

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS

Carol Manigault,)

Civil Action No. 2017-CP-10-03110

APPELLANT,)

vs.)

ORDER DENYING APPEAL

Morris Ellison, as Personal)
Representative for the Estate of)
Andrew Manigault,)

RECEIVED

JAN 17 2019

RESPONDENT.)

SC Court of Appeals

2019 DEC 27 PM 2:21
CLERK OF COURT
JULIE H. BROWN

This matter came before the Court on an appeal from the Charleston County Probate Court (the "**Probate Court**"). The Probate Judge granted Respondent's Motion for Summary Judgment as to certain creditor's claims asserted by Appellant. After hearing the arguments of counsels, reviewing the Amended Record on Appeal (the "**Record**") and considering the applicable statutory and case law, the Court affirms the Probate Court's Order and denies the current Appeal for the reasons set forth below.


I.

Findings of Fact

Andrew Manigault (the "**Decedent**") and his ex-wife Carol Manigault (the "**Appellant**") were divorced pursuant to an October 3, 2002 Final Judgment of Divorce issued by the Superior Court of New Jersey (the "**Divorce Decree**")¹. The Decedent died on March 5, 2010. Pursuant to the terms of the Decedent's Last Will and Testament dated January 21, 2007², Morris A. Ellison, Esq. (the "**Respondent**" or "**Personal Representative**") was appointed to serve as Personal Representative of the Estate of Andrew Manigault (the "**Estate**"). Under the provisions of the Decedent's estate plan, Appellant is to receive approximately one-half (1/2) of the

¹ Amended Record on Appeal, Exhibit 31 (hereinafter, "R., Ex. 31").

² R., Ex. 29.

1 

Decedent's assets, separate and apart from her creditor claims asserted in this action, after payment of administrative expenses and creditors.

On September 15, 2010, Appellant filed in the Probate Court a Statement of Creditor's Claim³, seeking \$212,577.00 in mortgage and refinance expenses in connection with the Divorce Decree. On November 17, 2010, Appellant filed a second Statement of Creditor's Claim⁴ in connection with the Divorce Decree, seeking an estimated \$875,000.00 "for SC Property and NC Property-Unknown," listing as the basis of her claim:

Equitable Distribution of Property located at Tract 233, Beech Mountain, TMS# 194009250244, recorded in Plat Book 14 at Page 49 in the Register of Deeds in Avery County, North Carolina and Lot B, 5.77 acres located on Hamlin Road and U.S. Highway #17, Christ Church Parish, Charleston County, South Carolina, recorded in Plat Book CK at Page 42.

November 17, 2010 Carol Manigault Statement of Creditor Claims⁵.

On November 10, 2010, Appellant filed in the Charleston County Court of Common Pleas (the "**Court of Common Pleas**") a Notice of Filing of Foreign Judgment, Attorney's Affidavit of Filing Foreign Judgment and Certified Final Judgment of Divorce⁶, seeking payment from Decedent's Estate based on the 2002 Divorce Decree. On January 7, 2011, the Personal Representative filed a Motion for Relief from Foreign Judgment and Notice of Defenses to Foreign Judgment⁷. The Personal Representative set forth a number of defenses, *inter alia*, (i) arguing that the Court of Common Pleas lacked subject matter jurisdiction to address claims against the Estate; (ii) citing Rule 12(b)(8) of the South Carolina Rules of Civil Procedure such that another action was pending for the same claim; (iii) maintaining that the Divorce Decree was not a "foreign judgment" as defined in the South Carolina Uniform Enforcement of

³ R., Ex. 5.

⁴ R., Ex. 6.

⁵ R., Ex. 6.

⁶ R., Exs. 9-10.

⁷ R., Ex. 11.

