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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

Appeal from Beaufort County
Robert Bonds, Circuit Court Judge

Appellate Case No. 2025-000076

In the Matter of the Estate of Paul Brandon 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, 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 Respondent.

AND

In the Matter of the Estate of Paul Brandon Barringer, II

Hampton Barringer Luzak Appellant,

v.

Merrill U. Barringer Respondent.

RESPONDENT’S REPLY IN SUPPORT OF MOTION TO EXPEDITE APPEAL

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Luzak's arguments opposing Mrs. Barringer's Motion to Expedite Appeal are nothing more than a transparent attempt to muddy the waters and delay the resolution of a simple, straightforward issue. Nothing argued by Luzak should give the Court pause in granting Mrs. Barringer's Motion.

I. Luzak's Return is premised on a mischaracterization of Mrs. Barringer's Motion.

Even a cursory review of the Motion to Expedite Appeal shows that Mrs. Barringer does not base her Motion solely, or even primarily, on her advanced age. Mrs. Barringer primarily argued four grounds to support her Motion: (a) the sole issue raised by the contract claims is straightforward, and any evidence (although the circuit court ruled there is none) that can be used to support these claims is controlled by S.C. Code Ann. § 62-2-701; (b) Luzak previously appealed the order issued on August 20, 2021, granting Mrs. Barringer summary judgment on Luzak's contract claims, and the parties fully briefed that appeal years ago; (c) the order Luzak now appeals grants summary judgment on the exact same claims and relies on the exact same grounds—indeed, the order that Luzak now re-appeals simply incorporates the August 21, 2021 order “as if repeated here verbatim,” (Mot. to Expedite Appeal Ex. G at 2); and (d) Luzak concedes no single fact and no law have changed since the August 21, 2021 order was entered.

Those four facts alone warrant expediting this appeal. However, Mrs. Barringer relies on additional, sufficient grounds for expediting this appeal: (e) Mrs. Barringer's advanced age, (f) the age of Luzak's litigation, and (g) the fact that the contract claims attempt to impact Mrs. Barringer's final estate planning wishes.

Luzak's Return simply ignores grounds (b) through (d), and these grounds are easily sufficient, standing alone, to support Mrs. Barringer's Motion.¹ If the Court determines an

¹ Luzak briefly argues that her contract claims are not controlled by S.C. Code Ann. § 62-2-701 (i.e. she challenges ground (a)), despite the clear language of the statute. The Court, however,

additional round of briefing is necessary, once Luzak files her new brief, which she concedes will be next week, the Court’s internal expedited designation of this appeal does not affect Luzak’s rights or arguments on the merits.

II. Luzak attempts to advance unpreserved arguments to oppose expediting this appeal.

Luzak intimates that she now has new, secret arguments she plans to make in support of her appeal and criticizes Mrs. Barringer for moving to expedite “before [Mrs. Barringer] even knows what the issues on appeal are.” Return 2. It is axiomatic that, in litigating this appeal, Luzak may only rely on arguments made to, and ruled upon by, the trial court. *See, e.g., Herron v. Century BMW*, 395 S.C. 461, 465, 719 S.E.2d 640, 642 (2011). In opposing Mrs. Barringer’s refiled motions for summary judgment on the contract claims in 2024, Luzak did not advance a single new argument from those made in 2021. Luzak also has fully briefed those arguments to this Court. Importantly, Luzak conceded that not a single fact has changed since those arguments were made and did not advance a single new legal argument to the circuit court. Mot. to Expedite Appeal 5–6. The suggestion that Mrs. Barringer does not know what Luzak will argue in support of her appeal is disingenuous, and in any event, interposed to confuse and delay. Luzak cannot now advance new arguments not previously made to and ruled upon by the circuit court. This is elementary.

Luzak next suggests that this Court will need to review prior orders of the circuit court protecting Mrs. Barringer from Luzak’s desire to ask her mother more deposition questions. Return 3. This is another baseless effort to confuse the Court and delay these proceedings, and the

need not reach this issue to grant Mrs. Barringer’s Motion because Luzak *already briefed to this Court*—more than two years ago—her arguments on why Section 62-2-701 supposedly does not control her contract claims. Mrs. Barringer does not claim that her arguments on this issue have changed since she briefed this issue in 2022 and, to the contrary, recently admitted to the circuit court that the law and facts relating to the contract claims have not changed.

