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SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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**MOTION TO SUPREME COURT TO CERTIFY APPEAL  
AND TO DISMISS APPEAL**

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Shirley Hammer,

Petitioner

*In Re:*

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM RICHLAND COUNTY

Joseph M. Strickland, Master-In-Equity

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Case No. 2013-CP-40-6898  
Appellate Case No. 2015-000945

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Shirley Hammer, Respondent

Respondent,

v.

Howard Hammer, 1634 Main, LP, Alvin Hammer; SH5, LLC; SH4, LLC; SH3, LLC; HASCI, LLC; D&M Chateau, LLC; Heart of Columbia, LLC; Alvin J. Hammer, as Personal Representative of the Estate of Eleanor Bernstein Hammer; Joye Elizabeth Life Estate; Stanley Hammer; Department of the Treasury-IRS; Chateau De Ville Association, Inc. and/or Chateau De Ville Horizontal Property Regime David H., a minor under the age of 14,

Defendants,

Of Whom,

Howard Hammer is

Respondent.

Shirley Hammer (hereafter “Shirley”) moves this Honorable Court pursuant to Rule 204(b), SCRCF, to certify the referenced appeal to the Supreme Court for determination. In support of the motion, Shirley would show:

1. Upon Shirley’s motion, this Court asserted exclusive jurisdiction over two prior matters involving herself and Howard Hammer (a 2009 action and a 2010 action) for purposes of shepherding the cases to conclusion. (Appellate Case No. 2012-212288, Supreme Court order dated September 7, 2012).
2. In so doing, this Court asserted exclusive jurisdiction over “any subsequent actions involving the parties that may be filed. . .” *Id.*
3. The instant action was filed by Shirley in November, 2013, to provide a second avenue for collection of judgments Shirley held against Howard Hammer. Because this action involved foreclosure of property in which Howard Hammer held an interest, other parties were named as well. (Exhibit A).
4. In a subsequent order seeking to enforce the expedition of the 2009 and 2010 cases, this Court by *sua sponte* order asserted “notice” of the instant action and included it among the cases it was monitoring and for which it required status reports. (Exhibit B).
5. On March 16, 2015, the trial court, through Master in Equity Joseph Strickland, issued an interlocutory order granting Shirley’s motion for a charging order against Mr. Hammer’s distributional interest in various corporate entities. (Exhibit C). That is the order that is the subject of the instant appeal. (Notice of Appeal filed 5-12-2015<sup>1</sup>).

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<sup>1</sup> Mr. Hammer filed a Motion for Reconsideration on March 26, 2015, and that motion was denied by Judge Strickland by order dated March 31, 2015.

6. A subsequent order of this Court dated March 30, 2015 again noted this Court asserting monitoring control over the instant action. (Exhibit D).
7. Nonetheless, when filing his appeal from Judge Strickland's order dated March 16, 2015, Howard Hammer filed the appeal in the Court of Appeals, rather than this Court.
8. Because of this Court's long history of expediting proceedings involving these parties, and its prior order asserting monitoring over the instant action as well as the 2009 and 2010 lawsuit, Shirley is informed and believes that this appeal should have been filed in the Supreme Court rather than the Court of Appeals.
9. The time for appealing to the proper court the orders which are the subject of this appeal, has expired. Rule 203(b)(1), SCACR. Therefore, Mr. Hammer has failed to timely appeal the orders of Judge Strickland dated March 16, 2015 and March 31, 2015.
10. Moreover, the orders which Mr. Hammer purports to appeal are not final orders, and are not immediately appealable pursuant to S.C.Code Ann. Section 14-3-330.
11. Shirley has incurred attorney's fees and costs in connection with the filing of this motion.

For the reasons set forth above, Shirley moves this Honorable Court to certify Mr. Hammer's appeal in the instant action to this Court, and to dismiss the appeal based on the failure to timely appeal, and the interlocutory nature of this appeal.

Shirley also moves for an award of attorney fees and costs to be assessed against Howard Hammer pursuant to Rule 222(a), SCRPC, in connection with this proceeding.

[Signature next page]

*Desa Ballard by (HWA)*

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Attorney for Petitioner Shirley Hammer

May 18, 2015

**EXHIBIT A**

STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )

IN THE MASTER IN EQUITY COURT  
Case No. 2013-CP-40-\_\_\_\_\_

Shirley Hammer, )  
Plaintiff, )

v. )

Howard Hammer, 1634 Main, LP, Alvin )  
Hammer; SH5, LLC; SH4, LLC; SH3, LLC; )  
HASCI, LLC; D&M Chateau, LLC; Heart )  
Of Columbia, LLC; Eleanor Hammer; Joye )  
Elizabeth Life Estate; Stanley Hammer; )  
Department of the Treasury- IRS; Chateau )  
DeVile Association, Inc. and/or Chateau )  
DeVile Horizontal Property Regime; David )  
Hammer, a minor under the age of 14, )

VERIFIED COMPLAINT FOR  
ATTACHMENT, AND  
FORECLOSURE OF JUDGMENT

Defendants. )

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Plaintiff would respectfully show:

1. That heretofore Plaintiff recovered and recorded judgments against Defendant Howard Hammer and against Defendant 1634 Main, LP as hereinafter set forth; and that there is still due and owing on said judgments the sum indicated herein, below, Defendants having failed and refused to satisfy same:

Date Entered	Roll No.	Amount Due:	Defendant
February 6, 2013	2009CP4005911	\$80,000.00	H. Hammer
February 6, 2013	2010CP4002889	\$50,000.00	H. Hammer
February 6, 2013	2010CP4002889	\$25,000.00	1634 Main
June 3, 2013	2009CP4005911	\$60,744.30	H. Hammer
June 3, 2013	2010CP4002889	\$102,032.87	1634 Main
Total Due:		<u>\$317,777.17, plus interest<sup>1</sup></u>	

2. That executions thereafter duly issued to the Sheriff of the County of Richland against Defendant and said Sheriff has returned the same Nulla Bona.

