

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

RECEIVED

Dec 10 2025

SC Court of Appeals

In Re: Estate of M.K. Jennings 2010ES 2900169

Beverly Hennager, Appellant

v.

Mary E. Dearden, Personal Representative of the
Estate of M.K. Jennings, Respondent

Appellate Case No: 2024-001152

Appeal from Kershaw County
Daniel Coble, Circuit Court Judge

MOTION TO EXPEDITE RULING ON PETITION FOR WRIT OF MANDAMUS

Comes now the Appellant, Beverly Hennager, pro se, respectfully requesting that the Court of Appeals expedite its review and issue a ruling on the pending Petition for Writ of Mandamus filed on September 11, 2025 (attached as exhibit 1).

Appellant previously sought extraordinary supervisory relief after demonstrating that the lower courts and clerk have refused to accept, docket, or adjudicate properly submitted Rule 60 motions asserting voidness of the judgment and fraud on the court. The Supreme Court has since

issued its remittitur, and Appellant re-mailed Rule 60 motions; postal tracking confirms delivery, yet the motions still do not appear on the docket and the clerk has not responded to Appellant's written inquiries. The clerk's continued failure to process or explain the status of these post-judgment motions effectively denies access to Rule 60 relief and threatens irreparable impairment of Appellant's fundamental constitutional rights, as already detailed in prior filings and supporting exhibits, including the right to due process and to seek relief from a void or fraud-tainted judgment.

South Carolina appellate courts have consistently held that, to preserve an issue for appeal, the trial court must rule on the issue, or, if the judge fails to do so, the party must bring a post-trial motion requesting a ruling (see *Elam v. S.C. Dep't of Transp.*, 361 S.C. 9, 602 S.E.2d 772, 780 (2004); *Siau v. Kassel*, 369 S.C. 631, 632 S.E.2d 888, 894 (Ct. App. 2006)).

Rule 7(b), South Carolina Rules of Civil Procedure, provides the framework for filing motions and implicitly requires the court to address each filed motion. Nearly three months have elapsed since the Petition was filed and no docket entry or order has issued. Under prevailing law, including *Coleman v. Dunlap* (303 S.C. 511, 402 S.E.2d 181 (Ct. App. 1991)), *Kassel v. Kassel* (299 S.C. 439, 385 S.E.2d 883 (Ct. App. 1989)), and controlling South Carolina Supreme Court precedent, all filed motions require formal disposition to preserve issues for further review. Mandamus relief is warranted here to compel performance of ministerial duties and safeguard appellate rights.

As the time to seek review in the United States Supreme Court is running, and Appellant is preparing a petition for a writ of certiorari that must accurately state whether the Rule 60

motions have been adjudicated, Appellant respectfully moves the Court to expedite consideration and issue a ruling on the pending petition for mandamus.

Respectfully submitted,

/S/Beverly Hennager December 10, 2025
315 Wood Lane
Corvallis, MT 59828
hennagerbev@gmail.com
406-361-0796
PRO SE

AFFIRMATION OF SERVICE

I, Beverly Hennager, do hereby certify that I have served a copy of the foregoing Motion to Expedite Ruling on Petition for Writ of Mandamus to the following addresses:

The fifty dollar filing fee is included in the hard copy.

Moultrie Burns, Esquire
Savage Royal & Sheheen, LLP
PO Drawer 10
Camden, SC 29021
Attorney for Respondent, Mary Dearden

RECEIVED
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SC Court of Appeals

Respectfully Submitted,

/S/Beverly Hennager December 10, 2025
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Sep 11 2025

SC Court of Appeals

APPEAL FROM KERSHAW COUNTY

District Court

Honorable Daniel Coble, Circuit Court Judge

RECEIVED

Dec 10 2025

SC Court of Appeals

Court of Appeals Case No. 2024-001152

In Re: Estate of M.K. Jennings 2010ES2800169

Beverly Hennager.....Appellant

v.

Mary E. Dearden, Personal Representative of the Estate of M.K.Jennings...Respondent

Notice of Rule 60(b) Filing and Request for Oversight and Mandamus

For the Purpose of Appellate Preservation

To the Honorable Judges of the South Carolina Court of Appeals:

I, Beverly Hennager, pro se appellant, respectfully submit this notice and request for oversight—and for the extraordinary writ of mandamus—directly to the Court of Appeals, regarding the procedural status of my post-judgment filings in the above-captioned matter.

Following the Court’s June 11, 2025 opinion (Unpublished Opinion No. 2025-UP-196), which affirmed the circuit court’s order on grounds that issues including fraud

on the court, void judgment, and due process concerns were not preserved for appellate review absent a properly filed and ruled-upon Rule 60(b) motion in the circuit court, I attempted to cure this deficiency by filing multiple Rule 60(b) motions in both the Circuit and Probate Courts for Kershaw County. These motions assert both fraud on the court and voidness/due process violations under Rule 60(b)(3) and (4).