Judgments Act, S.C. Code Ann. S.C. Code Ann. § 15-35-900 et seq., arguing that no adjudication had been made by any court that the Personal Representative, Estate or Decedent failed to comply with the Divorce Decree; (iv) and pointing out that Appellant had failed to comply with the applicable provisions of New Jersey law, the South Carolina Probate Code, and the South Carolina Uniform Enforcement of Judgments Act. *Id.*

The Court of Common Pleas issued a July 29, 2011 Order Granting the Personal Representative's Motion for Relief from Foreign Judgment, dismissing Appellant's Foreign Judgment claims for lack of subject matter jurisdiction and pursuant to Rule 12(b)(8) of the South Carolina Rules of Civil Procedure.⁸ The July 29, 2011 Order did not in any way refer or transfer Appellant's foreign judgment claims to the Probate Court. *Id.*

On January 19, 2016, Respondent filed and served two Form #372ES Notices of Disallowance of Claims⁹ on Appellant and her attorney which disallowed the entirety of both of Appellant's creditor claims. Both Notices of Disallowance of Claims included an express warning that Appellant's disallowed claims would be forever barred unless she commenced a legal proceeding within thirty (30) days, pursuant to S.C. Code Ann. § 62-3-804(2). Respondent's Proof of Delivery for the Notices of Disallowance of Creditor Claims¹⁰ was filed with the Probate Court on January 19, 2016, along with a copy of the Notices of Disallowance.

Appellant filed her Petition for Allowance of Claim¹¹ with the Probate Court on February 10, 2016 and her Summons¹² in connection with the Petition on February 19, 2016. Appellant has never filed with the Probate Court any Proof of Delivery showing service of her Summons

⁸ July 29, 2011 Order, Case No. 2010-CP-10-9512. R., Ex. 1.

⁹ R., Exs. 12-13.

¹⁰ R., Exs. 12-13.

¹¹ R., Ex. 14.

¹² R., Ex. 14.

and Petition for Allowance of Claim on Respondent.¹³ Appellant sent a courier to deliver two unposted, handwritten envelopes to Respondent.¹⁴ The courier left the documents at the front desk of Respondent and Respondent's attorney's office with a receptionist unauthorized to accept service. *Id.* On this basis, Respondent maintains that the action had not been timely commenced since service was neither timely nor properly effectuated.

On March 18, 2016, Respondent timely filed and served an Answer to Appellant's Petition for Allowance of Creditor's Claims¹⁵. On November 18, 2016, Respondent filed and served a Motion for Summary Judgment seeking dismissal of Appellant's Petition for Allowance of Claim¹⁶. Appellant filed her opposition brief¹⁷ on January 17, 2017. A hearing on the motion took place on January 19, 2017 before the Honorable Tamara C. Curry, Associate Probate Judge.¹⁸ Judge Curry issued an April 7, 2017 Order Granting Summary Judgment to Respondent¹⁹. Appellant filed a Motion to Alter or Amend the Probate Court's Judgment²⁰ on April 24, 2017, which was denied by the Probate Court in a June 1, 2017 Order²¹. This appeal followed.

II.

Standard of Review

The parties have postured this matter as an appeal of a motion for summary judgment. The court's disposition of a motion for summary judgment is governed by Rule 56 of the South Carolina Rules of Civil Procedure. Rule 56(c) dictates that a motion for summary judgment shall

¹³ See, April 7, 2017 Order. R., Ex. 2.

¹⁴ See, Transcript to January 19, 2017 Motion for Summary Judgment Hearing. R., Ex. 19, pp. 13, 20.

¹⁵ R., Ex. 15.

¹⁶ R., Ex. 16.

¹⁷ R., Ex. 17.

¹⁸ See, Transcript to January 19, 2017 Motion for Summary Judgment Hearing. R., Ex. 19.

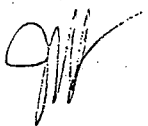
¹⁹ R., Ex. 2.

²⁰ R., Ex. 18

²¹ R., Ex. 3.

be granted "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." On appeal, the court reviews the granting of summary judgment pursuant to the same standard applied by the trial court. *In re Estate of Hover*, 407 S.C. 194, 754 S.E.2d 875 (S.C. 2014), citing *Brockbank v. Best Capital Corp.*, 341 S.C. 372, 379, 534 S.E.2d 688, 692 (S.C. 2000). Summary judgment must be entered in favor of a party who demonstrates there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. *Baughman v. American Tel. & Tel. Co.*, 306 S.C. 101, 410 S.E.2d 537 (1991); *Café Assoc. Ltd. v. Gerngross*, 305 S.C. 6, 406 S.E.2d 162 (1991). A motion for summary judgment can be used to raise the defense of statute of limitations. *McDonnell v. Consol. Sch. Dist. of Aiken*, 315 S.C. 487, 445 S.E.2d 638 (1994).