3. That upon information and belief, the Defendant 1634 Main LP and Howard Hammer have assets in the County and in the State not exempt from levy which they unjustly refuse to apply toward satisfaction of said judgments; Plaintiff would show, in particular, that Howard Hammer owns substantial assets by and through his ownership interest in various limited liability companies and limited partnerships, as set forth herein.
4. On information and belief, Defendant Howard Hammer is the sole member of a South Carolina limited liability company called SH5, LLC; and, Howard Hammer, his minor son David Hammer and SH5, LLC are the members in the limited partnership 1634 Main, LP.
5. On information and belief, these parties own, unencumbered, the real property located at 1634 Main Street in Columbia, South Carolina, which bears Tax Map #09014-04-19, and is more aptly described, as follows:

BEGINNING at a Bldg. Corner at the westernmost corner of Parcel B whereat said property corners with property now or formerly of Martha W. Fowler, et al. along the eastern margin of the right-of-way of Main Street a distance of 107.4 feet, more or less, from its intersection with Blanding Street, and running along property now or formerly of Martha W. Fowler, et al. N70°16'01"E - 209.01 feet to a ½" rod; thence turning and running along property now or formerly of Lexington State Bank, as follows: S19°27'00"E - 17.80 feet to a point; N71°09'40"E - 211.75 feet to an "x" on concrete; thence turning and running along the western margin of the right-of-way of Sumter Street S19°25'59"E - 42.33 feet to an "X" on concrete; thence turning and running along property now or formerly of James L. Tapp Co., Inc., as follows: S71°06'28"W - 211.73 feet to an "X" on concrete: S19°27'00"E - 0.77 feet to an "X" on concrete thence turning and running along property now or formerly of Kimbrell's Investment, Co. S70017°08"W - 208.84 feet to an "X" on concrete; thence turning and running along the eastern margin of the right-of-way of Main Street N19°36'31"W - 61.03 feet to the POINT OF BEGINNING.

This being the same property conveyed to Shirley Hammer by deed of 1634 Main, L.P., a South Carolina limited partnership dated February 11, 2002, and recorded

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<sup>1</sup> Interest owed from the dates of filing, to be calculated at the judicially ordered post-judgment rate.

in the office of the Register of Deeds for Richland County, South Carolina, in Deed Book 00627, at page 1909.

6. That Plaintiff is informed and believes her judgments against Howard Hammer and 1634 Main, LP are the only judgment enforceable against the property at 1634 Main Street, and are therefore a first lien on the property
7. Furthermore, Howard Hammer, SH5, LLC and 1634 Main, LP own, unencumbered, the real property located at 1632 Main Street in Columbia, South Carolina, which bears Tax Map #R09014-04-19, a lot adjacent to 1634 Main Street.
8. That Plaintiff is informed and believes her judgments against Howard Hammer and 1634 Main, LP are the only judgments enforceable against this property at 1632 Main Street, and are therefore a first lien on the property.
9. On information and belief, Defendant Howard Hammer is the sole member of a South Carolina limited liability company called SH3, LLC, which owns property for or with defendant Joye Elizabeth Life Estate, which property is located at 2109 Sumter Street, in Columbia, South Carolina, and is more accurately described as follows:

All that certain piece, parcel, or lot of land, together with improvements thereon, situate, lying or being on the western side of Sumter street, between Elmwood Avenue and Scott Street, in the city of Columbia, County of Richland, State of South Carolina, being shown and delineated on a plat prepared for SH3, LLC by Anderson & Associates Land surveying, Inc. dated April 4, 2000. Said lot is more particularly described as follows, to wit: commencing at an iron pin on the western edge of the right of way of Sumter Street located Two hundred twenty-three and three-hundredths (223 . 03') feet south of the center line of Scott Street at its intersection with Sumter Street, which iron pin is the common corner of the subject property, property now or formerly of Gretchen G. Dawson and the western edge of the right of way of Sumter Street, and from such Point of Commencement running S 14 degrees 36' 25" E minutes along the western edge of the right of way of Sumter Street for a distance: of Sixty-five and three-tenths

(65.3') feet to an iron pin; thence turning and running S 75 degrees 55' 36" W along property now or formerly of J. Marvin Mullis, Jr. for a distance of Ninety seven and ninety two-hundredths (97.92') feet to an iron pin; thence turning and running S 76 degrees 10' 46" W along property now or formerly of Johnson and King Engineers, Inc. and property now or formerly of Allen J. Horn for a distance of One hundred ten and seven-tenths (110.70') feet to an iron pin; thence turning and running S 76 degrees 3' 39" W along property now or formerly, of Allen J. Horn for a distance of Ten and eight-hundredths (10.08') feet to an iron pin; thence turning and running 13 degrees 39' 55" W along property now or formerly of Isadore S. Bernstein and Henry Hammer for a distance of One hundred five and nine-hundredths (105 . 09') feet to an iron pin; thence turning and running N 76 degrees 5' 56" E along property now : or formerly of Isadore S. Bernstein and Henry Hammer for a distance of One hundred seventeen and four-hundredths (117.04') feet to an iron pin; thence turning and running S 14 degrees 23' 25:" E along property now or formerly of Gretchen . G. Dawson for a distance of Forty (40.00') feet to an iron pin; thence turning and running N 75 degrees 53' .57" E minutes along property now or formerly of Gretchen G. Dawson for a distance of One hundred and eight-hundredths (100.08') feet to the Point of Commencement.

10. That Plaintiff is informed and believes her judgments against Howard Hammer are the only judgments enforceable against this property at 2109 Sumter Street, and are therefore a first lien on the property.
11. On information and belief, Howard Hammer owns certain real property located at 3600 Chateau Drive, Apt. 125. Defendant Chateau DeVille Association, Inc. may claim an interest in the subject property by virtue of Notice of Lien in the amount of \$1,211, which Notice is recorded on November 10, 2009 in the Office of the ROD for Richland County, in Book 1568 at page 2545. On information, Defendant Chateau DeVille Association, Inc. may claim an additional interest in the amount of \$7,718, which Notice is recorded on February 7, 2012 in the Office of the ROD for Richland County, in Book 1740 at page 1488. On information and belief Howard's mother, defendant Eleanor Hammer may claim an interest in the subject property by virtue of a mortgage in the amount of \$65,000, recorded on November 1, 2012 in the Office of the ROD for Richland County in Book 1812,

Page 3020. On information and belief, this mortgage may have been issued for purposes of encumbering the subject property in an attempt to insulate it from plaintiff's anticipated judgment(s), which would constitute a fraudulent conveyance.

