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**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
Court of Appeals

APPEAL FROM BEAUFORT COUNTY PROBATE COURT  
Case No. 2021ES0700504

IN THE MATTER OF LOIS ANN NEEL (DECEDENT)  
Appellate Case No. 2026-001098

Amanda Leah Schlender, Personal Representative of the Estate of Lois Ann Neel,  
Decedent,.....Respondent,

v.

Virginia Moryadas,.....Appellant.

**RESPONDENT’S OBJECTION TO APPELLANT’S MOTION SEEKING REMAND OR  
TRANSFER**

Respectfully Submitted,

Beaufort, South Carolina  
June 2, 2026

Coppage Law Firm, LLC

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Amanda Leah Schlender (the “**Respondent**”), as and for the court-appointed Personal Representative of the Estate of Lois Ann Neel (the “**Decedent**”), files this objection (the “**Objection**”) to Virginia Moryadas’ (“**Appellant**,” together with the Respondent, the “**Parties**”) motion (the “**Motion**”), pursuant to South Carolina Rules of Appellate Procedure (“**SCACR**”) Rule 240 and South Carolina Rules of Civil Procedure (“**SCRCP**”) Rule 82, filed in the above-referenced appeal (the “**Appeal**”), seeking remand or transfer of the Appeal from the South Carolina Court of Appeals to the South Carolina Circuit Court (the “**Circuit Court**”) and respectfully sets forth and represents as follows:

### **APPLICABLE FACTS**

1. On January 15, 2021, Lois Neel, the Decedent in the subject Probate Action (the “**Probate Action**”) passed away. Thereafter, this Probate Action was commenced and the Respondent was appointed by an order of this Court.
2. Prior to the Decedent’s death, the Decedent and her now Decedent husband, Charles Neel, each executed a Durable Power of Attorney in which the Appellant was designated Power of Attorney (the “**POA**”), naming the Appellant as agent thereunder.
3. In addition to being the designated POA for the Decedent, prior to the Decedent’s death, the Appellant and Low Country Taxes, LLC (“**LCT**”)<sup>1</sup> (an entity wholly owned by Appellant) acted as the Decedent’s and Mr. Neel’s tax accountant and prepared and filed the Decedent’s and Mr. Neel’s tax returns at least since 2013.
4. After the Decedent’s death and commencement of the within Probate Action, the Respondent, via her attorney, filed and served a summons and complaint (the “**Complaint**”) with the Probate Court on May 8, 2023 commencing the underlying action

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<sup>1</sup> Respondent notes that while LCT is subject to the December 22, 2025 Order on appeal, LCT is not reflected as an appellant in this appeal.

(the “**Action**”) against the Appellant. An answer to the Complaint was filed with the Probate Court by the Appellant on June 26, 2024. (Pursuant to a Probate Court order authorizing the Respondent to file an amended complaint, the Respondent (as Petitioner) filed her Amended Complaint (annexed hereto as **Exhibit A** ) on February 12, 2026 . An answer to the Second Amended Complaint was filed by the Appellant on March 23, 2026).

5. Thereafter, the Respondent in the Action, filed a motion for summary judgment (the “**SJ Motion**”) seeking an order from the Court compelling the Amended Accounting from the Appellant and production of Financial Records relating to the Appellant’s role as POA.
6. After a hearing on the SJ Motion and upon consent of the Parties, the Probate Court entered the April 8, 2024 order (the “**April 8 Order,**” annexed hereto as **Exhibit B** )) directing the Appellant to file an Amended Accounting and to produce Financial Records. The April 8 Order further directed that the Appellant file the Amended Accounting and produce the Financial Records within sixty (60) days of entry of the order. Accordingly, the Appellant was compelled by the April 8 Order to file and serve the Amended Accounting and production of financial documents on or before June 7, 2024.
7. The Appellant failed to file and serve the Amended Accounting and failed to serve a single Financial Record (or any other document) pursuant to the April 8 Order.
8. Because the Appellant had failed to comply with the April 8 Order and respond to the Production Demands, and LCT (an entity owned and operated by the Appellant) had failed to comply with the Rule 45 Subpoena, the Respondent filed a motion and sought an order from this Court: (a) directing and compelling the Appellant to respond to the

