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Oct 21 2026

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Master in Equity

Charles B. Simmons, Master in Equity

Common Pleas Case No. 2024-CP-23-05987

Appellate Case No. 2026-002023

James E. Carter,

Appellant,

v.

Derek Dubay,

Respondent.

**MOTION FOR LEAVE TO FILE RULE 60(b)(2), SCRPC, MOTION FOR RELIEF
FROM JUDGMENT IN THE CIRCUIT COURT AND SUPPORTING MEMORANDUM**

Appellant respectfully moves under Rule 240, SCACR, and Rule 60(b), SCRPC, for leave to file in the circuit court a Rule 60(b)(2) motion based on newly discovered evidence.

PROCEDURAL HISTORY

The circuit court entered final judgment on September 2, 2026. Appellant timely served a notice of appeal on September 11, 2026. The appeal remains pending.

NEWLY DISCOVERED EVIDENCE

After trial, Appellant learned that Jason Meadors possessed information concerning statements made by Sara Chesney in October 2025. According to Meadors, Chesney stated that Appellant had "changed his mind," "didn't want to sell," and that she nevertheless "had to push the deal through" and "had to make his mind up for him." Meadors further recalls Chesney stating that she "paid [herself] to get rid of him." Meadors did not disclose these statements earlier because he

was unaware of the litigation and did not realize the significance of the conversation. As a result, Appellant had no reason to know Meadors possessed information relevant to the dispute and therefore no reason to identify him as a potential witness before trial.

Once Appellant's counsel learned of the evidence, counsel promptly interviewed Meadors on two separate occasions, first by telephone on October 5, 2026, and later in person on October 15, 2026. During those interviews, counsel questioned Meadors regarding the circumstances, timing, and substance of his conversation with Chesney. His account remained consistent during both interviews. Appellant has attached Meadors's affidavit as Exhibit A.

APPLICABLE LEGAL STANDARD

Rule 60(b)(2), SCRCP, permits relief from a final judgment based on material evidence that reasonable diligence could not have been discovered in time to seek a new trial. Because this appeal is pending, Appellant must first obtain this Court's leave under Rule 60(b), SCRCP, and Rule 240, SCACR.

ARGUMENT

The newly discovered evidence concerns the central factual dispute underlying the circuit court's judgment: whether Appellant revoked his Counteroffer before acceptance and whether that revocation was communicated during the negotiations. According to Meadors, Chesney stated that Appellant had "changed his mind," "didn't want to sell," and that she nevertheless "had to push the deal through" and "had to make his mind up for him." These statements are significant because Chesney was the real estate agent handling the transaction and the primary witness regarding the communications surrounding the Counteroffer. The circuit court's Order expressly found Chesney's testimony more credible than Appellant's and relied upon that testimony in concluding that Appellant did not revoke the Counteroffer before acceptance and that an enforceable contract existed.

This evidence does more than contradict Chesney's trial testimony. It concerns her own knowledge that Appellant had changed his mind and that she nevertheless "had to push the deal through" and "had to make his mind up for him" despite that knowledge. The circuit court's finding that an enforceable contract existed depended on its conclusion that no revocation occurred before acceptance and its decision to credit Chesney's testimony on that issue. Chesney's alleged statements suggest that she knew Appellant no longer wished to proceed with the sale but nevertheless pushed the transaction forward. Because these statements go directly to the factual findings underlying the judgment, they could materially affect the outcome.

CONCLUSION

WHEREFORE, Appellant requests leave to file a Rule 60(b)(2), SCRCP, motion in the circuit court and such other relief as this Court deems just and proper.

[signature page follows]

Respectfully submitted this 21st day of October, 2026.

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s/Kristen Reynolds
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PROOF OF SERVICE

I certify that I have served the Notice of Appeal on Derek Dubay, through his attorney of record, Adam Bach, via electronic mail on October 21, 2026.

October 21, 2026

s/Kristen Reynolds
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EXHIBIT A

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Derek Dubay,

Plaintiff

v.

James E. Carter,

Defendant.

IN THE COURT OF COMMON PLEAS

THIRTEENTH JUDICIAL CIRCUIT

Case No. 2024-CP-23-05987

AFFIDAVIT OF JASON MEADORS

I, Jason Meadors, subject to penalty of perjury, state as follows:

1. I am over the age of eighteen (18) and make this declaration freely and voluntarily based on my own personal knowledge.

2. I have known James Carter and Sara Chesney for many years and was friends with both.

3. In or around October 2025, I had a telephone conversation with Sara.

4. During that conversation, Sara told me that she had sold James Carter's house "but not for what he wanted."

5. Sara further stated that she "had to push the deal through."

6. Sara told me that James Carter "changed his mind at the last minute, he didn't want to sell it."

7. Sara further stated that she "had to make his mind up for him."

8. During the same conversation, I asked Sara how much she had made from the transaction involving James Carter.

9. In response, Sara stated, "I paid myself to get rid of him."

10. At the time of my conversation with Sara, I was unaware of any litigation concerning the sale of James Carter's property.

11. Around mid-June 2026, after the trial had concluded, I learned from James Carter that litigation had occurred regarding the sale of the property.

12. After learning of the litigation, I informed James Carter of the statements Sara had made to me during our October 2025 telephone conversation.

13. Prior to that time, I had not understood the significance of Sara's statements and had no reason to believe they were relevant to any legal proceeding.

14. After informing James Carter of these statements, I spoke with his attorneys on multiple occasions regarding the information contained in this affidavit, including a telephone interview on October 5, 2026, and an in-person meeting on October 15, 2026.

15. During those discussions, I was questioned about the circumstances, timing, and substance of my conversation with Sara Chesney.

16. My account remained consistent throughout those discussions, and this affidavit reflects the information I provided.

17. The statements attributed to Sara in this affidavit are based on my recollection and accurately reflect the substance of what she told me.

18. The statements attributed to Sara in this affidavit are based on my recollection of our conversation and are the substance of what she told me.

19. I am providing this affidavit voluntarily and have not been promised anything in exchange for my testimony.

FURTHER AFFIANT SAYETH NAUGHT

[signature page follows]

Jason O Meadors
Jason Meadors

Dated this 15th day of October, 2026

Sworn and subscribed before me
This 15th day of October, 2026

Kenya Leon
Notary Public for South Carolina

My Commission Expires: 01/12/2036

[SEAL]

