THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

The Honorable G. Thomas Cooper, Jr., Circuit Court Judge

Case No. 2014-CP-40-0313

Appellate Case No. 2016-000192

Raymond G. Farmer, as Director of the South Carolina Department of Insurance, ... Petitioner,

v.

CAGC Insurance Company, In Liquidation, ... Respondent.

South Carolina Property and Casualty Insurance Guaranty Association, ... Appellant,

v.

CAGC Insurance Company, In Liquidation; Raymond G. Farmer, in his capacity as Ancillary Receiver of CAGC Insurance Company, in Liquidation; and CompTrustAGC of South Carolina a/k/a CompTrustAGC of South Carolina, Inc., ... Respondents.

FINALY REPLY BRIEF OF APPELLANT

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I. The circuit court lacked authority to reverse a prior circuit court order.

CompTrust fails to substantively address the Association's argument that the trial court improperly reversed the prior order of another circuit court judge. CompTrust asserts the prior judge's ruling that CompTrust should be a party was not appealable and, therefore, could not be the law of the case, which misses the point of the issue. (Respondent's Brief at p. 8.)[1]

A circuit court judge does not have the power to set aside another circuit court judge's order. *Cook v. Taylor*, 272 S.C. 536, 252 S.E.2d 923 (1979) (*citing Steele v. Charlotte, C&A R. Co.*, 14 S.C. 324 (1879); *Cudd v. Williams*, 39 S.C. 452, 18 S.E.3 (1893); *State v. Harrelson*, 211 S.C. 11, 43 S.E.2d 593 (1947); *Dukes & Dukes v. Hygrade Food Products Corp.*, 236 S.C. 69, 113 S.E.2d 254 (1960); *Ex Parte State*, 263 S.C. 363, 210 S.E.2d 600 (1974)). Here, the second circuit court's Order explicitly overrules the prior order of the first judge. The second circuit court held the Association's "Petition to intervene may have properly been granted, [but] its concurrent motion to add an extra, non-existent entity as a party to this case was not." (9/30/15 Order at p. 14; R. 22.) Since the second circuit judge cannot overrule the prior judge's order, the ruling on appeal was in error, and CompTrust should be reinstated as a party. Only the first judge can alter the prior ruling that CompTrust should be a party. *See Murphy v. Murphy*, 269 S.C. 101, 105, 236 S.E.2d 417, 418 (1977) ("It is manifest that [a second circuit court judge] had no authority, in effect, to reverse the previous order of [another circuit court judge] on the same

[1] CompTrust also asserts the Association's argument is not preserved as the Association did not raise this argument until the Motion to Reconsider. Until the Order improperly overruling Judge Benjamin's order was issued, the Association could not raise this argument. Accordingly, the Association preserved this argument by making it at the earliest available opportunity. *See e.g., State v. Sullivan*, 310 S.C. 311, 314, 426 S.E.2d 766, 768 (1993) (To preserve an issue for appellate review, the issue must be raised to the trial court at the earliest opportunity.). In any event, CompTrust was a proper party and should not be dismissed which preserves and raises this issue.

facts and allegations. The actions taken by [the second circuit court judge] were without authority of law and of no effect.").

II. CompTrust fails to address the merits of the Association's arguments in more than a conclusory manner, thereby leaving the arguments unchallenged under Rule 208(b), SCACR.

CompTrust's brief fails to address the merits of the Association's arguments substantively. CompTrust's brief wholly fails to refute, address, or even mention the merits of the Association's arguments in violation of Rule 208(b), SCACR. CompTrust has, therefore, conceded these issues on appeal. Rule 208(b), SCACR.

