

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

William H. Seals, Jr., Circuit Court Judge

Case No. 2016-CP-23-03431

Phyllis B. Thomas,

Appellant,

v.

Barbara R. Merline, Diane P.
Meacham, MHA's LLC,
TAXLAW, LLC, David A.
Merline, Jr., Keith G.
Meacham and Merline &
Meacham, P.A.

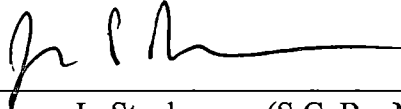
Respondents.

RECEIVED
AUG 21 2017
SC Court of Appeals

MOTION TO DISMISS APPEAL

Respondents Barbara R. Merline, Diane P. Meacham, MHA's LLC, TAXLAW, LLC, David A. Merline, Jr., Keith G. Meacham and Merline & Meacham, P.A., hereby move to dismiss this appeal, pursuant to Rule 240, South Carolina Appellate Court Rules. As reflected in the Notice of Appeal, appended Memorandum, and Exhibits, this Court lacks jurisdiction over this appeal because the Notice of Appeal was not timely filed. Respondents respectfully submit that this appeal must be dismissed.

Respectfully submitted,



Thomas L. Stephenson (S.C. Bar No. 5332)
Jeffrey P. Dunlaevy (S.C. Bar No. 16978)
Stephenson & Murphy, LLC
207 Whitsett Street
Greenville, South Carolina 29601
(864) 370-9400
tom@stephensonmurphy.com
jeff@stephensonmurphy.com

Counsel for Respondents

August 16, 2016

Other Counsel of Record:

D. Randle Moody, II
JACKSON LEWIS P.C.
15 South Main Street, Suite 700
Greenville, SC 29601

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
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Case No. 2016-CP-23-03431

Phyllis B. Thomas,

Appellant,

v.

Barbara R. Merline, Diane P.
Meacham, MHA's LLC,
TAXLAW, LLC, David A.
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Meacham and Merline &
Meacham, P.A.

Respondents.

MEMORANDUM IN SUPPORT OF MOTION TO DISMISS APPEAL

Respondents Barbara R. Merline, Diane P. Meacham, MHA's LLC, TAXLAW, LLC, David A. Merline, Jr., Keith G. Meacham and Merline & Meacham, P.A., hereby submit this memorandum pursuant to Rule 240(c)(2), South Carolina Appellate Court Rules.

BACKGROUND

The Honorable William H. Seals, Jr., granted summary judgment to Respondents on all claims in this case on June 22, 2017. (Notice of Appeal.) The order granting summary judgment was filed that morning via the trial court's ECF system. (6/22/17 Order (filed with

Notice of Appeal.) All parties were notified that day via ECF. (Exh. A – 6/22/17 Notice of Electronic Filing.)

Appellant filed and served a motion for reconsideration, pursuant to Rule 59(e), South Carolina Rules of Civil Procedure, on July 7, 2017. (Notice of Appeal; Exh. B – Rule 59(e) Motion.) The trial court denied that motion in an order filed July 21, 2017. (Notice of Appeal; Exh. C – 7/21/17 Order.) The Notice of Appeal in this case was filed and served on July 28, 2017. (Notice of Appeal.)

DISCUSSION

This Court lacks jurisdiction over this appeal because Appellant’s Notice of Appeal is untimely. Appellant filed an untimely Rule 59(e) motion in the trial court. Because it was untimely, that motion did not toll the thirty-day deadline for filing the Notice of Appeal, and Appellant missed the deadline. This appeal therefore must be dismissed. *Wells Fargo Bank, N.A. v. Fallon Props. S.C., LLC*, 413 S.C. 642, 646, 776 S.E.2d 575, 577 (Ct. App. 2015) (when a notice of appeal is untimely, the Court of Appeals “lacks appellate jurisdiction” and is “required to dismiss the appeal”).

The deadline for serving a Notice of Appeal is as follows:

A notice of appeal shall be served on all respondents within thirty (30) days after receipt of written notice of entry of the order or judgment. When a timely . . . motion to alter or amend the judgment . . . has been made, the time for appeal for all parties shall be stayed and shall run from receipt of written notice of entry of the order granting or denying such motion.

