

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM CHEROKEE COUNTY

Court of Common Pleas  
Grace Gilchrist Knie, Circuit Court Judge

**RECEIVED**

OCT 31 2019

SC Court of Appeals

Appellate Case No. 2019-001325  
Circuit Court Case No. 2018-CP-11-00838

Charles E. Deal, Jr., ..... Appellant,

v.

Angela Godfrey, ..... Respondent.

**RETURN TO MOTION TO DISMISS APPEAL AS UNTIMELY**

Appellant Charles E. Deal, Jr., by his undersigned attorney, submits this Return to the Respondent’s Motion to Dismiss Appeal as Untimely, and asks that the Motion to Dismiss be DENIED.

**I. A MOTION TO DISMISS IS NOT THE PROPER VEHICLE TO RAISE THIS ISSUE.**

This case came to the Circuit Court as an appeal from the Probate Court. After the Circuit Court initially ruled against the Appellant, he filed a Petition for Rehearing. The Respondent argued to the Circuit Court that the Appellant’s Petition for Rehearing was untimely. Return to Petition for Rehearing, pp. 2-3.

The parties also addressed this issue at oral argument in the Circuit Court on the Petition for Rehearing. Transcript of Record for June 10, 2019, pp. 9-11. Appellant addressed this issue at some length. Likewise, the Respondent briefly mentioned the issue at oral argument, but chose not to “belabor that point.” Transcript, p. 11, ll. 22-24.

The Circuit Court thanked the Respondent for not belaboring the point, “because we are here, and **we are having the hearing**.” Transcript, p. 11, l. 25 – p. 12, l. 1 (emphasis added). The Court also ruled, “I’m going to allow us to have the motion, okay? So that’s the first thing. We are going forward with motion.... **I don’t believe that counsel was in any way slack in responding**.” Transcript June 10, 2019, p. 12, ll. 9-15 (emphasis added).

If the Respondent disagrees with the Circuit Court ruling on timeliness, the proper way to raise this issue before this Court is to file a Notice of Cross-Appeal:

**(c) Cross-Appeals. A respondent may institute a cross-appeal by serving a notice of appeal on all adverse parties**, or in the case of an appeal from the administrative tribunal, by serving a notice of appeal on the agency, the administrative law court (if it has been involved in the case) and all parties of record, **within five (5) days after receipt of appellant’s notice of appeal**, or within the time prescribed by Rule 203(b), whichever period last expires.

SCACR 203(c) (emphasis added).

Respondent failed to file a Notice of Cross Appeal.

This Motion to Dismiss is late. Appellant served his Notice of Appeal on August 6, 2019. Accordingly, the Respondent’s Notice of Cross-Appeal was due August 11, 2019. SCACR 203(c). Respondent’s Motion to Dismiss Appeal as Untimely, which is a belated attempt at a Cross-Appeal, is more than two months late.

## II. THE MOTION TO DISMISS IS IMPROPER ON THE MERITS.

Appellant's Notice of Appeal was timely. Respondent contends that the Notice of Appeal was untimely, not based upon the time from the July 8, 2019 Order denying the Petition for Rehearing to August 6, 2019, when Appellant filed and served his Notice of Appeal; but rather Respondent again contends Appellant's earlier Petition for Rehearing in the Circuit Court was late. This argument is unfounded under the Rules.

Under the S.C. Rules of Civil Procedure and the S.C. Common Pleas E-Filing Guidelines, the Appellant's Petition for Rehearing to the Circuit Court was timely. The Circuit Court filed an Order and served Notice of Electronic Filing on May 13, 2019. Appellant filed and served his Petition for Rehearing on May 28, 2019.

Under Guideline 4, governing e-filing and e-service, Appellant's Petition for Rehearing was timely. Guideline 4(e)(3) states: "The act of E-Filing the pleading, motion or other paper is the equivalent of depositing it in the United States Mail under Rule 5(b)(1), SCRCF."