12. On information and belief, Howard Hammer owns certain real property located at 3600 Chateau Drive, Apt. 202. On information, Defendant Chateau DeVille Horizontal Property Regime may claim an interest in the amount of \$1,211, which Notice is recorded on November 10, 2009 in the Office of the ROD for Richland County, in Book 1568 at page 2546. On information and belief Howard's brother, Alvin Hammer issued a mortgage in the amount of \$60,000, which was recorded on November 1, 2012 in the in the Office of the ROD for Richland County in Book 1812, Page 3017. On information and belief, this mortgage may have been issued for purposes of encumbering the subject property in an attempt to insulate it from plaintiff's anticipated judgment(s), which would constitute a fraudulent conveyance.
13. On information and belief, Howard Hammer is the sole member of a limited liability company called D&M Chateau, LLC, which owns certain real property located at 3600 Chateau Drive, Apt. V-236. On information, Defendant Chateau DeVille Horizontal Property Regime may claim an interest in the amount of \$1,667, which Notice of Lien is recorded on November 10, 2009 in the Office of the ROD for Richland County, in Book 1568 at page 2547.

14. On information and belief, Defendant Howard Hammer is 20 % owner of HASCI, LLC, which owns certain unencumbered real property located at 1011 Assembly Street in Columbia, South Carolina, bearing TMS #R08916-09-08, and being more fully described as follows:

All that certain piece, parcel or tract of land, together with the improvements thereon, situate, lying and being on the Western side of Assembly Street between Senate and Pendleton Street in the City of Columbia County of Richland, State of South Carolina, being shown and designated as 1011 Assembly Street and 1013 Pendleton Street on a plat prepared for Bessie Bernstein and Jane Gibbes Edens by William Wingfield, Registered Surveyor, dated October 25, 1957, revised January 3, 1958, and later revised February 24, 1959, and having the following metes and bounds: commencing at a point on said Assembly Street Two Hundred Nine and 75/100 (209.75') feet North of the Northwest corner of Pendleton Street and Assembly Street and running along said Assembly Street South 18 degrees 50 minutes East for a distance of One Hundred Forty (140') feet; thence turning and running South 70 degrees 59 minutes West for a distance of Two Hundred Eight and 25/100 (208.25') feet; and being bounded on the South along said line by property now or formerly of Leventis; thence turning and running South 19 degrees no minutes East for a distance of Sixty-nine and 7511 00 (69.75') feet; thence turning and running along Pendleton Street South 71 degrees seven (7) minutes West for a distance of One Hundred Twelve and 641100 (112.64') feet; thence turning and running North 18 degrees 52 minutes West for a distance of Twenty-nine (29') feet, and being bounded on the West along said line by property now or formerly of Rivkin; thence turning and running South 71 degrees 7 minutes West for a distance of Ninety-six (96') feet to Park Street and being bounded on the South along said line by property now or formerly of Rivkin; thence turning and running North 18 degrees 52 minutes West for a distance of One Hundred Seventy-nine and Eight-tenths (179.8') feet along said Park Street; thence turning and running North 70 degrees 56 minutes East for a distance of Four Hundred Sixteen and Nine-tenths (416.9') feet to the point of commencement, be all measurements a little more or less and being bounded on the North along said line by property of Bookman, Caughman and Sebastian, all of which is shown on said plat.

This being the identical property conveyed to Alvin L. Hammer, Howard Hammer and Stanley F. Hammer by deed recorded December 30, 1961 in Book 316 Page 288, in the Office of the Register of Deeds for Richland County; and deed recorded January 3, 1985, in Book 724 Page 408, in the Office of the Register of Deeds for Richland County; and deed recorded December 18, 2007, in Book 1385 Page 1719, in the Office of the Register of Deeds for Richland County.

15. That Plaintiff is informed and believes her judgments against Howard Hammer

are the only judgments enforceable against this property at 1011 Assembly Street, and is therefore a first lien on the property.

16. On information and belief, Defendant Howard Hammer is 20% owner of HASCI, LLC, which owns certain unencumbered real property located at 1017 Assembly Street in Columbia, South Carolina, bearing TMS #R08916-09-06, and being more fully described as follows:

All the Grantor's interest in that certain piece, parcel or lot of land, together with the improvements thereon; situate, lying and being on the western side of Assembly Street between Pendleton Street and Senate Street in the City of Columbia, County of Richland and State of South Carolina, and being more particularly shown on a certain plat of property surveyed for Winchester Graham, Inc., by William Wingfield, Reg. Surveyor, dated August 8<sup>th</sup>, 1958, and recorded in the Office of the Clerk of Court for Richland County, South Carolina, in Plat Book 11 at Page 284 and being described as follows: on the north by property now or formerly of Caughman and measuring thereon one hundred and sixty-seven and eight tenths (167.8') feet; on the east by Assembly Street, whereon the same fronts for a distance of forty-four and five-tenths (44.5') feet; on the south by property now or formerly of Bernstein and Edens and measuring thereon one hundred and sixty-six (166') feet; and on the west by lands now or formerly of Caughman and measuring thereon forty-three and five tenths (43.5') feet. This being the identical property conveyed to Alvin J. Hammer, Howard Hammer and Stanley F. Hammer by deed recorded December 18, 2007, in Book 1385 Page 1715, in the Office of the Register of Deeds for Richland County.

The subject property may also be identified as follows:

All the decedent's interest in that certain piece, parcel or lot of land, together with the improvements thereon, situate, lying and being on the western side of Assembly Street between Pendleton Street and Senate Street in the City of Columbia, County of Richland and State of South Carolina, and being more particularly shown on a certain plat of property surveyed for Winchester Graham, Inc., by William Wingfield, Reg. Surveyor, dated August 8, 1958, and recorded in the Office of the Clerk of Court for Richland County, South Carolina, in Plat Book 11 at Page 284 and being described as follows: on the north by property now or formerly of Caughman and measuring thereon one hundred and sixty-seven and eight tenths (167.8') feet; on the east by Assembly Street, whereon the same fronts for a distance of forty-four and five-tenths (44.5') feet; on the south by property now or formerly of Bernstein and Edens and measuring thereon one hundred and sixty-six (166') feet; and on the west by lands now or formerly of Caughman and measuring thereon forty-three and five tenths (43.5') feet. This

being the identical property conveyed to Alvin J. Hammer, Trustee of the Residuary Trust under the Last Will and Testament of Henry Hammer by Deed of Distribution of the Estate of Henry Hammer, Richland County, South Carolina Probate Case No. 2005-ES40-01493 dated October 30, 2007, and recorded November 2, 2007 in Book 1372 Page 3536, in the Office of the Register of Deeds for Richland County.