Court should reject this argument for three separate reasons. First, Luzak has never even attempted to appeal either these orders, which were entered on April 4, 2019, and June 4, 2020. *See* Notices of Appeal. In those orders, the circuit court granted Mrs. Barringer’s Motion for Protective Order related to the effort to reconvene Mrs. Barringer’s deposition, concluding (a) “Plaintiff’s counsel had more than enough time to depose Mrs. Barringer . . . and it is obvious from my review of the video and transcript that Mrs. Barringer disclosed everything she knows,” (b) “Mrs. Barringer was deposed for a full day [and] disclosed everything she knows,” (c) “Plaintiff was given more than enough time to depose Mrs. Barringer,” and (d) reopening Mrs. Barringer’s deposition would be “futile and harassing.” *In the Matter of Estate of Paul Brandon Barringer, II*, Civil Action Nos. 2016-CP-07-1919, 2019-CP-07-1253, & 2019-CP-07-1294 (Order filed June 4, 2020). Even if these orders ruling on a discovery issue constituted an abuse of discretion (and they did not), and even if they were not originally appealable, Luzak has not appealed them now and has not attempted to “bootstrap” them, as she is well aware she could do. *See, e.g.*, Ex. A at 4 (“[T]he issue is the appealability of the Bifurcation Order, whether interlocutory or not, when other immediately appealable orders have been appealed.”). Second, at no time has Luzak ever submitted a Rule 56(f) affidavit suggesting she needed more discovery, which is the mandatory process that a party must follow in the event the party contends that more discovery is needed before opposing summary judgment. Third, Luzak herself filed her own motion for summary judgment on the contract claims, representing to the circuit court that there was no genuine issue of material fact related to the claims. *See* Ex. B (“Plaintiff respectfully requests that this Court grant summary judgment in her favor [on the contract claims].”). In any event, Luzak’s attempt to re-depose Mrs. Barringer is not before this Court and cannot be a basis to oppose expediting the appeal.

III. The circuit court properly addressed bifurcation, and any argument to the contrary would require Luzak to take the illogical position that the circuit court should have addressed bifurcation of claims on which it granted summary judgment.

Luzak argues that the instant appeal will not be a “re-run” of the earlier appeal because, on remand, the circuit court did not address bifurcation. Return 2–3. However, in its December 31, 2024 order granting summary judgment, the circuit court squarely and directly addressed bifurcation as directed by the Supreme Court:

Plaintiff has also filed a Motion to Reconsider and to Vacate a previously filed order granting Mrs. Barringer’s December 30, 2020 Motion to Bifurcate the Contract Claims from the other claims in these consolidated cases for trial (“Motion to Reconsider”). In light of the Court granting Defendant’s Motions for Summary Judgment on Plaintiff’s Contract Claims, the Motion to Reconsider is either (a) moot because the Bifurcation Order separated the two causes of action for which summary judgment is now granted; or (b) not ripe until there is a final resolution on Plaintiff’s Second and Third Causes of Action. In other words, if this Order granting summary judgment is not appealed, then the issue is moot; if this Order granting summary judgment is appealed, making a ruling on the Motion to Reconsider is premature as an affirmation of summary judgment would, again, render the Motion to Reconsider moot. Thus, the Court is holding Plaintiff’s Motion to Reconsider in abeyance until there is a final resolution of Plaintiff’s Second and Third Causes of Action. To the extent the parties seek bifurcation of any issues or claims other than Plaintiff’s Second and Third Causes of Action, the parties are free to further move the Court for bifurcation.

Mot. to Expedite Ex. G. Luzak’s contention that the circuit court did not even address bifurcation is without merit. The circuit court complied with the Supreme Court’s directive to “reconsider” the issue of bifurcation and decided the issue was resolved by its grant of summary judgment on the very claims that were to be bifurcated. To state the obvious, the circuit court cannot bifurcate the contract claims now that it has granted Mrs. Barringer summary judgment on those claims, and the order Luzak is now appealing merely recognizes this undeniable fact. To the extent Luzak attempts to appeal the circuit court’s recognition that bifurcation of claims disposed of on summary judgment is not possible, such an appeal would be frivolous and would address an issue (i.e., bifurcation) that is not immediately appealable and, therefore, does not provide any basis for

denying Mrs. Barringer’s Motion to Expedite Appeal. *See Flagstar Corp. v. Royal Surplus Lines*, 341 S.C. 68, 73, 533 S.E.2d 331, 334 (2000) (“We therefore hold that an order granting separate trials of issues in a contract case is not immediately appealable, either permissibly or mandatorily, pursuant to S.C. Code Ann. § 14–3–330(2) (1976).”).

