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**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

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APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

Jennifer B. McCroy, Circuit Court Judge  
Julie J. Armstrong, Charleston County Clerk of Court  
Mikell R. Scarborough, Master-In-Equity

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Case No. 2025-002014

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Danielle C. Brown, Respondent,

v.

Crystal Brown Nwaneri, Appellant.

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INITIAL BRIEF OF APPELLANT

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Crystal Brown Nwaneri  
17293 Oakwood Lodge Lane  
Piney Point, MD 20674  
(917) 651-8546  
Appellant, *Pro Se*

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## INTRODUCTION

This appeal arises from a partition action involving the family home at 8297 Delhi Road in North Charleston that proceeded without lawful service, without personal jurisdiction, and without affording Defendant/Appellant Crystal Brown Nwaneri any meaningful opportunity to be heard.

Plaintiff/Respondent Danielle Brown, Appellant's elder sister, pursued service by publication in Charleston, South Carolina a newspaper despite being fully aware of Defendant's Maryland residence and address. Even more, Plaintiff obtained orders for publication, entry of default, and reference before Defendant received any pleadings, and later relied on post-ruling commercial delivery to argue that "notice" had been provided. The case reached the Master-in-Equity on a record manufactured through defective notice and an improper default posture.

Those defects carried forward into the dispositive Master proceedings. For the August 25, 2025 hearing, Defendant—an out-of-state party—repeatedly requested permission to appear by telephone or WebEx so she could be heard. The Master refused any remote participation, communicated that refusal only hours before the hearing, and proceeded in Defendant's absence while adopting a narrative that Defendant was in default and delaying the case. At the same time, Plaintiff transmitted a new memorandum and exhibits immediately before the hearing, further expanding the record while Defendant was excluded from participation.

The orders challenged on appeal rest on the premise that Defendant received appropriate notice and that the matter could proceed as uncontested. The orders challenged on appeal rest on the premise that Defendant received appropriate notice and that the matter could proceed as

uncontested. The record establishes the opposite, for the reasons set forth in the Summary of Arguments and the Argument sections below.

Because personal jurisdiction never attached and because the Master proceedings were conducted on a procedurally and legally defective record, the challenged orders must be vacated and the matter remanded for proceedings consistent with statutory service requirements, due process, and the Uniform Partition of Heirs' Property Act.

## **ISSUES ON APPEAL**

**Issue I.** Whether the circuit court and Master-in-Equity lacked personal jurisdiction where Plaintiff pursued service by publication without strict compliance with S.C. Code Ann. §§ 15-9-710 and 15-9-740, without a valid and lawful authorization for publication, and through publication not reasonably calculated to notify a known Maryland resident.

**Issue II.** Whether the proceedings are void where the case proceeded on an improper “default” posture and Rules 55(e) and 55(a)(4), SCRC, barred any default judgment against a nonresident served by publication absent testimony and an evidentiary hearing.

**Issue III.** Whether Plaintiff’s January 2025 same-day, duplicate FedEx transmission of pleadings and already-entered orders confirms the absence of timely notice and cannot cure defective service, validate default, or support the Master’s finding that Defendant received “appropriate notice.”

**Issue IV.** Whether the Master-in-Equity violated due process and abused discretion by refusing telephonic appearance, communicating that refusal only hours before the hearing, and

proceeding to adjudicate property rights while adopting a prejudicial delay/default narrative without hearing from Defendant.

**Issue V.** Whether the Master-in-Equity committed reversible error by finding “appropriate notice” of the August 25, 2025 hearing despite noncompliance with Rule 6(d), SCRCPP, and by handling notice and participation in a manner that foreclosed Defendant’s ability to attend and be heard.

**Issue VI.** Whether the Master-in-Equity denied fundamental procedural fairness by accepting Plaintiff’s eleventh-hour memorandum and exhibits and proceeding without affording Defendant a meaningful opportunity to respond.

**Issue VII.** Whether the Master-in-Equity committed legal error by refusing to apply the Uniform Partition of Heirs’ Property Act, S.C. Code Ann. §§ 15-61-310 to -380, and instead applying an earlier statute and a standing order.

**Issue VIII.** Whether the orders must be vacated where the Master’s findings are unsupported and internally inconsistent, the order of reference and Master proceedings were unauthorized absent jurisdiction, and any attorney’s fees or costs are improper where the underlying proceedings are void.

## **STATEMENT OF THE CASE**

This appeal arises from a partition action concerning the family home located at 8297 Delhi Road in North Charleston, South Carolina, owned by Plaintiff Danielle C. Brown and Defendant Crystal Brown Nwaneri as heirs of their late parents.

Plaintiff filed this partition-by-sale action in December 2023, despite knowing Defendant resided in Maryland and despite the existence of a separate, already-pending court action involving the same family property and the same parties. That parallel litigation remained pending when this action was initiated. [R. \_\_].

The maintenance of a second property action while another action concerning the same property and parties was already pending violated Rule 71, SCRCP, and further demonstrates that Plaintiff had ready access to Defendant and her ownership interests at the time Plaintiff later sought extraordinary relief in this case.

Instead of serving Defendant at her known Maryland address or through existing litigation channels, Plaintiff sought and obtained an order authorizing service by publication based on representations that Defendant could not be located. Publication was made only in a Charleston-area newspaper. No pleadings or motions were transmitted to Defendant at that time. [R. \_\_].

