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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENWOOD COUNTY
Court of Common Pleas

Charles B. Simmons, Jr., Special Referee

App. Case No. 2026-002044
Common Pleas Case No. 2025-CP-24-00155

Edgefield Holdings, LLC ……...……Respondent,

v.

John W. Polasky, Pucketts Ferry Homeowners Association, Inc., Greenwood County, South State Bank, N.A.,……...…….……Defendants,

Of which John W. Polasky is the……...……Appellant.

MOTION AND PETITION TO PREVENT LOWER COURT FROM PROCEEDING WITH MATTERS AFFECTED BY APPEAL AND TO DECLARE POST-APPEAL LOWER COURT ORDER VOID

Appellant hereby submits this motion and petition, pursuant to Rules 205 and 241, SCACR, which seeks for this court to issue an order that 1) directs the lower court not to proceed with matters affected by this appeal and 2) declares the lower court's order filed on September 30, 2026, to be violative of Rules 205 and 241, SCACR, and to be void.

The appellate stay under Rule 241 is presently in effect, and the lower court has acted and is acting without jurisdiction under Rule 205 by moving forward with proceedings that are grounded in and directed by an order that is on appeal to this court.

There are good grounds for this court to issue such an order so directing the lower court, as the following shows:

1. This is an appeal of a September 15, 2026, order that granted summary judgment on liability in favor of the Respondent in Respondent's action seeking foreclosure of ostensible liens of judgments that date from 2008. See S.C. Code Ann. § 15-35-810 (lien of judgment expires after "ten years from the date of such final judgment or decree"). Because the order fully determined liability in the Respondent's favor, the order made an immediately appealable ruling. Nauful v. Milligan, 258 S.C. 139, 187 S.E.2d 511 (1972) (grant of partial summary judgment is immediately appealable); Thornton v. S.C. Elec. & Gas Corp., 391 S.C. 297, 705 S.E.2d 475 (Ct. App. 2011) (same).

2. The primary issue for this appeal is whether the Respondent retains such liens and has the right to continued judgment enforcement now that we are over eighteen years from the dates of the judgments.

3. As the Respondent has conceded, the subject order does not direct a sale of real property. It does not fall within the scope of the appellate stay exception of S.C. Code Ann. § 18-9-170 or within the scope of any other exception to the appellate stay. Rules 205 & 241(a), SCACR.

4. The special referee questioned the appealability of the order, then appeared to acknowledge its appealability, then issued an order that

states that proceedings may continue, giving a reason for that which has no basis in law. (Further, the contention that more record-making is needed or warranted for appellate review is not correct. The issues in this appeal have to do with points already finally decided in the appealed order.)

5. Submitted as exhibits to this motion are:

a. Exhibit A, the order appealed in this case;

b. Exhibit B, the Respondent's motion below for an expedited hearing;

c. Exhibit C, email messages exchanged with the special referee concerning the existence of the appellate stay, the court in which jurisdiction lies, whether the special referee could lawfully move forward with the hearing;

d. Exhibit D, the memorandum submitted to the lower court by Appellant concerning appellate jurisdiction and the appellate stay;

e. Exhibit E, the proposed order on those matters submitted by Appellant;

f. Exhibit F, the transcript of the hearing on Respondent's motion for an expedited hearing and questions of whether the lower court is permitted to move forward with such matters, with especially relevant dialogue highlighted;

g. Exhibit G, the order the special referee filed on September 30, 2026, which states that matters subject of the appealed order may proceed

and which directs a hearing to be held to act upon the decision made in the appealed order and carry it out; and

h. Exhibit H, email messages noting that the special referee has set a hearing for October 26, 2026, on matters that are dependent upon the appealed order.

6. This motion asks the Court of Appeals to direct the lower court not to proceed with matters affected by this appeal, including holding the scheduled hearing, while this appeal is pending and unless and until appropriate relief from the appellate stay is ordered.

7. This motion also seeks for this court to declare the special referee's order filed September 30, 2026, to be void.

8. Rules 205 and 241(a), SCACR, are in effect here and have been in effect since September 15, 2026, when this appeal was brought.

9. The Supreme Court has held that "[t]he lower court may not act or issue orders that affect an issue on appeal." Arnal v. Fraser, 371 S.C. 512, 641 S.E.2d 419, 422 (2007). "Under Rule 205, the lower court is deprived of the power to proceed with matters that are affected by the appeal[.]" Tillman v. Oakes, 398 S.C. 245, 254-55, 728 S.E.2d 45, 50-51 (Ct. App. 2012).

10. To hold the proceedings that the appealed order directs – which is what the lower court has decided it can and will do – would be to do what Rule 205 prohibits. For the lower court to have jurisdiction to engage in further proceedings, those proceedings would have to have

nothing to do with the appealed decision, i.e., have issues that would be exactly the same regardless of the outcome of the appeal. Maybank 2754, LLC v. Zurlo, 444 S.C. 47, 66-68, 906 S.E.2d 94, 104-06 (Ct. App. 2024).

11. The lower court's order filed September 30, 2026, is void. E.g., id. It is a ruling on a matter of which this court, not the lower court, has jurisdiction. E.g., id.; Rule 205, SCACR.

12. The Respondent has not sought, much less obtained, an order that lifts the appellate stay, though there is a process to seek such relief. Rule 241(c)&(d), SCACR. It is incumbent upon the Respondent to seek relief from the appellate stay if it desires to move forward while the appeal is pending. Id.

13. The matter in question is stayed, and the special referee is without jurisdiction to have issued the September 30 order, to hold the contemplated October 26 hearing, or to hold any other proceedings that affect the matters that are affected by the appeal. Rule 205, SCACR; Arnal, 641 S.E.2d at 422; Tillman, 398 S.C. at 254-55.

WHEREFORE Appellant prays for an order that directs the lower court not to proceed with matters affected by this appeal and which declares the lower court's order filed September 30, 2026, to be void.

Respectfully submitted,

/s/ Andrew S. Radeker

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Attorneys for Appellant

October 5, 2026

ELECTRONICALLY FILED - 2026 Sep 04 7:36 AM - GREENWOOD - COMMON PLEAS - CASE#2025CP2400155

STATE OF SOUTH CAROLINA COUNTY OF GREENWOOD Edgefield Holdings, LLC, Plaintiff, vs. John W. Polasky, Pucketts Ferry Homeowners Association, Inc., Greenwood County, South State Bank, N.A. Defendants.	)	IN THE EIGHTH JUDICIAL CIRCUIT COURT OF COMMON PLEAS Civil Action No. 2025-CP-24-00155 **ORDER ON PLAINTIFF EDGEFIELD HOLDINGS, LLC'S AND JOHN W. POLASKY'S MOTIONS FOR SUMMARY JUDGMENT**

This matter comes before via an order of reference and cross motions for summary judgment (the Motions) filed by Plaintiff Edgefield Holdings, LLC (Plaintiff) and Defendant John W. Polasky (Polasky) (collectively, the Parties). The case, by consent, was referred to the undersigned Special Referee with any appeal being to the South Carolina Court of Appeals.

Plaintiff has three foreign judgments (the Judgments) against Polasky filed in Greenwood County, South Carolina. The Judgments were rendered against Polasky on July 1, 2008, in North Carolina. The Judgments were properly domesticated in Greenwood County via filings made on January 10, 2017, January 11, 2017, and January 19, 2017.

Plaintiff filed a complaint seeking to foreclose upon certain real property of Polasky based upon the Judgments. Plaintiff moved for summary judgment to establish the validity of the Judgments against Polasky and an order for foreclosure

Exhibit A - order on appeal

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and sale of Polasky's real property in Greenwood County. Polasky moved for summary judgment on his declaratory judgment cause of action seeking to invalidate the judgments.[1] The Parties provided the Court with a joint stipulation of facts which is hereby incorporated by reference.

The Parties have fully briefed the Motions. The Parties agreed to submit the determination of the Motions by the Court on the briefs and without a hearing. Upon review of the file, including all pleadings, motions, responses, and replies, the Court finds that Plaintiff's Judgments against Polasky are valid. The Court therefore grants Plaintiff's motion for summary judgment and denies Polasky's motion for summary judgment. Polasky's real property in Greenwood County will be set for sale based on the foreclosure of the Judgments, following a foreclosure hearing to establish the amounts owing on the judgments, with the sale to occur prior to January 2027.

The Law and Rationale

Per the South Carolina statutory scheme, the North Carolina judgments become South Carolina judgments immediately upon filing: "Upon the filing of the foreign judgment and the affidavit, the foreign judgment must be docketed and indexed in the same manner as a judgment of this State..." S.C. Code Ann. §15-35-920(B). This is because the Full Faith and Credit Clause of the United States Constitution (Article 4 § 1) requires that a judgment of a court from one state be acknowledged and enforced by all the other states of the United States.

[1] The Honorable Judge Hocker previously heard a motion to dismiss or, alternatively for summary judgment, filed by Polasky, which was denied.

Exhibit A - order on appeal

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Following domestication, "[e]xecutions may issue upon final judgments or decrees at any time within ten years from the date of original entry thereof . . . ." S.C. Code Ann. § 15-39-30.[2] South Carolina courts have held that the 10-year-enforcement period under S.C. Code § 15-39-30 begins upon domestication of a judgment in this State. *Com. Credit Loans, Inc. v. Riddle*, 334 S.C. 176, 182, 512 S.E.2d 123, 126 (Ct. App. 1998) (stating that "[Commercial Credit] argues the proper date of original entry when calculating the enforcement period of a South Carolina judgment is the date it was entered in South Carolina. We agree."). As explained by the Court of Appeals:

> The institution of an action to domesticate a foreign judgment specifically contemplates that a South Carolina judgment will be issued by a South Carolina court. At that point, pursuant to section 15–35–810, this South Carolina judgment may then be abstracted and indexed so as to constitute a lien upon the debtor's real property for a period of ten years. It logically follows that section 15–39–30 also deals with the date of original entry of the South Carolina judgment which may then be executed upon for a period of ten years.

Id., 334 S.C. at 181, 512 S.E.2d at 126. The *Commercial Credit* court further explained that the "adoption of the Uniform Enforcement of Foreign Judgments Act does not alter this analysis. Once a foreign judgment has been properly filed it must

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[2] The ten-year statute of limitations under S.C. Code Ann. § 15-3-600 does not begin to run until the judgment debtor moves to South Carolina. *Abba Equip., Inc. v. Thomason*, 335 S.C. 477, 482, 517 S.E.2d 235, 238 (Ct. App. 1999); SC Code Ann. § 15-3-30 ("If when a cause of action shall accrue against any person he shall be out of the State, such action may be commenced within the terms in this chapter respectively limited after the return of such person into this State. And if, after such cause of action shall have accrued, such person shall depart from and reside out of this State or remain continuously absent therefrom for the space of one year or more, the time of his absence shall not be deemed or taken as any part of the time limited for the commencement of such action."). Since the Judgments originated in North Carolina in 2008 and were filed in South Carolina in 2017, this limitations period is not triggered.

Exhibit A - order on appeal

be docketed and indexed in the same manner as a judgment of this state." *Id.* at n.3; *see also Home Port Rentals, Inc. v. Moore*, 369 S.C. 493, 495, 632 S.E.2d 862, 863 (2006) (recognizing *Commercial Credit* and stating that "a foreign judgment must be enrolled in this state in order to be effective as a South Carolina judgment" and distinguishing between the 10-year-period for execution of a judgment under SC Code § 15-39-30 and the time to bring a cause of action under SC Code § 15-3-30). Thus, the *Commercial Credit* court found that a May 27, 1986 Illinois judgment domesticated in South Carolina on February 21, 1989, could be executed on in South Carolina through February 21, 1999.

This Court finds that the same analysis necessarily applies to the present case. Plaintiff seeks to execute on the Judgments within 10 years of them being filed in South Carolina. Based on the binding rulings in *Commercial Credit* and *Home Port*, Plaintiff may therefore proceed with execution within 10 years of filing the Judgments in South Carolina.

In Polasky's Motion, he contends that the holding in *Commercial Credit* is dicta and that the enactment of the Uniform Enforcement of Judgment Act changes the analysis applied in *Commercial Credit*. While the argument is persuasive the Court disagrees. *Commercial Credit* dealt with the exact issues in this case, including addressing the UEFJA and the execution on a final judgment. The Court's holding was not dicta as it reversed the decision below, finding that that the special referee erred in interpreting the time period for enforcement. *Com. Credit*, 334 S.C. at 183, 512 S.E.2d at 127 ("We conclude the special referee erred in his interpretation of

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Exhibit A - order on appeal

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section 15–39–30. The language 'from the date of original entry thereof' refers to the date of entry of a South Carolina judgment. In this case, that date was February 21, 1989. Consequently, the ten-year enforcement period runs through February 21, 1999."). It further addressed the impact of the UEFJA, finding that it had no impact. *Id.*, 334 S.C. at 181, 512 S.E.2d at 126, n.3; *see also Nielson v. Schnmoke*, 278 N.C. App. 656, 664-65, 863 S.E.2d 652, 664-65 (Ct. App. 2021) (collecting cases finding the deadline for executing on a judgment runs from the date of filing such judgment in a new jurisdiction).

In summary, the Judgments were rendered against Polasky on July 1, 2008, in North Carolina. These Judgments were domesticated in Greenwood County via filings made on January 10, 11, and 19, 2017. This domestication was properly completed pursuant to ten-year period prescribed in S.C. Code Ann. § 15-3-600. Because the Judgments were domesticated within the ten-year statutory window, they constitute a lien on Polasky's property that may be foreclosed through January 10, 11, and 19, 2027, respectively, pursuant to S.C. Code § 15-9-30. *See Com. Credit*, 334 S.C. at 182, 512 S.E.2d at 126.

CONCLUSION

Plaintiff's Motion for Summary Judgment is GRANTED and Polasky's Motion for Summary Judgment is DENIED.

