

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED

MAR 25 2016

SC SUPREME COURT

Appeal from Richland County
Joseph M. Strickland, Master-In-Equity
Case No.: 2009-CP-40-05911
Case No.: 2010-CP-40-02889

Appellate Case No.: 2016-000341

1634 Main, L.P.

v.

Shirley Hammer, Respondent,

v.

Howard Hammer, Appellant,

and

Howard Hammer, Appellant,

v.

Shirley Hammer, Respondent.

**REQUEST FOR LEAVE OF COURT TO FILE SURREPLY AND SURREPLY
TO RESPONDENT'S MOTION TO DISMISS**

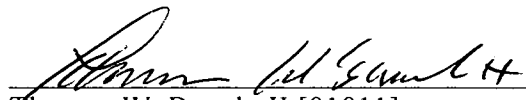
On February 24, 2016, Appellant Howard Hammer timely filed a notice of appeal arising from an order and decisions of the lower court, the last and final decision being rendered on February 27, 2016. Thereafter, on March 4, 2016, Respondent Shirley Hammer moved to dismiss the appeal on the grounds that it was untimely. Mr. Hammer

filed his return to Respondent's motion to dismiss setting forth why the appeal was timely.

Respondent then filed a reply memorandum which does not in any manner address the merits of Respondent's motion, i.e., the timeliness of the appeal. Instead, Respondent strikes out on a new path by presenting a third accounting in which, for the first time, she acknowledges actually owing Mr. Hammer money from the sale of the property, albeit a paltry sum of \$29,000 compared to the approximate \$1,028,000 in receipts to satisfy judgments of \$335,000. In addition, the reply memorandum impermissibly seeks to dismiss the appeal on its merits without affording Mr. Hammer full development of the issues on appeal.

Because Respondent does not address the merits of her motion and presents new matters to this court, we respectfully submit her reply memorandum should be disregarded, and the motion to dismiss should be denied. We further respectfully submit that this Court should address on the merits Mr. Hammer's timely appeal that neither the respondent nor the lower court followed the governing January 21, 2014 order in this case, the relevant parts of which were affirmed by this Court. We respectfully request that this Court address the merits of the issues on appeal after they are fully developed and briefed including the lower court's erroneous approval of \$247,016.50 in new claims unrelated to the supplementary proceedings and \$101,070 in legal fees which were not costs of marketing or sale, and Respondent's failure to account for approximately \$187,000 in income above her reported operating and maintenance expenses. Appellant Howard Hammer is prepared to promptly file his initial brief.

(signature page follows)



Thomas W. Bunch, II [01011]

ROBINSON, MCFADDEN & MOORE, P.C.

Post Office Box 944

Columbia, SC 29202

(803) 779-8900

Attorneys for Appellant Howard Hammer

March 25, 2016

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Richland County
Joseph M. Strickland, Master-In-Equity
Case No.: 2009-CP-40-05911
Case No.: 2010-CP-40-02889

Appellate Case No.: 2016-000341

1634 Main, L.P.

v.

Shirley Hammer, Respondent,

v.

Howard Hammer, Appellant,

and

Howard Hammer, Appellant,

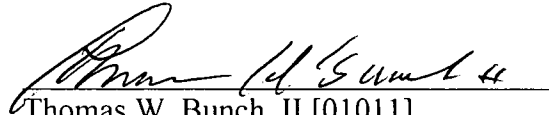
v.

Shirley Hammer, Respondent.

PROOF OF SERVICE

I certify that I have served Appellant's Request for Leave of Court to File Surreply and Surreply to Respondent's Motion to Dismiss upon opposing counsel by depositing a copy of it in the United States Mail, postage prepaid, on **March 25, 2016** addressed as follows:

Desa Ballard (for Shirley Hammer)
Law Offices of Desa Ballard
226 State Street
West Columbia, SC 29169

A handwritten signature in black ink, appearing to read "Thomas W. Bunch, II", is written over a horizontal line.

Thomas W. Bunch, II [01011]
ROBINSON, MCFADDEN & MOORE, P.C.
Post Office Box 944
Columbia, SC 29202
(803) 779-8900

ATTORNEYS FOR APPELLANT