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THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas

The Honorable Joseph M. Strickland, Master-in-Equity

RECEIVED

Case No.: 2014-CP-40-1805

AUG 30 2017

SC Court of Appeals  
Respondent,

Country Properties, LLC.....

vs.

Nancy Dunn Martin.....Appellant.

APPELLANT'S REQUEST FOR LEAVE TO MAKE MOTION FOR RELIEF  
PURSUANT TO RULE 60(b), SCRPC

Appellant, Nancy Dunn Martin ("Appellant" or "Martin"), hereby requests leave to make a motion for relief from the Final Order of the Honorable Joseph M. Strickland entered on September 27, 2016, pursuant to Rules 60(b)(2) and 60(b)(3), SCRPC.

This matter involves Respondent's, Country Properties, LLC ("Respondent" or "Country Properties"), claim of an alleged easement across Martin's property. Martin has appealed the trial court's ruling that an easement in favor of Respondent exists across her property. During the trial of the matter, Plaintiff and its counsel alleged that a portion of Plaintiff's property is inaccessible by road unless accessed by the alleged easement through Martin's property. In fact, the Final Order issued upon the conclusion of trial contained the following finding of fact:

That Plaintiff's tract has frontage on U.S. Highway 602 above Raglin Creek in Kershaw County but the Plaintiff's tract has no public road access south of Raglin Creek. *To the extent that Raglin Creek is a natural barrier to ingress and egress, the 384 acres of*

*the Plaintiff's tract located south of Raglin Creek in Richland County has no access except via the easement that the Plaintiff seeks to establish in this action.*

Final Order at ¶ 6 (emphasis added). Additionally, the trial court stated:

I find from the testimony presented at trial that at some point several years before the plaintiff purchased his [sic] property in March of 2009, Pine Ridge Investments, LLC, the Plaintiff's predecessor in title, built a dam across Raglin Creek with a narrow road across the top of it making it safe for a vehicle to cross, but the dam has been damaged by storms, as it appears from a photograph, Plaintiff's Exhibit 37, showing a gap eroded from the dam, and during the historic rains of October 2015, the dam washed out completely. I find as a matter of fact from the greater weight of all the testimony presented, that Raglin Creek is a substantial natural barrier to the Plaintiff's ability to access the 384 acres of its property south of Raglin Creek in Richland County, and while the property south of Raglin Creek can be accessed by foot and has at times been accessible by personal vehicle, *the natural barrier of the creek does limit the Plaintiff's ability to access its lands south of the creek, particularly with large vehicles and equipment necessary to harvest timber on the lands in Richland County South of Raglin Creek.*

Final Order at ¶ 7 (emphasis added). Despite Plaintiff and its counsel making these representations which were ultimately included in the trial court's order, Martin recently discovered that the dam referenced in the Final Order has been rebuilt and once again provides Plaintiff with access to its property south of Raglin Creek. Photographs showing the rebuilt dam is attached hereto as **Exhibit A.**<sup>1</sup>

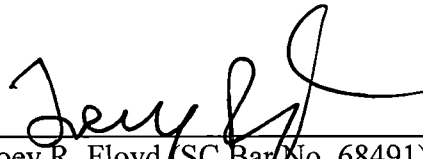
It is clear from the trial court's Final Order that the Plaintiff's alleged inability to access portions of its property played a significant role in the court ruling that Plaintiff had an easement across Defendant's property. Given the importance of this issue, Martin seeks leave to present evidence to the trial judge, pursuant to Rules 60(b)(2) and 60(b)(3), SCRCP, which clearly

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<sup>1</sup> Additional evidence of the rebuilt dam exists and will be presented to the trial court should this Court grant Martin's motion.

demonstrates that Plaintiff may access all of its property without an easement through Martin's property.

Therefore, Martin respectfully requests that she be granted leave to file a motion for relief under Rule 60(b), SCRPC, for the reasons stated above, and Martin further requests that the deadlines in the instant appeal be stayed and/or extended accordingly.