17. That Plaintiff is informed and believes her judgments against Howard Hammer are the only judgments enforceable against this property at 1017 Assembly Street, and are therefore a first lien on the property.
18. On information and belief, Defendant Howard Hammer is 20% owner of HASCI, LLC, which owns certain unencumbered real property located at 2120 Sumter Street, in Columbia, South Carolina, bearing TMS #R09016-12-17, and being more fully described as follows:

All of Grantor's interest in that certain piece, parcel or lot of land, together with any improvements thereon, situate, lying and being in the City of Columbia, and the County of Richland, State of South Carolina, on the east side of Main Street, being more particularly shown on a plat prepared for Isadore S. Bernstein by William Wingfield, Reg. Surveyor, dated August 16, 1963, and revised February 3, 1964; the land hereby conveyed, as shown on said plat, commencing at an iron marker in the right-of-way line of Main Street; thence running North seventy-five degrees twenty-eight minutes East (N 75° 28' E) for a distance of two hundred seven and six-tenths (207.6') feet to an iron marker; thence turning and running South fifteen degrees twenty-seven minutes East (S 15° 27' E) for a distance of forty-eight and two-tenths (48.2') feet to an iron marker; thence turning and running South fourteen degrees fifteen minutes East (S 14° 15' E) for a distance of one hundred nine (109.0') feet on an iron marker; thence turning and running South seventy-five degrees fifty-eight minutes West (S 75° 58' W) for a distance of fifty-two and five-tenths (52.5') feet to an iron marker; thence turning and running South seventy-seven degrees forty-seven minutes West (S 77° 47' W) for a distance of one hundred fifty-five and four-tenths (155.4') feet to an iron marker in the right-of-way line of Main Street; thence turning and running along the right-of-way line of Main Street North fourteen degrees seventeen minutes West (N 14° 17' W) for a distance of one hundred fifty and seven-tenths (150.7') feet to the point of commencement. The land hereby conveyed is bounded on the West by Main Street; on the North by property now or formerly of Gulf Oil Company and property now or formerly of Nix, Fox and Rice; on the East by property now or formerly of Nichols and by property now or formerly of Yeoman; and on the South by property now or formerly of Michas and property now or formerly of

Howard. This being the identical property conveyed to Alvin L. Hammer, Howard Hammer and Stanley F. Hammer by deed recorded December 18, 2007, in Book 1385 Page 1727, in the Office of the Register of Deeds for Richland County.

19. That Plaintiff is informed and believes her judgments against Howard Hammer are the only judgments enforceable against this property at 2120 Sumter Street, and are therefore a first lien on the property
20. On information and belief, Defendant Howard Hammer is 20% owner of HASCI, LLC, which owns certain unencumbered real property located at 2121 Sumter Street, in Columbia, South Carolina, bearing TMS #R09016-12-04, and being more fully described as follows:

All of Grantor's interest in that certain piece, parcel or lot of land with the improvements thereon, situate, lying and being on the west side of the 2100 block of Sumter Street, in the City of Columbia, County of Richland, State of South Carolina (formerly designated as 2121-23 Sumter Street), being more particularly shown and delineated on a plat prepared for Isadore S. Bernstein by William Wingfield, Registered Surveyor, dated May 26, 1964, said lot being bounded and measuring as follows: on the north by property now or formerly of Wheeler, whereon it measures two hundred seventeen and 4/10ths (217.4) feet as shown on said plat; on the east by Sumter Street whereon it fronts fifty-one (51) feet as shown on said plat; on the south by lot now or formerly of Yeoman whereon it measures two hundred seventeen (217) feet as shown on said plat; and on the west by lot now or formerly of Isadore S. Bernstein and Henry Hammer, whereon it measures fifty-one and 9/10ths (51.9) feet as shown on said plat. This being the identical property conveyed to Alvin L. Hammer, Howard Hammer and Stanley F. Hammer by deed recorded December 18, 2007, in Book 1385 Page 1723, in the Office of the Register of Deeds for Richland County.

21. That Plaintiff is informed and believes her judgments against Howard Hammer are the only judgments enforceable against this property at 2121 Sumter Street, and are therefore a first lien on the property.
22. On information and belief, Defendant Howard Hammer is 20% owner of HASCI, LLC, which owns certain unencumbered real property located at 3018 Main Street, in Columbia, South Carolina, bearing TMS #09111-06-03 and 04, and

being more fully described as follows:

All of Grantor's interest in and to all that certain piece, parcel or lot of land, with the improvements thereon, situate, lying and being on the east side of Main Street, in the City of Columbia, County of Richland, State of South Carolina, and being shown and delineated on a plat made for Gladys S. Varn by Barber Keels and Associates, . Engineers, dated May 14, 1950 and recorded in the Office of the Register of Deeds for Richland County in Plat Book I at page 214, and being bounded and measuring as follows: on the north by lands formerly of Burnside, measuring thereon 273.6 feet; on the northeast by lands now or formerly of John C.B.Smith, measuring thereon 92.7 feet; on the south by lands formerly of Frank E. Quinn and Newman (now or formerly Bernstein, Stem and Hammer), measuring thereon 321.6 feet; and on the west by Main Street, as shown on said plat, measuring thereon 80 feet.

