

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM LEE COUNTY
R. Ferrell Cothran, Jr., Circuit Court Judge

Lower Case No. 2009-CP-31-131

RECEIVED
AUG 05 2016
SC Court of Appeals

United States of America, acting through the
Farmers Home Administration, United States
Department of Agriculture..... Plaintiff/Respondent

v.

Maxie Lee Thomas, Jr. a/k/a Maxie Lee
Thomas, deceased, and all other heirs at law
and/or distributes of Maxie Lee Thomas, Jr.
a/k/a Maxie Lee Thomas, deceased, his
heirs, personal representatives, executors,
administrators, successors and assigns, and
any spouses if any he has, and all persons
entitled to claim under or through him or
any of them; all persons unknown claiming
any right, title, estate, interest in or lien upon
the real estate described in the Complaint
herein, any and all persons who may be in
the military service of the United States of
America, being a class designated as John
Doe; and any unknown minors or persons
under a disability being a class designated as
Richard Roe, Laura Ann Toney, and
Brittany Nicole Thomas.....Defendants

Of Whom Laura Ann Toney is..... Appellant

APPELLATE CASE NO. 2015-002380

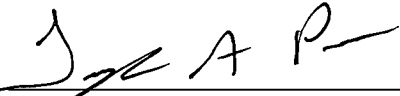
RETURN TO MOTION FOR ABEYANCE

Appellant filed the present Motion for Abeyance (the “Motion”) on July 7, 2016, seeking to stay the Appeal she has filed in this matter. A copy of the Motion is attached as **Exhibit A**. The Motion was not accompanied by a memorandum with citation of authorities in support of the Motion. Pursuant to Rule 240(c), SCACR, “[a]ll motions or petitions filed in an appellate court shall be made in writing, shall state the grounds thereof, and shall comply with the requirements of Rule 267....Each motion or petition shall include the following... (2) A memorandum with citation of authorities in support of the motion.” Rule 240(c)(2), SCACR. Rule 267 further provides that the “failure of the moving party to perform any act required by this Rule may be deemed an abandonment of the motion or petition.” Rule 267(g), SCACR.

Thereafter, on August 3, 2016, Respondent received Appellant’s Response to Court Directive On Motion for Abeyance (“Response”), a copy of which is attached as **Exhibit B**. Based upon her Response Appellant is by her Motion seeking the Court to stay her Appeal pending a resolution of her Objections to Proposed Order to Deny Amended Notice of Exparte Application and Exparte Application to Vacate Order (“Objections to Proposed Order”). However, Respondent did not include a copy of her Objections to Proposed Order. Attached hereto as **Exhibit C** is the Affidavit of Taylor A. Peace, Esquire affirming what was received by Respondent with regard to the Response. Even if the Objections to Proposed Order were included, they do not qualify as a memorandum with citation of authorities in support of the Motion. Accordingly, since neither the Motion, the Response nor the Objections to Proposed Order contains a memorandum with citation of authorities, Appellant’s Motion should be denied for failure to comply with Rule 240(c)(2), SCACR.

For the reasons set forth above, Appellant’s Motion should be denied and the Appeal should proceed. In the alternative, Respondent should be given time to further respond in the event Appellant provides the required memorandum.

**TYLER, JACKSON, PEACE
& SILVER, LLC**

By: _____

TAYLOR A. PEACE, ESQ.

DONALD W. TYLER, ESQ.

1331 Elmwood Avenue, Suite 300

Post Office Box 11656

Columbia, South Carolina 29211-1656

(803) 779-4997

*Attorneys for Respondent United States of
America, acting through the Farmers Home
Administration, United States Department
of Agriculture*

EXHIBIT A

8

THE STATE OF SOUTH CAROLINA
IN THE COURT COMMON PLEAS

APPEAL FROM LEE COUNTY
Common Pleas Courthouse

R. Ferrell Cothran, Jr., Circuit Judge

Case Number: **CASE NO: 3:13-CV-03481**

United States of America, acting
through the Farmers Home Administration, United States
Department of Agriculture.....**Respondent,**

v.