IV. Luzak’s additional, miscellaneous arguments in opposition to Mrs. Barringer’s Motion are also without merit.

Luzak implies that this appeal is not a “re-run” of her 2022 appeal because Mrs. Barringer has not submitted an “affidavit” affirmatively denouncing the existence of a contract. Return 2–3. But Luzak made this exact same argument in the prior briefs that she filed with this Court. *See* Mot. to Expedite Appeal Ex. C (“[Mrs. Barringer] has yet to provide testimony or even a mere affidavit denying the allegations and evidence of Ms. Luzak on this issue.”). This argument is not new, and in no event could it justify now opposing Mrs. Barringer’s Motion.

Luzak also argues that the Court should not expedite this appeal because doing so will not end the litigation for Mrs. Barringer. *See* Return 10–11 (threatening that “Ms. Barringer is going to trial regardless of this appeal”). But this argument does not respond to any of the grounds of Mrs. Barringer’s Motion. One of the secondary grounds of Mrs. Barringer’s Motion to Expedite Appeal (identified as ground (g) at the outset of this Reply) is the fact that the contract claims attempt to impact Mrs. Barringer’s final estate planning wishes. This is undeniably true, and even if Luzak intends to continue suing her own mother *post mortem*, Mrs. Barringer has a strong interest in having the contract claims resolved during her lifetime.

Luzak also suggests Mrs. Barringer “does not want any” appellate review of the circuit court’s ruling that the bifurcation issue need not be addressed now that the court has granted summary judgment on the same claims that were to be bifurcated. Return 5. However, Mrs.

Barringer seeks *expedited* review of that portion of the circuit court’s order, to the extent any such review is needed.

Luzak also contends the cause of delay is Mrs. Barringer’s “deliberate approach to piecemeal litigation.” Return 7. Mrs. Barringer humbly concedes that she has sought summary judgment on claims for which there is no evidence and for which she is entitled to judgment as a matter of law, as the circuit court has now recognized, and would respectfully suggest that this is objectively reasonable. As the Court may recall, Luzak herself moved for summary judgment on the same issue before the court at roughly the same time Mrs. Barringer did. The important point for purposes of the Motion to Expedite Appeal, however, is that, regardless of who caused prior delays in this litigation, the primary grounds for Mrs. Barringer’s motion are valid and unrebutted, and the parties both should attempt to eliminate further delays to the extent possible.

V. The Court should grant Mrs. Barringer’s Motion to Expedite Appeal.

In sum, this appeal is, in fact, a re-run of a previous appeal that the parties fully briefed to this Court in 2022. The law governing preservation of arguments on appeal—and the fact that Luzak made the same arguments to the circuit court in 2021 and in 2024 and even admitted to the circuit court that the facts and the law have not changed between these two appeals—precludes her from making new arguments in this appeal that she did not make in 2022. These unrebutted facts are more than sufficient to support granting Mrs. Barringer’s Motion to Expedite Appeal. The fact that Mrs. Barringer is now ninety-three years old and seeks to resolve a single, straightforward issue that has remained pending for many years, and the fact that this single issue ostensibly relates to the very personal matter of Mrs. Barringer’s estate planning wishes, provide additional support for Mrs. Barringer’s Motion. But these facts are not the “only” grounds for her Motion, as Luzak asserts.

Mrs. Barringer respectfully requests that the Court grant her Motion to Expedite Appeal, dispense with additional briefing, and decide this appeal on the briefs filed in 2022, or, in the alternative, schedule oral argument as soon as possible. If the Court determines additional briefing is necessary beyond the eighty-eight (88) pages previously filed with this Court and the circuit court addressing the order granting summary judgment on the contract claims, Mrs. Barringer respectfully requests that the Court decline to grant any additional extensions for the parties to file additional briefing and that the Court resolve this appeal as soon as possible.

