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**SC Court of Appeals**

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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APPEAL FROM BEAUFORT COUNTY  
COURT OF COMMON PLEAS  
ROBERT J. BONDS, CIRCUIT COURT JUDGE

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Appellate Case No. 2025-000076

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IN THE MATTER OF: Estate of Paul Brandon Barringer II

Hampton B. Luzak, .....Appellant

v.

Merrill B. Light, Merrill U. Barringer as Personal Representative of the Estate of Paul Brandon Barringer II, J. Randolph Light, Jr., Merrill B. Light as putative trustee of the Paul B. Barringer II Revocable Trust dated December 4, 1998, and Merrill B. Light as Trustee of the Merrill Barringer Light Revocable Trust, Defendants,

Of which Merrill U. Barringer as Personal Representative of the Estate of Paul Brandon Barringer II, is a, .....Respondent,

--and--

IN THE MATTER OF: Estate of Paul Brandon Barringer II

Hampton Barringer Luzak, .....Appellant,

v.

Merrill U. Barringer, .....Respondent,

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**RETURN TO MOTION TO EXPEDITE**

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Appellant Hampton B. Luzak (Ms. Luzak) files this Return to the Motion to Expedite Appeal (Motion to Expedite) submitted by the Respondent Merrill U. Barringer (Ms. Barringer) on February 27, 2025.

Ms. Barringer has cited her age with nothing more as the reason to expedite the appeal. No other reason is given for the Motion to Expedite.

Her Motion seeks to expedite the appeal simply because of her age,<sup>1</sup> and it is predicated on the assertion that this appeal is nothing more than a mere re-run of the appeal in the earlier case of *Luzak v. Barringer*, Appellate Case No. 2021-001337.

That assertion simply is not true.

**Ms. Barringer seeks to expedite the appeal, including dispensing with briefing before she even knows what the issues on appeal are:**

No appellant is required to identify issues on appeal until their Initial Briefs are filed. The current Appellant, Ms. Luzak, filed her Notice of Appeal in this case on January 13, 2025. Ms. Luzak's Initial Brief is due March 12, 2025, at which time her issues on appeal will be identified by her. The issues she raises on appeal are her decision and her decision alone. Ms. Barringer's Motion to Expedite seeks to limit the issues on appeal to a mere re-run of the earlier appeal that was dismissed because partial summary judgment had been granted in violation of various appeals stays. (There might even be issues raised by cross-appeal, but that lies within discretion of the Respondents, and, as the Respondents have no control over the issues appealed by Ms. Luzak, so, too, does she not have any control over any issues raised by any of the Respondents on cross-appeal.)

**The present appeal is not a mere re-run of an earlier appeal:**

It is simply not a true statement for Ms. Barringer to try to convince the Court of Appeals that the current appeal is a mere re-run of the appeal in *Luzak v. Barringer*, Appellate Case No.

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<sup>1</sup> Ms. Barringer's Motion to Expedite does not cite any health issues or problems for her and hopes that her age alone will suffice for the appellate courts.

2021-001337. The Order on appeal presently is the trial court's Order dated December 31, 2024<sup>2</sup>. That Order included rulings on (1) Ms. Barringer's Motion for Partial Summary Judgment as well as (2) Ms. Luzak's Motion to Reconsider and to Vacate an earlier 2020 Order to Bifurcate the trial (Bifurcation Order) (Attached as Ex. A). Also, subsumed in the Order granting Ms. Barringer's Motion for Partial Summary Judgment is the issue that the trial court was granting summary judgment to Ms. Barringer when she herself terminated her deposition and secured a trial court Order barring further deposition...all before she was even asked any questions about her power of appointment and any promises she made to her husband about that power. And she has never presented any affidavit from herself on any issues, including the power of appointment issue.

The issue of the Court's failure to address the bifurcation issue is certainly a new issue that was not addressed in *Luzak v. Barringer*, Appellate Case No. 2021-001337. That issue is not a mere re-run of any earlier appeal and is part of the current appeal that Ms. Barringer wishes to have expedited.<sup>3</sup>

**This appeal, expedited or not, will not end the case for Ms. Barringer:**

The Court should not be fooled: Ms. Barringer says she wants resolution of the discrete issue of her power of appointment because of her age, but the outcome of the current appeal cannot possibly change the fact that she will still go to trial on other causes of action regardless of the outcome of this appeal. She does not seek an expedited result of the case to end it; she has

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<sup>2</sup> Including the Order denying Ms. Luzak's Motion to Reconsider filed January 9, 2025.

