

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

JUN 13 2017

APPEAL FROM FLORENCE COUNTY
In the Court of Common Pleas

SC Court of Appeals

The Honorable Craig D. Brown, Presiding Judge

Appellate Case No. 2015-001941

Elizabeth J. Langley.....Appellant,

v.

Wendy J. Lynch, Rebecca M. Lynch, James M. Lynch, II, Donald Jordon, III, Jimmy White and
S. Porter Stewart, II, as Personal Representative of the Estate of James M. Lynch,

Of Whom Wendy J. Lynch is theRespondent.

MOTION TO RECALL REMITTITUR

Appellant, by and through its undersigned counsel, hereby moves for an Order of this Court recalling the remittitur sent on June 12, 2017 for the purpose of allowing consideration of counsel's motion to be relieved (submitted herewith) made pursuant to Rule 264 of the *South Carolina Appellate Court Rules*, and allowing consideration of Appellant's timely-submitted and received *pro se* Petition for Rehearing. A consultation with Respondent's counsel has been initiated.

In support of this motion, Counsel for Appellant would submit the following:

- 1) Counsel was only engaged to file and argue a first level appeal of this matter;
- 2) Upon receipt of the Court's decision in the matter by mail on May 26, 2017, counsel advised Appellant of right to Petition and proposed terms for such further engagement suggesting Appellant meet with counsel the following week;

- 3) On May 26, 2017, Appellant acknowledged receipt of the Court's May 24th decision;
- 4) On June 1, 2017, Counsel had not yet been further engaged and Appellant was advised by Counsel of the need to obtain other Counsel because of scheduling conflicts with the narrowed window of preparation time for the Petition for Rehearing;
- 5) The week of June 5, 2017, prior to June 8, 2017, Appellant consulted with other possible attorneys to prepare the Petition for Rehearing – the undersigned was aware of these consultations and believed such counsel had been engaged on or before June 8, 2017;
- 6) On June 8, 2017, the Appellant, attempting to act *pro se*, submitted a Brief to the Court seeking Rehearing which the Court stamped as received on that date;
- 7) Undersigned counsel did not learn of the *pro se* submission on June 8, 2017 until after it was submitted, and on June 12, 2017, Appellant called and emailed seeking the undersigned's withdrawal from the matter so that her *pro se* Petition might be considered;
- 8) The evening of June 12, 2017, the undersigned drafted a motion to be relieved as requested by Appellant;
- 9) On June 13, 2017 (today), the undersigned was advised by Court staff and by an upload to C-track that remittitur had issued the previous day.

The undersigned believes it in the interest of justice to recall the remittitur so that the previously unknown but timely filed *pro se* Petition for Rehearing might be considered on its own merits.

TURNER PADGET GRAHAM & LANEY, PA

By: J. René Josey
J. René Josey, Esquire S.C. Bar #3230
Post Office Box 5478 (29502)
Florence, South Carolina 29501
(843) 662-9008
(843) 667-0828 fax

I agree and so request:

See attached
Elizabeth J. Langley

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Of Whom Wendy J. Lynch is theRespondent.

PROOF OF SERVICE

I certify this 13th day of June 2017 that I have served copies of the MOTION TO
RECALL REMITTITUR and the MOTION TO BE RELIEVED AS COUNSEL by mailing
same, postage prepaid in the United States mail, addressed to the following:

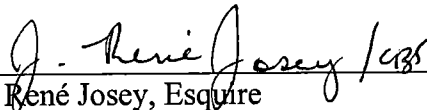
Joseph M. McCulloch, Jr., Esquire
Kathy R. Schillaci, Esquire
Law Offices of Joseph M. McCulloch, Jr.
Post Office Box 11623
Columbia, SC 29211

Elizabeth J. Langley
1225 Edgewood Avenue
Florence, SC 29501

(Signature page to follow.)

TURNER, PADGET, GRAHAM & LANEY, P.A.

June 13, 2017



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June 13, 2017

VIA HAND DELIVERY

The Honorable Jenny Abbott Kitchings, Clerk
South Carolina Court of Appeals
1220 Senate Street
Columbia, SC 29201

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SC Court of Appeals

Re: Elizabeth J. Langley v. Wendy J. Lynch, et al.
Appellate Case No.: 2015-001941
File No.: 13799.101


Dear Ms. Kitchings:

Enclosed please find the originals and seven copies each of the Motion To Recall Remittitur and the Motion To Be Relieved As Counsel regarding the above-referenced matter. Also enclosed are the original and one copy of the Proof of Service and our checks for the filing fees. Please file the original documents and return clocked copies to me via our office courier. Thank you for your assistance with this matter, and please contact me if you have any questions.

With kind regards, I am

Very truly yours,

TURNER, PADGET, GRAHAM & LANEY, P.A.


J. René Josey

CBS/tj

Enclosures

cc: Elizabeth J. Langley
Joseph M. McCulloch, Jr., Esquire
Kathy R. Schillaci, Esquire
(w/enc.)