IT IS SO ORDERED.

9/3/2026

Special Referee

Exhibit A - order on appeal

ELECTRONICALLY FILED - 2026 Sep 11 8:41 AM - GREENWOOD - COMMON PLEAS - CASE#2025CP2400155

STATE OF SOUTH CAROLINA COUNTY OF GREENWOOD Edgefield Holdings, LLC, Plaintiff, vs. John W. Polasky, Pucketts Ferry Homeowners Association, Inc., Greenwood County, South State Bank, N.A. Defendants.	IN THE EIGHTH JUDICIAL CIRCUIT COURT OF COMMON PLEAS Civil Action No. 2025-CP-24-00155 **PLAINTIFF'S MOTION FOR EXPEDITED FORECLOSURE HEARING AND JUDICIAL SALE**

Plaintiff Edgefield Holdings, LLC ("Edgefield"), through undersigned counsel, moves under Rules 6(d), 53, and 71, SCRCP, the consent Order of Reference, and this Court's September 3, 2026 Order for an expedited foreclosure hearing, entry of a final judgment and decree of foreclosure, and judicial sale of the subject property before January 2027. The merits are resolved. This motion seeks the foreclosure relief the Court has already held Edgefield is entitled to receive.

ONLY AMOUNTS AND SALE TERMS REMAIN

1. On September 3, 2026, this Court granted Edgefield's motion for summary judgment and denied Defendant John W. Polasky's motion for summary judgment. Order on Plaintiff Edgefield Holdings, LLC's and John W. Polasky's Motions for Summary Judgment at 5 (Sept. 3, 2026) ("September 3 Order").

2. The Court held that the three foreign judgments Edgefield owns are valid and enforceable South Carolina judgments. *Id.* at 3–5. The Court further held that each judgment may be enforced for ten years from the date it was filed in South Carolina under the Uniform Enforcement of Foreign Judgments Act. *Id.* at 3–5; S.C. Code Ann. §§ 15-35-920(B), 15-39-30;

Exhibit B - P's mot for expedited hearing

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Commercial Credit Loans, Inc. v. Riddle, 334 S.C. 176, 181–82, 512 S.E.2d 123, 125–26 (Ct. App. 1998).

3. The controlling dates are fixed by the September 3 Order. The judgments were filed in Greenwood County on January 10, January 11, and January 19, 2017, and remain subject to foreclosure through January 10, January 11, and January 19, 2027, respectively. September 3 Order at 1–2, 5.

4. The Court expressly directed the next step: Polasky's Greenwood County real property "will be set for sale" after a foreclosure hearing to establish the amounts owing, "with the sale to occur prior to January 2027." *Id.* at 2 *(emphasis added)*. That directive is part of the judgment now governing this case.

THE REMAINING HEARING IS LIMITED AND TIME-SENSITIVE

5. The merits no longer require adjudication. The September 3 Order leaves only the calculation of amounts owing and the implementation of foreclosure and sale. *Id.* at 2, 5.

6. The parties' Joint Stipulation, incorporated into the September 3 Order, establishes the underlying principal and essential property facts. The assigned judgments consist of: (a) the $940,000 judgment originally entered in favor of Jeffrey A. Kassouf; (b) the $940,000 judgment originally entered in favor of Todd O. Kassouf; and (c) the $500,000 judgment originally entered in favor of Tracey Kassouf Everheart and Michael Everheart—a total stipulated principal of $2,380,000, before any allowable post-judgment interest, costs, credits, or adjustments. Joint Stipulation ¶¶ 4–14; Plaintiff's Memorandum in Support of Motion for Summary Judgment at 2–4, 7.

7. The Joint Stipulation further establishes that Polasky is the sole owner of the property at 112 Dove Road, Greenwood, South Carolina, TMS No. 6888-435-386; that South State Bank, N.A. holds a first mortgage with an approximate balance of $160,000 as of April 1, 2026; that the

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property had a stipulated value of not less than $350,000 as of that date; and that Pucketts Ferry Homeowners Association, Inc. may claim unpaid assessments. Joint Stipulation ¶¶ 1–3, 16–18.

8. Time is now jurisdictionally and practically critical. The Court required the judicial sale to occur before January 2027—not merely that a hearing be held or a decree be entered by then. September 3 Order at 2. The first judgment's ten-year enforcement period ends January 10, 2027, followed by the other two on January 11 and January 19, 2027. *Id.* at 5. An ordinary schedule risks making the relief already awarded impossible to complete within the Court's express timetable.

9. As Special Referee by consent, this Court possesses the powers of the circuit court for the referred matter and may control the proceedings necessary to implement its order. Rule 53(c), SCRCP. Rule 71(b), SCRCP, authorizes the Court to direct and conduct a judicial sale. For good cause, the Court may shorten the ordinary motion-notice period. Rule 6(d), SCRCP.

ANY APPEAL-BASED STAY REQUIRES STRICT COMPLIANCE AND SECURITY

10. Edgefield anticipates that Polasky may seek reconsideration or appellate review. The possibility of further review should not prevent the Court from promptly completing the foreclosure proceeding it ordered. The final decree should therefore state the applicable stay requirements expressly and preserve this Court's ability to act immediately on any stay request.

11. Rule 241(b)(4), SCACR, identifies judgments directing the sale of real property as an exception to the general automatic-stay rule and incorporates S.C. Code Ann. § 18-9-170. Under § 18-9-170, a judgment directing sale of land to satisfy a lien is not stayed unless the appellant executes a written undertaking with two sureties. The undertaking must protect against waste and, if the judgment is affirmed and the property ultimately sells for less than the judgment debt and costs, secure reasonable rental value during the appeal up to the deficiency; the statute also addresses taxes and interest for unimproved land. S.C. Code Ann. § 18-9-170.

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12. Rule 241(c)(3), SCACR, independently permits the Court to condition any supersedeas or stay on a bond or undertaking and on other appropriate terms. Any requested stay should thus be denied unless Polasky strictly complies with § 18-9-170 and provides security and protective terms adequate to preserve the property and Edgefield's position during the delay. The undertaking is ineffective without the affidavits of the sureties required by S.C. Code Ann. § 18-9-210. Edgefield also reserves all rights under S.C. Code Ann. § 18-9-130(A)(2), including the statutory procedures governing a sale after notice of appeal.

FORECLOSURE RELIEF REQUESTED

WHEREFORE, Edgefield respectfully moves for foreclosure and asks the Court to:

A. set the amounts-owing foreclosure hearing on the earliest practicable date, with notice shortened to the extent the Court finds necessary and consistent with due process;

B. limit that hearing to the matters left open by the September 3 Order: the amounts owing, lien priorities, allowable costs and expenses, and the mechanics necessary for foreclosure and sale;

C. establish date-certain prehearing deadlines for Edgefield's debt affidavit and supporting records and for any specific objection to the arithmetic, credits, or claimed priority;

D. enter the final judgment and decree of foreclosure promptly after the hearing and direct that the judicial sale occur on the earliest legally available sale date, but in all events no later than December 31, 2026, as required by the September 3 Order; and

E. provide that no motion for reconsideration, by itself, postpones the scheduled proceedings or sale; that any party seeking to stay a judgment directing sale of the property must obtain an express stay order and strictly satisfy Rule 241, SCACR, and S.C. Code Ann. §§ 18-9-170 and -210; and that any stay be conditioned on an approved undertaking with

two sufficient sureties and such additional protective terms as the Court deems appropriate; and

F. grant such other and further relief as the Court deems just and necessary to implement its September 3 Order.

s/ Lawrence M. Hershon
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ATTORNEYS FOR PLAINTIFFS

September 11, 2026
Charleston, South Carolina

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Outlook

Re: Edgefield Holdings, LLC v. John W. Polasky, et al., Case No. 2025CP2400155 (Greenwood County)

From Drew Radeker <Drew@radekerlaw.com>
Date Mon 9/28/2026 2:37 PM
To Simmons, Judge Charles <CSimmons@greenvillecounty.org>; Herrmann, Karen <KHerrmann@greenvillecounty.org>; Lawrence Hershon <lawrence@hershonlawfirm.com>; J. Ronald Jones, Jr. <RJones@smithdebnamlaw.com>
Cc Douglas L. Bell <dbell@mcdonaldpatrick.com>; Tripp Padgett <padgett@bacotlawfirm.com>; Elizabeth Ross <eross@weaverlawsc.com>; Zach Weaver <zweaver@weaverlawsc.com>; Lindsey Reynolds <lreynolds@greenwoodsc.gov>

1 attachment (40 KB)
Polasky order re effect of appeal.docx;

Judge Simmons, I also attach a proposed order that would note the existence of the appellate stay and the jurisdictional limitations created by the appeal.

Thanks.

Drew Radeker
Radeker Law, P.A.
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From: Drew Radeker <Drew@radekerlaw.com>
Sent: Monday, September 28, 2026 2:03 PM
To: Simmons, Judge Charles <CSimmons@greenvillecounty.org>; Herrmann, Karen <KHerrmann@greenvillecounty.org>; Lawrence Hershon <lawrence@hershonlawfirm.com>; J. Ronald Jones, Jr. <RJones@smithdebnamlaw.com>
Cc: Douglas L. Bell <dbell@mcdonaldpatrick.com>; Tripp Padgett <padgett@bacotlawfirm.com>; Elizabeth Ross <eross@weaverlawsc.com>; Zach Weaver <zweaver@weaverlawsc.com>; Lindsey Reynolds <lreynolds@greenwoodsc.gov>
Subject: Re: Edgefield Holdings, LLC v. John W. Polasky, et al., Case No. 2025CP2400155 (Greenwood County)

Judge Simmons:

I don't know whether Your Honor will have an opportunity to read this before 4:00, but I attach for the court's review the memorandum we just filed on appealability, whether an exception to the appellate stay applies, and whether this court has jurisdiction to proceed with matters affected by the appeal.

Thank you, and I look forward to seeing you on screen in a couple of hours.

Drew Radeker
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From: Simmons, Judge Charles <CSimmons@greenvillecounty.org>
Sent: Wednesday, September 16, 2026 2:48 PM
To: Drew Radeker <Drew@radekerlaw.com>; Herrmann, Karen <KHerrmann@greenvillecounty.org>; Lawrence Hershon <lawrence@hershonlawfirm.com>; J. Ronald Jones, Jr. <RJones@smithdebnamlaw.com>
Cc: Douglas L. Bell <dbell@mcdonaldpatrick.com>; Tripp Padgett <padgett@bacotlawfirm.com>; Elizabeth Ross <eross@weaverlawsc.com>; Zach Weaver <zweaver@weaverlawsc.com>; Lindsey Reynolds <lreynolds@greenwoodsc.gov>
Subject: RE: Edgefield Holdings, LLC v. John W. Polasky, et al., Case No. 2025CP2400155 (Greenwood County)

All motions/issues will be addressed at the hearing.
In my opinion there is at least an issue as to whether the last order is interlocutory or immediately appealable. Thus, in order to have a full appellate record, the hearing will proceed as scheduled.

Judge Charles B. Simmons, Jr.
Suite 313, 305 East North Street
Greenville County Courthouse
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From: Drew Radeker <Drew@radekerlaw.com>
Sent: Wednesday, September 16, 2026 12:28 PM
To: Herrmann, Karen <KHerrmann@greenvillecounty.org>; Lawrence Hershon <lawrence@hershonlawfirm.com>; J. Ronald Jones, Jr. <RJones@smithdebnamlaw.com>; Simmons, Judge Charles <CSimmons@greenvillecounty.org>
Cc: Douglas L. Bell <dbell@mcdonaldpatrick.com>; Tripp Padgett <padgett@bacotlawfirm.com>; Elizabeth Ross <eross@weaverlawsc.com>; Zach Weaver <zweaver@weaverlawsc.com>; Lindsey Reynolds <lreynolds@greenwoodsc.gov>
Subject: Re: Edgefield Holdings, LLC v. John W. Polasky, et al., Case No. 2025CP2400155 (Greenwood County)

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Ms. Hermann, I am available at that time and have put this on the calendar.

Judge Simmons, at the risk of provoking ire, I must respectfully repeat that even to *hold* the contemplated hearing is not permitted.

The issued order is unquestionably appealable, as it decides the plaintiff has the right to prevail in the action, rules against Defendant Polasky on his counterclaim and disposes of it entirely, and is, on those points, a final judgment. The idea that a motion granting partially judgment is not subject to immediate appeal has been done away with by precedent. The South Carolina Court of Appeals noted in Thornton v. S.C. Elec. & Gas Corp., 391 S.C. 297, 705 S.E.2d 475 (Ct. App. 2011) that, "[g]enerally, orders granting partial summary judgment may be immediately appealable under either the 'involving the merits' or 'substantial right' categories of section 14-3-330(1) and (2)(c)." The court further clarified that an order granting partial summary judgment "involves the merits of a case for purposes of interlocutory appeal when it finally determines a substantial matter forming the whole or a part of some cause of action or defense." Id. The subject order has finally determined the questions of 1) whether the plaintiff is entitled to have a judicial sale, 2) whether liens of the subject judgments exist, and 3) whether Defendant Polasky is entitled to prevail in any manner on his counterclaim. It is beyond reasonable dispute that it is an immediately appealable order.

Rule 205, SCACR, provides as follows: "Upon the service of the notice of appeal, the appellate court shall have exclusive jurisdiction over the appeal; the lower court or administrative tribunal shall have jurisdiction to entertain petitions for writs of supersedeas as provided by Rule 241. Nothing in these Rules shall prohibit the lower court, commission or tribunal from proceeding with matters not affected by the appeal." (Emphasis added.) To hold a hearing that the appealed order decides will occur is to proceed with a matter affected by the appeal.