<sup>3</sup> Although no appellate court has ever ruled on the merits, the Bifurcation Order has been subject to previous appeals, but the issue of the trial court declining to reconsider the Bifurcation Order after a clear directive from the Supreme Court is a different and new issue. Also, other than this directive from the Supreme Court, there has not been any appellate review of the Bifurcation Order on its merits.

cherry-picked the single power of appointment issue that she wants a hurry-up decision on. In fact, Ms. Barringer's motions for summary judgment have delayed and continued to delay the trial she will have to ultimately participate in — these delays that she caused contradict her rationale for requesting an expedited appeal.

Ms. Barringer will still face trial for intentional interference with inheritancy and gifts and civil conspiracy, regardless of the outcome of this appeal, expedited or not.

To the extent that Ms. Barringer may be seeking isolation of her power of appointment issue from the rest of the appeal, that further makes no sense since the rest of the appeal would proceed forward. Ms. Barringer is a party to the appeal of the trial court Order declining to reconsider and vacate the Bifurcation Order. She is a party to the entire appeal. Bifurcating the trial and trying the case piecemeal was error; bifurcating an appeal serves no purpose and is error.

**Ms. Barringer wants preferential treatment on the appeals docket:**

In short, Ms. Barringer wants preferential treatment on the appeals docket ahead of other litigants in other cases, citing her age. She will still be facing trial on many other causes of action regardless of whether this appeal is expedited and regardless of the outcome of the appeal. This is simply legal “posing and posturing” that will ultimately expedite nothing.

There is no precedent for granting a Motion to Expedite based solely on age, even if it were a mere “re-run,” and any court that prioritizes the scheduling of hearings simply because of age (especially with no other showing) starts to slide down a slippery slope of giving preferential treatment on the docket simply because a litigant of older age wishes to be heard first. Such a

precedent from this Court would invite a wave of Motions in other appeals to be heard first simply because of age. Age alone provides no basis for expediting this matter, re-run or not.

To compound the error, Ms. Barringer wants this Court to not only give her preferential treatment over other litigants but also limit Ms. Luzak's right to fully define her issues on appeal and dispense with briefing or impair her right to fully brief and be heard on her issues. Ms. Barringer wants to limit the current appeal to a re-run; there are issues well beyond that.

This case is factually and legally extremely complicated. All parties are entitled to a full airing of their issues and full and thoughtful deliberation by every court.

**Ms. Barringer does not want any appellate review of the Bifurcation Order:**

The Bifurcation Order has been challenged by Ms. Luzak since it was entered on December 31, 2020. Ms. Barringer and the other Defendants/Respondents have fought against any appellate review of that Order. She and they still fight against any review of that decision by the trial court and by the appellate courts despite the Supreme Court's express directive to the trial court on January 17, 2024: "In light of everything that has elapsed in this case—particularly the clarification that Luzak will not pursue any derivative claims—we direct that all matters regarding mode of trial, including the order bifurcating trial, shall be reconsidered by the circuit court on remand." *Luzak v. Light et al.*, Op. No. 2024-MO-003 (S.C. Supreme Court (filed January 17, 2024)) (Attached as Ex. B).

Ms. Luzak challenged the trial court's Bifurcation Order of December 30, 2020 in her stand-alone appeal in Appellate Case Nos. 2021-000159 and 2021-001022. She also sought review of the Bifurcation Order as a joining issue with appealable orders under §14-3-330(1) in

case numbers 2021-000837, 2022-000784 and 2022-001327. Ms. Barringer opposed appellate review of the bifurcation order on its merits in each of those cases.<sup>4</sup>

The only case in which Ms. Luzak did not initially include the Bifurcation Order in her appeal was in Appellate Case No. 2021-001337.<sup>5</sup> Ms. Barringer now seeks “[a]n order expediting this appeal [and] dispensing with any additional briefing” in her first two requests for relief, thereby limiting this appeal to the issues raised in 2021-001337. Since the briefs filed in case number 2021-001337 did not include review of the bifurcation order, such an order would block review of the merits of the bifurcation order which is contrary to what the Supreme Court has directed to be done.

Ms. Luzak’s Motion before the trial court in December 2024 sought that “reconsideration.” Ms. Barringer fought against that. The trial court addressed the issue by declining to rule on it prior to the exhaustion of the present appeal. That was error that is part of the present appeal. The Motion to Expedite the appeal and to dispense with briefing is a continuing effort to resist any appellate review of that Bifurcation Order. Nor has any appellate court previously addressed the merits of the power of appointment issue or the Bifurcation Order (beyond the Supreme Court’s directive on the Bifurcation Order in its Memorandum Opinion of January 17, 2024).

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<sup>4</sup> To prevent review of the bifurcation order on its merits, Ms. Barringer took the extraordinary step of filing with the Supreme Court an unsolicited Motion for Leave to File Return to, and for Expedited Resolution of, Appellants Petition for Rehearing in response to Ms. Luzak’s petition for rehearing seeking inclusion of the merits of the bifurcation order in case no. 2021-000837 even though the Supreme Court had requested no return from Ms. Barringer under Rule 221(a).