Guideline 4(e)(4) further states:

*(4) Time to Respond Following Electronic Service.* Computation of the time for a response after service by NEF is governed by Rule 6, SCRCF. In accordance with Rule 6(e), SCRCF, **service by electronic means via an NEF is treated the same as service by U.S. Mail** for purposes of determining the time to respond; **therefore, five days shall be added** to the prescribed period to respond from the date set forth in the Official File Stamp on the NEF (emphasis added).

Rule 6(e) states:

**(e) Additional Time After Service by Mail or Upon Statutory Agent.** Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon him and the notice or paper is **served upon him by mail** or upon a person designated by statute to accept service, **five days shall be added** to the prescribed period (emphasis added).

Because Appellant served his Petition for Rehearing within 10 days of the Order (plus 5 days for electronic service of notice), the Petition for Rehearing was filed and served timely under the Rules of Civil Procedure and the Guidelines.

In the alternative, if the South Carolina Appellate Court Rules govern an appeal from the Probate Court to the Circuit Court, Appellant's Petition was timely as well. SCACR 221(a) allows fifteen days to file a Petition for Rehearing. "Petitions for rehearing must be actually received by the appellate court no later than fifteen (15) days after the filing of the opinion, order, judgment or decree of the court." The Appellant's Petition for Rehearing was filed and actually received by the court within 15 days of the filing of the earlier order. SCACR 221(a).

Accordingly, the Petition for Rehearing was timely, whether under the S.C. Rules of Civil Procedure and the S.C. Common Pleas E-Filing Guidelines, or under the South Carolina Appellate Court Rules.

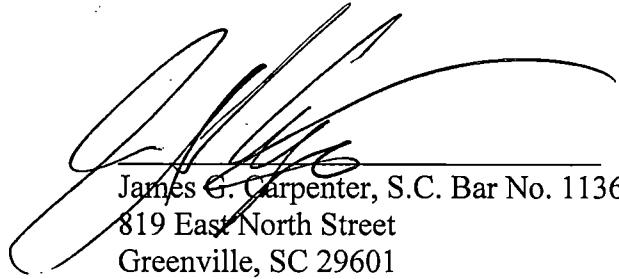
### **CONCLUSION**

Respondent failed to file a Notice of Cross Appeal, which was the proper way to raise this issue. By attempting to use this Motion, she is two months late.

Appellant's Petition for Rehearing in the Circuit Court met the timeliness standard under the Circuit Court Rules and Guidelines, and under the Appellate Court Rules. Therefore, Appellant's Notice of Appeal was timely.

Accordingly, Respondent's Motion to Dismiss Appeal as Untimely should be DENIED.

Respectfully submitted,  
**THE CARPENTER LAW FIRM, PC**

A large, stylized handwritten signature in black ink, appearing to read 'J. Carpenter', is written over a horizontal line.

James G. Carpenter, S.C. Bar No. 1136  
819 East North Street  
Greenville, SC 29601  
(864) 235-1269  
Attorney for the Appellant

October 25, 2019

THE STATE OF SOUTH CAROLINA  
In The Circuit Court

APPEAL FROM CHEROKEE COUNTY  
Probate Court

The Honorable Joshua L. Queen, Judge of Probate Court

Case No. 2018-CP-11-00838  
(Probate Case No. 2013-ES-11-00192)

Charles E. Deal, Jr., \_\_\_\_\_ Appellant,

v.

Angela Godfrey, \_\_\_\_\_ Respondent.

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**RETURN TO APPELLANT'S PETITION FOR RE-HEARING**

---

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Attorney for Respondent, Angela Godfrey

The Respondent makes her Return to Appellant's Petition for Rehearing as follows:

**1. Rule 221(a) SCACR does not apply**

Appeals from the Probate Court are governed by Section 62-1-308 of the S.C. Code of Laws for 1976, as amended. Section 62-1-308(g) provides as follows:

Except as provided in this section, no party is required to comply with any other requirements of the South Carolina Appellate Court Rules...

