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THE STATE OF SOUTH CAROLINA
In the Court of Appeals
APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas
Carmen T. Mullen
Circuit Court Judge
Case No. 2014-CP-07-02268
Appellate Case No. 2017-000685

RECEIVED
JUL 24 2017
SC Court of Appeals

BARBARA AIMAR GOODWIN, f/k/a BARBARA A. GILLEY, Appellant,

vs.

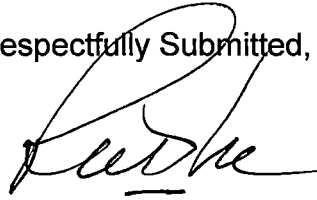
RONALD L. ROSSETTI, Individually, and as Trustee of the RONALD L. ROSSETTI TRUST-1989, LINDA A. ROSSETTI, as Trustee of the RONALD L. ROSSETTI TRUST, the RONALD L. ROSSETTI TRUST, CHRISTOPHER T. GODLEY and JADE GODLEY, Respondents.

NOTICE AND MOTION TO REMAND
The Case to the Court of Common Pleas

The Appellant, by and through her undersigned attorney, pursuant to Rule 240, SCACR, moves the Court of Appeals for an order remanding this case to the Court of Common Pleas for Beaufort County, South Carolina, so that the trial judge can make another decision on the Appellant's Motion for Reconsideration dated February 23, 2017. The trial judge ruled on that motion, without advance notice to the parties or a hearing, by order entered on March 27, 2017 (herein "the Order"), that is, after this case had been appealed. The Appellant is informed and believes that, for that reason, the trial judge may have lacked jurisdiction to enter the Order. In addition, the Order is ambiguous as to what was intended.

This motion is supported by the Affidavit of the Appellant's counsel that is submitted herewith, as well as by the applicable law.

Respectfully Submitted,



By: _____
Robert V. Mathison, Jr.
S.C. Bar No. 3685

Attorney for the Appellant
Barbara Aimar Goodwin

MATHISON & MATHISON
Post Office Box 5271
Hilton Head Island
South Carolina 29938-5271
Telephone: (843) 785-6503
Email: rmathlaw@aol.com

July 21, 2017

Hilton Head Island, South Carolina.

MEMORANDUM

The relief requested in the motion set forth above is authorized by Rule 240, SCACR.

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AFFIDAVIT

(ROBERT V. MATHISON, JR.)

PERSONALLY appeared before me Robert V. Mathison, Jr. (herein sometimes "the Affiant"), who, first being duly sworn, says the following:

1. My name is Robert V. Mathison, Jr., and I am an attorney licensed to practice law by the State of South Carolina.
2. I am the attorney for the Appellant in this matter, and I reside at Hilton Head Island in Beaufort County, South Carolina.
3. I am 70 years of age, of sound mind, and I make this Affidavit of my own personal knowledge.

4. Barbara A. Goodwin, *Pro Se*, on or about February 23, 2017, filed a Motion for Reconsideration in the Court of Common Pleas for Beaufort County in which she sought relief from an order granting summary judgment by the trial judge dated February 9, 2017 (herein "the First Order").

5. Because of uncertainty about the filing and service dates, Barbara A. Goodwin filed a Notice of Appeal from the First Order on or about March 13, 2017, and an Amended Notice of Appeal (to reflect correctly the names and addresses of opposing counsel, as well as the parties represented by each) was subsequently filed on or about April 3, 2017.

6. After the case had been appealed, without notice to the parties and without scheduling a hearing, the trial judge ruled on the Appellant's motion for reconsideration with respect to the First Order by Order entered on March 27, 2017 (herein "the Second Order").

7. As appears from prior correspondence between the Affiant and the Court of Appeals dated April 25, 2017, a copy of which is attached to this Affidavit as Exhibit A and is expressly made a part of this Affidavit, the Second Order is ambiguous with respect to the nature of the decision.

8. Upon information and belief, the Second Order was entered without the trial judge having jurisdiction to do so.

9. In order to preserve her rights, the Appellant, by and through the undersigned attorney, filed another Notice of Appeal from the Second Order on or about April 25, 2017.

10. Upon information and belief, a remand to the trial judge will be required for the reasons specified in paragraphs 6, 7 and 8 above so that a lawful and comprehensible order can be entered to replace the Second Order.


11. As appears from Exhibit A, I have made an effort to reach an accord with opposing counsel about how best to accomplish the objectives set forth in paragraph 10, but no agreement has been achieved.

12. I am a candidate for carotid artery surgery (carotid endarterectomy) and have been for quite some time. During that period, changes have been made to my blood pressure medications, which, in turn, have led to extreme fluctuations in my blood pressure, insomnia and concentration deficits, all of which have inhibited my work productivity.

13. As a consequence of my health issues, as well as my need to discharge a number of work obligations unrelated to this case, I would not have been able to complete the brief, even in the absence of the need for the remand requested.

