

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.

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OCT 13 2017  
SC Court of Appeals

**APPELLANT'S MOTION FOR STAY OR INJUNCTION PENDING APPEAL**

Appellant Phyllis Thomas files this Motion for Stay or Injunction Pending Appeal in accordance with Rule 240(c)(2) of the South Carolina Appellate Court Rules on the grounds that:

1. This case presents novel and important issues regarding member interests in a limited liability company. Specifically, this case presents the issues of whether by an amendment a majority can amend an operating agreement to force the sale of a minority interest in contravention of contractual and statutory duties.
2. The court below granted summary judgment to Appellees.
3. A notice of appeal was filed and served on July 28.
4. A motion to dismiss the appeal was filed on August 16, 2017.

5. A return to the motion to dismiss was filed by Appellant on August 28, 2017.<sup>1</sup>
6. This appeal involves *inter alia* whether the majority can force the sale of the interest of a substantial minority member by an amendment which violates duties owed to the minority member.
7. Despite the pendency of this appeal, Appellees advised Appellant Thomas that they intend to forthwith force the sale of her minority interest.
8. In addition to the issues regarding the Appellees' amendment of the operating agreement, Appellant raised a number of issues about the oppressive and unfair nature of the amendment and the execution of the forced sale provisions dictated by the majority members. In sum, the way Appellees are executing the forced sale is an issue on appeal.
9. Notwithstanding the appeal, Appellees are taking action against Phyllis Thomas to force the sale of her interest.
10. The Appellees' actions starts a mandatory process with required appraisal issues and valuation professionals which also require Appellant Phyllis Thomas to participate under stringent time deadlines or forfeit any participation in the valuation of her member interest—a forced sale which she opposes.
11. The action of Appellees is an attempt to subvert the appeal, render the relief requested in the appeal moot, and Appellant Thomas will suffer substantial federal and state tax obligations if Appellees are allowed to take action to oust her during the pendency of the appeal.
12. This matter does not fit the prototypical situation of seeking a supersedeas bond on appeal as there is merely a summary judgment addressing the alleged rights of the parties and no money judgment is at issue in this case.
13. Therefore, Appellant Thomas respectfully requests that this Court issue a stay and enjoin Appellees from beginning the process which will ultimately force the sale of Appellant Thomas' interest pending this appeal.

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<sup>1</sup> Appellant Thomas provided seventeen (17) enumerated issues regarding the lower court's granting of a summary judgment on pages 12 and 13 of the Return.

Respectfully submitted this 10th day of October, 2017.

A handwritten signature in black ink, appearing to read "D. Randle Moody, II", written over a horizontal line.

D. Randle Moody, II (SC Bar No. 14135)  
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**ATTORNEY FOR APPELLANT  
PHYLLIS B. THOMAS**

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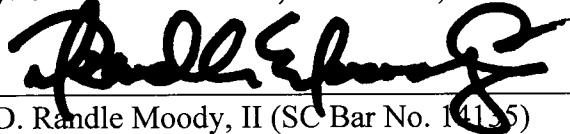
v.

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

Respondents.

**PROOF OF SERVICE**

I certify that I have served a copy of Appellant's Motion For Stay or Injunction Pending Appeal by depositing a copy of it in the United States Mail, postage prepaid, on October 10, 2017, addressed to its attorney of record: **Thomas Stephenson, Esq. and Jeffrey P. Dunlaevy, Esq. at STEPHENSON & MURPHY, LLC, 207 Whitsett Street, Greenville, SC 29601.**



D. Randle Moody, II (SC Bar No. 14135)

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**ATTORNEY FOR APPELLANT  
PHYLLIS B. THOMAS**

October 10, 2017



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\*through an affiliation with Jackson Lewis P.C., a Law Corporation

MY DIRECT DIAL IS: 864-672-8037
MY EMAIL ADDRESS IS: RANDY.MOODY@JACKSONLEWIS.COM

October 10, 2017

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OCT 13 2017

SC Court of Appeals

VIA U.S. MAIL

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

RE: Phyllis B. Thomas v. Barbara R. Merline
Appellate Case No. 2017-001637

Dear Ms. Kitchings:

Enclosed for filing is Appellant's Motion for Stay or Injunction Pending Appeal, as well as a \$25 check for the filing fee. Please return a stamped copy to me, using the enclosed self-addressed, stamped envelope.

If you have any questions regarding this, please contact me at your convenience.

Sincerely,

JACKSON LEWIS P.C.
[Handwritten Signature]
D. Randle Moody, II

DRM/msw

cc: Tom Stephenson
Jeff Dunlaevy