Plaintiff subsequently obtained an entry of default and an order of reference to the Master-in-Equity without Defendant's participation. Defendant did not receive the summons, complaint, motions, or court orders until January 2025—months after publication, default, and reference had already occurred—when Plaintiff sent duplicate Federal Express packages containing a bundled set of already-filed pleadings and orders. [R. \_\_].

After learning of the case, Defendant promptly objected, challenged service and default, and sought to participate in the proceedings.

The Master-in-Equity conducted a dispositive hearing on August 25, 2025. Plaintiff provided Defendant with less than the ten days' notice required by Rule 6(d), SCRCP. Only days before the hearing, Plaintiff filed and served a new memorandum and exhibits.

Defendant, who resides in Maryland, requested permission to appear remotely. The court did not deny that request until the morning of the hearing, and then refused to permit any telephonic or virtual participation. The hearing proceeded in Defendant's absence.

On August 25, 2025, the Master ruled on the record that Defendant was in default and that the matter would proceed as uncontested. [R. \_\_\_].

On September 3, 2025, the Master entered a written order finding that Defendant had received "appropriate notice" and rejecting Defendant's objections. [R. \_\_\_].

The Master further ruled that the Clementa C. Pinckney Uniform Partition of Heirs' Property Act did not apply and instead proceeded under an earlier partition statute and a standing order, despite the undisputed family-heir ownership of the property.

This appeal followed.

## **STANDARD OF REVIEW**

Whether a court has obtained personal jurisdiction over a defendant through valid service of process is a question of law reviewed *de novo*.

Whether service by publication complied with the governing statutes and constitutional due-process requirements is likewise a question of law reviewed *de novo*.

Interpretation and application of statutes, including S.C. Code Ann. §§ 15-9-710 and 15-9-740, and the Uniform Partition of Heirs' Property Act, present questions of law reviewed *de novo*.

Orders granting or denying relief under Rule 60(b), SCRCP, are generally reviewed for abuse of discretion; however, where the motion asserts that the judgment is void for lack of personal jurisdiction under Rule 60(b)(4), review is *de novo*, because a court has no discretion to enforce a void judgment.

Whether notice of a hearing complied with Rule 6(d), SCRCP, and whether the procedures employed afforded a party a meaningful opportunity to be heard are questions of law reviewed *de novo* where the material facts are undisputed.

## **SUMMARY OF ARGUMENTS**

This appeal arises from a partition action that proceeded without lawful service, without personal jurisdiction, and without affording Defendant any meaningful opportunity to be heard.

First, the order authorizing service by publication is void. Plaintiff failed to satisfy the mandatory statutory prerequisites of S.C. Code Ann. §§ 15-9-710 and 15-9-740 and the authorization for publication was issued by the Clerk of Court rather than by a judge. Publication in a local Charleston newspaper was not reasonably calculated to provide notice to a known Maryland resident. Because service was defective and constitutionally inadequate, personal jurisdiction never attached.

Second, the case was improperly placed into a default posture. Although no judicial default judgment was entered, the matter proceeded as if Defendant had forfeited her rights. Because Defendant was a nonresident served only by publication, Rules 55(e) and 55(a)(4), SCRCP,

prohibited any default judgment absent testimony and an evidentiary hearing. No such hearing occurred. The resulting order of reference and Master-in-Equity proceedings therefore lack a valid procedural foundation.

Third, Plaintiff's January 2025 same-day, duplicate Federal Express delivery of pleadings and orders—sent only after default and reference had already been entered—cannot retroactively cure defective service, validate default, or supply notice that was required before adverse rulings. The deliveries confirm that Defendant received no notice of this action until after dispositive procedural steps had already occurred.

Fourth, the Master-in-Equity denied Defendant due process at the August 25, 2025 hearing by refusing to permit telephonic or virtual participation, disclosing that refusal only hours before the hearing, and proceeding with a dispositive property hearing while characterizing Defendant as engaging in delay. The court's actions deprived Defendant of any meaningful opportunity to be heard.

Fifth, the Master committed separate legal error by finding that Defendant received "appropriate notice" of the August 25 hearing. The hearing notice did not comply with Rule 6(d), SCRCF, and the court's late rulings on participation converted an already deficient notice period into a complete denial of access to the hearing.

Sixth, the Master violated fundamental procedural fairness by accepting and relying upon Plaintiff's eleventh-hour memorandum and exhibits, filed and transmitted immediately before the hearing, while denying Defendant any opportunity to respond in writing or orally.

Seventh, the Master committed legal error by refusing to apply the Clementa C. Pinckney Uniform Partition of Heirs' Property Act and instead applying an earlier statute and a standing order, despite the undisputed heirs' property status of the home.

Finally, because jurisdiction was never established and the case proceeded on an improper default posture, the order of reference and all proceedings before the Master-in-Equity were unauthorized, the findings regarding notice and participation are internally inconsistent and unsupported by the record, and any preservation or award of attorney's fees or costs cannot stand.

For these reasons, the default, the order authorizing service by publication, the order of reference, and the Master-in-Equity's orders of August 25, 2025 and September 3, 2025 must be vacated.