Maxie Lee Thomas, Jr. a/k/a Maxie Lee
Thomas, deceased, and all other heirs at
Law and/or distributees of Maxie Lee
Thomas, deceased, his heirs, Personal
Representatives, executors,
Administrators, successors and assigns
And spouses if any he has and all
Person entitled to claim under or
Through him or any of them; all persons
Unknown claiming any right, title
Estate, interest in or lien upon the real
Estate described in the complaint
Herein; also any persons who may be in
The military service of the United States
Of America, being a class designated as
John Doe; and any unknown minors or
Persons under a disability being a class
Designated as Richard Doe, Laura Ann
Toney, and Brittany Nicole Thomas, Defendants,

Of Whom Laura Ann Toney is the **Appellant.**

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SC Court of Appeals

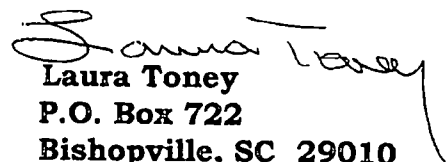
MOTION FOR AN ABEYANCE

The Appellant, Laura Toney, respectfully requests that this case is held in abeyance for the following:

- 1. There are Motions filed in the lower court that have not been disposed of that are related to this case.**
- 2. There are other issues in the lower court that need to be addressed for the lower court to address before this appeal can be addressed properly by the South Carolina Court of Appeals.**

For the above reasons, the Appellant respectfully requests that this Appeal is held in abeyance. The Appellant will notify the court when the Motions have been ruled on.

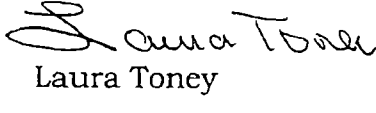
July 7, 2016


Laura Toney
P.O. Box 722
Bishopville, SC 29010
(803) 459-6006

CERTIFICATE OF SERVICE

The Appellant, Laura Toney, certifies that she mailed a copy of the Motion for An Abeyance via United States Postal Service on July 7, 2016, addressed as follows:

Tyler, Cassell, Jackson, Peace & Silver L.L.P.
P.O. Box 11656
1331 Elmwood Avenue, Suite 300
Columbia, SC 29211


Laura Toney

P.O. Box 722

Bishopville, SC 29010

RECEIVED

JUL 07 2016

SC Court of Appeals

EXHIBIT B

APPEAL FROM LEE COUNTY
Common Pleas Courthouse

R. Ferrell Cothran, Jr., Circuit Judge

Case Number: CASE NO: 3:13-CV-03481

United States of America, acting
through the Farmers Home Administration, United States
Department of Agriculture.....Respondent,

V.

Maxie Lee Thomas, Jr. a/k/a Maxie Lee
Thomas, deceased, and all other heirs at
Law and/or distributes of Maxie Lee
Thomas, deceased, his heirs, Personal
Representatives, executors,
Administrators, successors and assigns
And spouses if any he has and all
Person entitled to claim under or
Through him or any of them; all persons
Unknown claiming any right, title
Estate, interest in or lien upon the real
Estate described in the complaint
Herein; also any persons who may be in
The military service of the United States
Of America, being a class designated as
John Doe; and any unknown minors or
Persons under a disability being a class
Designated as Richard Doe, Laura Ann
Toney, and Brittany Nicole Thomas, Defendants,

Of Whom Laura Ann Toney is the Appellant.

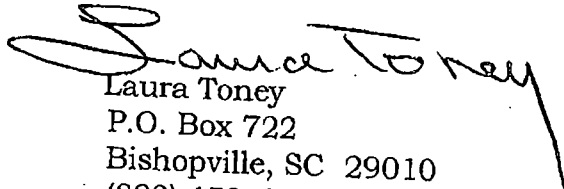
RESPONSE TO COURT DIRECTIVE ON MOTION FOR AN ABEYANCE

The Appellant respectfully requests that the above case is held in abeyance
until the following Motions are disposed of in State Court. The Motions are
"Objections to Proposed Order To Deny Amended Notice of Exparte Application and
Exparte Application to Vacate Order." The document is enclosed with this request.

This Motion is included in the Appeal, but has not been ruled on in State Court.

For the above reason, the Appellant is respectfully requesting that the case is held in abeyance. The Appellant will notify the Court when the Motion is ruled on in State Court.

