

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

APPEAL FROM COLLETON COUNTY  
COURT OF COMMON PLEAS

Carmen T. Mullen, Circuit Court Judge

Case No. 2010-CP-15-509  
Appellate Case No. 2012-210887

Enterprise Bank of South Carolina.....Respondent,

v.

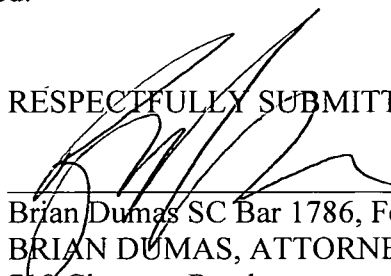
Gene Raymond Hoy a/k/a Gene R. Hoy, Collins Pavilion Corp, Perrin Souvenir Distributors, Inc., CITI Group/Commercial Services, Durwood Collins, individually and as agent for Henry Collins, Mary Collins and Sandra Collins, Henry Collins, Mary Collins, and Sandra Collins, Ocean One of Edisto, LLC, South Carolina Employment Security Commission and the South Carolina Department of Revenue of whom Gene Raymond Hoy is.....Appellant,

**WITHDRAWAL OF APPEAL**

The undersigned, as counsel for the Appellant Gene Raymond Hoy a/k/a Gene R. Hoy, now deceased and by the Order of the Court of Common Pleas for Colleton County filed March 4, 2014, having Johnny Hoy as Personal Representative of the Estate of Gene Raymond Hoy substituted as the proper party for Appellant, hereby withdraws his Appeal. A copy of the Order substituting parties as stated herein is attached.

RESPECTFULLY SUBMITTED,

By:

  
\_\_\_\_\_  
Brian Dumas SC Bar 1786, Fed ID 638  
BRIAN DUMAS, ATTORNEY LLC  
718 Clemson Road  
Columbia, SC 29229  
(803)699-4996 / FAX (803)699-4996  
briandumasattorney@sc.rr.com  
Attorney for the Appellant

Columbia, South Carolina.  
April 17, 2014

**RECEIVED**

APR 21 2014

**SC Court of Appeals**

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF COLLETON )  
 )  
 Enterprise Bank of South )  
 Carolina, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 Gene Raymond Hoy a/k/a Gene R. )  
 Hoy, Collins Pavilion Corp, Perrin )  
 Souvenir Distributors, Inc., CITI )  
 Group/Commercial Services, )  
 Durwood Collins, individually )  
 And as agent for Henry Collins, )  
 Mary Collins and Sandra Collins, )  
 Henry Collins, Mary Collins and )  
 Sandra Collins, Ocean One of )  
 Edisto, LLC, South Carolina )  
 Employment Security Commission )  
 And the South Carolina Department )  
 Of Revenue, )  
 )  
 Defendants. )  
 )

IN THE COURT OF COMMON PLEAS  
 CASE NO.: 2010-CP-15-509

Consent Order Substituting Parties and  
 Incorporating Settlement Agreement  
 into Consent Order of Dismissal of Action

**RECEIVED**

APR 21 2014

**SC Court of Appeals**

2014 MAR -4 PM 3:05  
 PATRICIA C. GRANT  
 CLERK OF COURT  
 COLLETON COUNTY  
 COMMON PLEAS

#1  
 Pmb

This matter came regularly before me on Motion of Brian Dumas to Substitute Johnny Hoy, Personal Representative of the Estate of Gene Raymond Hoy, as a party Defendant in this action in place of the Defendant Gene Raymond Hoy a/k/a Gene R. Hoy, who is now deceased.

This case involved the foreclosure of Plaintiff's mortgage against the mortgagee, Collins Pavilion Corp. The Defendant Gene R. Hoy was the guarantor of the Promissory Note secured by Plaintiff's mortgage. The remaining Defendants are parties that held liens against the mortgaged properties, and their liens were held to be junior to Plaintiff's mortgage.

