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Sep 16 2026

SC Court of Appeals

**THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS
APPEAL FROM BEAUFORT COUNTY
COURT OF COMMON PLEAS**

James J. Wegmann, Master-in-Equity

Appellate Case No. 2026-000660

Lower Court Case No. 2018-CP-07-00793

Benny Hudson Seafood Corp., Respondent,

v.

Geraldine White and Craig White, Defendants,

of whom Geraldine White is the Appellant.

**APPELLANT'S REPLY IN SUPPORT OF
MOTION FOR LEAVE TO FILE RULE 60(b)
MOTION AND FOR LIMITED REMAND**

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Appellant Geraldine White, appearing pro se, respectfully replies to Respondent's Return pursuant to Rule 240, SCACR. The requested remand is narrow. Appellant asks this Court to permit the lower court to consider evidence obtained after the appealed order concerning whether the August 22, 2018 judgment was entered and indexed in the manner required to create and support the asserted judgment lien. Respondent's characterization of the request as delay does not resolve the factual conflict between a general public-index entry and the attorney-certified title evidence reporting no active judgment lien.

PROCEDURAL CLARIFICATION OF THE THREE RELATED CASES

Respondent groups together three interrelated cases, but each case involves a different claim, different parties or party alignment, and different relief. Treating them as interchangeable obscures the reason Appellant seeks a limited remand in this appeal.

First, Case No. 2018-CP-07-00793 is the original action filed by Benny Hudson Seafood Corp. against Geraldine White and Craig White. Judge Marvin H. Dukes III conducted the August 21, 2018 default-damages hearing without Appellant present and signed the Order of Judgment filed August 22, 2018. Appellant was absent because Patrick Carr told her not to come to court and she believed he represented her. Appellant further maintains that Respondent did not present competent evidence substantiating the amounts claimed for expenses, removal costs, lost revenues, and other damages. A default admits liability, but not the amount of unliquidated damages. *Howard v. Holiday Inns, Inc.*, 271 S.C. 238, 241-42, 246 S.E.2d 880, 882 (1978); *Renney v. Dobbs House, Inc.*, 275 S.C. 562, 566, 274 S.E.2d 290, 292 (1981). The claimant must prove the amount of damages by competent evidence and a preponderance of the evidence. *Jackson v. Midlands Human Resources Center*, 296 S.C. 526, 529, 374 S.E.2d 505, 506-07 (Ct.

App. 1988). The validity and enforcement of the judgment entered in 18-793 are the subjects relevant to Appellate Case No. 2026-000660.

Second, Case No. 2025-CP-07-00718 is Appellant's separate action against John R.C. Bowen and closing attorney Kori Brett McKeithan. In that action, Appellant alleges they interfered with a private sale of trust property and caused \$15,665.73 belonging to her to be transferred to Respondent as a purported partial satisfaction of the 18-793 judgment. Appellant's position is that the transfer was not duly authorized because no valid judgment lien existed against Geraldine White or her property when the funds were taken. The order entered in 25-718 is the subject of the separate appeal identified by Respondent as Appellate Case No. 2025-002399. (Resp.'s Return at 1-3; Ex. 2 at 2.)

Third, Case No. 2018-CP-07-00804 is the companion action involving Martin Govan. In that case, Govan asserted a third-party claim seeking to require Appellant to reimburse him for \$10,000 he paid to Benny Hudson Seafood Corp. in settlement. Appellant is defending against that claim and maintains she owes Govan nothing. The 18-804 action is separately pending under Appellate Case No. 2025-002484. (Resp.'s Return at 1-2; Ex. 2 at 2.)

The cases share background facts, but they are not duplicative. The present motion concerns whether the 18-793 judgment was properly enrolled and indexed as a lien¹ and whether later-obtained title evidence should be considered by the lower court. The 25-718 case concerns the conduct surrounding the transfer of Appellant's sale proceeds, and the 18-804 case concerns Govan's separate reimbursement claim. A limited remand in this appeal would address the foundation on which Respondent relies without merging or deciding the distinct claims pending in the other two appeals.

¹ Murdock Associates, Inc. v Port, 360 S.C.605 (Ct.App. 2004) The Court of Appeals emphasized that state recording and indexing statutes exist to provide constructive notice; without statutory docketing in the Clerk's index, third-party buyers and lenders are not bound by the judgment.

ARGUMENT

I. The Return does not eliminate the factual issue that warrants a limited remand

Respondent relies on a Beaufort County Public Index entry and argues that the existence of that entry conclusively proves proper enrollment and indexing². Section 15-35-810 provides that a final judgment constitutes a lien on the judgment debtor's real estate in a county only when the judgment or transcript is entered upon the book of abstracts of judgments and duly indexed; the lien begins from that entry. S.C. Code Ann. section 15-35-810³. A general public-index listing does not, without more, answer whether those statutory conditions were satisfied. The attorney-certified title examination was obtained after the order on appeal and reported no active judgment lien. The lower court did not have that evidence when it ruled.