And

All of Grantor's interest in and to all that certain piece, parcel or lot of land, with improvements thereon, known as 3018 Main Street (formerly 2910 Main Street), situate, lying and being in the City of Columbia, County of Richland, State of South Carolina, at the northeastern intersection of the said Main Street and Grace Street, and more fully shown and described on a plat prepared for Claude A. Yarborough by William Wingfield, Registered Surveyor, dated June 9, 1958, and recorded in the Office of the Register of Deeds for Richland County in Plat Book 14 at page 55, said lot being irregular in shape and having the following metes and bounds: beginning at an iron along the right of way at the northeastern intersection of said streets and running N 00°30' E for a distance of 271.2' along the right of way of said Main Street to an iron; thence turning and running S 89°32' E for a distance of 321.2' to an iron; thence turning and running S 29°57' E for a distance of 60.7' to an iron; thence turning and running S 89°03' W for a distance of 37.3' to an iron; thence turning and running S 00°06' E for a distance of 117.3' to an iron; thence turning and running N 83°27' W for a distance of 24.0' to an iron; thence turning and running S 06°34' W for a distance of 4.5' to an iron; thence turning and running N 88°16' for a distance of 82.8' to a 2-inch steel post; thence turning and running S 01°00" W for a distance of 9.6' to a 4-inch steel post; thence turning and running S87°01' W for a distance of 19.3' to a 4-inch steel post; thence turning and running S 00°33' W for a distance of 9.3' to a 2 1/2 inch post; thence turning and running S 85° 55' W for a distance of 105.3' to a 2 inch post; thence turning and running S 01° 53' W for a distance of 81. 0' to an iron along the right of way of the said Grace Street; thence turning and running N 83°35' W along the right of way of the said Grace Street for a distance of 81.3' to the point of beginning. These being the identical properties conveyed to Alvin L Hammer, Howard Hammer and Stanley F. Hammer by deed recorded December 18, 2007, in Book 1385 Page 1731, in the Office of the Register of Deeds for Richland County.

23. That Plaintiff is informed and believes her judgments against Howard Hammer

are the only judgments enforceable against this property at 3108 Main Street, and are therefore a first lien on the property.

24. On information and belief, Howard Hammer owns real property located at 1609 Catawba Street in Columbia, South Carolina, bearing TMS#11304-19-10, and being more fully described as.

All that certain piece, parcel, lot or tract of land, with any improvements thereon, situate, lying and being in the City of Columbia, County of Richland, State of South Carolina, being shown and delineated as Lot 2 on a plat prepared for Andre Bauer by Benjamin H. Whetstone, dated September 23, 2003, to be recorded; said property being more particularly shown and delineated on plat prepared for Laura A. Voight by Inman Land Surveying Company, Inc., dated June 1, 2006 and recorded June 7, 2006 in Record Book 1191 at Page 3070, Office of the Register of Deeds for Richland County. Reference is made to said plat for a more complete and accurate description to said lot, all measurements being a little more or less. The conveyance is made subject to easements, conditions and restrictions of record affecting subject property. This being the same property conveyed to Laura A. Voight by deed of Bauer and Joye Investments, LLC, dated June 5, 2006 and recorded June 7, 2006 in Record Book 1191 at Page 3052, Office of the Register of Deeds for Richland County.

25. That Plaintiff is informed and believes her judgments against Howard Hammer are the only judgments enforceable against this property at 1609 Catawba Street, and are therefore a first lien on the property, subject only to any homestead exemption that may exist if this property constitutes defendant Howard Hammer's sole residence.

26. On information and belief, there is a federal tax lien against Howard Hammer in the amount of \$53,783.00, which was recorded by Defendant Department of Treasury-Internal Revenue Service on February 15, 2011 in the Office of the ROD for Richland County at Book 1668 and page 200. Plaintiff lacks sufficient knowledge or information from which to determine the viability of this lien.

27. Plaintiff is informed and believes that the property sought to be attached is not exempt from execution, attachment, or sale to satisfy a judgment or order. See S.C. Code Ann. §15-41-30.
28. Plaintiff is informed and believes that pursuant to SC Code §15-19-10, her judgments set forth herein may be attached and become liens to the properties owned in whole or in part by defendants Howard Hammer and/or 1634 Main, LP.
29. Plaintiff is informed and believes these properties owned by an entity in which Howard Hammer holds an interest may be used to satisfy any judgment awarded to Plaintiff, pursuant to section 15-19- 220, S.C. Code Ann. **“The rights or shares which any defendant may have in any vessel or in the stock of any association or corporation, together with the interest and profits thereon, and all other property of such defendant in this State, except that exempt from attachment by the Constitution, shall be liable to be attached and levied upon and sold to satisfy the judgment and execution.”**
30. Plaintiff is informed and believes that she is entitled to have her aforesaid judgment liens foreclosed against the interests of Howard Hammer and 1634 Main, LP, in the above-described real properties, or in such portions of the real property as necessary to satisfy Plaintiff’s judgment liens after first satisfying any priority lienholders, and to have such real property sold at public auction under the direction of the Court, and that any equity of redemption therein be barred, and that the proceeds of the sale be applied toward the payment of judgment indebtedness to Plaintiff.

WHEREFORE Plaintiff having fully set forth her complaint herein, prays as follows:

- a) That the amount due upon the judgments in favor of Plaintiff against defendants Howard Hammer and 1634 Main, LP be ascertained and determined under the direction of the Court, together with interest and costs of this action; and
- b) That the judgment liens of the Plaintiff be declared a first lien on the real properties as hereinabove described as 1634 Main Street, 1632 Main Street, 1609 Catawba Street, 2109 Sumter Street, 1011 Assembly Street, 1017 Assembly Street, 2120 Sumter Street, 2121 Sumter Street, and 3018 Main Street, and third lien on the real properties at Chateau DeVille insofar as the judgment creditors' interest in said properties is concerned and deemed valid; and
- c) That the Plaintiff have judgment of foreclosure for the amount so found to be due and owing thereon, together with the costs of this action; and
- d) That 1634 Main, LP's interest and Howard Hammer's interest, individually and vis a vis his ownership interest in limited liability company holding the deed thereto, in the real properties described herein be sold under the direction of this Court, and subject only the liens and mortgages set forth herein, the equity of redemption of the Defendant Howard Hammer in the properties be forever barred, and the proceeds of sale applied as follows:

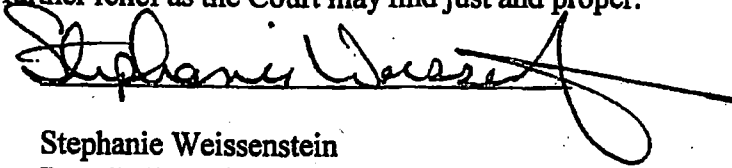
First: To the cost and expense of the within action and sale;

Second: Toward the amount due on the Federal Tax Lien, set forth herein if not previously satisfied;

Third Toward the amount due on the Plaintiff's judgment against the Defendants Hammer and 1634 Main, LP; and

Fourth: The surplus may be hold by the Court and distributed in accordance with its further Order; and,

- e) For such other and further relief as the Court may find just and proper.