Respectfully submitted,

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March 6, 2025

EXHIBIT A
TO REPLY IN SUPPORT OF MOTION TO EXPEDITE
APPEAL

NOVEMBER 29, 2021 RETURN TO MOTION TO
DISMISS

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM BEAUFORT COUNTY
COURT OF COMMON PLEAS
BENTLEY PRICE, CIRCUIT COURT JUDGE

Appellate Case No. 2021-000837

In re: 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, Respondents

--and--

Coastal Forest Resources Company (“CFRC”)Intervenor/Respondent.

--and--

Hampton B. Luzak,Appellant,

v.

Merrill U. Barringer,Respondent.

**APPELLANT’S RETURN TO
RESPONDENTS’ MOTION TO DISMISS**

Appellant Hampton B. Luzak (hereafter “Ms. Luzak”) files this Return to the Respondents’ Motion to Dismiss the appeal by Ms. Luzak of the trial court’s order dated December 30, 2020 ordering the bifurcation of the trial of the causes of action set forth in the

consolidated cases filed by Ms. Luzak against the Respondents. Ms. Luzak also appealed the trial court's order of January 14, 2021 denying her motion for reconsideration of the December 30, 2020 bifurcation order. For brevity's sake, Ms. Luzak simply refers to both orders as the Bifurcation Order.

FACTUAL AND PROCEDURAL BACKGROUND

The Respondents set out their version of the factual and procedural background, and while Ms. Luzak does not agree with all that the Respondents state, some arguments made by the Respondents cannot go unchallenged.

1. The Respondents state on page 4 under "Barringer I" that Ms. Luzak seeks to set aside all of the post-1998 testamentary instruments and the 2012 transfer of stock to Merrill Light on the basis of incapacity, undue influence, and mistake, and, while that is true, Ms. Luzak also seeks to set aside those documents and stock transfer on the grounds of fraud, the facts or merits of which were raised in Merrill Light's first motion for summary judgment but denied by Judge Mullen in her order of December 30, 2020. When the trial court entered its order of July 6, 2021, which is one of the orders subject to the present appeal, it never addressed the issue of fraud, nor was the issue before it.
2. The Respondents also state on pages 4-5 that the two equitable causes of actions against Ms. Barringer that were bifurcated for the first trial are "different and factually distinct from all other causes of action in the consolidated cases." That is not true. *South Carolina Rules of Civil Procedure (SCRCP)* Rule 42(a) provides for consolidation of cases "[w]hen actions involving a common question of law or fact are pending before the court." That is what the parties acknowledged when

they consented to the entry of the Consent Order on Plaintiff's Motion for Consolidation of Actions entered by the Court on December 3, 2019. The Respondents agreed that such consolidation was appropriate.

More particularly, all of the causes of action in the consolidated cases emanate from a common core of facts: The Decedent, Mr. Barringer, embarked upon an estate plan decades ago to treat his children equally with respect to their inheritances, especially as to his legacy company. One of the children, the son Victor, was given his "inheritance" in advance, leaving the two daughters, Hampton Luzak and Merrill Light to be treated equally in Mr. Barringer's estate plan. Upon the Mr. Barringer's onset of dementia and his inability to protect himself and his estate plan, if not earlier, Merrill Light and her mother, Merrill Barringer, and Randy Light engaged in concerted acts and conspiracies to deprive Ms. Luzak of her share of the inheritance that Mr. Barringer intended to provide her via his estate. During the relevant time of Mr. Barringer's dementia and the acts of Ms. Barringer and Randy and Merrill Light, Mr. Barringer purportedly executed the various testamentary instruments in 2012, 2014, and 2015 and purportedly gave Merrill Light control of CFRC by gifting his voting stock to her. Those instruments and gifts to Merrill Light, especially of Mr. Barringer's voting stock in CFRC, are strongly challenged by Ms. Luzak, as they do not represent Mr. Barringer's long-held wishes nor his prior and express estate plans.

The bifurcated equitable causes of action slated for a separate and distinct trial before the other causes of action are not at all "different and factually distinct" (Respondents' Motion to Dismiss, page 4 and 5). The Respondents

state: “[T]he evidence in the two trials would not overlap.” (Respondents’ Motion to Dismiss, pages 5-6). The correct statement is that the evidence, documents, and witnesses will not only overlap, but will also almost completely overlap.

