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Mar 26 2025

SC Court of Appeals

**STANDARD OF REVIEW**

South Carolina Code § 18-7-10 "Appeals from inferior courts; supersedeas," states, "[w]hen a judgment is rendered by a magistrates court, by the governing body of a county or by any other inferior court or jurisdiction, save the probate court, the appeal shall be to the circuit court of the county wherein the judgment was rendered[.]" S.C. Code Ann. § 18-7-10.

FORM 4

JUDGMENT IN A CIVIL CASE

STATE OF SOUTH CAROLINA  
COUNTY OF Horry  
IN THE COURT OF COMMON PLEAS

CASE NO. 2024CP2607556

Kimberly A Alford  
PLAINTIFF(S)

Cloisters Investments LLC et al  
DEFENDANT(S)

**DISPOSITION TYPE (CHECK ONE)**

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):**  Rule 12(b), SCRPC;  Rule 41(a), SCRPC (Vol. Nonsuit);  Rule 43(k), SCRPC (Settled);  Other
- ACTION STRICKEN (CHECK REASON):**  Rule 40(j), SCRPC;  Bankruptcy;  Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;  Other

**STAYED DUE TO BANKRUPTCY**

**DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**

- Affirmed;  Reversed;  Remanded;
- Other See Below

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED:  See attached order (formal order to follow)  Statement of Judgment

by the Court:

ELECTRONICALLY FILED - 2024 Dec 13 8:47 AM - Horry - COMMON PLEAS

received from the Magistrate's Court, therefore the

### STANDARD OF REVIEW

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According to the South Carolina Residential Landlord and Tenant Act ("Landlord and Tenant Act"), when a tenant files an appeal of the magistrates' court ruling, it shall first be heard in the circuit court, "consistent with other appeals from the magistrates' court[.]" S.C. Code Ann. § 27-40-800(a). Under the Landlord and Tenant Act, upon appeal to the Circuit Court, the execution of judgment rendered by the magistrates' court is effectively "stayed," by way of setting bond, through what is commonly referred to as a "bond-to-stay hearing." S.C. Code Ann. § 27-40-800(b)-(c). The Landlord and Tenant Act also recognizes a bond-to-stay hearing upon appeal to the Court of Appeals or Supreme Court, if a tenant appeals the Circuit Court's ruling under Section 27-40-800(f)(1). However, the Landlord and Tenant Act does not provide a mechanism for a tenant to appeal a magistrates' court order directly to the Court of Appeals or Supreme Court without first appealing the judgment to the Circuit Court in the county where the magistrates' court is located. *See generally* S.C. Code Ann. § 27-40-10.

### ARGUMENT

After review of the procedural history of the filed pleadings, appeals, and the orders issued by the Horry County Magistrate Court, Horry County Circuit Court, and South Carolina Court of Appeals, it is evident that Appellants improperly filed a motion/appeal with the South

Carolina Court of Appeals before allowing the Horry County Circuit Court to issue its ruling on Appellants' filed appeal. Respondent respectfully submits that the South Carolina Court of Appeals' acceptance of Appellants' appeal of the Magistrate Court's order contradicts the applicable statutes and court rules cited above, which require that the appeal be fully adjudicated in the Circuit Court before a party has the right to file a motion/appeal with the Court of Appeals. In summary, Appellants' duplicative filings in both the Circuit Court and the Court of Appeals have resulted in overlapping procedural issues that have unnecessarily complicated resolution of this matter to the detriment of Respondent.

Out of an abundance of caution and in deference to this Court, Respondent respectfully requests an order clarifying Respondent's right to enforce the Writ of Ejectment originally issued by the Horry County Magistrate Court in this matter. As outlined above, on December 6, 2024, the South Carolina Court of Appeals issued an order directing the Horry County Circuit Court to conduct "an expedited hearing on Appellant's motion to stay and determination of any appeal bond," (a bond-to-stay hearing). However, this hearing never occurred due to Appellants' non-compliance with the bond order issued by the Horry County Magistrate Court, authorized by the terms of that order and the Landlord and Tenant Act. See S.C. Code Ann. § 27-40-800(e).

In light of these circumstances, Respondent seeks confirmation that the Writ of Ejectment remains enforceable and that the procedural directive to the Horry County Circuit Court to conduct a bond-to-stay hearing under the Court of Appeals' Order, published on December 6, 2024, is no longer necessary.

**[SIGNATURE OF FOLLOWING PAGE]**