Consistent with the Rules, our Supreme Court has established that the failure of a respondent to make any argument on an issue in its brief renders the issue abandoned. *See, Video Gaming Consultants, Inc. v. S.C. Dept. of Rev.*, 342 S.C. 34, 42 n.7, 535 S.E.2d 642, 647 n. 7 (2000) (holding that the failure of the respondent in the appeal to argue an issue in its brief established the respondent abandoned the issue and, therefore, the court was precluded from considering it on appeal). Likewise, the failure of the respondent to cite authority in support of an argument also constitutes abandonment of an argument. *SunTrust Bank v. Bryant*, 392 S.C. 264 n.1, 268, 708 S.E.2d 821, 823 n.1 (Ct. App. 2011) ("[The Respondent] failed to cite any authority to support this argument. Therefore, [the Respondent] abandoned this issue on appeal, and we decline to consider the argument."). Even if a respondent cites authority, a reference to supporting authority without any discussion of its applicability is conclusory and constitutes an abandonment of the respondent's reliance on those authorities. *Civil Action No.: #2001-CP-32-0711 Carolina Water Serv., Inc. v. Lexington Cty. Joint Mun. Water & Sewer Comm'n*, 367 S.C. 141, 149, 625 S.E.2d 227, 231 (Ct. App. 2006), *rev'd on other grounds, Carolina Water Serv., Inc. v. Lexington Cty. Joint Mun. Water & Sewer Comm'n*, 373 S.C. 96, 644 S.E.2d 681 (2007)

(holding references by the respondent to supporting authority without any discussion of its applicability is conclusory and constitutes an abandonment of the respondent's reliance on those authorities).

The argument by CompTrust regarding the Order improperly reversing another trial judge consists of only two sentences and the citation to only one case with no explanation of how the cited case applies. (Respondent's Brief at p. 12.) The remainder of CompTrust's arguments on the merits consists of two and a half pages of text with citations to three different authorities and no case law. (Respondent's Brief at p. 12-14.) CompTrust's arguments on the merits of the Association's arguments *directly* refute only one other argument advanced by the Association: CompTrust argues the statute of limitations bars the Association's action.[2] (*Id.*) Like all of CompTrust's arguments on the merits of the Association's appeal, CompTrust fails to cite any case law to support this argument. (*Id.*) The decision of CompTrust not to address the merits of the remaining arguments in its Respondent's brief renders those issues abandoned and precludes this Court from considering a contrary position. Additionally, the few arguments CompTrust actually puts forth are conclusory. Thus, by Rule, CompTrust has conceded the Association is correct on the merits, this Court should reverse the Order, and reinstate CompTrust as a party to the declaratory judgment action consistent with the prior circuit court's order making CompTrust a party.

III. The Association is entitled to the declaration sought under the Declaratory Judgment Act.

The Declaratory Judgment Act ("DJA"), in S.C. Code Ann. § 15-53-80, mandates that "all persons shall be made parties who have or claim any interest which would be affected by the declaration." Further addressing the rights of those affected by a declaration, the DJA requires

[2] The Association maintains this action was brought within the applicable statute of limitations.

that "no declaration shall prejudice the rights of persons not parties to the proceeding." (*Id.*) The Association seeks a declaration that it is not obligated to pay the self-insured claims brought under and pursuant to any Self-Insured Coverage issued by CompTrust. (Compl. ¶¶ 19-35 and prayer for relief.) This declaration will affect CompTrust. If the Association is not liable for these claims, CompTrust and its members may become liable for the costs of these claims pursuant to the Worker's Compensation Act, which requires all employers to "secure the payment of compensation to his employees in the manner provided in this chapter." S.C. Code Ann. § 42-5-10. CompTrust is, therefore, a proper party under the plain language of the DJA.

A. Dissolution does not protect CompTrust from liability.

Despite CompTrust's conclusory arguments to the contrary, CompTrust's potential liability is not limited by CompTrust's dissolution. CompTrust does not cite a single authority that states an unincorporated business trust is no longer subject to suit after dissolution. (Respondent's Brief at p. 13-14.) Rather, CompTrust asserts the fact that it existed prior to the passage of South Carolina's Business Corporation Act of 1988 means that CompTrust, as an unincorporated business trust, is not subject to the provisions of that Act. (*Id.*) The Business Corporation Act of 1988, however, applies to then-existing entities. *See* S.C. Code Ann. § 33-1-102; *see also* S.C. Reporter's Cmt. to S.C. Code Ann. § 33-1-102 ("[T]here would not seem to be any implication that the Legislature no longer has the constitutional right to adopt amended statutes that may modify existing rights, duties, and responsibilities of corporations, shareholders, directors, and officers. . . . Since the corporate code, even before this constitutional amendment, always has mentioned the Legislature's reserved power to amend, there should be no question that this reserved power is an existing provision of all corporate charters adopted since 1841, as if it were written therein."); S.C. Code Ann. § 33-20-101 ("This title applies to all