Rule 203(b)(1). The Rule establishes that in order for a Rule 59 motion to toll the thirty-day deadline, it must be timely. *Id. See also, Elam v. S.C. DOT*, 361 S.C. 9, 602 S.E.2d 772 (2004).

The ten-day deadline for filing a Rule 59(e) motion, like the deadline for filing a Notice of Appeal, runs from receipt of written notice of the original order. SCRCPC 59(e) (“A motion to alter or amend the judgment shall be served not later than 10 days after receipt of written notice of the entry of the order.”). Appellant received written notice of the entry of the original order via electronic mail on June 22, 2017. (Exh. A – Notice of Electronic Filing.) She served her motion on July 7, 2017. (Notice of Appeal; Exh. B – Rule 59(e) Motion, 7/7/17.) This was fifteen days after written notice of entry of the original order. As such, it was five days past Rule 59(e)’s ten-day deadline, and thus untimely.

Appellant is not saved by the five-day period added to certain deadlines pursuant to Rule 6(e) of the South Carolina Rules of Civil Procedure. Rule 6(e) only applies to deadlines that begin running from the date of service. By contrast, Rule 59(e) runs not from service but from receipt of written notice of the entry of the order. *See also*, SCRCPC 6(b) (“The time for taking any action under [Rule 59] may not be extended except to the extent and under the conditions stated in [the Rule itself]”).

If there was any question about the inapplicability of Rule 6(e) to Rule 59 motions in the context of electronic filing and service, the South Carolina Supreme Court resolved it by adopting the *Electronic Filing Policies and Guidelines*. 415 S.C. 1, 780 S.E.2d 600 (2015).

The following is the rule for deadlines running from service:

Time to Respond Following Electronic Service. Computation of the time for a response after service by NEF is governed by Rule 6, SCRCPC. In accordance with Rule 6(e), SCRCPC, service by electronic means via an NEF is treated the same as service by U.S. Mail for purposes of determining the time to respond; therefore, five days shall be added to the prescribed period to respond from the date set forth in the Official File Stamp on the NEF.

In re S.C. Elec. Filing Policies & Guidelines, 415 S.C. 1, 8, 780 S.E.2d 600 (2015). The

very same guideline establishes a different rule for deadlines based on receipt:

Receipt of Written Notice of Entry of Order or Judgment. An Authorized E-Filer has receipt of written notice of the entry of a judgment or the filing of an order upon receipt of the emailed NEF. It shall be the responsibility of an Authorized E-Filer to review the content of the E-Filed order to determine its force and effect; however, any delay in accessing the E-Filing System to review the order does not affect the time of receipt.

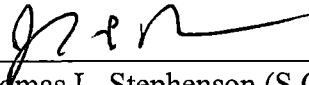
In re S.C. Elec. Filing Policies & Guidelines, 415 S.C. 1, 10-11, 780 S.E.2d 600 (2015). *See also, Wells Fargo Bank, N.A. v. Fallon Props. S.C., LLC*, 413 S.C. 642, 646, 776 S.E.2d 575, 577 (Ct. App. 2015) (explaining that “receipt of written notice” of entry of an order occurs when email notice is received); *Witzig v. Witzig*, 325 S.C. 363, 366, 479 S.E.2d 297, 299 (Ct. App. 1996) (“Rule 6(e), SCRCF, does not provide an additional five days to file a notice of intent to appeal. . . . Rule 6(e) is a pleadings rule and applies only when service is effective upon mailing.”).

Pursuant to the clear terms of the *Electronic Filing Policies and Guidelines*, Appellant received written notice of the original order on the day it was filed, June 22, 2017. (Exh. A – ECF Notice, 6/22/17.) She admits she filed a Rule 59 motion fifteen days later and the Notice of Appeal thirty-six days later. (Notice of Appeal.) Both were untimely as a matter of law. As such, this Court lacks jurisdiction over this appeal.

CONCLUSION

For the reasons set forth herein, and based on the undisputed date of receipt of the relevant order, Respondents respectfully request that this appeal be dismissed for lack of jurisdiction.