Rule 241(a), SCACR, provides as follows: "As a general rule, the service of a notice of appeal in a civil matter acts to automatically stay matters decided in the order, judgment, decree or decision on appeal, and to automatically stay the relief ordered in the appealed order, judgment, or decree or decision. This automatic stay continues in effect for the duration of the appeal unless lifted by order of the lower court, the administrative tribunal, appellate court, or judge or justice of the appellate court. The lower court or administrative tribunal retains jurisdiction over matters not affected by the appeal including the authority to enforce any matters not stayed by the appeal." Rule 241(b), SCACR, makes plain that this general rule applies unless an exception is met. Here, one is not met: the appealed order specifically provides an order directing a sale will issue only in the future, after the debt subject of the judgments is established. This is just a regular-type order, the appeal of which creates a stay.

It is interesting to see that the plaintiff has resorted to calling this "hair-splitting." Plaintiff's counsel drafted the subject order to make an immediately appealable ruling that does not fall within an exception to the automatic appellate stay. Id. The plaintiff has made no application to the court seeking relief from that stay. Jurisdiction to do anything related to the appealed order is no longer in this court. Rule 205, SCACR.

Defendant Polasky asks that the court not proceed where it has no jurisdiction. Thank you.

Drew Radeker
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6511 Dare Circle, Columbia, SC 29206 • (803) 500-0891
www.radekerlaw.com • drew@radekerlaw.com

From: Herrmann, Karen <KHerrmann@greenvillecounty.org>
Sent: Wednesday, September 16, 2026 10:20 AM
To: Lawrence Hershon <lawrence@hershonlawfirm.com>; J. Ronald Jones, Jr. <RJones@smithdebnamlaw.com>
Cc: Drew Radeker <Drew@radekerlaw.com>; Douglas L. Bell <dbell@mcdonaldpatrick.com>; Tripp Padgett <padgett@bacotlawfirm.com>; Elizabeth Ross <eross@weaverlawsc.com>; Zach Weaver <zweaver@weaverlawsc.com>; Lindsey Reynolds <lreynolds@greenwoodsc.gov>
Subject: RE: Edgefield Holdings, LLC v. John W. Polasky, et al., Case No. 2025CP2400155 (Greenwood County)

If Mr. Radeker is good with that time I will get this on the docket.

Karen K. Herrmann
Administrative Docketing Coordinator
Judge Charles B. Simmons, Jr.
Greenville County Courthouse, Suite 313
305 East North Street, Greenville SC 29601
Direct Dial 864-467-8258/ Fax 864-467-8401

From: Lawrence Hershon <lawrence@hershonlawfirm.com>
Sent: Wednesday, September 16, 2026 10:12 AM
To: J. Ronald Jones, Jr. <RJones@smithdebnamlaw.com>; Herrmann, Karen <KHerrmann@greenvillecounty.org>
Cc: Drew Radeker <Drew@radekerlaw.com>; Douglas L. Bell <dbell@mcdonaldpatrick.com>; Tripp Padgett <padgett@bacotlawfirm.com>; Elizabeth Ross <eross@weaverlawsc.com>; Zach Weaver <zweaver@weaverlawsc.com>; Lindsey Reynolds <lreynolds@greenwoodsc.gov>
Subject: RE: Edgefield Holdings, LLC v. John W. Polasky, et al., Case No. 2025CP2400155 (Greenwood County)

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This works for me as well.

Lawrence M. Hershon, Esq.
The Hershon Law Firm, P.A.
1565 Sam Rittenberg Blvd., Suite 103
Charleston, SC 29407
(p) (843) 829-2022
(f) (843) 829-2023
lawrence@hershonlawfirm.com
www.hershonlawfirm.com

From: J. Ronald Jones, Jr. <RJones@smithdebnamlaw.com>
Sent: Wednesday, September 16, 2026 10:10 AM
To: Karen Herrmann <KHerrmann@greenvillecounty.org>
Cc: Lawrence Hershon <lawrence@hershonlawfirm.com>; Drew Radeker <Drew@radekerlaw.com>; Douglas L. Bell <dbell@mcdonaldpatrick.com>; Tripp Padgett <padgett@bacotlawfirm.com>; Elizabeth Ross <eross@weaverlawsc.com>; Zach Weaver <zweaver@weaverlawsc.com>; Lindsey Reynolds <lreynolds@greenwoodsc.gov>
Subject: Re: Edgefield Holdings, LLC v. John W. Polasky, et al., Case No. 2025CP2400155 (Greenwood County)

That time works for me and although we were not we were not involved in the recent Motions, the matters to be decided may have an impact on the pending action and our client's interest could be affected. Please send the Zoom information.

Sent from my iPhone

On Sep 16, 2026, at 10:03 AM, Herrmann, Karen <KHerrmann@greenvillecounty.org> wrote:

This message is from an **External Source**.

I am holding Sept. 28th at 4:00 via zoom for this hearing.

Please confirm if that date will work.

Karen K. Herrmann
Administrative Docketing Coordinator
Judge Charles B. Simmons, Jr.
Greenville County Courthouse, Suite 313
305 East North Street, Greenville SC 29601
Direct Dial 864-467-8258/ Fax 864-467-8401

From: Simmons, Judge Charles <CSimmons@greenvillecounty.org>
Sent: Wednesday, September 16, 2026 9:51 AM
To: Lawrence Hershon <lawrence@hershonlawfirm.com>; Drew Radeker <Drew@radekerlaw.com>; Herrmann, Karen <KHerrmann@greenvillecounty.org>; J. Ronald Jones, Jr. <RJones@smithdebnamlaw.com>
Cc: Douglas L. Bell <dbell@mcdonaldpatrick.com>; Tripp Padgett <padgett@bacotlawfirm.com>; Elizabeth Ross <eross@weaverlawsc.com>; Zach Weaver <zweaver@weaverlawsc.com>; Lindsey Reynolds <lreynolds@greenwoodsc.gov>
Subject: RE: Edgefield Holdings, LLC v. John W. Polasky, et al., Case No. 2025CP2400155 (Greenwood County)

I am directing Ms. Herrmann to set the hearing ASAP to build a record. I will rule on the appeal issues (whether the order is immediately appealable or interlocutory) at the time of the hearing (together with hearing and ruling on the debt).

Judge Charles B. Simmons, Jr.
Suite 313, 305 East North Street
Greenville County Courthouse
Greenville, SC 29601

(864) 467-8556

From: Lawrence Hershon <lawrence@hershonlawfirm.com>
Sent: Wednesday, September 16, 2026 8:30 AM
To: Simmons, Judge Charles <CSimmons@greenvillecounty.org>; Drew Radeker <Drew@radekerlaw.com>; Herrmann, Karen <KHerrmann@greenvillecounty.org>; J. Ronald Jones, Jr. <RJones@smithdebnamlaw.com>
Cc: Douglas L. Bell <dbell@mcdonaldpatrick.com>; Tripp Padgett <padgett@bacotlawfirm.com>; Elizabeth Ross <eross@weaverlawsc.com>; Zach Weaver <zweaver@weaverlawsc.com>; Lindsey Reynolds <lreynolds@greenwoodsc.gov>
Subject: RE: Edgefield Holdings, LLC v. John W. Polasky, et al., Case No. 2025CP2400155 (Greenwood County)

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Judge Simmons: With all due respect to Mr. Radeker, the position that he is asserting on behalf of the Debtor is incorrect as a matter of law. Much like Debtor's arguments in relationship to the summary judgment motions, Debtor's take in such absolutes is off-base and in direct contradiction to the applicable rules and statutes. Under South Carolina law, a foreclosure sale generally may proceed after a notice of appeal is filed following the entry of summary judgment, unless the appellant executes a written undertaking with two sureties to stay the execution of the judgment. S.C. Code Ann. § 18-9-170, *South Carolina Nat'l Bank v. Blossom*, 321 S.C. 110 (Ct. App. 1996). Rules 205 and 241, SCACR, preserve this Court's authority to decide the stay application. The September Order's pre-January sale directive and necessary remaining debt hearing establish cause for expedited consideration on this issue as well. The appeal does not remove the Court's power to decide whether the stay should be lifted.

Rule 205, SCACR, expressly preserves the Court's authority to entertain a Rule 241 application First, there is the foreclosure-specific basis. Rule 241(b)(4) recognizes the real-property sale exception under S.C. Code Ann. § 18-9-170, which expressly addresses a sale to satisfy a mortgage or other lien. In *Ex parte Andrews*, 152 S.C. 325, 327–28, 150 S.E. 313 (1929), foreclosure enforcement proceeded during appeal after the debtor failed to furnish the undertaking the judge required. Debtor's splitting of hairs raised concerning the second hearing is a red herring – the summary judgment order clearly directs that a foreclosure sale is to occur; all that is left is what amounts to an uncontested foreclosure hearing to set the amount owed (which can be calculated by interest rates set by law) and the typical foreclosure order language that sets the rules for the sale. So the Court has authority under Rule 241(b)(4) to proceed with the sale. But even if that were not the case, the Court also has authority under Rule 241(c)(1), which permits Plaintiff to request an order lifting the automatic stay. Simply put, Plaintiff will be asking the Court to authorize implementation of the Court's existing ruling while the appeal proceeds. In determining whether to grant a supersedeas, the Court must consider whether such an order is necessary to preserve the jurisdiction of the appeal or to prevent a contested issue from becoming moot. Under Rule 241(c)(3), the granting of a supersedeas or the lifting of an automatic stay may be conditioned upon terms the court deems appropriate, including but not limited to the filing of a bond or undertaking Rule 241, SCACR. With the expiration of the judgment in 2027, the Court has clear authority to take the step Plaintiff is requesting. An appeal should not be allowed to be used as a tool to game the system.

So even if the Court decides the September order does not yet fall within the sale exception under Rule 241(b)(4), Rule 241(c) provides additional, independent authority, authorizes the Court to hold and enter a debt hearing and decree, determine the required security, and permit completion of the sale upon satisfaction of those conditions.

The Rules allow for the next hearing to occur and for the foreclosure sale to be set.

I had planned on presenting this at the September 28 Zoom conference, but am providing now per the Court's inquiry below. Thank you for review of this issue.

Best regards,
Lawrence Hershon

Lawrence M. Hershon, Esq.
The Hershon Law Firm, P.A.
1565 Sam Rittenberg Blvd., Suite 103
Charleston, SC 29407
(p) (843) 829-2022
(f) (843) 829-2023
lawrence@hershonlawfirm.com
www.hershonlawfirm.com

<image001.png>

From: Simmons, Judge Charles <CSimmons@greenvillecounty.org>
Sent: Tuesday, September 15, 2026 4:31 PM
To: Drew Radeker <Drew@radekerlaw.com>; Herrmann, Karen <KHerrmann@greenvillecounty.org>; Lawrence Hershon <lawrence@hershonlawfirm.com>; J. Ronald Jones, Jr. <RJones@smithdebnamlaw.com>
Cc: Douglas L. Bell <dbell@mcdonaldpatrick.com>; Tripp Padgett <padgett@bacotlawfirm.com>; Elizabeth Ross <eross@weaverlawsc.com>; Zach Weaver <zweaver@weaverlawsc.com>; Lindsey Reynolds <lreynolds@greenwoodsc.gov>
Subject: RE: Edgefield Holdings, LLC v. John W. Polasky, et al., Case No. 2025CP2400155 (Greenwood County)

Mr. Radeker,
Will await to hear from the other attorneys as to the issue you raise.
I am out the entirety on next week. Then, I will be in court Monday and Tuesday September 28 and 29 and then in Columbia for the Annual Judicial Conference that Wednesday-Friday.

Judge Charles B. Simmons, Jr.

Suite 313, 305 East North Street
Greenville County Courthouse
Greenville, SC 29601
(864) 467-8556

From: Drew Radeker <Drew@radekerlaw.com>
Sent: Tuesday, September 15, 2026 3:33 PM
To: Herrmann, Karen <KHerrmann@greenvillecounty.org>; Lawrence Hershon <lawrence@hershonlawfirm.com>; J. Ronald Jones, Jr. <RJones@smithdebnamlaw.com>; Simmons, Judge Charles <CSimmons@greenvillecounty.org>
Cc: Douglas L. Bell <dbell@mcdonaldpatrick.com>; Tripp Padgett <padgett@bacotlawfirm.com>; Elizabeth Ross <eross@weaverlawsc.com>; Zach Weaver <zweaver@weaverlawsc.com>; Lindsey Reynolds <lreynolds@greenwoodsc.gov>
Subject: Re: Edgefield Holdings, LLC v. John W. Polasky, et al., Case No. 2025CP2400155 (Greenwood County)

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Good afternoon. I am bringing Judge Simmons in on this because I believe this warrants it.

The presence here of the appellate stay is not debatable. The appealed order does not direct a sale of real property (indeed, it specifically contemplates that another order will do that) and does not fall within any exception to the automatic stay on appeal. All the order does is rule on the motions for summary judgment. To proceed at all, but especially with holding a hearing to further advance the plaintiff's position, is something this court lacks the jurisdiction to do during the pendency of this appeal.

Thank you.

Drew Radeker
Radeker Law, P.A.
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6511 Dare Circle, Columbia, SC 29206 • (803) 500-0891
www.radekerlaw.com • drew@radekerlaw.com

From: Herrmann, Karen <KHerrmann@greenvillecounty.org>
Sent: Tuesday, September 15, 2026 2:44 PM
To: Lawrence Hershon <lawrence@hershonlawfirm.com>; Drew Radeker <Drew@radekerlaw.com>; J. Ronald Jones, Jr. <RJones@smithdebnamlaw.com>
Cc: Douglas L. Bell <dbell@mcdonaldpatrick.com>; Tripp Padgett <padgett@bacotlawfirm.com>; Elizabeth Ross <eross@weaverlawsc.com>; Zach Weaver <zweaver@weaverlawsc.com>; Lindsey Reynolds <lreynolds@greenwoodsc.gov>
Subject: RE: Edgefield Holdings, LLC v. John W. Polasky, et al., Case No. 2025CP2400155 (Greenwood County)

I will hold Sept. 28th at 4:00 per the Judge, until we hear from everyone else.

