THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM LEXINGTON COUNTY
IN THE COURT OF COMMON PLEAS
THE HONORABLE JAMES O. SPENCE
MASTER IN EQUITY

APPELLATE CASE NO. 2015-002048

Charles E. Strickland, III, Latisha D. Strickland and Justin R. Dillon,

Appellants

v.

Marjorie E. Temple,

Respondent,

RESPONDENT'S REPLY TO APPELLANTS' MEMORANDUM

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Attorneys for Respondent

The Respondent replies to the Appellants' Return Memorandum as follows:

1. Appellants argue that the Respondent should have appealed the Master's Ruling on the timeliness of the Motion filed pursuant to Rule 59(e), SCRCP.

An appeal of this finding was not necessary and therefore the Master's Order is not the law of the case. In his orders, the Master denied all of the relief sought by the Appellants. A party cannot appeal a ruling which is completely favorable to the party even if the ruling is based on some alternative theory to which the party may take exception. The situation is analogous to the Court's ruling in Futch v. McAllister Towing of Georgetown, 335 S.C. 598, 518 S.E.2d 591 (1999). In that case, the Court declined to address a second issue because it ruled that an appellate court need not address remaining issues when disposition of a prior issue is dispositive.

2. The Appellant argues that the clocked order e-mailed by the Master did not constitute notice of entry of the order because no Form 4 was included in the e-mail.

> Appellate courts recognize — or at least they should recognize — an overriding rule of civil procedure which says: whatever doesn't make any difference, doesn't matter. McCall v. Finley, 294 S.C. 1, 362 S.E.2d 26 (Ct.App. 1987)

The order that the Master sent to the parties had the standard clocking by the Clerk of Court. The Courts have repeatedly said that an Order becomes effective (and the Judge loses any power to change it) when the order hits the clock in the Clerk's office.

The presence or absence of the Form 4 in the email makes no difference.

It should be noted that nowhere in the Appellants' return to the Motion does the attorney for the Appellants state that he did not receive the Master's email.

3. The Appellants then argue that the notice received by email does not comply with Rule 5 and Rule 77, SCRCP. The Appellants further argue no service other than by mail or personal delivery is valid.

These arguments were presented to the Court and rejected in Wells Fargo v Fallon Properties. (2015-08-26-01) Rule 77 states that mailing of notice is not necessary if a party

has already received notice. Clearly the Master's email with the clocked order attached was sufficient notice.

The attorneys for the Respondent do not necessarily agree with the logic of the Order in Fallon but unless and until the South Carolina Supreme Court issues a contrary opinion, it is the rule upon which attorneys are to operate.

CONCLUSION

As set forth in the Motion to Dismiss, the appeal should be dismissed as not timely served and filed.

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November 17, 2015

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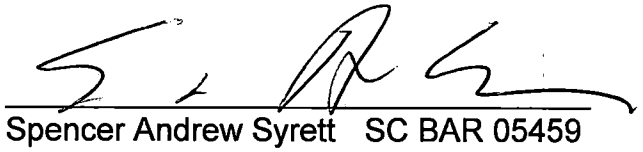
PROOF OF SERVICE

I certify that I have served the Respondent's Reply to Appellants' Memorandum on the Appellants, by depositing a copy of it in the United States Mail, postage prepaid, on November 18, 2015, addressed to the attorney of record, Frederick I. Hall, III, P.O. Box 1898, Lexington, SC, 29071.



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November 18, 2015