## **ARGUMENTS**

### **ISSUE I**

#### **Circuit Court And Master-In-Equity Lacked Personal Jurisdiction Because Plaintiff Never Accomplished Lawful Service Of Process And Proceeded By Defective And Unauthorized Publication.**

A party must be brought before the court by valid service of process; without valid service, the court lacks personal jurisdiction and any resulting orders are void. Service by publication is an extraordinary form of constructive service permitted only when the governing statute is strictly satisfied. *See Caldwell v. Wiquist*, 402 S.C. 565, 571–72Ct. App. 2013) (reiterating strict compliance principles and refusing to sustain publication where the statutory affidavit requirements were not met).

##### **A. Plaintiff failed to satisfy the mandatory statutory prerequisites for service by publication.**

Service by publication in South Carolina is governed by S.C. Code Ann. § 15-9-710 *et seq.* and is permitted only after strict statutory conditions have been satisfied. Section 15-9-710 requires, among other

things, a showing—by affidavit—of the facts demonstrating that, after due diligence, the defendant cannot be found for personal service and that service cannot be made by ordinary means. The mechanics of authorizing and effectuating publication are set forth in § 15-9-740.

South Carolina appellate courts emphasize that because constructive service is in derogation of the common law, courts require strict compliance with the statutory prerequisites, and publication will not be sustained where the affidavit and supporting materials do not comply. *Caldwell*, 402 S.C. at 571–72.

The record establishes that Plaintiff failed to satisfy the mandatory prerequisites of § 15-9-710. Defendant’s motions and objections demonstrate that:

- 1) no competent showing was made that Defendant could not be found after due diligence within the meaning of the publication statute;
- 2) Plaintiff did not submit a legally sufficient affidavit establishing diligent and exhaustive efforts to locate and personally serve Defendant; and
- 3) despite Plaintiff’s admitted knowledge that Defendant resided in Maryland, Plaintiff did not utilize ordinary service mechanisms available for a known, out-of-state defendant.

(See Defendant’s Motion to Vacate and supporting exhibits; Defendant’s filings and objections to service by publication [R. \_\_].)

Instead of complying with the statutory prerequisites of § 15-9-710, Plaintiff proceeded directly to constructive service while knowing that Defendant resided in Maryland and could be located. Because strict compliance with the publication statutes is required, Plaintiff’s failure to satisfy these prerequisites renders the attempted publication invalid and deprives the court of personal jurisdiction. *Caldwell*, 402 S.C. at 571–72. Failure of service of process deprives the court of personal jurisdiction and renders any resulting judgment void. *Roche v. Young Bros., Inc.*, 318 S.C. 207, 210 (1995).

**B. Even if a clerk may issue a publication order in some circumstances, a publication order cannot confer jurisdiction where the affidavit or statutory predicate is facially defective or procured through fraud, collusion, or material misrepresentation or omission.**

Appellant's Appellant's objection is not merely that the authorization here bears a clerk's "So Ordered" stamp; it is that the authorization cannot support jurisdiction because the statutory predicate for publication was facially defective and materially misleading.

South Carolina recognizes that, "generally, absent fraud or collusion, the decision of the clerk is final," but that "the only exception" is when "an order of publication is premised upon a facially defective affidavit." *Wachovia Bank of S.C., N.A. v. Player*, 341 S.C. 424, 535 S.E.2d 128 (2000) (collecting authorities).

Consistent with *Player*, the Court of Appeals has affirmed setting aside publication where the supporting affidavit was facially defective and did not comply with statutory requirements—even when the clerk had entered the publication order—because defective affidavits cannot supply personal jurisdiction. See *Belle Hall Plantation Homeowners' Ass'n, Inc. v. Keys*, Op. No. 5467 (S.C. Ct. App. Feb. 8, 2017).

Here, the statutory predicate for publication is facially deficient on its own terms. In addition, the motion for publication affirmatively represents that "signed proof of non-service" documents were filed with the court and incorporated by reference in support of the request for publication. The appellate record, however, reflects only two affidavits of attempted service and no additional proofs of non-service, skip-trace reports, mailing records, or other diligence materials. The absence of any such additional filings confirms that the representation of multiple incorporated proofs of non-service was inaccurate and that the authorization for publication was issued on a materially incomplete and misleading record. Under *Player*

and *Keys*, a publication order premised on a facially defective or misleading predicate cannot confer personal jurisdiction.

In the motion seeking publication, Plaintiff affirmatively represented that Defendant’s address was obtained through “prior knowledge, current legal proceedings, and other public records,” that a skip-trace “confirmed Defendant resides” at the address where service attempts were made, and that neighbors confirmed Defendant resided there. (Motion for Service by Publication [R. \_\_].)

Those admissions establish that Defendant’s residence was known and that Plaintiff was not unable to locate Defendant within the meaning of the publication statutes. At most, the affidavits show unsuccessful attempts to obtain in-person service at a known address—not that Defendant could not be found.<sup>1</sup>

Nevertheless, Plaintiff sought and obtained authorization for constructive service while omitting from the presentation to the issuing officer the legally dispositive consequence of those facts—namely, that publication was not statutorily justified and that ordinary service mechanisms and statutory mailing to a known out-of-state address were available.

Accordingly, the publication request and its supporting materials were facially insufficient to establish the statutory prerequisites for publication and were materially misleading.

