

THE STATE OF SOUTH CAROLINA

In the Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Diane Schafer Goodstein, Circuit Court Judge

Circuit Court Case No. 2017-CP-1006629

RECEIVED

JUL 20 2018

S.C. SUPREME COURT

Ex Parte:

Lisa Fisher,Appellant

In re:

Candace Rickborn.....Appellant and Defendant

v.

Bessie HuckabeeRespondent and Plaintiff

NOTICE OF APPEAL

LISA FISHER, ESQUIRE (*Pro Se*)
P.O. Box 91112
Long Beach, CA 90809-1112
562-965-3267
lfisher6736@yahoo.com

(Appellant)

TO THE HONORABLE SUPREME COURT OF SOUTH CAROLINA AND ALL INTERESTED PARTIES:

Appellant Lisa Fisher appeals the orders of the Honorable Diane Schafer Goodstein dated June 21, 2018. Appellant never received written notice of entry of this Order. (Ex A) *LF*

Further, Appellant Lisa Fisher appeals the order filed of the Honorable Diane Schafer Goodstein dated July 12, 2018. Appellant never received written notice of entry of this Order. (Ex B) *LF*

In both referenced Orders, Judge Goodstein made a final decision about the real property belonging to Alice Shaw-Baker and under the exclusive control of Appellant Lisa Fisher. These orders subjects Lisa Fisher to personal liability, and therefore, Lisa Fisher is an aggrieved person pursuant to Rule 201(b), SCACR.

Appellant will seek to have said appeal consolidated with the pending related appeals before this Honorable Court, Case no. 2018-000566.

July 19, 2018

RESPECTFULLY SUBMITTED,

LISA FISHER
P.O. Box 91112
Long Beach, CA 90809-1112
562-965-3267
lfisher6736@yahoo.com

OTHER PARTIES:

The Honorable Diane Schafer Goodstein
5200 East Jim Bilton Blvd.
Post Office Box 234
St. George, SC 29477

Neil Thomson, Esquire
Ford Wallace Thomson LLC
715 King St.
Charleston, SC 29403

Jessica L. Crowley, Esquire
PO Box 30189
Charleston, SC 29417

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Lisa Fisher,Appellant

Candace Rickborn.....Appellant and Defendant

v.

Bessie HuckabeeRespondent and Plaintiff

PROOF OF SERVICE

I certify that I have served **NOTICE OF APPEAL** upon Respondent and upon all parties by depositing a copy of it in the United States Mail, postage prepaid, on July 19, 2018 addressed as follows:

The Honorable Diane Schafer Goodstein
5200 East Jim Bilton Blvd.
Post Office Box 234
St. George, SC 29477

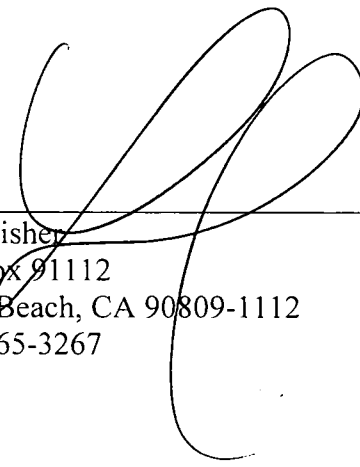
Neil Thomson, Esquire
Ford Wallace Thomson LLC
715 King St.
Charleston, SC 29403

Jessica L. Crowley, Esquire
PO Box 30189
Charleston, SC 29417

Courtesy copy:

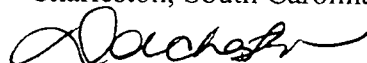
W. Westbrook Wills III, Esquire
PO Box 822
Folly Beach, SC 29439

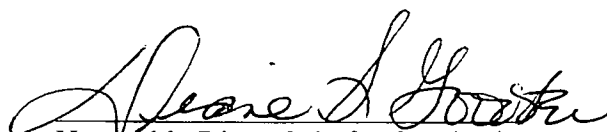
July 19, 2018



Lisa Fisher
PO Box 91112
Long Beach, CA 90809-1112
562-965-3267

Having considered Ms. Fisher's Motion, argument of counsel, applicable statutory and case law, Lisa Fisher's *Motion to Intervene and as Joinder* is hereby DENIED.

This 18 day of June, 2018
~~Charleston~~, South Carolina



Honorable Diane Schafer Goodstein
Presiding Circuit Court Judge
Ninth Judicial Circuit

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2017CP1006629

Candace Rickborn

PLAINTIFF(S)

Bessie Huckabee

DEFENDANT(S)

Submitted by:	Attorney for : <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant
	or <input type="checkbox"/> 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.
- ACTION DISMISSED (CHECK REASON):** Rule 12(h), 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:

This order ends does not end the case.
Additional Information for the Clerk:

INFORMATION FOR THE PUBLIC 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 (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount to be Enrolled (List amount(s) below)
		\$5000

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.