Rule 220(c) of the South Carolina Rules of Appellate Procedure also empowers a court hearing a matter on appeal to "affirm any ruling, order, decision or judgment upon any ground(s) appearing in the Record on Appeal." The Court in this matter is not restricted to the reasons set forth in the Probate Court's April 7, 2017 decision. Further, a respondent may raise on appeal any additional reasons the appellate court should affirm the lower court's ruling. *South Carolina Dept. of Labor, Licensing and Regulation v. Chastain*, 392 S.C. 259, 708 S.E.2d 818 (Ct. App. 2011), citing *I'On LLC v. Town of Mt. Pleasant*, 338 S.C. 406, 419, 526 S.E.2d 716, 723 (S.C. 2000). The court hearing the appeal may consider the respondent's additional reasons and, if convinced it is proper and fair to do so, rely on them or any other reason appearing in the record to affirm the lower court's judgment. *I'On LLC*, 338 S.C. at 420.



III.

Appellant's Arguments

Appellant bases her appeal of the Probate Court's Order on three arguments: (A) that the Probate Court erred in denying her Motion to Alter or Amend its judgment by failing to rule on Appellant's foreign judgment claim; (B) that the Probate Court erred in denying Appellant's Motion to Alter or Amend judgment by disregarding the statute of limitations as set forth in S.C. Code § 62-3-806(a); and (C) that the Probate Court erred in denying Appellant's Motion to Alter or Amend judgment because it cited a "Reporter's Comment" to S.C. Code § 62-3-806 as its primary authority to support its Order granting summary judgment to Respondent. The Court will address each issue, in turn, below. Respondent has also cited additional alternate grounds for dismissing the Appeal which the Court finds to be persuasive and will be discussed below.

A. Appellant's foreign judgment claims were dismissed by the Court of Common Pleas for lack of subject matter jurisdiction and pursuant to Rule 12(b)(8) of the South Carolina Rules of Civil Procedure.

Appellant first asserts that her Motion to Alter or Amend the judgment was wrongfully denied, as the Probate Court failed to rule on Appellant's foreign judgment claims. Specifically, Appellant suggests that in granting Respondent's Motion for Summary Judgment, the Probate Court failed to issue an order on her foreign judgment claims after it ruled against Appellant's creditor claims. She insists that because the creditor and foreign judgment claims were separate and distinct from one another, the Probate Court erred by failing to adjudicate the latter. A simple review of the Record and the procedural posture of the case shows that Appellant's contentions are unfounded.



On November 10, 2010, Appellant filed her Divorce Decree, a Notice of Filing of Foreign Judgment and her Attorney's Affidavit of Filing²² in the Court of Common Pleas in an effort to pursue her claim as a divorce creditor of Decedent's Estate. The Personal Representative filed a January 7, 2011 Motion for Relief from Foreign Judgment and Notice of Defenses to Foreign Judgment²³. On July 29, 2011, the Court of Common Pleas issued an Order²⁴ granting the Personal Representative's Motion for Relief from Foreign Judgment and dismissed Appellant's entire case for lack of subject matter jurisdiction and pursuant to Rule 12(b)(8) of the South Carolina Rules of Civil Procedure. If a court lacks jurisdiction over the subject matter, any action with respect to such a cause, other than to dismiss it, is absolutely void. *Coon v. Coon*, 356 S.C. 342, 588 S.E.2d 624 (Ct. App. 2005), *aff'd as modified*, 364 S.C. 563 (S.C. 2005); *see also Ross v. Richland County*, 270 S.C. 100, 240 S.E.2d 649, 650 (S.C. 1978). Therefore, the Court of Common Pleas could do nothing more than dismiss the case over which it lacked subject matter jurisdiction. Indeed, it had no power to refer a case to the Probate Court over which it lacked subject matter jurisdiction, and did not attempt to do so.

More practically speaking, the Court of Common Pleas' Order is completely devoid of any sort of referral of the case to the Probate Court. Instead, the Order²⁵ plainly reads, "For the reasons set forth above, the Defendant Estate of Andrew Manigault's Motion for Relief from Foreign Judgment is GRANTED. This case is hereby dismissed."

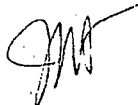
Appellant's foreign judgement claim was previously dismissed by the Court of Common Pleas and, as such, was never referred to the Probate Court and the foreign judgment claims were never properly placed at-issue in the Probate Court proceedings. In fact, the Record reveals no

²² R., Exs. 8-9.

