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Aug 05 2021

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM BEAUFORT COUNTY
COURT OF COMMON PLEAS
BENTLEY PRICE, CIRCUIT COURT JUDGE

Case Nos.:
2016-CP-07-01919
2019-CP-07-01253
2019-CP-07-01294

In re: IN THE MATTER OF: Estate of Paul Brandon Barringer II

Hampton B. Luzak,Appellant

v.

Merrill B. Light, Merrill U. Barringer as Personal Representative of the
Estate of Paul Brandon Barringer II, J. Randolph Light, Jr., Merrill B. Light
as putative trustee of the Paul B. Barringer II Revocable Trust dated
December 4, 1998, and Merrill B. Light as Trustee of the Merrill Barringer
Light Revocable Trust, Respondents

--and--

Coastal Forest Resources Company (“CFRC”).....Intervenor/Respondent.

--and--

Hampton B. Luzak,Appellant,

v.

Merrill U. Barringer,Respondent.

NOTICE OF APPEAL

Appellant Hampton B. Luzak (hereafter “Appellant”) appeals from the trial court’s order dated June 7, 2021 granting the motion to intervene and protective relief (including the striking of

damages sought) by nonparty/intervenor/respondent Coastal Forest Resources Company (CFRC) and finally adjudicating other rights of Appellant, including the striking of Appellant's civil conspiracy cause of action, which order was received by counsel for Appellant on June 7, 2021. A copy of the order dated June 7, 2021 granting the motion to intervene and protective relief by CFRC is attached hereto as **Exhibit A**.¹ In addition, Appellant appeals from the order denying the Appellant's Motion for Reconsideration of this order dated July 13, 2021, received by counsel for Appellant on July 13, 2021. A copy of the order denying the Motion for Reconsideration of this order dated July 13, 2021 is attached hereto as **Exhibit B**.²

Appellant also appeals from the trial court's order dated July 6, 2021 which granted Respondent Merrill Light's Motion for Summary Judgment as to the February 28, 2012 Will of Paul B. Barringer and the First Amendment to the Paul B. Barringer II Revocable Trust set forth in the Seventh (alleging lack of capacity), Eighth (alleging undue influence), and Ninth (alleging mistake) Causes of Action asserted by Plaintiff, ruling that these documents were valid.³ This order was received by counsel for Appellant on or about July 6, 2021. **Exhibit C**. The trial court denied Appellant's Motion for Reconsideration of this order on August 4, 2021, which order was received by counsel for Appellant on August 4, 2021. A copy of the order denying reconsideration of the order granting Merrill Light's Motion for Summary Judgment as to the February 28, 2012

¹ This order struck Appellant's cause of action for civil conspiracy and struck the first, second, fourth and sixth elements of damages set forth in the damage report of Appellant's damages expert. The damage elements struck by the trial judge comprise 93% of the damages sought by Appellant in her 11th, 12th, 13th, 16th, 17th, and 19th causes of action. With the striking of the civil conspiracy cause of action, the order is immediately appealable. A trial on bifurcated causes of action is scheduled for August 30, 2021. Appellant's inability to litigate the civil conspiracy cause of action negatively impacts Appellant's ability to prove the invalidity of critical documents at the scheduled trial. The order also released intervenor CRFC as a party to the action, ending its involvement in the case with finality and making the order immediately appealable.

² The order dated July 13, 2021 denied a total of five (5) motions, only one of which was specifically identified in the order.

³ The dismissal by summary judgment with finality on the causes of action is immediately appealable. *See* footnote 1 regarding a pending trial date of remaining causes of action.

Will of Paul B. Barringer and the First Amendment to the Paul B. Barringer Revocable Trust set forth in the seventh, eighth and ninth causes of action is attached hereto as **Exhibit D**.

Appellant also appeals from that order dated June 7, 2021 entitled “Order on Motions” which, *inter alia*, ordered that trial “shall proceed on the bifurcated claims only. A trial on the first phase as indicated in Judge Mullen’s Order granting bifurcation is set to begin on August 30, 2021.” A copy of this order is attached hereto as **Exhibit E**.⁴ Appellant also appeals from that order filed July 13, 2021, also entitled “Order on Motions” which denied four Motions to Reconsider, one of which is related to the June 7, 2021 “Order on Motions” and denied Appellant’s Motion to Reconsider the June 7, 2021 “Order on Motions.” The July 13, 2021 “Order on Motions” is already attached to this filing as **Exhibit B**.

