authority to act as PR for estate preservation purposes. Therefore, reversing the Circuit Court's dismissal and remanding the case will allow these claims to proceed on their merits, consistent with the appellate court's ruling and South Carolina law.

### **IV. Portion Of October 25, 2024, Court Of Appeals Order Remanded To Circuit Court Does Not Affect Appellant's Standing As Personal Representative**

While the Court of Appeals remanded a portion of the case to the Circuit Court to evaluate whether Appellant should be enjoined from wasting the estate or taking actions beyond preserving it, this remand does not affect Appellant's standing to act as PR for purposes of preserving and protecting the estate.

The Court of Appeals explicitly recognized Appellant's continued authority to perform actions necessary to preserve the estate, including pursuing claims such as recovering unpaid rent.

The remanded issue is limited to assessing whether Appellant should be restricted from actions beyond those necessary to preserve the estate. It does not diminish or impair her standing to act as PR for estate preservation purposes, as affirmed by the automatic stay under **Rule 241(a)**. Consequently, the Circuit Court's dismissal of Appellant's claims on the basis of lack of standing is legally incorrect and directly contradicted by the Court of Appeals' order.

**V. The September 23, 2024, Circuit Court Order Failed To Address The Merits Of The Case**

The Circuit Court's order focused solely on the procedural issue of standing and did not address the substantive merits of the claims. Appellant's lawsuit seeks to recover **unpaid rent totaling \$17,760**, which is owed by Respondents Samantha Leigh and Cody Hiott for their prolonged, rent-free occupation of estate property. This unpaid rent directly harms the estate by depleting its resources and undermining its financial stability.

By dismissing the case without adjudicating the merits, the Circuit Court denied the estate its right to recover critical funds necessary to fulfill its financial obligations and preserve its assets for the rightful heirs. This procedural oversight leaves the estate unable to address its financial losses or protect the interests of its beneficiaries.

**VI. Respondents, Non-Heirs, Are Unjustly Enriching Themselves at the Expense of the Estate and Its Heirs**

The Respondents, who are not heirs to the Estate of Doyle Elton Pierce, have resided on estate property rent-free for over 51 months. This prolonged non-payment of rent has provided them with unjust enrichment at the expense of the estate and its rightful heirs.

The Respondents' failure to pay rent has directly impaired the estate's ability to fulfill its financial obligations, including the payment of property taxes and other necessary expenses. The rental income that should have been collected over this extended period would have been vital for preserving the estate's assets for the benefit of its rightful heirs.

Respondents lack any legal or equitable right to occupy estate property without paying rent. Their refusal to contribute rental income while continuing to benefit from the estate's resources constitutes unjust enrichment. Furthermore, their actions undermine the Appellant's fiduciary duty to manage and

protect the estate's assets for its beneficiaries, draining the estate of potential income and jeopardizing its financial future.

As both an heir with a 50% interest in the estate and its personal representative, the Appellant has standing to recover unpaid rent to protect the estate's financial stability and prevent further harm. Holding the Respondents accountable for their failure to pay rent is essential to ensuring the estate's survival and safeguarding the interests of its rightful heirs.

The Respondents' continued occupation of estate property without paying rent not only deprives the estate of critical income but also places its long-term viability and the well-being of its beneficiaries in serious jeopardy. Their actions are inequitable and unsustainable, and they must be compelled to pay back rent to preserve the estate's assets and financial integrity.

#### **VII. Respondents Lack Standing to Challenge Appellant's Actions on Behalf of the Estate**

The Respondents, as non-heirs with no legal or beneficial interest in the Estate of Doyle Elton Pierce, lack standing to challenge the Appellant's actions aimed at protecting estate assets. South Carolina law explicitly limits such challenges to interested parties, including heirs, beneficiaries, or creditors of the estate. Pursuant to S.C. Code Ann. § 62-3-703, the personal representative has the authority to manage and preserve the estate for its heirs and beneficiaries. Since the Respondents do not qualify under this provision, their motion to dismiss is baseless and without merit.

Additionally, under S.C. Code Ann. § 62-3-709, the personal representative has the right to take possession or control of estate property and collect income due, such as rent, to preserve the estate. The Respondents are occupying estate property without paying rent and cannot claim an interest in the estate to defend against the Appellant's efforts to recover unpaid rent while lacking legal status as heirs, beneficiaries, or creditors. Their continued occupation without payment constitutes unjust enrichment, which violates the Appellant's fiduciary duty to preserve the estate for its rightful heirs. As non-heirs with no standing in the estate, the Respondents' motion to dismiss is improper and should be denied.

#### **VIII. The Estate's Financial Interest Requires Immediate Action**

Plaintiff's claim is not merely about recovering rent owed; it is essential to preserve and manage the estate's assets effectively. Due to Defendants' prolonged failure to pay rent for over 48 months, the estate has been left in a precarious financial state, unable to meet its tax obligations and other necessary

expenses. South Carolina probate law places a fiduciary duty on the personal representative to safeguard the estate's financial health, which includes taking steps to collect unpaid rent.

