



The South Carolina Court of Appeals

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September 25, 2019

The Honorable David Hamilton
PO Box 649
York SC 29745-0649

REMITTITUR

Re: Christopher May v. Ferrara Buist, LLC
Lower Court Case No. 2017CP4603722
Appellate Case No. 2019-000927

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

V. Claire Allen, Deputy

CLERK

Enclosure

cc: John Calvin Hayes, IV, Esquire
Paul B. Ferrara, III, Esquire
Alex Sami Fadoul, Esquire
Nina Elizabeth Meola, Esquire
Jesse Sanchez, Esquire

The South Carolina Court of Appeals

Christopher and Ann Marie May, Respondents,

v.

Ferrara Buist, LLC, John Does 1-50, and Jane Does 1-50,
Appellants.

Ferrara Buist, LLC, Third-Party Plaintiff,

v.

MDJ Construction, Inc., Third-Party Defendants.

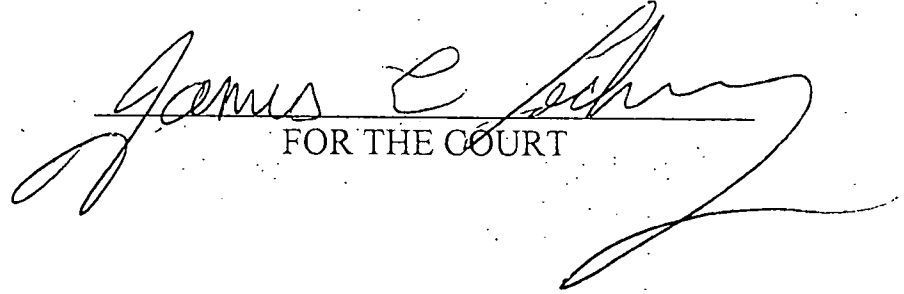
Appellate Case No. 2019-000927

ORDER

Respondents have filed a motion to dismiss this appeal, arguing (1) Appellants' initial brief does not raise any issues relating to the special referee's orders listed in Appellants' notice of appeal, and the only issues raised relate to an earlier circuit court order that Appellant did not appeal; (2) the special referee's orders denying Appellants' motion to vacate the entry of default and Appellants' motion to reconsider are not immediately appealable; and (3) Appellants did not timely order a transcript or move to order the transcript out of time. Respondents filed a return arguing the orders are immediately appealable pursuant to section 14-3-330 of the South Carolina Code. Appellants have also filed a motion to order the transcript out of time.

After careful consideration, this appeal is dismissed. First, Appellants did not timely appeal the circuit court's April 17, 2018 order of reference. *See* Rule 203(b)(1), SCACR (providing a notice of appeal from the court of common pleas must be served on all respondents within thirty days after receipt of written notice of entry of the order or judgment). As noted by Respondents, Appellants' notice of

appeal only references and attaches the special referee's orders filed April 22, 2019 and May 21, 2019. Appellants' notice of appeal does not reference the circuit court's order or even reference the circuit court judge, and Appellants did not attach a copy of the circuit court's order to the notice of appeal. See Rule 203(e)(1) and 203(d)(1)(B)(ii), SCACR. Finally, the special referee's orders are not immediately appealable. See *Thynes v. Lloyd*, 294 S.C. 152, 154, 363 S.E.2d 122, 123 (Ct. App. 1987) (holding an order refusing to grant relief from an entry of default is not immediately appealable). The remittitur will be sent as provided in Rule 221, SCACR.


FOR THE COURT

Columbia, South Carolina

cc:

John Calvin Hayes, IV, Esquire
Paul B. Ferrara, III, Esquire
Alex Sami Fadoul, Esquire
Nina Elizabeth Meola, Esquire
Jesse Sanchez, Esquire

FILED

September 9, 2019