<sup>5</sup> Ms. Luzak had joined the bifurcation issue under §14-3-330(1) in her appeal of co-defendant Merrill Light’s summary judgment order that was part of case no. 2021-00837. When the Supreme Court vacated Merrill Light’s summary judgment order, Ms. Luzak attempted to move the bifurcation issue over to appellate case no. 2021-001337 by filing a Supplemental Notice of Appeal. This Court denied the request as untimely in case no. 2022-000784, and the Supreme Court declined to take up the issue in that posture in Ms. Luzak’s petition for writ of certiorari in Case No. 2022-001327 but did so later in its order of January 17, 2024.

**Ms. Barringer's alleged predicament of time and age are the result of her deliberate approach to piecemeal litigation:**

And Ms. Barringer must be reminded that this is a predicament of time and her age that she deliberately and knowingly put herself in.

Repeatedly, she and the other Respondents have falsely accused criticized Ms. Luzak of delay in these legal proceedings, and Ms. Luzak has repeatedly pointed out that the Respondents, including Ms. Barringer herself, have intentionally chosen to litigate this case piecemeal by seeking piecemeal rulings that Ms. Luzak has been compelled to appeal. It is the piecemeal Motions that have all served, and perhaps been intended, to delay a trial of this case; the Motions leading to the necessary appeals are what have delayed the trial in this matter. Every appeal of Ms. Luzak has been mandated by the rules and law of the South Carolina unless she was willing to sacrifice and surrender valuable legal and procedural rights. She has refused to surrender her rights in earlier appeals; she refuses to surrender them in this appeal.

By her Motion to Expedite the appeal, Ms. Barringer pursues that piecemeal litigation into the appellate courts by seeking appeal of only the discrete issue of any power of appointment that she might have.

The piecemeal litigation (and then appeal) pursued by the Respondents have included the following----ALL initiated by Ms. Barringer and the other Respondents:

1. Ms. Barringer's Motion to Bifurcate the proceedings filed on October 23, 2020, forcing an appeal by Ms. Luzak on February 12, 2021. The Supreme Court directed that order be reconsidered on remand.

2. Merrill Light's (Ms. Light) Motion for Partial Summary Judgment filed on May 14, 2021 necessitating an appeal by Ms. Luzak on August 6, 2021. Order vacated by the Supreme Court.
3. Motion To Intervene by CFRC filed on May 14, 2021, necessitating an appeal by Ms. Luzak on August 6, 2021. Order affirmed in part and reversed in part by the Supreme Court.
4. Ms. Barringer's second Motion for Partial Summary Judgment filed on June 14, 2021, necessitating an appeal by Ms. Luzak on November 8, 2021. Order vacated by the Supreme Court.

Ms. Luzak advised the Respondents, and also the courts, that Nos. 2 and 4 above were stayed by the appeal of the Bifurcation Order, which was filed on February 12, 2021. The Respondents did not listen, and, so, those appeals proceeded, and those Orders were ultimately vacated by the Supreme Court in 2023 since they were issued in violation of the appeal stay created by the appeal of the Bifurcation Order.

That was time wasted because Ms. Barringer and the Respondents opted for piecemeal litigation to delay facing a jury on the trial of their misconduct and opted to secure Orders that would later be vacated.

Now she moves to expedite that which she chose to delay, demonstrating the disingenuity of her Motion to Expedite.

**Ms. Barringer misstates the legal issues in this case:**

To support her position, she states in her Motion: "For years, Mrs. Barringer has attempted to resolve with finality, while she is alive, a single, straightforward legal issue: 'Has

Appellant Hampton Luzak presented any evidence of a ‘contract concerning succession’ between Mrs. Barringer and her late husband as required by S.C. Code Ann. § 62-2-701?’”

That statement is not true.

Ms. Luzak has continually stated that this is simply a misdirection play by Ms. Barringer, who apparently does not understand that the enforceability of Ms. Barringer’s promise to Mr. Barringer involves far more than this mere “single, straightforward legal issue.”<sup>6</sup> Ms. Barringer’s misdirection play attempts to divert attention from three (3) other issues directly affecting the enforceability of her promises to Mr. Barringer beyond this “single, straightforward legal issue.” The trial court erroneously focused on the issue of a “contract” (and still got it wrong), and erroneously couched its decision all within the framework of a “contract” and S.C. Code §62-2-701 and failed to recognize that those issues and grounds for enforcement of Ms. Barringer’s promises exist independently of S.C. Code §62-2-701.

Ms. Luzak challenged before the trial court that Ms. Barringer did not even have a power of appointment (testamentary or otherwise) over the voting stock of Mr. Barringer in the family corporation, Coastal Forest Resources Company (CFRC). That is an issue where Ms. Barringer’s misdirection play had an impact on the trial court when it failed to even address that issue.