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<sup>1</sup> Plaintiff’s own pleading in this action alleges that Defendant “is a citizen and resident of Piney Point, Maryland,” and further identifies the prior probate proceeding by estate number in which the parties’ ownership of the subject property was established. (Complaint ¶¶ 2, 8 (referencing Estate of George Lee Brown, Estate No. 2021-ES-10-00886) [R. \_\_].) Those allegations confirm Plaintiff’s contemporaneous knowledge of Defendant’s out-of-state residence and the existence of ongoing probate proceedings involving the same parties and property, further undermining any claim that Defendant could not be located for purposes of constructive service.

In addition, the “order” authorizing publication consists of Plaintiff’s own motion and proposed findings bearing only an electronic “So Ordered” stamp by the Clerk of Court, contains no judicial findings establishing statutory compliance, and reflects no independent determination that the statutory prerequisites for publication were satisfied. (Motion for Service by Publication and stamped signature page [R. \_\_].)

Although a clerk may theoretically issue a publication order in appropriate limited circumstances, the existence of a clerk’s stamp does not cure a facially defective or materially misleading statutory predicate. *Player*, 341 S.C. 424; *Keys*, Op. No. 5467.

Accordingly, even assuming the clerk could issue a publication order in a proper case, the publication here cannot support personal jurisdiction because the statutory predicate was facially deficient and materially misleading, and the authorization was procured through material misrepresentation and omission.

**C. Plaintiff’s choice of publication was constitutionally inadequate for a known Maryland resident.**

Even if Plaintiff had satisfied the statutory prerequisites (which she did not), publication must also satisfy due process. Notice by publication must be “reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action.” *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950).

The record establishes that Defendant resided in Maryland and that Plaintiff knew Defendant’s out-of-state residence when publication was requested. (*See* Defendant’s motions and correspondence documenting known Maryland address [R. \_\_].) Nevertheless, Plaintiff elected to publish notice only in a Charleston-area newspaper. Publishing notice in a local South Carolina newspaper is not reasonably

calculated to provide notice to a party known to reside hundreds of miles away in rural Maryland, particularly where statutory mailing to the known address was available and required.

**D. The Master’s findings of “proper service” and “appropriate notice” rested on legally improper methods and cannot stand.**

At the August 25, 2025 hearing, the Master stated: “I do find that she’s in default. I do find that she’s been properly served with notice of the hearing ...” (Aug. 25, 2025 Tr. at \_\_\_\_.)

That finding rests on legally improper notice methods, including (1) publication that was not statutorily compliant, and (2) post hoc commercial deliveries addressed in Issue III, *infra*. Because the statutory prerequisites for publication were not satisfied, and because publication was constitutionally inadequate under *Mullane* for a known Maryland resident, the Master’s conclusion that Defendant was properly served and received appropriate notice is erroneous as a matter of law. *Caldwell*, 402 S.C. at 571–72; *Player*, 341 S.C. 424.

Accordingly, personal jurisdiction never attached, and the order of reference and all downstream proceedings and orders must be vacated.

**ISSUE II**

**The Proceedings Are Void Because The Master And Trial Court Proceeded On An Improper “Default” Posture, And Rules 55(E) And 55(A)(4), SCRPC, Barred Default Judgment Against A Nonresident Served By Publication Absent Testimony And An Evidentiary Hearing.**

Even if the Court assumes—arguendo—that publication could support jurisdiction (it cannot here), the default posture employed in this case independently renders the proceedings invalid because the safeguards in Rules 55(e) and 55(a)(4) were not satisfied before the case was treated as though Defendant had forfeited participation.

**A. The court proceeded as though a dispositive default judgment existed, although the record reflects only an entry of default under Rule 55(a).**

South Carolina Rule 55 distinguishes between an entry of default and a default judgment. An entry of default is a procedural notation that may be entered by the clerk under Rule 55(a). A default judgment, however, is an adjudication and may be entered only by the court under Rule 55(b).

Here, the record reflects an entry-of-default posture under Rule 55(a), yet the case proceeded as though Defendant had already suffered a dispositive default judgment: an order of reference issued, the matter was referred to the Master-in-Equity, and proceedings were conducted on the premise that Defendant had forfeited meaningful participation. (See Order for Entry of Default; Order of Reference; and subsequent Master proceedings [R. \_\_].) Treating a clerk-entered default posture as a substitute for the evidentiary and procedural requirements that must precede default-based relief was improper and cannot support the Master's exercise of authority..

**B. Rules 55(e) and 55(a)(4), SCRCF, required testimony and an evidentiary hearing before any default judgment or default-based relief could be rendered in this publication/nonresident posture.**

Rule 55(e), SCRCF, provides that no default judgment may be entered against a party served by publication unless the plaintiff proves the claim by testimony. Rule 55(a)(4), SCRCF, likewise provides that where a defendant is a nonresident served by publication, no judgment by default shall be rendered unless the claim is established by evidence at a hearing.

Defendant is a nonresident of South Carolina, and Plaintiff relied on publication and constructive notice methods. Yet no evidentiary hearing and no testimony establishing Plaintiff's claim occurred before the case was placed into a default posture, referred to the Master-in-Equity,

and proceeded on the premise that Defendant was in default. (See docket, orders, and transcript [R. \_\_].)

