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SC Court of Appeals

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SUMTER COUNTY
Court of Common Pleas

The Honorable R. Ferrell Cothran, Jr.
Circuit Court Judge

Case No. 2008-CP-43-02112

Appellate Case No. 2021-001293

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,

v.

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.

MOTION TO DISMISS

Pursuant to Rule 240 of the South Carolina Appellate Court Rules, Respondents 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, by and through the undersigned counsel, respectfully requests this Court dismiss the Notice of Appeal filed by Appellants 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 on November 4, 2021. The reasoning behind Respondents' instant Motion to Dismiss is simple and straightforward—Appellants' Notice of Appeal is untimely, and therefore, this Court lacks jurisdiction to hear the Appeal.

By way of background, this case involves a dispute between adjacent property owners in which Appellants claim Respondents do not have an express or implied easement of ingress and egress to access their real property. Essentially, Appellants accused Respondents of trespass, and Respondents alleged Appellants blocked access and refused to allow maintenance of the purported access easement.

The case was set to be tried in April 2017. However, at the call of the case, the parties alerted the circuit court that they had reached a settlement agreement. The settlement agreement was placed on the record pursuant to Rule 43(k) of the South Carolina Rules of Civil Procedure. The settlement agreement was incorporated into the circuit court's order filed January 4, 2019 (“Settlement Order”).

Thereafter, Appellants filed a flurry of motions seeking to ultimately vacate the already agreed upon Settlement Order. The circuit court issued an order dated September 15, 2021, denying Appellants' motions, and ordering the parties to conclude the terms of the Settlement Order. On September 27, 2021, Appellants moved for reconsideration pursuant to Rule 59(e) of the South Carolina Rules of Civil Procedure. The circuit court denied Appellants' Rule 59(e) motion in its entirety by order dated October 6, 2021. Thereafter, Appellants filed a second motion to reconsider on October 18, 2021; a purported Notice of Appeal on November 2, 2021; and a formal Notice of Appeal on November 4, 2021.

As will be set forth below, Appellants' Notice of Appeal was untimely filed, and this Court should dismiss Appellants' appeal with prejudice.

I. Appellants failed to file a timely Notice of Appeal within thirty (30) days after the receipt of written notice of entry of the order as required by Rule 203(b), SCACR.

Respondents hereby move to dismiss Appellants' appeal as untimely filed pursuant to Rule 240 of the South Carolina Appellate Court Rules.

“A party intending to appeal *must* serve and file a notice of appeal and otherwise comply with [the South Carolina Appellate Court Rules].” Rule 203(a), SCACR (emphasis added). Rule 203(b)(1) sets forth the requisite procedure to appeal from the court of common pleas:

A notice of appeal shall be served on all respondents within thirty (30) days after receipt of written notice of entry of the order or judgment. When a timely motion for judgment n.o.v. (Rule 50, SCRCPP), motion to alter or amend the judgment (Rules 52 and 59, SCRCPP), or a motion for a new trial (Rule 59, SCRCPP) has been made, the time for appeal for all parties shall be stayed and shall run from receipt of written notice of entry of the order granting or denying such motion. When a form or other short order or judgment indicates that a more full and complete order or judgment is to follow, a party need not appeal until receipt of written notice of entry of the more complete order or judgment.

Rule 203(b)(1), SCACR. The procedure must be strictly adhered to. “Rule 203(b), SCACR, requires a party to serve his notice of appeal within thirty days after receiving written notice of the entry of a final order or judgment, and failure to do so divests this court of subject matter jurisdiction and results in dismissal of the appeal.” *Canal Ins. Co. v. Caldwell*, 338 S.C. 1, 4, 524 S.E.2d 416, 418 (Ct. App. 1999). “The requirement of service of the notice of appeal is jurisdictional, *i.e.*, if a party misses the deadline, the appellate court lacks jurisdiction to consider the appeal and has no authority or discretion to ‘rescue’ the delinquent party by extending or ignoring the deadline for service of the notice.” *Elam v. S.C. Dep’t of Transp.*, 361 S.C. 9, 14-15, 602 S.E.2d 772, 775 (2004).

A review of the pertinent filings in this matter reveals this Court does not have jurisdiction to hear Appellants' appeal and must dismiss the same:

- The circuit court issued its order on **September 15, 2021**. (Exhibit A).
- Appellants moved for reconsideration of the September 15, 2021 Order on **September 27, 2021**. (Exhibit B).
- The circuit court denied *in its entirety* Appellants’ motion to reconsider on **October 6, 2021**.¹ (Exhibit C).
- Appellants filed a subsequent motion to reconsider on **October 18, 2021**.² (Exhibit D).
- Appellants filed a purported Notice of Appeal on **November 2, 2021**.³ (Exhibit E).
- Appellants filed a Notice of Appeal on **November 4, 2021**. (Exhibit F).

Appellants’ appeal is untimely. Under Rule 203 SCACR, Appellants have thirty (30) days to appeal the September 15, 2021 order, or until Friday, October 15, 2021. Under Rule 59(e), SCRCR, Appellants have ten (10) days to file a motion for reconsideration, or until Saturday, September 25, 2021. Because the 10th day fell on a Saturday, Appellants’ motion for

¹ The trial court also issued a denial of Appellants’ motion to reconsider on October 4, 2021. For purposes of this Motion to Dismiss, Respondents have cited the later filed denial.