Production Demands; (b) finding Appellant and LCT in violation of and contempt of the discovery demands and Subpoenas and directing and compelling compliance therewith and awarding the Respondent Sanctions under Rule 37 and Rule 45(e), respectively; (c) finding the Appellant and LCT in violation and contempt of the April 8 Order; and (d) compelling compliance and sanctioning the Appellant and LCT for violating and acting in contempt of the April 8 Order (the “**1<sup>st</sup> Contempt Motion**”).

9. On August 1, 2024, the Probate Court held a hearing on the 1st Contempt Motion and thereafter entered an order of Contempt on August 29, 2024 (the “**August Order,**” annexed hereto as **Exhibit C** ).
10. The Appellant and LCT thereafter both failed to comply with the August Order.
11. Because the Appellant and LCT failed to comply with both the April 8 Order and the August Order, the Respondent filed a second motion seeking entry of an order finding the Appellant and LCT in contempt of the April 8 Order and the August Order (the “**2<sup>nd</sup> Contempt Motion**”).
12. On October 30, 2024, the Probate Court granted the relief sought in the 2nd Contempt Motion and thereafter entered another order on November 21, 2024 (the “**November Order,**” annexed hereto as **Exhibit D** ) finding Appellant and LCT in contempt of the Probate Court’s April 8 Order and August Order.
13. The November Order mandated that the Appellant and LCT comply with the November Order on or before December 23, 2024, or suffer additional relief for the Appellant and LCT’s contempt of the Probate Court’s second contempt order, i.e. the November Order.
14. The Appellant and LCT failed to fully comply with the November Order.

15. Because the Appellant and LCT had failed to comply with the April 8 Order, the August Order and the November Order (collectively, the “**Contempt Orders**”) of this Court, the Respondent filed yet another motion (the “**3<sup>rd</sup> Contempt Motion**”) seeking an order from this Court finding the Appellant and LCT in contempt of all the Contempt Orders, refusing to allow additional time to comply with this Contempt Orders, and to enter sanctions against the Appellant and LCT in the total sum of (a) the Hobbs, CPA’s invoices, (b) Coppage Law Firm’s attorneys’ fees, expenses and costs and (c) to pay all fees, costs and expenses of a Forensic Computer Analyst to engage in a forensic examination of a newly discovered and undisclosed computer in the possession, custody and control of the Appellant (the “**Appellant’s Computer**”).
16. A hearing on the 3<sup>rd</sup> Contempt Motion was held before the Probate Court on September 17, 2025 and, by order entered by the Probate Court and emailed to all Parties on December 22, 2025 (the “**December 22 Order,**” annexed hereto as **Exhibit E**), the Probate Court granted Respondent’s 3<sup>rd</sup> Contempt Motion. The Probate Court ordered the Appellant and LCT, *inter alia*, to pay all of (a) Coppage Law Firm’s legal fees, expenses and costs (b) pay all of Hobbs, CPA’s invoices (c) pay all of the forensic computer analyst’s invoices and (d) deliver the Appellant’s Computer to ArcherHall, the retained forensic computer analyst. The December 22 Order mandated that Appellant and LCT pay all awarded fees, expenses and costs of Hobbs CPA, Coppage Law Firm and Archer Hall (collectively, the “**December Order Sanctions**”) within twenty (20) days of entry of the December 22 Order (i.e. January 12, 2026).
17. As of the date hereof, the Appellants and LCT failed to remit funds in payment of the December Order Sanctions.