Ms. Luzak has also asserted since the very outset that Ms. Barringer is bound by her promises to Mr. Barringer to treat Ms. Light and Ms. Luzak (the Barringers’ daughters) equally even if she had a valid power of appointment over the CFRC voting stock.

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<sup>6</sup> Ms. Luzak has produced ample evidence for enforcement of her contract with Mr. Barringer under S.C. Code § 62-2-701.

She is bound by contract (and the requirements of S.C. Code §62-2-701 have been met) as well as by promises made to Mr. Barringer because of her fiduciary or confidential relationship with him. Such promises made in a fiduciary or confidential relationship are not “contracts” which are grounded on mutual bargained-for consideration but are instead grounded upon and are enforceable by the very nature of a fiduciary or confidential relationship. Those promises may be express as well as implied. They made even be made by silence.

The misdirection play by Ms. Barringer appears to have worked...until now...now that South Carolina’s appellate courts can make a more deliberate analysis of the facts and law on all of the issues.

So, despite Ms. Barringer’s proclamation that there is a “single, straightforward legal issue,” there is a multitude of issues on this appeal. To date, there has not been any argument before any appellate court on these issues.

**Ms. Luzak’s success at trial will indeed restore her inheritance to her despite what Ms. Barringer represents to this Court:**

The “end sweep” of Ms. Barringer’s misdirection play comes when she states in her Motion: “Simply put, even if Luzak’s South Carolina litigation was successful, and even if she were to prevail in setting aside all of Mr. Barringer’s 2012–2016 estate planning documents, Luzak would still inherit nothing from her father.”

Yet again, that is simply not a true statement.

The relief sought by Ms. Luzak will indeed restore her inheritance. Again, since the outset of this litigation, Ms. Luzak has steadfastly maintained that the testamentary instruments of Mr. Barringer after 1998 should be declared as invalid, leaving in effect Mr. Barringer’s 1998

instruments. Under those instruments, Ms. Barringer purportedly has a testamentary power of appointment but it was never Mr. Barringer's intent for her to have any power of appointment over his CFRC voting stock, and, even if she had such a power, she agreed not to exercise it. That agreement was enforceable by contract under S.C. Code §62-2-701, by a promise (express as well as implied and even silence) made in a fiduciary or confidential relationship with her husband, and by estoppel. Any one of these grounds will be sufficient to restore Ms. Luzak's inheritance, and they are not bound up in a simple "contract" analysis under S.C. Code §62-2-701.

For these reasons, when Ms. Barringer tells this Court: "Simply put, even if Luzak's South Carolina litigation was successful, and even if she were to prevail in setting aside all of Mr. Barringer's 2012–2016 estate planning documents, Luzak would still inherit nothing from her father," she flatly ignores these issues and wishes them away.

Similarly, "Luzak's efforts to unwind Mr. Barringer's 2012 to 2016 estate planning would have no practical effect for her" is a patently wishful, if not false, statement, for which there is plenty of evidence to the contrary.

**Conclusion:**

Ms. Barringer is going to trial, regardless of this appeal. There is a plethora of other issues for which she faces trial, including legal and equitable relief. The purpose of her Motion to Expedite is that she wants preferential treatment on the appeals docket before other litigants. She also wants to avoid appellate review of the trial court's decision to defer reconsidering the Bifurcation Order. She has not demonstrated why she, as a litigant, is entitled to preferential treatment before other litigants, and expediting this appeal or any singular issue will not expedite the resolution of this case in any form or fashion.

Importantly, no appellate court has considered the power of appointment summary judgment orders because the previous power of appointment summary judgment was vacated because the trial court attempted to rule despite a stay. Ms. Luzak is entitled to finally make her case on appeal, in appellate briefs that she can now determine how to fashion based on the current power of appointment summary judgment motion, which is not a re-run of the prior summary judgment motion that was vacated, especially because this appeal will also include the Bifurcation Order issue. Ms. Barringer cannot take that right away from Ms. Luzak, especially based on her empty claim of age with nothing more when she will nevertheless have to eventually participate in a trial that would have happened sooner if Ms. Barringer and her co-Defendants had not filed so many discrete summary judgment motions that were ultimately rejected but nevertheless caused substantial delay.