domestic corporations in existence on its effective date that were incorporated under any general statute of this State providing for incorporation of corporations for profit if power to amend or repeal the statute under which the corporation was incorporated was reserved."); S.C. Reporter's Cmt. to S.C. Code Ann. § 33-20-101 ("As noted in the Official Comment, this act will apply to all South Carolina for-profit corporations since the corporate statutes of this State, from earliest times, have included the powers to amend or repeal. . . . this act [is] universally applicable to all existing corporations . . . in keeping with the prior major revisions of the South Carolina law, which likewise applied the revisions to existing corporations. . . . the right of the Legislature to adopt new provisions which are binding on existing corporations has been a constitutional provision since the Constitution of 1868 (statutes reciting this right have existed since 1841).").

South Carolina law does not allow legally-created entities to escape liability simply by ceasing operations. *See* S.C. Code § 33-14-105(c)(5) ("Dissolution of a corporation does not . . . prevent commencement of a proceeding by or against the corporation in its corporate name."); S.C. Code Ann. § 33-14-105, Official Comments (stating that the statute "expressly reserves all . . . common law attributes of dissolution and makes clear that the rights, powers, and duties of shareholders, the directors, and the registered agent are not affected by dissolution and that suits by or against the corporation are not affected in any way"); S.C. Code § 15-5-90 ("Causes of action for and in respect to any and all injuries . . . shall survive both to and against . . . the legal representative of . . . a defunct or insolvent corporation."); *Broom v. Marshall*, 284 S.C. 530, 535, 328 S.E.2d 639, 643 (Ct. App. 1984) (recognizing the ability to enforce obligations binding a partnership even after the partnership has dissolved); *Morris v. Tidewater Land & Timber, Inc.*, 388 S.C. 317, 325, 696 S.E.2d 599, 603 (Ct. App. 2010) (evaluating former shareholders' potential recovery available from a dissolved entity). Otherwise, any legal entity facing

substantial liability would simply end its operations and absolve itself from liability. Legal entities cannot shield themselves from liability in such a manner under South Carolina law.

Indeed, CompTrust recognized it remains subject to suit in its own Articles of Dissolution:

> [T]he Trustees now desire to terminate and dissolve CompTrustAGC-SC by entering into these Articles of Dissolution (hereinafter "Articles") and to hold the Trustees harmless **for any claims, liabilities, or obligations of CompTrustAGC-SC that may arise following the termination and dissolution of CompTrustAGC-SC**.
>
> . . .
>
> The Trustees are hereby indemnified against and held harmless **for any alleged debts, liabilities or obligations asserted against CompTrustAGC-SC after the effective date of these Articles**. . .

(Motion to Quash at Ex. B pp. 1-2; R. 278-279.) (emphasis added). Thus, the Articles of Dissolution acknowledge that CompTrust continues to exist for certain purposes after its dissolution, that CompTrust is not immune from suit despite its dissolution, and that CompTrust may have liabilities or obligations arising after dissolution for which it may be responsible and to which it must respond in court. Accordingly, this Court should reverse the Order and reinstate CompTrust as a party to the declaratory judgment action.