Mr. Radeker will be able to put any objections he has on the record at that time.

Karen K. Herrmann
Administrative Docketing Coordinator
Judge Charles B. Simmons, Jr.
Greenville County Courthouse, Suite 313
305 East North Street, Greenville SC 29601
Direct Dial 864-467-8258/ Fax 864-467-8401

From: Lawrence Hershon <lawrence@hershonlawfirm.com>
Sent: Tuesday, September 15, 2026 2:18 PM
To: Drew Radeker <Drew@radekerlaw.com>; J. Ronald Jones, Jr. <RJones@smithdebnamlaw.com>; Herrmann, Karen <KHerrmann@greenvillecounty.org>
Cc: Douglas L. Bell <dbell@mcdonaldpatrick.com>; Tripp Padgett <padgett@bacotlawfirm.com>; Elizabeth Ross <eross@weaverlawsc.com>; Zach Weaver <zweaver@weaverlawsc.com>; Lindsey Reynolds <lreynolds@greenwoodsc.gov>
Subject: RE: Edgefield Holdings, LLC v. John W. Polasky, et al., Case No. 2025CP2400155 (Greenwood County)

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Karen: My understanding is that despite the appeal that court still decide to move forward and have the foreclosure hearing and sale. It appears that the Court's request for availability for a Zoom conference remains appropriate. Both Zach and I are available on September 28. On October 5, I am on a trial roster in Horry, and may not be available; likewise on October 7 I'll either be unavailable in trial or have a hearing in Charleston. But on either of those dates Zach can handle the conference without me.

Best,
Lawrence

Lawrence M. Hershon, Esq.
The Hershon Law Firm, P.A.
1565 Sam Rittenberg Blvd., Suite 103
Charleston, SC 29407

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lawrence@hershonlawfirm.com
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From: Drew Radeker <Drew@radekerlaw.com>
Sent: Tuesday, September 15, 2026 10:30 AM
To: J. Ronald Jones, Jr. <RJones@smithdebnamlaw.com>; Herrmann, Karen <KHerrmann@greenvillecounty.org>
Cc: Douglas L. Bell <dbell@mcdonaldpatrick.com>; Tripp Padgett <padgett@bacotlawfirm.com>; Elizabeth Ross <eross@weaverlawsc.com>; Zach Weaver <zweaver@weaverlawsc.com>; Lindsey Reynolds <lreynolds@greenwoodsc.gov>; Lawrence Hershon <lawrence@hershonlawfirm.com>
Subject: Re: Edgefield Holdings, LLC v. John W. Polasky, et al., Case No. 2025CP2400155 (Greenwood County)

Good morning. As we have just served a notice of appeal, I do not believe any further proceedings may be held at this time at the circuit court level.

Thank you.

Drew Radeker
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www.radekerlaw.com • drew@radekerlaw.com

From: J. Ronald Jones, Jr. <RJones@smithdebnamlaw.com>
Sent: Tuesday, September 15, 2026 9:47 AM
To: Herrmann, Karen <KHerrmann@greenvillecounty.org>; Drew Radeker <Drew@radekerlaw.com>
Cc: Douglas L. Bell <dbell@mcdonaldpatrick.com>; Tripp Padgett <padgett@bacotlawfirm.com>; Elizabeth Ross <eross@weaverlawsc.com>; Zach Weaver <zweaver@weaverlawsc.com>; Lindsey Reynolds <lreynolds@greenwoodsc.gov>; Lawrence Hershon <lawrence@hershonlawfirm.com>
Subject: RE: Edgefield Holdings, LLC v. John W. Polasky, et al., Case No. 2025CP2400155 (Greenwood County)

All those times work for me.

J. Ronald Jones, Jr.
Partner

Smith Debnam Narron Drake Saintsing & Myers, LLP
171 Church Street, Suite 120C (29401)
P.O. Box 22795
Charleston, SC 29413
P: (843) 714-2535 | **Email:** *RJones@smithdebnamlaw.com*

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If you are under the protection of the Bankruptcy Court or have been discharged as a result of a bankruptcy proceeding, this notice is given to you pursuant to statutory requirement and for informational purposes and is not intended as an attempt to collect a debt or as an act to collect, assess, or recover all or any portion of the debt from you personally.

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From: Herrmann, Karen <KHerrmann@greenvillecounty.org>
Sent: Tuesday, September 15, 2026 9:21 AM
To: Drew Radeker <Drew@radekerlaw.com>
Cc: Douglas L. Bell <dbell@mcdonaldpatrick.com>; Tripp Padgett <padgett@bacotlawfirm.com>; Elizabeth Ross <eross@weaverlawsc.com>; Zach Weaver <zweaver@weaverlawsc.com>; Lindsey Reynolds <lreynolds@greenwoodsc.gov>; Lawrence Hershon <lawrence@hershonlawfirm.com>; J. Ronald Jones, Jr. <RJones@smithdebnamlaw.com>
Subject: RE: Edgefield Holdings, LLC v. John W. Polasky, et al., Case No. 2025CP2400155 (Greenwood County)
Importance: High

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Good morning,

Judge Simmons asked that I schedule the remaining issues in this case for a 30 minute hearing via zoom.

He provided Sept. 28th at 4:00, October 5th at 2:00, or the 7th at 2:00 as the dates he is available.

Let me know if one of these will work.

Karen K. Herrmann
Administrative Docketing Coordinator
Judge Charles B. Simmons, Jr.
Greenville County Courthouse, Suite 313
305 East North Street, Greenville SC 29601
Direct Dial 864-467-8258/ Fax 864-467-8401

From: Drew Radeker <Drew@radekerlaw.com>
Sent: Tuesday, September 15, 2026 8:27 AM
To: Simmons, Judge Charles <CSimmons@greenvillecounty.org>
Cc: Douglas L. Bell <dbell@mcdonaldpatrick.com>; Tripp Padgett <padgett@bacotlawfirm.com>; Elizabeth Ross <eross@weaverlawsc.com>; Zach Weaver <zweaver@weaverlawsc.com>; Lindsey Reynolds <lreynolds@greenwoodsc.gov>; Herrmann, Karen <KHerrmann@greenvillecounty.org>; Lawrence Hershon <lawrence@hershonlawfirm.com>; J. Ronald Jones, Jr. <rjones@smithdebnamlaw.com>
Subject: Re: Edgefield Holdings, LLC v. John W. Polasky, et al., Case No. 2025CP2400155 (Greenwood County)

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Thank you, Your Honor. If we can assist with getting it to the Greenwood clerk, please let us know.

Drew Radeker
Radeker Law, P.A.
APPEALS • LITIGATION & TRIAL SUPPORT • MEDIATION • JUDGMENTS • SPECIAL REFEREE
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From: Simmons, Judge Charles <CSimmons@greenvillecounty.org>
Sent: Tuesday, September 15, 2026 8:11 AM
To: Drew Radeker <Drew@radekerlaw.com>
Cc: Douglas L. Bell <dbell@mcdonaldpatrick.com>; Tripp Padgett <padgett@bacotlawfirm.com>; Elizabeth Ross <eross@weaverlawsc.com>; Zach Weaver <zweaver@weaverlawsc.com>; Lindsey Reynolds <lreynolds@greenwoodsc.gov>; Herrmann, Karen <KHerrmann@greenvillecounty.org>; Lawrence Hershon <lawrence@hershonlawfirm.com>; J. Ronald Jones, Jr. <rjones@smithdebnamlaw.com>
Subject: RE: Edgefield Holdings, LLC v. John W. Polasky, et al., Case No. 2025CP2400155 (Greenwood County)

Mr. Radeker,
Thank you for the submissions yesterday.
I will be signing the Order denying the motion and have it filed in Greenwood. I anticipate it being filed today.

Judge Charles B. Simmons, Jr.
Suite 313, 305 East North Street
Greenville County Courthouse
Greenville, SC 29601
(864) 467-8556

From: Drew Radeker <Drew@radekerlaw.com>
Sent: Monday, September 14, 2026 10:17 AM
To: Simmons, Judge Charles <CSimmons@greenvillecounty.org>
Cc: Douglas L. Bell <dbell@mcdonaldpatrick.com>; Tripp Padgett <padgett@bacotlawfirm.com>; Elizabeth Ross <eross@weaverlawsc.com>; Zach Weaver <zweaver@weaverlawsc.com>; Lindsey Reynolds <lreynolds@greenwoodsc.gov>; Herrmann, Karen <KHerrmann@greenvillecounty.org>; Lawrence Hershon <lawrence@hershonlawfirm.com>; J. Ronald Jones, Jr. <rjones@smithdebnamlaw.com>
Subject: Re: Edgefield Holdings, LLC v. John W. Polasky, et al., Case No. 2025CP2400155 (Greenwood County)

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Judge Simmons:

I attach and provide to Your Honor the motion to reconsider we just filed a few minutes ago and two draft orders, one that would grant the motion to reconsider and one that would deny it. While I would love for the court to enter the order granting the motion, I am aware

ELECTRONICALLY FILED - 2026 Sep 28 2:01 PM - GREENWOOD - COMMON PLEAS - CASE#2025CP2400155

STATE OF SOUTH CAROLINA **COUNTY OF GREENWOOD**	**IN THE COURT OF COMMON PLEAS** **Case No. 2025-CP-24-00155**
Edgefield Holdings, LLC, **Plaintiff,** **vs.** **John W. Polasky, Pucketts Ferry Homeowners Association, Inc., Greenwood County, South State Bank, N.A.,** **Defendants.**	**DEFENDANT POLASKY'S MEMORANDUM CONCERNING EFFECT OF APPEAL**

Defendant John W. Polaksy ("the Defendant") submits this memorandum with regard to the effect of his appeal of the order that granted summary judgment in the Plaintiff's favor on liability as to its lien foreclosure claim in the above-captioned action and against the Defendant on his counterclaim entirely. This memorandum is written to address questions the court may have on these points.

APPEALABILITY OF THE ORDER

The appealed order grants summary judgment in the Plaintiff's favor as to all issues in the case except for the debt components and their amounts on the underlying judgments and the terms of a judicial sale. It decides, crucially, that the Plaintiff has existing judgment liens and is entitled to a judicial sale; it just provides that a further hearing be held that will result in an order that will establish the total debt amount and will direct a sale.

The court has indicated concern about whether the appealed order is immediately appealable. It is.

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The appealability statute, S.C. Code Ann. § 14-3-330, provides for several situations in which an order is immediately appealable, and a final judgment that leaves no remaining issues in a case is just one of those situations. An order is immediately appealable if it involves the merits under § 14-3-330(1). South Carolina courts have consistently held that an order involves the merits when it finally determines a substantial matter forming the whole or a part of some cause of action or defense. Richardson v. Halcyon Real Est. Servs., LLP, 439 S.C. 419, 887 S.E.2d 153 (Ct. App. 2023); Thornton v. S.C. Elec. & Gas Corp., 391 S.C. 297, 705 S.E.2d 475 (Ct. App. 2011). South Carolina Jurisprudence confirms that an order granting partial summary judgment for the plaintiff on liability, but reserving the question of damages for trial, can be appealed immediately. 15 S.C. Jur. Appeal and Error § 24.

The leading case directly on point is Nauful v. Milligan, 258 S.C. 139, 187 S.E.2d 511 (1972), in which the South Carolina Supreme Court held that an order granting summary judgment on the issue of liability alone — leaving only the question of damages for determination — is immediately appealable as an interlocutory order involving the merits. The Court reasoned that such an order finally decides the merits of every issue in the case except damages, and therefore involves the merits within the meaning of the predecessor to § 14-3-330(1). The order at issue here is functionally identical: it grants summary judgment on liability in the foreclosure action, leaving only the amount of the debt for future determination, and decides the entirety of the Defendant's counterclaim against him.

EFFECT OF RULES 205 AND 241, SCACR

The order here is immediately appealable and has been appealed. The next question is whether an exception to the appellate stay applies.

> When a party appeals an order, two questions may arise as to the effect of the appeal: (1) what is the effect of the appeal on matters

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> decided in the order, particularly the immediate effectiveness of relief ordered; and (2) what is the effect of the appeal on the power of the lower court to proceed with the underlying action while the appeal is pending. The answer to the first question is governed by the stay and supersedeas provisions of Rule 241. If a stay exists, either automatically under Rule 241(a) or by supersedeas under Rule 241(c), the appealed order may not be carried out or enforced during the pendency of the appeal. This is the purpose of a stay under Rule 241—to determine whether the appealed *order* may be carried out or enforced—not to determine whether the *action* may proceed in the lower court while the appeal is pending.
>
> The second question is whether the lower court may proceed with the action during the pendency of the appeal, and its answer is governed by Rule 205, SCACR. The rule provides: "Upon the service of the notice of appeal, the appellate court shall have exclusive jurisdiction over the appeal...." Under Rule 205, the lower court is deprived of the power to proceed with matters that are affected by the appeal, but is specifically allowed to proceed with matters not affected by the appeal. The rule states: "Nothing in these Rules shall prohibit the lower court ... from proceeding with matters not affected by the appeal." Rule 205, SCACR; see also Rule 241(a), SCACR ("The lower court ... retains jurisdiction over matters not affected by the appeal...."). Thus, the existence or nonexistence of a stay under Rule 241 does not control the family court's power to proceed with the action and address matters not affected by the appeal. Rather, the lower court's power to proceed is determined by whether the issue sought to be litigated in the lower court during the appeal is a "matter[ ] affected by the appeal" under Rules 205 and 241(a).

Tillman v. Oakes, 398 S.C. 245, 254-55, 728 S.E.2d 45, 50-51 (Ct. App. 2012) (emphasis in original).