**C. The transcript confirms the Master proceeded on a default narrative without the Rule 55 predicates.**

At the August 25, 2025 hearing, the Master stated: “I do find that she’s in default. I do find that she’s been properly served with notice of the hearing ...” (Aug. 25, 2025 Tr. at \_\_\_\_). The record contains no indication that testimony had previously been taken or that an evidentiary hearing had been held to establish Plaintiff’s claims for purposes of Rule 55(e) or Rule 55(a)(4). Nevertheless, the Master proceeded to impose substantive deadlines and directives affecting Defendant’s ownership rights. (Aug. 25, 2025 Tr. at \_\_\_\_.)

**D. Default was used to justify proceeding without Defendant in direct conflict with Rule 55 safeguards.**

Because Defendant was a nonresident served by publication, Rules 55(e) and 55(a)(4) required testimony and an evidentiary hearing before any default judgment—or default-based relief—could be rendered. Those safeguards were not followed. Accordingly, the default posture used to justify proceeding without Defendant lacks a valid procedural foundation and further underscores why the order of reference and ensuing Master proceedings cannot stand.

**ISSUE III**

**The January 2025 Same-Day, Duplicate Fedex “Data Dump” Proves The Absence Of Timely Notice And Underscores That Plaintiff Obtained Entry Of Default And Reference First—Then Sent Notice Later. It Cannot Cure Service, Validate The Default Posture, Or Support The Master’s “Appropriate Notice” Finding.**

Plaintiff and the Master relied on FedEx tracking and January 2025 deliveries to suggest Defendant had “notice.” But what the FedEx record shows is a timeline reversal: Plaintiff pursued

publication, obtained an entry of default posture and reference, and only then sent Defendant a bundled set of pleadings and already-entered orders. “Notice” delivered after the deprivation is not notice.

**A. Plaintiff’s first transmission of case materials to Defendant occurred only after entry of default and reference, via two duplicate FedEx packages delivered the same day.**

The record reflects that Plaintiff sent Defendant two duplicate FedEx packages on the same day in January 2025, containing the same set of pleadings and already-entered orders. The only difference was delivery method: one required signature; the other did not. (*See* January 2025 FedEx tracking confirmations and contents [R. \_\_].)

Those duplicate packages contained the summons and complaint, the publication and default filings, and orders that had already been entered—including the order directing entry of default and the order of reference. Thus, the first materials Defendant received were not a summons initiating an adversarial process; they were a bundled packet of already-issued procedural rulings.

As reflected in the record, Defendant promptly notified Plaintiff’s counsel that this was the first communication she had received about the lawsuit. (*See* Jan. 2025 correspondence and subsequent filing re: notice [R. \_\_].) Counsel did not dispute that Defendant had received no earlier packet of pleadings and orders.

**B. Post-ruling FedEx delivery cannot retroactively supply lawful notice, personal jurisdiction, or a valid default posture.**

A commercial delivery months after publication, entry-of-default posture, and reference is not service of process and cannot retroactively cure the statutory and constitutional defects identified in Issue I. It likewise cannot validate a default posture in which Rule 55(e) and Rule

55(a)(4) required testimony and an evidentiary hearing before default-based relief could be rendered, as explained in Issue II.

The constitutional point is straightforward: due process does not permit notice “at a time when it is too late for the notice to serve any useful purpose.” *Mullane*, 339 U.S. at 315.

**C. The Master’s reliance on FedEx delivery to find “appropriate notice” was legal error.**

Because the FedEx record confirms Defendant received case materials only after publication, entry-of-default posture, and reference, it cannot support a finding that Defendant received “appropriate notice” before the Master proceeded on a default narrative and conducted dispositive proceedings. The FedEx “data dump” demonstrates exclusion—not compliance—and underscores why the orders must be vacated.

**ISSUE IV**

**The Master-In-Equity Violated Due Process And Abused Discretion By Refusing A Known Non-Resident And *Pro Se* Defendant Any And All Methods Of Remote Appearance; Communicating That Refusal Only Hours Before The Hearing; And Proceeding To Adjudicate Defendant’s Property Rights, Meanwhile Adopting A Prejudicial “Delay/Default” Narrative Without Hearing From Defendant.**

Due process requires that a party be afforded notice and an opportunity to be heard at a meaningful time and in a meaningful manner. *South Carolina Dep’t of Soc. Servs. v. Wilson*, 352 S.C. 445, 449, 574 S.E.2d 730, 733 (Ct. App. 2002). When the court proceeds with a dispositive hearing affecting property rights while denying a party any practical method of participation—especially after last-minute notice that remote participation will not be allowed—due process is violated and the resulting order must be vacated.

This record contains unusually direct proof: the court’s refusal of any remote appearance is documented in contemporaneous communications from the Master’s office and confirmed in the hearing transcript, while the Master simultaneously adopted adverse characterizations of Defendant’s conduct without allowing Defendant to be heard. . (See Aug. 2025 correspondence, Plaintiff’s Aug. 22, 2025 filing, and Master’s Aug. 25, 2025 order [R. \_\_].)

**A. The Master denied any meaningful opportunity to be heard by refusing telephonic participation despite Defendant’s out-of-state residence and repeated requests.**

Defendant repeatedly advised the Master’s office and counsel before the hearing that she resided in Maryland, that notice was defective, and that if the court elected to proceed anyway, she respectfully requested permission to appear by telephone to mitigate prejudice—expressly preserving objections and stating the request did not waive them.