Despite these efforts, the Clerk of Court (Kershaw County) has refused to docket or transmit these motions, citing a “closed case” and referencing a closure order. Notably, the first Rule 60 motions refused by the court were emailed and mailed on June 16, 2025 (Exhibit 8), nearly three months before the Circuit Court’s September 4, 2025 order closing the case. Prevailing law allows a party to challenge a void judgment at any time, regardless of a case’s administrative closure.

South Carolina rules and established caselaw—including *Kassel v. Kassel*, *Coleman v. Dunlap*, and *Redmond v. Lexington*—require parties to seek judicial intervention and permit the appellate courts to issue a writ of mandamus when a clerk refuses to perform a mandatory duty and all other remedies have been exhausted.

Because the lower courts have refused to accept, docket, or rule on my Rule 60(b) motions and related filings—despite clear legal authority requiring the clerk and supervisory judge to do so—I am compelled to present the complete evidentiary record to the Court of Appeals. Under South Carolina law, mandamus may be invoked only when the petitioner has demonstrated exhaustion of all available remedies and when appellate intervention is necessary to compel performance of a ministerial duty. The enclosed documentary evidence substantiates that every reasonable means for relief has been pursued and establishes the factual predicate for the relief requested.

These materials are submitted to ensure that both the factual and legal barriers to relief are preserved for appellate consideration. As the circuit court judge is also serving as the supervisory judge and refuses to provide rulings on my motions, I am compelled to seek judicial oversight—including mandamus relief—from the Court of Appeals.

Authority

Bank of America v. Wells, 364 S.C. 507, 613 S.E.2d 548 (Ct. App. 2005): Under Rule 60(b)(4), a party may challenge a void judgment at any time; lack of jurisdiction renders a judgment void and subject to collateral attack, regardless of case closure.

Coleman v. Dunlap, 307 S.C. 491, 415 S.E.2d 426 (1992): The judge has discretion to grant or deny a Rule 60(b) motion, but a clerk must docket and transmit such motions, since both fraud on the court and void judgments are grounds for reopening otherwise “closed” cases.

Kassel v. Kassel, 369 S.C. 631, 632 S.E.2d 888, 894 (Ct. App. 2006): Clerks of court have a ministerial duty to docket filings irrespective of potential procedural flaws. Unless specifically authorized by statute or court rule, a clerk may not exercise any judicial power reserved for a judge.

Mandamus standard: The appellate courts may issue a writ of mandamus to compel a public official, including court clerks, to perform a mandatory legal duty, when no other remedy exists (*Redmond v. Lexington County Sch. Dist. No. Four*, 314 S.C. 10, 443 S.E.2d 449 (1994)).

Guenther v. Charleston Light & Water Co., 68 S.C. 540, 47 S.E. 979, 983 (1904):

"The province of a writ of mandamus is to afford redress where a party has a right to have anything done and has no other specific means of compelling its performance."

Request for Relief

Given the refusal by the Clerk of Court to perform a ministerial duty, and the supervisory judge’s refusal to adjudicate the presented post-judgment motions, I respectfully request:

1. That the Court of Appeals provide oversight and specific direction to the circuit court and its clerk to ensure acceptance and proper docketing of my Rule 60(b) motions, thereby permitting judicial determination on the merits.
2. That the appellate court clarify that post-judgment motions seeking relief under Rule 60(b) must be accepted and considered even after case closure, particularly when constitutional rights and allegations of fraud on the court are presented.
3. That the Court, if warranted by the record, issue a writ of mandamus compelling the circuit court and its clerk to accept and process the attached motions.
4. That this filing be treated as a continuing effort to preserve all appellate and due process rights in accordance with the Court's prior directives.

If further information or evidence is required, I am prepared to provide all relevant correspondence and documents upon request.

____S/Beverly Hennager_____date____9/11/2025_____

Beverly Hennager
315 Wood Lane
Corvallis, MT 59828
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(406) 361-0796
PRO SE

ATTACHMENTS

1. Circuit court order closing case.....	6
2. Clerk’s refusal emails.....	8
3. Notice to Clerk of Court.....	10
4. Copy of Rule 60 Motion to Circuit Court.....	12
5. Copy of Rule 60 Motion to Probate Court.....	21
6. Copy of Motion for Formal Ruling to Circuit Court.....	31
7. Copy of Motion for Formal Ruling to Probate Court.....	35
8. June 16, 2025 email attempting to file Rule 60 motions.....	8

1. Circuit court order closing case

FORM 4

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

JUDGMENT IN A CIVIL CASE
 CASE NUMBER 2021CP2800795

M K Jennings Estate of	Louis A Jennings Jr	Mary E Dearden Pr	Beverly Hennager
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PLAINTIFF(S)	DEFENDANT(S)
Submitted by:	Attorney for: <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Self-Represented Litigant