18. On January 2, 2026, the Respondent was served with Appellant’s motion under SCRCP 59 seeking an order from the Probate Court altering or amending the December 22 Order (the “**Rule 59 Motion**”) as follows:

- a. “Clarify its ruling as to whether or not an accounting has been accomplished. It would be most helpful, to all concerned, to know if we are now in discovery on a tort case, or still in an accounting case.
- b. Hold in abeyance any sanction relative to the computer until the contents are revealed as relevant, or not. [Appellant] draws the Court's attention to the [Appellant]'s demeanor, condition, and mental acuity reflected in the video deposition.
- c. Eliminate the additional payment to Hobbs Group for "litigation support". The current Hobbs billing is not related to producing an accounting, but rather simply in assisting [Respondent] in preparation of tort litigation.”

Rule 59 Motion at 1-2.

19. While the Rule 59 Motion was served on the Respondent on January 2, 2026, the Rule 59 Motion was not received by the Probate Court and filed until January 21, 2026. As discussed more fully below, failure to timely file the Motion **and** file **and** provide a copy to the Probate Judge pursuant to SCRCP 59(e)<sup>2</sup>, (f) and (g) renders the Motion untimely, compelling denial of the Motion and dismissal of the Appeal.

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<sup>2</sup> By *amendment to SCRCP 59 (e), effective April 30, 2026*, SCRCP 59(e) now provides:

**(e) Motion to Alter or Amend a Judgment.** A motion to alter or amend the judgment *shall be served not later than 20 days* after receipt of written notice of the entry of the order.

(emphasis added) (“**Amended Rule 59(e)**”).

Prior to the Amendment to SCRCP 59(e), SCRCP 59(e) provided:

**(e) Motion to Alter or Amend a Judgment.** A motion to alter or amend the judgment shall be served *not later than 10 days* after receipt of written notice of the entry of the order.

As the orders subject to the Appeal were entered by the Probate Court on December 22, 2025 and April 6, 2026 (and, as more fully discussed below), the time for the Appellant to file the Notice of Appeal expired ten days after service of the Rule 59 Order (i.e. on or before April 22, 2026), respectively, it is respectfully submitted that the Amended Rule 59(e) is **not** applicable to the Rule 59 Motion. Thus, it is respectfully submitted that the 10-day period for filing and service of the Rule 59 Motion is applicable to assess the timely (or untimely) filing of the Rule 59 Motion.

20. By order dated April 6, 2026 (the “**Rule 59 Order**,” annexed hereto as **Exhibit F** ), the Probate Court denied the Rule 59 motion.

**PROCEDURAL POSTURE IN THE LOWER COURTS AND ON APPEAL**

21. As discussed hereinabove, the December Order was entered and received by Appellant’s attorney on December 22, 2025.
22. On January 2, 2026, the Appellant served, but failed to file, the Rule 59 Motion. The Rule 59 Motion was not filed with the Probate Court until January 21, 2026, almost a full month after the entry of the December Order.
23. On April 6, 2026, the Probate Court entered an order *denying* the Rule 59 Motion (i.e. the Rule 59 Order), ruling that the filing of the Rule 59 Motion was untimely filed under SCRCP 59(e) and SCRCP 59(g). On April 6, 2026, the Probate Court served the Parties with the Rule 59 Order by regular mail and, adding 5 days for mailing under Rule 6(e), SCRCP, the Rule 59 Order was deemed to be received on or before April 11, 2026.
24. On April 30, 2026, the Probate Court entered an order removing the Decedent’s Probate Action from the Probate Court to the Circuit Court pursuant to South Carolina Probate Code §62-1-302(d)(5). )(the “**Removal Order**,” annexed hereto as **Exhibit G**)
25. After removal of the Action by the Probate Court to the Circuit Court (*Civil Case No. 0701117*), the Appellant served and filed her Notice of Appeal of the December Order and the Rule 59 Order (the “**Notice of Appeal**,” annexed hereto as **Exhibit H**) in this Appeal in the Probate Court, Circuit Court and Court of Appeals on May 4, 2026, a full twenty-eight (28) days after the date of entry of the Rule 59 Order and a full twenty-three (23) days after the presumed receipt of the Rule 59 Order by regular mail.

