

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Marvin H. Dukes, III, Master-In-Equity

Appellate Case No. 2018-002188

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SC Court of Appeals

Ron Orlosky in his capacity as Personal
Representative of the Estate of Debora
L. Orlosky, and in his capacity as Trustee
of the Debora Laura Orlosky Revocable
Trust

Respondent

v.

The Law Office of Jay A. Mullinax, LLC

Appellant

**APPELLANT'S MEMORANDUM OF APPEALABILITY OF THE LOWER COURT'S
ORDER**

This matter stems from supplemental proceedings concerning the captioned case. The Honorable Marvin H. Dukes, III issued the Order on November 15, 2018. In that Order, the Court made findings of fact and conclusions of law concerning numerous matters.

On November 19, 2018, the Appellant filed a Motion pursuant to South Carolina Rules of Civil Procedure: Rule 59(e). However, the Respondent raised concerns about the validity of the

Motion, which put the Rule 59(e) (SCRCP) Motion into question. Because the effectiveness of the Rule 59(e) (SCRCP) Motion was in question, the Appellant filed a Notice of Appeal within the appropriate thirty (30) day suspense, on December 10, 2018, while awaiting the Court's decision concerning the effectiveness of the Rule 59(e) (SCRCP) Motion.

On December 28, 2018, the Court indicated its acceptance of the Rule 59(e) (SCRCP) Motion and plans to schedule a hearing concerning issues surrounding that Motion. At this point, however, there is uncertainty as to what issues, within the Order, the Court will hear under the Rule 59(e) (SCRCP) Motion. In other words, there is uncertainty as to whether portions of the Order are final and what portions are being reconsidered.

Because of this uncertainty, we can only speculate that portions of the Order may be final and other portions may not be final. Thus, unless the Court of Appeals extends its suspense for the parties to file substantive arguments about the finality of any portion of the Order, we are left to argue in a general sense that portions of the Order are final. However, we cannot in good conscience point to any specific portion of the Order that is final, although in an effort to preserve our appeal and maintain our stay on the Order, we must take the position that a portion of the Order is final.

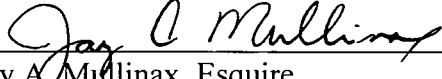
CONCLUSION

For the foregoing reasons, the Appellant respectfully prays that this Honorable Court take into consideration the unique circumstances surrounding this appeal, and allow the Appellant to

supplement its Memorandum within ten (10) days following the entry of the Order from the Rule 59(e) (SCRCP) Motion's hearing.

Respectfully Submitted,

January 2, 2019



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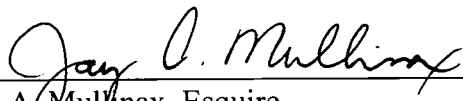
Appellant

PROOF OF SERVICE

I, Jay A. Mullinax, hereby certify that I have served one (1) copy of Appellant's Memorandum of Appealability of the Lower Court's Order upon Respondent's counsel by depositing a copy in the United States Postal Service, first class postage prepaid, and addressed as follows:

John R.C. Bowen, Esquire
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January 2, 2019


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