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. See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRCP; Rule 41(a), SCRCP (Vol. Nonsuit);
 Rule 41(b), SCRCP (Settled); Other: _____
- ACTION STRICKEN (CHECK REASON):** Rule 40(j) SCRCP; Bankruptcy;
 Binding arbitration, subject to right to resume 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: _____

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; (format order to follow) Statement of Judgment by the Court

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk: THIS WAS A PROBATE APPEAL WHICH ENDED WITH THE PROBATE COURT BEING AFFIRMED. MY DECISION WAS APPEALED TO THE COURT OF APPEALS WHERE THE LOWER COURT WAS UPHELD, ORDER ATTACHED. THERE IS NO JUDGMENT IN THIS CASE AND NO PAPERWORK WILL BE ADDED TO THIS ENDED APPEAL.

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Circuit Court Judge

Judge Code

Date

2. Clerk's refusal emails

Cheryl Truesdale <cheryl.truesdale@kershaw.sc.gov>

Tue, Sep 9, 12:39 PM (2 days ago)

to me

Dear Ms. Hennager,

We received your request for copies. Please note that we do not generate and send copies as they are available online at sccourts.org. You have accessed these documents previously through this portal.

Additionally, please be aware that the Chief Administrative Judge's most recent order states that this case has concluded, and no further paperwork will be accepted. A copy of this order was mailed to you. Your case in our court is now closed.

Yours Sincerely,

Cheryl Truesdale
Deputy Clerk of Circuit Court
for Kershaw County
PO Box 1557
Camden, SC 29020
(803)425-7223 ext 5366
(803)425-1505 fax

3. Notice to Clerk of Court

Kershaw County Clerk of Court
PO Box 1557
Camden, SC 29021-8557

September 9, 2025

Subject: Ministerial Duty to Accept All Filings

Dear Clerk Farmer,

It has come to my attention that court clerks have been intercepting submitted filings and returning them with notifications stating the papers cannot be accepted for various reasons. The SC Supreme Court has repeatedly admonished that “it is not within the Clerk of Court’s authority to refuse to perform her duty based on her opinion that a filing lacks legal merit or is untimely”.

Please advise your staff of the following law:

Key Statement from the SC Supreme Court

“We take this opportunity to remind the clerks of courts of their ministerial duty to docket filings irrespective of potential procedural flaws that may exist. ... It is not within the Clerk of Court’s authority to refuse to perform her duty based on her opinion that a filing lacks legal merit or is untimely. This duty is not discretionary. Unless specifically authorized by statute or a court rule, a clerk of court may not exercise any judicial power reserved for a judge.” Kassel, 369 S.C. 631, 632 S.E.2d 888, 894 (Ct. App. 2006).

Respectfully,

S/Beverly Hennager
315 Wood Lane
Corvallis, Mt 59828
hennagerbev@gmail.com

4. Copy of Rule 60(b) Motion to Circuit Court

STATE OF SOUTH CAROLINA

In the Circuit Court

APPEAL FROM KERSHAW COUNTY

Probate Court

Honorable Debra Branham, Probate Judge

Probate Court Cast No 2010-ES-28-00169
Circuit Court Case No. 2021-CP-28-00795

Beverly Hennager.....Appellant

Mary Dearden, as Personal Representative of M.K. Jennings Estate....Respondent

MOTION BY RULE 60(b)(4) TO VACATE JUDGMENT FOR:
FRAUD ON THE COURT AND DUE PROCESS VIOLATION

On June 11, 2025, the appellate court affirmed the July 19, 2024 Circuit Court Order stating in its written opinion that relief should be sought via Rule 60 rather than appeal. Accordingly, Petitioner now files this Rule 60 motion in compliance with the appellate court’s guidance, and is forwarding a copy to the appellate court for administrative notice.

I. Fraud on the Court

Movant respectfully asserts that the order issued under appeal contains a falsified finding of fact. Specifically, the Probate Court’s September 3, 2021 order originally found:

“The promissory note of Michael Jennings was satisfied before the decedent’s death and the Inventory is correct in not listing such debt as an asset.” (Exhibit 1 - Sept. 3, 2021 Probate Order).

However, during the subsequent appellate phase, the finding was altered by Moultrie Burns Esquire—without notice to Movant, and outside the record—to state:

“Ms. Hennager attempted on this appeal to raise allegations and speculations that should have been investigated during discovery... An example is her allegation of unpaid promissory note.” (Exhibit 2 - July 19, 2024 Circuit Court Order).

This change materially misrepresents the essential issue under review—transforming an adjudicated finding into an unappealable procedural assertion—and directly prejudices the Movant’s rights. The alteration contradicts the record, which documents Movant’s repeated, unsuccessful discovery requests for payment information on the note from 2012 through 2021.