The Plaintiff has previously and correctly noted that S.C. Code Ann. § 18-9-170 contains an exception to the automatic appellate stay as to orders that direct a sale of real property. That section provides as follows:

> If the judgment appealed from direct the sale or delivery of possession of real property, the execution of the judgment shall not be stayed unless a written undertaking be executed on the part of the appellant, with two sureties, to the effect that during the possession of such property by the appellant he will not commit or suffer to be

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> committed any waste thereon and that if the judgment be affirmed he will pay the value of the use and occupation of the property from the time of the execution of the undertaking until the delivery of possession thereof pursuant to the judgment, not exceeding a sum to be fixed by a judge of the court by which judgment was rendered and which shall be specified in the undertaking. When the judgment directs the sale of land to satisfy a mortgage thereon or other lien, the undertaking shall provide that in case the judgment appealed from be affirmed and the land be finally sold for less than the judgment debt and costs then the appellant shall pay for any waste committed or suffered to be committed on the land and shall pay a reasonable rental value for the use and occupation of the land from the time of the execution of the undertaking to the time of the sale, but not exceeding the amount of such deficiency, which sum shall be duly entered as a payment on the judgment; and in case the land shall be unimproved land, then in any action or proceedings now pending or hereafter begun in any of the courts of this State the undertaking shall further provide for the payment by appellant, if the judgment be affirmed, of any taxes due at the time of the appeal or already paid by the mortgagee, or becoming due during the pendency of the appeal, and also for the payment by appellant of the interest on the debt falling due during the pendency of such appeal.

Id.

By its terms, that exception applies only where "the judgment appealed from direct the sale or delivery of possession of real property," and the exception to the automatic stay applies only to the "execution of the judgment[.]" Id. The cases that determined the exception in the section applied were all cases in which a foreclosure decree, adjudging the debt and directing a judicial sale to occur, had been issued and was appealed. Carsten v. Wilson, 241 S.C. 516, 129 S.E.2d 431 (1963); Howell v. Gibson, 208 S.C. 19, 37 S.E.2d 271 (1946); Ex parte Andrews, 152 S.C. 325, 150 S.E. 313 (1929); Muckenfuss v. Fishburne, 68 S.C. 41, 46 S.E. 537 (1903); Gerald v. Gerald, 30 S.C. 348, 9 S.E. 274 (1889). In all of those cases there was an existing order that directed a sale to occur.

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The order appealed here does not direct a sale to occur. The order appealed here provides that there will be a different, further order after further proceedings, and *that* order will direct a judicial sale. This is like C-Sculptures, LLC v. Brown, 393 S.C. 27, 709 S.E.2d 705 (Ct. App. 2011), in which there was an appeal of an order that directed further proceedings to be had that would then result in a foreclosure decree. The court there held that the § 18-9-170 exception to the automatic stay did not apply just because the appealed order was part of a process intended by the lower court to lead to a judicial sale; rather, in the absence of an order that actually directed a sale of real property, the general rule of the automatic appellate stay applied.

Also, the problems with proceeding to hold a hearing to determine the debt and issue a foreclosure decree in the instant case are not limited to Rule 241. "[T]he lower court may not act or issue orders that affect an issue on appeal." Arnal v. Fraser, 371 S.C. 512, 641 S.E.2d 419, 422 (2007). That is a jurisdictional matter; anything affected by the appeal is taken out of the jurisdiction of the court appealed from. If proceedings that are affected by the appeal are held, they and the orders they produce are void. E.g., Luthi v. Luthi, 297 S.C. 306, 376 S.E.2d 782 (Ct. App. 1989).

The lower court lacks jurisdiction to hold proceedings and issue orders that are directed by an appealed order. That is the classic example of what Rule 205 prohibits. For the lower court to have jurisdiction to engage in further proceedings, those proceedings would have to have nothing to do with the appealed decision, i.e., have issues that would be exactly the same regardless of the outcome of the appeal. Maybank 2754, LLC v. Zurlo, 444 S.C. 47, 66-68, 906 S.E.2d 94, 104-06 (Ct. App. 2024).

CONCLUSION

The appealed order here is immediately appealable, no exception to the automatic appellate stay applies, and this court, being the one from which the appeal was taken, is without jurisdiction, as long as the appeal is pending, to move forward with any part of the case that is affected by the appeal.

Respectfully submitted,

/s/ Andrew S. Radeker

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Columbia, South Carolina
September 28, 2026

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STATE OF SOUTH CAROLINA	**IN THE COURT OF COMMON PLEAS**
COUNTY OF GREENWOOD	**Case No. 2025-CP-24-00155**
Edgefield Holdings, LLC, **Plaintiff,** **vs.** **John W. Polasky, Pucketts Ferry Homeowners Association, Inc., Greenwood County, South State Bank, N.A.,** **Defendants.**	**ORDER CONCERNING EFFECT OF APPEAL**

D's proposed order re effect of appeal

This matter came before the court on the Plaintiff's request that the court hold a hearing to establish the debt subject of the underlying judgments at issue in the above-captioned action. That hearing is directed by an order already issued by this court that granted summary judgment in favor of the Plaintiff and against Defendant John W. Polaksy on all issues in the case except for the judgment debts' component amounts and the terms of a judicial sale. The court raised questions concerning the appealability of the order, and the Plaintiff indicated that an exception to the appellate stay applies to the appealed order.

The South Carolina Court of Appeals noted in Thornton v. S.C. Elec. & Gas Corp., 391 S.C. 297, 705 S.E.2d 475 (Ct. App. 2011) that, "[g]enerally, orders granting partial summary judgment may be immediately appealable under either the 'involving the merits' or 'substantial right' categories of section 14-3-330(1) and (2)(c) [of the general appealability statute]." The court further clarified that an order granting partial summary judgment "involves the merits of a case for purposes of interlocutory appeal when it finally determines a substantial matter forming the whole *or a part* of some cause of action or defense." Id. (emphasis added). With regard to appealability,

the leading case on point is Nauful v. Milligan, 258 S.C. 139, 187 S.E.2d 511 (1972), in which the South Carolina Supreme Court held that an order granting summary judgment on the issue of liability alone — leaving only the question of damages for determination — is immediately appealable as an interlocutory order involving the merits. The Court reasoned that such an order finally decides the merits of every issue in the case except damages, and therefore involves the merits. The order at issue here is functionally identical in the material respects, and the court is satisfied that it is immediately appealable.

The next question is whether an exception to the appellate stay applies.

> When a party appeals an order, two questions may arise as to the effect of the appeal: (1) what is the effect of the appeal on matters decided in the order, particularly the immediate effectiveness of relief ordered; and (2) what is the effect of the appeal on the power of the lower court to proceed with the underlying action while the appeal is pending. The answer to the first question is governed by the stay and supersedeas provisions of Rule 241. If a stay exists, either automatically under Rule 241(a) or by supersedeas under Rule 241(c), the appealed order may not be carried out or enforced during the pendency of the appeal. This is the purpose of a stay under Rule 241—to determine whether the appealed *order* may be carried out or enforced—not to determine whether the *action* may proceed in the lower court while the appeal is pending.
>
> The second question is whether the lower court may proceed with the action during the pendency of the appeal, and its answer is governed by Rule 205, SCACR. The rule provides: "Upon the service of the notice of appeal, the appellate court shall have exclusive jurisdiction over the appeal...." Under Rule 205, the lower court is deprived of the power to proceed with matters that are affected by the appeal, but is specifically allowed to proceed with matters not affected by the appeal. The rule states: "Nothing in these Rules shall prohibit the lower court ... from proceeding with matters not affected by the appeal." Rule 205, SCACR; see also Rule 241(a), SCACR ("The lower court ... retains jurisdiction over matters not affected by the appeal...."). Thus, the existence or nonexistence of a stay under Rule 241 does not control the family court's power to proceed with the action and address matters not affected by the appeal. Rather, the lower court's power to proceed is determined by whether the issue sought to be litigated in the lower court during the

D's proposed order re effect of appeal

> appeal is a "matter[ ] affected by the appeal" under Rules 205 and 241(a).

Tillman v. Oakes, 398 S.C. 245, 254-55, 728 S.E.2d 45, 50-51 (Ct. App. 2012) (emphasis in original).

The Plaintiff has previously and correctly noted that S.C. Code Ann. § 18-9-170 contains an exception to the automatic appellate stay as to orders that direct a sale of real property. That section provides as follows:

> If the judgment appealed from direct the sale or delivery of possession of real property, the execution of the judgment shall not be stayed unless a written undertaking be executed on the part of the appellant, with two sureties, to the effect that during the possession of such property by the appellant he will not commit or suffer to be committed any waste thereon and that if the judgment be affirmed he will pay the value of the use and occupation of the property from the time of the execution of the undertaking until the delivery of possession thereof pursuant to the judgment, not exceeding a sum to be fixed by a judge of the court by which judgment was rendered and which shall be specified in the undertaking. When the judgment directs the sale of land to satisfy a mortgage thereon or other lien, the undertaking shall provide that in case the judgment appealed from be affirmed and the land be finally sold for less than the judgment debt and costs then the appellant shall pay for any waste committed or suffered to be committed on the land and shall pay a reasonable rental value for the use and occupation of the land from the time of the execution of the undertaking to the time of the sale, but not exceeding the amount of such deficiency, which sum shall be duly entered as a payment on the judgment; and in case the land shall be unimproved land, then in any action or proceedings now pending or hereafter begun in any of the courts of this State the undertaking shall further provide for the payment by appellant, if the judgment be affirmed, of any taxes due at the time of the appeal or already paid by the mortgagee, or becoming due during the pendency of the appeal, and also for the payment by appellant of the interest on the debt falling due during the pendency of such appeal.

Id.

By its terms, that exception applies only where "the judgment appealed from direct the sale or delivery of possession of real property," and the exception to the automatic stay applies only to

D's proposed order re effect of appeal

the "execution of the judgment[.]" Id. The order appealed here does not direct a sale to occur and is not executable by holding a judicial sale. The order appealed here provides that, after further proceedings, there will be another order that will determine the debt components and their amounts, and *that* order will direct a judicial sale. This is like C-Sculptures, LLC v. Brown, 393 S.C. 27, 709 S.E.2d 705 (Ct. App. 2011), in which there was an appeal of an order that directed further proceedings to be had that would then result in a foreclosure decree. The court there held that the § 18-9-170 exception to the automatic stay did not apply, regardless of the appealed order's plain contemplation of a sale of real property; rather, in the absence of an order that actually directed a sale of real property, the general rule of the automatic appellate stay applied.

The court is satisfied that no exception to the appellate stay applies to the appealed order.

Further, under Rule 205, SCACR, anything affected by the appeal is taken out of the jurisdiction of the court appealed from. To hold the proceedings that the appealed order directs would be to do what Rule 205 prohibits. For the lower court to have jurisdiction to engage in further proceedings, those proceedings would have to have nothing to do with the appealed decision, i.e., have issues that would be exactly the same regardless of the outcome of the appeal. Maybank 2754, LLC v. Zurlo, 444 S.C. 47, 66-68, 906 S.E.2d 94, 104-06 (Ct. App. 2024). Here, the proceedings the Plaintiff seeks to have the court hold are based entirely on the appealed order.

The court is satisfied that it lacks jurisdiction, while the appeal is pending, to hold any proceedings to advance or otherwise affect the appealed order or matters decided in it.

It is therefore hereby ORDERED that, while the appeal is pending or until the Court of Appeals rules differently, the proceedings directed by the appealed order are stayed, and this court has no jurisdiction to go forward in them.

And IT IS SO ORDERED.

D's proposed order re effect of appeal

_____
The Honorable Charles B. Simmons, Jr.
Special Referee for Greenwood County

Date: _____

D's proposed order re effect of appeal

STATE OF SOUTH CAROLINA	) IN THE COURT OF
	) COMMON PLEAS
	) OF THE THIRTEENTH
COUNTY OF GREENWOOD	) JUDICIAL CIRCUIT
	)
Edgefield Holdings, LLC,	)
	)
Plaintiff,	) TRANSCRIPT OF RECORD
	) 2025-CP-24-00155
VS.	)
John W. Polasky, Pucketts Ferry Homeowners Association, Inc., Greenwood County, South State Bank, N.A.,	)
Defendants.	)

September 28,2026
Greenville, SC

B E F O R E:

HONORABLE CHARLES B. SIMMONS, JR., Judge.

Julie A. Cendroski,
Master in Equity Court Reporter
Thirteenth Judicial Circuit

A-P-P-E-A-R-N-C-E-S

Lawrence M. Hershon, Esquire
For Plaintiff

Zachary L. Weaver, Esquire
For Plaintiff

Andrew S. Radeker, Esquire
For Appellant

James G. Padgett, III, Esquire
For Appellant

J. Ronald Jones, Jr., Esquire
For

EDGEFIELD HOLDINGS, LLC VS. JOHN W. POLASKY, ET AL.

(The following hearing was heard via Zoom.)

THE COURT: All right. Then for the record, this is 2025-CP-24-155, Edgefield Holdings versus Polaski and others. Case has previously been referred to me as a special referee. And the Court previously has entered an order granting Edgefield's Motion for Summary Judgment. I believe that was on September 3rd of this year.

Let me start with the outset, if I could have the multiple very fine lawyers to identify yourselves and who you're on behalf of this afternoon.

MR. HERSHON: This is Lawrence Hershon on behalf of the plaintiff, Edgefield Holdings.

MR. WEAVER: Your Honor, Zach Weaver, also on behalf of the plaintiff. Although, Mr. Hershon's gonna handle the hearing this afternoon.

THE COURT: All right.

MR. PADGETT: Trip Padgett on behalf of the defendant, John Polaski, and Drew Radeker will be doing the argument.

THE COURT: All right.

MR. RADEKER: Here, even if you can't see me.

MR. JONES: Your Honor, Ron Jones of behalf of South State Bank.

