

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS
IN THE SUPREME COURT

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Jan 22 2026

SC Court of Appeals

APPEAL FROM BERKELEY COUNTY
COURT OF COMMON PLEAS
W.T. GEDDINGS, SPECIAL REFEREE
Case No: 2023-CP-08-00547

Appellate Case No: 2025-001547

U.S. Bank Trust National
Association, Not in its
Individual Capacity but Solely
as Owner Trustee for VRMTG
Asset Trust,

Respondent,

v.

Betty J. Moultrie aka Betty J.
Shine, In-dividually and as
Personal Representative of the
Estate of Bradford Moultrie aka
Bradford Willie Moultrie, et al;

Appellant.

**FINAL REPLY TO RESPONDENT'S
INITIAL BRIEF**

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Attorney for Appellant

Firstly, it is important for the Court to note that the trial court failed to preserve the record by audio, visual, online, written or otherwise. Pursuant to *Rule 29(d)*, Appellant is deprived of her due process by these blatant and deliberate actions or omissions of the lower court

Secondarily, pursuant to *Rule 803(5)(6)(7)* this failure leads the petitioners to attempt to create record without being able to ascertain the veracity or truthfulness that is the standard required by our court system, to sustain such facts in perpetuity. The lower court threw its malfeasance in failure to preserve the record, giving the appellant/petitioner a substantive argument, that supports and provides appellant proper to reverse against the lower court's ruling.

ARGUMENT

I. The Rule 59(e) Motion Was Timely Filed

The Appellant respectfully submits that the Respondent's contention regarding the untimeliness of the Rule 59(e) motion is unfounded. Under Rule 59(e), SCRPC, a motion to alter or amend must be filed within ten days after receipt of written notice of entry of judgment. *Rule 77(d)*, SCRPC, requires that notice of entry be properly served on all parties. The record does not reflect that Appellant received proper notice of the entry of judgment within the meaning of the Rule. Consequently, the addition of time embarked upon actual notice, rendering Appellant's motion timely. South Carolina appellate courts have consistently held that a Rule 59(e) motion is timely if filed within ten days of proper service of notice of entry of judgment. See the case *Pelican Bldg. Ctrs. v. Dutton*, 311 S.C. 56, 427 S.E.2d 673 (1993). In the absence of evidence of proper notice, a motion to reconsider should not be deemed untimely. The lower court therefore erred in finding that Appellant's motion was untimely and in declining to address its substantive merits.

II. Issues Were Properly Preserved for Appellate Review

The Respondent's argument that Appellant failed to preserve issues for appellate review is likewise without distinction. Appellant properly raised and argued each issue in her Rule 59(e) motion, thereby affording the trial court an opportunity to correct any alleged errors. See *Coward Hund Constr. Co. v. Ballard*, 336 S.C. 1, 518 S.E.2d 56 (Ct. App. 1999). The court's failure to address those arguments does not constitute waiver on Appellant's part, but rather error on the part of the tribunal in failing to make findings of fact and conclusions of law. See Rule 52(a), SCRPC.

III. The Master-in-Equity Erred by Failing to Make Findings or Conduct a Hearing

The Master-in-Equity summarily denied Appellant's post-trial motion without a hearing or written order containing specific findings, contrary to the mandates of Rule 52(a) and 59(e), SCRPC. This omission deprived Appellant of meaningful judicial review and violated due process. See *Elam v. S.C. Dep't of Transp.*, 361 S.C. 9, 602 S.E.2d 772 (2004). The failure to make findings of fact and conclusions of law constitutes reversible error when it prevents the appellate court from

determining the factual and legal basis for the decision below.

CONCLUSION

For the foregoing reasons, Appellant respectfully requests that this Honorable Court reverse the Order of the Master-in-Equity and demand the matter for further proceedings consistent with South Carolina law.

RESPECTFULLY SUBMITTED,

s/Eduardo K. Curry

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Date: January 20, 2026