1. Findings Must Be Supported by the Record

Golini v. Bolton, 326 S.C. 341, 482 S.E.2d 785 (Ct. App. 1997):

The courts are required to ensure that findings of fact are supported by the record; appellate courts may disturb probate findings if the record reveals no supporting evidence.

Thames (Verdery) v. Daniels, 332 S.C. 639, 506 S.E.2d 110 (Ct. App. 1998):

The probate court's findings are subject to review, and a judgment based on unsupported findings or findings contrary to the undisputed evidence of record is erroneous.

2. Appellate Court Review is Limited to the Record

S.C. Code Ann. § 62-3-611:

The findings of fact must be based on evidence adduced at the hearing, and parties must have notice and opportunity to respond. The hearing record is essential for any final order.

3. Findings Cannot Be Changed Outside the Record or Without Notice

Rule 15, SCRPC – Amended Pleadings and Notice:

Amendments to pleadings or findings require notice and opportunity for all parties to address new issues. **Courts may not change issues or findings without giving parties due process (notice and a chance to respond).**

Parker v. Spartanburg Sanitary Sewer Dist., 362 S.C. 276, 286, 607 S.E.2d 711, 716-17 (Ct. App. 2005):

The prejudice Rule 15 envisions is a lack of notice that the new issue is going to be tried, and a lack of opportunity to refute it.

Changing findings or presenting new ones without notice is inherently prejudicial.

4. Due Process Requires Reliable Fact-Finding and Accurate Record

Logan v. Zimmerman Brush Co., 455 U.S. 422 (1982):

The opportunity to address critical issues and respond to findings is a core element of due process. Judgment entered without affording a party opportunity to present evidence is void.

5. Fraud Upon the Court and Prejudicial Alterations

Chewning v. Ford Motor Co., 354 S.C. 72, 579 S.E.2d 605 (2003):

Deliberate misrepresentation or concealment of material facts, or alteration of findings in a way that prejudices a party and undermines the integrity of the process, meets the threshold for “fraud on the court.”

II. Due Process Violation During Remote Hearing

Movant further asserts that the process by which this alteration was effected violated her constitutional right to due process. During the May 29, 2024 remote (Zoom) hearing, Respondent’s counsel’s presentation was inaudible, as documented on the hearing transcript (see e.g., R.p. 139 L 10-11; R.p. 141 L 24-25)(Exhibit 3). Movant explicitly notified the court of her inability to hear and thereby meaningfully participate or object to the Respondent’s argument concerning the critical finding. The resulting order was prepared and submitted by opposing counsel while Movant was unaware of the material change in the finding of fact. Subsequent attempts to correct or object to this alteration were blocked by the clerk’s refusal to docket objections. Movant emailed a copy to the Judge’s clerk, which was acknowledged (Exhibit 4) but not addressed.

1. Fundamental Right to Be Heard

Logan v. Zimmerman Brush Co., 455 U.S. 422 (1982)

The Supreme Court confirmed that procedural due process requires a meaningful opportunity to be heard, including the chance to present evidence and respond to opposing argument. If technical failures or procedural defects prevent participation, any resulting judgment entered without such opportunity is void and requires reversal.

2. Notice and Opportunity to Object; Judgment Prepared by Opposing

Counsel

Universal Benefits, Inc. v. McKinney, 349 S.C. 555, 564, 564 S.E.2d 408, 413 (Ct. App. 2002)

“The definition of void under [Rule 60(b)(4)] only encompasses judgments from courts which failed to provide proper due process....” Judgments where the affected party did not have notice or opportunity to participate or object are void.

Amdt14.S1.5.4.4 Opportunity for Meaningful Hearing (Constitutional Commentary)

“Notice of hearing and the opportunity to be heard must be granted at a meaningful time and in a meaningful manner.... It is a violation of due process for a state to enforce a judgment against a party to a proceeding without having given him an opportunity to be heard sometime before final judgment is entered.”

3. Ethical Duties of Candor and Non-Fraudulent Conduct

Rule 3.3, SCRCP (Candor Toward the Tribunal)

Attorneys may not knowingly make false statements or submit altered findings to the court; they must correct false or misleading statements of material fact or law previously made.

Chewning v. Ford Motor Co., 354 S.C. 72, 579 S.E.2d 605 (2003)

Fraud upon the court, including concealment or alteration of findings, renders a judgment void and supports relief under Rule 60(b).

Due process and South Carolina law require that parties receive notice, an opportunity to be heard, and a chance to object to material findings. Any judgment entered without these protections, including after a hearing rendered inaudible or when the finding of fact under review is altered by opposing counsel without notice, is void under Rule 60(b)(4).

Allowing courts and opposing counsel to alter findings ex parte, block evidence, and prevent due process is an existential threat to public confidence in South Carolina’s judiciary. Justice depends on procedure, notice, and the right to be heard. When those rights can be circumvented—as here—the court ceases to serve the state and instead becomes a tool for private interests, destroying its legitimacy.