² Appellants fail to cite any authority as the basis of this subsequent motion, thus Respondents have construed this motion to be a subsequent motion for reconsideration that is defective because the basis of the motion is waived when not asserted in their initial motion for reconsideration, and because a motion to reconsider a denial of a motion to reconsider is no motion at all and does not toll the time to file and serve a notice of appeal. *See Overland, Inc. v. Nance*, 423 S.C. 253, 256, 815 S.E.2d 431, 432 (2018) (“[T]he ten-day limit for serving a Rule 59(e) motion is an absolute deadline.”); *id.* at 256-57, 815 S.E.2d at 433 (“A trial court does not have the power ... to grant the moving party an extension of time in which to file a Rule 59(e) motion.”); *see also Russell v. Wachovia Bank, N.A.*, 370 S.C. 5, 633 S.E.2d 722 (2006) (“Generally, a trial judge loses jurisdiction over a case when the time to file post-trial motions has elapsed.”).

³ Appellants do not cite Rule 203, SCACR, or assert that this document is a *notice of appeal*. Appellants appear to be submitting affidavits in support of their October 18, 2021 motion, which is an untimely nullity. For the purposes of this Motion to Dismiss, Respondents have construed this motion to be a notice of appeal under Rule 203, SCACR.

reconsideration was due on or before Monday, September 27, 2021. Appellants timely filed their motion for reconsideration.

Appellants' motion for reconsideration filed September 27, 2021, was denied on October 6, 2021, thus the time to file a notice of appeal was stayed for the nine (9) days during which the motion for reconsideration was pending. The circuit court denied the motion for reconsideration in its entirety; therefore, no new grounds for challenge arose. *See Collins Music Co. v. IGT*, 353 S.C. 559, 564-65, 579 S.E.2d 524, 526 (Ct. App. 2002) (explaining successive post-trial motions fail to extend the time to file a notice of appeal).

Adding the stayed nine (9) days to their time to appeal, Appellants' time to appeal the September 15, 2021 Order was on or before Sunday, October 24, 2021. Because this date fell on a Sunday, Appellants' Notice of Appeal was due on or before Monday, October 25, 2021. Appellants failed to file any document that could possibly be construed as a Notice of Appeal until Appellants filed a November 2, 2021 document directed to the Clerk for the South Carolina Court of Appeals. If this document is construed as a Notice of Appeal, Appellants' November 2, 2021 filing is untimely. *See Elam v. S.C. Dep't of Transp.*, 361 S.C. 9, 14-15, 602 S.E.2d 772, 775 (2004) ("The requirement of service of the notice of appeal is jurisdictional, i.e., if a party misses the deadline, the appellate court lacks jurisdiction to consider the appeal and has no authority or discretion to 'rescue' the delinquent party by extending or ignoring the deadline for service of the notice.").

Appellants filed a "notice of appeal" document on November 4, 2021. Because the time to appeal the September 15, 2021 order was on or before October 25, 2021, this Notice of Appeal is untimely, and this Court lacks jurisdiction to consider the appeal. Appellants' appeal should be dismissed.

II. Appellants seek relief from an order granting relief which is an exception to the stay and supersedeas of Rule 241, SCACR.

The circuit court issued its September 15, 2021 Order pursuant to Rule 70, SCRCPC. *See* Rule 70, SCRCPC (“If a judgment directs a party to execute a conveyance of land or to deliver deeds or other documents or to perform any other specific act and the party fails to comply within the time specified, the court may direct the act to be done at the cost of the disobedient party by some other person appointed by the court and the act when so done has like effect as if done by the party.”).

An Order under Rule 70, directing that Appellants, or alternatively the Sumter County Clerk of Court, execute a conveyance is specifically not stayed under Rule 241(b)(3), SCACR or the governing statute. *See* Rule 241(b)(3), SCACR (providing an exception to the general rule includes “[j]udgments directing the execution of conveyances or other instruments as provided in S.C. Code Ann. § 18-9-160”); S.C. Code Ann. § 18-9-160 (“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 appellate court.”). Appellants appear to seek relief from **both** the directives of § 18-9-160 and the September 15, 2021 Order.

Respondents respectfully submit Appellants’ relief would necessarily be from the circuit court, and under Rule 59(e), SCRCPC, which was due on or before September 27, 2021. Appellants’ failure to timely raise this issue in their initial motion for reconsideration acts as a waiver. Appellants’ subsequent October 18, 2021 motion was untimely. As a result of Appellants’ failure to execute the conveyances, the Sumter Clerk of Court executed the conveyances as directed by the circuit court.

Appellants' November 2, 2021 motion for relief directed to this Court seeking relief from the provisions of South Carolina Code § 18-9-160 is both untimely and outside the jurisdiction of this Court, and thus should be dismissed. Similarly, Appellants' November 4, 2021 notice of appeal is untimely and outside the jurisdiction of this court, and thus should also be dismissed.

Finally, because Appellants have failed to perfect, or timely appeal, the September 15, 2021 Order of the circuit court, this issue is moot. This motion should be dismissed in both this Court and the trial court as untimely and moot.

WHEREFORE, based on the foregoing, Respondents respectfully request this Honorable Court dismiss Appellants' appeal with prejudice and that the Court grant such other and further relief as the Court deems just and appropriate.

Respectfully submitted,

SMITH | ROBINSON
Smith Robinson Holler DuBose and Morgan, LLC

s/David C. Holler

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ATTORNEY FOR RESPONDENTS

November 8, 2021.

EXHIBIT A

STATE OF SOUTH CAROLINA)
)
COUNTY OF SUMTER)

IN THE COURT OF COMMON PLEAS
FOR THE THIRD JUDICIAL CIRCUIT

CIVIL ACTION NO: 2008-CP-43-2112

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,)

Plaintiffs,)

Vs.)

