

RECEIVED

Jun 23 2025

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
H. Steven DeBerry, IV, Circuit Court Judge

Case No. 2021-CP-07-1217

Paul Vernon Coffman, Jr., Respondent,

v.

Town of Port Royal and Kimberly Carter,..... Appellants.

**APPELLANTS' MOTION FOR STAY
OF APPEAL AND LIMITED REMAND**

The Appellants Town of Port Royal and Kimberly Carter hereby move this Court for an order staying this appeal and remanding jurisdiction to the Circuit Court for the limited purpose of allowing for the final adjudication of the pending Motion to Alter or Amend Order and/or Motion to Reconsider filed May 27, 2025.

By way of procedural background, on April 23, 2025, the Appellants filed a Notice of Appeal with this Court that appealed the following orders:

- (a) Order Denying Defendants' Post-Trial Motions, filed on January 15, 2025, issued by the Honorable H. Steven DeBerry, IV;
- (b) Order Awarding Fees and Costs, filed on January 15, 2025, issued by the Honorable H. Steven DeBerry, IV; and

- (c) Order of Reconsideration, filed March 24, 2025, issued by the Honorable H. Steven DeBerry, IV.

Subsequently, Judge Steven DeBerry issued an Order Reconsidering Attorneys' Fees and Costs filed on May 14, 2025. In that Order, Judge DeBerry reconsidered his Order Awarding Fees and Costs filed January 15, 2025, and essentially reversed himself by awarding attorney's fees in the amount of \$369,713.30 (as opposed to \$33,333.33 which had been awarded in the earlier order). In his May 14, 2025 Order, Judge DeBerry did not address each of the issues/objections asserted by the Defendants in their Memorandum in Opposition to Plaintiff's Motion for Attorney's Fees filed December 10, 2024, and asserted as well at the December 11, 2024 motion hearing. That has necessitated the Defendants' filing of the pending Motion to Alter or Amend Order and/or Motion to Reconsider filed May 27, 2025, in order to attempt to obtain a ruling on those issues/objections and to otherwise preserve those issues/objections for appellate review as required by Rule 59(e), SCRCP and the prevailing case law on Rule 59(e). *See generally, Elam v. South Carolina Department of Transportation*, 361 S.C. 9, 602 S.E.2d 772, 780 (2004).

When Judge DeBerry had not ruled by June 13, 2025, which was the thirtieth day after the May 14, 2025 Order was issued, the Appellants proceeded to file their Amended Notice of Appeal out of an abundance of caution to avoid any timeliness questions. In *Elam, supra*, the Supreme Court held as follows:

If a party is unsure whether he properly raised all issues and obtained a ruling, he must file a Rule 59(e) motion or an appellate court may later determine the issue or argument is not preserved for review. But in filing the motion, he may unwittingly forfeit the right to an appeal if an appellate court later determines the Rule 59(e) motion was unnecessary because he already had raised the issue and obtained a ruling.

602 S.E.2d at 780. The Appellants' filing of the Amended Notice of Appeal and this motion for remand are made solely to protect their appellate rights and to ensure that appellate jurisdiction

does not become an issue or that, in the Supreme Court’s words, the Appellants “unwittingly forfeit the right to an appeal.” *Id.* As the Supreme Court reaffirmed in *Elam*, if this Court were to later find that the Rule 59(e) was unnecessary or successive, this Court’s jurisdiction would be automatically barred if the Appellants had failed to file a timely notice of appeal. *See, Elam*, 602 S.E.2d at 775-77 (citing cases in which appellate courts have found a Rule 59(e) motion was improper and did not stay the time to appeal).

The Appellants do not believe that their pending Motion to Alter or Amend Order and/or Motion to Reconsider is an unnecessary or successive motion because there are issues raised in the post-trial motions that are not mentioned, let alone addressed, in the Order Reconsidering Attorneys’ Fees and Costs filed on May 14, 2025. In addition, there are issues with the trial court’s failure to specify what amounts of the awarded attorney’s fees and costs are awarded against which Defendant.¹ However, in his filings in opposition to the pending motion, the Respondent has suggested to the trial court that the Appellants’ Rule 59(e) motion is “successive.” Therefore, as a precautionary measure and to avoid the potential for a jurisdictional bar, the Appellants proceeded with filing their Amended Notice of Appeal and now request the Court to stay the appeal and allow for a limited remand so that the pending Motion to Alter or Amend Order and/or Motion to

¹ As the Appellants argue to Judge DeBerry in the pending Rule 59(e) motion, it is critical for the trial court to state what amount is awarded against which Appellant because the award under § 1988 of fees and costs cannot as a matter of law be made against the Town of Port Royal (against whom no § 1983 claim was brought or tried). Accordingly, the Town can only be liable for costs awardable under Rule 54(e), but the trial court’s order does not differentiate between costs awarded under § 1988 and those awarded under Rule 54(e). That is particularly problematic, however, because the Clerk of Court clearly did not understand how to interpret Judge DeBerry’s latest Order and has actually enrolled the judgment for the fees and costs against both Appellants, thereby enrolling a judgment of \$629,771.08 against the Appellant Town and a judgment of \$479,771.08 against the Appellant Carter. Clearly, the trial court did not intend for the Respondent to receive a double recovery of the fees and costs, and as a result, that issue needs to be corrected by Judge DeBerry. That demonstrates the need for a limited stay and remand to straighten out such issues.

