

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

Appeal from Greenwood County
Hon. Curtis Clark, Special Referee
Pursuant to a Final Order issued in 2014-CP-35-10 APR 19 2017

RECEIVED

Appellate Case No. 2016-002549

SC Court of Appeals

Catherine Lyons.....Appellant,

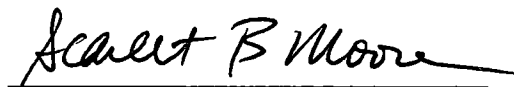
Versus

Gregory Lyons, Maxine B. Parker and Jeanette B. Gilchrist, Defendants,

Of whom Gregory Lyons is the..... Respondent.

**MOTION FOR LEAVE OF COURT TO FILE A MOTION
PURSUANT TO S.C. CODE OF CIVIL PROCEDURE
RULE 60(b)(1) and/or (2) TO SEEK RELIEF
FROM THE FINAL JUDGMENT**

Respectfully Submitted,



Scarlet B. Moore, Esq., #72534
Attorney for Appellant, Catherine Lyons
P.O. Box 17615
Greenville, S.C. 29606
(864) 214-5805
(864) 752-0930 (FAX)

April 17, 2017.

NOW INTO COURT, comes the Appellant Catherine Lyons, who respectfully seeks leave of this Honorable Court, pursuant to Rule 240 of the South Carolina Appellate Court Rules, as well as S.C. Code of Civil Procedure Rule 60(b)(1) and/or (2) et seq, to seek relief from the final judgment in this matter, for the following reasons, to wit:

The Appellant has properly and timely ordered the transcript in the above titled matter, to perfect the Appeal currently pending before the Appellant Court. The record of the trial of this matter was preserved solely by audiotape recordings -- not with a court reporter present at trial. The Appellant has engaged a court reporter, Jill Bishop Edwards, CVR-CM, to transcribe the audio recordings at trial; however, the court reporter has informed the Appellant that the record is incomplete, with multiple blocks of trial testimony missing. Additionally, the court reporter has informed counsel that it was difficult to hear the testimony of the Appellant, as she was soft-spoken. The Appellant is further informed that the audiotape cuts off during the direct examination of multiple witnesses, and resumes during testimony of other witnesses. At this point, the Appellant is not able to create an Initial Brief from the information received from the court reporter.

Additionally, the Appellant will not be able to stipulate to a record of this case, based on the circumstances presented regarding the status of the transcript. The Appellant must seek relief in the trial court, to request relief from judgment and a new trial, due to the fact that the inability of the court reporter to create a valid trial transcript is newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under S.C. Civil Procedure Rule 59(b).

Wherefore, the Appellant prays that this Honorable Court will grant leave to file a motion pursuant to S.C. Code of Civil Procedure Rule 60(b)(1) and/or (2) et seq., with the trial court in this matter, and for further such relief as the Court deems appropriate and necessary.

WHEREFORE, the Appellant Catherine Lyons respectfully prays that this Honorable Court will grant her leave to file a motion pursuant to S.C. Code of Civil Procedure Rule 60(b)(2) et seq., with the trial court in this matter, and for further such relief as the Court deems appropriate and necessary.

Respectfully Submitted,



Scarlet B. Moore, Esq., #72534
Attorney for Appellant, Catherine Lyons
P.O. Box 17615
Greenville, S.C. 29606
(864) 214-5805
(864) 752-0930 (FAX)

April 17, 2017.
Greenville, South Carolina

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

Appeal from Greenwood County
Hon. Curtis Clark, Special Referee
Pursuant to a Final Order issued in 2014-CP-35-10

Appellate Case No. 2016-002549

Catherine Lyons.....Appellant

RECEIVED

Versus

APR 19 2017

Gregory Lyons, Maxine B. Parker and Jeanette B. Gilchrist, Defendants,

SC Court of Appeals

Of whom Gregory Lyons is the..... Respondent.

CERTIFICATE OF SERVICE

I certify that on this date, April 17, 2017, I served a copy of the Appellant's Motion for Leave of Court to File a Motion Pursuant to S.C. Code of Civil Procedure Rule 60(b)(1) and/or (2) to Seek Relief from the Final Judgment, and the Certificate of Service on counsel of record by mailing it to them to their addresses and by depositing it in the U.S. Mail, in an envelope with sufficient postage affixed.



Scarlet B. Moore, #72534
Attorney for Appellant Catherine Lyons
P.O. Box 17615
Greenville, S.C. 29606
(864) 214-5805
(864) 752-0930 (FAX)

April 17, 2017.

SCARLET B. MOORE

Attorney at Law

P.O. BOX 17615
GREENVILLE, SC 29606
(864) 214-5805
(864) 752-0930 (FAX)

April 17, 2017

Jenny Abbott Kitchings
Clerk, The South Carolina Court of Appeals
P.O. Box 11629
Columbia, S.C. 29211

RECEIVED

APR 19 2017

SC Court of Appeals

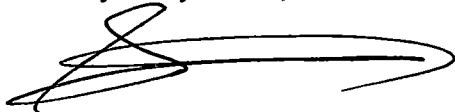
**RE: Catherine Lyons v. Gregory Lyons
Appellate Case No. 2016-002549**

Dear Madam Clerk,

Thank you for your letter of April 7, 2017, regarding the status of the transcript in the above titled matter. Enclosed please find the Appellant's Motion for Leave of Court to File a Motion Pursuant to S.C. Code of Civil Procedure Rule 60(b)(1) and/or (2) to Seek Relief from the Final Judgment, along with a Certificate of Service. The enclosed motion addresses the status of the transcript.

If the Court requires further information, please do not hesitate to contact me.
With kind regards, I remain

Very Truly Yours,



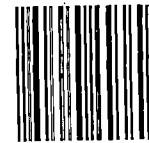
Scarlet B. Moore, Esq.
Counsel for Appellant

SBM/s

Cc: Anne Marie Hempy
Wm. Thurmond Bishop



1000



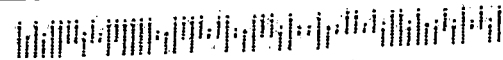
29211

U.S. POSTAGE
PAID
LEXINGTON, SC
29071
APR 17, 17
AMOUNT

\$2.24

R2304M111270-07

Scarlet B. Moore
Attorney at Law
P.O. Box 17615
Greenville, S.C. 29606



RECEIVED

APR 19 2017

SC Court of Appeals

Jenny Abbott Kitchings
Clerk, The South Carolina Court of Appeals
P.O. Box 11629
Columbia, S.C. 29211