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Apr 01 2025

SC Court of Appeals

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HORRY COUNTY
COURT OF COMMON PLEAS

The Honorable David P. Caraker

Case No.: 2022-CP-26-08003
Appellate Case No.: 2025-000445

Stephanie Hatton and Brandon Deubell,

Appellants,

v.

Sam Investment Properties, LLC, a/k/a
Archangel Investments, LLC,

Respondent.

RESPONDENT'S RETURN TO MOTION TO SUSPEND APPEAL AND REMAND

Respondent Sam Investment Properties, LLC, n/k/a Archangel Investments, LLC, through undersigned counsel, respectfully submits this Return to the Motion to Suspend Appeal and Remand filed by Appellants Stephanie Hatton (hereinafter "Hatton") and Brandon Deubell (hereinafter "Deubell"). This motion should be denied as Appellants are not entitled to a Rule 60(b) relief from judgment on either newly discovered evidence or fraud.

BACKGROUND

The matter underlying this appeal is from a non-jury bench trial verdict for damages rendered in favor of Respondent, SAM Investment Properties, LLC n/k/a Archangel Investments, LLC, on January 31, 2025. Judge Caraker, presiding judge, after taking the landlord/tenant matter under advisement, properly awarded Respondent \$2,030.72 in damages and \$7,050.00 in attorney's fees in his Verdict and Order filed February 4, 2025.

Appellants failed to file a Motion to Reconsider or a Motion to Alter or Amend Judgment thereby failing to preserve any issue for review on appeal.

ARGUMENT

In non-jury actions, a party aggrieved by the judgement has 10 days after receipt of written notice of the entry of the order to file the appropriate motion to reconsider of alter and amend judgement. SCRCP 59(e). Appellants did not file any motion in opposition to the Circuit Court's Verdict and Order, instead electing to file a Notice of Appeal on March 7, 2025, from which they are now seeking a suspension.

A. Newly Discovered Evidence

“Whether to grant or deny a motion under Rule 60(b) lies within the sound discretion of the judge.” *BB&T v. Taylor*, 369 S.C. 548, 551, 633 S.E.2d 501, 502 (2006). The appellate “standard of review, therefore, is limited to determining whether there was an abuse of discretion. An abuse of discretion arises whe[n] the judge issuing the order was controlled by an error of law or whe[n] the order is based on factual conclusions that are without evidentiary support.” *Id.* At 551, 633 S.E.2d at 502-03.

The circuit court may relieve a party from final judgement where “newly discovered evidence which by due diligence could not have been discovered in time to move for a new

trial under 59(b). Rule 60(b)(2), SCRCP. “A party seeking to set aside a judgment pursuant to Rule 60(b) has the burden of presenting evidence entitling him to the requested relief.” *Perry v. Heirs at Law of Gadsden*, 357 S.C. 42, 46, 590 S.E. 2d, 502, 504 (Ct.App. 2003). To obtain a new trial based on newly discovered evidence, a movant must establish that the newly discovered evidence: (1) will probably change the result if a new trial is granted; (2) has been discovered since the trial; (3) could not have been discovered before the trial; (4) is material to the issue; and (5) is not merely cumulative or impeaching. *Lanier v. Lanier*, 364 S.C. 211, 217, 612 S.E. 2d 456,459 (Ct.App. 2005) (citation omitted).

Appellants contention of “newly discovered evidence” is not factual. If she is contending that unsigned, partially completed eviction forms from the Magistrate Court are “documents not previously discoverable with due diligence,” this is also not factual.

The eviction of these tenants is not at issue in this appeal. And, an appeal is not a re-trial of the case but mandates proving the trial court made a consequential error.

Appellant Hatton appeared *pro se* at the trial. Appellant Deubell did not appear at all.

Pro se litigants are held to the same standards as licensed attorneys and must comply with all court rules when representing themselves. The *pro se* appellant’s lack of knowledge, misidentification of, and inaccuracies in identification of all documents she reviewed at trial, questioned the witnesses about at trial, and offered no objection to when submitted into evidence in the underlying bench trial does not constitute “new evidence.”