Reconsider may be heard and ruled on by Judge DeBerry. That will ensure that all issues raised in the court below are properly preserved for appellate review.

Respectfully submitted,

LINDEMANN LAW FIRM, P.A.

BY: s/ Andrew F. Lindemann

ANDREW F. LINDEMANN #13030
5 Calendar Court, Suite 202
Post Office Box 6923
Columbia, South Carolina 29260
(803) 881-8920

THOMAS A. BENDLE #69561
ROBERT S. DENNIS #104304
HOWELL, GIBSON & HUGHES, P.A.
25 Rue Du Bois
Post Office Box 40
Beaufort, South Carolina 29901-0040
(843) 522-2400

*Counsel for Appellants
Town of Port Royal and Kimberly Carter*

June 22, 2025

RECEIVED

Jun 23 2025

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
H. Steven DeBerry, IV, Circuit Court Judge

Case No. 2021-CP-07-1217

Paul Vernon Coffman, Jr., Respondent,

v.

Town of Port Royal and Kimberly Carter, Appellants.

CERTIFICATE OF SERVICE

Pursuant to Section (d)(1) of the Supreme Court’s Order Methods of Electronic Filing and Service Under Rule 262 of the South Carolina Appellate Court Rules (As Amended April 24, 2024), the undersigned employee of Lindemann Law Firm, P.A., counsel for the Appellants Town of Port Royal and Kimberly Carter, does hereby certify that service of the **Motion for Stay of Appeal and Limited Remand** in the above-captioned matter was made upon all counsel of record by email only this the 22nd day of June 2025, as follows:

Thad L. Myers, Esquire
Jeremiah J. Shellenberg, Esquire
Thad L. Myers, P.A.
Email: thad@thadmyerspa.com
Email: jj@thadmyerspa.com

Joshua P. Golson, Esquire
Law Office of Joshua P. Golson, LLC
Email: josh@joshgolsonlaw.com

Grady L. Patterson, Esquire
Patterson Law Offices, LLC
Email: glp@pattersonlawoffices.net

Thomas A. Bendle, Esquire
Robert S. Dennis, Esquire
Howell, Gibson & Hughes, P.A.
Email: tbendle@hgpha.com
Email: rdennis@hgpha.com

s/ Andrew F. Lindemann



Telephone (803) 881-8920
Facsimile (803) 862-1181

5 Calendar Court, Suite 202 (29206)
Post Office Box 6923
Columbia, South Carolina 29260

ANDREW F. LINDEMANN*
Direct Dial: (803) 881-8921
Email: andrew@ldlawsc.com

*Also Admitted in North Carolina

June 22, 2025

RECEIVED

Jun 23 2025

SC Court of Appeals

Via Email Only

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
Email: ctappfilings@sccourts.org

RE: Paul Vernon Coffman, Jr. v. Town of Port Royal and Kimberly Carter
Appellate Case Number: 2025-000818
Civil Action Number: 2021-CP-07-1217
Claim Number: D6755
Our File Number: 106.20756

Dear Ms. Kitchings:

Pursuant to Section (b)(2) of the Supreme Court's Order RE: Methods of Electronic Filing and Service Under Rule 262 of the South Carolina Appellate Court Rules (as Amended April 24, 2024), please find enclosed for filing the **Motion for Stay of Appeal and Limited Remand** with regard to the above referenced matter. By copy of this letter, I am serving copies on all counsel of record by email only pursuant to Section (d)(1) of the same Supreme Court Order. The filing fee will be mailed under separate cover.

If you have any questions, please advise.

Thank you for your assistance.

LINDEMANN LAW FIRM, P.A.

Andrew F. Lindemann

AFL/jac
Enclosure

cc: Thad L. Myers, Esquire (w/ Enclosure, Via Email Only)
Jeremiah J. Shellenberg, Esquire (w/ Enclosure, Via Email Only)
Joshua P. Golson, Esquire (w/ Enclosure, Via Email Only)
Grady L. Patterson, Esquire (w/ Enclosure, Via Email Only)
Thomas A. Bendle, Esquire (w/ Enclosure, Via Email Only)
Robert S. Dennis, Esquire (w/ Enclosure, Via Email Only)