Relief Sought

For the foregoing reasons, Movant respectfully requests that the Circuit Court vacate the June 19, 2024 affirmation and the altered finding of fact in the underlying order, and remand for a new hearing at which Movant is afforded full opportunity to

hear, object, and present evidence regarding the payment status of the promissory note, with all essential documents produced in discovery.

Respectfully Submitted,

____S/Beverly Hennager_____date____September 3, 2025_____

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PRO SE

EXHIBITS LIST

Exhibit No.	Description
Exhibit 1	September 3, 2021 Probate Court Order
Exhibit 2	July 19, 2024 Circuit Court Order
Exhibit 3	May 29, 2024 Transcript – Appellate Tells Court Respondent Is Inaudible
Exhibit 4	Judge’s Clerk Acknowledges Receipt of Objection Pursuant Rule 46

5. Copy of Rule 60(b) Motion to Probate Court

STATE OF SOUTH CAROLINA

IN THE PROBATE COURT

COUNTY OF KERSHAW)

CASE No: 2010-ES-00169

Beverly Hennager)

Petitioner)

In the matter of :

Mary Dearden)

The Estate of MK Jennings

Respondent)

**RULE 60(b)(4) MOTION FOR RELIEF FROM ORDER:
DUE PROCESS VIOLATION AND FRAUD ON THE COURT**

On June 11, 2025, the appellate court affirmed the July 19, 2024 Circuit Court Order stating in its written opinion that relief from the September 3, 2021 Order should be sought via Rule 60 rather than appeal. Accordingly, Petitioner now files this Rule 60 motion in compliance with the appellate court’s guidance, and is forwarding a copy to the appellate court for administrative notice.

Movant, Beverly Hennager, appearing pro se, respectfully moves this Court pursuant to Rule 60(b)(4), South Carolina Rules of Civil Procedure, for relief from the September 3, 2021 Final Order. Relief is sought on the grounds that the judgment is void for violation of procedural due process and for fraud upon the court.

I. GROUNDS FOR RELIEF

Movant asserts that the Court’s judgment regarding the satisfaction of the promissory note owed by Michael Jennings to Decedent is void because Movant was

denied the fundamental right to obtain and present evidence necessary to establish her claim, in violation of the Due Process Clause of the Fourteenth Amendment and applicable South Carolina precedent.

Specifically, the Court erred in concluding that the October 27, 2016 Order was final, even though the issue of the promissory note was not addressed until the 2021 hearings and subsequent September 3, 2021 Order. As a matter of law, an order cannot be considered final if dispositive claims remain unresolved; accordingly, treating the 2016 Order as final was incorrect and contrary to South Carolina law governing finality.

II. RECORD OF PROCEEDINGS

Throughout these proceedings, Movant persistently sought—through discovery—the complete tax returns and payment records required to determine whether the promissory note was satisfied. The note was introduced as an exhibit in 2012, but was not adjudicated until 2021 because the Personal Representative (“PR”) and counsel continuously failed to provide requested documentation.

- (a) As reflected in the 2013 Order and not modified by the 2016 Order, the PR and counsel did not respond to repeated discovery requests (Exhibit 1 Probate Court 2013 Order; Exhibit 2 Probate Court 2016 Order)
- (b) In January 2016, Movant filed supplemental discovery requests seeking to have the note recorded (Exhibit 3).
- (c) During the 2016 hearing, it was brought to the Court’s attention that the PR failed to respond to requests for documentation of the note (R 131; P 283) and

that requested tax returns were essential to verify whether the note was fully paid. (R. 131; 284) (Exhibit 4).

- (d) Because of this, the 2016 Order is silent on the promissory note and the necessary evidence (see Exhibit 2).
- (e) The PR admitted under oath that her 2011 accountings and inventory, filed with the Court, were incomplete and inaccurate, and that she planned to correct these errors (R 137; 457; 133; 415; 454–457) (Exhibit 5 & 6).

When the 2016 Order was affirmed in 2020, the PR was instructed to produce amended accounting records, which again omitted the promissory note and other required inventory corrections (Exhibit 7 & 8). Movant demanded a hearing, which was held in March and June 2021.

During the Zoom hearing, the Court acknowledged—alongside counsel Moultrie Burns, Esq.—that the payment status of the note had not previously been adjudicated, and agreed to finally hear evidence. In his April 7, 2021 post-hearing memorandum, Burns confirmed: *“At the Zoom hearing on March 16, 2021, the Court decided to consider rescheduling for evidence as to whether a debt to the decedent from Michael Jennings was satisfied prior to his mother’s death”* (R180 ¶1)(Exhibit 9). Burns submitted partial tax documents showing payment solely of principal.