Section 62-1-308 does not incorporate Rule 221, SCACR. Additionally, Rule 101, SCACR sets forth the scope and applicability of the appellate court rules. Rule 101(a) provides that Part II of the rules (which includes Rule 221) governs practice and procedure in appeals, petitions, and motions in the **Supreme Court** and the **Court of Appeals**, (emphasis added).

Therefore, Rule 221, SCACR has no applicability to an appeal from the Probate Court to the Circuit Court. To Respondent's knowledge, there are no cases holding otherwise.

**2. Respondent's Petition is not timely under Rule 59(e) SCRCP.**

The Circuit Court issued its Order affirming the Probate Court on May 13, 2019. This Order was also filed on May 13, 2019. Both the Appellant and Respondent were given notice of this ruling on May 13, 2019 through the e-file system.

Rule 59(e) SCRCP provides as follows, "A motion to alter or amend the judgment shall be served not later than 10 days after receipt of written notice of the entry of the Order." In the present case, the deadline for serving a Rule 59(e) motion would be May 23, 2019. The Appellant filed his motion on May 28, 2019 and Respondent was served through the e-file system on that same date. Therefore, Appellant's Rule 59(e) motion is

not timely. The ten day deadline in Rule 59(e) is an absolute deadline. A trial court does not have the power to alter or amend a final order if more than ten days passes and no Rule 59(e) motion has been served. *Overland Inc. v. Nance*, 423 SC 253, 815 SE 2d 431 (2018) (citing, *Leviner v. Sonoco Prods. Co.*, 339 SC 492, 530 SE 2d 127 (2000)).

**3. Appellant's Motion lacks merit**

Respondent again asserts that Appellant's Motion is not properly before the Court. However, even if the motion had been timely made, it lacks merit. The Appellant simply rehashes the arguments he previously presented to the Court. The Court was correct in its ruling affirming the Probate Court and therefore, said ruling should not be changed. In addition, Respondent would re-assert the arguments made in Respondent's final brief previously submitted to the Court.

Wherefore, the Respondent prays that Appellant's motion be dismissed as untimely or, in the alternative, denied.

s/ William G. Rhoden  
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Gaffney, South Carolina  
June 7, 2019

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STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF CHEROKEE	)	
CHARLES E. DEAL,	)	
	)	
PLAINTIFF,	)	TRANSCRIPT OF RECORD
	)	2018-CP-11-00838
-vs-	)	
	)	JUNE 10, 2019
ANGELA GODFREY,	)	GAFFNEY, SOUTH CAROLINA
	)	
DEFENDANT.	)	

B E F O R E:

THE HONORABLE GRACE GILCHRIST KNIE, JUDGE.

A P P E A R A N C E S:

JAMES G. CARPENTER, ESQUIRE  
ATTORNEY FOR THE PLAINTIFF

WILLIAM G. RHODEN, ESQUIRE  
ATTORNEY FOR THE DEFENDANT

MICHAEL R. WATTS  
CIRCUIT COURT REPORTER

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WITNESSES

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(NO WITNESSES CALLED)

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NO. DESCRIPTION ID. EV.

(NO EXHIBITS MARKED)

1 (PROCEEDINGS, JUNE 10, 2019)

2 THE COURT:: Our next case is 2018-CP-11-838,  
3 Charles Deal versus Angela Godfrey.

4 The clerk has explained that one of the attorneys  
5 for this hearing has to be in another court this afternoon  
6 and so we have let this case come before you all, unless  
7 there is an objection in the gallery of me doing that.  
8 Okay?

9 (No response)

10 MR. RHODEN: Thank you, Your Honor.

11 THE COURT: All right. Thank you.

12 THE COURT: Y'all give me one moment to pull this  
13 up.

14 (Off the record).

15 (Back on the record).

16 THE COURT: Okay.

17 Yes, sir, Mr. Carpenter, this is your motion, sir,  
18 that was filed for reconsideration.

19 MR. CARPENTER: Thank you, Your Honor.

20 THE COURT: Yes, sir.

21 MR. CARPENTER: We raised three points in our  
22 motion, a petition for rehearing, a motion for  
23 reconsideration.

