

# The South Carolina Court of Appeals

John M. Burgess, Appellant,

v.

Katherine C. Hunter, Respondent.

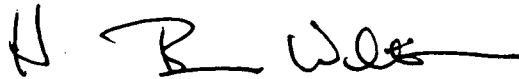
Appellate Case No. 2018-001423

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## ORDER

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The jury reached a verdict on June 29, 2018, and Appellant filed a motion pursuant to Rule 59, SCRCP on July 10, 2018. The circuit court denied the motion as untimely. On July 31, 2018, Appellant served his notice of appeal. After careful consideration, this appeal is dismissed as untimely. *See* Rule 59(b), SCRCP ("The motion for a new trial shall be made promptly after the jury is discharged, or in the discretion of the court not later than 10 days thereafter."); Rule 203(b)(1), SCACR ("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 for a new trial (Rule 59, SCRCP) 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." (emphasis added)); *Elam v. S.C. Dep't of Transp.*, 361 S.C. 9, 14–15, 602 S.E.2d 772, 775 (2004) ("The requirement of service of the notice of appeal is jurisdictional, i.e., if a party misses the deadline, the appellate court lacks jurisdiction to consider the appeal and has no authority or discretion to 'rescue' the delinquent party by extending or ignoring the deadline for service of the notice."). The remittitur will be sent as required by Rule 221(b), SCACR.



FOR THE COURT

Columbia, South Carolina

cc:

Stephen N. Garcia, Esquire

David L. Moore, Jr., Esquire

**FILED**

August 24, 2018