If the Defendants are permitted to continue living on the estate property without fulfilling their rent obligations, it would exacerbate the estate's financial strain and further undermine the ability to cover crucial expenses like taxes. This ongoing failure to collect rent directly impacts the estate's financial well-being, potentially leading to a forced auction of the property due to delinquent taxes. Immediate action is therefore necessary to prevent the estate from being further depleted and to fulfill the personal representative's duty to protect the estate's assets for the benefit of all heirs. Allowing Defendants to remain without paying rent would constitute a failure of fiduciary responsibility.

#### **IX. Respondents and Their Attorney's Deliberate Interference with Estate Management**

The Appellant asserts that the Respondents and their attorney have intentionally interfered with the proper administration of the Estate of Doyle Elton Pierce by falsely claiming that the Appellant lacks the authority to collect rent from non-heirs occupying estate property. This deliberate misrepresentation misleads the court and obstructs the Appellant's fiduciary duties to manage and preserve the estate's assets, including the collection of rental income that is rightfully owed to the estate.

For several months, the Respondents have refused to pay rent despite the Appellant's efforts to collect it—even before her wrongful removal as Personal Representative. Their refusal to pay rent while continuing to occupy estate property is a blatant attempt to exploit the ongoing appeal. The Respondents, who are not parties to the appeal and whose occupancy is not at issue in the appellate process, have continued to live rent-free, enriching themselves at the expense of the estate and its beneficiaries.

The appeal does not concern the Respondents' obligation to pay rent. As non-heirs, they have no legal right to occupy estate property without paying rent. Their continued occupation without payment constitutes unjust enrichment, which has caused financial harm to the estate. The estate faces significant financial challenges, including an impending auction due to over \$3,600 in delinquent property taxes—a situation that could have been avoided had the Respondents fulfilled their rental obligations.

The Respondents' refusal to pay rent, combined with their attorney's misrepresentation of the Appellant's authority, is a clear effort to obstruct the proper management of the estate. This interference directly violates the Appellant's duties as Personal Representative and heir, particularly her obligation to ensure that estate debts, such as property taxes, are paid.

The court must compel the Respondents to pay rent immediately if they intend to continue occupying estate property. Their actions have placed the estate in financial jeopardy, and they must be held accountable for their unjust enrichment at the expense of the estate and its rightful heirs. Allowing them to remain rent-free is both legally and morally untenable.

**X. Appellant has Right to Collect Rent from Non-Heirs**

Under South Carolina law, specifically **S.C. Code Ann. § 62-3-709**, the personal representative of an estate is empowered to manage and protect estate assets, including collecting rent from any occupants of estate property, whether they are heirs or non-heirs. The personal representative's primary duty is to preserve the estate, and this includes securing income to meet financial obligations such as taxes and debts.

As the current Personal Representative, the Appellant retains full legal authority to collect rent on behalf of the estate pending the resolution of the appeal. The Respondents' status as non-heirs further strengthens the Appellant's right to collect rent, as non-heirs have no legal claim or right to occupy estate property without a valid lease or explicit permission from the Personal Representative. Their failure to pay rent over a period of 51 months constitutes unjust enrichment and poses a direct financial detriment to the estate, particularly as it struggles to meet essential expenses, including delinquent taxes.

**XI. Respondents' Attorney Intentionally Misrepresented Facts to Mislead the Court**

Despite being fully aware of established legal principles, the Respondents' attorney has knowingly and falsely asserted that the Appellant lacks the authority to collect rent from non-heirs occupying estate property. This baseless misrepresentation obstructs the Appellant's lawful duties as the Personal Representative, hindering her ability to collect rental income that is critical for maintaining the estate's financial health.

The Respondents' attorney's actions amount to deliberate interference with the proper administration of the estate. South Carolina Rules of Professional Conduct, Rule 3.3, explicitly require attorneys to maintain candor toward the tribunal and prohibit false statements of law or fact to the court. The attorney's misrepresentation of the Appellant's rights and authority to collect rent constitutes a direct violation of this professional duty.

These intentional misrepresentations have severe consequences, depriving the estate of much-needed funds to meet its financial obligations, including delinquent taxes. Additionally, they unjustly enrich the

Respondents at the expense of the estate and its beneficiaries, particularly the Appellant. The court should treat these misrepresentations as a deliberate attempt to undermine the proper administration of the estate and take appropriate measures to uphold the Appellant's rights and ensure the estate's financial stability.

## **XII. Conflict of Interest and Improper Interference by Attorney Richard Hunt McDuff**

Attorney Richard Hunt McDuff's simultaneous representation of heirs to the Estate of Doyle Elton Pierce and non-heirs, Samantha Leigh and Cody Hiott, creates a clear and undeniable conflict of interest that undermines the proper administration of the estate and harms the estate's rightful heirs. This dual representation violates the fiduciary and ethical standards expected of legal counsel and compromises the integrity of the proceedings.