24 We understood from the court's order that the  
25 court believed that it did not have jurisdiction to grant

1 the relief requested, and we inferred from that that the  
2 court understood that this issue had not been properly  
3 presented to the Probate Court.

4 In my motion I argued that we did present it to  
5 the Probate Court on a number of occasions, one being about  
6 a year after the settlement. We wrote an e-mail to the  
7 court and we have been unsuccessful in getting the  
8 settlement fully implemented. We couldn't get into the  
9 house to do an assessment and an appraisal of the house in  
10 order to have it sold. Our realtor was barred from doing  
11 that. We had presented that affidavit from the realtor.

12 So we wrote to the court a long e-mail explaining  
13 the circumstances and asking the court for a hearing and  
14 help in getting a full implementation of the settlement  
15 agreement. The court did not respond to that e-mail. No  
16 hearing was scheduled.

17 I contacted the court again a few months later in  
18 January of 2017. Again no response.

19 In August of 2018 the respondent moved to dismiss  
20 the case, and we filed a response to their motion to  
21 dismiss. In the response again we asked for full  
22 implementation of the settlement agreement, both in the body  
23 of the response and in the prayer for relief.

24 In our motion we argued --

25 In our petition for rehearing motion for

1 reconsideration we argued that Rule 7(b)(1) governs what the  
2 definition of a motion and that we had met the definition of  
3 a motion by the response.

4 And then the more I thought about it between the  
5 time I filed the motion and the time we got here, I think  
6 that probably my letter to the court contained all the  
7 elements of the motion as well, but it was never taken up by  
8 the court.

9 But in the response we have met the three elements  
10 that Rule 7 requires for a motion. It has to be in writing;  
11 state with particularly the grounds therefore, and set forth  
12 the relief sought or the order sought, and we did that in  
13 significant detail in our response to the motion to dismiss.

14 Similarly, we had done that earlier in the letter  
15 to the court on August of 2016.

16 In our motion we note that the court itself  
17 acknowledged that we had done that, and we quoted from the  
18 order in which the court says "the petitioner submits in his  
19 return that the settlement agreement should be enforced in  
20 its entirety.

21 "The petitioner also submitted that all the terms  
22 of the settlement agreement, except the sale of the  
23 property, have been implemented, and that the respondent had  
24 effectively prevented the sale.

25 "Petitioner also submitted petitioner's counsel

1 had asked for a hearing in 2016, but no hearing was  
2 scheduled."

3 So we had presented this to the court on more than  
4 one occasion and the court denied our motion, and it's that  
5 denial of the motion that we appealed to this court.

6 Now, we contend there are a couple of other points  
7 that we raised in response to the petition for rehearing.

8 The second point was that the court's order  
9 contained as finding of fact items that were just assertions  
10 of counsel and that they were contrary to the testimony in  
11 the case; most specifically that Mr. Deal, Jr. Was estranged  
12 from his father. There is deposition testimony from Mr.  
13 Deal that is directly contrary to that, and how that made it  
14 as a finding of fact in the Probate Court I don't know.  
15 But, in any event, that is something that I think is  
16 contrary to the record and certainly unsupported by the  
17 record.

18 The third point, though, and probably the most  
19 important one is when you have a petition -- or a motion to  
20 dismiss for failure to prosecute, what is the standard?

21 The respondent asserted to the court some cases  
22 that were decided back into the old code pleading. When I  
23 was in law school we did take the course of code pleading.  
24 By the time I graduated it was no longer important, except  
25 for historical significance, and I was glad about that.

1           We adopted -- South Carolina adopted the South  
2 Carolina Rules of Civil Procedure, which is similar to the  
3 federal rules, but the standard under the new -- the current  
4 South Carolina Rules of Civil Procedure is set out in the  
5 McComas v. Ross case and it says that a motion to dismiss  
6 for failure to prosecute requires a number of apparently  
7 alternative factors, but they all require some showing of  
8 fault on the part of the person who is at risk for the  
9 dismissal.