Respectfully submitted,

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ATTORNEYS FOR APPELLANT

March 5, 2025

**EXHIBIT A**  
**TO APPELLANT'S RETURN TO MOTION**  
**TO EXPEDITE APPEAL**

**12/30/2020 Bifurcation Order**

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF BEAUFORT )  
 )  
IN THE MATTER OF ESTATE OF PAUL )  
BRANDON BARRINGER, II )  
 )  
HAMPTON BARRINGER LUZAK, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
MERRILL B. LIGHT, MERRILL U. )  
BARRINGER, AS PERSONAL )  
REPRESENTATIVE OF THE ESTATE OF )  
PAUL BRANDON BARRINGER, II, J. )  
RANDOLPH LIGHT, JR., MERRILL B. )  
LIGHT AS PUTATIVE TRUSTEE OF THE )  
PAUL B. BARRINGER, II REVOCABLE )  
TRUST DATED DECEMBER 4, 1998, AND )  
MERRILL B. LIGHT AS TRUSTEE OF )  
THE MERRILL BARRINGER LIGHT )  
REVOCABLE TRUST, )  
 )  
Defendants. )

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IN THE COURT OF COMMON PLEAS  
CIVIL ACTION NO: 2016-CP-07-01919

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF BEAUFORT )  
 )  
IN THE MATTER OF: )  
Estate of Paul Brandon Barringer, II )  
 )  
Hampton B. Luzak, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
Merrill U. Barringer, )  
 )  
Defendant. )

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IN THE COURT OF COMMON PLEAS  
CIVIL ACTION NO: 2019-CP-07-01253  
2019-CP-07-1294

**ORDER GRANTING DEFENDANTS' MOTION TO BIFURCATE**

This Court has considered Defendants' Joint Motion to Bifurcate Trial filed October 23, 2020. Based on the legal memoranda submitted and oral argument presented, the Court grants the motion. In accordance with SCRCP Rule 42(b), this Court has determined that a separate trial of the Second and Third Causes of Action set forth in Hampton Luzak v. Merrill Barringer, Civ. Action Nos. 2019-CP-07-01253 and 2019-CP-07-01294, shall proceed first and prior to any separate and subsequent trial(s) of the remaining causes of action alleged in Civ. Action Nos. 2016-CP-07-1919, 2016-CP-07-1961, 2019-CP-07-01253 and 2019-CP-07-01294.

IT IS SO ORDERED.

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CARMEN T. MULLEN  
Judge of the Fourteenth Judicial Circuit

\_\_\_\_\_, 2020



Beaufort Common Pleas

**Case Caption:** Hampton Barringer Luzak VS Merrill U Barringer

**Case Number:** 2019CP0701253

**Type:** Order/Other

So Ordered

s/Carmen T Mullen 2142

**EXHIBIT B**  
**TO APPELLANT'S RETURN TO MOTION**  
**TO EXPEDITE APPEAL**

**1/17/2024 Supreme Court Opinion**

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA  
In The Supreme Court**

In the Matter of Estate of Paul B. Barringer, II  
Hampton Barringer Luzak, Appellant,

v.

Merrill B. Light, Merrill U. Barringer, as Personal Representative of the Estate of Paul Brandon Barringer, II, J. Randolph Light, Jr., Merrill B. Light as putative trustee of the Paul B. Barringer, II, Revocable Trust dated December 4, 1998, Merrill B. Light as Trustee of the Merrill Barringer Light Revocable Trust, and Merrill U. Barringer, Respondents,

and

Coastal Forest Resources Company,  
Intervenor/Respondent.

Appellate Case No. 2021-000837

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Appeal from Beaufort County  
Bentley Price, Circuit Court Judge

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Memorandum Opinion No. 2024-MO-003  
Heard November 14, 2023 – Filed January 17, 2024

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**AFFIRMED IN PART, REVERSED IN PART,**

## AND REMANDED

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Thomas W. Traxler, of Carter Smith Merriam Rogers & Traxler, of Greenville; Desa Ballard, of Ballard & Watson, Attorneys at Law, of West Columbia; James R. Gilreath and William Mitchell Hogan, both of The Gilreath Law Firm, P.A., of Greenville; Charles B. Macloskie, III, of Macloskie Law Firm, of Beaufort; S. Alan Medlin, of Columbia, all for Appellant.

Robert H. Brunson and Merritt Gordon Abney, both of Nelson Mullins Riley & Scarborough, LLP, of Charleston, C. Mitchell Brown, of Nelson Mullins Riley & Scarborough, LLP, of Columbia; Bijan Khaladj-Ghom and Alice F. Paylor, both of Saxton & Stump, LLC, of Charleston; and Charles B. Molster, III, of The Law Offices of Charles B. Molster, III, PLLC, of Washington D.C.; all for Respondent Merrill B. Light.

Harley Delleney Ruff, of Ruff & Ruff, LLC, of Beaufort; James Ashley Twombly, of Twenge & Twombly, LLC, of Beaufort, both for Respondent Merrill U. Barringer.

Erin DuBose Dean, of Tupper, Grimsley, Dean & Canaday, P.A., of Beaufort; and Edward J. Fuhr and Johnathon E. Schronce, of Hunter Andrews Kurth, LLP, of Richmond, VA; all for Respondent Coastal Forest Resources Company.