Respondent also argues that the title examination concerns property later released. That argument addresses the weight and legal effect of the evidence, not whether the trial court should be allowed to receive it and resolve the discrepancy in the first instance. A limited remand would not decide the merits, vacate the judgment automatically, or require this Court to accept Appellant's interpretation. It would simply allow an evidentiary record to be made while preserving this Court's appellate jurisdiction.

Respondent relies on *Lanier v. Lanier*, 364 S.C. 211, 217, 612 S.E.2d 456, 459 (Ct. App. 2005), and *Morin v. Innegrity, LLC*, 424 S.C. 559, 578, 819 S.E.2d 131, 141 (Ct. App. 2018), for the requirements governing newly discovered evidence. Those authorities reinforce why a limited remand is appropriate: the trial court, rather than this Court in the first instance, should

² *Hardin v Hardin*, 34 S.C.77 (1891) The Supreme Court affirmed that a clerk's failure to properly record and index a judgment in the abstract book "prevents the creation of a valid lien on the debtor's real estate"...

³ *Ex parte Union National Bank of Columbia*, 101 S.C. 127 (1915) A foundational Supreme Court ruling establishing that the signature of a judge creates a debt obligation, but the administrative entry into the Abstrace Book by the Clerk of Court is the operative legal act that converts it into a real estate lien.

determine whether the later attorney-certified examination is material, cumulative, and capable of changing the result, and whether it could have been obtained earlier through due diligence. Appellant obtained the examination only after the lower court ruled, and it directly conflicts with the premise used to take proceeds from her real-property sale.

The one-year limitation cited by Respondent likewise should not be used to deny a limited remand without considering the precise grounds and relief in the proposed Rule 60(b) motion. Rule 60(b) separately identifies mistake or excusable neglect, newly discovered evidence, fraud or misconduct, a void judgment, satisfaction or release, and prospective inequity. Rule 60(b), SCRCP. The rule's one-year clause expressly governs grounds (1), (2), and (3), while grounds (4) and (5) must be raised within a reasonable time. *Id.* Appellant does not contend that the absence of a valid lien, standing alone, necessarily erases the underlying money judgment. She seeks a determination of whether the judgment was properly enrolled and enforceable as a lien and whether the collection of her sale proceeds was authorized⁴. Those questions should be decided on a developed record rather than by treating a screenshot or a printout of the Public Index as conclusive⁵. Calling the January 10, 2025 a “partial satisfaction” does not, by itself prove that a lien existed or authorize taking money from a private sale. The Respondent would have needed to establish the judgment, proper enrollment/indexing, ownership of affected property, and lawful authority for collecting the sale proceeds.

⁴ Key Concepts of SC Code §15-35-810: Creation of the Real Estate Lien: A monetary court judgment does not automatically act as a lien against a debtor’s real property simply because a judge signed it. Under §15-35-810 a judgment becomes a lien on the real property of the judgment debtor ONLY once it is formally indexed and entered by the Clerk of Court into the book of abstracts and indices in the county where the property is located.

⁵ The August 22, 2018 judgment in case ending in 793 was never entered in the Book of Abstract of Judgments and properly indexed, then §15-35-810 indicates that it did not become a statutory lien against Geraldine White’s Beaufort County real estate.

II. Appellant's 2018 nonappearance was caused by counsel-related confusion rather than a deliberate disregard of the court

The Return states that Appellant failed to appear at the August 21, 2018 damages hearing, but it omits the circumstances surrounding that nonappearance. Before the hearing, attorney Patrick Carr told Appellant not to come to court. Appellant understood that Mr. Carr was representing her and relied on his instruction. She therefore did not knowingly abandon the proceeding or intentionally disregard the hearing notice.

The record materials cited by Respondent corroborate the existence of this misunderstanding. The March 6, 2026 order acknowledges Appellant's October 30, 2018 declaration stating, 'I was under the impression that Patrick Carr was representing me.' (Resp.'s Return, Ex. 2 at 7 & n.15.) The same order acknowledges Mr. Carr's October 17, 2018 letter, in which his firm stated that it had 'mistakenly assumed' the two related cases involved the same parties and the same procedural posture before learning that Benny Hudson Seafood Corp. had filed two separate actions. (Id. at 7.) Only after the default judgment had been entered did Mr. Carr advise Appellant that his firm could not represent her and that she should promptly retain counsel to seek Rule 60(b) relief. It was approximately two months later when Appellant received notice from Attorney Pat Carr informing Appellant that his firm made a mistake and could not represent her.

Respondent emphasizes that the October 17 letter does not itself recite the earlier oral instruction not to attend. But the absence of that statement from a later disengagement letter does not disprove Appellant's sworn account of the oral instruction. At minimum, the letter independently confirms the precise misunderstanding that caused Appellant to believe the matters were being handled together and that Mr. Carr was acting for her. The lower court's order

also recognizes that Appellant raised this issue at the January 2019 hearing; it is not a recently invented explanation. (Resp.'s Return, Ex. 2 at 6 n.14.)

