

## Clark, Tyler P.

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**From:** Kitchings, Jenny  
**Sent:** Monday, June 28, 2021 12:36 PM  
**To:** Clark, Tyler P.  
**Cc:** Allen, Claire; Carter, Elizabeth A.; Falin, Stormy  
**Subject:** FW: John Deere Construction & Forestry Company VS North Edisto Logging Inc , defendant, et al (2018CP3204329) (Appellate Number 2021-000033)  
**Attachments:** doc 16.pdf; Public Index Search may 20.pdf

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**From:** dwhitt2001@aol.com <dwhitt2001@aol.com>  
**Sent:** Thursday, June 24, 2021 1:28 PM  
**To:** Keesley, William P. <WKeesleyj@sccourts.org>; ahwooten@wardandsmith.com; paf@wardandsmith.com  
**Cc:** Comer, Lisa <lcomer@lex-co.com>; Keesley, William P. Law Clerk (Benjamin Nicholson) <wkeesleylc@sccourts.org>; Kitchings, Jenny <jkitchings@sccourts.org>  
**Subject:** Re: John Deere Construction & Forestry Company VS North Edisto Logging Inc , defendant, et al (2018CP3204329) (Appellate Number 2021-000033)

**\*\*\* EXTERNAL EMAIL:** This email originated from outside the organization. Please exercise caution before clicking any links or opening attachments. \*\*\*

Good Afternoon Judge Keesley,

I represent North Edisto Logging in this matter and I object to the issuance of any execution on this purported judgement.

A reference in the body of an order to an amount claimed is totally inadequate, without an ordering paragraph that states a judgment is granted and in what amount.

I am attaching a screenshot of the docket page for this case with the judgment tab "greyed out" indicating it is empty. This means at the time of entry, the clerk's office didn't believe a judgment had been granted.

This also means no judgment roll number exists and it was never entered as a judgment in the clerk's records

I am also attaching a copy of the proposed order submitted by John Deere, which was not signed by Judge McLeod. As you can see their proposal expressly granted them judgment. The fact that Judge McLeod deleted this language from the order he did sign suggests that he did not intend to grant judgment on the plaintiff's claim, but rather to grant summary judgment on the counterclaims

There is nothing in the order that indicates that judge McLeod found that the equipment was sold in a commercially reasonable manner, or what credit should be given for the sales proceeds. My client's affidavit lays out why the sale was not commercially reasonable, the plaintiff disagrees, this is just the kind of disputed material fact that also supports the conclusion that Judge McLeod did not intend to grant a judgment in the order that is under appeal.

I believe there is no judgment to be executed upon, however, in the event that is not your conclusion, I would like an opportunity to seek the protections of the statute.

Regards,  
Randy Whitt

-----Original Message-----

From: Keesley, William P. <[WKeesleyj@sccourts.org](mailto:WKeesleyj@sccourts.org)>

To: [ahwooten@wardandsmith.com](mailto:ahwooten@wardandsmith.com) <[ahwooten@wardandsmith.com](mailto:ahwooten@wardandsmith.com)>; [paf@wardandsmith.com](mailto:paf@wardandsmith.com) <[paf@wardandsmith.com](mailto:paf@wardandsmith.com)>

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Sent: Thu, Jun 24, 2021 12:23 pm

Subject: John Deere Construction & Forestry Company VS North Edisto Logging Inc , defendant, et al (2018CP3204329) (Appellate Number 2021-000033)

The Clerk of Court in Lexington has asked me to review a proposed Execution submitted for her signature in this case. As you know, this case is on appeal. My assumption is that that this is being done under the exception provided for money judgments in S.C. Code Section 18-9-130. I only have a copy of the proposed order, so I have no indication of whether opposing counsel was copied on the request or whether opposing counsel is seeking the posting of bond or other remedies in the statute.

I do have some concerns. The proposed Execution makes reference to a judgment roll number, but that number is the same as the Common Pleas case number. The order of Judge McLeod entering summary judgment does not recite the amount of the judgment being awarded, though the figure of \$946,378.65 is mentioned in the body of his order, and there is no indication of the amount of attorney's fees and costs being awarded. There is no Form 4 order entering judgment. Also, in the brief time I have had to review the file, I am unclear if the \$946,378.65 figure is the amount claimed due before the sale of the collateral or after. I apologize that I am in the middle of hearings, so I have not been able to calculate the various numbers listed in the documents to see how they align.

Thank you. [wpk]

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