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**PER CURIAM:** This is an appeal from an interlocutory order entered in two consolidated lawsuits filed in Beaufort County in 2016. The two cases are primarily about ownership and control of Coastal Forest Resources Company (CFRC). The central dispute in these cases is the validity of two stock transfers in 2012 through which Paul Barringer transferred a controlling interest in CFRC to Merrill B. Light, his daughter. Barringer's other daughter—Hampton B. Luzak—is the plaintiff in each lawsuit. Luzak's primary allegation is that the 2012 stock transfers are invalid because her father had developed dementia and become mentally incompetent before Light manipulated him into making the transfers he would not otherwise have made.

The order includes five paragraphs, and we review each in turn. We affirm in part, reverse in part, and remand for further proceedings.

## I.

Paragraph one of the order granted CFRC leave to intervene pursuant to Rule 24(a)(2), SCRCP, "for the limited purpose of precluding the litigation of derivative claims on behalf of CFRC in this action."

Because the challenged stock transfers gave Light control of over 51% of the voting stock in CFRC, she effectively controls CFRC. That control raises concerns about whether CFRC genuinely sought intervention to serve the best interests of all its shareholders or acted primarily to serve only Light's interests. This issue is central to whether CFRC should be allowed to intervene. *See Berkeley Elec. Co-op., Inc. v. Town of Mt. Pleasant*, 302 S.C. 186, 189, 394 S.E.2d 712, 714 (1990) (explaining the showing a party must make for intervention of right under Rule 24(a)(2), SCRCP). There is no indication the circuit court analyzed this issue, and the circuit court simply allowed CFRC to intervene as a matter of right without explanation in the order. Failing to analyze this issue and explain its decision was error by the circuit court.

However, Luzak stated unequivocally during oral argument she has no intention of pursuing derivative claims in this case. Also, CFRC stated unequivocally it has no interest in this case beyond ensuring that it controls its own (derivative) claims. Thus, we affirm paragraph one of the order only to the limited extent that CFRC is permitted to be heard on the question of whether particular claims or elements of damages are derivative in nature. *See* Rule 24(c), SCRCP (Requiring that motions to intervene "shall state the ground therefor and shall be accompanied by a pleading setting forth the claim or defense for which intervention is sought"). Our ruling is without prejudice to CFRC's right to ask for a broader scope for its intervention if it deems doing so necessary. If such a request is made, the circuit court shall give full consideration to all the elements we set forth in *Berkeley Electric Co-operative*, including the issue of Light's control of CFRC and how that impacts the parties' interests.

## II.

Paragraph two of the order dismissed Luzak's civil conspiracy cause of action because it "constitutes a derivative claim under the law of Virginia." However,

Luzak's civil conspiracy cause of action on its face seeks some damages that are clearly not derivative. For example, Luzak alleges Light conspired with various other people to deprive Luzak of "the expected inheritance and gifts from Decedent Paul Barringer." Inheritance and gifts from Luzak's father are clearly damages personal to Luzak and not damages belonging to CFRC. Thus, we reverse the circuit court's dismissal of this cause of action.

### III.

Paragraph three of the order provided various "categories of damages" identified by Luzak's expert witness "are hereby stricken, and Mrs. Luzak cannot recover damages based on those claims." The paragraph continued: "Those four categories of damages also constitute derivative claims under Virginia law." It is not clear what it means for those "categories of damages" to be "stricken." To the extent striking portions of the expert's report was an evidentiary ruling, we decline to address the issue because pre-trial rulings on the admissibility of evidence are not final orders. *See S.C. Dep't of Transp. v. McDonald's Corp.*, 375 S.C. 90, 92, 650 S.E.2d 473, 474 (2007) ("A motion *in limine* is generally not considered a final order . . .").

To the extent striking portions of the expert's report was an attempt to differentiate between derivative and non-derivative claims, we expect Luzak will narrow her claims to only non-derivative claims seeking damages belonging to her, not to CRFC. We hold the circuit court should consider on remand any remaining dispute as to the question of which claims or elements of damages are derivative. Because CFRC is a Virginia corporation, this question will be governed by Virginia law. *See, e.g., Meland v. WEBER*, 2 F.4th 838, 848 (9th Cir. 2021) ("To determine whether a plaintiff's claim is direct or derivative, we apply the law of the state of incorporation . . ."); *Kennedy v. Venrock Assocs.*, 348 F.3d 584, 589 (7th Cir. 2003) ("The question whether a suit is derivative by nature or may be brought by a shareholder in his own right is governed by the law of the state of incorporation."); *Nichols v. HealthSouth Corp.*, 2d81 So. 3d 350, 358 (Ala. 2018) ("[T]he determination whether the shareholders' claims are derivative or direct must . . . be made in accordance with' the law of the state of incorporation.").