Respectfully submitted,



Thomas L. Stephenson (S.C. Bar No. 5332)

Jeffrey P. Dunlaevy (S.C. Bar No. 16978)

Stephenson & Murphy, LLC

207 Whitsett Street

Greenville, South Carolina 29601

(864) 370-9400

tom@stephensonmurphy.com

jeff@stephensonmurphy.com

Counsel for Respondents

August 16, 2016

Other Counsel of Record:

D. Randle Moody, II

JACKSON LEWIS P.C.

15 South Main Street, Suite 700

Greenville, SC 29601

EXHIBIT A

From: efiledonotreply@sccourts.org
To: [Jeff P. Dunlaevy](#)
Cc: [Lisa](#)
Subject: Courtesy NEF RE: 2016CP2303431
Date: Thursday, June 22, 2017 9:03:18 AM

***** IMPORTANT NOTICE - READ THIS INFORMATION *****
NOTICE OF ELECTRONIC FILING [NEF]

A filing has been submitted to the court RE: 2016CP2303431

Official File Stamp: 06-22-2017 09:02:51 AM
Court: CIRCUIT COURT
Common Pleas
Greenville
Case Caption: Phyllis B Thomas vs. Barbara R Merline , defendant, et al
Document(s) Submitted: Order/Summary Judgment
Filed by or on behalf of: William H. Seals

This notice was automatically generated by the courts auto-notification system.

The following people were served electronically:

Jeffrey P. Dunlaevy for Barbara R Merline et al
D. Randle Moody, II for Phyllis B Thomas
Blaney A. Coskrey, III
Thomas L. Stephenson for Barbara R Merline et al

The following people have not been served electronically by the Court. Therefore, they must be served by traditional means:

