

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF BEAUFORT )  
 )  
IN THE MATTER OF: )  
JOHN M. AND MARILYN W. BUNN )  
CHARITABLE REMAINDER TRUST )  
\_\_\_\_\_ )

MARILYN W. BUNN, a person *non* )  
*compos mentis* by and through her )  
guardian, DENISE SUDDER, and )  
MARGARET BUNN LOCHMANDY, )  
 )  
Plaintiffs, )

v. )

DOUGLAS S. DELANEY, as Trustee )  
and in his individual capacity, ALAN )  
WILSON, THE SOUTH CAROLINA )  
ATTORNEY GENERAL, SACRED )  
HEART-GRIFFIN HIGH SCHOOL, )  
ST. JOSEPH'S HOME, QUINCY )  
UNIVERSITY, NOTRE DAME, THE )  
LAWRENCEVILLE SCHOOL, ALL )  
SAINTS CATHOLIC CHURCH, AND )  
HABITAT FOR HUMANITY c/o ALL )  
SAINTS CATHOLIC CHURCH, )  
 )  
Defendants. )  
\_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS  
CASE NO. 2014-CP-07-1732

**RECEIVED**

SEP 03 2015  
SC Court of Appeals

**NOTICE OF MOTION AND MOTION  
TO RECONSIDER, ALTER AND/OR  
AMEND JUDGMENT**

2015 MAY 12 PM 12:35  
BEAUFORT COUNTY, S.C.  
COURT OF COMMON PLEAS

TO: THE ABOVE-NAMED PLAINTIFFS, AND ATTORNEYS:

PLEASE TAKE NOTICE THAT Defendant Douglas S. Delaney (hereinafter "Delaney"), by and through his undersigned counsel, will move before the Beaufort County Court of Common Pleas, to be heard on the 10<sup>th</sup> day after service hereof, or as soon thereafter as counsel may be heard, for the Court's reconsideration, alteration and/or amendment, under Rule 59, SCRCPP, of the Order Granting Plaintiff's Motion for Partial Summary Judgment, dated April 28, 2015, and issued in the

within action by The Honorable Marvin H. Dukes, III, Beaufort County Master in Equity (the "Order"), and as grounds therefor, would respectfully set forth as follows:

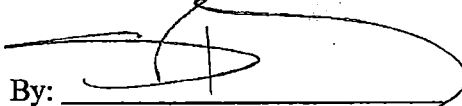
1. Counsel for Delaney was served a copy of the filed Order by the Plaintiffs, and received the same via regular mail on May 4, 2015, 2015.
2. The Order is in error in that, in reaching its holding, it ignores numerous questions of material fact, which should preclude a grant of summary judgment to the Plaintiffs.
3. The Order is in error in that, in reaching its holding, it ignores the vacancy created under South Carolina law when a Georgia court appointed a guardian *ad litem* for the Settlor of the trust at issue ("the Trust"), Marilyn Bunn; specifically, the Order ignores the express language of S.C. Code Ann. Section 62-7-704(a)(6) in failing to hold that the appointment of a guardian for the Settlor created a vacancy in the successor individual trusteeship.
4. The Order is in error in holding that the position of successor individual trustee, a fiduciary position with attendant duties and potential liabilities, may be automatically imposed upon a person and, in fact, was imposed upon Plaintiff Margaret Bunn Lochmandy ("Lochmandy") and Kelly Bunn.
5. The Order is in error in that, in reaching its holding, it ignores S.C. Code Ann. Section 62-7-701, which specifically contemplates that a putative trustee can and may reject a trusteeship.
6. The Order is in error in that it improperly burdens Delaney, the non-movant, with an affirmative duty to present evidence of the rejection by Plaintiff Lochmandy and Kelly Bunn of the successor individual trusteeship.
7. The Order is in error in that it ignores evidence presented by Delaney that both Plaintiff Lochmandy and Kelly Bunn failed to accept the successor individual trusteeship, and/or rejected the same, once the guardian *ad litem* was appointed for the Settlor of the Trust.