Movant responded on April 13, 2021: *“Mr. Burns’s exhibit actually provides evidence to show Michael Jennings did not pay the interest, as required”* (R 206) (Exhibit 10).

On June 10, 2021, Movant renewed discovery requests under Rule 26, seeking the complete documentation essential to verify payment status (exhibit 11).

When these were again ignored, Movant filed two motions to compel (R 105–109, R 110)(Exhibit 12 & 13), both of which the judge personally returned, stating they could not be accepted due to “*no pending litigation*” (R 38, 41)(exhibit 14 & 15).

Despite these procedural failings, the Court, five weeks later in its September 3, 2021 Order, found:

“I find and conclude the following:

Finding of Fact 1: The promissory note of Michael Jennings was satisfied before the decedent’s death and the Inventory is correct in not listing such debt as an asset.”

(Exhibit 16 Probate Court September 3, 2021 Order)

III. ERRORS REGARDING FINALITY OF ORDERS

None of the prior Orders—June 13, 2013; October 27, 2016; July 19, 2020—addressed the promissory note. The September 3, 2021 Order contains the Court’s first “finding and conclusion” on this issue, which had previously been unresolved.

Movant has submitted substantial evidence demonstrating no payment or satisfaction of the note was established prior to 2021; Respondent has provided no contrary evidence.

Affirming an interlocutory order does not convert it to a final judgment (Link v. Sch. Dist. of Pickens County, 302 S.C. 1 (1990)).

Rule 54(b), SCRPC: Orders resolving fewer than all claims are interlocutory and remain subject to revision until final judgment.

A probate order must resolve all claims to be final (*Ballenger v. Bowen*, 313 S.C. 476 (1994)).

Finality requires disposition of all claims (*Curtiss-Wright Corp. v. General Electric Co.*, 446 U.S. 1, 7 (1980)).

An order is not final if “further acts remain to be done” (*Tommy Griffin Plumbing v. Jordan*, 351 S.C. 459 (2002)).

IV. DUE PROCESS VIOLATIONS & FRAUD ON THE COURT

The Court blocked Movant’s ability to obtain and present the critical discovery necessary for a fair adjudication. The resulting order, finding satisfaction of the note, was entered without consideration of all relevant evidence.

- Due Process Standards:

In *Logan v. Zimmerman Brush Co.*, 455 U.S. 422 (1982), the Supreme Court held that states cannot arbitrarily deny proper procedure and a meaningful opportunity to be heard.

- Fraud on the Court:

In *Chewning v. Ford Motor Co.*, 354 S.C. 72, 579 S.E.2d 605 (2003), the South Carolina Supreme Court affirmed that the deliberate concealment or withholding of critical evidence meets the threshold for “fraud on the court.”

- Both authorities confirm a judgment entered without allowing a party to present material evidence is void and must be reversed.

The Court did not base its findings on relevant evidence or testimony on the record. The note clearly required the payment of interest, yet the only evidence submitted shows payment of principal only.

South Carolina courts recognize that refusal to permit production or presentation of relevant evidence is a fundamental due process violation rendering the judgment void.

- Under Rule 26(b)(1), SCRPC, parties may obtain discovery regarding any matter that is not privileged and is relevant.
- As held in *Samples v. Mitchell*, 329 S.C. 105, 113–14, 495 S.E.2d 213, 217 (Ct. App. 1997), denial of discovery is inherently prejudicial; discovery exists to ensure trials are resolved by revealed, not concealed, facts.
- Rule 60(b)(4), SCRPC, authorizes relief where a judgment is void, including for denial of due process.

The inability to obtain and present complete tax records demonstrating nonpayment of interest directly prejudiced Movant's rights and denied a true contest as required by law.

V. RELIEF SOUGHT

Movant respectfully requests:

1. Vacatur of the judgment/order finding the promissory note satisfied, for violation of due process and fraud upon the court.
2. A declaration that the 2016 Order is interlocutory, not final.
3. Remand for a new hearing where Movant may compel, receive, and present all relevant evidence—including complete tax returns and records relating to interest payments.
4. Alternatively, a finding that only principal was paid (as established by Respondent's evidence), and the note is in default.
5. Removal of Mary Dearden as Personal Representative pursuant to S.C. Code Ann. § 62-3-611, and appointment of a Special Administrator under S.C. Code Ann. §§ 62-3-614 and 62-3-617, with instructions to secure all missing assets and enforce payment of interest on the note (currently totaling over three million dollars).
6. Finding that Respondents Mary Dearden, Katherine Dauphin and Michael Jennings are barred from benefiting from any estate recovery due to fraudulent conduct. Additionally, holding Mary Dearden and Moultrie Burns, Esq. responsible for unrecoverable losses and imposing appropriate sanctions and punitive damages.
7. Any further relief the Court deems just and proper.