ORDER

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

Defendants)

By motion of June 2, 2020, Defendants move for relief under Rule 70, SCRPC. This access easement dispute was called to trial on April 25, 2017, and a settlement was placed upon the record pursuant to Rule 43(k), SCRPC. On January 4, 2019, an Order was entered setting forth the terms of the settlement. As set forth below, the parties are hereby ordered to conclude the terms of the settlement as follows:

1. A plat dated May 26, 2017, entitled "SHINGLE MILL ROAD ACCESS" was prepared by Louis White Tisdale, RLS, has been recorded in the Office of the Register of Deeds for Sumter County in Plat Book 2019, at page 7 (hereinafter referred to as "LAND SWAP plat"), and sets forth the exact property descriptions for the affected properties.
2. Within 30 days of entry of this Order, Plaintiffs shall convey to Defendants a Fifty (50) foot non-exclusive easement in perpetuity of ingress and egress across certain real property described as Parcel A and shown on the LAND SWAP plat. See attached deed.
3. Within 30 days of entry of this Order, Plaintiffs shall convey in fee simple certain real property consisting of several tracts of land equaling 0.96 acres and more fully described as Parcel B in the LAND SWAP plat to Defendants; See attached deed.

4. Within 30 days of entry of this Order, Defendants shall convey in fee simple certain real property consisting of several tracts of land equaling 0.97 acres and more fully described as Parcel C in the LAND SWAP plat to Plaintiffs. See attached deed.

5. On the 31st day after entry of this Order, if any one or more of the three deeds described above in (2), (3) and (4) have not been executed and filed in the office of the Register of Deeds (ROD), the Sumter County Clerk of Court shall immediately execute and record the deeds with the ROD office. See attached deed for execution by Clerk of Court.

6. Upon recording of the last of the deeds described in (2) through (4), or alternatively (5), Defendants shall take all necessary action to clear and construct a private exclusive roadway for the purpose of ingress and egress to their real property over and upon Parcel B.

7. No later than six months after the recording of the last of the three deeds described in (2) through (4), or alternatively (5), Defendants shall no longer use that portion of Shingle Mill Road (Shingle Mill current situs) that transverses through the center of Plaintiffs' real property.

8. 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.



Sumter Common Pleas

Case Caption: Fannie M Champion , plaintiff, et al VS Ronald L Hallman ,
defendant, et al
Case Number: 2008CP4302112
Type: Order/Other

So Ordered

s/ R. Ferrell Cothran, Jr., 2144

EXHIBIT B

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SUMTER)
)
)
 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,)
 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.)

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

**NOTICE OF MOTION AND
 MOTION TO ALTER OR AMEND
 JUDGMENT**

**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, pursuant to Rule 59(e), SCRPC, 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 to Alter or Amend the Judgment of the Court set forth in its Order dated, filed, and served on September 15, 2021, on the following grounds:

1. This controversy arose out of Plaintiff's unsuccessful efforts to peacefully enjoy their homesteads that had been established on land acquired by Plaintiff Fannie C. Champion and her husband, Henry Champion, who is now deceased. At the time when the land was purchased, the Sellers conveyed to the purchasers, their heirs and assigns forever, a perpetual twenty (20) foot

right-of-way easement over, across, and upon certain lands for ingress and egress to their private property.

2. Prior to the commencement of this litigation in 2008, some of the Defendants, their heirs and associates traveled on the private roadway in motor vehicles in such a reckless manner that the Plaintiffs and their children were fearful of suffering bodily harm or worse due to the dangerous manner in which the Defendants operated vehicles near their homes and through their yards. Plaintiffs demanded that the Defendants stay off their property; Plaintiffs put up "No Trespassing" Signs and erected a fence to protect their property. Still the Defendants would belligerently confront the Plaintiffs while continuing to trespass upon their property. On occasions, law enforcement was called to the property to restore peace. Finally, after the Plaintiffs had exhausted all lawful means to protect their families and property rights, they filed this civil action in the Court of Common Pleas with the expectation that the justice system would enforce the law with regard to their rights as property owners.

3. During the thirteen years that this case has been litigated, Plaintiffs have consistently demonstrated a good faith effort to bring about a resolution. The issue which brought the parties to this juncture is a land swap agreement whereby the parties agreed to relocate the roadway a distance from the Plaintiffs' residences on land that the Plaintiffs exchanged with the Defendants for another parcel the Defendants would convey to the Plaintiffs.

4. The matter was called for trial on April 25, 2017, at which time the Settlement Agreement was placed upon the record in open court in accordance with Rule 43(k), SCRCP. The Court instructed Defendants' counsel to prepare the order setting forth the Settlement Agreement as approved by the Court. The Settlement Order was signed, filed and served on January 4, 2019. Among the terms of the Settlement Order is the following provision:

5. Defendants shall, within a time period not to exceed two (2) years [hereinafter "Construction Period"] from the date of this agreement, take all necessary action to clear and construct a private exclusive roadway for the purpose of ingress and egress to their real property along Parcel B. Upon completion of the private exclusive roadway along Parcel B, and subject to the Fifty (50) feet non-exclusive easement in perpetuity of ingress and egress across certain real property as described in Parcel A, and shown on the LAND SWAP plat. Defendants shall no longer use that portion of Shingle Mill Road (Shingle Mill current situs) that transverses through the center of Plaintiff' real property.

(Settlement Order, 01/04/2019, Terms of the court approved settlement agreement, p. 4, pa. 5.

More than two years passed and no work had been performed on the proposed roadway during the two-year construction period.

5. On June 2, 2020, Defendants filed a Motion for Specific Acts and Vesting Title Under Rule 70, SCRPC. Defendants moved the Court for an Order directing: (1) That the Plaintiffs execute a conveyance of land or to deliver deeds within 30 days of the filing of the motion; or in the alternative, (2) for an Order holding Plaintiffs in contempt of court to include costs and attorneys' fees incurred in the filing of the motion and Plaintiffs' failure to comply with the land swap settlement; and (3) for an Order directing the Clerk of the Sumter County Register of Deeds to enter conveyance of the subject property.