CERTIFIED TRUE COPIES OF RECORDS  
*Patricia C. Grant*  
 CLERK OF COURT, COMMON PLEAS COURT  
 COLLETON COUNTY, SOUTH CAROLINA  
 DATE: 3/4/14

An Order of Foreclosure and Sale Decree was filed with this Court on November 11, 2010. The mortgaged properties were sold at foreclosure sale January 10, 2011. Thereafter, a Deficiency Judgment was entered against the Defendants Collins Pavilion Corp and Gene Raymond Hoy a/k/a Gene R. Hoy, which Deficiency Judgment was filed February 17, 2011 with the Colleton County Clerk of Court.

Plaintiff engaged counsel in the State of Michigan to pursue the collection of its Deficiency Judgment against assets of Gene R. Hoy located in Michigan. As a result of those proceedings, funds of Hoy's totaling approximately \$194,625.30 were garnished in Michigan (the "garnished funds").

On July 11, 2011 the Defendant Hoy filed a Motion with this Court, pro se, to "vacate the Order of Foreclosure Judgment" pursuant to Rule 60 South Carolina Rules of Civil Procedure.

#2  
AMB  
Hoy's Motion to seek relief from the foreclosure judgment was ultimately denied by Order of the Honorable Carmen T. Mullin filed February 27, 2012. Hoy appealed that Order to the South Carolina Court of Appeals. The garnishment proceedings in Michigan were stayed pending the appeal here in South Carolina.

While the appeal was pending Hoy died. The Court of Appeals remanded the case to the Colleton County Court of Common Pleas to determine the proper parties to the appeal. Thereafter, a Motion was filed, which is now before this Court, to substitute Johnny Hoy as Personal Representative of the Estate of Gene R. Hoy in place of the Defendant Gene R. Hoy.

The parties have reached an Agreement to settle and resolve the entire case, and wish their Agreement to be incorporated into a Consent Order dismissing the entire action pursuant to SCRCF 43(k), on the following terms:

1. That the garnished funds (approximately \$194,625.30) be paid over, in their entirety, to the Plaintiff;
2. Within five (5) business days of receipt of the garnished funds, the Plaintiff will:
  - (i) pay to Johnny Hoy, Personal Representative of the Estate of Gene R. Hoy, and Brian Dumas, Attorney (jointly), a sum equal to ten (10%) percent of the garnished funds (approximately \$19,462.53); and
  - (ii) provide to Brian Dumas five (5) certified copies of the satisfaction of judgment filed with the Colleton County Clerk of Court showing that the Plaintiff's judgment against Gene R. Hoy and Collins Pavilion Corp. has been satisfied in full;
3. Within five (5) business days of receipt of the ten (10%) percent of the garnished funds and the certified copies of the satisfaction of judgment described in the preceding paragraph, Johnny Hoy, Personal Representative of the Estate of Gene Raymond Hoy, will dismiss the appeal presently pending before the South Carolina Court of Appeals.

The parties now wish to enter into this Consent Order to substitute parties, as herein indicated, to have this Court incorporate the settlement between the parties in order to facilitate the resolution of the garnishment proceedings in the State of Michigan, and to dismiss this case here in South Carolina.

NOW, THEREFORE, it is hereby ORDERED, ADJUDGED AND DECREED that Johnny Hoy, Personal Representative of the Estate of Gene Raymond Hoy, is hereby

#3  
PMB


substituted as a party Defendant in the within action in place of Gene R. Hoy a/k/a Gene Raymond Hoy; and

It is further ORDERED, ADJUDGED AND DECREED that the herein stated settlement agreement of the parties to this action, as set forth herein above, and as evidenced by the signatures of the parties and their counsel as required by SCRCP 43(k), is incorporated into this Court's Order; and

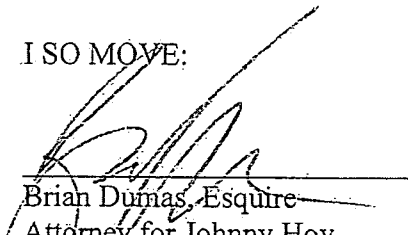
It is further ORDERED, ADJUDGED AND DECREED that this action be and the same is hereby dismissed with prejudice.

AND IT IS SO ORDERED.