10           The McComas standard said that there must be  
11 repeated warnings to the offending party or multiple  
12 opportunities to proceed with trial, and only then upon a  
13 finding of unreasonable neglect, or they have to show  
14 indifference to the rights of the opponent, or a clear  
15 record of delay and contumacious conduct. The court has to  
16 give due considerations to the availability of sanctions  
17 less severe than dismissal. They have to consider the  
18 plaintiff's degree of personal responsibility in the amount  
19 of prejudice caused to the defendant; the presence of a  
20 drawn-out history of deliberately proceeding in a dilatory  
21 fashion and the effectiveness of sanctions less drastic than  
22 dismissal.

23           The Probate Court did not address these at all in  
24 its order. And then when this court had the opportunity to  
25 address our appeal of that order, again, this court did not

1 address these factors in any significant way, the best I  
2 could tell.

3 And when you look at these factors and you look at  
4 the conduct of the two parties in this case, all these  
5 factors embody the conduct of the respondent Ms. Godfrey.  
6 She has caused the delay. She has drawn this thing out.  
7 She is personally responsible for the delays by not letting  
8 the realtor in, by keeping dogs on the property, by  
9 threatening the realtor with -- and impliedly threatening  
10 the realtor with an attack by dogs.

11 She moved into the house after Mr. Deal, Sr.'s  
12 death. She was not, even under the will, full owner of it,  
13 but it is this refusal to cooperate and bring about the  
14 mediated settlement that brings us here today.

15 The final fact -- the final point of the mediated  
16 settlement says that the parties shall work together in good  
17 faith to work out the remaining details to implement the  
18 settlement. That is totally contrary to the conduct we've  
19 seen on the part of Ms. Godfrey.

20 So we ask the court to reconsider its ruling, to  
21 adopt and utilize the standard in the McComas case, to  
22 recognize this was presented to the Probate Court on more  
23 than one occasion, and to reverse the judgment and to order  
24 the full implementation of the settlement.

25 Now, the opposing counsel has raised a defense to

1 this case with two arguments in defense.

2 One, he says we are late.

3 Two, he says he did it right the first time,  
4 without a lot of elaboration on the second point.

5 So, if I could, I would like to address his first  
6 argument that says our motion is late.

7 And, Your Honor, I brought a printout of the  
8 relevant rule. I thought I had it in front of me.

9 There is a set of rules that govern electronic  
10 court filings. And -- here we are.

11 I have brought guideline number four.

12 I'm passing a copy to counsel. I'd like to pass  
13 it up to the court.

14 THE COURT: Yes, sir.

15 MR. CARPENTER: Opposing counsel points out that  
16 the Rules of Civil Procedure require the motion to  
17 reconsider be filed within ten days of the order in  
18 question. Now, it's ten days from the receipt of the order  
19 in question, but the rules that govern electronic filing say  
20 that when an order is promulgated through electronic filing.  
21 If you look at the bottom of page two of the handout, I  
22 highlight what seems to me to be important.

23 The act of e-filing, the pleading motion or other  
24 paper is the equivalent of depositing it in the United  
25 States mail under Rule 5(b)(1) of the South Carolina Rules

1 of Civil Procedure.

2 If you look on the third page, paragraph four,  
3 this is in accordance with Rule 6(e), South Carolina Rules  
4 of Civil Procedure, service by electronic means via NEF is  
5 treated the same as service by U.S. mail for purposes of  
6 determining the time to respond. Therefore, five days shall  
7 be added to the prescribed period to respond from the date  
8 set forth in the official file stamp on the NEF.

9 So that means that when the court entered the  
10 order on the 13th, we had the ten days, plus five days given  
11 by this rule to file it, which means the 28th. We filed it  
12 on the 28th, and, therefore, we believe it was timely under  
13 the Rules of Civil Procedure.