²³ R., Ex. 11.

²⁴ R., Ex. 1.

²⁵ R., Ex. 1.



indication that Appellant ever domesticated the foreign judgment against the Estate. Accordingly, the Court holds that Respondent is entitled to summary judgment as a matter of law.

B. Appellant incorrectly cites to the current version of S.C. Code Ann. § 62-3-806(a), which was not in effect at the time of the Decedent's death in 2010. The relevant version of the statute did not contain the new deadline for disallowance relied upon by the Appellant.

Appellant next claims that the Probate Court erred in denying her Motion to Alter or Amend the judgment by disregarding the statute of limitations as is set forth in the 2014 version of S.C. Code Ann. § 62-3-806(a) in its Order granting summary judgment to Respondent. Appellant highlights the fact that Decedent passed away on March 5, 2010 and cites the current version of S.C. Code Ann. § 62-3-806(a), effective January 1, 2014, which states that:

As to claims present in the manner described in Section 62-3-804(1) within the time limit prescribed in Section 62-3-803, within sixty days after the presentment of the claim, or within fourteen months after the death of decedent, whichever is later, the personal representative must serve upon the claimant a notice stating that the claim has been allowed or disallowed in whole or in part.

This version of § 62-3-806(a) was not in effect when the Decedent died in 2010. Nevertheless, Appellant claims that since Respondent did not file his Disallowance of Claim until January 19, 2016, well beyond the fourteen month time limit allowed by the version of the statute adopted after Decedent's death, he is time-barred from raising any argument with regard to Appellant's claims. Again, the Court finds Appellant's argument fundamentally flawed, as she cites a non-controlling iteration of Section 62-3-806.

Appellant incorrectly relies on the current version of S.C. Code Ann. § 62-3-806(a) to advance her argument concerning the applicable time limit for Respondent to serve his notice disallowing the claim. However, the version of Section 62-3-806(a) in effect at the time of the Decedent's death – which is controlling in this matter – did not contain any specific deadline for

a Personal Representative to file a Disallowance of Claim. The controlling version of S.C. Code Ann. § 62-3-806(a) reads as follows:

As to claims presented in the manner described in Section 62-3-804 within the time limit prescribed in Section 62-3-803, the personal representative may mail a notice to any claimant stating that the claim has been disallowed. If, after allowing or disallowing a claim, the personal representative changes his decision concerning the claim, he shall notify the claimant. The personal representative may not change a disallowance of claim after the time for the claimant to file a petition for allowance or to commence a proceeding on the claim has run and the claim has been barred. Every claim which is disallowed in whole or in part by the personal representative is barred so far as not allowed unless the claimant files a petition for allowance in the court or commences a proceeding against the personal representative not later than thirty days after the mailing of the notice of disallowance or partial allowance if the notice warns the claimant of the impending bar. It is the responsibility of the personal representative to notify the claimant if a claim is disallowed.

In light of the statute in effect on the date of the Decedent's death, the Court holds that there is no evidence whatsoever that Respondent's January 19, 2016 Disallowances of Appellant's Claims were untimely. Therefore, there remains no genuine issue as to any material fact and Respondent is entitled to judgment as a matter of law.

C. A citation by the Probate Court to a "Reporter's Comment" from an earlier version of S.C. Code Ann. § 62-3-806 has not been shown to be a controlling error.

Appellant's final argument is rooted in the notion the Probate Court erred in denying her Motion to Alter or Amend the judgment due to the fact that it cited a "Reporter's Comment" printed below S.C. Code § 62-3-806 as primary authority to support its Order granting summary judgment to Respondent. In its Order²⁶, the Probate Court cites the Reporter's Comment to S.C. Code § 62-3-806 which reads as follows: "failure of a personal representative to mail notice of his action within thirty days after the claim filing period has expired constitutes a notice of disallowance with warning of the impending bar." Appellant insists that the Probate Court was misguided in citing and relying upon the Reporter's Comment since the Reporter's Comment

²⁶ R., Ex. 2, p. 5.

cannot be found anywhere in the official S.C. Code of Laws, nor is it listed as an acceptable form of authority to cite by Rule 268 of the South Carolina Appellate Court Rules or The Bluebook. The Court finds that, given the fact that Appellant has cited an incorrect iteration of S.C. Code § 62-3-806, as discussed in Section B., *supra*, her arguments in connection with the incorrect statute's Reporter's Comments are inapposite and need not be considered for purposes of this Order.