6. On July 21, 2020, Plaintiffs filed a Memorandum in Opposition to Defendants' Motion for Specific Acts and Vesting Title under Rule 70, SCRPC. Plaintiffs assert that the litigation was not ripe for the Rule 70, SCRPC, Motion because issues of fact were still unresolved, that the Defendants had breached the Settlement Agreement incorporated in the Court's Order by failing and refusing to comply with the plain language of the Settlement Agreement which is treated as a contract under South Carolina Law. The Settlement Agreement was approved by the Court on April 25, 2017, and entered into the record on April 25, 2017. The two-year "Construction Period" approved by the Court was "not to exceed two (2) years

from the date of this agreement,” which was April 25, 2017. Thus, the Construction Period began on April 25, 2017, and ended on April 24, 2019.

7. On July 10, 2020, Plaintiffs filed a Memorandum in Opposition to Defendants *ex parte* application for an Order Granting a Temporary Injunction Regarding Shingle Mill Road pursuant to Rule 65, SCRCF. Defendants e-filed the proposed order, submitted the document to Circuit Court Judge R. Ferrell Cothran, Jr., by email and copied Plaintiffs’ counsel with the email. Plaintiffs’ Memorandum was filed at 6:29 P.M. on July 10, 2020, and asserted that the allegations set forth in the proposed order, even if they were true, do not satisfy the requirements set forth in Rule 65, SCRCF, for the issuance of a temporary restraining order. The Order Granting Temporary Injunction Regarding Shingle Mill Road was filed at 4:37 P.M. on July 10, 2020. Plaintiffs filed a Notice of Motion and Motion to Dissolve the Temporary Injunction on the grounds that the Injunction was unlawful because it did not comply with the prerequisites set forth in Rule 65, SCRCF; in particular with regard to the Notice provision and the absence of factual allegations to support the injunction.

8. On July 10, 2020, Plaintiffs also filed a Notice of Motion to Implead Adjoining Landowners contending that they were necessary to a full and fair adjudication of the controversy.

9. On July 21, 2020, Plaintiffs filed a Notice of Motion and Motion to Vacate the Settlement Order on the grounds that the Defendants did not comply with the two-year construction period time-line in the Settlement Order, and that Defendants negotiated in bad faith. Plaintiffs recounted that the Defendants had contended during the negotiations that they had no other avenue of ingress and egress except through Plaintiff’s property. While, in fact, during the two-year construction period when no work was done toward constructing the agreed-

upon roadway, Defendants had established and used another road to travel back and forth to their property. As further grounds for their Motion to Vacate, Plaintiffs asserted that the action originated due to the misconduct of the Defendants, that the track of the litigation had been marked by efforts of the Defendants to gain control over and use Plaintiffs' property without regard for the rights of the property owners, and that Defendants were using the court system to harass, manipulate and to gain unfair advantages over the Plaintiffs.

10. The case was on the Sumter County Court of Common Pleas Motions Roster to be heard by Judge Cothran on August 30, 2021. First on the roster was Defendants' Rule 70, SCRCF Motion. Plaintiffs' three Motions to Dissolve the Order Granting the Temporary Injunction, Motion to Implead Adjoining Landowners and Motion to Vacate Settlement Order followed.

11 The Court sent Defendants' Counsel an email authorizing him to draft the Order from the hearing on August 30, 2021. Plaintiffs' Counsel received a copy of the Judge's email. The Order was filed on September 15, 2021. Plaintiffs' hereby move that the judgment of the Court be altered and/or amended for the following reasons;

- a. There were four motions before the Court for disposition on August 30, 2021. The Court's Order addresses only Defendants' Rule 70, SCRCF, Motion. First, it appears that the Court grants the Motion, sets out the manner of implementation, prescribes the sanctions for failure to comply, and chills the right of the litigants to seek redress by imposing a requirement for posting bond by any party who appeals and seeks a stay of any one of more of the Orders entered in this matter.
- b. The Order disposes of one motion, but does not make any findings of fact or conclusions of law to support the disposition reached.
- c. The Order does not address either of Plaintiffs' three pending Motions. Plaintiffs contend that the issues raised in these Motions must be ruled upon, and sufficient findings of fact and conclusions of law set forth as would allow an adequate review of the basis of the Court's ruling.

- e. For the foregoing reasons, Plaintiffs respectfully pray that the judgment of the Court be altered or amended.

MOORE LAW FIRM, L.L.C.

S/ Dwight C. Moore
Dwight C. Moore, S.C. Bar No. 63008
26 North Main Street
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Attorney for Plaintiffs

September 25, 2021
Sumter, South Carolina

EXHIBIT C

STATE OF SOUTH CAROLINA
COUNTY OF SUMTER
IN THE COURT OF COMMON PLEAS
²²²²
FANNIE M. CHAMPION, ET AL

AMENDED JUDGMENT IN A CIVIL CASE
CASE NO. 2008 CP-43-02112
RONALD L. HALLMAN, ET AL

ELECTRONICALLY FILED - 2021 Oct 06 9:34 AM - SUMTER - COMMON PLEAS - CASE#2008CP4302112

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:	Attorney for : <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant
	or <input type="checkbox"/> Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

This order ends does not end the case. **PLAINTIFF'S MOTION TO ALTER OR AMEND IS DENIED.**

INFORMATION FOR THE JUDGMENT INDEX		
Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.		
Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$
If applicable, describe the property, including tax map information and address, referenced in the order:		

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRPC.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

FORM 4C INSTRUCTIONS—JUDGMENT IN A CIVIL CASE
(Instructions for Information Only-Not to be filed with Form 4C)

1. Form 4C-Judgment in a Civil Case has been modified to add order information and enrollment instructions for the clerk of court. The purpose of Form 4 has not changed with the exception that judgment information is provided when applicable.
2. Please note that the Form 4C must be attached to all orders that include information to enroll in the judgment index. The clerk will not be responsible for reading the order to determine enrollment information.