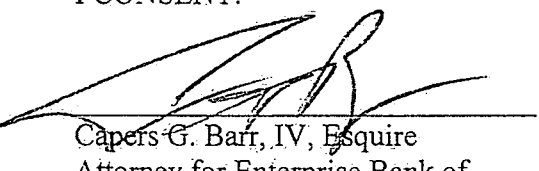
February 28, 2014  
Walterboro, SC

 #4  
\_\_\_\_\_  
Judge Perry M. Buckner, III  
Presiding Judge Fourteenth Judicial Circuit

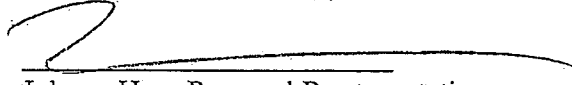
I SO MOVE:

  
\_\_\_\_\_  
Brian Dumas, Esquire  
Attorney for Johnny Hoy,  
Personal Representative of the  
Estate of Gene R. Hoy

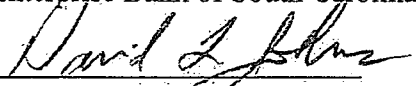
I CONSENT:

  
\_\_\_\_\_  
Capers G. Barr, IV, Esquire  
Attorney for Enterprise Bank of  
South Carolina

I AGREE TO THE TERMS OF THE SETTLEMENT SET FORTH HEREIN:

  
\_\_\_\_\_  
Johnny Hoy, Personal Representative  
Of the Estate of Gene Raymond Hoy

Enterprise Bank of South Carolina

  
\_\_\_\_\_  
BY: David L. Johns

ITS: Executive Vice President

STATE OF SOUTH CAROLINA )

IN THE COURT OF COMMON PLEAS  
FOURTEENTH JUDICIAL CIRCUIT

COUNTY OF COLLETON )

CASE NO.: 2010-CP-15-509

Enterprise Bank of South Carolina )

**MOTION AND ORDER INFORMATION  
FORM AND COVERSHEET**

Plaintiff, )

vs. )

Gene Raymond Hoy, et al. )

Defendant. )

Plaintiff's Attorney: Capers G. Barr, IV, Bar No. 65075 Address: 11 Broad St, Charleston, SC 29401 Phone: 843-577-5083 Fax 843-723-9039 E-mail: cbarr@barrungermcintosh.com Other:	Defendant's Attorney: Brian Dumas, Bar No. _____ Address: 718 Clemson Rd, Columbia, SC 29229 Phone: 803-699-4996 Fax 803-699-4995 E-mail: _____ Other: _____
---	---

- MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)  
 FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)  
 PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

**SECTION I: Hearing Information**

Nature of Motion: \_\_\_\_\_

Estimated Time Needed: \_\_\_\_\_

Court Reporter Needed:  YES/ NO

**SECTION II: Motion/Order Type**

- Written motion attached  
 Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

  
 Signature of Attorney for  Plaintiff /  Defendant

March 3, 2014  
Date submitted.

2014 MAR -4 PM 3:05  
 MARSHALL COUNTY  
 COMMON PLEAS

**SECTION III: Motion Fee**

PAID - AMOUNT: \$ 25.00

EXEMPT:

(check reason)

- Rule to Show Cause in Child or Spousal Support  
 Domestic Abuse or Abuse and Neglect  
 Indigent Status  State Agency v. Indigent Party  
 Sexually Violent Predator Act  Post-Conviction Relief  
 Motion for Stay in Bankruptcy  
 Motion for Publication  Motion for Execution (Rule 69, SCRPC)  
 Proposed order submitted at request of the court; or,  
 reduced to writing from motion made in open court per judge's instructions.  
 Name of Court Reporter: \_\_\_\_\_  
 Other: \_\_\_\_\_

**JUDGE'S SECTION**

Motion Fee to be paid upon filing of the attached order.

Other:

JUDGE CODE \_\_\_\_\_

Date: \_\_\_\_\_

**CLERK'S VERIFICATION**

Collected by: \_\_\_\_\_ Date Filed: \_\_\_\_\_

MOTION FEE COLLECTED: \$ \_\_\_\_\_

CONTESTED - AMOUNT DUE: \$ \_\_\_\_\_

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM COLLETON COUNTY  
Court of Common Pleas

Carmen T. Mullen, Circuit Court Judge

Case No. 2010-CP-15-509  
Appellate Case No. 2012-210887

Enterprise Bank of South Carolina.....Respondent,

v.