THE COURT: All right. And let me start -- because there are two different motions issues to address this afternoon. One is plaintiff's motion for -- to set a sales date. And part of that, of course, would be to establish the sales terms and conditions. And then, of course, on behalf of Mr. Pulaski, the argument of Mr. Radeker and Mr. Padgett is that they have filed an appeal, and that this court no longer has jurisdiction over any matters relative to the appeal.

And so, Mr. Radeker, as always, you've done a very fine job of outlining the issues via your memo. Is it your contention, Mr. Radeker, that the order granting -- and there are cross motions for summary judgment.

MR. RADEKER: Uh-huh.

THE COURT: But that the motion granting -- the order granting Edgefield's motion is a final order.

MR. RADEKER: Yes. It is final as to what is decided in it. It is an immediately appealable order, regardless of whether it constitutes a final judgment because it involves the merits. Actually it involves two subsections of the appealability statute, but it is a final order. Like it is a judgment, as that term is defined in Rule 54(a), which is really the same thing as what people say a final judgment is as to the matters that are decided in it. Like, it's a final judgment as

to liability in the case. That's been completely decided.

And to illustrate why that is completely decided, I want the Court to imagine what would happen if we had some hearing down the road or something, and I showed up and said, "No, no, no. We're here to litigate the issue of whether the lien still exists. You know, like that's already been decided by the, the order that the Court has issued.

It's a final judgment on every part of the plaintiff's claim, except for what the debt, what the debt amount subject to the judgment is and how the sale will go. Everything else is completely decided finally in favor of the plaintiff by the order that the Court has issued.

THE COURT: But the ultimate relief sought by Edgefield is, of course, liability, the amount to sell the property, pay off my client's judgment, correct?

MR. RADEKER: Well, of course, yes.

THE COURT: Okay. All right. So, Mr. Hershon, I mean Mr. Radeker makes some very strong arguments that as to liability that's been decided, so that part of a case then becomes immediately appealable. What's your response?

MR. HERSHON: Yeah. So with all due respect to

Mr. Radeker, Edgefield disagrees with that position. And I guess there's two steps is, is it interlocutory or final? And then second step is that even if it is interlocutory, is it, is it appealable?

I think the recent, more recent cases that I can find on this were Tillman versus Tillman 420 SC 246. And I apologize that I didn't have time to write up a memo. And Richardson versus Halycon Real Estate, which I think that case is cited by M. Radeker in his brief, 439 S.C. 419.

You know, judgment is final only if it disposes of the cause as to all parties, reserve no further questions or directions and leaves nothing but execution. Those two second -- the second and third step have not occurred.

So with that, I think it is an interlocutory order. We have an order that reserves specifically that there's going to be a hearing that still needs to be held to set the amount of the, you know, what's owed under the judgment, determine if there's anything else that's needed and set that. And having a foreclosure order that would set the sale date. Those things have still not occurred. And the order anticipates that those items still need to occur.

THE COURT: Then how do you respond to Mr.

Radeker's argument that let's say we're 35 days down the road after the order is filed and Mr. Radeker comes in and says, Judge, you know, I thought a lot about it. And since the September 3rd order really wasn't a final, we want to argue some more on the liability aspect. What would your response to Mr. Radeker's argument at that point be?

MR. HERSHON: Well, the summary judgment order deals with the liability side, and it's made a finding as to liability and liability can't be argued. I think what would be argued right now is your bring up stuff like the homestead exemption applicability, what interest -- interest calculation. Is there something else? I mean, the parties have stipulated already that South States order -- sorry, South State's mortgage has priority, so there's not something you could deal with on that, but -- so there's not a priority issue, but there are -- the items that are up for the Court are not a liability issue at this point.

THE COURT: All right. But doesn't that lend, I guess, credence to Mr. Radeker's argument that as to liability it is a final order, and if he didn't file the appeal within 30 days after the order's issued, if he filed an appeal, I would suspect you and Mr. Weaver being the very fine lawyers, you would say, hey, sorry,

too late, you missed it. How do you parse all that out?

MR. HERSHON: I did not anticipate making those arguments, I guess, right now, you know, to say that somehow ---

THE COURT: Well, but you're a very fine lawyer and under those facts you would make such an argument.

MR. HERSHON: Well, we were looking to have the next hearing very quickly, so I don't think we have -- my anticipation was not to have 35 days in between.

THE COURT: Well, I didn't -- just humor me and let's use my hypothetical. It's now been -- assume Mr. Radeker did file an appeal and that the order filed September 3rd, 2026 says what it says. It's now 30 days, 35, whatever it is, after that September 3rd, 2026 order. And Mr. Radeker says, you know, I probably need to file an appeal. Your argument, I'm suspecting, and certainly Mr. Weaver's argument would be down at the Court of Appeals they missed the deadline, no longer an appeal.

So, how do you take those two competing bookends, if you will, and come out with wherever you are here in the middle as far as whether the Court has jurisdiction to proceed here at this level?

MR. HERSHON: Well, if the final order is still liability, what I argue to the Court is that it is an

off interlocutory order because it still left items reserved for this Court to consider. So the appeal box hasn't started yet. The appeal process start when there's an order, the foreclosure order occurs as a final order and an appealable order, but right now this was an order that was filed that we reserved items for the Court to consider. So under that -- under the Tillman's case it's interlocutory. And, therefore, he doesn't have to appeal.

It's kind of like if there was a motion for true or partial summary judgment and we're not in a foreclosure case, if we're in something else. But that's gonna allow for something that is appeal -- interlocutory, could be appealable, could not. But also you've got the time until the end of the case. You don't lose the right just because you decided to wait and not pursue that interlocutory appeal. You've got -- you still have until the final, true final order, which we don't have the final order on an issue, but it's not a final order to this case at this time.

THE COURT: But wouldn't that be every lawyer's nightmare to be down in Colombia and argue in front of the Court of Appeals or the Supreme Court over whether I should have filed an appeal within 30 days of September 3rd, 2026? I mean, I hear what you're saying, that it's

interlocutory, but that puts a knot in the stomach of an appellate lawyer to go in and say, I hope I'm right on this because I sure rolled the dice pretty strong?

MR. HERSHON: Sure. Well, I guess here Mr. Radeker didn't wait at all. He filed on -- I guess, out of your hypothetical, what I would say is it doesn't apply. It didn't have to apply here and doesn't have to apply here. You know, while I get it, yeah, certainly there are lots of things that as litigators, can keep us up at night, and a few issues would certainly be be one of many here.

Here that appeal didn't have to be filed immediately. We filed a motion and said, Hey, let's get a final hearing date set. That final hearing date would have been within the 30 days so that these issues don't come up. Now, what he's done here is he's filed that appeal. Well, the Court could tell them, no. I believe this is interlocutory and it wasn't appealable; that it's interlocutory and the second step it doesn't meet any of the -- you can't get through it on a 14-3-330. It doesn't fit any of those. And then that would protect Mr. Radeker. And you'd have -- you know, and then after that ruling, I'd like to go ahead and file a Motion to Dismiss at the Court of Appeals on the same arguments. And, you know, Mr. Radeker would also get

protected there. So if he filed this out of an abundance of caution, which I don't think is the case here, then it -- you know, this was filed for reasons to try to cut off Edgefield's ability to foreclose on this judgment lien that it's had, and the Court has ruled as a valid judgment lean. This is instead, I see it as a bit of gamesmanship to instead try to prevent Edgefield from foreclosing. And -- but those steps would protect Mr. Radeker.

THE COURT: All right, Mr. Radeker, let me hear from you.

MR. RADEKER: Thank you. I'd say no more gamesmanship than trying to go forward while an appeal is pending. But if you listen to -- and I like Mr. Hershon a lot. He's a great lawyer and a good guy. But if you listen to what he's arguing here, he's really like made my point for me. He's talked about what it is that this order did establish and forecloses further argument upon if it is allowed to just rest and stay as it is.

You know, if there were not the existing precedent of Nauful versus Milligan or Thompson versus SE&G, I'd say, yeah, we might be plowing new ground here. Who knows who's right, but those cases do exist, and they've decided that a grant of summary judgment on

liability, which is what this is here, is an immediately appealable order. The question is not whether we could have waited to do it all as part of something else, but whether it was an option for us to appeal it now, and it was. And that appeal is pending.

I don't think there's much argument about kind of like what the scope of the jurisdictional divide is between the lower court and the appellate court. But basically, like the way I read it is, if the proceedings are in any way determined by whether the fact that they're going to occur or any question in them is determined by the order that's on appeal, that only the appellate court has jurisdiction in that regard.

It would have to be like in the *Maybank*. I think it's like Maybank 2754, LLC versus Zurlo case that we cited in the memo. The court there said that it was all right for the lower court to hear these motions that were the subject of a second appeal while the first appeal was pending, because the issues that the court was deciding in that second round of hearings down there didn't have anything to do with what was on appeal, and would come out the same way regardless of the outcome of the appeal. Those things just truly had nothing to do with each other.

Here we're at the opposite of that. We're

talking about whether the Court should go forward and hold a hearing that is itself directed by the order that is on appeal. It's the classic case of this -- you know, doing any of that stuff would be proceeding with a matter that's affected by the appeal.

THE COURT: How do you, Mr. Radeker, respond? Is there any applicability? I think it's Rule 241, of the appellate rules that says the sale -- an order directing the sale of real estate, it doesn't -- an appeal does not stop the sale or stay the sale?

MR. RADEKER: Yes. That exception definitely exists, and there's a specific process to obtain a stay when you're where that applies, but that exception does not apply here. If you look at the cases that over the years, that's fairly old, but the statute hasn't changed in a really long time. That discuss it where it's been applied, they're all cases where, like, the appeal order was a foreclosure decree that set the amount of the debt itself, directed the sale to occur.

And that's not what we have here in an appeal order. Also, what that -- what that statutory subsection says, the only thing that isn't stayed is the execution of the order. So, which is why you can see if Your Honor had issued a different order than what you issued, and you issued one that determined the debt

amount and said and we're going to have a sale on the next available sales day, that exception would apply in this case. And if we wanted a stay, we'd have to go meet the conditions for that stay. Here it doesn't.

This is like the C-Sculptures, LLC versus Brown case. This is an appeal of an order that, just like the one in that case, sort of assumed there would be a later order that would direct a judicial sale to occur. And in the *Sea Sculptures* case, the party that was the respondent on appeal tried to argue that, that it fell within that subsection and the court there said plainly no it does not. It -- you know this, the appealed order doesn't direct the sale of land even if, if left to its own devices without any appeal being brought ultimately might have led to such an order being issued.

What the statute speaks to is what does the appeal order do? And here what it does is decide liability in favor of the plaintiff, decide liability and everything on our counterclaim, which essentially just sought to declare there are no leans of these judgments, completely against us. But it doesn't say we're going to have a judicial sale at this amount of money, here's what these terms are, here's where it's going to happen. That's the kind of order we got to put up a bond or meet surety exceptions to stay.

THE COURT: All right. Mr. Hershon, what's your view on the applicability, if at all, of Rule 241?

MR. HERSHON: Can I address -- I'd like to address a couple of things Mr. Radeker raised.

THE COURT: Sure.

MR. HERSHON: Can I do that first? So, I guess, he brought up the -- and certainly I'll address your question. So the *Nauful* opinion, I can't remember the year, 1970 something, the Appellate Court rules are 1990. And the 14-3-330 statute, I believe, is 1991. So I haven't done -- I haven't had time to do a deep enough dive on that, but it seems like that opinion may not apply and then instead we should be looking for more recent opinions.

The *C-Sculptures* opinion, what that had that was very distinct and different issue, it was dealing with confirmation of an arbitration reward, and then, you know, the appealability of that. And that arbitration reward then had things that you know -- so I think it elated to foreclosure. So I think there's a distinction there too about the applicability of that case. SC 241, Your Honor, I think it is correct with Mr. Radeker saying, hey, this order does not direct the sale of the property. I mean, that's, that's clear. It doesn't, it doesn't do that. I'm not gonna argue against what the

Exhibit F - transcript of post-appeal lower ct hearing

face of the document certainly is. So I, I don't think it'd be a -- you know if there was a -- I don't think that in the 18 9 170 wouldn't apply as well. So I think if the judge -- if the Court ruled that this was either not interlocutory or rules that it's interlocutory but is appealable, we'd then be looking to go under 241(c) and having it filed and verified 241(c) filing to look to have things move forward in the next hearing for setting, setting a foreclosure hearing under, under that rule rather than the 241(a).

THE COURT: All right. Let me ask again, Mr. Hershon, assume hypothetically that the order dated September 3, 2026 resulted in the correct proper legal ruling, which I believe it did, under the best case scenario for your clients, the 10 years from the date of entry in South Carolina for the, as I recall the three separate judgments, the 10 years starts clicking off in January of 2027. It's September 28, 2026. Even if the matter proceeds to establishing the death, directing the sale, having the sale after proper notification in publications, and then Mr. Radeker files another round of appeals, saying something to the effect of I'm as shocked as you are Court of Appeals that Simmons has done this. Thank you that you're here to take care of us.

Is this ultimately, in light of the timeframe we're looking at, an exercise in futility?

MR. HERSHON: No, Your Honor, I don't believe it is. I think there's a case that Mr. Radeker has on this issue that's on appeal and we've heard recently. It wasn't a case I'm involved in. I've also got this issue on appeal.