26. On May 21, 2026, the Clerk of this Court sent a “deficiency” letter (the “**1<sup>st</sup> Deficiency Letter**”) to the Appellant’s attorney advising that the Notice of Appeal of *Probate Courts Orders* was improperly filed in the Court of Appeals, the Notice of Appeal must have been filed and the appeal pursued in the Circuit Court, and requested confirmation from the Appellant’s attorney that Appellant and Respondent had agreed in writing to file the Notice of Appeal in the Court of Appeals or file a copy of a transcript from a hearing in which the Parties consented to pursuing the appeal in the Court of Appeals.
27. As the Respondent *was not asked and did not consent* to the Notice of Appeal being pursued in the Court of Appeals, instead of filing such requested proof, on May 28, 2026, the Appellant’s attorney filed the Motion at bar seeking remand/transfer of the Appeal to the Circuit Court.
28. Thereafter, a second deficiency letter (together with the 1<sup>st</sup> Deficiency Letter, the “**Deficiency Letters**”) was sent by the Clerk of this Court notifying the Appellant that the Motion filed was deficient as the Appellant failed to pay the \$50 Motion fee to the Clerk’s Office.

#### **APPLICABLE LAW**

- i. *The Motion fails to Comply with SCACR 240(c) and SCACR 240(d) and must be denied and the Appeal dismissed with prejudice*

Rule 240, SCACR provides in relevant part:

- (a) **Applicability.** This Rule governs all motions or petitions filed in the appellate court, including but not limited to: motions for extension of time, motions to reinstate, petitions for rehearing, motions to be relieved as counsel or for substitution of counsel, petitions for supersedeas, motions to remand or dismiss and petitions for hearing *en banc*. Where Rules 241 through 246 provide different or additional requirements or procedures, those requirements or procedures shall apply.

- (b) \*\*\*\*\*

(c) **Form and Content of Motions and Petitions.** All motions or petitions filed in an appellate court shall be in writing, *shall state the grounds thereof*, and shall comply with the requirements of Rule 267. The pages of the motion or petition and all supporting documents shall be consecutively numbered. Each motion or petition *shall* include the following:

1. A certificate or affidavit of service reflecting the date of service upon all Parties. The original certificate or affidavit of service must be filed with the original motion or petition.
2. A memorandum with citation of authorities in support of the motion.
3. Where the Record on Appeal or Appendix has not been filed, or where the facts relied upon in support of the motion are not contained in the Record on Appeal or Appendix, the Parties shall file affidavits and other documents in support of their positions.

(d) **Filing of Motions and Petitions.** The motion or petition shall be filed with the clerk of the appellate court, and a copy shall be served upon each party. *The motion or petition filed with the appellate court shall be accompanied by the filing fee set by order of the Supreme Court.* This filing fee shall not be required for motions or petitions in criminal appeals; petitions for writs of certiorari under Rules 242, 243, and 247; certified questions under Rule 244; petitions to invoke the original jurisdiction of the Supreme Court under Rule 245; or motions or petitions filed by the State of South Carolina or its departments or agencies. In extraordinary cases, the appellate court may relieve a party from paying the filing fee.

(emphasis added).

A review of the Motion discloses that the Appellant failed to comply with Rule 240,

SCACR as follows:

- The Motion contains not a single citation in law or fact that supports the requested relief therein (Rule 240(c)(2), SCACR);
- The Motion did not attach or include any documents or affidavits in support of the brief “allegations” contained in the one (1) page Motion (Rule 240(c)(2), SCACR); and
- The Motion was not accompanied by the fifty-dollar (\$50) filing fee, as confirmed by another “deficiency” letter sent by the Clerk of the Court of Appeals to the Appellant’s attorney on May 29, 2026 (Rule 240(d), SCACR).

The Appellant has also failed to comply with Rule 207, SCACR, which provides in relevant part:

Rule 207. Transcript from Proceeding.