ARGUMENT

Ms. Luzak first preserves her rights under the prior appeal (Appellate Case No. 2021-000159)(First Appeal) that is presently pending before the Supreme Court on her Petition for a Writ of Certiorari, and she incorporates all of the arguments that she asserted before this Court in her Appellant’s Memorandum in Support of Immediate Appealability of Order Granting Motion to Bifurcate filed with the Court of Appeals on March 4, 2021, her Petition and Memorandum For Rehearing filed on May 18, 2021, and her Reply to Respondents’ Return for Petition for Rehearing filed on August 16, 2021. Nothing in the present Return should be considered a waiver of any rights and arguments set forth therein.

The First Appeal was dismissed by the Court of Appeals with a finding that the Bifurcation Order was interlocutory and not immediately appealable. That appeal is presently pending before the Supreme Court on Ms. Luzak’s Petition for a Writ of Certiorari, and the current procedural posture of that appeal revolves around the issue of whether the Bifurcation Order is immediately appealable by itself as a matter of right under S.C. Code Ann. §14-3-330(2).

Ms. Luzak continues to assert that the Bifurcation Order, by itself, was immediately appealable under Section 14-3-330(2), but the issue in this current appeal (Second Appeal) is different. The current issue is the appealability of the Bifurcation Order, whether interlocutory or not, when other immediately appealable orders have been appealed pursuant to Section 14-3-330(1). The Respondents’ Motion to Dismiss does not seek dismissal of the Second Appeal in

full; it seeks only the dismissal of the appeal of the Bifurcation Order as part of the Second Appeal.

In seeking dismissal at this point, before Ms. Luzak has stated her issues on appeal by brief with regard to the Bifurcation Order, Respondents want this Court to mistakenly believe the issues in the two appeals are different, when they are not. Respondents prefer that the error of the Bifurcation Order never be addressed...or at least not addressed until after two multi-week trials of the bifurcated issues.¹

The pending issue before this Court with the Motion to Dismiss is the appealability of the Bifurcation Order, interlocutory or otherwise, simultaneously with the appeal of summary judgment and an order striking a cause of action and damages, *i.e.*, pursuant to Section 14-3-330(1). Ms. Luzak steadfastly preserves her argument that the Bifurcation Order is immediately appealable standing alone under Section 14-3-330(2). But for the sole purpose of this appeal, Ms. Luzak argues that including the appeal of the Bifurcation Order in this, the Second Appeal, is proper combined with the appeals from final orders pursuant to Section 14-3-330(1) .

The appellate courts of this State have addressed that before, going back to at least 1915. Interlocutory orders are generally not appealable by themselves until after final judgment. But in *Woods v. Rock Hill Fertilizer Co.*, 102 S.C. 442, 86 S.E. 817, 819 (1915), the Supreme Court recognized that the general rule serves no purpose when another order is immediately appealable and “it will be better for both parties in the further progress of the case to have these [interlocutory] questions decided.” *Id.*

¹ After the bifurcated proceedings are held, Respondents would no doubt argue that an appeal of the Bifurcation Order is moot, thus attempting to guarantee that the merits of the Bifurcation Order never be examined by an appellate court. That is precisely why Section 14-3-330(2) provides for immediately appealability of orders affecting a substantial right and that is the issue that is the subject of the Petition for Writ of Certiorari to the Supreme Court in the First Appeal (2021-000157).

That is the guiding principle running through the cases in this State that have dealt with this issue, and that presents to this Court the core issue: Will it “be better for [all] parties in the further progress of the case to have [this bifurcation question] decided” as part of the present appeal?

This is not some minor technical issue that has minimal impact on the resolution of these cases. It directly implicates the mode of trial; it directly implicates the sequencing of trial of equitable issues before legal issues; and it directly implicates judicial efficiency in determining whether a multi-week case will be tried *twice* with the same evidence and the same witnesses before this Court will determine the propriety of the bifurcation.