[Handwritten Signature]

2112 61818

4x 8

FILED
2018 JUL 12 PM 2:33
CLERK OF COMMON PLEAS

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON)
)
 Candace Rickborn,)
)
 Appellant and Defendant,)
)
 vs.)
)
 Bessie Huckabee,)
)
 Respondent and Plaintiff.)
)
 _____)

IN THE COURT OF COMMON PLEAS
 FOR THE NINTH JUDICIAL CIRCUIT
 Case No.: 2017-CP-1006629

ORDER

FILED
 2018 JUL 12 PM 2:34
 CLERK OF COURT
 FILED
 2018 JUN 21 AM 10:00
 CLERK OF COURT
 Clocked in date Canceled

Date of Hearing:	May 22, 2018
Presiding Judge:	Honorable Diane Schafer Goodstein
Appellant/ Defendant's Attorney:	Neil Thomson, Esquire
Respondent/ Plaintiff's Attorney:	Jessica L. Crowley, Esquire
Court Reporter:	Ruth C. Weese, RDR

In this Matter, Appellant Candace Rickborn appeals from a Rule to Vacate and Writ of Ejectment entered by the Magistrate Court December 27, 2017 (Case No. 2017-CV-1010903280).

FACTS AND PROCEDURAL HISTORY

The matter relates to Appellant's occupation of a property located at 306 Cassina Drive in Charleston, Charleston County, South Carolina ("Property"). The Record before the Court reveals the Property is titled in the name of Alice Shaw-Baker, who died on February 25, 2009, and is presently an asset of Mrs. Shaw-Baker's Estate. At the time of her death and in the proceeding months, Ms. Shaw-Baker was under Conservatorship in Charleston County. Her great-niece, Lisa Fisher, served as Court-Appointed Conservator. Following Ms. Shaw-Baker's

death, the Charleston County Probate Court appointed Respondent/Plaintiff Bessie Huckabee as Personal Representative of the Estate of Mrs. Shaw-Baker pursuant to Ms. Shaw-Baker's Last Will and Testament. Lisa Fisher was discharged as Conservator but has continued to hold estate assets pending trial on the will contest.

The Record demonstrates that at Lisa Fisher's direction, Appellant has occupied and lived at the Property since Mrs. Shaw-Baker's death in February of 2009 without a lease and without paying rent. On November 6, 2017, counsel for Ms. Huckabee served Notice to Vacate on Ms. Rickborn. Application for Ejectment was filed on December 8, 2017 and Rule to Vacate and Writ of Ejectment was issued by Judge Ellen Steinberg. Ms. Rickborn filed *Statutory Request to Show Cause Pursuant to S.C. Ann. Code § 27-37-20; Motion to Dismiss, Or Alternatively, to Hear Motion for Summary Judgment Due to Improper Defendant, Lack of Jurisdiction and Lack of Standing of Bessie Huckabee and Made Applicable Under Rule 81; Affidavit of Candace Rickborn; Affidavit of Interested Person, Lisa Fisher, In Possession of Estate Property Pursuant to S.C. Ann. Code § 62-4-425(d) and Demand for Jury Trial*, by and through her former counsel, John Hughes Cooper, Esq. Following the Show Cause hearing, the Magistrate ruled for Ms. Huckabee and granted the eviction. The Magistrate found that Bessie Huckabee was properly before the court in her role as Personal Representative. Ms. Rickborn subsequently appealed and appeal bond was set at \$5,000.00 after hearing.

Ms. Rickborn's *Notice of Civil Appeal and Motion to Deem Magistrate's Return Incomplete; and to Reduce Undertaking* contend that the Magistrate's Court lacks jurisdiction to hear the action for ejectment and to make findings regarding the standing of the parties. She contends that the \$5,000.00 appeal bond set by the Magistrate was excessive in light of the fact

that Ms. Rickborn was not a rent-paying tenant, but rather was acting as a caretaker of the property.

