

RECEIVED

Nov 04 2021

SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM SUMTER COUNTY  
COURT OF COMMON PLEAS

R. Ferrell Cothran, Jr., Circuit Court Judge

Case No. 2008-CP-43-02112

The Estate of Fannie M. Champion, by  
Evelyn Champion Ludd, Personal  
Representative, Samuel Champion,  
Evelyn C. Ludd, Sarah C. Evans,  
Rachel C. Brown, Henry Champion, Jr.,  
Janie M. Champion, Mary Johnson and  
John L. Champion, .....

Appellants,

vs.

Ronald L. Hallman, Marjorie J. Hallman,  
Elton J. Hallman, Conswalla E. Hallman,  
Oron J. Hallman, Hazelee C. Hallman,  
Edward G. Hamilton, Helen D. Hamilton,  
Edward E. Hamilton, Raymond Forbes  
Davenport, II, and Mary Ellen Davenport, .....

Respondents.

NOTICE OF APPEAL  
ATTACHMENTS (NOA)

**NOA Attachment No. 1**

Notice of Motion and Motion In Re Bond on Appeal

**NOA Attachment No. 2**

Filing of Executed Conveyances to Stay Judgment During Appeal

**NOA Attachment No. 3**

Order filed September 15, 2021

**NOA Attachment No. 4**

Form 4, Judgment In a Civil Case Filed October 4, 2021

**NOA Attachment No. 5**

Form 4, Judgment In a Civil Case Filed October 6, 2021

STATE OF SOUTH CAROLINA

COUNTY OF SUMTER

) IN THE COURT OF COMMON PLEAS  
) FOR THE THIRD JUDICIAL CIRCUIT  
) CIVIL ACTION NO.: 2008-CP-43-02112  
)  
)  
)

The Estate of Fannie M. Champion, by  
Evelyn Champion Ludd, Personal  
Representative, Samuel Champion,  
Evelyn C. Ludd, Sarah C. Evans,  
Rachel C. Brown, Henry Champion, Jr.,  
Janie M. Champion, Mary Johnson and  
John L. Champion,  
  
Plaintiffs,

**NOTICE OF MOTION AND  
MOTION IN RE BOND ON APPEAL**

vs.

Ronald L. Hallman, Marjorie J. Hallman,  
Elton J. Hallman, Conswalla E. Hallman,  
Oron J. Hallman, Hazelee C. Hallman,  
Edward G. Hamilton, Helen D. Hamilton,  
Edward E. Hamilton, Raymond Forbes  
Davenport, II, and Mary Ellen Davenport,

Defendants.

**TO: DAVID CORNWELL HOLLER, ESQUIRE, JACK W. ERTER, JR., ESQUIRE,  
THOMAS E. PLAYER, JR., ESQUIRE, AND RICHARD C. JONES, ESQUIRE,  
ATTORNEYS FOR THE ABOVE-NAMED DEFENDANTS:**

**YOU WILL PLEASE TAKE NOTICE** That the Plaintiffs named above will move before this Court within ten (10) days hereof, or as soon thereafter as the matter may be heard, for an Order with regard to the amount, if any, and the nature of the bond referred to as a “cash surety” by the Court in its Order filed September 15, 2021. The grounds for Plaintiffs’ Motion being as follows:

1. In response to Plaintiffs’ Motion To Alter or Amend Judgment, this Court denied the Motion by way of a Form 4, Judgment in a Civil Case, filed October 4, 2021, and issued a



Form 4, Amended Judgment in a Civil Case, on October 6, 2021. Both Orders left intact the judgment in the Order dated September 15, 2021, which contained the following provision:

In the event any party appeals and seeks a stay of any one or more of the Orders entered in this matter, the appealing party shall be required to post with the Sumter County Clerk of Court cash surety in an amount not to exceed Fifty Thousand and no/100 (\$50,000.00) dollars, or such other amounts as may be determined to be sufficient by the Court. *South Carolina Code §18-9-130*, and *South Carolina Code §18-9-170*. All limitations set forth in (7) above shall be immediately stayed until further Order of the court upon the filing of any appeal. *Order, P. 2, pa. 8.*

2. Plaintiffs would respectfully request that this Court, in determining an amount of the bond and the nature of the undertaking, take into consideration the value of the land at issue, the likelihood of harm to the real estate, and the potential for damage or loss to which the Defendants could be exposed during the process of an appeal.