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Columbia, SC

August 30, 2017

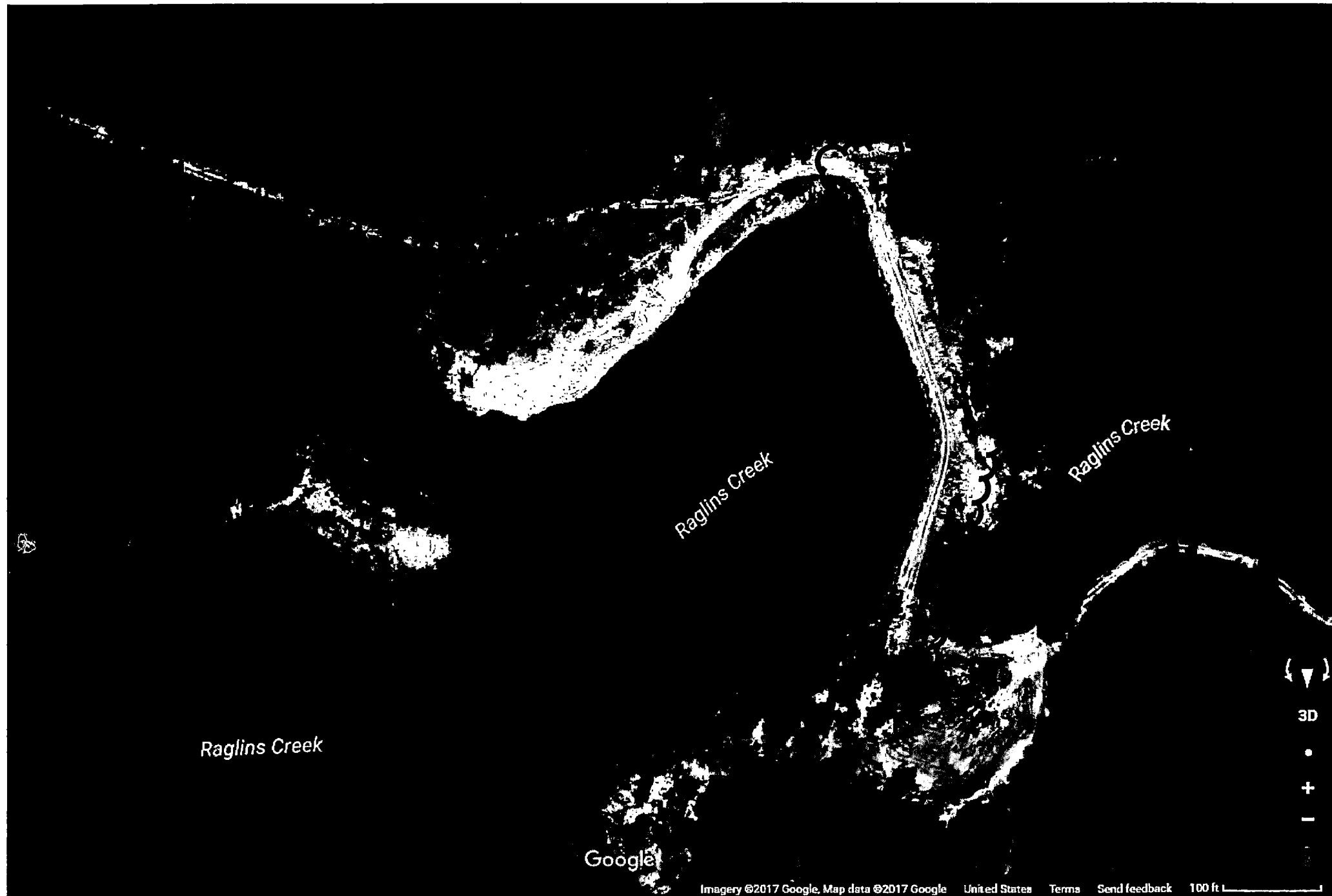
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*Attorneys for Respondent*

# EXHIBIT A



Raglins Creek

Raglins Creek

Raglins Creek

Google



3D



DJI\_0003.MOV  
FRAME 6:01 / 9:20  
07/27/2017

Rebuilt Dam



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APPEAL FROM RICHLAND COUNTY  
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The Honorable Joseph M. Strickland, Master-in-Equity

Country Properties, LLC.....Respondent,

vs.

Nancy Dunn Martin.....Appellant.

PROOF OF SERVICE

I certify that I have served *Appellant's Request for Leave to Make Motion for Relief Pursuant to Rule 60(b), SCRPC* on Respondent Country Properties, LLC by depositing a copy of it in the United States Mail, postage prepaid, on August 30, 2017, addressed to its attorneys of record, John Wells, Esq. and M. Brent McDonald, Esq. (addresses shown below).

August 30, 2017



Joey R. Floyd (SC Bar No. 68491)  
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SC Court of Appeals

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August 30, 2017

## VIA HAND DELIVERY

The Honorable Jenny Abbott Kitchings  
Clerk of Court -The South Carolina Court of Appeals  
1015 Sumter Street  
Columbia, SC 29201

**RE: Country Properties, LLC v. Nancy Dunn Martin**  
**Civil Action No.: 2014-CP-40-1805**  
**BPWM File No.: 8-2376.102**

**RECEIVED**  
AUG 30 2017  
SC Court of Appeals

Dear Ms. Kitchings:

Enclosed herewith you will find an original and eight (8) copies of *Appellant's Request for Leave to Make Motion for Relief Pursuant to Rule 60(b), SCRPC* and a check in the amount of \$25.00 to cover the applicable filing fee. Also enclosed is a Proof of Service evidencing service of the same upon counsel for the Respondent. I kindly ask that your staff file the original and copies in accordance with your procedures. Thereafter, I ask that your staff return two (2) filed copies back to my runner who will be waiting. Feel free to call me if you, or a member of your staff, have any questions. Please note, as stated in the motion, Appellant requests that the deadlines in the instant appeal be stayed and/or extended accordingly until a decision on the motion is issued.

With my kindest regards, I am

Sincerely,



Joey R. Floyd

JRF/rco

Enclosures

cc: John Wells, Esquire (Via U.S. Mail w/ Copy of Enclosures)  
M. Brent McDonald (Via U.S. Mail w/ Copy of Enclosures)  
Nancy D. Martin (Via E-Mail Only w/ Copy of Enclosures)