14. Accordingly, in the event that the Motion for Remand is denied, I request an extension of time to complete the Appellant's Initial Brief and Designation of Matter through and including August 21, 2017.

FURTHER THE AFFIANT SAYETH NOT.


Robert V. Mathison, Jr.

SWORN to and Subscribed before me
on this 21st Day of July, 2017.

 (SEAL)
Notary Public for North Carolina
My Commission Expires: 4/10/2021

Richard Walter Albright
Notary Public
Buncombe County, NC

MATHHISON & MATHISON
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Hilton Head Island, SC 29938
Telephone: (843) 785-6503
Email: rmathlaw@aol.com

April 25, 2017

The Honorable Jenny Abbott Kitchings
Clerk of the South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

Re: Barbara Aimar Goodwin, etc. v. Ronald L. Rossetti, et al.
Case No. 2014-CP-07-02268
Appellate Case No. 2017-000685

Dear Ms. Kitchings:

Enclosed for filing is the original Notice of Appeal from Judge Mullen's Order entered in this case on March 27, 2017. Also enclosed is a copy of the order itself, as well as the original Proof of Service for the Notice of Appeal. Finally, I have enclosed my check in the amount of \$100.00 to pay the filing fee.

Please note that this case is already on appeal and has been assigned the Appellate Case Number set forth above. The current appeal is from an order that may have denied the Appellant's (Plaintiff's below) Motion for Reconsideration of the trial judge's prior order granting summary judgment to the Respondents.

Because an appeal had already been taken from that prior order when the trial judge ruled (without a hearing) on the motion for reconsideration, a remand of this case to the trial court may be required. In addition, though the EFS notice expressly stated that the Appellant's motion had been "denied," the content of the order itself is unclear, which is another reason that a remand would be required.

I have previously requested the consent of my opponents to a motion to remand the case (copy enclosed), but have yet to receive a substantive response.

With kind regards, I am

Sincerely,

Robert V. Mathison, Jr.
S.C. Bar No. 3685

[Continued on Page 2]

EXHIBIT A
(Page 1 of 2 pages)

The Honorable Jenny Abbott Kitchings
April 25, 2017
Page 2

cc: The Honorable Jerri Ann Roseneau
George H. O'Kelley, Jr. Esquire
William A. Bryan, Jr., Esquire
Mrs. Barbara A. Goodwin

EXHIBIT A
(page 2 of 2 pages)

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PROOF OF SERVICE

I, Robert V. Mathison, Jr., hereby certify that, on July 21, 2017, I filed and served by mail the original and copies of the Appellant's Notice and Motion to Extend Time and Notice and Motion for Remand dated July 21, 2017, by depositing same, with sufficient first class postage prepaid, at the United States Post Office at Asheville, North Carolina, addressed as follows:

The Honorable Jenny Abbott Kitchings
Clerk of the South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

George H. O'Kelley, Jr., Esquire
Attorney at Law
Post Office Box 1072
Beaufort, South Carolina 29901

William A. Bryan, Jr., Esquire
Collins & Lacy, PC
11945 Grandhaven Drive, Suite D
Murrells Inlet, South Carolina 29576

By: 

Robert V. Mathison, Jr.
Attorney for the Appellant
Barbara A. Goodwin

MATHISON & MATHISON
Post Office Box 5271
Hilton Head Island, SC 29938
Telephone: (843) 785-6503
Email: rmathlaw@aol.com

July 21, 2017

Hilton Head Island, South Carolina.

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Post Office Box 5271
Hilton Head Island, SC 29938
Telephone: (843) 785-6503
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July 21, 2017

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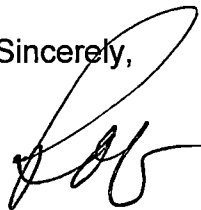
Enclosed for filing in this case are the following items:

1. The original and six copies of a Notice and Motion to Remand this case to the Court of Common Pleas in accordance with my letter of April 25, 2017 (also enclosed);
2. The original and six copies of a Motion to Extend Time with respect to the filing of the Appellant's Initial Brief and Designation of Matter;
3. The original and six copies of the Affidavit of R.V. Mathison, Jr., in support of both motions; and
4. The original Proof of Service for each of the foregoing documents.

Also enclosed is my check in the amount of \$50.00 to pay the motion filing fees.

With kind regards, I am

Sincerely,

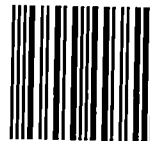


Robert V. Mathison, Jr.
S.C. Bar No. 3685

cc: George H. O'Kelley, Jr. Esquire
William A. Bryan, Jr., Esquire
Mrs. Barbara A. Goodwin



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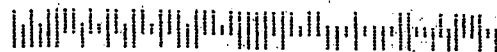


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SC Court of Appeals

LAW OFFICES
MATHISON & MATHISON
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HILTON HEAD ISLAND S.C. 29938-5271

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Clerk of the South Carolina Court of Appeals
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