The principle enunciated by *Woods* found itself reiterated in 2001 when the Court of Appeals held: “However, an order that is not directly appealable will be considered if there is an appealable issue before the court.” *Cox v. Woodmen of World Ins. Co.*, 347 S.C. 460, 469, 556 S.E.2d 397, 402 (Ct. App. 2001) (citing *Pruitt v. Bowers*, 330 S.C. 483, 499 S.E.2d 250 (Ct.App.1998); see *Briggs v. Richardson*, 273 S.C. 376, 256 S.E.2d 544 (1979)). See also *Ferguson v. Charleston Lincoln Mercury, Inc.*, 349 S.C. 558, 564 S.E.2d 94 (2002); *Hite v. Thomas & Howard Co.*, 305 S.C. 358, 360, 409 S.E.2d 340, 341 (1991) (“[A]n order that is not directly appealable will nonetheless be considered if there is an appealable issue before the Court and a ruling on appeal will avoid unnecessary litigation.”), *overruled on other grounds by Huntley v. Young*, 319 S.C. 559, 462 S.E.2d 860 (1995); *Morris v. Anderson Cnty.*, 349 S.C. 607, 610, 564 S.E.2d 649, 651 (2002) (“Although this Court may, as a matter of discretion, consider an unappealable order along with an appealable issue where such a ruling will avoid unnecessary litigation.”)(citing *Roberts v. Recovery Bureau, Inc.*, 316 S.C. 492, 450 S.E.2d 616 (Ct.App.1994). Further, as the *Morris v. Anderson Cnty, supra*, Court stated, a review by this

Court in conjunction with the present appeal is appropriate since “such a ruling will avoid unnecessary litigation.”

The bifurcation issue does not stand in isolation, remotely removed from the granting of summary judgment to Merrill Light on the February 2012 testamentary documents or the trial court order striking the civil conspiracy cause of action and most of Ms. Luzak’s damages as derivative. The Bifurcation Order separates two causes of action, involving powers of appointment, from the rest of the case. However, a critical element in the power of appointment causes of action involves whether a power of appointment was created, and if so, by what set of estate planning documents and the agreement and/or estoppel between Mr. and Ms. Barringer with respect to what power of appointment Ms. Barringer may have. The Respondents essentially argued to the trial court in their summary judgment motions which led to the instant appeal that only estate planning documents executed in 1998 should be considered. However, these 1998 documents are not valid if the summary judgment order finding the February 28, 2012 Will and Trust to be valid is upheld because the 1998 documents would be revoked by the 2012 documents. Similarly, each set of estate planning documents would have to be examined separately, in order, to determine which are the most recent valid documents, if any, and those documents would control the power of appointment causes of action. The civil conspiracy cause of action provides a means by which Ms. Luzak can question the validity of any of those estate planning documents for purposes of the power of appointment cause of action.

Ms. Luzak also hastens to point out to the Court that since the filing of the Second Appeal, the trial court went further and granted summary judgment to Respondent Merrill Barringer on the bifurcated causes of action that were to be tried first before the legal causes of action, and Ms. Luzak has had to appeal that order as well. That Notice of Appeal was filed on

November 8, 2021 (Appellate Case No. 2021-001337). The Respondents assert that summary judgment renders the Bifurcation Order and its appeals moot since their position is that summary judgment eliminated the need for the first phase of the trial. Since the granting of that summary judgment is now on appeal, the need for this Court to proceed with review of the Bifurcation Order is now particularly critical. If the summary judgment on the two bifurcated equitable causes of action is affirmed and that decision becomes final, the Court may conclude that the Bifurcation Order is indeed moot, but if or when that order granting summary judgment is reversed and remanded for trial, the bifurcation issue will continue to persist; hence the need for this Court to proceed with the present appeal of the Bifurcation Order to ensure that all causes of action are tried before a single jury and the legal and equitable causes of action are properly sequenced.

Respectfully submitted,

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November 29, 2021

EXHIBIT B
TO REPLY IN SUPPORT OF MOTION TO EXPEDITE
APPEAL

JULY 30, 2021 MOTION FOR SUMMARY
JUDGMENT

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

IN THE MATTER OF:

Estate of Paul Brandon Barringer, II

Hampton B. Luzak,

Plaintiff,

vs.

Merrill U. Barringer,

Defendant.

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

Civil Action Nos.: 2019-CP-07-01253
2019-CP-07-01294

**PLAINTIFF'S NOTICE OF MOTION
FOR SUMMARY JUDGMENT AS TO
PLAINTIFF'S SECOND AND THIRD
CAUSES OF ACTION**

TO: DEFENDANT AND HER COUNSEL:

In Plaintiff's second cause of action, for constructive trust and injunction, Plaintiff alleges that Defendant Merrill U. Barringer ("Mrs. Barringer") made an express or implied promise not to exercise any testamentary power of appointment she may have in a manner that would redirect the subject property in a manner other than as set forth in the default provisions of the estate plan of Decedent Paul Barringer ("Mr. Barringer"). In particular, Mrs. Barringer has contended that she has a testamentary power of appointment to redirect the voting stock of Mr. Barringer in his legacy company Coastal Forest Resources Company ("CFRC") to Defendant Merrill Light. Plaintiff alleges that, if in fact Mr. Barringer intended to give Mrs. Barringer a testamentary power of appointment over such voting stock, which Plaintiff disputes, Mr. Barringer relied on Mrs. Barringer's express or implied promise not to exercise the testamentary power of appointment given her. Based on numerous estate planning and succession documents of Mr.