Lastly, Appellant appeals from the trial court’s order dated December 30, 2020 captioned “Order Granting Motion to Bifurcate,” a copy of which was received by Counsel for Appellant on December 30, 2020 and the Form 4 order dated January 13, 2021 denying Appellant’s Motion for Reconsideration, a copy of which was received on that same date. This appeal is already pending at the Court of Appeals as Appellate Case No. 2021-000159, and Appellant prays that the current appeal be consolidated with Appellate Case No. 2021-000159. Copies of the order already on appeal are of record by filing with this court dated February 12, 2021.

BALLARD & WATSON

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⁴ This order ruled on thirteen (13) motions, including Plaintiff’s motion for judgment on the pleadings as to a pending counterclaim, a motion to compel production of documents, and a motion for summary judgment on certain counterclaims. This order is included in this Notice of Appeal pursuant to S.C. Code Ann. Section 14-3-330(a), which permits review of any intermediate order or decree necessarily affecting the judgment which has since been issued. *See also* Rule 54.

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August 5, 2021

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In re: IN THE MATTER OF: Estate of Paul Brandon Barringer II

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--and--

Coastal Forest Resources Company ("CFRC").....Intervenor/Respondent.

--and--

Hampton B. Luzak,Appellant,

v.

Merrill U. Barringer,Respondent.

PROOF OF SERVICE

I, Beth Cogan, an employee with Ballard & Watson, do hereby certify that on August 5,

2021, I served a copy of the **Notice of Appeal**, in the above-captioned case on the following individuals by electronic mail using their email address listed in the Attorney Information System, addressed as follows:

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Beth Cogan, Paralegal

August 5, 2021

Beth Cogan

From: Beth Cogan
Sent: Thursday, August 5, 2021 11:40 AM
To: Alice Paylor; Bijan Ghom; Charles Molster; Ashley Twombly; Lee Walters;
kjohnson@johnsonlawyers.com; Kevin Johnson; Harley D. Ruff; Denise Collins; Rich, Ryan G.;
efuhr@huntonak.com; jschronce@huntonak.com
Cc: Desa Ballard; 'Gilreath, Jim (Gilreath, Jim)'; Bill Hogan; Alan Medlin, Esquire; 'Macloskie Law Firm'; Tom
Traxler; kathie@gilreathlaw.com; receptionist@gilreathlaw.com; Kimberly Hutchins
Subject: (Luzak v. Light) Ltr to COA encl NOA
Attachments: 2021 08 05 Ltr to COA encl NOA.pdf; 2021 08 05 Notice of Appeal.pdf; 2021 08 05 POS NOA.pdf

Good morning,

Please see the attached Notice of Appeal for the above-referenced matter that is being filed today with the COA.

Kindest Regards,

-Beth

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August 5, 2021

Via Email (ctappfilings@sccourts.org)
The Honorable Jenny Abbot Kitchings
Court of Appeals Clerk of Court
Post Office Box 11629
Columbia, South Carolina 29211

RECEIVED
Aug 05 2021
SC Court of Appeals

Re: *Hampton Luzak v. Merrill B. Light, et al.*
Case Nos.: 2016-CP-07-01919
2019-CP-07-01263
2019-CP-07-01294

Dear Ms. Kitchings:

Enclosed for filing please find a Notice of Appeal and Proof of Service for the above-referenced matter. Pursuant to paragraph (c)(4) of the Supreme Court's amended administrative order dated May 29, 2020 ("Operation of the Appellate Courts During the Coronavirus Emergency" originally dated March 20, 2020) a check for the filing fee is being forwarded via US mail.

By copy of this letter and as evidenced by the Proof of Service, these filing has been served upon counsel for the Respondents. A copy is also being filed with the Beaufort County Clerk of Court. Thank you for your time in this matter. If you have any questions, please do not hesitate to contact our office.

With warm personal regards, I am,

Sincerely yours,

Desa Ballard
desab@desaballard.com

Enclosures

The Honorable Jenny Abbot Kitchings
In Re: Luzak v. Light, et al.
August 5, 2021

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cc: *Via Electronic Mail*
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