William M. Grant, Jr.

~~~ CONFIDENTIALITY NOTICE ~~~ This message is intended only for the addressee and may contain information that is confidential. If you are not the intended recipient, do not read, copy, retain, or disseminate this message or any attachment. If you have received this message in error, please contact the sender immediately and delete all copies of the message and any attachments.

# **EXHIBIT B**

|                                            |   |                              |
|--------------------------------------------|---|------------------------------|
| STATE OF SOUTH CAROLINA                    | ) | IN THE COURT OF COMMON PLEAS |
|                                            | ) |                              |
| COUNTY OF GREENVILLE                       | ) | C.A. 2016-CP-23-03431        |
|                                            | ) |                              |
| Phyllis B. Thomas,                         | ) |                              |
|                                            | ) |                              |
| Plaintiff,                                 | ) |                              |
|                                            | ) |                              |
| v.                                         | ) |                              |
|                                            | ) |                              |
| Barbara R. Merline, Diane P. Meacham,      | ) |                              |
| MHA’S LLC, TAXLAW, LLC, David A.           | ) |                              |
| Merline, Jr., Keith G. Meacham and Merline | ) |                              |
| & Meacham, P.A.,                           | ) |                              |
|                                            | ) |                              |
| Defendants.                                | ) |                              |
|                                            | ) |                              |

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**PLAINTIFF’S MOTION FOR RECONSIDERATION**

Phyllis Thomas (“Thomas”) moves this Honorable Court, pursuant to Rule 59(e), SCRC, for reconsideration of this Court’s Order granting Summary Judgment to Defendants.

The Order entered by this Court equates to a judicial approval of unfair action by a majority vote of limited liability company membership shares against a member holding a substantial interest in the limited liability company. In reaching the conclusions in the Order, the Order disregards the statutory and contractual obligations of the majority to operate and act in accordance with the covenant of good faith and fair dealing and other fiduciary duties.

Plaintiff requests that the Court reconsider its ruling and the application of law concluding that the majority could pass an amendment to the Operating Agreement that is specifically targeted at a minority member to force that member to divest her interest in the limited liability company. The remainder of the Order is derivative of this finding/holding and Plaintiff requests that the Court reconsider its ruling granting summary judgment for the entire matter.

**I. The Covenant of Good Faith and Fair Dealing and Fiduciary Duties Among Members Prevents Unfair and Bad Faith Actions by the Majority and the Decision to Amend the Operating Agreement to Force a Buy Out Violates those Duties.**

The Court concluded that “the right to pass . . . an amendment was expressly included in the Operating Agreement” and that an “amendment does not violate the covenant of good faith and fair dealing because the Member Defendants merely did “what the provisions of the contract expressly gave [them] the right to do.”” (citations omitted) (Order at 5.) Plaintiff respectfully requests that the Court reconsider this ruling. This is a fundamental ruling addressing the claims of Plaintiff Phyllis Thomas. Absent from the discussion in the Order is the fact that the covenant of good faith and fair dealing is an integral aspect of limited liability company (“LLC”) statutory law and must be followed for a minority member of an LLC to have protection. The approach taken by the Order defaults to the arguments of Defendants that because the TAXLAW, LLC Operating Agreement allows for an amendment by majority vote, the majority may adopt an amendment that permits the purchase of a minority member’s interest in the LLC. The Order’s conclusion that good faith and fair dealing does not apply because the Operating Agreement allows an amendment ignores the fact that the duty of good faith and fair dealing is set forth in the TAXLAW, LLC Operating Agreement and is required by the statute. Moreover, taken to its logical conclusion, the Order would allow the majority the right to adopt any provision.

The ruling does not encompass the complexities inherent in the relationship between LLC members. This ruling disregards the statutory obligation of LLC members to one another to operate in good faith and fairly with one another and the LLC. S.C. Code Section 33-44-409(d) imposes the obligation of good faith and fair dealing in the exercise of any rights that are owed to the LLC and other members. The Operating Agreement states in Section 6.3 titled Fiduciary Duties that “Each Member shall discharge his duties and exercise any of his rights consistently