South Carolina courts have consistently emphasized that discovery rules exist to ensure trials are decided on the facts as revealed—not those concealed. Such protections advance both private justice and public trust in the courts.

Respectfully submitted,

___S/Beverly Hennager_____date___September 3, 2025_____

Beverly Hennager
315 Wood Lane
Corvallis, Mt 59828
hennagerbev@gmail.com
PRO SE

Exhibit No.	Description
Exhibit 1	2013 Probate Court Order (PR Discovery Failure)
Exhibit 2	2016 Probate Court Order (No adjudication of Note)
Exhibit 3	Jan. 2016 Supplemental Discovery Requests
Exhibit 4	Note was not recorded
Exhibit 4	Court informed Tax Documentation Essential
Exhibit 5	PR admitted 2011 accounting inaccurate and incomplete
Exhibit 6	PR testified she planned to make corrections
Exhibit 7	2011 Accounting
Exhibit 8	2020 Accounting with same inaccuracies
Exhibit 9	Burns April 7, 2021 Post Hearing Memorandum
Exhibit 10	Petitioner's April 13, 2021 Response
Exhibit 11	June 10, 2021 Renewed Discovery Requests
Exhibit 12	First Motion to Compel
Exhibit 13	Second Motion to Compel
Exhibit 14	Returned - "no pending litigation"
Exhibit 15	Returned - "no pending litigation"
Exhibit 16	September 3, 2021 Probate Order
Exhibit 17	Promissory Note

6. Copy of Motion for Formal Ruling to Circuit Court

STATE OF SOUTH CAROLINA

In the Circuit Court

APPEAL FROM KERSHAW COUNTY

Probate Court

Honorable Debra Branham, Probate Judge

Probate Court Cast No 2010-ES-28-00169

Circuit Court Case No. 2021-CP-28-00795

Beverly Hennager.....Appellant

Mary Dearden, as Personal Representative of M.K. Jennings Estate....Respondent

MOTION FOR FORMAL RULING ON RULE 60 MOTION

TO: The Honorable Daniel Coble, Circuit Court Judge, and All Parties of Record

COMES NOW the Movant, Beverly Hennager, and respectfully requests that this Court enter a formal ruling on the Rule 60 motion filed on September 3, 2025. In support thereof, Movant states as follows:

1. On September 3, 2025, Movant timely filed a motion pursuant to Rule 60, SCRPC, seeking relief from the judgment entered in the above-captioned case.
2. Rule 60(b)(4) Motions may be filed after the case is closed.

Bank of America v. Wells, 2005 S.C. App. LEXIS 45 Direct Holding:
“Rule 60(b)(4), SCRPC, provides that a party may seek relief from judgment where the judgment is void... The rule allows for attack of a judgment after it is final, and after the time for ordinary appeal has lapsed, if the judgment is void due to lack of jurisdiction or due process.”

Raby Construction v. Orr, 359 S.C. 513, 599 S.E.2d 541 (2004)

South Carolina Supreme Court:

Confirms the “distinction between extrinsic and intrinsic fraud” and that extrinsic fraud can be the basis for post-judgment relief, even long after the final judgment (so long as done within a reasonable time) and further recognizes the right to challenge void judgments under Rule 60(b)(4).

3. On September 4, 2025, this Court entered an order indicating that the appeal process was concluded and stating, in part, that “*no paperwork will be added to this ended appeal.*”

4. The September 4, 2025 order did not reference, address, or expressly rule upon Movant’s pending Rule 60 motion.

Rule 7(b), South Carolina Rules of Civil Procedure provides the framework for filing motions and implicitly requires the court to address each filed motion.

5. Every filed motion ordinarily requires a disposition under South Carolina law, and Movant is entitled to a formal ruling on the merits of the Rule 60 motion.

South Carolina appellate courts have consistently held that, to preserve an issue for appeal, the trial court must rule on the issue, or if the judge fails to do so, the party must bring a post-trial motion requesting a ruling. See *Elam v. S.C. Dep’t of Transp.*, 361 S.C. 9, 602 S.E.2d 772, 780 (2004) and *Siau v. Kassel*, 369 S.C. 631, 632 S.E.2d 888, 894 (Ct. App. 2006).

6. Movant respectfully requests that this Court formally consider and enter an order granting or denying the Rule 60 motion filed on September 3, 2025.

WHEREFORE, Movant prays that this Court issue a formal ruling on the pending Rule 60 motion and for such other and further relief as the Court deems just and proper.