The attorney or prevailing party will prepare and attach the Form 4C when submitting the proposed order that includes judgment enrollment information for the judgment index. The judge will review and sign Form 4C when he or she signs an order that includes judgment enrollment information for the judgment index.

3. Form 4C is not required to be submitted to the Court with orders that do not include information to enroll in the judgment index. If the clerk receives such an order without Form 4C attached, the clerk should enter and process the order pursuant to Rule 58 and Rule 77(d), SC Rules of Civil Procedure (i.e., the clerk should serve notice of entry of the judgment by mail or provide the attorneys with copies of the signed order by other means).
4. The “Information for the Judgment Index” section should be completed when the judgment affects title to real or personal property or if any amount should be enrolled. In the “Judgment in Favor of” column, enter the name of the party to whom the judgment is awarded. In the “Judgment Against” column, enter the name of the person to whom the judgment is against. The judgment amount to be enrolled should be noted in the “Judgment Amount” column. As necessary, describe any property referenced in the order if it is to be enrolled in the judgment index. If there is no judgment information to enroll, indicate “N/A” in one of the boxes in this section of the form.
5. To enter information to accommodate multiple parties, additional Form 4Cs may be used as necessary. Additional space may be inserted on the form as necessary.
6. The section “For the Clerk of Court Office Use Only” should be completed by the clerk as it has been with the previous version of Form 4.
7. If the matter is on appeal to the Circuit Court, then the parties on the form should be changed from Plaintiff and Defendant to Appellant and Respondent.
8. If an arbitrator prepares an order after arbitration, the arbitrator should strike through “Circuit Court Judge” and indicate “Arbitrator” in the signature block.

9. If a Special Circuit Court Judge, Master in Equity, or Special Referee prepares an order after hearing a Circuit Court matter, then he or she should strike through the title "Circuit Court Judge" below the signature line and indicate the appropriate title.
10. When an Order of Foreclosure is filed, neither the parties or debt owed should be listed in the Information for the Judgment Index Section, unless the foreclosure order specifically requires entry of the full judgment amount before the foreclosure sale, pursuant to Section 29-3-650 of the SC Code.
11. If the deficiency judgment is waived in a Foreclosure action, indicate N/A in the "Judgment Amount To Be Enrolled" box.
12. Foreclosure actions should be ended by the Clerk of Court upon receipt of the Order of Foreclosure. Subsequent information, including deficiency judgments, can be added to the action after the case is ended. The Master in Equity should end the action in the MIE system upon the receipt of the Order of Foreclosure.
13. When judgment enrollment information is included in the Information for the Judgment Index Section (for example, when there is a deficiency judgment), only the parties who the judgment is for and against should be included in the Section. Subordinate parties and lienholders should not be included in the box if there is not a judgment amount specifically for or against them.
14. Form 4C is not required to be attached to Transcripts of Judgment and Confession of Judgment.



Sumter Common Pleas

Case Caption: Fannie M Champion , plaintiff, et al VS Ronald L Hallman ,
defendant, et al
Case Number: 2008CP4302112
Type: Order/Form 4

So Ordered

s/ R. Ferrell Cothran, Jr., 2144

EXHIBIT D

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SUMTER)
)
FANNIE M. CHAMPION, ET AL.,)
 Plaintiff,)
 vs.)
)
RONALD L. HALLMAN, ET AL.,)
 Defendant.)

IN THE COURT OF COMMON PLEAS
 THIRD JUDICIAL CIRCUIT
 CASE NO.: 2008-CP-43-02112
**MOTION AND ORDER INFORMATION
 FORM AND COVERSHEET**

Plaintiff's Attorney: Dwight C. Moore, Bar No. 63008 Address: 26 N. Main St., Sumter, SC 29150 Phone: (803) 778-6520 Fax (803) 775-6365 E-mail: moorelawfirm@ftc-i.net Other: _____	Defendant's Attorney: David C. Holler, Bar No. 64312 Address: P. O. Box 580, Sumter, SC 29151-0580 Phone: (803) 778-2471 Fax (803) 779-1643 E-mail: davidholler@smithrobinsonlaw.com Other: _____
--	--

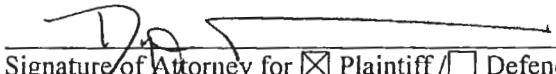
MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
 FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
 PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion: Motion In Re Security Bond
 Estimated Time Needed: 30 Minutes Court Reporter Needed: YES / NO

SECTION II: Motion/Order Type

Written motion attached
 Form Motion/Order
 I hereby move for relief or action by the court as set forth in the attached proposed order.


 Signature of Attorney for Plaintiff / Defendant 10/18/2021
 Date submitted

SECTION III: Motion Fee

PAID - AMOUNT: \$ _____
 EXEMPT: (check reason)

- Rule to Show Cause in Child or Spousal Support
- Domestic Abuse or Abuse and Neglect
- Indigent Status State Agency v. Indigent Party
- Sexually Violent Predator Act Post-Conviction Relief
- Motion for Stay in Bankruptcy
- Motion for Publication Motion for Execution (Rule 69, SCRPC)
- Proposed order submitted at request of the court; or,
 reduced to writing from motion made in open court per judge's instructions
 Name of Court Reporter: _____
- Other: _____

JUDGE'S SECTION

Motion Fee to be paid upon filing of the attached order.
 Other: _____

JUDGE CODE _____
 Date: _____

CLERK'S VERIFICATION

Collected by: _____ Date Filed: _____
 MOTION FEE COLLECTED: \$ _____
 CONTESTED - AMOUNT DUE: \$ _____

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

EXHIBIT E

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
Attorney for Plaintiffs

November 2, 2021
Sumter, South Carolina

STATE OF SOUTH CAROLINA)