with the obligation of good faith and fair dealing which he owes to the Company and other members.” The *decision* to amend the Operating Agreement had to be exercised by the members with good faith and fair dealing. Therefore, the ruling that the Member Defendants exercised a “clear contractual right” disregards Section 6.3 and the statutory responsibility of Members to one another under South Carolina law. (Order at 5.) Just because the right to amend may be present in the Operating Agreement does not mean that the right to amend may be exercised without good faith and fair dealing. Phyllis Thomas maintains that the decision to amend the Operating Agreement was not taken in good faith and was unfair in that it targeted a minority member to force a sale of her membership interest. There is no clear contractual right for Member Defendants to take targeted action against another member who had been a model member. Targeting a member just to remove them from the limited liability company violates the covenant of good faith and fair dealing. Phyllis Thomas respectfully requests that the Court reconsider this ruling.

**II. The Application of the Amendment is Unfair and Violates the Covenant of Good Faith and Fair Dealing and Fiduciary Duties.**

Phyllis Thomas addressed on brief the problems and unfair nature of the Second Amendment and how it may be applied unfairly in breach of the covenant of good faith and fair dealing and in breach of the fiduciary duties owed to her. Phyllis Thomas maintains that the *application* of the Second Amendment, in addition to the *decision* to amend the Operating Agreement to include a forced sale provision violates the duties owed to her as a member. The Second Amendment is replete with a litany of problems identified by Phyllis Thomas. Phyllis Thomas presented Requests to Admit that addressed many of the problems and issues with the application of the Second Amendment and how the application of the Second Amendment violated the duties owed to her by the other members. Those problems are not addressed in the Order. The issues present in the application of the Second Amendment are important and Phyllis Thomas

respectfully requests that the Court reconsider its decision and address the application of the Second Amendment to Phyllis Thomas and the terms applied against her by the majority.

Defendants argued that Phyllis Thomas would allegedly receive “fair value” for her membership interest and argued that a purchase of her membership interest would be the remedy in a judicial action.<sup>1</sup> The Order adopts those arguments and concludes that a fair market buyout is an appropriate remedy. We respectfully request that the Court reconsider this holding and the application of corporate shareholder cases to a limited liability company member case.

In supporting the holding that a fair market buyout of the Second Amendment is an appropriate remedy for Phyllis Thomas, the Order cites South Carolina authority for shareholder cases. (Order at 6.) The situation in corporate cases is not applicable here because shareholder oppression cases are brought by shareholders who had trapped investments and could not get out of the company. In this case, Phyllis Thomas has been targeted to be forced out of a limited liability company for which she has been a model member for almost twenty (20) years. Indeed, the Order itself adopts the position that the majority simply wanted her out after the DART, LLC real property transaction. (Order at 3.) Therefore, in this case Phyllis Thomas is targeted for removal and is being retaliated against following a transaction in an unrelated LLC. That transaction, incidentally, is one in which all the parties admit was done following South Carolina statutory law. Phyllis Thomas is not in a trapped investment where she needs the assistance of the Court in ordering a fair market value. Phyllis Thomas is a substantial owner of a valuable long term investment that is appreciating. Phyllis Thomas’ situation is very different from a shareholder oppression case and is essentially the inverse as she seeks the protection of the Court in order to

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<sup>1</sup> In oral argument the issue of valuation calculations and the exclusion of goodwill in the calculation of “fair value” were addressed. This is an issue that goes to the “fair value” matter and Phyllis Thomas disputes that fair value is present when goodwill is excluded by the Second Amendment from the calculation of her membership interest.

protect her against unfair expulsion and removal. Based upon the Order, however, a minority member has no protection from the majority because if the majority wants a member out they can basically engage in oppression.

In sum, the Order does not correctly apply the law. The Order cites corporate law shareholder oppression cases that are not applicable to nor do they apply to this case. South Carolina limited liability companies are based upon partnership law and not corporate law. Therefore, the Order's reliance on the body of law arising in corporate shareholder cases misses a key distinction and legally significant component of the fiduciary relationship that exists between and among the members of a limited liability company. Duties in a limited liability company are akin to the duties among partners. These duties generally do not exist between shareholders. Plaintiff respectfully requests that the Court reconsider the application of the law to support the holdings of the Order.

**III. The Parol Evidence Rule Should Not be Utilized to Bar Evidence Regarding the Intent and Meaning of the Operating Agreement That Did Not Contain a "Forced Sale" Provision.**

It is recognized in South Carolina that "where a contract is silent as to a particular matter and because of the nature and character of the transaction an ambiguity arises, parol evidence may be admitted in order to supply a deficiency in the language of the contract and to establish the true intent and meaning of the parties." *U.S Leasing Corp. v. Janicare*, 364 S.E.2d 202, 205, 294 S.E. 2d 312 (S.C. App. 1988). The Order bars a number of alleged disputes of fact on the basis that the disputes of fact are barred by the parol evidence rule and "therefore do not matter." (Order at 8-9.) Plaintiff respectfully requests that this Court reconsider this holding.