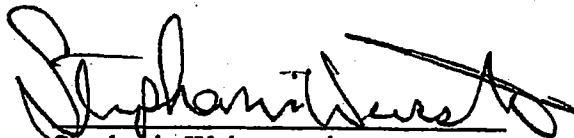
Stephanie Weissenstein  
Desa Ballard  
**Ballard Watson Weissenstein**  
Post Office Box 6338  
West Columbia, South Carolina 29171  
Telephone 803.796.9299  
Facsimile 803.796.1066  
E-mail: stephanie@desaballard.com

Attorney for the Plaintiff

November 8, 2013

#### VERIFICATION

Personally appears Stephanie Weissenstein, who first being duly sworn, deposes and says that she is the attorney for the Petitioning judgment creditor and that she has read the foregoing Petition and knows the contents thereof and the same are true of her own knowledge except to matters alleged therein on information and belief, and as to these, she believes it to be true that she is the attorney for the Plaintiff and authorized to make this oath on her / its behalf.



Stephanie Weissenstein  
**Ballard Watson Weissenstein**  
Post Office Box 6338  
West Columbia, South Carolina 29171  
Telephone 803.796.9299  
Facsimile 803.796.1066  
E-mail: stephanie@desaballard.com

Attorney for Plaintiff

SWORN AND SUBSCRIBED BEFORE ME  
THIS 8<sup>th</sup> DAY OF NOVEMBER, 2013

  
Notary Public for South Carolina  
My Commission Expires 11/1/23

# The Supreme Court of South Carolina

In Re: Howard Hammer,

v.

Shirley Hammer.

Case No. 2009-CP-40-05911

In Re: 1634 Main LP,

v.

Shirley Hammer.

Case No. 2010-CP-40-02889

---

**ORDER**

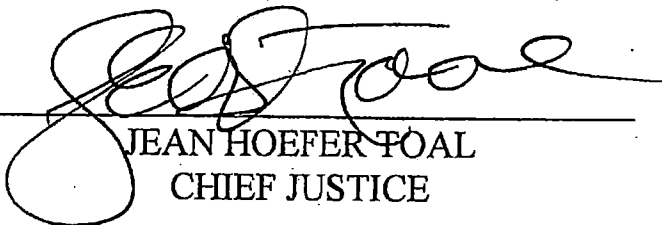
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By order dated September 7, 2012, the Honorable James R. Barber, III, was assigned to oversee any actions involving Howard Hammer or 1634 Main L.P. pending in the circuit court and any subsequent actions involving the parties that may be filed, and to expedite any such actions and provide status reports to the Chief Justice every thirty days from the date of the order until all litigation between the parties has been resolved. On March 3, 2015, Judge Barber submitted his *thirtieth* status report on these actions.

The above two actions remain pending before Richland County Master-in-Equity Joseph M. Strickland. Based on Judge Barber's latest status reports, it appears hearings on motions that were scheduled for January 2015 before Judge Strickland were continued for various reasons, some related to Judge Strickland's efforts to encourage the parties to reach a settlement and others related to Mr. Hammer's customary dilatory tactics. According to Judge Barber's latest status report, settlement negotiations have recently concluded and the remaining matters are awaiting scheduling.

It is imperative that these actions, initiated in August 2009 and April 2010, respectively, be brought to a close in an expedient manner. Accordingly, a hearing on the outstanding matters in these actions shall be scheduled immediately and no further requests for delays, continuances or extensions shall be granted. The actions shall be brought to a final conclusion within forty-five days of the date of this order.

Judge Strickland is hereby instructed to provide status reports to the Chief Justice until the actions have been resolved. The first status report shall be submitted within five days of the date of this order. Status reports shall be submitted every ten days thereafter.<sup>1</sup>



JEAN HOEFER TOAL  
CHIEF JUSTICE

Columbia, South Carolina  
March 10, 2015

cc:

The Honorable James R. Barber, III  
The Honorable Joseph M. Strickland  
Desa Ballard, Esquire  
Pope D. Johnson, III, Esquire  
Stephanie Nichole Weissenstein, Esquire  
Susan Batten Lipscomb, Esquire  
Arthur Kerr Aiken, Esquire  
Keith M. Babcock, Esquire  
Thomas Whatley Bunch, II, Esquire  
Joel Morris Deason, Esquire  
Matthew J. Modica, Esquire  
Stephanie Carol Trotter, Esquire

---

<sup>1</sup> Notice is also taken of *Hammer v. Hammer*, Case No. 2013-CP-40-06898, pending before Judge Strickland. Judge Strickland shall provide status reports on this action according to the same schedule as the other actions until the action is brought to conclusion.

RECEIVED  
via US mail 3.19.15

EXHIBIT C

STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )

IN THE COURT OF COMMON PLEAS  
FOR THE FIFTH JUDICIAL CIRCUIT  
Case Number: 2013-CP-40-6898

Shirley Hammer, )  
Plaintiff, )

v. )

Howard Hammer, 1634 Main, LP, Alvin )  
Hammer; SH5, LLC; SH4, LLC; SH3, LLC; )  
HASCI, LLC; D&M Chateau, LLC; Heart )  
Of Columbia, LLC a/k/a Heart of Columbia )  
Inc., Alvin Hammer, personal representative )  
Of the Estate of Eleanor Hammer; Joye )  
Elizabeth Life Estate; Stanley Hammer; )  
Department of the Treasury- IRS; Chateau )  
DeVile Association, Inc. and/or Chateau )  
DeVile Horizontal Property Regime; David )  
Hammer, a minor under the age of 14, )  
Defendants. )

**ORDER GRANTING  
CHARGING ORDER**

FILED  
2015 MAR 16 AM 10:01  
C.C.P. & G.S.

Shirley Hammer moves for an order pursuant to S.C. Code Ann. Section 33-44-504 establishing a charging order on Howard Hammer's distributional interest in the defendant limited liability corporations, *i.e.*, HASCI, LLC, SH5, LLC, SH4, LLC, SH3, LLC, D&M Chateau, LLC, and Heart of Columbia, LLC (which is now known to be improperly named and is, instead, a regular corporation). The motion is granted.