The scenario there is I got a -- the judgement -- trying to enforce a judgment. The ruling I got was there could be a charging order on an interest in an LLC and immediate foreclosure of that LLC. And the order was entered just prior to the ten years running, but the execution did not occur before the end of the tenures. In other words, the order setting forth everything that was supposed to happen occurred, but then the sale would have been after that day and, you know, I got -- the order, it's not binding on you anyway. The order that I have from the Master in Equity on that case is that, yes, it was proper to enter that order and the sale could happen afterwards. The appeal happens, you know, the sale, you know, I guess from that the sale has not occurred through the appeal, but by the way the appeal was set up. And I know there's a case, I think Mr. Radeker is involved in that down in Beaufort that I'm not involved in. And my understanding is the Master In

Equity kind of voiced the same concern you had. Now, this was within setting the sale and there wasn't three weeks of time left, I believe, to set the sale date that, that -- so the court said, hey, I can't do this if you exercise with utility. And I might be oversimplifying it and Mr. Radeker can supplement that. But so I think that's an issue that's up for, you know, we don't have something clear appellate wise on that, that issue from my research, but I think there's -- so there's arguments, honestly, that could go support either side. I think there's a strong argument that says, hey, what matters about the ten-year, strict ten-year ruling is that there is a ruling within ten years of what that execution is supposed to be if the sale occurs after the ten-year date is still complied with the Gordon v. Lancaster case.

THE COURT: All right. But after the Supreme Court moved away from the active energy rule, did they not indicate a pretty strong ten years is ten years is ten years?

MR. HERSHON: Yeah. I guess that's why I'm making the distinction between 10 years active energy. Hey, when the order was entered, it is active energy. That shouldn't just disappear, And, I guess, you know the argument should also be held how can it -- I -- I --

to me I lose that logic -- Oh, I lose the logic in that case in a couple of places, but I certainly rule the logic of that case to the point where you go, hey, if the creditor has done the things that he was supposed to do to have the sale set within ten years and then appeal allows that, that being -- somehow not being enforceable out of neatness; that I don't -- you know, I don't think that could be the intention but, you know, we don't have that additional appellate help to know.

THE COURT: All right. Mr. Radeker, let me hear your thoughts on that.

MR. RADEKER: First of all, I'd like to compliment Lawrence, who did a very good job of summarizing that that Southern First versus Bilcheck case out of Beaufort case without being in it.

The only wrinkle I'd -- I don't really think it changes the analysis much, was that the reason that Judge Dukes declined to enter an order directing the sale is that judgment execution sales take 30 days to do, not one day, because you have to hold the bidding open. And he was like, well, the end of the bidding period is after the expiration of the judgment, and so at that point there will be no existing lien to satisfy through a sale.

I agree that there are some aspects of kind of

how to interpret *Gordon* and its overruling of the *Lindemac* case and all that, that are probably going to take some further analysis by our appellate courts. And it may come down to, in specific situations, what constitutes execution? Like, at what moment can we say execution has occurred?

But, you know, is this all an exercise in futility? I don't know. I mean, I -- and the reason that I say that like to say that is. You know, the plaintiff in this case would probably have some decent rounds to move to expedite the briefing schedule in the appeal. And given that everything was decided on the briefs, and we don't have to wait on a transcript to come down, that appeal would lend itself pretty well to proceeding on an expedited basis. So, I guess I would say we shouldn't simply say, well, appeals normally last longer than that. So this is definitely this is definitely going to result in a judgment running out. I'm not saying that the judgment won't run out before the appeal proceedings are done, I'm just saying I don't know.

THE COURT: All right. Now, Mr. Hershon, let me go back to you, as we kind of round third heading towards home I hope. Assume hypothetically that the Court grants your motion for an expedited hearing in

sale. Practically speaking what does that look like?

MR. HERSHON: I'd say that hearing -- I mean, All right, now, Mr. Hershon, let me go back to you. It's kind of round third heading towards home. I hope assume hypothetically that the court grants your. Motion for an expedited hearing and sale. Practically speaking, what does that look like?

MR. HERSHON: I'd say that hearing -- I mean, you know, we'd be setting a hearing as soon as practical for the Court's calendar and ten days out, something like that, where all that's being presented at that hearing is confirmation of the interest amount, setting and having your, kind of, you know, I guess I would say mine or your standard foreclosure order that sets a sale date and determines what that sale date can be for you as special referee in Greenwood and, you know, your responsibilities that you've got otherwise in court. I think that's really just about it. It's not, it's not much because, you know, the debts going to be statutory interest. You know, perhaps a portion of it comes from North Carolina time and a portion of it comes from South Carolina time. And then setting that, setting that sale date. I don't think that, you know -- you know, and then assuming an election by the defendant to the homestead exemption at whatever it is now, 80,125 that

somehow that would be handled okay out of foreclosure proceedings -- foreclosure proceeds.

THE COURT: All right.

All right. Here's what I'm going to do -- Well, before I do that, Mr. Jones, I apologize. Is there anything you'd like to have on behalf of South State?

MR. JONES: No, Your Honor. It's all very interesting. These are really well prepared lawyers. I agree with you, I just wanted to be sure if there were other matters to be heard related to the sale that I was here for that because South State does have an interest in when all of that gets set.

THE COURT: Okay. Well, here's what I'm going to do. I think it makes more sense. I'm going to err on the side of allowing too much, perhaps. I Don't think so, but I would rather that the appellate courts have a full record because this is a significant issue, not only to the litigants here, but as the lawyers have alluded to, there's a lot of gray still out there on what 10 years means. And so I'm gonna rule that the matter can go ahead and be set for a hearing to determine the debt and then determine terms and conditions of the sale. P.

Art of my rationale, in addition to what I just said, is the relief that was sought in the initial

Exhibit F - transcript of post-appeal lower ct hearing

pleadings here in South Carolina was not just determination of the validity of the lien, but validity of the lien and to sell the property to satisfy. So I don't think that order of September 3, 2026, was a final order in that regard. Certainly wasn't the intent.

So, Mr. Hershon, if you and Mr. Weaver will work on a short order, and if you will e-mail it directly to Ms. -- well, send it to Ms. Herrmann in my office, she's the one that's been coordinating all this, as soon as possible. And then she will work towards setting up another hearing.

And then, Mr. Radeker and Mr. Padgett will have their latest round of appeals ready to head down to Columbia with, but is it -- and I'm not asking whether y'all agree or disagree, but is there anything else we need to have on record at this point?

MR. RADEKER: I would only add one thing, just in in response to something that Mr. Hershon mentioned earlier. Really, just some of the things I forgot about it. He had noted that the Nauful versus Milligan cases from 1972 and predated the adoption of the Appellate Court rules, but the Thornton versus SE&G cases from 2011 says the same thing. I will note that there is a kind of like a summary expedited review process for like stay in supersedeas determinations, and we'll probably

like take advantage of that and ask the Court of Appeals to review that order. They'll act very quickly. I've had them act when they had like three days to act. They have to like the next day.

So, Mr. Radeker, being the fine advocate that you are, I think that's exactly what you ought to do, and I certainly understand that's part of what we all do here. So I'd be curious to see what the Court of Appeals does with it, and hopefully, be some good law one way or the other come out of it. All right, gentlemen, thank you so much. Thank you. Good seeing you all.

(Hearing concluded at 4:33 p.m.)

--- THIS ENDS TRANSCRIPT OF RECORD ---

COURT REPORTER CERTIFICATE

I, the undersigned Julie A. Cendroski, Court Reporter for the Master In Equity for the Thirteenth Judicial Circuit for the State of South Carolina, do hereby certify that to the best of my ability the foregoing is a true, accurate, and complete transcript of record of all the proceedings and evidence introduced in the hearing and/or trial of the captioned case, relative to appeal, in the Court of Common Pleas for Greenville County on the 11th day of May, 2026.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

s/o *Julie A Cendroski*

_____
Julie A. Cendroski
Master In Equity Court Reporter
Thirteenth Judicial Circuit

ELECTRONICALLY FILED - 2026 Sep 30 8:42 AM - GREENWOOD - COMMON PLEAS - CASE#2025CP2400155

STATE OF SOUTH CAROLINA COUNTY OF GREENWOOD Edgefield Holdings, LLC, Plaintiff, vs. John W. Polasky, Pucketts Ferry Homeowners Association, Inc., Greenwood County, South State Bank, N.A. Defendants.	IN THE EIGHTH JUDICIAL CIRCUIT COURT OF COMMON PLEAS Civil Action No. 2025-CP-24-00155 **ORDER ON PLAINTIFF EDGEFIELD HOLDINGS, LLC'S MOTION FOR EXPEDITED FORECLOSURE HEARING**

This matter came before the Court on September 28, 2026 pursuant to Plaintiff Edgefield Holdings, LLC's Motion for Expedited Foreclosure Hearing.

By Order dated September 3, 2026, the Court entered an Order granting Edgefield Holding, LLC's motion for summary judgment and denying Defendant John W. Polasky's Motion for Summary Judgment. On September 11, 2026, Plaintiff filed its Motion for Expedited Foreclosure Hearing. On September 14, 2026, Defendant Polasky filed a Motion to Reconsider the September 3rd Order. On September 15, 2026, the Court entered an Order denying the Motion to Reconsider. Immediately thereafter and on the same date, Defendant Polasky filed a Notice of Appeal with the South Carolina Court of Appeals.

The details of what the summary judgment Order ruled upon and did not rule upon are important for determining the finality of the September 3rd order and its appealability.

South Carolina requires a final judgment to then commence an appeal unless a statute provides otherwise. *Tillman v. Tillman*, 420 S.C. 246, 250, 803 S.E.2d 184, 186 (2017); *Richardson v. Halcyon Real Estate Servs.*, 439 S.C. 419, 887 S.E.2d 448 (Ct. App. 2023); Rule 201, SCACR. A judgment is final only if it disposes of the cause as to all parties, reserves no

Exhibit G - lower court's post-appeal order

ELECTRONICALLY FILED - 2026 Sep 30 8:42 AM - GREENWOOD - COMMON PLEAS - CASE#2025CP2400155

further questions or directions, and leaves nothing but execution. *Norwest Props., LLC v. Strebler*, 424 S.C. 617, 819 S.E.2d 444 (Ct. App. 2018); *Hagood v. Sommerville*, 362 S.C. 191, 607 S.E.2d 707 (2005). An order is interlocutory if it reserves an issue, leaves open further action by the court, or requires some further judicial act before the parties' rights are resolved. *Richardson*, 439 S.C. 419; *Tillman*, 420 S.C. at 250.

While counsel for Polasky makes a persuasive argument that this Court no longer has jurisdiction based on the appeal, this Court holds that the September 3rd Order is interlocutory, as it reserved further questions and directions, namely the amount of the debt and the terms of conditions of sale. Plaintiff's lawsuit seeks a determination of validity of the lien, which the September 3rd order addressed, ***and*** it seeks the sale of property to satisfy said lien, which the September 3rd Order did not address. Therefore, the subject Order was interlocutory. While an interlocutory order can still be appealable if it meets the requirements under S.C. CODE ANN. § 14-3-330, this order does not meet any of those factors.

Notwithstanding the above, allowing the matter to proceed ahead for development of a full record for appellate purposes is beneficial and necessary in order for the appellate courts to have a full record to review in light of the potential novel issues involved herein. This especially true based upon the fact that the judgments held by Plaintiff expire in January 2027.

Because of the above, this Court retains jurisdiction. Following entry of this Order, the Court will promptly schedule a final foreclosure hearing for setting the amount of the debt and the terms and conditions of sale.

IT IS SO ORDERED.

9/30/2026

Date

Charles B Simmons Jr

Special Referee

Exhibit G - lower court's post-appeal order

Outlook

RE: Edgefield Holdings, LLC v. John W. Polasky, et al., Case No. 2025CP2400155 (Greenwood County) (Oct. 26 at 3:00//Zoom)

From Herrmann, Karen <KHerrmann@greenvillecounty.org>
Date Wed 9/30/2026 2:59 PM
To Lawrence Hershon <lawrence@hershonlawfirm.com>; Zach Weaver <zweaver@weaverlawsc.com>; Elizabeth Ross <eross@weaverlawsc.com>; Drew Radeker <Drew@radekerlaw.com>; J. Ronald Jones, Jr. <RJones@smithdebnamlaw.com>
Cc Douglas L. Bell <dbell@mcdonaldpatrick.com>; Tripp Padgett <padgett@bacotlawfirm.com>; Hanks, Danette <DAhanks@greenvillecounty.org>

This will confirm that I have added the foreclosure hearing in the above case to our docket for a one hour zoom hearing on October 26th at 3:00.

Please have all necessary documents efiled/emailed to us at least 48 hours prior to the hearing.

Danette will provide the zoom instructions when she returns on Monday.

Thank you.

Karen K. Herrmann
Administrative Docketing Coordinator
Judge Charles B. Simmons, Jr.
Greenville County Courthouse, Suite 313
305 East North Street, Greenville SC 29601
Direct Dial 864-467-8258/ Fax 864-467-8401

From: Lawrence Hershon <lawrence@hershonlawfirm.com>
Sent: Wednesday, September 30, 2026 2:48 PM
To: Herrmann, Karen <KHerrmann@greenvillecounty.org>; Zach Weaver <zweaver@weaverlawsc.com>; Elizabeth Ross <eross@weaverlawsc.com>; Drew Radeker <Drew@radekerlaw.com>; J. Ronald Jones, Jr. <RJones@smithdebnamlaw.com>
Cc: Douglas L. Bell <dbell@mcdonaldpatrick.com>; Tripp Padgett <padgett@bacotlawfirm.com>
Subject: RE: Edgefield Holdings, LLC v. John W. Polasky, et al., Case No. 2025CP2400155 (Greenwood County) (Sept. 28th at 4:00//Zoom)

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Please set for October 26 at 3:00 PM. Thank you.

Lawrence M. Hershon, Esq.
The Hershon Law Firm, P.A.
1565 Sam Rittenberg Blvd., Suite 103
Charleston, SC 29407
(p) (843) 829-2022
(f) (843) 829-2023
lawrence@hershonlawfirm.com
www.hershonlawfirm.com

From: Herrmann, Karen <KHerrmann@greenvillecounty.org>
Sent: Wednesday, September 30, 2026 2:45 PM
To: Zach Weaver <zweaver@weaverlawsc.com>; Elizabeth Ross <eross@weaverlawsc.com>; Lawrence Hershon <lawrence@hershonlawfirm.com>; Drew Radeker <Drew@radekerlaw.com>; J. Ronald Jones, Jr. <RJones@smithdebnamlaw.com>
Cc: Douglas L. Bell <dbell@mcdonaldpatrick.com>; Tripp Padgett <padgett@bacotlawfirm.com>
Subject: RE: Edgefield Holdings, LLC v. John W. Polasky, et al., Case No. 2025CP2400155 (Greenwood County) (Sept. 28th at 4:00//Zoom)

Thank you,

As soon as we here from Mr. Hershon we will get this set.

