

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM LEXINGTON COUNTY  
Court of Common Pleas

The Honorable Walton J. McLeod, Circuit Court Judge  
Common Pleas Case No. 2018-CP-32-00315

Appellate Case No. 2020-000057

**RECEIVED**  
APR 24 2020  
SC Court of Appeals

Mattie Lou Fulmer .....Appellant

v.

Elizabeth S. Gainey, as PR, Elizabeth S. Gainey, Individually  
and Dennis C. Gainey ..... Respondents

**CONSENT WITHDRAWAL OF THE APPEAL**

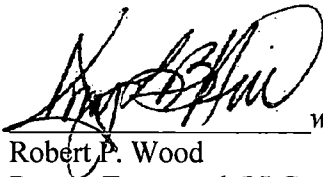
COMES NOW Appellant Mattie Lou Fulmer (“Mrs. Fulmer” or “Appellant”), along with the Respondents Elizabeth S. Gainey, as PR, Elizabeth S. Gainey, Individually and Dennis C. Gainey, (“Respondents”) by and through their undersigned counsel, and pursuant to the South Carolina Appellate Court Rules of Procedure, respectfully submit the Withdrawal as to the Appeal of Partial Summary Judgment as the intermediate summary judgment order leaves some further act to be done by the circuit court before the rights of the parties are determined, thus the order is not a final order pursuant to S.C. Code Ann. § 14-3-330(1) and the Supreme Court ruling in Mid-State Distribs. V. Century Importers, 310 S.C. 330, 335, 426 S.E.2d 777,780 (1993). Further, withdrawal of this appeal at this early date prior to briefing, spares the Court of Appeals

from relearning the facts of this case on successive appeals. Tommy L. Griffin Plumbing & Heating Co. v. Jordan, Jones, & Goulding, Inc., 351 S.C. 459, 570 S.E.2d 197 (Ct.App. 2002) citing Jack Walters & Sons Corp. v. Morton Bldg., Inc., 737 F.2d 698 (7<sup>th</sup> Cir. 1984). Respondents and Appellant agree that this dismissal is without prejudice and shall not impact Appellant's ability to appeal this issue at a future date.

April 22, 2020

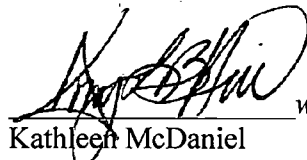
By: 

Amy L.B. Hill, S.C. Bar No. 68541  
GALLIVAN, WHITE & BOYD, P.A.  
Post Office Box 7368  
Columbia, South Carolina 29202  
Telephone: 803-779-1833  
[ahill@GWBlawfirm.com](mailto:ahill@GWBlawfirm.com)  
Attorney for Mattie Lou Fulmer



*with permission for*

Robert P. Wood  
Rogers Townsend, LLC  
1221 Main Street, 14<sup>th</sup> Floor  
Columbia, SC 29202  
(803) 771-7900  
[Robert.Wood@rogerstownsend.com](mailto:Robert.Wood@rogerstownsend.com)  
Attorney for Respondent Elizabeth S. Gainey, as PR



*with permission for*

Kathleen McDaniel  
Burnette Shutt & McDaniel, PA  
PO Box 1929  
Columbia, SC 29202  
(803) 904-7913  
[kmcdaniel@burnetteshutt.law](mailto:kmcdaniel@burnetteshutt.law)  
Attorney for Respondents Elizabeth S. Gainey,  
Individually, and Dennis C. Gainey

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM LEXINGTON COUNTY  
Court of Common Pleas

The Honorable Walton J. McLeod, Circuit Court Judge  
Common Pleas Case No. 2018-CP-32-00315

Appellate Case No. 2020-000057

**RECEIVED**  
APR 24 2020  
SC Court of Appeals

Mattie Lou Fulmer ..... Appellant,

v.

Elizabeth S. Gainey, as PR, Elizabeth S. Gainey, Individually  
and Dennis C. Gainey ..... Respondents.

**PROOF OF SERVICE**

I certify that I have served the Consent Withdrawal of the Appeal on the following  
counsel for Respondents by depositing a copy of it in the United States Mail, postage prepaid on  
April 22, 2020:

Robert P. Wood  
Rogers Townsend, LLC  
1221 Main Street, 14<sup>th</sup> Floor  
Columbia, SC 29202  
(803) 771-7900  
[Robert.Wood@rogerstownsend.com](mailto:Robert.Wood@rogerstownsend.com)  
Attorney for Respondent Elizabeth S. Gainey,  
as PR

Kathleen McDaniel  
Burnette Shutt & McDaniel, PA  
PO Box 1929  
Columbia, SC 29202  
(803) 904-7913  
[kmcdaniel@burnetteshutt.law](mailto:kmcdaniel@burnetteshutt.law)  
Attorney for Respondents Elizabeth S. Gainey,  
Individually, and Dennis C. Gainey



Lindsey J. Jones, Paralegal  
GALLIVAN, WHITE & BOYD, P.A.



**AMY L. B. HILL**  
A member of the South Carolina Bar  
Direct Dial: 803.724.1716  
ahill@GWBlawfirm.com

April 22, 2020

The Honorable Jenny Abbott Kitchings  
SC Court of Appeals  
1015 Sumter Street  
Columbia, South Carolina 29211

**RECEIVED**  
APR 24 2020  
SC Court of Appeals

RE: Mattie Lou Fulmer v. Elizabeth S. Gainey, as PR, Elizabeth S. Gainey,  
Individually, and Dennis C. Gainey  
Lexington County Case No.: 2018-CP-32-00315  
Appellate Case No. 2020-000057

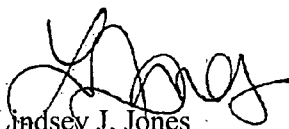
Dear Ms. Kitchings:

Enclosed please find a Consent Withdrawal of Appeal for filing in the above matter. We would appreciate you filing and returning a clocked-copy to our office in the enclosed envelope.

By copy of this correspondence I am making all counsel of record aware of this matter.

Sincerely,

GALLIVAN, WHITE & BOYD, P.A.



Lindsey J. Jones  
Paralegal to Amy L.B. Hill

ALBH/ljj  
Enclosures

cc: Robert Wood, Esq.  
Kathleen McDaniel, Esq.

NEOPOST FIRST CLASS MAIL

04/23/2020

US POSTAGE \$000.80<sup>00</sup>



ZIP 29201  
041M11274420

9731-1

**GWB**

GALLIVAN WHITE BOYD  
1201 Main Street, Suite 1200  
Post Office Box 7368 (29202)  
Columbia, South Carolina 29201

**RECEIVED**

APR 24 2020

SC Court of Appeals

The Honorable Jenny Abbott Kitchings  
Clerk of Court  
South Carolina Court of Appeals  
1220 Senate Street  
Columbia, South Carolina 29201