In two (2) prior cases, Mrs. Hammer obtained judgments against Howard Hammer and 1634, LP, a limited partnership in which Mr. Hammer was the general partner by virtue of his sole ownership of SH5, LLC. Those judgments were conditionally satisfied by this Court's order of January 21, 2014 in the collection proceedings, in which this Court transferred the only known non-exempt assets of Mr. Hammer to Mrs. Hammer, with directives to sell the real property, pay

herself the amount of the judgments, as well as certain other funds to which the Court determined she was entitled. That order was appealed and affirmed (other than vacating and remanding for a new sanctions hearing) by the Supreme Court on November 14, 2014. Despite Mrs. Hammer's diligent efforts, a sale has not yet been concluded, so she has not yet received any funds to satisfy either the earlier judgments or the judgment entered on January 21, 2014.

Mrs. Hammer was notified by counsel for Alvin Hammer and HASCI, LLC, that a pending sale of real property was scheduled to occur in January, 2015. This action had not yet been heard on the merits because it was anticipated that the sale of the real property awarded to Mrs. Hammer in the earlier cases would have operated to satisfy her judgments. Several defendants had filed motions to dismiss, and hearings on those motions had been delayed by consent, anticipating they would become moot.

In the Supreme Court's order dated November 14, 2014, Mr. Hammer was ordered to provide this Court with a complete financial statement of his income and assets. For the first time, this Court learned Mr. Hammer's financial disclosure dated November 20, 2014 that Mr. Hammer owned significant assets that he had not previously divulged to the Court, despite earlier orders that required him to disclose that information to the court and the parties in the collection proceedings. Among the assets listed in his financial disclosure of November 20, 2014, Mr. Hammer now acknowledges he owns a membership interest in HASCI, LLC, HOC, LLC, and other real property and interests he had not previously disclosed. Mr. Hammer's financial disclosure also contained a letter dated November 17, 2014 which confirmed Mr. Hammer's "approximately 12%" interest in HASCI, LLC, and that a sale of real property owned by that LLC was anticipated to occur in 2015. It is upon that basis that Mrs. Hammer seeks to obtain a

charging order against Mr. Hammer's distributional interest in HASCI, LLC and the other defendant LLCs.

Mr. Hammer asserts that Mrs. Hammer no longer holds any judgments against him, asserting that the earlier judgments were satisfied by the Court's order of January 21, 2014 in the collection action. Mrs. Hammer asserts that the transfer of real property to her for sale purposes only partially satisfied the judgments, since the real property has not yet been sold and she has not received any payment on the judgments.

This Court's order of January 21, 2014, which was made necessary by Mr. Hammer's intentional withholding of information regarding his other assets, specifically anticipated that additional steps would be taken before Mrs. Hammer's judgments would be fully satisfied. Transfer of title of real property to her, with specific instructions regarding sale, did not fully satisfy the judgments in full, but simply set in place a mechanism by which the earlier judgments, and the additional judgments of January 21, 2014, would be satisfied. Neither Mr. Hammer nor any other party asserts that Mrs. Hammer has received any money toward her judgments against Mr. Hammer and 1634 Main LP.

Mr. Hammer asserts the January 21, 2014 order provided for a termination of post-judgment interest on the earlier judgments, thus establishing full satisfaction of the earlier judgments. The post-judgment interest was terminated by the January 21, 2014 order, but it was specifically anticipated by that order that Mrs. Hammer would incur additional costs related to the marketing and sale of the building and the order specifically provided for her recovery of those funds as a part of any "satisfaction" of the judgments she was owed.

Since the real property transferred to Mrs. Hammer has not yet sold, Mrs. Hammer retains

the right to recover against other assets owned by Mr. Hammer. Should she recover all funds to which she is entitled from other assets, the proceeds from the sale required by the January 21, 2014 order will be held in escrow pending further order of the Court, as set forth in Paragraph 7 of that order.

Mrs. Hammer is entitled to a charging order against Mr. Hammer's distributional interest in any of the defendant LLCs in which he has an ownership, membership, or distributional interest. He acknowledges a distributional interest in HASCI, LLC and Chateau Deville LLC, as well as HOC, LLC, which is not a named defendant in this action<sup>1</sup>.

Pursuant to S.C. Code Ann. Section 33-44-504, Mrs. Hammer's request for a charging order against Mr. Hammer's distributional interest in HASCI, LLC and Chateau DeVille LLC is granted. The court does not find it necessary, at least at this time, to appoint a receiver; three (3) lawyers who represented themselves to have some interest in HASCI, LLC, as well as Keith Babcock, attorney for HASCI, LLC attended the hearing and are aware of the request for a charging order.

Mrs. Hammer's motion for a charging order against Mr. Hammer's distributional interest in the LLC defendants is:

GRANTED.

IT IS SO ORDERED.



Joseph M. Strickland  
Master in Equity  
Richland County



**EXHIBIT D**

## The Supreme Court of South Carolina

In Re: Howard Hammer,

v.

Shirley Hammer.  
Case No. 2009-CP-40-05911

---

In Re: 1634 Main LP,

v.

Shirley Hammer.  
Case No. 2010-CP-40-02889

---

### ORDER

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Pursuant to the authority vested in me by Article V, Section 4 of the South Carolina Constitution, I issued an Administrative Order on March 10, 2015, directing a hearing on the outstanding matters in the two above-captioned actions be scheduled immediately and no further requests for delays, continuances or extensions be granted; the actions be brought to a final conclusion within forty-five days of the date of the order; and Judge Strickland provide me with status reports until the actions have been resolved, with the first status report to be submitted within five days of the date of the order and every ten days thereafter.<sup>1</sup> Mr.

---

<sup>1</sup> Notice was also taken of *Hammer v. Hammer*, Case No. 2013-CP-40-06898, pending before Judge Strickland. Judge Strickland was directed to provide status reports on that action according to the same schedule as the other actions until the action is brought to conclusion.

Hammer has filed a motion to reconsider the order.<sup>2</sup> There is no provision for reconsideration of an Administrative Order. Such orders are issued pursuant to the authority granted to the Chief Justice by Article V, Section 4 of the South Carolina Constitution, as administrative head of the unified judicial system, and are not reviewable. However, pursuant to that authority, I deny the motion for reconsideration.