B. CompTrust's declaration of trust does not insulate it from all liability.

CompTrust argues that its declaration of trust limits the individual liability of its shareholders and trustees. (Respondent's Brief at p. 14.) CompTrust's declaration of trust does not absolve CompTrust or its members from all liability. It is true that a declaration of trust may provide that no personal liability will attach to the individual shareholders or trustees of the trust. S.C. Code Ann. § 33-53-40. However, CompTrust's declaration of trust does not purport to absolve its shareholders and trustees from any and all liability. Rather, the declaration only

absolves trustees, not shareholders, from liability "for any action taken pursuant to this Trust Agreement in good faith or for an omission, except gross negligence, or for any act of omission or commission by any other Trustee or by an employee of Trustee." (Declaration of Trust, Article VI, Section 8; R. 198.) By the terms of the declaration itself, CompTrust's shareholders are not absolved from liability, and its trustees may be absolved from liability only when specific conditions are met. Nothing in the record indicates these conditions have been satisfied. Additionally, CompTrust itself is not immune from liability. *See* S.C. Code Ann. § 33-53-40 ("A business trust may sue or be sued in the name and style by which it conducts business without naming the individual shareholders therein, and the liability of such business trust shall extend to the whole of the trust estate, or so much thereof as may be necessary to discharge such liability"); *see also supra*, Part IV.A.[3] Thus, any argument by CompTrust that it or its shareholders or trustees are somehow immune from the Association's declaratory judgment action fails.

C. The declaratory judgment action will determine if CompTrust properly transferred claims to CACG.

CompTrust argues that the Self-Insurance Loss Portfolio Transfer Assumption Agreement (the "LPT Agreement") between CompTrust and CAGC Insurance Company ("CAGC") transferred all liability for the claims in question to CAGC. (Respondent's Brief at p.

[3] Moreover, even when shareholders and other individuals are insulated from liability through the creation of a legal entity, South Carolina allows plaintiffs to hold those individuals liable for the obligations of legal entities when the legal entity is used to protect fraud, justify wrong, or defeat public policy. *See e.g.*, *Drury Dev. Corp. v. Found. Ins. Co.*, 380 S.C. 97, 101, 668 S.E.2d 798, 800 (2008) ("[W]when the notion of legal entity is used to protect fraud, justify wrong, or defeat public policy, the law will regard the corporation as an association of persons."); *Cumberland Wood Products, Inc. v. Bennett*, 308 S.C. 268, 272, 417 S.E.2d 617, 619 (Ct. App. 1992) (enumerating factors considered when a court will disregard a legal entity to hold individuals liable for the obligation of that legal entity).

13.) Not only does CompTrust fail to cite a single legal authority to support this assertion, but this argument ignores that the purpose of the declaratory judgment action is to determine whether the claims were properly transferred to CAGC so as to make the Association responsible for paying the claims issued by CompTrust pursuant to the South Carolina Property and Casualty Insurance Guaranty Association Act (the "Guaranty Act"), since CompTrust is not a member. (Compl. ¶¶ 30-35, R. 100-101; Hearing Trans. 13:24–15:22; R. 439-441.) CompTrust cites to Workers' Compensation documents and a letter from the North Carolina Department of Insurance to bolster their argument. (Respondent's Brief at p. 13.) Neither is binding legal authority, and neither speaks to the issue before this Court. Contrary to CompTrust's assertions, the NCDOI letter does not state the LPT Agreement operates to make CAGC the party liable *ab initio* for any causes of action arising from the transferred claims so as to transform the transferred claims into covered claims. (NCDOI Letter; R. 357.) Rather, the letter states CAGC, based on a review of the LPT Agreement, "will assume outstanding liability obligations" of CompTrust. (*Id.*) Just like CompTrust's brief, the letter does not cite any legal authority for this assertion. (*Id.*) Additionally, there is a difference in CAGC assuming liability and the Association assuming liability to pay claims transferred to CAGC. This declaratory judgment action, not a letter from the North Carolina Department of Insurance, will determine whether the LPT Agreement transformed the subject claims into covered claims. In order to make that determination, CompTrust must be a party to this action.