Quitclaim Deed

COUNTY OF SUMTER)

Whereas, Fannie M. Champion, Samuel Champion, Evelyn C. Ludd, Sarah C. Evans, Rachel C. Brown, Henry Champion, Jr., Janie M. Champion, John L. Champion and Mary Johnson are the record owners of the within described real estate; and

WHEREAS, Fannie M. Champion (the "Decedent") died testate on January 10, 2016 seized and possessed of an undivided interest in and to the within described real estate; and

WHEREAS, the Estate of the Decedent is being administered in the Office of the Probate Court for Sumter County, South Carolina in File#2016-ES-43-00366; and

WHEREAS, prior to her death, the Decedent and other record owners above named brought a cause of action against the within Grantee and others involving the rights of the defendants named in said action to the use of the right of way commonly known as Shingle Mill Road, which cause of action is filed in the Office of the Clerk of Court for Sumter County, Case No. 2008-CP-43-2112 (the "Cause of Action"); and

WHEREAS, the parties to the Cause of Action have reached a settlement thereof pursuant to which they have agreed among other matters to exchange interests in real estate, including the real estate herein described; and

WHEREAS, the within described real estate constitutes the real property to be conveyed to the within Grantee in accordance with the terms of said settlement; and

WHEREAS, the undersigned Personal Representative is the duly appointed and qualified fiduciary for the Decedent's Estate and pursuant to the Order of the Court of Common Pleas handed down in the Cause of Action is "authorized and directed" to exchange the Estate's undivided interest in the within described property for other like-kind property that the Grantee and others are simultaneously conveying to the within Grantors (See copy of said Order on file in the above referenced proceedings).



NOW, THEREFORE, that the undersigned Grantors, in the County and State aforesaid, for and in consideration of the above recitals, the exchange of like kind property, the settlement of the Cause of Action and the sum of One and No/100 (\$1.00) Dollar (and no other consideration) to them in hand paid at and before the sealing of these presents by **Mary Ellen Davenport (the "Grantee")**, the receipt whereof is hereby acknowledged, have granted bargained, sold and released, and by these Presents do grant, bargain, sell and release to the said **Grantee**, her heirs and assigns, those premises described on Schedule A, attached hereto and by this reference made a part hereof.

TOGETHER with, all and singular the Rights, Members, Hereditaments and Appurtenances to the said premises belonging or in anywise incident or appertaining.

TO HAVE AND TO HOLD, all and singular the said premises before mentioned unto the said **Grantees**, their heirs and assigns forever.

SUBJECT TO and excepting those matters described in Schedule B attached hereto and by this reference made a part hereof.

(For signature pages see ensuing pages)

Grantee's Address:
Mary Ellen Davenport
2520 Shingle Mill Road
Sumter, SC 29153

WITNESS the execution hereof by the undersigned Grantor this 15 day of April, 2019, and in the two hundred and forty-third year of Sovereignty and Independence of the United States of America.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

Cheryl Sheiser
Jane K. Richardson

Estate of Fannie M. Champion
By: Evelyn C. Ludd (SEAL)
Evelyn C. Ludd
Its Personal Representative

STATE OF SOUTH CAROLINA
COUNTY OF SUMTER

The foregoing instrument was acknowledged before me this 15 day of April, 2019, by Evelyn C. Ludd, Personal Representative of the Estate of Fannie May Champion, on behalf of the Estate.

Jane K. Richardson
Notary Public for SC

My Commission Expires: 07/31/20

(SEAL)

WITNESS the execution hereof by the undersigned Grantor this 30th day of April, 2019, and in the two hundred and forty-third year of Sovereignty and Independence of the United States of America.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

Philip T. McCall
Philip T. McCall

Samuel Champion (SEAL)
Samuel Champion

Ancel Savetti
Ancel Savetti

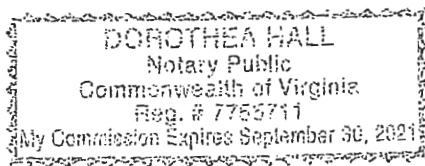
STATE OF Virginia
COUNTY OF: Newport News

The foregoing instrument was acknowledged before me this 30th day of April, 2019, by Samuel Champion.

Dorothea Hall
Notary Public for VA

My Commission Expires: 9/30/2021

(SEAL)



WITNESS the execution hereof by the undersigned Grantor this 15 day of April, 2019, and in the two hundred and forty-third year of Sovereignty and Independence of the United States of America.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

Cheryl Heisen
Jane K. Kubacki

Evelyn C. Ludd (SEAL)
Evelyn C. Ludd

STATE OF SOUTH CAROLINA
COUNTY OF SUMTER

The foregoing instrument was acknowledged before me this 15 day of April, 2019, by Evelyn C. Ludd.

Jane K. Kubacki
Notary Public for SC

My Commission Expires: 07/31/20

(SEAL)

WITNESS the execution hereof by the undersigned Grantor this 17 day of April, 2019, and in the two hundred and forty-third year of Sovereignty and Independence of the United States of America.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

[Signature]
Breanna G. Johnson
[Signature]
Jana K. Richardson

[Signature] (SEAL)
Sarah C. Evans

STATE OF SOUTH CAROLINA
COUNTY OF SUMTER

The foregoing instrument was acknowledged before me this 17 day of April, 2019, by Sarah C. Evans.

[Signature]
Notary Public for SC

My Commission Expires: 07/31/20

(SEAL)

WITNESS the execution hereof by the undersigned Grantor this 10 day of April, 2019, and in the two hundred and forty-third year of Sovereignty and Independence of the United States of America.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

Breanna Gaddison
Jane K. Richardson

Rachel C. Brown (SEAL)
Rachel C. Brown

STATE OF SOUTH CAROLINA
COUNTY OF SUMTER

The foregoing instrument was acknowledged before me this 10 day of April, 2019, by Rachel C. Brown.