3. The Order requires that the appealing party shall be required to post a “cash surety” in an amount not to exceed \$50,000.00. For purposes of this Motion, Plaintiffs draw a distinction between a cash bond and a surety bond. As commonly used a “cash bond” means the posting of actual legal tender in United States currency. A surety bond constitutes the promise of a person who assumes liability for a debt or performance of an action or actions; that is to say, a written undertaking.

4. The Court cites Section 18-9-130, which addresses the “Effect of notice of an appeal on execution of judgment; sale of defendant’s property; appeal in civil action involving signatory of Master Settlement Agreement.” *S.C. Code Ann. §18-9-130 (2014)* Plaintiffs contend that this section is inapplicable to the facts of Champion v. Hallman, which is being litigated here. The judgment here is not for cash, or for the sale of defendant’s property, and it does not involve the signatory of a Master Settlement agreement. The phase now before the Court revolves around Defendants’ failure to timely comply with the Settlement Agreement. Appellants assert that such failure constitutes a breach of

contract and renders the Settlement Agreement void. Hence, the subject Order itself is premature in that there is no adjudication of the issues raised to the Court as a prerequisite to any Order ending the case.

4. The Order also relies upon Section 18-9-170, “Staying Judgment for sale or delivery of land,” which provides as follows:

If the judgment appealed from direct the sale or delivery of real property, the execution of the judgment shall not be stayed unless a written undertaking be executed on the part of the appellant, with two sureties, to the effect that during the possession of such property by the appellant he will not commit or suffer to be committed any waste thereon and that if the judgment be affirmed he will pay the value of the use and occupation of the property from the time of the execution of the undertaking until the delivery of possession thereof pursuant to the judgment, not exceeding a sum to be fixed by a judge of the court by which the judgment was rendered and which shall be specified in the undertaking. ... *S.C. Code Ann. §18-9-170 (2014)*

Appellants direct the Court’s attention to the portion of Section 18-9-170 which requires two sureties upon “a written undertaking ...” There is no requirement for a “cash surety” as mandated in the Order, thus making it contrary to and in opposition to the statute.

5. Specifically reserving their position that the disposition of this case is premature, and that the Court erred in its Order, Appellants cite, *arguendo*, the following Section 18-9-160, Staying judgment to execute conveyance, as the operative statute.

If the judgment appealed from directs the execution of a conveyance or other instrument, the execution of the judgment shall not be stayed by the appeal until the instrument shall have been executed and deposited with the clerk with whom the judgment is entered, to abide the judgment of the appellant court. *S.C. Code ann. §18-9-160 (2014)*

This statute does not, on its face, require the execution of a bond in any form. It only dictates that the executed instrument be deposited with the Clerk “to abide the judgment of the appellant court.” The fact that the posting of a bond is mandated in this case, the point that a “cash surety” is required, and the excessive amount of the bond in relation to the value of the real estate,

appears to and does impose a chilling effect upon the Appellants' right to seek legal redress in our judicial system.

WHEREFORE, Appellants pray that the Court issue its Order decreeing that no bond shall be required for any party appealing any one or more of the Orders entered in this matter; or in the alternative, that any bond required shall be in the form of a surety bond in an amount of not more than Five Thousand and No/100 (\$5,000.00) Dollars; and for such other relief as may be appropriate in the premises.

MOORE LAW FIRM, L.L.C.

*Sl Dwight C. Moore*

Dwight C. Moore, S.C. Bar No. 63008

26 North Main Street

Post Office Box 1229

Sumter, South Carolina 29151-1229

Telephone (803) 778-6520

Fax (803) 775-6365

Email: moorelawfirm@ftc-i.net

Attorney for Plaintiffs

October 18, 2021  
Sumter, South Carolina

NOA  
Attachment  
No. 2  
PENGAD 800-631-6989

ELECTRONICALLY FILED - 2021 Nov 02 4:13 PM - SUMTER - COMMON PLEAS - CASE#2008CP4302112

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF SUMTER )