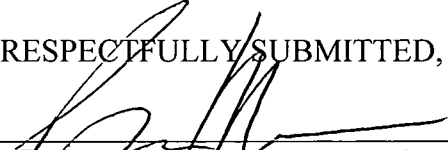
Gene Raymond Hoy a/k/a Gene R. Hoy, Collins Pavilion Corp, Perrin Souvenir Distributors, Inc., CITI Group/Commercial Services, Durwood Collins, individually and as agent for Henry Collins, Mary Collins and Sandra Collins, Henry Collins, Mary Collins, and Sandra Collins, Ocean One of Edisto, LLC, South Carolina Employment Security Commission and the South Carolina Department of Revenue of whom Gene Raymond Hoy is.....Appellant

**PROOF OF SERVICE**

I certify that I have served the Withdrawal of Appeal on Enterprise Bank of South Carolina by depositing a copy of it in the United States Mail, postage prepaid, on April 17, 2014, addressed to its attorney of record, Capers G. Barr IV, Barr, Unger and McIntosh, LLC, Post Office Box 1037, Charleston, SC 29402-1037.

RESPECTFULLY SUBMITTED,

By:

  
\_\_\_\_\_  
Brian Dumas SC Bar 1786, Fed ID 638  
BRIAN DUMAS, ATTORNEY LLC  
718 Clemson Road  
Columbia, SC 29229  
(803)699-4996 / FAX (803)699-4995  
briandumasattorney@sc.rr.com  
Attorney for the Appellant

Columbia, South Carolina.  
April 17, 2014

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**SC Court of Appeals**

**BRIAN DUMAS, ATTORNEY LLC**

718 Clemson Road  
Columbia, SC 29229

Phone: (803) 699-4996 Facsimile: (803) 699-4995  
briandumasattorney@sc.rr.com

Certified SC Circuit Court Mediator

Certified SC Family Court Mediator

April 17, 2014

The Honorable V. Claire Allen  
S.C. Court of Appeals  
PO Box 11629  
Columbia, SC 29211

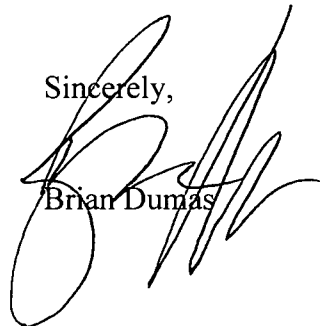
**RE: Enterprise Bank v. Gene Hoy**  
**Appellate Case No.: 2012-210887**

Dear Ms. Allen:

As per your prior correspondence with opposing counsel, enclosed is an original and five (5) copies of a Withdrawal of Appeal in the above-referenced matter. As you may recall, Mr. Barr had notified you that this matter was going to be brought to resolution and I believe this should suffice to end the case. If you would please return the clocked copies in the enclosed self-addressed envelope I would be happy to appropriately distribute them to opposing counsel.

If I have inartfully drawn this document or been inaccurate in any way, please do not hesitate to contact this office.

Sincerely,



Brian Dumas

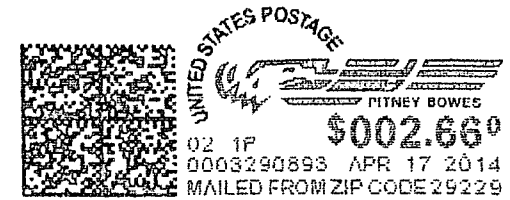
Enclosures

cc: Capers G. Barr, IV  
Barr, Unger and McIntosh, LLC  
PO Box 1037  
Charleston, SC 29402-1037

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APR 21 2014

**SC Court of Appeals**



Brian Dumas, Attorney LLC  
718 Clemson Road  
Columbia, SC 29229

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PO Box 11629  
Columbia, SC 29211

SC Court of Appeals