August 2, 2016


Laura Toney
P.O. Box 722
Bishopville, SC 29010
(803) 459-6006

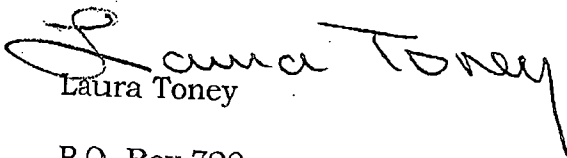
CC: Tyler, Cassell, Jackson, Peace & Silver L.L.P.
P.O. Box 11656
1331 Elmwood Avenue, Suite 300
Columbia, SC 29211

Enclosure: Motion filed in State Court

CERTIFICATE OF SERVICE

The Appellant, Laura Toney, certifies that she mailed a copy of the **RESPONSE TO COURT DIRECTIVE ON MOTION FOR AN ABEYANCE** via United States Postal Service on August 2, 2016, addressed as follows:

Tyler, Cassell, Jackson, Peace & Silver L.L.P.
P.O. Box 11656
1331 Elmwood Avenue, Suite 300
Columbia, SC 29211


Laura Toney

P.O. Box 722

Bishopville, SC 29010

EXHIBIT C

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM LEE COUNTY
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Lower Case No. 2009-CP-31-131

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Thomas, deceased, and all other heirs at law
and/or distributes of Maxie Lee Thomas, Jr.
a/k/a Maxie Lee Thomas, deceased, his
heirs, personal representatives, executors,
administrators, successors and assigns, and
any spouses if any he has, and all persons
entitled to claim under or through him or
any of them; all persons unknown claiming
any right, title, estate, interest in or lien upon
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the military service of the United States of
America, being a class designated as John
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under a disability being a class designated as
Richard Roe, Laura Ann Toney, and
Brittany Nicole Thomas.....Defendants

Of Whom Laura Ann Toney is..... Appellant

APPELLATE CASE NO. 2015-002380


AFFIDAVIT OF TAYLOR A. PEACE, ESQUIRE

PERSONALLY APPEARED before me Taylor A. Peace, Esquire who upon being duly sworn, deposes and states as follows:

1. I am over the age of eighteen and have personal knowledge of the facts contained herein.
2. On or about July 7, 2016, I received a Motion for Abeyance filed by Appellant, a copy of which is attached hereto as **Exhibit A**.
3. Thereafter, I received a letter from the Clerk of Court for the South Carolina Court of Appeal requesting that Appellant deliver a memorandum that specifically identifies the motions and other issues referred to in the Motion for Abeyance. A copy of the letter is attached hereto as **Exhibit B**.
4. On August 3, 2016, I received, on behalf of Respondent, a copy of the Response to Court Directive on Motion for an Abeyance delivered by Appellant. A copy of the Response is attached hereto as **Exhibit C**.
5. The Response refers to a document titled Objections to Proposed Order to Deny Amended Notice of Exparte Application and Exparte Application to Vacate Order (“Objections to Proposed Order”).
6. The Response states that the Objections to Proposed Order is enclosed; however, I received no Objections to Proposed Order.
7. I am informed and believe the Objections to Proposed Order was not delivered to me, and I am also informed and believe that it was not delivered to the Court of Appeals for filing.

FURTHER AFFIANT SAYETH NOT.

August 5th, 2016
Columbia, South Carolina


Taylor A. Peace, SC Bar # 100206
Tyler, Cassell, Jackson, Peace & Silver, LLC
1331 Elmwood Avenue, Suite 300
P.O. Box 11656 (29211)

Columbia, South Carolina 29201
*Attorneys for Respondent United States of
America, acting through the Farmers Home
Administration, United States Department
of Agriculture*

SWORN before me this 5th
Day of August, 2016

Rhonda Demise Zaxwell (h.s.)
Notary Public for South Carolina
My Commission Expires: October 17, 2019

EXHIBIT A

80155

THE STATE OF SOUTH CAROLINA
IN THE COURT COMMON PLEAS

APPEAL FROM LEE COUNTY
Common Pleas Courthouse

R. Ferrell Cothran, Jr., Circuit Judge

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Thomas, deceased, and all other heirs at
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Thomas, deceased, his heirs, Personal
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Administrators, successors and assigns
And spouses if any he has and all
Person entitled to claim under or
Through him or any of them; all persons
Unknown claiming any right, title
Estate, interest in or lien upon the real
Estate described in the complaint
Herein; also any persons who may be in
The military service of the United States
Of America, being a class designated as
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Of Whom Laura Ann Toney is the **Appellant.**

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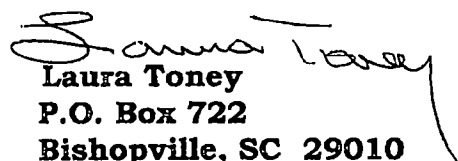
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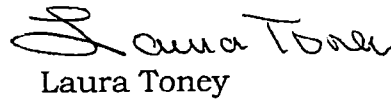
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Laura Toney
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Columbia, SC 29211


Laura Toney

P.O. Box 722

Bishopville, SC 29010

RECEIVED

JUL 07 2016

SC Court of Appeals

EXHIBIT B



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

July 26, 2016

Laura Toney
PO Box 722
Bishopville SC 29010

Re: USA v. Maxie Lee Thomas (Laura Toney)
Appellate Case No. 2015-002380

Dear Ms. Toney:

The Court received your motion to hold the appeal in abeyance pending action in the circuit court. Within ten days you are requested to serve and file a memorandum that specifically identifies the motions and other issues that you refer to in your motion. Please attach a copy of the motions to your memorandum.