14 Coincidentally, the Appellate Court Rules give you  
15 15 days.

16 So either way I think we are timely and we ask the  
17 court to overrule his objection on the timeliness and to  
18 reconsider its ruling and implement the settlement in its  
19 entirety.

20 THE COURT: Thank you.

21 MR. RHODEN: May it please the court, Your Honor,  
22 I certainly still stand by my argument that the motion  
23 itself is not timely. Your Honor, I'm not going to belabor  
24 that point.

25 THE COURT: Well, thank you, because we are here

1 and we are having the hearing, and I will tell you that a  
2 lot of folks don't understand the 59(e) and 59 -- Rule 59's  
3 requirement that the judge receive a copy of the motion, and  
4 our clerk's office just routinely sends them to me so that  
5 I'm aware our motion is pending, because now folks think by  
6 e-filing that the judge gets a copy of the reconsideration  
7 motion, which isn't the way that it works, unless you have a  
8 wonderful clerk who forwards it to you. So I'm not going  
9 to -- I'm going to allow us to have the motion, okay? So  
10 that's the first thing. We are going forward with the  
11 motion.

12 And I will say that I have had motions filed  
13 months after an order and I don't allow those to go forward,  
14 okay, and so I don't believe that counsel was in any way  
15 slack in responding. Okay. So --

16 MR. RHODEN: The crux of the matter is, Your  
17 Honor, it's our position that the court was certainly  
18 correct in its initial ruling.

19 The only thing that I see in Mr. Carpenter's  
20 motion for rehearing that might be somewhat new is the  
21 argument that somehow his return in the Probate Court  
22 constituted a cross-motion.

23 Now, I don't think he raised that initially or  
24 before the court before, but my response to that would be  
25 basically the same argument that I made in my brief

1 initially is that Mr. Carpenter never asked the Probate  
2 Court to make any ruling. If he asserts --

3 And what happened was I made my motion to dismiss  
4 for failing to prosecute. Mr. Carpenter handed up his  
5 return to that motion on the day of the hearing. The  
6 Probate Court ruled on my motion.

7 The Probate Court made no ruling. If there had  
8 been, as Mr. Carpenter asserted a cross-motion, the Probate  
9 Court made no ruling on the cross-motion, if there was one.  
10 I'm certainly not conceding that there was one. It was  
11 merely a return. The Probate Court proceeded to rule on my  
12 motion.

13 If Mr. Carpenter is correct in saying that there  
14 was a cross-motion, then he -- it would be incumbent upon  
15 Mr. Carpenter to then bring a Rule 59(e) motion before the  
16 Probate Court asking the Probate Court to then rule on his  
17 cross-motion and he did not do that.

18 Therefore, the only thing that was before this  
19 court on the appeal is the Probate Court's granting of the  
20 motion to dismiss.

21 The Probate Court did not make any findings or did  
22 not make any rulings on any motions made by Mr. Carpenter.  
23 My position is there was no motion made by Mr. Carpenter.

24 Secondly, if there was a Rule 59(e) motion should  
25 have been made by Mr. Carpenter asking the Probate Court to

1 address those issues. He did not do so.

2 Your Honor, it's always been an abuse of  
3 discretion standard. That's always been the standard of an  
4 action or a motion to dismiss for failing to prosecute. Our  
5 Supreme Court -- and it has nothing to do with Coakley. Our  
6 Supreme Court has said that a trial court has the inherent  
7 authority, even if it was not specifically granted, and in  
8 this case it is specifically granted under the rules for the  
9 trial court to dismiss an action for failing to prosecute,  
10 but the Supreme Court has said over and over again that a  
11 trial court has the authority to dismiss the case for  
12 failing to prosecute and it's an abuse of discretion  
13 standard. That's exactly what the Probate Court did in this  
14 case.

15 What happened was, to refresh your memory, an  
16 action was brought. There was a mediation.

17 Contrary to what Mr. Carpenter said, the problem  
18 in implementing the mediation was not from my client, but  
19 was from his client and parties in England who had to  
20 cooperate.