B. Fraud, Misrepresentation, or other misconduct of an Adverse Party

Rule 60(b)(3), SCRCP authorizes the circuit court to relieve a party from a final judgment where the party demonstrates “fraud, misrepresentation, or other misconduct of an adverse party.” In South Carolina, in order for a party to be entitled to relief based on fraud, the moving party must demonstrate extrinsic fraud. *Raby Constr., LLP v. Orr*, 358 S.C. 10, 20-21, 594 S.E. 2d 478, 484 (2004); *Hagy v. Pruitt*, 339 S.C. 425, 431, 529 S.E. 2d 714, 717 (2000) (“A judgment may be set aside on the ground of fraud only if the fraud is ‘extrinsic’ and not ‘intrinsic.’”). Fraud is extrinsic when it is collateral to the issues tried in a case and effectively deprives the litigant of a fair hearing or the opportunity to present its case. *Id.* (citing *Hilton Head Ctr. Of S.C., Inc. v. Pub. Serv., Comm’n of S.C.* 394 S.C. 9, 362 S.E. 2d 176 (1987); *Mr. G. v. Mrs. G.*, 320 S.C. 305, 465 S.E. 2d 101 (Ct.App. 1995)). “Relief is granted for extrinsic fraud on the theory that because the fraud prevented a party from fully exhibiting and trying his case, there has ever been a real contest before the court on the subject matter of the action.” *Chewning v. Ford Motor Co.*, 354 S.C. 72, 81, 579 S.E. 2d 605, 610 (2003) (citing *Hilton Head*, 294 S.C. at 11, 362 S.E. 2d at 177). On the other hand, intrinsic fraud is fraud presented and considered at the trial. *Hagy*, 229 S.C. at 431-21, 529 S.E. 2d at 718 (citing *Evans v. Gunter*, 366 S.E. 2d 44, 294 S.C. 525 (Ct.App.1988)). Intrinsic fraud misleads a court in determining issues and induces the court to find for the party perpetrating the fraud. *Chewning*, 354 S.C. at 81, 579 S.E. 2d at 610 (citing *Hilton Head*, 294 S.C. at 11, 362 S.E.2d at 177).

Likewise, “a party may not prevail on a Rule 60(b)(3) motion on the basis of fraud whe[n] he or she has access to disputed information or has knowledge of inaccuracies in an

opponent's representations at the time of the alleged misconduct.' "*Id.* (quoting *Ojeda-Toro v. Rivera-Mendez*, 853 F.2d 25, 29 (1st Cir.1988)).

The record fails to substantiate Appellant's allegations that Respondent intentionally misrepresented evidence thus depriving Appellant of a fair hearing or the opportunity to present her case.

CONCLUSION

Hatton, this "*pro se*" Appellant, is holding herself out to be self-taught and knowledgeable in the complex legal field of appellate court practice. Her attempt now for the proverbial "second bite at the apple" should not be entertained by this Court simply because she did not like the previous outcome. For the reasons set forth herein, Respondent respectfully requests Appellants' Motion to Suspend Appeal and Remand to Circuit Court be denied.

Respectfully submitted this 1st day of April, 2025.

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Stephanie Hatton and Brandon Deubell,

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Sam Investment Properties, LLC, a/k/a
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Respondent.

PROOF OF SERVICE

I, the undersigned attorney for Respondent, do hereby certify that I have served Respondent's Return to Motion to Suspend Appeal and Remand upon Appellants by depositing a copy of it in the United States Mail, postage prepaid, on April 1, 2025, addressed to Appellants *pro se*, 2379 Clandon Drive, Myrtle Beach, South Carolina 29579. I also certify that I have served Respondent's Return to Motion to Suspend Appeal and Remand on April 1, 2025, by electronic mail at ctappfilings@ssccourts.org.

April 1, 2025

ANDERSON LAW, LLC

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April 1, 2025

VIA ELECTRONIC TRANSMISSION

The Honorable Jenny Abbott Kitchings
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South Carolina Court of Appeals
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RE: *Stephanie Hatton and Brandon Deubell, Appellants v. Sam Investment Properties, LLC,
a/k/a Archangel Investments, LLC, Respondent*
Circuit Court Case No.: 2022-CP-26-08003
Appellate Case No.: 2025-000445

Dear Ms. Kitchings:

Please find attached herewith for filing **Respondent's Return to Motion to Suspend and Remand and Proof of Service**.

Thank you for your kind assistance.

Sincerely,

ANDERSON LAW, LLC

s/ JAY G. ANDERSON

Jay G. Anderson
Counsel for Respondent

JGA/gs

Attachment as stated

cc: Stephanie Hatton, Appellant (w/ enclosure)
Brandon Deubell, Appellant (w/ enclosure)