IN THE COURT OF COMMON PLEAS  
FOR THE THIRD JUDICIAL CIRCUIT  
CIVIL ACTION NO.: 2008-CP-43-02112

The Estate of Fannie M. Champion, by )  
Evelyn Champion Ludd, Personal )  
Representative, Samuel Champion, )  
Evelyn C. Ludd, Sarah C. Evans, )  
Rachel C. Brown, Henry Champion, Jr., )  
Janie M. Champion, Mary Johnson and )  
John L. Champion, )

**FILING OF EXECUTED CONVEYANCES  
TO STAY JUDGMENT DURING APPEAL**

Plaintiffs, )  
vs. )

Ronald L. Hallman, Marjorie J. Hallman, )  
Elton J. Hallman, Conswalla E. Hallman, )  
Oron J. Hallman, Hazelee C. Hallman, )  
Edward G. Hamilton, Helen D. Hamilton, )  
Edward E. Hamilton, Raymond Forbes )  
Davenport, II, and Mary Ellen Davenport, )

Defendants. )

**TO: THE HONORABLE JENNY ABBOT KITCHINGS, CLERK OF THE SOUTH CAROLINA COURT OF APPEALS, THE HONORABLE R. FERRELL COTHRAN, JR., CIRCUIT COURT JUDGE, THE HONORABLE JAMES C. CAMPBELL, CLERK OF THE COURT OF COMMON PLEAS FOR SUMTER COUNTY, ATTORNEYS FOR THE ABOVE-NAMED DEFENDANTS:**

**YOU WILL PLEASE TAKE NOTICE** That, subject to the disposition of Plaintiffs' Motion in re Bond on Appeal, which Motion was filed October 18, 2021, and is now pending in the Circuit Court, the above-named Plaintiffs intend to appeal the following Orders of the Honorable R. Ferrell Cothran, Jr., Circuit Court Judge:

1. Order filed September 15, 2021;
2. Form 4 Order denying Plaintiffs' Motion to Alter or Amend Judgment filed October 4, 2021; and
3. Form 4 Order denying Plaintiffs' Motion to Alter or Amend filed October 6, 2021,

Pursuant to S.C. Code of Laws Ann. § 18-9-160 (1976), Staying Judgment to execute conveyance, and Rule 241(b)(3), SCACR, Stay and Supersedeas in Civil Actions. (b) Exceptions. (3) Judgments directing the execution of conveyances or other instruments as provided in S.C. Code Ann. §18-9-160. the Plaintiffs hereby deposit with the Clerk of the Court of Common Pleas for Sumter County the annexed conveyances described as follows:

- Quitclaim Deed dated April 15, 2019, from the Estate of Fannie M. Champion, by Evelyn C. Ludd, Personal Representative, Samuel Champion, Evelyn C. Ludd, Sarah C. Evans, Rachel C. Brown, Henry Champion, Jr., Janie M. Champion, John L. Champion, and Mary Johnson to Mary Ellen Davenport; and
- Easement Quitclaim Deed dated April 15, 2019, from the Estate of Fannie M. Champion, Samuel Champion, Evelyn C. Ludd, Sarah C. Evans, Rachel C. Brown, Henry Champion, Jr., Janie M. Champion, Mary Johnson, and John L. Champion to Ronald L. Hallman and Marjorie J. Hallman, Elton J. Hallman and Conswalla E. Hallman, Oron J. Hallman and Hazelee C. Hallman, Edward G. Hallman, Helen D. Hamilton and Edward E. Hamilton, and Mary Ellen Davenport.

The said Quitclaim Deed, identified as Plaintiffs' Exhibit No. 1, and Easement Quitclaim Deed, identified as Plaintiffs' Exhibit No. 2, are deposited with the Clerk of the Court of Common Pleas for Sumter County to enable a stay of the Judgment of the aforementioned Orders during the appeal of the within case to abide the judgment of the South Carolina Court of Appeals.

MOORE LAW FIRM, L.L.C.

*S/ Dwight C. Moore,*  
SC Bar Number 63008  
26 North Main Street  
Post Office Box 1229  
Sumter, South Carolina 29151-1229  
Telephone (803) 778-6520  
Facsimile (803) 775-6365  
Email: [moorelawfirm@ftc-i.net](mailto:moorelawfirm@ftc-i.net)  
Attorney for Plaintiffs

November 2, 2021  
Sumter, South Carolina