**(a) Appeals from a Lower Court.**

**(1) Ordering the Transcript.** Where a transcript of the proceeding must be prepared by the court reporter, appellant shall, within the time provided for ordering the transcript, make satisfactory arrangements (including agreement regarding payment for the transcript), in writing with the court reporter for furnishing the transcript. In appeals from the court of common pleas, masters-in-equity, special referees or the family court in domestic actions, the transcript must be ordered within ten (10) days after the date of service of the notice of appeal.

While the Rule 59 Motion was decided by the Probate Court on submission (i.e. no hearing took place), the December Order was entered after a lengthy hearing held on September 17, 2025 on the Respondent's 3<sup>rd</sup> Contempt Motion. As the Notice of Appeal was filed on May 4, 2026, a transcript and proof of request of a transcript had to be filed with the Court on or before May, 14, 2026. There is no evidence filed with the Court that a transcript of the September 17, 2025 hearing was ordered.<sup>3</sup>

In light of the abject failure of the Appellant to comply with all mandates of Rule 207, SCACR and Rule 240, SCACR, the Motion must be denied as mandated in Rule 260, SCACR.

Rule 260, SCACR provides in relevant part:

**RULE 260. DISMISSAL AND REINSTATEMENT**

**(a) Involuntary Dismissal and Reinstatement**

Whenever it appears that an appellant or a petitioner has failed to comply with the requirements of these Rules, *the clerk shall issue an order of dismissal*, which shall have the same force and effect as an order of the appellate court. A case shall not be

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<sup>3</sup> S.C. Code §62-1-308(c), governing appeals from the Probate Court to the Circuit Court, likewise mandates:

(c) Where a transcript of the testimony and proceedings in the probate court was prepared, the appellant *shall*, within ten days after the date of service of the notice of intention to appeal, make satisfactory arrangements with the court or court reporter for furnishing the transcript. If the appellant has not received the transcript within forty-five days after receipt of written notice of the order, sentence, or decree of the probate court, the appellant may make a motion to the circuit court for an extension to serve and file the parties' briefs and Designations of Matter to be Included in the Record on Appeal, as provided in subsections (d) and (e).

S.C. Code §62-1-308(c) (emphasis added).

reinstated except by leave of the court, upon good cause shown, after notice to all parties. The clerk shall remit the case to the lower court or administrative tribunal in accordance with Rule 221 unless a motion to reinstate the appeal has been actually received by the court within fifteen (15) days of filing of the order of dismissal (the day of filing being excluded).

Rule 260, SCACR (emphasis added).

Accordingly, the Respondent asserts that because the Appellant failed to comply with the mandates of this Court's rules in connection with the filing of the Motion at bar and has failed to comply with mandates requiring the order of a transcript (whether this Appeal is pending before this Court or the Circuit Court), the Court may not remand/transfer the Appeal to the Circuit Court and the Appeal must be dismissed pursuant to the deficiencies set forth in the Deficiency Letters and Rule 260, SCACR.

ii. *The Notice of Appeal was not timely filed pursuant to S.C. Code §62-1-308(a) and must be dismissed*

S.C. Code §62-1-308 provides in relevant part:

Except as provided in subsection (1), *appeals from the probate court must be to the circuit court* and are governed by the following rules:

(a) A person interested in a final order, sentence, or decree of a probate court may appeal to the circuit court in the same county, subject to the provisions of Section 62-1-303. *The notice of intention to appeal to the circuit court must be filed in the office of the circuit court and in the office of the probate court and a copy served on all parties not in default within ten days after receipt of written notice of the appealed from order, sentence, or decree of the probate court.*

S.C. Code §62-1-308(a) (emphasis added).

S.C. Code §62-308(a) expressly mandates that a Notice of Appeal from a Probate Court Order be filed in the Circuit Court within ten (10) days after receipt of written notice of the appealed from order. In the case at bar, the Rule 59 Order (arising from the Rule 59 Motion

which stayed the time to appeal the December Order), was entered and mailed to the Parties on April 6, 2026.