Jane K. Richardson
Notary Public for SC

My Commission Expires: 07/31/20

(SEAL)

WITNESS the execution hereof by the undersigned Grantor this 18 day of April, 2019, and in the two hundred and forty-third year of Sovereignty and Independence of the United States of America.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

[Signature]
Bryanna Radson
[Signature]
Jane K. Richardson

[Signature] (SEAL)
Henry Champion, Jr.

STATE OF SOUTH CAROLINA
COUNTY OF SUMTER

The foregoing instrument was acknowledged before me this 18 day of April, 2019, by Henry Champion, Jr.

[Signature]
Notary Public for SC

My Commission Expires: 07/31/20

(SEAL)

WITNESS the execution hereof by the undersigned Grantor this 15 day of April, 2019, and in the two hundred and forty-third year of Sovereignty and Independence of the United States of America.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

Cheryl Keiser
Jane K. Hubacher

Janie M. Champion (SEAL)
Janie M. Champion

STATE OF SOUTH CAROLINA
COUNTY OF SUMTER

The foregoing instrument was acknowledged before me this 15 day of April, 2019, by Janie M. Champion.

Jane K. Hubacher
Notary Public for SC

My Commission Expires: 07/31/20

(SEAL)

WITNESS the execution hereof by the undersigned Grantor this 29 day of April, 2019, and in the two hundred and forty-third year of Sovereignty and Independence of the United States of America.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

[Signature]
[Signature]

[Signature] (SEAL)
John L. Champion

STATE OF SOUTH CAROLINA
COUNTY OF SUMTER

The foregoing instrument was acknowledged before me this 29 day of April, 2019, by John L. Champion.

[Signature]
Notary Public for SC

My Commission Expires: 8/1/31 SC

(SEAL)

WITNESS the execution hereof by the undersigned Grantor this 18 day of April, 2019, and in the two hundred and forty-third year of Sovereignty and Independence of the United States of America.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

[Signature]
Breanna Gadsby
[Signature]
Jane K. Richardson

[Signature] (SEAL)
Mary Johnson

STATE OF SOUTH CAROLINA
COUNTY OF SUMTER

The foregoing instrument was acknowledged before me this 18 day of April, 2019, by Mary Johnson.

[Signature]
Notary Public for SC

My Commission Expires: 07/31/20

(SEAL)

SCHEDULE A

All that certain piece, parcel or strip of land situate, lying and being in Providence Township, County of Sumter, State of South Carolina, containing .96 acre, more or less, and being more particularly shown and delineated as Parcel B on that certain plat by Louis White Tisdale, RLS, dated May 26, 2017, as recorded in the Office of the Register of Deeds for Sumter County in Plat Book 2019, at page 7, and having such boundaries, metes, courses and distances as are shown on said plat, reference to which is hereby made pursuant to authority contained in Section 30-5-250 of the Code of Laws of South Carolina, 1976, as amended.

This being a portion of the property conveyed to Henry Champion and Fannie M. Champion by deed of William M. Reynolds, Master In Equity for Sumter County, by his deed dated February 10, 1993, and recorded in said ROD Office on February 19, 1993, in Volume 564, at page 156. Henry Champion died intestate on March 5, 2006 his interest in said properties having been distributed to his children (being the Grantors herein other than Fannie M. Champion) by Deed of Distribution dated January 5, 2007, and recorded in said ROD Office on January 5, 2007 in Book 1060, at page 153. Fannie M. Champion died on January 10, 2016 as will appear by reference to the administration of her Estate on file in the Office of the Probate Court for Sumter County, Case No. 2016-ES-43-00366.

Sumter County Tax Map Nos. 197-00-01-019 and 197-00-01-023 (part)

Schedule B

1. Such state of facts as would be disclosed by an accurate survey and inspection of the premises.
2. Rights of way for public utilities, if any.
3. Taxes for 2019 and subsequent years, a lien but not yet due and payable.
4. The property is being conveyed in "as is" condition.
5. Subject to a non-exclusive, permanent and perpetual 50' easement and right of way over and across said Parcel B in favor of 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, being the Defendants named in the Cause of Action as filed in the Office of the Clerk of Court for Sumter County, Case No. 2008-CP-43-2112 (the "Cause of Action"), their heirs and assigns, pursuant to the Settlement Order filed in said proceedings.

STATE OF SOUTH CAROLINA)
COUNTY OF SUMTER)

Easement Quitclaim Deed

Whereas, Fannie M. Champion, Samuel Champion, Evelyn C. Ludd, Sarah C. Evans, Rachel C. Brown, Henry Champion, Jr., Janie M. Champion, John L. Champion and Mary Johnson are the record owners of the within described real estate; and

WHEREAS, Fannie M. Champion (the "Decedent") died testate on January 10, 2016 seized and possessed of an undivided interest in and to the within described real estate; and

WHEREAS, the Estate of the Decedent is being administered in the Office of the Probate Court for Sumter County, South Carolina in File#2016-ES-43-00366; and

WHEREAS, prior to her death, the Decedent and other record owners above named brought a cause of action against the within Grantees and others involving the rights of the defendants named in said action to the use of the right of way commonly known as Shingle Mill Road, which cause of action is filed in the Office of the Clerk of Court for Sumter County, Case No. 2008-CP-43-2112 (the "Cause of Action"); and

WHEREAS, the parties to the Cause of Action have reached a settlement thereof pursuant to which they have agreed among other matters to exchange interest in real estate, including the granting of the non-exclusive, permanent and perpetual easement and right of way being conveyed hereunder (the "Settlement"); and

WHEREAS, the within described non-exclusive, permanent and perpetual easement and right of way constitutes the right of way to be conveyed to the within Grantees in accordance with the terms of said Settlement; and

WHEREAS, the undersigned Personal Representative is the duly appointed and qualified fiduciary for the Decedent's Estate and pursuant to the Order of the Court of Common Pleas handed down in the Cause of Action is "authorized and directed" to convey the within non-exclusive, permanent and perpetual easement and right of way over and upon the Estate's undivided interest in the within described property in exchange for certain adjacent like kind property that one or more of the Grantees are simultaneously conveying to the within Grantors (See copy of said Order on file in the above referenced proceedings).