At 11:17 a.m. on the day of the 2:00 p.m. hearing, the Master’s law clerk relayed the Master’s decision that the hearing would proceed in person and that the court “will not allow for the virtual or telephone participation by either party.” (See Aug. 2025 correspondence, Master’s Aug. 25, 2025 order [R. \_\_].) This written refusal, delivered roughly two hours before the hearing, effectively foreclosed Defendant’s participation.

Defendant immediately objected by email to preserve the record, explaining that denial of phone/virtual participation “effectively prevents me from attending today’s hearing,” and that proceeding under those conditions violated due process. [R. \_\_].)

The transcript confirms the Master was aware Defendant sought to appear by phone and refused to permit any remote participation. The Master noted Defendant “wanted to appear by

phone” and stated that if she “can’t be here today in person,” he would not “entertain her by phone,” characterizing the request as “not productive.” (Aug. 25, 2025 Tr. at \_\_\_\_.)

This was not a minor scheduling choice. This was a dispositive partition hearing affecting Defendant’s ownership rights, and the court proceeded to take testimony and set the case on a track affecting those rights while excluding Defendant from any participation.

**B. The Master’s late communication of the refusal—after receiving Defendant’s written objections and constraints—magnified the prejudice.**

Due process requires a meaningful opportunity to prepare and participate. Here, the court had written notice of Defendant’s objections, her out-of-state residence, and her need for prompt clarity about whether she could participate remotely. Yet the Master’s office did not communicate “no remote participation” until late morning on the hearing date.

That late disclosure is not harmless. It is precisely the type of last-minute procedural ruling that prevents a party from making necessary logistical arrangements and deprives the party of a meaningful opportunity to be heard.

**C. The Master adopted a prejudicial “delay”/ “default” narrative while simultaneously refusing to hear from Defendant.**

On the record, the Master characterized Defendant’s conduct as delay-driven (“all she wants to do is delay it”) while refusing to hear from Defendant in any manner. (Aug. 25, 2025 Tr. at \_\_\_\_.)

That framing is contradicted by the documentary record. Before the hearing, Defendant filed and emailed a written objection explaining why notice was defective, why Plaintiff’s eve-of-hearing memorandum was prejudicial, and why Defendant needed time to travel and prepare—

given her Maryland residence and caregiving obligations. Defendant requested specific relief: strike the untimely materials and/or continue and reset the hearing on proper notice.

This record reflects persistent efforts to participate and preserve objections—not gamesmanship. The Master’s refusal to allow even telephonic participation deprived Defendant of any opportunity to rebut the “delay/default” narrative the court adopted.

**D. The Master’s refusal was not required for fairness or parity; Plaintiff’s counsel expressed willingness to proceed virtually.**

The Master’s office communicated that remote participation would not be permitted “by either party.” That categorical refusal was not necessary to maintain parity.

On the morning of the hearing, Plaintiff’s counsel told the law clerk he was open to a virtual hearing and suggested WebEx “if the Court is willing to accommodate Defendant’s request.” [(R. \_\_\_\_).] Nevertheless, the Master refused virtual/phone participation categorically—choosing the one course of action that guaranteed Defendant’s absence even though a workable, less prejudicial alternative was available.

**E. Proceeding without Defendant while emphasizing “default” compounded the due process violation.**

The law clerk’s email not only denied remote participation; it emphasized that Defendant “was found to be in default” and that the hearing had been continued from January 2025—statements that signal the lens through which the court viewed Defendant before the hearing began.

The transcript likewise reflects the Master’s reliance on default and the view that Defendant “has done nothing” apart from being “very active” in emails. (Aug. 25, 2025 Tr. at \_\_\_\_.)

Due process is not satisfied by permitting a party to send emails while refusing any mechanism to participate in the hearing that adjudicates property rights—especially where the court adopts adverse characterizations and proceeds to receive testimony and set substantive deadlines.

#### **F. Remedy.**

Because Defendant was denied a meaningful opportunity to be heard at the August 25, 2025 hearing, the resulting order must be vacated and the matter remanded for a new hearing conducted with procedures that permit meaningful participation—including telephonic or remote appearance where Defendant remains out of state and the court proceeds on short notice.

### **ISSUE V**

#### **The Master-In-Equity Committed Reversible Legal Error By Finding “Appropriate Notice” Despite Noncompliance With Rule 6(D), SCRCP, And By Handling Notice And Participation In A Manner That Foreclosed Defendant’s Ability To Attend And Be Heard.**

Issue IV addresses the due process denial of participation; this issue addresses the separate legal error in deeming notice “appropriate” despite noncompliance with Rule 6(d), SCRCP.)

The Master concluded in the September 3, 2025 order that Defendant received “appropriate notice” of the August 25, 2025 hearing and that the case could proceed in her absence. That finding is legally erroneous and contradicted by the record.

**A. The hearing notice did not comply with Rule 6(d), SCRPC, and there was no order shortening time.**

Rule 6(d), SCRPC, requires that written notice of a hearing be served at least ten days before the time specified for the hearing unless otherwise ordered by the court.