Pursuant to Rule 6(e), SCRCPP, the Rule 59 Order is deemed to have been received by the Appellant no later than April 11, 2026. Thus, the ten (10) days from the date of receipt of the Rule 59 Order expired on April 21, 2026.

As the Notice of Appeal was not filed until May 4, 2026, the Notice of Appeal was not timely filed, the Appeal may not be remanded/transferred to the Circuit Court, and the Appeal must thus be dismissed, with prejudice. This Court has strictly construed the language of S.C. Code § 62-1-308(a) and directly addressed this issue, holding the notice of appeal from a probate court order must be filed in the circuit court within ten days. *See In re Estate of Cretzmeyer*, 365 S.C. 12, 615 S.E.2d 116 (2005) (holding S.C. Code § 62-1-308(a) must be read for its clear and unambiguous terms and evidence of mailing [\*5] does not constitute filing); *see also Gary v. State*, 347 S.C. 627, 557 S.E.2d 662 (2001) (holding when a statute requires the filing of a document, it is considered filed when delivered to and received by the proper officer); *Great Games, Inc. v. South Carolina Dep't of Revenue*, 339 S.C. 79, 529 S.E.2d 6 (2000) (holding the failure of a party to comply with the procedural requirements for perfecting an appeal divests the circuit court of appellate jurisdiction); *accord Gallagher v. Evert*, 353 S.C. 59, 68-69, 577 S.E. 2d 217, 221-22 (Ct. App 2002) (“vacating a circuit court’s ruling and reinstating a probate court’s award when the appealing party failed to timely file an appeal to the circuit court).

Accordingly, the Appellant failed to timely file the Notice of Appeal (regardless of whether it was filed in the Circuit Court or the Court of Appeals), the filing defective and ineffective and the Notice of Appeal must be dismissed with prejudice.

iii. *The Rule 59 Motion was not timely filed with the Probate Court pursuant to SCRCP 59 and the Appeal may not be remanded or transferred to the Circuit Court*

Rule 59, SCRCP provides in relevant part that:

**(e) Motion to Alter or Amend a Judgment.** A motion to alter or amend the judgment shall be served not later than 10 days after receipt of written notice of the entry of the order.

\*\*\*\*\*

**(g) Judge to be Provided with Copy.** A party filing a written motion under this rule shall provide a copy of the motion to the judge within ten (10) days after the filing of the motion.<sup>4</sup>

(emphasis added).

While the Respondent's attorney was served with the Motion on January 2, 2026, the Court notified the Parties that the Motion was not filed with the Court until January 21, 2026, long after the ten (10) day expiration period under SCRCP 59(e) and 59(g) (*See* Rule 59 Order at 2, ¶5). The caselaw interpreting the mandate of SCRCP 59(e) and (g) could not be more clear and, thus, the Probate Court denied the Rule 59 Motion.

"The purpose of Rule 59(e), SCRCP, to alter or amend the judgment is to request the trial judge to reconsider matters properly encompassed in a decision on the merits." *Arnold v. State*, 309 S.C. 157, 172, 420 S.E.2d 834, 842 (1992). "A party may wish to file such a motion when she believes the court has misunderstood, failed to fully consider, or perhaps failed to rule on an argument or issue, and the party wishes for the court to reconsider or rule on it. *A party must file such a motion when an issue or argument has been raised, but [\*2] not ruled on, in order to*

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<sup>4</sup> *SCRCP 5(e) Filing With the Court Defined.* The filing of pleadings and other papers with the court as required by these rules shall be made by filing them with the clerk of the court, except that the judge may permit the papers to be filed with him, in which event he shall note thereon the filing date and forthwith transmit them to the office of the clerk.

preserve it for appellate review." *Elam v. South Carolina Dept. of Transp.*, 361 S.C. 9, 24, 602 S.E.2d 772, 780 (2004)(emphasis added) (emphasis in original).