Barringer,¹ Mr. Barringer intended to treat his daughters --- Plaintiff and Defendant Merrill Light --- equally, especially with respect to control of his legacy company. Based on the estate planning documents produced by Mrs. Barringer and assertions made in court, she intends to disregard her promise and/or the trust reposed in her by executing or intending to execute a will that would exercise any testamentary power of appointment given to her in a manner that would not treat the daughters equally with respect to the CFRC voting stock. Consequently, Plaintiff is entitled to an order from this Court directing Defendant Merrill U. Barringer to comply with her promise and the trust reposed in her not to exercise any testamentary power of appointment given her and to impose a constructive trust for the benefit of Plaintiff in the subject property with respect to the intended equal treatment of Plaintiff.

In Plaintiff's third cause of action, for enforcement of contract not to revoke and injunction, Plaintiff alleges that Mr. Barringer and Mrs. Barringer entered into a binding contract not to revoke their estate plans, especially with respect to Mrs. Barringer's will(s) that did not exercise any power of appointment related to voting stock before Mr. Barringer's death. This contract not to revoke applied to the estate plans in place that were not the result of, inter alia, undue influence, mistake, fraud, tortious interference with inheritance, civil conspiracy, fraud, and/or lack of capacity because any estate plan of Mr. Barringer resulting from those actions would be invalid. Consequently, Plaintiff is entitled to an order from this Court directing Defendant Merrill U. Barringer to comply with the contract not to revoke.

¹ Those that were not invalid because of, inter alia, undue influence, mistake, fraud, tortious interference with inheritance, civil conspiracy, and/or lack of capacity. Plaintiff alleges that any of Mr. Barringer's estate planning documents purportedly executed after 2011 are invalid for one or more of those reasons.

Reserving all rights, Plaintiff seeks summary judgment as to her second and third causes of action. Plaintiff, hereby incorporating all prior pleadings, memoranda, and exhibits, will subsequently file accompanying memoranda.

Consequently, Plaintiff respectfully requests that this Court grant summary judgment in her favor on Plaintiff's second and third causes of action.

Respectfully submitted,

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Attorneys for Plaintiff Hampton Barringer Luzak

July 30, 2021
Greenville, South Carolina.

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

Appeal from Beaufort County
Robert Bonds, Circuit Court Judge

Appellate Case No. 2025-000076

In the Matter of the Estate of Paul Brandon 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, 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 RespondentRespondent.

AND

In the Matter of the Estate of Paul Brandon Barringer, II

Hampton Barringer Luzak..... Appellant,

v.

Merrill U. BarringerRespondent.

PROOF OF DELIVERY

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The undersigned, J. Ashley Twombly, of TWENGE + TWOMBLY LAW FIRM, Attorneys for Respondents, hereby avers that on the 27th day of February 2025, a true and accurate copy of the attached **RESPONDENT MERRILL BARRINGER'S REPLY IN SUPPORT OF MOTION TO EXPEDITE** was served via electronic mail to the following:

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March 6, 2025

Via Electronic Mail

The Honorable Jenny Abbott Kitchings
Court of Appeals Clerk of Court
P.O. Box 11629
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RECEIVED
Mar 06 2025
SC Court of Appeals

**RE: In the Matter of the Estate of Paul Brandon Barringer, II
Hampton Luzak v. Merrill B. Light, et al.
Appellate Case No. 2025-000076**


Dear Ms. Kitchings:

Please find attached Respondent's Reply in Support of Motion to Expedite Appeal in the referenced matter. By copy of this letter and evidenced by the Proof of Service, this Motion has been served upon counsel of the Appellant.

Please let us know if you need anything further or if you have any questions related to Respondent's Reply in Support of Motion to Expedite Appeal.

With kindest personal regards, I remain,

Cordially,


J. Ashley Twombley

cc: James R. Gilreath, Esquire (jim@gilreathlaw.com)
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