Here, Plaintiff relied on short-notice FedEx deliveries and email transmissions in midAugust 2025 to provide notice of an August 25, 2025 hearing. Defendant timely objected in writing before the hearing, invoked Rule 6, and explained that the compressed notice period did not comply with the ten-day requirement and did not permit meaningful preparation.

Nothing in the record reflects an order shortening time under Rule 6(b). Absent such an order, Plaintiff was required to comply with Rule 6(d). The Master's conclusion that the late FedEx and email deliveries satisfied the rule constitutes legal error.

**B. The Master's handling of notice and participation converted deficient notice into a complete deprivation of access.**

The notice defect was compounded by the court's handling of Defendant's repeated requests to participate remotely. In the days immediately preceding the hearing, Defendant advised opposing counsel and the Master's office—by multiple emails—that she resided in Maryland, could not travel to South Carolina on such short notice, and requested permission to appear by telephone or video.

Those requests were not resolved in advance of the hearing. Instead, Defendant was informed only shortly before the hearing that the Master would not permit any telephonic or remote appearance. By the time that decision was communicated, Defendant had no remaining practical ability to attend in person.

The late ruling did not merely deny a discretionary accommodation; it functioned as a procedural bar to participation, particularly in light of the already compressed and noncompliant notice period.

**C. The transcript confirms the Master proceeded knowing Defendant sought to appear by phone and would be excluded.**

The August 25 transcript confirms that the Master was aware Defendant requested telephonic appearance but refused it and proceeded in her absence. The transcript further reflects that the court characterized Defendant's conduct as "delay" while simultaneously denying her any mechanism to participate.

**D. The Master conflated actual awareness with lawful notice and meaningful access.**

The Master's "appropriate notice" finding rests primarily on proof that hearing notices were delivered by FedEx and email shortly before the hearing. That approach misapprehends Rule 6 and due process.

Notice is not measured solely by whether a party became aware that a hearing would occur. It requires notice that is timely, procedurally compliant, and sufficient to permit a meaningful opportunity to prepare and be heard.

**E. Remedy.**

Because the notice was not Rule 6 compliant and the court's handling of notice and participation foreclosed Defendant's ability to attend and be heard, the "appropriate notice" finding is unsustainable. The September 3, 2025 order should be vacated and the matter remanded for a hearing conducted on proper notice and with meaningful access.

## **ISSUE VI**

### **The Master-In-Equity Denied Fundamental Procedural Fairness By Accepting Plaintiff's Eleventh-Hour Memorandum And Exhibits And Proceeding Without Affording Defendant Any Meaningful Opportunity To Respond.**

Only days before the August 25, 2025 hearing, Plaintiff filed a new memorandum in support of partition with multiple exhibits. On August 22, 2025—one business day before the hearing and immediately before the weekend—Plaintiff's counsel transmitted the memorandum and materials to the Master's office and to Defendant by email.

Defendant promptly objected in writing, explaining that the memorandum and exhibits were untimely, injected new arguments and factual assertions on the eve of a dispositive hearing, and could not be meaningfully addressed—particularly where Defendant was simultaneously being denied any ability to appear remotely.

Defendant requested that the untimely memorandum be stricken or that the hearing be continued to permit a fair response. The Master did neither. Instead, the Master proceeded with the August 25 hearing, accepted Plaintiff's late-filed materials, and conducted the hearing without Defendant's participation.

This was not harmless. Plaintiff's memorandum was expressly styled as new briefing "in support" of partition and included additional exhibits and framing. Allowing Plaintiff to expand the record immediately before the hearing—while denying Defendant any opportunity to respond in writing or orally—deprived Defendant of the basic fairness required in an adversarial proceeding.

Accordingly, the resulting order should be vacated and the matter remanded for a new hearing on a properly closed record, with adequate notice and a meaningful opportunity for Defendant to respond.

## **ISSUE VII**

### **The Master-In-Equity Committed Legal Error By Refusing To Apply The Uniform Partition Of Heirs' Property Act And Instead Applying An Earlier Statute And A Standing Order.**

The Clementa C. Pinckney Uniform Partition of Heirs' Property Act ("UPHPA"), S.C. Code Ann. §§ 15-61-310 to -380, applies when real property is "heirs' property" within the meaning of the statute. The record establishes that the subject property is held by family members as tenants in common following inheritance.

Despite that posture, the Master ruled on the record at the August 25, 2025 hearing that this was "not a Pinckney statute case" and that an earlier partition statute would apply instead. (Aug. 25, 2025 Tr. at \_\_\_\_.)

That ruling is legal error. The UPHPA is not discretionary. When its definition is met, the court must apply the Act's mandatory procedures and protections—particularly those governing valuation, the co-tenant buyout framework, and the statutory preference for partition in kind and other heirs-property protections. *See* S.C. Code Ann. §§ 15-67-320, -340, -350, -360.

A standing administrative practice cannot displace statutory protections enacted by the General Assembly. Because the Master refused to apply the UPHPA, Defendant was deprived of mandatory protections designed to prevent forced sales of family property. The order should be vacated and the matter remanded for proceedings under the UPHPA.