Under the Guaranty Act, the Association is obligated to pay only "covered claims" pursuant to S.C. Code § 38-31-60. To be a covered claim, the claim must fall under an insurance policy issued by a member insurer that has been declared insolvent, among other requirements. *See* S.C. Code § 38-31-20(8). The Guaranty Act also expressly and unambiguously excludes

from the Association's obligation any insurance written to retroactively cover known losses existing at the time insurance is bound. S.C. Code Ann. § 38-31-30(6).

CompTrust, like all group self-insurers, is not a licensed insurer and is not a member insurer. *See* S.C. Code § 38-31-20(11). Likewise, CompTrust did not issue any coverage pursuant to a policy which falls within the Guaranty Act, and the Guaranty Act's protection is not afforded to any self-insured claims. The Association is not responsible for any claims made pursuant to the Self-Insured Coverage. Non-covered claims cannot attain covered status by virtue of a transfer to an entity without resources to cover the claims. The declaratory judgment action will determine if the transfer of claims from CompTrust to CAGC, pursuant to the LPT Agreement, transformed the claims into covered claims. If the claims are found to not be covered claims, then the Association is not liable. The determination of whether the claims are covered requires CompTrust to be a party to this action. The Order therefore should be reversed and CompTrust reinstated as a party to this matter.[4]

IV. The trial court had a copy of the Rule 59(e) motion and expressly ruled upon it but even if CompTrust were correct that the trial court did not have the motion, the Court is not divested of jurisdiction—CompTrust's contentions are simply wrong.

The Association properly appealed from the trial court's order denying its Rule 59(e) motion and unequivocally stated in its initial brief the motion was timely. Thus, it has properly and timely preserved its challenge to the order denying the Rule 59(e) motion.

Nonetheless, CompTrust tries to convince this Court to ignore the merits of the appeal by

[4] Respondent Raymond G. Farmer, as the Ancillary Receiver of CAGC ("Farmer"), asserts that he "takes no position" on any of the four arguments the Association put forth in its initial brief. (Farmer's Initial Brief at p. 3.) Farmer further asserts the issue of whether the Association is or is not responsible for paying the transferred claims is not at issue in this appeal. (*Id.* at p. 4.) However, as outlined above, the declaratory judgment will determine that very issue and the consequences of that determination for CompTrust and its members are substantial. Thus, regardless of whether the ultimate issue in this matter is currently before the appellate court, CompTrust is a necessary party to the declaratory judgment action.

relying on an incorrect factual statement in the trial court's Order denying the Association's Rule 59(e) Motion. The trial court incorrectly stated that it was not served a copy of the Rule 59(e) Motion as required by Rule 59(g). (1/22/16 Order Denying Intervenor-Petitioner South Carolina Property and Casualty Insurance Guaranty Association's Motion to Reconsider; R. 58.) In essence, CompTrust attempts to convert the trial court's statement that it was not served with a copy of the Rule 59(e) Motion, as a matter of fact, into an unstated, implied legal ruling that the motion was defective. This tactic has already been tried before in prior cases and disallowed by this Court. Thus, the issues are properly preserved and the Court has jurisdiction as shown below.

A. The trial judge had the Rule 59(e) motion and stated he ruled on the motion in his order.

The only record evidence is that the trial court did in fact have a copy of the Rule 59(e) motion. Judge Cooper unequivocally stated he reviewed the parties' submissions and he denied the motion. Had he not had a copy, then he could not have made these statements. The cover letter shows the Rule 59(e) Motion was filed in Richland County. (*Id.*) Judge Cooper is a resident circuit court judge in Richland County. Rules 78 and 79 of the South Carolina Rules of Civil Procedure require the clerk to make the filings part of the record and to maintain public, open records. Thus, the Motion was part of the record and the trial judge was provided a copy. Thus, CompTrust's entire issue preservation contention is wholly without merit.

Further, CompTrust's argument that the trial court's statement that it was not served with a copy of the Rule 59(e) Motion, while wrong, is merely a factual statement and not a basis upon which he denied the motion in any event. It is not incumbent upon the Association to refute every factual statement made by the trial court to preserve legal arguments. A Rule 59(e) Order is a ruling on legal issues; not a making of factual findings. The Court cannot permit such an

improper reading of the Order on the Rule 59(e) Motion. The trial court simply did not conclude that the Rule 59(e) Motion was defective. Such a statement is not in the order or in the record and is not supportable.

