

**RECEIVED**  
**Apr 13 2026**  
**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas  
The Honorable Mikell R. Scarborough, Master-In-Equity

---

Appellate Case No. 2026-000507  
Trial Court Case No. 2025-CP-10-03402

---

Laura Schaible and Russell Schaible, ..... Respondents,  
v.  
Ilonka Sonja Taylor and David Abdo, ..... Appellants.

---

**APPELLANTS’ REPLY TO RESPONDENTS’ RETURN TO APPELLANTS’  
MOTION FOR LEAVE TO FILE 60(b)(4) MOTION WITH LOWER COURT**

---

Appellants Ilonka Sonja Taylor and David Abdo (“Movants”) seek this Court’s leave to file a motion under Rule 60(b)(4), SCRCPP in the circuit court on the basis that the Master in Equity’s orders are void for lack of subject matter jurisdiction. Movants hereby respond to the Respondents’ Laura Schaible and Russell Schaible Return to Movants’ motion.

**I. Merits of proposed motion.**

Respondents make arguments about the merits of the proposed Rule 60(b)(4) motion. Return at 4 and 5. However, Movants only seek permission from this Court to file the proposed Rule 60(b)(4) motion in the circuit court and have the circuit court hear and rule on the motion. If this Court grants Movants the requested permission, Respondents will have every opportunity to oppose the proposed Rule 60(b)(4) motion in the circuit court.

## **II. Proposed motion is not a substitute for this appeal.**

Respondents contend that Movants are seeking a substitute for direct appeal, citing *Smith Companies of Greenville, Inc. v. Hayes*, 311 S.C. 358, 428 S.E.2d 900 (Ct. App. 1993) and *Tench v. South Carolina Department of Education*, 347 S.C. 117, 553 S.E.2d 451 (2001) as authority holding that Rule 60 relief is not a substitute for appeal. Return at 3 and 4. However, *Smith Companies* and *Tench* are distinguishable from this appeal, because the movant parties in those cases did not appeal the orders from which they sought relief under Rule 60. Here, Movants timely appealed the Trial Order and the Motion to Reconsider Order, which are the orders that are the subject of this appeal. Movants are not seeking a substitute for this appeal but instead are requesting an opportunity to eliminate the need for this appeal entirely through a procedure specifically afforded by the Rules.

## **III. Proposed motion is not piecemeal litigation.**

Respondents contend that Movants are seeking piecemeal litigation and should have raised the issue of the Master in Equity's subject matter jurisdiction in their post-trial motions. Return at 4. However, Respondents' argument fails to recognize that leave from this Court would almost certainly still be required for the lower court to hear and rule on the proposed Rule 60(b)(4) motion even if Movants had filed the motion with the lower court at the earliest point in time possible.

Movants could not have filed their proposed Rule 60(b)(4) motion with the lower court earlier than thirty (30) days prior to their deadline for serving their Notice of Appeal, because a motion under Rule 60(b) is not properly filed with the trial court until the trial court issues its ruling on a pending Rule 59(e) motion. *Southeastern Housing Foundation v. Smith*, 380 S.C. 621, 670 S.E.2d 680 (Ct. App. 2008). If Movants had filed their proposed Rule 60(b)(4) motion at the earliest point in time possible, which was the date on which the Motion to Reconsider Order was

entered, the circuit court would have had thirty (30) days at the most to hear and rule on the motion without permission from this Court, because exclusive jurisdiction over all matters affected by an appeal moves to the appellate court once a notice of appeal is served. Rule 205 SCACR; *Tillman v. Oakes*, 398 S.C. 245, 728 S.E.2d 45 (Ct. App. 2012); *Arnal v. Fraser*, 371 S.C. 512, 641 S.E.2d 419 (2007).

It would have been unlikely for the circuit court to have heard and ruled on the proposed Rule 60(b)(4) motion within thirty (30) days, especially since the motion presumably would have been first placed on the Master in Equity's docket rather than the circuit court's docket. Since it is almost certain the circuit court would not have disposed of the motion within the thirty (30) day window prior to the deadline for serving the Notice of Appeal, leave from this Court would still be required now in order for the motion to be heard and ruled upon.

Thus, even if Movants had filed their proposed Rule 60(b)(4) motion with the lower court as a post-trial motion prior to serving their Notice of Appeal as Respondents suggest in their Return, it is virtually certain the parties and this Court would still be in the same position they are in now: with a motion pending from Movant requesting leave from this Court for the circuit court to rule on a Rule 60(b)(4) motion. Movants simply cannot be seeking piecemeal litigation if the request they are making now is expressly contemplated by the language of Rule 60(b) and also the same request that they would almost certainly be making now even if they had filed the proposed motion with the lower court as a post-trial motion as suggested by Respondents.

*[Signature page follows.]*

Respectfully submitted,

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: s/ Shawn R. Willis

Shawn R. Willis (SC Bar No. 71155)

151 Meeting Street / Sixth Floor

Post Office Box 1806 (29402-1806)

Charleston, SC 29401-2239

(843) 853-5200

E-Mail: [shawn.willis@nelsonmullins.com](mailto:shawn.willis@nelsonmullins.com)

*Attorneys for Appellants*

*Ilonka Sonja Taylor and David Abdo*

Charleston, South Carolina

April 13, 2026

**RECEIVED**

**Apr 13 2026**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas  
The Honorable Mikell R. Scarborough, Master-In-Equity

---

Appellate Case No. 2026-000507  
Trial Court Case No. 2025-CP-10-03402

---

Laura Schaible and Russell Schaible, ..... Respondents,  
v.  
Ilonka Sonja Taylor and David Abdo, ..... Appellants.

---

**PROOF OF SERVICE**

---

I, the undersigned attorney with the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Appellant, certify that I have served all counsel in this action including counsel for Respondents with a copy of the document(s) specified below by electronic mail to each counsel listed below using their primary email address listed in the Attorney Information System.

PLEADING(s):                   REPLY TO RETURN TO MOTION FOR LEAVE TO FILE  
60(b)(4) MOTION WITH LOWER COURT

Counsel Served:               W. Andrew Gowder, Jr.  
Austen & Gowder LLC  
PO Box 20820  
Charleston, SC 29413  
Phone: (843) 727-2229  
E-Mail: [andy@austengowder.com](mailto:andy@austengowder.com)  
*Attorneys for Laura Schaible and Russell Schaible*

Jennifer K. Williams  
1156 Bowman Rd., Suite 200  
Mt. Pleasant, SC 29464  
Phone: (854) 238-0349  
E-Mail: [jennifer@jkwilliamsllaw.com](mailto:jennifer@jkwilliamsllaw.com)  
*Attorney for Ilonka Sonja Taylor and David Abdo*

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: s/ Shawn R. Willis

Shawn R. Willis

Attorney

Columbia, South Carolina  
April 13, 2026