### IV.

Paragraph four of the order prevented Luzak from recovering for damages arising from a 2013 stock issuance from CFRC to Travis Bryant after he was appointed CEO. The circuit court ruled Luzak was barred by claim preclusion because the

"United States District Court for the Eastern District of Virginia granted summary judgment as to this exact claim."

In this case, Luzak seeks to recover damages for the stock transfer to Bryant. Luzak argues that once Light gained control of CFRC, she used that control to issue stock to Bryant, thereby diluting the interest and value of Luzak's stock. Luzak argues the circuit court erred because she raises different causes of actions based on a different set of operative facts than those at issue in Virginia. We disagree.

Rule 1:6 of the Rules of the Supreme Court of Virginia governs claim preclusion in Virginia:<sup>1</sup>

A party whose claim for relief arising from identified conduct, a transaction, or an occurrence, is decided on the merits by a final judgment, is forever barred from prosecuting any second or subsequent civil action against the same opposing party or parties on any claim or cause of action that arises from that same conduct, transaction or occurrence, whether or not the legal theory or rights asserted in the second or subsequent action were raised in the prior lawsuit, and regardless of the legal elements or the evidence upon which any claims in the prior proceeding depended, or the particular remedies sought.

Va. Sup. Ct. R. 1:6. Claim preclusion applies under Virginia law when (1) there is a final judgment on the merits, (2) the parties are the same, and (3) both causes of action arise out of the same conduct, transaction, or occurrence. *Lee v. Spoden*, 290 Va. 235, 246-48, 776 S.E.2d 798, 804-05 (2015).

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<sup>1</sup> Virginia law determines the preclusive effect of the Virginia summary judgment. "[F]ederal common law governs the claim-preclusive effect of a dismissal by a federal court sitting in diversity." *Semtek Int'l Inc. v. Lockheed Martin Corp.*, 531 U.S. 497, 508, 121 S. Ct. 1021, 1028, 149 L. Ed. 2d 32 (2001)." Under federal common law, the federal court must apply the preclusion law of the state in which the court sits. *Id.* Here, the court that dismissed Luzak's earlier claim was a Virginia district court sitting in diversity. Thus, Virginia law applies to the question of whether Luzak's damages regarding the stock issuance to Bryant are barred by claim preclusion.

The stock issuance to Bryant challenged in the Virginia litigation is the same transaction Luzak claims caused her damages in this case. *See Luzak v. Light*, No. 115CV501AJTIDD, 2016 WL 3854118, at \*1-2 (E.D. Va. July 8, 2016). Luzak argues her claims here differ, however, because she "is not seeking in this action to unwind the stock transfer to Bryant, nor does she assert there was damage to the corporation." Luzak asks the South Carolina court to focus on the stock transfer from Paul Barringer to Light instead of the stock issuance from CFRC to Bryant. But the fact Light may have exercised unlawful control of CFRC does not automatically allow Luzak to recover damages for every corporate decision that was made after Light took control. Light's control of the corporation does not change the fact CFRC had to pay its CEO, and it is not uncommon for a corporation to offer its officers stock in the company as part of their compensation packages. Thus, Luzak must prove two things in order to recover damages for the stock issuance to Bryant: (1) Light unlawfully gained control of the company, and (2) the decision to issue stock to Bryant was an invalid corporate action.

The second point—whether the decision to issue stock to Bryant was a valid corporate action—has already been litigated with finality in Virginia. Luzak's counterclaim in the Virginia case arises out of the same transaction as her claim for damages for the stock issuance to Travis Bryant in this case. Luzak's claim for damages arising from the 2013 stock issuance from CFRC to Travis Bryant is therefore barred by claim preclusion.

## V.

Paragraph five of the order provided, "Pursuant to S.C. Code § 15-53-20, the Court hereby declares that Mrs. Luzak may not litigate any derivative claims on behalf of CFRC in this action." In light of Luzak's stated intention not to pursue derivative claims, the appeal of the ruling in paragraph five is moot. *See Curtis v. State*, 345 S.C. 557, 567, 549 S.E.2d 591, 596 (2001) ("An appellate court will not pass on moot and academic questions or make an adjudication where there remains no actual controversy.").

## VI.

In light of everything that has elapsed in this case—particularly the clarification that Luzak will not pursue any derivative claims—we direct that all matters regarding mode of trial, including the order bifurcating trial, shall be reconsidered by the circuit court on remand.

**AFFIRMED IN PART, REVERSED IN PART, AND REMANDED.**

**BEATTY, C.J., KITTREDGE, FEW, JAMES, JJ., and Acting Justice Frank R. Addy, Jr., concur.**

RECEIVED

Mar 05 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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APPEAL FROM BEAUFORT COUNTY  
COURT OF COMMON PLEAS  
ROBERT J. BONDS, CIRCUIT COURT JUDGE

---

Appellate Case No. 2025-000076

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IN THE MATTER OF: Estate of Paul Brandon Barringer II

Hampton B. Luzak,..... Appellant

v.