Karen K. Herrmann
Administrative Docketing Coordinator
Judge Charles B. Simmons, Jr.
Greenville County Courthouse, Suite 313

305 East North Street, Greenville SC 29601
Direct Dial 864-467-8258/ Fax 864-467-8401

From: Zach Weaver <zweaver@weaverlawsc.com>
Sent: Wednesday, September 30, 2026 2:41 PM
To: Elizabeth Ross <eross@weaverlawsc.com>; Herrmann, Karen <KHerrmann@greenvillecounty.org>; Lawrence Hershon <lawrence@hershonlawfirm.com>; Drew Radeker <Drew@radekerlaw.com>; J. Ronald Jones, Jr. <RJones@smithdebnamlaw.com>
Cc: Douglas L. Bell <dbell@mcdonaldpatrick.com>; Tripp Padgett <padgett@bacotlawfirm.com>; Lindsey Reynolds <lreynolds@greenwoodsc.gov>
Subject: RE: Edgefield Holdings, LLC v. John W. Polasky, et al., Case No. 2025CP2400155 (Greenwood County) (Sept. 28th at 4:00//Zoom)

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I can also make Oct. 26 work, although I may be traveling for a deposition the following day so I would be attending while traveling.

Z

WEAVER LAW

Zachary L. Weaver, Esq.
Shareholder
111 Manly Street
Greenville, South Carolina 29601
weaverlawsc.com
p: 864-743-8900

*** FIRM PRIVILEGED/CONFIDENTIAL COMMUNICATION ***
This message is sent by a law firm and may contain information that is privileged or confidential. If you received this transmission in error, please notify the sender by reply e-mail and delete the message and any attachments.

From: Elizabeth Ross <eross@weaverlawsc.com>
Sent: Wednesday, September 30, 2026 2:37 PM
To: Herrmann, Karen <KHerrmann@greenvillecounty.org>; Lawrence Hershon <lawrence@hershonlawfirm.com>; Drew Radeker <Drew@radekerlaw.com>; J. Ronald Jones, Jr. <RJones@smithdebnamlaw.com>
Cc: Douglas L. Bell <dbell@mcdonaldpatrick.com>; Tripp Padgett <padgett@bacotlawfirm.com>; Zach Weaver <zweaver@weaverlawsc.com>; Lindsey Reynolds <lreynolds@greenwoodsc.gov>
Subject: RE: Edgefield Holdings, LLC v. John W. Polasky, et al., Case No. 2025CP2400155 (Greenwood County) (Sept. 28th at 4:00//Zoom)

November 9 works for Zach.

WEAVER LAW

Elizabeth Ross
Paralegal
111 Manly Street
Greenville, South Carolina 29601
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p: 864-743-8900

From: Herrmann, Karen <KHerrmann@greenvillecounty.org>
Sent: Wednesday, September 30, 2026 2:23 PM
To: Lawrence Hershon <lawrence@hershonlawfirm.com>; Drew Radeker <Drew@radekerlaw.com>; J. Ronald Jones, Jr. <RJones@smithdebnamlaw.com>
Cc: Douglas L. Bell <dbell@mcdonaldpatrick.com>; Tripp Padgett <padgett@bacotlawfirm.com>; Elizabeth Ross <eross@weaverlawsc.com>; Zach Weaver <zweaver@weaverlawsc.com>; Lindsey Reynolds <lreynolds@greenwoodsc.gov>
Subject: RE: Edgefield Holdings, LLC v. John W. Polasky, et al., Case No. 2025CP2400155 (Greenwood County) (Sept. 28th at 4:00//Zoom)
Importance: High

Judge Simmons did request that I get this on our zoom docket for a one hour hearing as soon as possible. It can be cancelled if necessary.

I have October 26th at 3:00, November 9th at 2:00 or the 16th at 11:00 open at the moment.

Karen K. Herrmann
Administrative Docketing Coordinator
Judge Charles B. Simmons, Jr.
Greenville County Courthouse, Suite 313
305 East North Street, Greenville SC 29601
Direct Dial 864-467-8258/ Fax 864-467-8401

From: Lawrence Hershon <lawrence@hershonlawfirm.com>
Sent: Wednesday, September 30, 2026 2:14 PM
To: Drew Radeker <Drew@radekerlaw.com>; Herrmann, Karen <KHerrmann@greenvillecounty.org>; J. Ronald Jones, Jr. <RJones@smithdebnamlaw.com>
Cc: Douglas L. Bell <dbell@mcdonaldpatrick.com>; Tripp Padgett <padgett@bacotlawfirm.com>; Elizabeth Ross <eross@weaverlawsc.com>; Zach Weaver <zweaver@weaverlawsc.com>; Lindsey Reynolds <lreynolds@greenwoodsc.gov>; Hanks, Danette <DAhanks@greenvillecounty.org>
Subject: RE: Edgefield Holdings, LLC v. John W. Polasky, et al., Case No. 2025CP2400155 (Greenwood County) (Sept. 28th at 4:00//Zoom)

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Karen: With all due respect to Mr. Radeker, the order states that a hearing is to be scheduled. If the appellate filing to be made by Defendant brings forward a reason for the hearing to be continued, I am sure we can take care of that concern/issue prior to the scheduled hearing date.

Best,
Lawrence

Lawrence M. Hershon, Esq.
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From: Drew Radeker <Drew@radekerlaw.com>
Sent: Wednesday, September 30, 2026 1:55 PM
To: Lawrence Hershon <lawrence@hershonlawfirm.com>; Herrmann, Karen <KHerrmann@greenvillecounty.org>; J. Ronald Jones, Jr. <RJones@smithdebnamlaw.com>
Cc: Douglas L. Bell <dbell@mcdonaldpatrick.com>; Tripp Padgett <padgett@bacotlawfirm.com>; Elizabeth Ross <eross@weaverlawsc.com>; Zach Weaver <zweaver@weaverlawsc.com>; Lindsey Reynolds <lreynolds@greenwoodsc.gov>; Hanks, Danette <dahanks@greenvillecounty.org>
Subject: Re: Edgefield Holdings, LLC v. John W. Polasky, et al., Case No. 2025CP2400155 (Greenwood County) (Sept. 28th at 4:00//Zoom)

Ms. Herrmann, I would ask that you hold off for a few days on scheduling that hearing. We will be making a motion in the Court of Appeals to address Judge Simmons' order that was filed this morning, and I expect everyone would like to know the outcome of that motion before proceeding further.

Thank you.

Drew Radeker
Radeker Law, P.A.
APPEALS • LITIGATION & TRIAL SUPPORT • MEDIATION • JUDGMENTS • SPECIAL REFEREE
6511 Dare Circle, Columbia, SC 29206 • (803) 500-0891
www.radekerlaw.com • drew@radekerlaw.com

From: Lawrence Hershon <lawrence@hershonlawfirm.com>
Sent: Wednesday, September 30, 2026 1:50 PM
To: Herrmann, Karen <KHerrmann@greenvillecounty.org>; Drew Radeker <Drew@radekerlaw.com>; J. Ronald Jones, Jr. <RJones@smithdebnamlaw.com>
Cc: Douglas L. Bell <dbell@mcdonaldpatrick.com>; Tripp Padgett <padgett@bacotlawfirm.com>; Elizabeth Ross <eross@weaverlawsc.com>; Zach Weaver <zweaver@weaverlawsc.com>; Lindsey Reynolds <lreynolds@greenwoodsc.gov>
Subject: RE: Edgefield Holdings, LLC v. John W. Polasky, et al., Case No. 2025CP2400155 (Greenwood County) (Sept. 28th at 4:00//Zoom)

Karen:

With the order filed, can we get available dates for a 30 minute Zoom hearing for the final foreclosure hearing?

Best,
Lawrence

Lawrence M. Hershon, Esq.
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1565 Sam Rittenberg Blvd., Suite 103
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lawrence@hershonlawfirm.com
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From: Herrmann, Karen <KHerrmann@greenvillecounty.org>
Sent: Tuesday, September 29, 2026 11:33 AM
To: Lawrence Hershon <lawrence@hershonlawfirm.com>; Drew Radeker <Drew@radekerlaw.com>; J. Ronald Jones, Jr. <RJones@smithdebnamlaw.com>
Cc: Douglas L. Bell <dbell@mcdonaldpatrick.com>; Tripp Padgett <padgett@bacotlawfirm.com>; Elizabeth Ross <eross@weaverlawsc.com>; Zach Weaver <zweaver@weaverlawsc.com>; Lindsey Reynolds <lreynolds@greenwoodsc.gov>
Subject: RE: Edgefield Holdings, LLC v. John W. Polasky, et al., Case No. 2025CP2400155 (Greenwood County) (Sept. 28th at 4:00//Zoom)

Thank you,

Karen K. Herrmann
Administrative Docketing Coordinator
Judge Charles B. Simmons, Jr.
Greenville County Courthouse, Suite 313
305 East North Street, Greenville SC 29601
Direct Dial 864-467-8258/ Fax 864-467-8401

From: Lawrence Hershon <lawrence@hershonlawfirm.com>
Sent: Tuesday, September 29, 2026 11:27 AM
To: Herrmann, Karen <KHerrmann@greenvillecounty.org>; Drew Radeker <Drew@radekerlaw.com>; J. Ronald Jones, Jr. <RJones@smithdebnamlaw.com>; Simmons, Judge Charles <CSimmons@greenvillecounty.org>; Hanks, Danette <DAhanks@greenvillecounty.org>
Cc: Douglas L. Bell <dbell@mcdonaldpatrick.com>; Tripp Padgett <padgett@bacotlawfirm.com>; Elizabeth Ross <eross@weaverlawsc.com>; Zach Weaver <zweaver@weaverlawsc.com>; Lindsey Reynolds <lreynolds@greenwoodsc.gov>
Subject: RE: Edgefield Holdings, LLC v. John W. Polasky, et al., Case No. 2025CP2400155 (Greenwood County) (Sept. 28th at 4:00//Zoom)

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Karen: Per Judge Simmons' instructions at yesterday's hearing, attached is a proposed order for his consideration. Please let me know if anything further is needed.

Best regards,

Lawrence

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From: Herrmann, Karen <KHerrmann@greenvillecounty.org>
Sent: Wednesday, September 16, 2026 1:17 PM
To: Drew Radeker <Drew@radekerlaw.com>; Lawrence Hershon <lawrence@hershonlawfirm.com>; J. Ronald Jones, Jr. <RJones@smithdebnamlaw.com>; Simmons, Judge Charles <CSimmons@greenvillecounty.org>; Hanks, Danette <DAhanks@greenvillecounty.org>
Cc: Douglas L. Bell <dbell@mcdonaldpatrick.com>; Tripp Padgett <padgett@bacotlawfirm.com>; Elizabeth Ross <eross@weaverlawsc.com>; Zach Weaver <zweaver@weaverlawsc.com>; Lindsey Reynolds <lreynolds@greenwoodsc.gov>
Subject: RE: Edgefield Holdings, LLC v. John W. Polasky, et al., Case No. 2025CP2400155 (Greenwood County) (Sept. 28th at 4:00//Zoom)
Importance: High

Thank you Mr. Radeker,

This will confirm that I have added the Motion for Expedited Foreclosure Hearing in the above case to our docket for a one hour Zoom hearing on September 28th at 4:00.

Please have any necessary documents efiled (copy emailed to our office) at least 48 hours prior to the hearing.

RECEIVED
Oct 05 2026
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENWOOD COUNTY
Court of Common Pleas

Charles B. Simmons, Jr., Special Referee

App. Case No. 2026-002044
Common Pleas Case No. 2025-CP-24-00155

Edgefield Holdings, LLC .....Respondent,

v.

John W. Polasky, Pucketts Ferry Homeowners Association, Inc., Greenwood County, South State Bank, N.A.,.....Defendants,

Of which John W. Polasky is the.....Appellant.

VERIFICATION

I, John W. Polasky, being duly sworn and being the Appellant in the above-captioned appeal, hereby certify, depose, say, and verify that I have read the foregoing motion to prevent lower court from proceeding with matters affected by appeal and that the facts stated in that motion are true.

John W. Polasky

SWORN to before me this
5th day of October, 2026.

_____(L.S.)
Notary Public for South Carolina
My Commission Expires 1-30-36

VIRGINIA LEIGH SEARS
NOTARY PUBLIC
MY COMMISSION EXPIRES
01-30-2036
STATE OF SOUTH CAROLINA

RECEIVED
Oct 05 2026
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENWOOD COUNTY
Court of Common Pleas

Charles B. Simmons, Jr., Special Referee

App. Case No. 2026-002044
Common Pleas Case No. 2025-CP-24-00155

Edgefield Holdings, LLC ……...……Respondent,

v.

John W. Polasky, Pucketts Ferry Homeowners Association, Inc., Greenwood County, South State Bank, N.A.,……...…….……Defendants,

Of which John W. Polasky is the……...……Appellant.

PROOF OF SERVICE

I certify that I have served the foregoing motion to prevent the lower court from proceeding with matters subject of appeal on the date given below by emailing it to opposing counsel at the address(es) noted below.

Zachary L. Weaver, Esq., at zweaver@weaverlawsc.com
Lawrence M. Hershon, Esq., at lawrence@hershonlawfirm.com

Respectfully submitted,

/s/ Andrew S. Radeker
Andrew S. Radeker
S.C. Bar No. 73743
Attorney for Appellant

October 5, 2026