- a) **The Conflict of Interest:** Under South Carolina Rules of Professional Conduct, Rule 1.7, an attorney is prohibited from representing clients with conflicting interests unless specific conditions are met, including informed consent from all parties. McDuff's representation of heirs, who have a vested interest in the estate, and non-heirs, who are unlawfully occupying estate property and failing to pay rent, presents irreconcilable interests:
  - i. **Heirs' Interests:** The heirs' primary interest is in maximizing the value of the estate and ensuring its proper administration, which includes collecting unpaid rent and resolving disputes efficiently.
  - ii. **Non-Heirs' Interests:** The non-heirs, Samantha Leigh and Cody Hiott, have a direct interest in avoiding eviction and evading their rental obligations, to the detriment of the estate and its rightful heirs.

By simultaneously representing these conflicting interests, McDuff cannot advocate effectively for either party without compromising the other. His dual representation has prioritized the non-heirs' interests, enabling them to continue occupying estate property rent-free while the estate remains unable to meet its financial obligations, including payment of taxes.

- b) **Harm to the Estate and Its Rightful Heirs:** McDuff's actions have directly harmed the estate and its heirs in the following ways:

- i. **Financial Loss:** The estate has suffered financial harm due to the continued nonpayment of rent by Samantha Leigh and Cody Hiott. This failure to collect rent has deprived the estate of \$17,760 in revenue and contributed to its inability to pay property taxes and other obligations.
  - ii. **Impeded Administration:** McDuff's simultaneous representation has created procedural delays and confusion, hindering the Appellant's ability to act as Personal Representative and fulfill her fiduciary duties.
  - iii. **Undermining Fiduciary Duties:** By advocating for the non-heirs' interests, McDuff has interfered with the Appellant's duty to preserve estate assets and act in the best interests of the heirs. His actions have undermined the administration of the estate and jeopardized the heirs' rightful inheritance.
- c) **Ethical and Procedural Violations:** McDuff's dual representation also violates the ethical principles that govern the conduct of attorneys and the administration of estates:
- i. **Rule 1.7 Violation:** McDuff failed to secure informed consent from all parties to resolve the inherent conflict of interest, violating Rule 1.7 of the South Carolina Rules of Professional Conduct.
  - ii. **Improper Influence:** By representing non-heirs while simultaneously representing heirs, McDuff has compromised the independence and impartiality required to ensure the fair administration of justice.
  - iii. **Undermining Estate Administration:** McDuff's actions have obstructed the collection of rent and emboldened the non-heirs' continued occupation of estate property, further delaying the resolution of estate matters and harming the estate's financial health.

## CONCLUSION

The Appellant has consistently demonstrated her commitment to preserving the estate and ensuring its assets are used for the benefit of its rightful heirs. The Circuit Court's dismissal not only misapplied the law but also allowed the estate's financial stability to be jeopardized. For the reasons stated, the Appellant respectfully requests this Honorable Court:

1. Reverse the Circuit Court's September 23, 2024, dismissal, which incorrectly concluded Appellant lacked standing as Personal Representative and as a 50% heir to the Estate of Doyle Elton Pierce.
2. Remand the case for further proceedings on the merits, including recovery of \$17,760 in unpaid rent from Respondents Samantha Leigh and Cody Hiott for unjust enrichment.
3. Enforce the automatic stay under Rule 241(a), affirming Appellant's authority as Personal Representative during her appeal.
4. Recognize the October 25, 2024, appellate ruling affirming Appellant's standing to recover estate assets, including rent.
5. Sanction Respondents and their attorney for interference with estate administration and unjust enrichment at the estate's expense.
6. Refer Respondents' attorney, Richard Hunt McDuff, to the Office of Disciplinary Counsel (ODC) for disciplinary action regarding ethical violations, including conflicts of interest and deliberate misrepresentations to the court.
7. Grant any further relief deemed just and necessary to protect the estate and uphold judicial integrity.

Submitted this January 21, 2025

s/Dorothy Pierce

**DOROTHY PIERCE, Appellant.**

750 Mourning Dove Lane, Seneca, South Carolina 29678

(864) 324-3247

**RECEIVED**

**Jan 21 2025**

**SC Court of Appeals**

**STATE OF SOUTH CAROLINA**

**IN THE COURT OF APPEALS**

APPEAL FROM OCONEE COUNTY CIRCUIT COURT

Order of Honorable Judge R. Lawton McIntosh

Appellate Case No. 2024-001641

Dorothy Pierce-----Appellant,

v.

Samantha Leigh a/k/a Pierce, and Cody Hiott-----Respondents.

**CERTIFICATE OF SERVICE**

I hereby certify that on January 21, 2025, a true and correct copy of the foregoing Initial Brief of Appellant was served upon Respondents' Counsel of Record.

Richard Hunt McDuff, Esq.

Merrell & McDuff (MJM Law, LLC)

119B Professional Park Drive

Seneca, South Carolina 29678

rick@mjmlawsc.com

s/Dorothy Pierce

**DOROTHY PIERCE**

750 Mourning Dove Ln. Seneca, South Carolina 29678

(864) 324-3247

dorothypierce84@gmail.com