## **ISSUE VIII**

**The Master’s Findings Are Unsupported And Internally Inconsistent; The Order Of Reference And Ensuing Master-In-Equity Proceedings Were Unauthorized In The Absence Of Personal Jurisdiction And A Proper Contested Posture; The Clerk’s Refusal To Accept And Docket Defendant’s Filings Deprived Defendant Of Access To The Court And Materially Distorted The Record; And Any Award Or Preservation Of Attorney’s Fees Or Costs Must Be Vacated Where The Underlying Proceedings Are Void.**

The proceedings must be vacated because the Master’s findings are unsupported and internally inconsistent; the order of reference and Master proceedings were unauthorized absent jurisdiction; and any award or preservation of attorney’s fees and costs is improper where the underlying proceedings are void.

In addition, the record reflects that Plaintiff initiated and maintained parallel actions involving the same parties and overlapping family real-property interests while this action was pending. Rule 71, SCRC, prohibits a party from prosecuting multiple actions at the same time for the same cause against the same party. Proceeding with this action while related litigation between the same parties concerning the same property interests remained pending further confirms the procedural irregularity of the proceedings and reinforces that the matter should not have been advanced as an uncontested or default-posture case. (See Statement of the Case [R. \_\_].)

### **A. The Master’s findings are unsupported by the record and internally inconsistent.**

The Master simultaneously acknowledged on the record that Defendant had been “very active” in communications while treating Defendant as having done nothing and proceeding on a “delay/default” narrative without allowing Defendant to be heard. (Aug. 25, 2025 Tr. at \_\_\_\_.) The record also reflects Defendant’s contemporaneous objections and repeated requests to participate

remotely, which were denied only hours before the hearing. (Law clerk email, Aug. 25, 2025; Defendant’s objections, Aug. 2025 [R. \_\_].)

Likewise, the finding of “appropriate notice” cannot be reconciled with the record showing compressed notice, eleventh-hour filings, denial of remote access, and Defendant’s first receipt of core materials only after earlier dispositive procedural steps. (*See* Issues III–VI, *supra*.) Findings that contradict the documentary record and the court’s own acknowledgments cannot stand.

**B. The order of reference and Master proceedings were unauthorized where jurisdiction was never established and the matter was treated as uncontested.**

A reference to the Master presupposes a properly commenced action and jurisdiction over the parties. Where personal jurisdiction never attached (Issue I) and the case proceeded on an improper default posture (Issue II), the order of reference and downstream Master proceedings lack a valid foundation. (Order of Reference [R. \_\_].)

Proceedings conducted pursuant to an unauthorized reference cannot cure defective service, substitute for jurisdiction, or validate a void default posture. Accordingly, the order of reference and all subsequent Master proceedings must be vacated.

**C. The Clerk of Court’s refusal to accept and docket Defendant’s filings deprived Defendant of access to the court and materially distorted the record relied upon by the Master.**

The record further demonstrates a separate and independent procedural defect: the Clerk of Court repeatedly refused to accept and docket Defendant’s filings for reasons not authorized by the South Carolina Rules of Civil Procedure.

After Defendant first received notice of this action through Plaintiff's January 2025 FedEx transmission, Defendant promptly prepared and attempted to file motions seeking to vacate the default, challenge service, and contest jurisdiction. Those filings were returned by the Clerk's office and were not docketed.

In particular, Defendant's Rule 59 and jurisdictional motions were rejected and returned by the Clerk on the stated ground of "overpayment," even though overpayment is not a lawful basis to refuse to accept or docket a filing submitted by a pro se litigant. (*See* rejected filings and Clerk correspondence [R. \_\_\_\_].)

The Clerk's refusal to accept and docket Defendant's filings had two direct and prejudicial consequences.

First, it deprived Defendant of meaningful access to the court to challenge service, default, and jurisdiction once she finally learned of the case.

Second, it created an incomplete and misleading record that falsely reflected that Defendant had never responded to the action and had never attempted to contest service, default, or jurisdiction. That distorted record was then relied upon by the Master in treating the matter as effectively uncontested and in advancing a narrative that Defendant had done nothing other than engage in "delay." (*See* Aug. 25, 2025 Tr. at \_\_\_\_.)

A clerk of court has no authority to refuse to accept filings based on discretionary or administrative objections unrelated to compliance with filing rules. The Clerk's actions interfered with Defendant's ability to be heard, prevented judicial review of her motions, and materially contributed to the erroneous default posture and subsequent proceedings.

Because Defendant's filings were improperly rejected and never placed before a judge, the subsequent proceedings were conducted on a procedurally defective and misleading record. This denial of access to the court and distortion of the docket further requires vacatur of the order of reference and all downstream orders.

**D. Any preservation or award of attorney's fees and costs is improper where the underlying proceedings are void.**

To the extent Plaintiff sought fees (including in late-filed submissions) and/or the order preserves any fee request, such relief cannot stand where the underlying proceedings are jurisdictionally void and procedurally defective. (Plaintiff's memorandum / fee request materials [R. \_\_].) Vacatur of the underlying orders necessarily requires vacatur of any derivative fee/cost relief.

## CONCLUSION

For these reasons, the entry of default, the order authorizing service by publication, the order of reference, and the Master-in-Equity's orders dated August 25, 2025 and September 3, 2025 must be vacated, and this matter remanded for further proceedings consistent with statutory service requirements, due process, and the Uniform Partition of Heirs' Property Act.

Respectfully submitted,

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