



The South Carolina Court of Appeals

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V. CLAIRE ALLEN
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September 08, 2015

The Honorable Margaret Bostick
PO Box 248
Ridgeland SC 29936-0248

REMITTITUR

Re: Jeffrey Anders v. The Settings of Mackay Point
Lower Court Case No. 2011CP2700011
Appellate Case No. 2013-001629

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

V. Claire Allen, Deputy

CLERK

Enclosure

cc: Robert Wade Maring, Esquire
Shelton Sterling Laney, III, Esquire
Matthew Todd Carroll, Esquire
The Honorable Carmen T. Mullen

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

Jeffrey H. Anders and Maureen Anders, Michael K.
Callahan and Amy Callahan, Melinda A. Caviccia,
Michael B. Ciulis, Stephen Kipa, Chad Kurtz, Spencer L.
Morgan, Richard O'Reilly and Alicia F. O'Reilly, Daniel
Ryan and Susan Ryan, Gennady Shmukler, Michael
Schmuff and Joanne Schmuff, and Matthew Terry,
Kathryn M. Tillman, Valerie A. Lowe, Tacg Properties,
LLC, Mackay Marsh, LLC, Plaintiffs,

Of whom Spencer L. Morgan is the Appellant,

v.

The Settings of Mackay Point, LLC, The Setting
Development Companies, LLC, Branch Banking & Trust
Co., Wachovia Bank, N.A., Bond Safeguard Insurance
Company, and Jasper County, Defendants,

Of which Wachovia Bank, N.A. is the Respondent.

Appellate Case No. 2013-001629

Appeal From Jasper County
Carmen T. Mullen, Circuit Court Judge

Unpublished Opinion No. 2015-UP-434
Heard December 10, 2014 – Filed August 19, 2015

AFFIRMED

Robert Wade Maring, of Maring Law Firm, P.A., of
Georgetown, for Appellant.

Shelton Sterling Laney III, of Womble Carlyle Sandridge
& Rice, LLP, of Greenville, and Matthew Todd Carroll,
of Womble Carlyle Sandridge & Rice, LLP, of
Columbia, both for Respondent.

PER CURIAM: Spencer L. Morgan (Morgan) seeks review of the circuit court's dismissal of his case pursuant to Rule 41(b) of the South Carolina Rules of Civil Procedure. Morgan argues the circuit court abused its discretion by (1) denying his motion for a continuance and (2) dismissing his claims for failure to prosecute. We affirm pursuant to Rule 220(b), SCACR, and the following authorities:

1. As to whether the circuit court erred in denying Morgan's motion for a continuance: Rule 40(i)(1), SCRCP (providing that the court may grant a continuance for "good and sufficient cause"); *Crestwood Golf Club, Inc. v. Potter*, 328 S.C. 201, 212, 493 S.E.2d 826, 832 (1997) (explaining "power is deemed to be necessarily vested in [circuit] courts [in order for them] to manage their own affairs so as to achieve orderly and expeditious disposition of cases" (citation omitted)); *State v. Colden*, 372 S.C. 428, 435, 641 S.E.2d 912, 916 (Ct. App. 2007) ("The granting of a motion for a continuance is within the sound discretion of the [circuit] court and will not be disturbed absent a clear showing of an abuse of discretion. Reversals for the denial of a continuance' are about as rare as the proverbial hens' teeth." (citations omitted)).

2. As to whether the circuit court erred in dismissing Morgan's claims for failure to prosecute: Rule 41(b), SCRCP ("For failure of the plaintiff to prosecute or to comply with these rules or any order of court, a defendant may move for dismissal of an action or of any claim against him."); *McComas v. Ross*, 368 S.C. 59, 62, 626 S.E.2d 902, 904 (Ct. App. 2006) ("Whether an action should be dismissed for failure to prosecute is left to the discretion of the [circuit] court judge, and his decision will not be disturbed, except upon a clear showing of an abuse of discretion." (citing *Small v. Mungo*, 254 S.C. 438, 442, 175 S.E.2d 802, 804 (1970))).

AFFIRMED.

WILLIAMS, GEATHERS, and MCDONALD, JJ., concur.

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Schmuff and Joanne Schmuff, and Matthew Terry,
Kathryn M. Tillman, Valerie A. Lowe, Tacg Properties,
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Of whom Spencer L. Morgan is the Appellant,

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AFFIRMED.

WILLIAMS, GEATHERS, and MCDONALD, JJ., concur.