D. Appellant failed to properly serve her Summons and Petition for Allowance of Claims as required under South Carolina law.

In addition to the Court's findings above, Respondent raises two additional alternate grounds upon which the Probate Court's Order must be affirmed. First, Respondent points out that all of Appellant's creditor claims are barred due to her failure to properly and timely serve her Summons and Petition for Allowance of Claim within the statutory thirty (30) day deadline. S.C. Code Ann. §§ 62-3-804(3), 62-3-806(a). The Probate Court Order is silent as to this aspect of Respondent's argument. Based on its review of the facts of the case, in conjunction with the controlling statutory authorities, the Court agrees with Respondent and finds that Appellant's attempts of serving Respondent were inadequate.

On January 19, 2016, Respondent filed and served two Form 372ES Notices of Disallowance of Claims²⁷ on Appellant and her counsel. The Notices were delivered to Appellant's counsel on January 20, 2016 and to Appellant on January 25, 2016²⁸. The Notices of Disallowance of Claims disallowed all of Appellant's claims in full, and included the following warning:

²⁷ R., Exs. 12-13

²⁸ R., Exs. 23-25.



The disallowed claim or the disallowed portion of your claim will be forever barred unless you commence a legal proceeding requiring a Summons, a Petition and a filing fee of \$150.00 for allowance of the claim in accordance with SCPC 62-3-804(2), within thirty (30) days after the mailing or other service of this Notice of Allowance/Disallowance of Claim.

Thus, February 19, 2016 represented Appellant's thirty (30) day deadline for filing and service of her Summons and Petition for Allowance of Claim. Although Appellant filed her Summons and Petition for Allowance of Claim within the deadline, the Record reveals that she did not properly effectuate service on Respondent. Appellant had a courier leave two unposted, handwritten envelopes with a receptionist unauthorized to accept service of process for Respondent.²⁹

The version of S.C. Code Ann. § 62-3-804(3), Manner of Presentation of Claims, in effect at the time of the Decedent's death provides, "If a claim is presented under subsection (1), no proceeding thereon may be commenced more than thirty days after the personal representative has mailed a notice of disallowance with warning of the impending bar. . ." In that same vein, the version of S.C. Code Ann. § 62-3-806(a), Allowance of Claims, in effect at the time of the Decedent's death provides:

Every claim which is disallowed in whole or in part by the personal representative is barred so far as not allowed unless the claimant files a petition for allowance in the court or commences a proceeding against the personal representative not later than thirty days after the mailing of the notice of disallowance or partial disallowance if the notice warns the claimant of the impending bar. . . .

The Appellant filed her Petition for Allowance of Claim was filed with the Probate Court on February 10, 2016 and her Summons associated with that Petition was filed on February 19, 2016. Contrary to the foregoing statutory requirements, no proper service of process was made

²⁹ See, Transcript to January 19, 2017 Motion for Summary Judgment Hearing. R., Ex. 19, pp. 13, 20.

by Appellant on Respondent within thirty (30) days of the January 19, 2016 mailing of the Notices of Disallowance of Claim.

Service of process is controlled by the South Carolina Code of Laws as well as the South Carolina Rules of Civil Procedure. The relevant section of the South Carolina Code is S.C. Code Ann. § 62-3-1305, Service of Summons and Petition, which reads as follows:

To such summons a copy of the petition must be attached and copies of the summons and petition served on the personal representative (if not the petitioner), the heirs or devisees, and any other person as required by the court in its discretion, in like manner as summonses and complaints are served in civil actions in the circuit courts.

Rule 4(d)(1) of the South Carolina Rules of Civil Procedure governs service of process of a summons and complaint on an individual in a civil action. Rule 4(d)(1) provides that:

Upon an individual other than a minor under the age of 14 years or an incompetent person, by delivering a copy of the summons and complaint to him personally or by leaving copies thereof at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein, or by delivering a copy to an agent authorized by appointment or by law to receive service of process.