8. The Order is in error in failing to recognize that whether Plaintiff Lochmandy and Kelly Bunn rejected the successor individual trusteeship was and is a question of material fact.
9. The Order is in error in that, in reaching its holding, it ignores South Carolina law regarding fiduciary positions; specifically, that a fiduciary obligation cannot be imposed upon someone.
10. The Order is in error in that it ignores evidence submitted by Delaney regarding the intent of the Settlor, Marilyn Bunn, to the effect that Delaney, as successor independent trustee, was not to be subject to the same removal terms applicable to the corporate trustee.
11. The Order is in error in that, to reach its holding, it attempts to interpret the Trust language to glean the Settlor's "intent", when the Trust language is unambiguous and contains no express provision for the removal of the successor independent trustee by the Settlor or the successor individual trustees.
12. The Order is in error in concluding that, because the Trust contains no express provision for removing the successor independent trustee, the Settlor's intent therefore must have been for the corporate trustee removal provisions to apply to the successor independent trustee.
13. The Order is in error in that it reads into the Trust language several terms that are not expressly stated therein.
14. The Order is in error in that it reaches conclusions regarding the Settlor's "intent" from the unambiguous Trust language, while ignoring undisputed evidence that the Settlor took actions indicating that she is not incapacitated, despite the Georgia order, and is therefore capable of giving testimony regarding her actual intent.

**WHEREFORE**, in light of the foregoing, Defendant Douglas S. Delaney prays that this Court reconsider, alter and/or amend its Order dated April 28, 2015, taking into account the foregoing, and reverse its decision to grant partial summary judgment to the Plaintiffs, and award Delaney any such other and further relief as this Court deems just and proper.

Respectfully submitted,

**BOLCHOZ LAW FIRM, PA**



By: \_\_\_\_\_

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Bluffton, South Carolina 29910

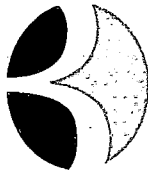
(843) 836-3033

Attorney for Defendant Douglas S. Delaney

Bluffton, South Carolina

May 11, 2015

\\Seanbolchoz-p\WD to G Clients\Delaney - 2716\John & Marilyn W. Bunn CRT - 11\motion - to reconsider - rev.wpd



**BOLCHOZ**  
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September 1, 2015

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SEP 03 2015  
SC Court of Appeals

South Carolina Court of Appeals  
Attention: Elizabeth Carter  
Post Office Box 11629  
Columbia, SC 29211

**RE: In Re: John M. Bunn and Marilyn W. Bunn Charitable Remainder Trust Under Agreement Dated December 16, 1993; Marilyn W. Bunn, et al. v. Douglas S. Delaney, et al.**  
**Case No. 2014-CP-07-1732**  
**Appellate Case No. 2015-001813**

Dear Ms. Carter:

In response to a letter received from Deputy Clerk V. Claire Allen, dated August 27, 2015, I am enclosing a copy of the Appellant's motion to reconsider, which was previously filed with the Beaufort County Clerk of Court; the motion contains the complete caption for the above-referenced case. Thank you for your assistance and should you need anything further, please let me know.

With kind, personal regards, I am

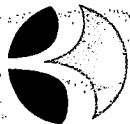
Sincerely,

BOLCHOZ LAW FIRM, PA

Laura F. Obi  
SENDER'S E-MAIL ADDRESS:  
ADMIN@BOLCHOZLAW.COM

SMB/lfo  
Enclosures

cc: Douglas S. Delaney, Esquire (via email only to doug@delaneylawfirm.com)(w/out encl.)  
Robert E. Sumner, IV, Esquire (via email only to sumner@mvalaw.com)(w/out encl.)  
H:\D to G Clients\Delaney - 2716\John & Marilyn W. Bunn CRT - 11\Appeal\Elizabeth Carter ltr - case caption.wpd



**BOLCHOZ**  
**LAW FIRM, PA**

Post Office Box 828, Bluffton, SC 29910

CHARLESTON SC 294

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SC Court of Appeals

South Carolina Court of Appeals  
Attention: Elizabeth Carter  
Post Office Box 11629  
Columbia, SC 29211

29211+1629