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: Taylor Anthony Peace, Esquire

EXHIBIT C

**APPEAL FROM LEE COUNTY
Common Pleas Courthouse**

R. Ferrell Cothran, Jr., Circuit Judge

Case Number: CASE NO: 3:13-CV-03481

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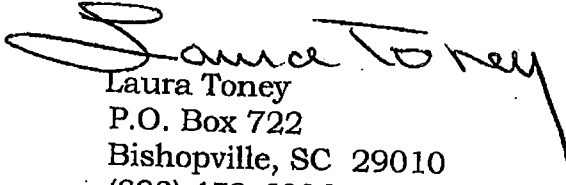
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August 2, 2016


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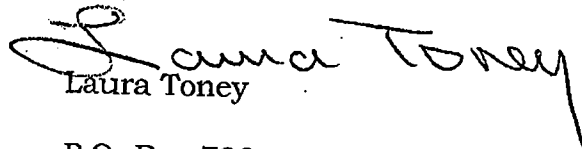
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Enclosure: Motion filed in State Court

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Columbia, SC 29211


Laura Toney

P.O. Box 722

Bishopville, SC 29010

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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Doe; and any unknown minors or persons
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Richard Roe, Laura Ann Toney, and
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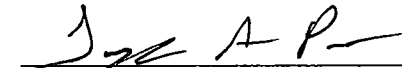
Of Whom Laura Ann Toney is..... Appellant

APPELLATE CASE NO. 2015-002380

PROOF OF SERVICE

I certify that I have served the **Return to Motion for Abeyance** upon Appellant, by depositing a copy of the same in the United States Mail, postage prepaid, on August 5th, 2016, upon Appellant Laura Ann Toney, addressed to P.O. Box 722, Bishopville, South Carolina 29010.

August 5th, 2016


Taylor A. Peace, SC Bar # 100206
Donald W. Tyler, SC Bar # 5664
Tyler, Cassell, Jackson, Peace & Silver, LLC
1331 Elmwood Avenue, Suite 300
P.O. Box 11656 (29211)
Columbia, South Carolina 29201
*Attorneys for Respondent United States of
America, acting through the Farmers Home
Administration, United States Department
of Agriculture*

TYLER, JACKSON, PEACE & SILVER, LLC

ATTORNEYS AND COUNSELORS AT LAW
SUITE 300
1331 ELMWOOD AVENUE
COLUMBIA, SOUTH CAROLINA 29201

DONALD W. TYLER
THOMAS B. JACKSON, III
M. ALAN PEACE
JEFFREY L. SILVER
TAYLOR A. PEACE

MAILING ADDRESS:
POST OFFICE BOX 11656
COLUMBIA, SOUTH CAROLINA 29211-1656
TELEPHONE (803) 779-4997
TELECOPIER (803) 733-2712
TELECOPIER (803) 765-2468

August 5, 2016

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
1015 Sumter Street
Columbia, South Carolina 29201

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AUG 05 2016
SC Court of Appeals

RE: United States of America, acting through the Farmers Home Administration,
United States Department of Agriculture v. Maxie Lee Thomas, Jr., et al.
Of Whom Laura Ann Toney is Appellant
Appellate Case No. 2015-002380
Our File No.: 2518.23031/DWT

Dear Ms. Kitchings:

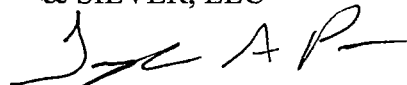
With regard to the above referenced matter, enclosed please find the original and one (1) copy each of the **Return to Motion for Abeyance**, along with a **Proof of Service** of same. Please file the original with the Court and return a clocked copy to me in the enclosed self-addressed return envelope.

By copy of this letter, I am herewith serving the above documents on Appellant Laura Ann Toney.

If you have any questions or need anything further in this regard, please do not hesitate to contact us at any time.

Sincerely,

TYLER, JACKSON, PEACE,
& SILVER, LLC



Donald W. Tyler
Taylor A. Peace

TAP/rdf
Enclosures

cc: Laura Ann Toney, Appellant