The Order takes a strict contractarian stance as to the ability to amend and those matters are addressed above. In addressing those matters, the Court addresses a non-related transaction

regarding DART, LLC as a basis for the amendment (Order at 3.) but specifically excludes evidence related to the actual Operating Agreement and the fact that a forced sale provision was not included in the original Operating Agreement. Interestingly enough, the Order addresses the fact that the Operating Agreement basically required an amendment “to authorize a buyout.” (Order at 8.) If an amendment was required to afford a buyout in order for the majority to effect a forced sale against Phyllis Thomas, how can the intent of the original Operating Agreement specifically excluding such a forced sale provision be barred as evidence to grant summary judgment? The evidence of disputed facts offered in opposition to the summary judgment is not parol evidence, it is merely evidence establishing that the omission of a forced sale provision in the Operating Agreement was intentional and was meant by the parties to be excluded. *Cf. U.S Leasing Corp. v. Janicare*, 364 S.E.2d at 205. There is no ambiguity as the intent was to not force a sale of a member interest. Plaintiff is not attempting to add to the Operating Agreement but is merely explaining why the document says what it says and why it did not include a forced sale provision. Therefore, the parol evidence rule does not apply to the evidence opposing summary judgment. Accordingly, Plaintiff respectfully requests the Court to reconsider the exclusion of the disputed facts referenced in the Order using the parol evidence rule.

#### **IV. The Court’s Rulings Regarding Discovery Are Not Necessary.**

The Order on page 10 and the top of page 11 addresses findings regarding discovery and Plaintiff’s opposition to summary judgment on the grounds that discovery is continuing. The Court allowed Plaintiff an opportunity to provide comments and those concerns were addressed in a letter dated June 16 to this Court. Plaintiff respectfully incorporates those comments and concerns into this Motion and reiterates that the holding of the Court in closing discovery is not necessary in

light of the circumstances present in this case. Plaintiff respectfully requests that the Court reconsider its holding regarding discovery and summary judgment.

**V. The Order Addresses Derivative Claims Justifying Summary Judgment.**

The Order addresses Plaintiff's claims as derivative of the claim that the Operating Agreement was wrongfully amended. Therefore, Plaintiff's claims are dismissed on summary judgment largely due to the Court's holding that the Second Amendment was proper and lawful. As addressed previously in this Motion, Plaintiff respectfully requests the reconsideration of this fundamental issue and as a result requests reconsideration of the summary judgment dismissal of Plaintiff's claims for Breach of the Good Faith and Fair Dealing, Breach of Fiduciary Duty, Tortious Interference with Contract, Aiding and Abetting the Breaches, and Civil Conspiracy.

**CONCLUSION**

For the reasons discussed above, Plaintiff Phyllis Thomas respectfully moves this Honorable Court pursuant to Rule 59 for reconsideration of this Court's Order.

Respectfully submitted this 7<sup>h</sup> day of July, 2017.

*s/ D. Randle Moody, II*  
\_\_\_\_\_  
D. Randle Moody, II (SC Bar No. 14135)  
JACKSON LEWIS P.C.  
15 South Main Street, Suite 700  
Greenville, SC 29601  
Phone: (864) 232-7000  
Facsimile: (864) 235-1381  
E-mail: randy.moody@jacksonlewis.com

**ATTORNEY FOR PLAINTIFF  
PHYLLIS B. THOMAS**

# **EXHIBIT C**

FORM 4

STATE OF SOUTH CAROLINA  
 COUNTY OF GREENVILLE  
 IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE  
 CASE NUMBER 2016CP2303431

ELECTRONICALLY FILED - 2017 JUL 21 8:40 AM - GREENVILLE - COMMON PLEAS - CASE#2016CP2303431

|                  |  |                                                                       |                                                       |
|------------------|--|-----------------------------------------------------------------------|-------------------------------------------------------|
| Phyllis B Thomas |  | Barbara R Merline<br>Keith G Meacham<br>Taxlaw Llc<br>Diane P Meacham | Merline & Meacham P<br>David A Merline Jr<br>MHAs Llc |
|------------------|--|-----------------------------------------------------------------------|-------------------------------------------------------|

**PLAINTIFF(S)** **DEFENDANT(S)**

Submitted by: Clerk of Court

Attorney for:  Plaintiff  Defendant  
 Self-Represented Litigant

**DISPOSITION TYPE (CHECK ONE)**

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.  See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):**  Rule 12(b), SCRPC;  Rule 41(a), SCRPC (Vol. Nonsuit);  
 Rule 43(k), SCRPC (Settled);  Other: \_\_\_\_\_
- ACTION STRICKEN (CHECK REASON):**  Rule 40(j) SCRPC;  Bankruptcy;  
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;  Other: \_\_\_\_\_
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**  
 Affirmed;  Reversed;  Remanded;  Other: \_\_\_\_\_

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

**IT IS ORDERED AND ADJUDGED:**  See attached order; (formal order to follow)  Statement of Judgment by the Court:

**ORDER INFORMATION**

**Plaintiff's Motion for Reconsideration is hereby denied without a hearing.**

This order  ends  does not end the case.

Additional Information for the Clerk: \_\_\_\_\_

| INFORMATION FOR THE JUDGMENT INDEX                                                                                                                                                                           |                                          |                                                          |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------|----------------------------------------------------------|
| Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below. |                                          |                                                          |
| Judgment in Favor of<br>(List name(s) below)                                                                                                                                                                 | Judgment Against<br>(List name(s) below) | Judgment Amount To be Enrolled<br>(List amount(s) below) |
|                                                                                                                                                                                                              |                                          |                                                          |
|                                                                                                                                                                                                              |                                          |                                                          |
| If applicable, describe the property, including tax map information and address, referenced in the order:                                                                                                    |                                          |                                                          |

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional

taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**  
**E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.**

ELECTRONICALLY FILED - 2017 Jul 21 8:40 AM - GREENVILLE - COMMON PLEAS - CASE#2016CP2303431

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|                            |             |             |
|----------------------------|-------------|-------------|
| <b>Circuit Court Judge</b> | <b>2157</b> | <b>Date</b> |
|----------------------------|-------------|-------------|

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**For Clerk of Court Office Use Only**

This judgment was entered on , and a copy mailed first class or placed in the appropriate attorney's box on , to attorneys of record or to parties (when appearing pro se) as follows:

**D. Randle Moody II** 15 South Main Street Suite 700  
Greenville, SC 29601

**Thomas L. Stephenson** 207 Whitsett St Greenville, SC 29601  
**Jeffrey P. Dunlaevy** 207 Whitsett Street Greenville, SC 29601

---

**ATTORNEY(S) FOR THE PLAINTIFF(S)**

---

**ATTORNEY(S) FOR THE DEFENDANT(S)**

---

**Court Reporter**

---

**Paul B. Wickensimer** Greenville County Clerk of Court - Clerk of Court

**Court Reporter:**

**E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Fileers or who are appearing pro se. See Rule 77(d), SCRPC.**

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**ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.**

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

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Greenville Common Pleas

**Case Caption:** Phyllis B Thomas vs. Barbara R Merline , defendant, et al

**Case Number:** 2016CP2303431

**Type:** Order/Form 4

IT IS SO ORDERED

s/ The Honorable William H. Seals Jr. #2157

Electronically signed on 2017-07-20 20:13:39 page 3 of 3

ELECTRONICALLY FILED - 2017 JUL 21 8:40 AM - GREENVILLE - COMMON PLEAS - CASE#2016CP2303431

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM GREENVILLE COUNTY  
Court of Common Pleas

William H. Seals, Jr., Circuit Court Judge

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Case No. 2016-CP-23-03431

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Phyllis B. Thomas,

Appellant,

v.

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Meacham, MHA's LLC,  
TAXLAW, LLC, David A.  
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Meacham, P.A.

Respondents.

**RECEIVED**

AUG 21 2017

SC Court of Appeals

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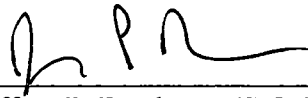
**PROOF OF SERVICE**

---

I certify that I have served a copy of Respondents' Motion to Dismiss Appeal by depositing a copy of it in the United States Mail, postage prepaid, on August 16, 2017, addressed to its attorney of record:

D. Randle Moody, II, Esq.  
JACKSON LEWIS P.C.  
15 South Main Street, Suite 700  
Greenville, SC 29601

Respectfully submitted,



---

Jeffrey P. Dunlaevy (S.C. Bar No. 16978)  
Stephenson & Murphy, LLC  
207 Whitsett Street  
Greenville, South Carolina 29601  
(864) 370-9400

August 16, 2016

Other Counsel of Record:

D. Randle Moody, II  
JACKSON LEWIS P.C.  
15 South Main Street, Suite 700  
Greenville, SC 29601

# STEPHENSON+MURPHY

ATTORNEYS AT LAW LLC

August 16, 2017

Jenny Abbott Kitchings  
Clerk of Court  
1220 Senate Street  
P.O. Box 11629  
Columbia, South Carolina 29211

RE: *Phyllis B. Thomas v. Barbara R. Merline, et al*  
Case No. 2016-CP-23-03431

Dear Ms. Kitchings:

Enclosed for filing with the Court, please find an original and six (6) copies of Respondents' Motion to Dismiss Appeal, Memorandum in Support and Proof of Service in the above matter, as well as our firm's check in the amount of \$25.00 for the filing fee.

Thank you for your assistance in this regard.

Respectfully,



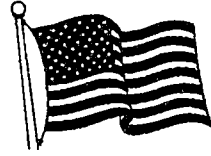
Lisa Romaniello  
Legal Assistant

cc: D. Randle Moody, II, Esq. (w/encl.)

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AUG 21 2017

**SC Court of Appeals**



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SC Court of Appeals

Jenny Abbott Kitchings  
Clerk of Court  
1220 Senate Street  
P.O. Box 11629  
Columbia, South Carolina 29211