The Court finds that Appellant's attempted service of process on February 19, 2017 was ineffective and did not comply with Rule 4(d)(1). Neither the Personal Representative nor his counsel has accepted service. No credible Proof of Delivery or Affidavit of Process Server documenting proper Appellant service has been introduced to the Record. To that end, the Court finds as an alternate ground for affirming the Probate Court that all of Appellant's creditor claims are barred by S.C. Code Ann. §§ 62-3-804(3), 62-3-806(a), 62-3-1305 and Rule 4(d)(1) of the South Carolina Rules of Civil Procedure for lack of proper and timely service of process of her Summons and Petition for Allowance of Claim, and Respondent is entitled to summary judgment.



E. As evidenced in the very language of Appellant's creditor claims for breach of the Divorce Decree and its accompanying "HUD Uniform Settlement Statement" for refinance, Appellant had notice of any breach well before three years prior to Decedent's death.

As a second additional alternate basis to affirm the Probate Court's Order, the Court agrees that Appellant's creditor claims are barred by the applicable statute of limitations. S.C. Code Ann. § 15-3-530(1) provides a three-year statute of limitations for enforcing contractual claims not under seal at the time of the Decedent's death. The Probate Court Order is once again silent as to this aspect of Respondent's argument; however, the Court agrees with Respondent and holds that S.C. Code Ann § 15-3-530(1) serves as additional grounds to dismiss the Appeal.

Starting in 2002, the Divorce Decree³⁰ required Decedent to make mortgage payments. Appellant had contemporaneous knowledge that Decedent was not making such payments as the creditors' claims so state.³¹ Nevertheless, Appellant failed to promptly protect and enforce her rights in New Jersey during the Decedent's lifetime. Despite her knowledge of the Decedent's failure to comply with the terms of the Divorce Decree, Appellant allowed at least five (5) years to pass and the Decedent's death to occur before pursuing creditor claims against the Decedent's estate in South Carolina.

S.C. Code Ann. § 15-3-530(1) sets forth the statute of limitations which controls Appellant's claims in this respect, providing that, "Within three years, [a litigant must commence] an action upon a contract, obligation, or liability, express or implied, excepting those provided for in Section 15-3-520." The Court holds that based on Appellant's failure to timely

³⁰ R., Ex. 31.

³¹ See, Statement of Creditor's Claim (in which Appellant claims that refinancing was made necessary due to Decedent's default on the mortgage and the attached Uniform Settlement Statements identifies a refinance settlement date of March 17, 2005). R., Ex. 5.

commence an action, Appellant's claims flowing from the 2002 Divorce Decree are now barred as a matter of law and Respondent is entitled to summary judgment.

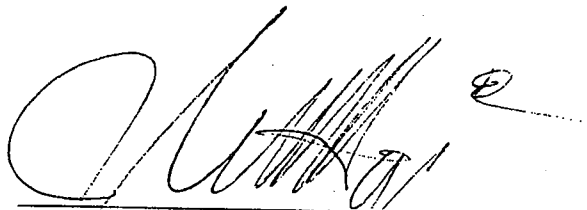
F. As a separate and independent ground for dismissal of this appeal, Appellant failed to comply with the statutory deadlines of S.C. Code Ann. § 62-1-308 (d) and (e) as well as Rule 208 of the South Carolina Appellate Court Rules.

Appellant's Notice of Intent to Appeal to the Court of Common Pleas was filed June 16, 2017 and noted Appellant's receipt of the June 1, 2017 Order on June 4, 2017. See Appellant's Notice of Intent to Appeal. Appellant's Statement of Issues on Appeal was filed on July 28, 2017. See, Appellant's Statement of Issues on Appeal filed July 28, 2017 (with Proof of Delivery showing July 27, 2017 service by mail). Appellant's Initial Brief and Designation of Matter to be Included in the Record on Appeal were filed and served out of time on August 30, 2017, past the August 28, 2017 statutory deadline set by S.C. Code Ann. § 62-1-308(d) and (e) and Rule 208 of the South Carolina Appellate Court Rules. In addition, Appellant's references to the Record and apparent provision of attached Exhibits to the Court with her Initial Brief (which Exhibits were not provided to Respondent) do not comply with Rule 208(b)(4) of the South Carolina Appellate Court Rules.

IV.

For the reasons set forth above, the Appeal commenced by Appellant to the Court of Common Pleas is hereby dismissed with prejudice.

AND IT IS SO ORDERED.



The Honorable J. Mark Hayes, II
Circuit Court Judge

12/20/2018