

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM CHESTERFIELD COUNTY  
Court of Common Pleas

Wallace H. Jordan, Jr., Special Referee

Appeal No. 2020-000471



Steven Carol Miller ..... Respondent,

v.

Gene Carson Jordan ..... Appellant.

**REPLY TO RETURN TO MOTION FOR LEAVE TO FILE  
MOTION FOR RELIEF FROM JUDGMENT  
PURSUANT TO RULE 60(b), SCRPC**

Pursuant to Rule 240(f), SCACR, Appellant Gene Carson Jordan hereby replies to Respondent Steven Carol Miller’s Return to Motion for Leave to File Motion for Relief from Judgment Pursuant to Rule 60(b), SCRPC. As an initial matter, Respondent does not oppose and, in fact, supports Appellant’s Motion for Leave to File Motion for Relief from Judgment Pursuant to Rule 60(b), SCRPC (“Motion”). However, Respondent incorrectly requests that this Court direct that Appellant be solely responsible for any costs incurred by the Special Referee in hearing the Rule 60(b) Motion. Instead, Rule 53(d), cited by Respondent, provides that “[t]he compensation of the special referee *shall be paid by the parties* in such amount as shall be set by the special referee, subject to review by the circuit court upon objection by any party within ten (10) days of receipt of the order.” Rule 53(d), SCRPC (emphasis added). “Ordinarily, the use

of the word 'shall' in a statute means that the action referred to is mandatory." *South Carolina Dep't of Highways & Public Transp. v. Dickinson*, 288 S.C. 189, 191, 341 S.E.2d 134, 135 (1986).<sup>1</sup> Thus, any costs incurred by the Special Referee "shall be paid by the parties," and this Court should not allocate the costs of hearing Appellant's Rule 60(b) Motion solely to either party.

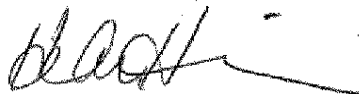
### CONCLUSION

Given that both Appellant and Respondent agree that the proper forum to hear Appellant's Rule 60(b) Motion in the first instance is the Circuit Court, Appellant respectfully requests that this Court grant its Motion. However, Appellant requests that this Court deny Respondent's request that it direct that Appellant is solely responsible for any compensation due to the Special Referee for hearing the Motion.

Respectfully submitted,

MCANGUS GOUDELOCK & COURIE, LLC

May 8, 2020



By: \_\_\_\_\_

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*Attorneys for Appellant Gene Carson Jordan*

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<sup>1</sup> "In interpreting the meaning of the South Carolina Rules of Civil Procedure, the Court applies the same rules of construction used to interpret statutes." *Maxwell v. Genez*, 356 S.C. 617, 620, 591 S.E.2d 26, 27 (2003).

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**SC Court of Appeals**

Steven Carol Miller..... Respondent,

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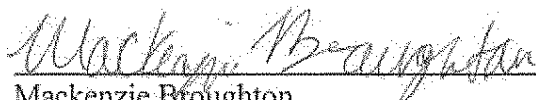
Gene Carson Jordan.....Appellant.

**PROOF OF SERVICE**

I certify that I have served Appellant's Reply to Return to Motion for Leave to File Motion for Relief from Judgment Pursuant to Rule 60(b), SCRCP, on Steven Carol Miller, by emailing it and depositing a copy of it in the United States Mail, postage prepaid, addressed to his attorney of record,

M.W. Cockrell, III, Esq.  
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May 8, 2020

  
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**Reply To**

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Direct Dial: (843) 576-2930  
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May 8, 2020

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**May 08 2020**

**SC Court of Appeals**

**Via Facsimile**

The Honorable Jenny Abbott Kitchings  
South Carolina Court of Appeals  
P.O. Box 11629  
Columbia, South Carolina 29211

RE: Steven Carol Miller v. Gene Carson Jordan  
Civil Action No.: 2019-CP-13-00173 (Chesterfield)  
Date of Incident: August 13, 2018  
Carrier Claim No.: SC19-0100270  
MGC File No.: 20760.20002  
Appeal No.: 2020-000471

Dear Ms. Kitchings:

Enclosed please find the original of Appellant's Reply to Return to Motion for Leave to File Motion for Relief from Judgment Pursuant to Rule 60(b), SCRCP, and the Proof of Service in the above-referenced matter. We are serving counsel of record via email and U.S. Mail.

If you have any questions, please do not hesitate to contact me.

Sincerely,  
McAngus Goudelock & Courie, LLC

Helen F. Hiser

Enclosures

cc: Melville W. Cockrell, III, Esq.



## FAX COVER SHEET

**RECEIVED**  
**May 08 2020**  
**SC Court of Appeals**

Reply to: Helen F. Hiser  
Direct Dial: (843) 576-2930  
helen.hiser@mgclaw.com

TO: The Honorable Jenny Abbott Kitchings  
Clerk of Court  
South Carolina Court of Appeals

FACSIMILE NUMBER: (803) 734-1839

FROM: Mackenzie Broughton  
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TOTAL # OF PAGES INCLUDING COVER: 5

DATE: 5/8/2020

RE: Steven Carol Miller v. Gene Carson Jordan  
Appeal No.: 2020-000471

COMMENTS:

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