These circumstances matter because they rebut the Return's suggestion that Appellant deliberately ignored the litigation. In reviewing relief from default, South Carolina courts consider the explanation for the default, the promptness of the request, the existence of a meritorious defense, and prejudice to the opposing party. *Micronics, Inc. v. S.C. Department of Revenue*, 345 S.C. 506, 510-11, 548 S.E.2d 223, 226 (Ct. App. 2001); see also *Wham v. Shearson Lehman Bros.*, 298 S.C. 462, 465, 381 S.E.2d 499, 501-02 (Ct. App. 1989). Rule 60(b) requires a particularized showing, not a finding that every failure to appear is automatically willful. *Sundown Operating Co. v. Intedge Industries, Inc.*, 383 S.C. 601, 607-08, 681 S.E.2d 885, 888-89 (2009). Appellant relied on what she understood to be legal advice from the attorney she believed was representing her. The resulting default was not a calculated choice to delay the case.

III. The dismissal of the first appeal resulted from retained counsel's failure to complete the transcript-status requirement

The Return also states that the prior appeal, Appellate Case No. 2019-000343, was dismissed for failure to provide a transcript-status update. That procedural history should not be attributed to a lack of diligence by Appellant. After the default proceedings, attorney Maureen Coffey undertook Appellant's matter and pursued it to the Court of Appeals. Ms. Coffey began communicating with the Court of Appeals as Appellant's attorney. Appellant reasonably relied on counsel to handle the transcript and required appellate communications.

Counsel then stopped communicating with the Court concerning the transcript, and the appeal was dismissed. Appellant did not direct counsel to ignore the Court, did not choose to

abandon the appeal, and did not personally cause the transcript-status default. When Appellant learned of the dismissal, she attempted to reinstate the appeal, but the remittitur had already been issued. (Resp.'s Return at 2; Ex. 2 at 3-4.) Her effort to reinstate the matter is consistent with diligence and an ongoing desire to obtain review on the merits.

The history therefore shows two serious attorney-related failures: first, Appellant relied on Mr. Carr's instruction and his mistaken understanding of the two cases, leading to her absence from the damages hearing; second, Appellant relied on Ms. Coffey to prosecute the appeal, but the appeal was dismissed after counsel ceased handling the transcript-status requirement. Neither event was an intentional waiver by Appellant. Although attorney neglect is ordinarily attributed to the client, South Carolina recognizes an exception when counsel willfully and unilaterally abandons or withdraws from the matter. *Graham v. Town of Loris*, 272 S.C. 442, 451-53, 248 S.E.2d 594, 598-99 (1978); *Stearns Bank National Association v. Glenwood Falls, LP*, 375 S.C. 25, 33-35, 650 S.E.2d 281, 285-86 (Ct. App. 2007). *Graham* held that a client should not be charged with counsel's abandonment at a crucial stage without reasonable notice. 272 S.C. at 452-53, 248 S.E.2d at 599. A limited remand would permit the factual record necessary to decide whether counsel's conduct here was mere neglect or abandonment within that rule.

IV. Appellant has consistently acted to obtain review rather than to delay payment

Respondent opens by accusing Appellant of delaying the inevitable. The record instead shows that Appellant moved to set aside the default in October 2018, retained counsel, pursued an appeal, attempted reinstatement when counsel's failure caused dismissal, challenged the later taking of her sale proceeds, and obtained attorney-certified title evidence concerning the asserted lien. She has continued to seek a merits determination despite procedural setbacks that were not of her making.

Appellant does not ask this Court to decide disputed facts in her favor without a hearing. She asks for the opportunity to present the newly obtained title evidence to the lower court, allow Respondent to answer it, and obtain findings capable of appellate review. The prejudice to Respondent from that narrow procedure is limited, while denying any forum to test the asserted lien would perpetuate collection consequences arising from a default that Appellant has repeatedly attempted to contest.

CONCLUSION

For these reasons, Appellant respectfully requests that the Court grant leave to file her Rule 60(b) motion and issue a limited remand so the lower court may receive the attorney-certified title evidence, determine whether the August 22, 2018 judgment was properly enrolled and indexed as a judgment lien, and address the enforceability of that lien and the resulting collection of Appellant's sale proceeds. Appellant further requests that this appeal remain pending during the limited remand and that the parties be directed to notify this Court promptly after the lower court rules.

Respectfully submitted,

s/ Geraldine White
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PROOF OF SERVICE

I certify that on September 16, 2026, I served a true and correct copy of the foregoing Appellant's Reply in Support of Motion for Leave to File Rule 60(b) Motion and for Limited Remand by electronic mail upon the following counsel of record:

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