"A motion to alter or amend the judgment shall be served not later than 10 days after receipt of written notice of the entry of the order." Rule 59(e), SCRCP. "[T]he ten-day deadline in Rule 59(e) is an absolute deadline. A trial court does not have the power to alter or amend a final order if more than ten days passes and no Rule 59(e) motion has been served, **nor does a trial court have any power to grant the moving party an extension of time in which to file a Rule 59(e) motion.**" (emphasis added) *Overland, Inc. v. Nance*, 423 S.C. 253, 256-57, 815 S.E.2d 431, 433 (2018) (citation omitted) (citing *Leviner v. Sonoco Prods. Co.*, 339 S.C. 492, 530 S.E.2d 127 (2000)).<sup>5</sup>

Furthermore, SCRCP 59(g) provides that in addition to serving and filing the Rule 59(e) motion, "**[a] party filing a written motion under this rule shall provide a copy of the motion to the judge within ten (10) days after the filing of the motion.**" SCRCP 59(g) (emphasis added); *See also Smith v. Fedor*, 422 S.C. 118, 126, 809 S.E.2d 612, 161 (Ct. App. 2017) ("Rule 59(g) would lack any purpose if trial courts committed error by denying the motion for failure to comply with the rule. Further, the language in *Gallagher v. Evert*, 353 S.C. 59, 63-64, 577 S.E.2d 217, 219 (Ct. App. 2002) implies a trial court may deny the motion solely on the basis of the rule."). *Bennett v. Brinton*, 2025 S.C. C.P. LEXIS 15, \*1-2 (emphasis added); *See also Smith v. Fedor*, 422 S.C. 118, 126, 809 S.E.2d 612, 616 (Ct. App. 2017) ("*Rule 59(g) would lack any purpose if trial courts committed error by denying the motion for failure to comply with the rule.*"); *Accord, Dawkins v. Wilburn*, No. 2019-UP-269, 2019 S.C. App. Unpub. LEXIS 272,

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<sup>5</sup> Respondent notes that the South Carolina Supreme Court in its recent decision in *Swing v. Swing*, 445 S.C. 340, 914 S.E.2d 158 (S.C. 2025) reaffirmed the ruling in decisions decided hereinabove regarding the requirement to *file* and *serve* a Rule 59(e) within ten (10) days of receipt of an order.

at \*2-3 (Ct. App. July 24, 2019)(emphasis added).

Because the Court acknowledged receipt of the Motion on January 21, 2026, the filing and receipt by Judge Sutcliffe of the Rule 59 Motion was ruled by Judge Sutcliffe as untimely filed pursuant to the express terms of SCRCP 59(g), which such time period may NOT be extended by the Court.

Based upon the South Carolina Supreme Court's decision in *Swing*, 445 S.C. 340, 351-352, 914 S.E.2d 158 (S.C. 2025), *supra.*, the fact that both the movant in the Rule 59 Motion and the Appellant in this Appeal is Virginia Moryadas, and the failure of the Appellant to "timely" serve and file the Rule 59 Motion did not stay the deadline to file the Appeal. Thus, the Appeal, whether filed in the Circuit Court or in this Court is, as a matter of law, untimely filed, may not be transferred or remanded to the Circuit Court, and must, instead, be dismissed with prejudice.

iv. *Reservation of right to respond to any new facts and/or arguments asserted by Appellant and LCT*

If Appellant attempts to argue new facts or law not previously contained in the Motion, the Respondent respectfully requests that the Court disregard said arguments not contained in the Motion. Should the Court permit allegations of new facts and law by Appellant and LCT in their reply to the Motion, Respondent respectfully requests the opportunity to file a written response thereto.

**CONCLUSION AND REQUEST FOR RELIEF**

Based upon the facts and law hereinabove, the Respondent respectfully requests that this Court enter an order:

1. Denying the Motion to remand or transfer the Appeal to the Circuit Court;
2. Dismissing the Appeal, with Prejudice: and
3. For such other and further relief as this Court deems necessary, equitable and proper.

Respectfully Submitted,

Beaufort, South Carolina  
June 2, 2026

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