According to the latest status update from Judge Strickland, a hearing is scheduled to begin on April 2, 2015, to dispose of all outstanding matters in Case Nos. 2009-CP-40-05911, 2010-CP-40-02889 and 2013-CP-40-06898. The hearing shall proceed as scheduled and shall dispose of all outstanding matters in the three cases. No further consideration shall be given by this Court to requests to re-schedule the hearing, nor should Judge Strickland give consideration to any such requests.



---

JEAN HOEFER TOAL  
CHIEF JUSTICE

Columbia, South Carolina  
March 30, 2015

cc:

The Honorable James R. Barber, III  
The Honorable Joseph M. Strickland  
Desa Ballard, Esquire  
Pope D. Johnson, III, Esquire  
Stephanie Nichole Weissenstein, Esquire  
Susan Batten Lipscomb, Esquire  
Arthur Kerr Aiken, Esquire  
Keith M. Babcock, Esquire  
Thomas Whatley Bunch, II, Enquire  
Joel Morris Deason, Esquire  
Matthew J. Modica, Esquire  
Stephanie Carol Trotter, Esquire

---

<sup>2</sup> Mr. Hammer, under the guise of requesting reconsideration and deletion of a phrase in the prior Administrative Order, actually seeks to re-litigate matters that have already been litigated and decided.

THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

**RECEIVED**

MAY 19 2015

CERTIFICATE OF SERVICE

SC Court of Appeals

Shirley Hammer,

Petitioner

*In Re:*

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY

Joseph M. Strickland, Master-In-Equity

Case No. 2013-CP-40-6898  
Appellate Case No. 2015-000945

Shirley Hammer, Respondent

Respondent,

v.

Howard Hammer, 1634 Main, LP, Alvin Hammer; SH5, LLC; SH4, LLC; SH3, LLC; HASCI, LLC; D&M Chateau, LLC; Heart of Columbia, LLC; Alvin J. Hammer, as Personal Representative of the Estate of Eleanor Bernstein Hammer; Joye Elizabeth Life Estate; Stanley Hammer; Department of the Treasury-IRS; Chateau De Ville Association, Inc. and/or Chateau De Ville Horizontal Property Regime David H., a minor under the age of 14,

Defendants,

Of Whom,

Howard Hammer is

Respondent.

I an employee of Ballard & Watson, Attorneys at Law certify that I have served the **Motion to Supreme Court to Certify Appeal and to Dismiss Appeal** on all known counsel of record by depositing a copy of it in the United States Mail, postage prepaid, on May 18, 2015, addressed as follows:

Arthur K. Aiken Esquire  
Aiken & Hightower  
2231 Devine St.  
Ste. 201  
Columbia South Carolina 29205

Thomas W. Bunch, II, Esquire  
Robinson McFadden & Moore, PC  
Post Office Box 944  
Columbia South Carolina 29202

Keith Babcock, Esq.  
Ariail E. King, Esquire  
Lewis & Babcock, LLP  
Post Office Box 11208  
Columbia South Carolina 29211

Stephanie Trotter, Esquire, Esq.  
McCabe, Trotter & Beverly, PC  
Post Office Box 212069  
Columbia South Carolina 29221-3200

Matthew Modica  
Assistant United States Attorney  
151 Meeting Street, Suite 200  
Charleston South Carolina 29402

John "Jay" D. Elliott, Esquire  
Post Office Box 607  
Columbia South Carolina 29202

May 18, 2015

  
Mara T. Ballard, CFE, CMA



**Ballard & Watson**  
Attorneys at Law  
PERSISTENT. UNWAVERING.

Desa Ballard  
Harvey M. Watson III

Post Office Box 6338 | West Columbia, SC 29171  
226 State Street | West Columbia, SC 29169  
ph 803.796.9299 | fx 803.796.1066 | [desaballard.com](http://desaballard.com)

Monday, May 18, 2015

*Via U.S. Mail*

Honorable Daniel E. Shearouse  
Supreme Court of South Carolina  
Post Office Box 11330  
Columbia, South Carolina 29211

**RECEIVED**

MAY 19 2015

SC Court of Appeals

Re: *Hammer v Hammer et. al.*  
Appellate Case No: 2015-000835 and 2015-000945

Dear Mr. Shearouse:

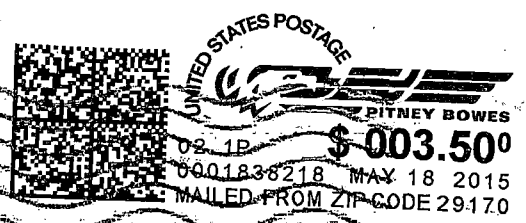
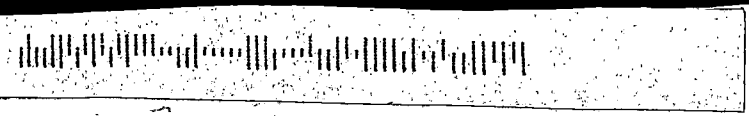
Please find enclosed for filing the original and 7 copies of a **Motion to Supreme Court to Certify Appeal and to Dismiss Appeal** in each of the above referenced matters. Also enclosed are our Certificates of Service and our checks for the filing fees. Please return a filed stamped copy of each motion to us in the enclosed self-addressed, stamped envelope.

If you should have any questions or concerns, please contact us. With warm personal regards, I am,

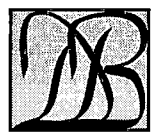
Sincerely yours,

Mara T. Ballard, CFE, CMA  
Forensic Accountant  
[mara@desaballard.com](mailto:mara@desaballard.com)

c: Arthur K. Aiken, Esquire  
Thomas W. Bunch, II, Esquire  
Keith Babcock, Esquire  
Matthew Modica, Esquire  
Stephanie Trotter, Esquire  
John D. Elliott, Esquire  
Honorable Jenny Abbott Kitchings



COLUMBIA SC 292  
MON 18 MAY 2015 PM



*Law Offices of Desa Ballard*

226 State Street  
West Columbia, SC 29169

Honorable Jenny Abbott Kitchings  
South Carolina Court of Appeals  
1220 Senate Street  
Columbia, South Carolina 29201

**RECEIVED**

MAY 19 2015

SC Court of Appeals