Respectfully submitted,

__S/Beverly Hennager____date__9/09/2025_____

Beverly Hennager
315 Wood Lane
Corvallis, Mt 59828
hennagerbev@gmail.com
PRO SE

7. Motion for Formal Ruling to Probate Court

STATE OF SOUTH CAROLINA)	IN THE PROBATE COURT
)	
COUNTY OF KERSHAW)	CASE NO: 2010-ES-28-00169
)	
Beverly Hennager)	
)	
Petitioner)	In the Matter of:
)	
v.)	The Estate of MK Jennings
)	
Mary Dearden)	
)	
Respondent)	

MOTION FOR FORMAL RULING ON RULE 60 MOTION

TO: The Honorable Debra Branham, Probate Court Judge, & All Parties of Record

COMES NOW the Movant, Beverly Hennager, and respectfully requests that this Court enter a formal ruling on the Rule 60 motion filed on September 3, 2025. In support thereof, Movant states as follows:

1. On September 3, 2025, Movant timely filed a motion pursuant to Rule 60, SCRPC, seeking relief from the judgment entered in the above-captioned case.
2. Rule 60(b)(4) Motions may be filed after the case is closed.

Bank of America v. Wells, 2005 S.C. App. LEXIS 45Direct Holding:

“Rule 60(b)(4), SCRPC, provides that a party may seek relief from judgment where the judgment is void... The rule allows for attack of a judgment after it is final, and after the time for ordinary appeal has lapsed, if the judgment is void due to lack of jurisdiction or due process.”

Raby Construction v. Orr, 359 S.C. 513, 599 S.E.2d 541 (2004)

South Carolina Supreme Court:

Confirms the “distinction between extrinsic and intrinsic fraud” and that extrinsic fraud can be the basis for post-judgment relief, even long after the final judgment (so long as done within a reasonable time) and further recognizes the right to challenge void judgments under Rule 60(b)(4).

3. Every filed motion requires a disposition under South Carolina law, and Movant is entitled to a formal ruling on the merits of the Rule 60 motion.

South Carolina appellate courts have consistently held that, to preserve an issue for appeal, the trial court must rule on the issue, or if the judge fails to do so, the party must bring a post-trial motion requesting a ruling. See Elam v. S.C. Dep't of Transp., 361 S.C. 9, 602 S.E.2d 772, 780 (2004) and Siau v. Kassel, 369 S.C. 631, 632 S.E.2d 888, 894 (Ct. App. 2006).

Rule 7(b), South Carolina Rules of Civil Procedure provides the framework for filing motions and implicitly requires the court to address each filed motion.

4. Movant respectfully requests that this Court formally consider and enter an order granting or denying the Rule 60 motion filed on September 3, 2025

WHEREFORE, Movant prays that this Court issue a formal ruling on the pending Rule 60 motion and for such other and further relief as the Court deems just and proper.

Respectfully submitted,

__S/Beverly Hennager____ date __9/09/2025____

Beverly Hennager
315 Wood Lane
Corvallis, Mt 59828
hennagerbev@gmail.com
PRO SE

8. June 16, 2025 email attempting to file Rule 60 motions.

Motion by Rule 60(b)(3) and (4). CASE NO: 2010-ES-28-00169

Inbox



Bev Hennager <hennagerbev@gmail.com>

Mon, Jun 16, 2:41 PM

to janet.hasty, Moultrie Burns

Attached is a motion by Rule 60(b)(3) and (4) which is in the mail to be filed in the court along with my affidavit and filing fee. Please acknowledge you have received it and passed it along to Judge Branham.

FOI: SCRPC Rule 60(b)(3) allows a party to seek relief from a judgment based on fraud, misrepresentation, or other misconduct by an adverse party. However, when the claim involves "fraud on the court"—defined as egregious misconduct that undermines the integrity of the judicial process—the one-year limitation period in Rule 60(b)(3) does not apply. Instead, such claims can be brought as an independent action, and courts have recognized that there is no time limit for seeking to set aside a judgment for fraud on the court. This distinction is firmly established in both federal and South Carolina law.

Thank you,
Beverly Hennager

RECEIVED

Sep 11 2025

SC Court of Appeals

AFFIRMATION OF SERVICE

I. Beverly Hennager, do hereby certify that I have served a copy of the enclosed Filing Rule 60 Motion and Request for Oversight and Mandamus. to the following addresses:

Moultrie Burns, Esquire
mburns@thesavagelawfirm.com
Savage Royal & Sheheen, LLP
PO Drawer 10
Camden, SC 29021
Attorney for Respondent, Mary Dearden

RECEIVED

Dec 10 2025

SC Court of Appeals

South Carolina Court of Appeals Office of Administration
Clerk of Court
1220 Senate Street, Suite 200 Columbia, SC 29201

Kershaw County Probate Court
probatecourt@kershaw.sc.gov
Kershaw County Circuit Court
dcoblesc@sccourts.org
Clerk of Court in Kershaw County
ginger.farmer@kershaw.sc.gov

Hard copies to follow. Respectfully Submitted,

___S/ Beverly Hennager___ date ___9/11/2025___

Beverly Hennager
315 Wood Lane
Corvallis, Mt 59828

PRO SE