

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM GREENVILLE COUNTY
COURT OF COMMON PLEAS

Edward W. Miller, Judge

Appellate Case No.: 2014-002349

RECEIVED

MAY 07 2015

SC Court of Appeals

75909

William Tobias and Elena Tobias, Respondent,

v.

Ruby Lee Rice, Appellant.

MOTION

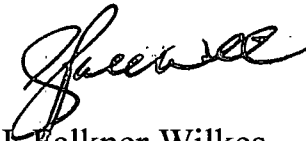
Appellant hereby moves to stay the appeal pending the outcome of the Respondent's motion in the Circuit Court which, if granted, would make this appeal moot.

Respondent William Tobias has filed a motion to dismiss and vacate and/or set aside the judgment underlying this appeal. The motion filed by the Respondent Tobias is attached hereto. Upon information and belief the Respondent William Tobias has authority by family court order to take action in this case on behalf of both Respondents. The Respondents seek to have the underlying case and

judgement set aside and/or vacated. If granted, the relief sought would make the appeal moot.

Wherefore Appellant moves the Court to stay the appeal pending the outcome of the Respondent's pending motion.

Respectfully submitted,



J. Falkner Wilkes
114 Whitsett Street
Greenville, SC 29601
(864) 282-1292

George Lafaye, IV
201 Whitsett Street
Greenville, SC 29601

Counsel for the Appellant.

May 5, 2015.

STATE OF SOUTH CAROLINA

COUNTY OF _____

FILED-CLERK OF COURT
GREENVILLE, S.C.
PAUL B. WICKENSINGER

IN THE COURT OF COMMON PLEAS
13 JUDICIAL CIRCUIT

CASE NO.: 2004-CP-23-3000

William Tobias 2015 APR 23 AM 11:37
Plaintiff,)

vs.)

Ruby Rice)
Defendant.)

**MOTION AND ORDER INFORMATION
FORM AND COVERSHEET**

Plaintiff's Attorney: <u>William A. Tobias</u> Bar No. <u>2123000 Spartauburg Rd</u> Address: <u>#119 Greer SC 29656</u> Phone: _____ Fax _____ E-mail: _____ Other: _____	Defendant's Attorney: Bar No. _____ Address: _____ Phone: _____ Fax _____ E-mail: _____ Other: _____
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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.

William A. Tobias Signature of Attorney for Plaintiff / Defendant Date submitted 4-23-15

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, SCRCP)
 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: CJN Date Filed: _____
 MOTION FEE COLLECTED: \$ 25.00
 CONTESTED - AMOUNT DUE: \$ _____

Master's
copy

FILED-CLERK OF COURT
STATE OF SOUTH CAROLINA
PAUL B. WICKENSIMER
COUNTY OF GREENVILLE
2015 APR 23 AM 11 37

COURT OF COMMON PLEAS
13TH JUDICIAL CIRCUIT
CASE NO. 2004-CP-23-3000

WILLIAM TOBIAS
PLAINTIFF,

RUBY RICE
DEFENDANT

PLAINTIFF WILLIAM TOBIAS
MOTION TO DISMISS AND VACATE AND/OR
SET ASIDE JUDGEMENT

TO: the Court. The Plaintiff William Tobias moves to vacate and/or set aside judgment Ordered by the Honorable Edward W. Miller dated November 25, 2013 and filed with the Greenville County Clerk of Court on December 9 2013; for relief of judgment. The motions are based on new information and/or evidence acquired by the Plaintiff William Tobias.

I, Plaintiff William Tobias and Defendant Ruby Lee Rice, agreed to dismiss this case based on a specific performance of the agreement between the two parties. I, William Tobias, know that it is not ethically or morally right to continue pursuing this case due to the new information and/or evidence I have obtained. I, did not have access to the this new information and did not have knowledge of the inaccuracies at the time of trial, as a result extrinsic fraud was committed.

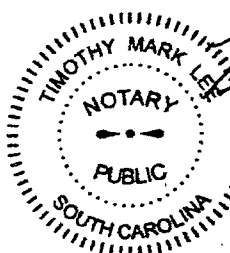
This motion is made pursuant to Rules 55(c) and 60(b)(2)(3) of the South Carolina Rules of Civil Procedure.

This case has had a long and complicated procedural history. I have requested, on many occasions, that this case be dismissed. I, William Tobias, have the power to make decisions and sign documents in this case by docket number 2014-DR-23-2578. I pray the court will do what equitable and fair and dismiss and vacate and/or set aside the judgment order.

William A. Tobias
William Tobias (Plaintiff)

4-23-15
Date

Timothy Mark Lee
Witness
April 23, 2015
Date



THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM GREENVILLE COUNTY
COURT OF COMMON PLEAS

Edward W. Miller, Judge

Appellate Case No.: 2014-002349

William Tobias and Elena Tobias, Respondent,

v.

Ruby Lee Rice, Appellant.

Certificate of Service

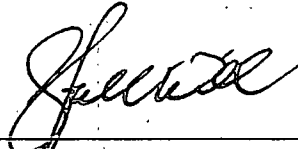
I certify that I have served the Appellant's Motion to stay the appeal, and Certificate of Service on the Appellant by placing a copy of same in the United States Mail, postage prepaid, on the 5th day of May, 2015, addressed to his counsel of record as follows:

Randall S. Hiller
850 Wade Hampton Blvd.
Greenville, SC 29609
Counsel for William Tobias

Elena Gilnyany
119 Kingsley Drive
Mauldin, SC 29661
Counsel for Elena Tobias

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George Lafaye, IV
201 Whitsett Street
Greenville, SC 29601
Trial Counsel for Appellant



J. Falkner Wilkes
114 Whitsett Street
Greenville, SC 29601
(864) 282-1292
Counsel for the Respondent

May 5, 2015.

J. FALKNER WILKES

Attorney at Law

114 Whitsett Street
Greenville, South Carolina 29601

Telephone: (864) 282-1292
Facsimile: (864) 271-6035

May 5, 2015

Jenny Abbott Kitchings
Clerk of Court
SC Court of Appeals
PO Box 11629
Columbia, SC 29211

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MAY 07 2015

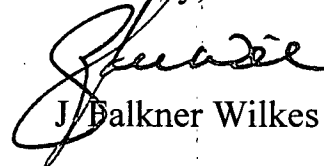
SC Court of Appeals

Re: Ruby Lee Rice v. William Tobias and Elena Tobias,
2004-CP-23-03000
Appellate Case No. 2014-002349

Dear Ms. Kitchings,

I am enclosing the Appellant's motion to stay the appeal. The Respondent has filed two motions in the circuit court which, if granted, will make the issues on appeal moot. It would be premature to dismiss the appeal so I am moving to stay pending the circuit court's ruling on these motions.

Sincerely,



J. Falkner Wilkes

c:
Randall S. Hiller
850 Wade Hampton Blvd.
Greenville, SC 29609
Counsel for William Tobias

Elena Gilnyany
119 Kingsley Drive
Mauldin, SC 29661
Counsel for Elena Tobias

George Lafaye, IV
201 Whitsett Street
Greenville, SC 29601