At the appeal hearing, counsel for Appellant/Defendant argued there were pending matters in related cases involving the estate real property and the Last Will and Testament of Alice Shaw-Baker, including post-trial motions pending before Judge Hughston following trial on the will contest and Lisa and Betty Fisher's Notice of Appeal in those matters. Attorney Thomson argued that, due to the pending actions in those related matters, it would be premature to decide this ejectment action. Counsel for Appellant also stressed that since he took over Ms. Rickborn's representation following the withdrawal of her former counsel, John Hughes Cooper, Esq., Ms. Rickborn has not attempted to prevent the Personal Representative, Bessie Huckabee, from accessing the Property in violation of prior court orders.

Attorney Crowley responded that Ms. Huckabee was appointed Personal Representative on March 11, 2009 and that such appointment has not been appealed, nor has Ms. Huckabee been removed from the position. She further argued that following the trial of the will contest, the jury returned a verdict upholding Alice Shaw-Baker's will, thus confirming Bessie Huckabee as Mrs. Shaw-Baker's designated personal representative. Furthermore, Ms. Crowley argued that since the verdict in the will contest and subsequent trial on equitable claims raised by the Fishers, the Court has, on multiple occasions, ordered Lisa Fisher to turn over all real and personal property in her possession belonging to the Mrs. Shaw-Baker's Estate to Ms. Huckabee, which Lisa Fisher has refused to do. She further argued that despite the Fishers' appeals of the Court's orders mandating she turn over the Property to Ms. Huckabee, judgments and orders requiring the delivery of real and personal property are exceptions to the automatic stay of enforcement on appeal under Rule 241(b)(2) and (4). Additionally, she contends that under the

South Carolina Probate Code, the personal representative has a duty to take possession of the estate property and may maintain an action to recover possession of property and that the Magistrate's Court is the proper court to apply for writ of ejectment. She argued the property was in disrepair and that Personal Representative had been denied access to inspect and inventory the property and its contents.

Immediately prior to the hearing of the appeal, Lisa Fisher filed a motion to intervene and for joinder in the appeal. Ms. Fisher informed the Court that she served all interested parties just with her motion at the hearing itself. The parties agreed for the Court to hear Ms. Fisher's motion despite her not having served notice of it sufficiently in advance of the hearing, as required under Rule 6 (d), SCRCF. The Court herewith denies Ms. Fisher's motion to intervene and for joinder, which denial it will set out more fully in a separate order.

LAW/ANALYSIS

An action for ejectment is one at law, and therefore "the findings of fact of the judge will not be disturbed unless found to be without evidentiary support." Skull Creek Club Ltd. P'ship v. Cook & Book, Inc., 313 S.C. 284, 286-87 (Ct. App. 1993).

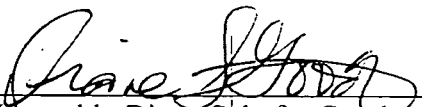
The South Carolina Landlord-Tenant Act provides that the Magistrate Court has concurrent jurisdiction with the Circuit Court over matters concerning landlord-tenant relations and actions for ejectment. S.C. Code Ann. § 27-40-130 (2013). "An appeal in an ejectment case will not stay ejectment unless at the time of appealing the tenant shall give an appeal bond as in other civil cases for an amount to be fixed by the magistrate and conditioned for the payment of all costs and damages which the landlord may sustain thereby." S.C. Code Ann. § 27-37-130 (2013). The amount of the appeal bond is at the sound discretion of the Magistrate

Court. United Dominion Realty Tr., Inc. v. Wal-Mart Stores, Inc., 307 S.C. 102, 108 (Ct. App. 1992). South Carolina Rules of Appellate Court, Rule 241(b)(10), states that notice of appeal does not stay ejectment proceedings.

In review of the Magistrate's Return, the arguments of counsel, the motion filed by Ms. Rickborn, and applicable statutory and case law, I find that Bessie Huckabee is currently the Personal Representative of the Estate of Alice Shaw-Baker pending final determination in related cases. Ms. Huckabee has moved for ejectment and she has the authority to do so under the Probate Code. I further find that this action for ejectment is not stayed upon appeal. Furthermore, it is hereby ordered that the Magistrate's Court Order of Ejectment is hereby affirmed.

I find that S.C. Code Ann. § 27-37-130 grants authority to the Magistrate to set an appeal bond for the payment of all costs and damages which may be sustained by the landlord, and I will not disturb the amount of the appeal bond. The amount of the bond to be distributed to the Respondent/Plaintiff is hereby remanded solely for the purpose that the Magistrate shall determine its proper distribution amount and allocation.

I find that the Order of the Magistrate is reasonable and is hereby AFFIRMED in part, REMANDED in part.



Honorable Diane Schafer Goodstein
Presiding Circuit Court Judge
Ninth Judicial Circuit

This 18 day of June, 2018
Charleston, South Carolina