The case of *Gallagher v. Evert*, 353 S.C. 59, 577 S.E.2d 217 (Ct. App. 2002), is instructive as there the trial court ruled on the Rule 59(e) motion and this Court held that any lack of service under Rule 59(g) was not fatal to the appeal. In any event, as stated above, the trial court clearly had the motion as it ruled upon it. Just as in *Gallagher*, the trial court addressed the merits of the motion to reconsider. (1/22/16 Order Denying Intervenor-Petitioner South Carolina Property and Casualty Insurance Guaranty Association's Motion to Reconsider; R. 58.) Therefore, even to the extent the trial court's order denying the motion to reconsider is factually accurate with regard to whether a copy was provided to the trial judge, it has absolutely no bearing on the timeliness of this appeal or the Court's jurisdiction. *Gallagher*, 353 S.C. at 63-64, 577 S.E.2d at 219 ("Because the circuit court found it appropriate to hear the matter, we find no error in the circuit court's decision to decide the motion despite Gallagher's failure to comply with Rule 59(g), SCRCP.").

Accordingly, CompTrust's arguments regarding Rule 59(g) do not prevent this Court from entertaining this appeal on the merits. Existing cases, not cited or distinguished at all by CompTrust expressly contradict the issue preservation argument offered by CompTrust. CompTrust has actively attempted to divert the Court from the issues in this case by ignoring existing precedent. The Court should summarily and similarly reject those arguments here too and not permit gamesmanship by a party failing to call to the Court's attention applicable authority on the points it raises.[5]

[5] No motion to argue against precedent has been filed.

B. Assuming, arguendo, the trial court did not have the motion upon which it ruled, it does not nullify the motion.[6]

Noncompliance with Rule 59(g) is not a procedural or jurisdictional bar to this Court hearing the Association's appeal on the merits. CompTrust fails to cite to a single case for the proposition that a purported failure to comply with Rule 59(g) invalidates a Rule 59(e) motion. This is because no such case exists. Instead, case law directly refutes CompTrust's position.[7]

Like *Gallagher v. Evert*, in *Coon v. Coon*, 356 S.C. 342, 588 S.E.2d 624 (Ct. App. 2003), *aff'd as modified*, 364 S.C. 563, 614 S.E.2d 616 (2005), this Court again found that the failure to comply with Rule 59(g)'s requirement to provide the trial judge a copy of the motion to reconsider had no bearing on the appeal. *See Gallagher*, 353 S.C. at 63-64, 577 S.E.2d at 219; *Coon v. Coon*, 356 S.C. at 346, 588 S.E.2d at 626. Directly contrary to CompTrust's argument,

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[6] As an initial matter, CompTrust waived any argument the Rule 59(e) Motion was not served on the trial court judge by not raising it below. *Wilder Corp. v. Wilke*, 330 S.C. 71, 76, 497 S.E.2d 731, 733 (1998) ("It is axiomatic that an issue cannot be raised for the first time on appeal, but must have been raised to and ruled upon by the trial judge to be preserved for appellate review."). Accordingly, CompTrust cannot now attempt to argue that the Association's Motion to Reconsider was somehow defective.