21 THE COURT: Yes, sir, and then they passed away.

22 MR. RHODEN: And the lady passed away.

23 So nothing was done for over two years until I  
24 brought my motion to the Probate Court, and that's why the  
25 Probate Court granted my motion.

1           It's our position that the court in this case,  
2 Your Honor, was correct in affirming the Probate Court. I  
3 still take that position, as there's nothing really to  
4 reconsider here.

5           THE COURT: Thank you.

6           Mr. Carpenter, any reply, sir?

7           MR. CARPENTER: Yes.

8           Just the -- to me it seems that we are here  
9 because of the misconduct of Ms. Godfrey, and the person  
10 bearing the consequences of Ms. Godfrey's misconduct is Mr.  
11 Deal and that is a -- it seems to me a miscarriage of  
12 justice and abuse of discretion on the part of the Probate  
13 Court, and we think that the policy of South Carolina  
14 requires the upholding and implementation of settlement  
15 agreements, and this one ought to be implemented because it  
16 was freely entered into, and most of it has been  
17 implemented, particularly those parts favoring her, but the  
18 one part that really favors him has been stymied because of  
19 her refusal to cooperate in getting the house sold and we  
20 think that justice cries out for full implementation of the  
21 settlement agreement.

22           THE COURT: Okay. All right. Thank y'all very  
23 much.

24           I am going to review everything again and go back  
25 through my notes from the hearing.

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I appreciate y'all coming today and arguing. I will be in touch as quickly as possible with my ruling. All right.

MR. CARPENTER: Thank you, Your Honor.

MR. RHODEN: Thank you, Your Honor.

THE COURT: Thank you.

(END OF REQUESTED TRANSCRIPT OF RECORD)

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CERTIFICATE

I, the undersigned, Michael R. Watts, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and the evidence introduced in the trial of the captioned case in the Court of Common Pleas for Cherokee County, South Carolina, on the 10th day of June, 2019.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

September 13, 2019

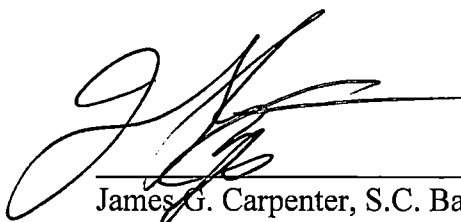
Michael R. Watts

Michael R. Watts  
Circuit Court Reporter

**Certificate of Service**

The undersigned attorney hereby certifies that he served a copy of the foregoing Return to the Respondent's Motion to Dismiss Appeal as Untimely on counsel for Respondent by US Mail, postage prepaid on Friday, October 25, 2019 addressed as follows:

Mr. William G. Rhoden  
221 E. Floyd Baker Blvd.  
Gaffney, SC 29340



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WHEN IT'S WORTH FIGHTING FOR

JAMES G. CARPENTER  
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SERVING S.C. AND N.C.

October 25, 2019

The Honorable Jenny Abbott Kitchings  
Clerk of SC Court of Appeals  
PO Box 11629  
Columbia, SC 29211

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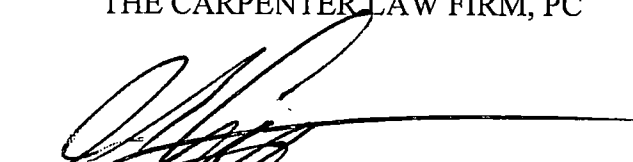
Re: *Deal v. Godfrey*, Appellate Case Number 2019-001325

Dear Ms. Kitchings:

I enclose an original and six copies of Appellant's Return to the Respondent's Motion to Dismiss Appeal as Untimely, with two exhibits, and a Certificate of Service.

If you need anything else, please telephone me.

Sincerely yours,  
THE CARPENTER LAW FIRM, PC



James G. Carpenter

Enclosures  
CC w/enclosures: William Rhoden



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