Merrill B. Light, Merrill U. Barringer as Personal Representative of the Estate of Paul Brandon Barringer II, J. Randolph Light, Jr., Merrill B. Light as putative trustee of the Paul B. Barringer II Revocable Trust dated December 4, 1998, and Merrill B. Light as Trustee of the Merrill Barringer Light Revocable Trust, Defendants,

Of which Merrill U. Barringer as Personal Representative of the Estate of Paul Brandon Barringer II, is a, ..... Respondent,

--and--

IN THE MATTER OF: Estate of Paul Brandon Barringer II

Hampton Barringer Luzak,..... Appellant,

v.

Merrill U. Barringer, ..... Respondent,

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**PROOF OF SERVICE**

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I, William M. Hogan, an attorney with the Gilreath Law Firm and co-counsel with Desa Ballard and others for Appellant, do hereby certify that on March 5, 2025 I served a copy of the **Appellant's Return to Motion to Expedite**, in the above-captioned case on the following individuals by electronic mail using their e-mail address:

Bijan Khaladj-Ghom, Esquire  
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Alice Paylor, Esquire  
Saxton & Stump, LLC  
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Charles Moister, Esquire  
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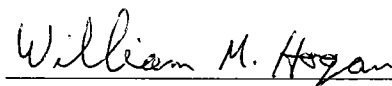
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\_\_\_\_\_  
William M. Hogan, Attorney for Appellant

March 5, 2025

## Kathie Kohlmayer

---

**From:** Kathie Kohlmayer <kathie@gilreathlaw.com>  
**Sent:** Wednesday, March 5, 2025 4:20 PM  
**To:** Alice F. Paylor (AFP@saxtonstump.com); 'Bijan K. Ghom'; Molster, Charles B. (cmolster@molsterlaw.com); 'Ashley Twombly'; 'Thomas landoli'; Harley D. Ruff (hruff@ruffllc.com); 'Edward Fuhr'; Johnathon Schronce (jschronce@HuntonAK.com); Erin D. Dean (erindean@tgdcpa.com); Thomas W. Traxler (tom.traxler@carterlawpa.com); Alan Medlin (amedlin@sc.rr.com); Macloskie Law Firm (macloskielaw@outlook.com); 'Bill Hogan (bhogan@gilreathlaw.com)'; Desa Ballard (desab@desaballard.com); 'Jim Gilreath (jim@gilreathlaw.com)'  
**Cc:** 'Andrea Smith'; 'Beth Cogan'  
**Subject:** In the Matter of the Estate of Paul Brandon Barringer, II (3) (2025-000076)  
**Attachments:** 2025.03.05 - Ltr to COA sending Return to Motin to Expedite.pdf; 2025.03.05 App Return to Motion to Expedite.pdf; 2025.03.05 POS App Return to Motion to Expedite.pdf

Please see the attached Return to Motion to Expedite for the above-referenced matter that is being filed today with the Court of Appeals.

Sincerely,

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Legal Secretary/Paralegal  
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VIA EMAIL ([ctappfilings@sccourts.org](mailto:ctappfilings@sccourts.org))

The Honorable Jenny Abbott Kitchings  
Court of Appeals Clerk of Court  
Post Office Box 11629  
Columbia, South Carolina 29211

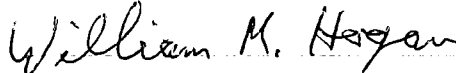
RE: In The Matter of the Estate of Paul Brandon Barringer, II (3)  
Appellate Case No.: 2025-000076

Dear Ms. Kitchings:

Enclosed for filing please find Appellant's Return to Motion to Expedite and Proof of Service for the above-referenced matter.

By copy of this letter and as evidenced by the Proof of Service, this filing has been served upon counsel for the Respondent. Thank you for your time in this matter. If you have any questions, please do not hesitate to contact our office or the office of Desa Ballard.

Sincerely,



William M. Hogan  
bhogan@gilreathlaw.com

WMH/kmk

cc (w/attachments - via electronic mail):

Alice Paylor, Esquire  
Bijan Ghom, Esquire  
Charles B. Molster, III, Esquire  
J. Ashley Twombly, Esquire  
Thomas Iandoli, Esquire  
Harley D. Ruff, Esquire  
Edward J. Fuhr, Esquire  
Johnathon E. Schronce, Esquire  
Erin D. Dean, Esquire  
Thomas W. Traxler, Esquire  
S. Alan Medlin, Esquire  
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Desa Ballard, Esquire  
Hampton Luzak