[7] The purpose of Rule 59(g) is not to operate as a procedural bar, rather, it is "to help insure the judge is promptly notified that the motion has been filed." *Gallagher v. Evert*, 353 S.C. 59, 63, 577 S.E.2d 217, 219 (Ct. App. 2002) (quoting Notes to Rule 59(g), SCRCP). Thus, even if CompTrust is correct, Rule 59 is a claims processing rule and is not jurisdictional. *Nat'l Ecological Foundation, et. al. v. Clifford Alexander*, 496 F.3d 466, 474 (6th Cir. 2006) (holding that notice of appeal was timely and the appellate court had jurisdiction despite failure to file Rule 59(e) motion with the ten (10) day time limit imposed by Rule 59 because the time limit in Rule is an affirmative defense "which the party opposing the motion is capable of forfeiting"); *Nadine Chandler Wilburn v. Robinson*, 480 F.3d 1140, 1146-1148 (D.C. Cir. 2007) (holding that an objection to the timeliness of post-trial motion can be waived because the time limit imposed is a claim-processing rule subject to forfeiture); *Akinola v. John Doe*, 165 Fed. Appx. 242, 243 n. 1 (3d Cir. 2006) (unpublished) (noting that the filing of a motion to reconsider after the ten (10) time period following lower court's ruling was waived by the other side's failure to raise an objection); *OneCast Media, Inc.*, 439 F.3d 558, 563 (9th Cir. 2006) (holding the time limit for filing post-trial motions pursuant to Rule 59 of the Federal Rules of Civil Procedure is a non-jurisdictional claim-processing rule). Thus, the timing requirements can be waived or ignored by courts. *See Perry v. Green*, 313 S.C. 250, 256-57, 437 S.E.2d 150, 153-54 (Ct. App. 1993) ("We need not address Green's argument concerning the timeliness of the post-trial motions because it is moot in light of the trial court's hearing of and ruling on these motions on their merits.").

this Court further held that noncompliance with Rule 59(g) does not affect the tolling provision of Rule 203(b)(1) of the South Carolina Appellate Court Rules and the time for filing the notice of appeal did not begin to run until after the circuit court denied the Rule 59(e) motion, expressly rejecting the very argument CompTrust now proffers for the first time in this case. *Gallagher*, 353 S.C. at 63-64, 577 S.E.2d at 220; *Coon*, 356 S.C. at 346, 588 S.E.2d at 626.

Accordingly, the Association had thirty days from the date of the ruling on its Rule 59(e) motion to file its Notice of Appeal. Rule 203(b), SCACR. After the circuit court denied the Rule 59(e) motion on January 26, 2015, only seven days passed before the Association filed its notice of appeal on February 2, 2016. (1/22/16 Order Denying Intervenor-Petitioner South Carolina Property and Casualty Insurance Guaranty Association's Motion to Reconsider; Notice of Appeal; R. 58 and 483.) Thus, the Association's appeal is proper and timely.

CONCLUSION

For the foregoing reasons, the Association respectfully requests this Court reverse the circuit court's dismissal of CompTrust and allow this declaratory judgment action to proceed with CompTrust as a party.

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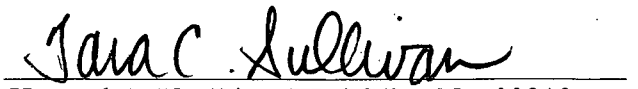
By: 

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Respondents.

CERTIFICATE OF SERVICE

I certify that I have served the Final Brief of Appellant, Final Reply Brief of Appellant and the Record on Appeal by depositing a copy of it in the United States Mail, postage prepaid, on August 25, 2016, addressed to the following attorneys:

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August 25, 2016

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SC Court of Appeals
1015 Sumter Street - 5th Floor
Columbia, SC 29201

RE: Raymond G. Farmer, etc. v. CACG Insurance Company in Liquidation
Civil Action No. 2014-CP-40-0313
Appellate Case No. 2016-000192
Our File No. 00163/01649

Dear Ms. Kitchings:

Enclosed please find the original and sixteen copies each of the Final Brief of Appellant, Final Reply Brief of Appellant and the Record on Appeal in regard to the above-referenced matter. We would ask that you file the original of each and return clocked-in copies to us via our courier.

By copy of this letter to counsel of record, we are serving them with a copy of the Final Brief of Appellant, Final Reply Brief of Appellant and the Record on Appeal.

Very truly yours,

Tara C. Sullivan

TCS:ma
Enclosures
Cc: David W. Boone, Esquire
Geoffrey Ross Bonham, Esquire
Michael A. Molony, Esquire
T. Douglas Concannon, Esquire
Russell G. Hines, Esquire