

THE STATE OF SOUTH CAROLINA
In the Court of Appeals
APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

RECEIVED
Dec 18 2020
SC Court of Appeals

James B. Jackson, Master-in-Equity

Case No. 2020-001254

Kacey Green and Charinrath Green,

Appellants-Respondents,
(The Greens)

v.

Mervin Lee Johnson,

Respondent-Appellant.
(Johnson)

**RETURN TO RESPONDENT-APPELLANT'S MOTION TO HOLD APPEALS IN
ABEYANCE**

In return to Respondent-Appellant's Motion to Hold Appeals in Abeyance, filed on or about December 9, 2020, Appellants-Respondents state their Rule 59 motion was made in an abundance of caution to timely and fully preserve their rights to address the lower court's Amended Order on Damages. At the point of entering the Amended Order of Damages, the lower court had already reviewed and reconsidered the original order of damages twice, on Johnson's original set of motions reconsidering the original damages order heard on October 17, 2019, and Johnson's second set of motions reconsidering the original damages order heard on July 13, 2020. The Greens have argued in their initial brief and continue to maintain that the original damages order was a final, unmodifiable order as of the lower court's denial of Johnson's original set of motions on November 14, 2019, or ten (10) days after the lower court's order was entered. Johnson failed to appeal that order. All issues were addressed by the lower court the previous two times it considered the original damages order. Under *Coward Hund*, there is no need for a third motion to reconsider

at the lower court. *Coward Hund Const. Co., Inc. v. Ball Corp.*, 336 S.C. 1, 518 S.E.2d 56 (Ct. App. 1999) (holding a second motion for consideration did not stay time for filing notice of appeal from judgment when the second motion does not challenge a new ruling in its second motion or address for the first time a matter learned after the trial court hears the case). This court should deny Respondent-Appellant's Motion to Hold the Appeals in Abeyance to proceed on the merits of the appeal and finally end the excessive motions to reconsider.

s/ Virginia W. Williams

David R. Williams, 77899

Virginia W. Williams, 77898

WILLIAMS & WILLIAMS

1281 Russell Street

Post Office Box 1084

Orangeburg, S.C. 29116-1084

Phone: (803) 534-5218

williamsdr@williamsattys.com

williamsvw@williamsattys.com

E. Mason West, Esquire

WEST LAW FIRM, P.A.

P.O. Box 1869

207 Carolina Avenue

Moncks Corner, SC 29461

(843) 761-5626

Attorneys for Appellants-Respondents

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing Return to Appellants-Respondents' Motion to Hold in Abeyance was served via email to opposing counsel, Todd Flippin, on December 18, 2020, at tflippin@holcombebomar.com.

Dated: December 18, 2020

Respectfully submitted,

s/ Virginia W. Williams

David R. Williams, 77899

Virginia W. Williams, 77898

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