NOW, THEREFORE, that the undersigned Grantors, in the County and State aforesaid, for and in consideration of the above recitals, the exchange of like kind property, the Settlement of the Cause of Action and the sum of One and No/100 (\$1.00) Dollar (and no other consideration) to them in hand paid at and before the sealing of these presents by **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 "Grantees")**, the receipt whereof is hereby acknowledged, have granted bargained, sold and released, and by these Presents do grant, bargain, sell and release to the said **Grantees**, their heirs and assigns, a permanent and perpetual easement and right of way over and across those premises described on Schedule A, attached hereto and by this reference made a part hereof. The non-exclusive, permanent and perpetual easement and right of way being conveyed hereunder is more fully described on said Schedule A.

TOGETHER with, all and singular the Rights, Members, Hereditaments and Appurtenances to the said premises belonging or in anywise incident or appertaining.

TO HAVE AND TO HOLD, all and singular the said premises before mentioned unto the said **Grantees**, their heirs and assigns forever.

(For signatures of Grantors see ensuing pages)

Grantee's Address:
C/O Ronald L. Hallman
2400 Shingle Mill Road
Dalzell, SC 29040

WITNESS the execution hereof by the undersigned Grantor this 15 day of April, 2019, and in the two hundred and forty-third year of Sovereignty and Independence of the United States of America.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

Cheryl Heisen

Jane K. Reuback

Estate of Fannie M. Champion

By: Evelyn C. Ludd (SEAL)

Evelyn C. Ludd
Its Personal Representative

STATE OF SOUTH CAROLINA
COUNTY OF SUMTER

The foregoing instrument was acknowledged before me this 15 day of April, 2019, by Evelyn C. Ludd, Personal Representative of the Estate of Fannie May Champion, on behalf of the Estate.

Jane K. Reuback
Notary Public for SC

My Commission Expires: 07/13/20

(SEAL)

WITNESS the execution hereof by the undersigned Grantor this ^{4th} 30 day of April, 2019, and in the two hundred and forty-third year of Sovereignty and Independence of the United States of America.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

Philip T. Muel
Philip T. Muel

Samuel Champion (SEAL)
Samuel Champion

Stacey Jacobetti
Stacey Jacobetti

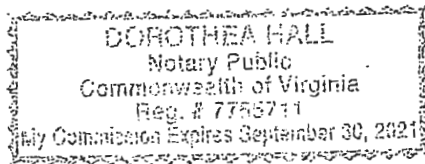
STATE OF Virginia
COUNTY OF Newport News

The foregoing instrument was acknowledged before me this ^{4th} 30 day of April, 2019, by Samuel Champion.

Dorothea Hall
Notary Public for VA

My Commission Expires: 9/30/2021

(SEAL)



WITNESS the execution hereof by the undersigned Grantor this 15 day of April, 2019, and in the two hundred and forty-third year of Sovereignty and Independence of the United States of America.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

Cheryl Keiser
Jane K. Suback

Evelyn C. Ludd (SEAL)
Evelyn C. Ludd

STATE OF SOUTH CAROLINA
COUNTY OF SUMTER

The foregoing instrument was acknowledged before me this 15 day of April, 2019, by Evelyn C. Ludd.

Jane K. Suback
Notary Public for SC

My Commission Expires 11/31/20

(SEAL)

WITNESS the execution hereof by the undersigned Grantor this 17 day of April, 2019 and in the two hundred and forty-third year of Sovereignty and Independence of the United States of America.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

B. Williams
B. Williams
Jane K. Kuhlender

Sarah C. Evans (SEAL)
Sarah C. Evans

STATE OF SOUTH CAROLINA
COUNTY OF SUMTER

The foregoing instrument was acknowledged before me this 17 day of April, 2019, by Sarah C. Evans.

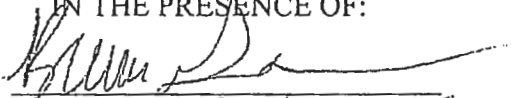
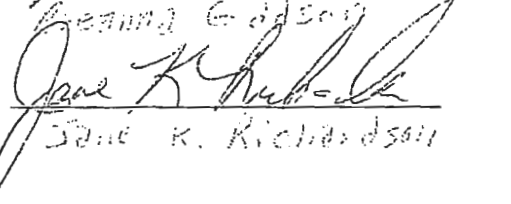
Jane K. Kuhlender
Notary Public for SC

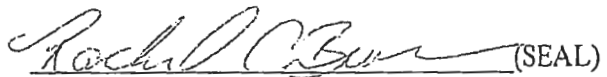
My Commission Expires 07/31/20

(SEAL)

WITNESS the execution hereof by the undersigned Grantor this 18 day of April, 2019, and in the two hundred and forty-third year of Sovereignty and Independence of the United States of America.

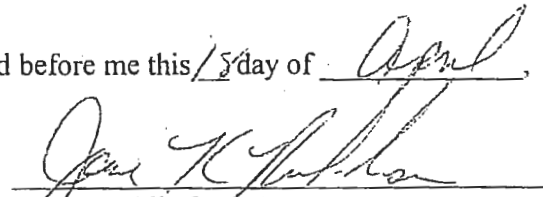
SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:


Beanna Godson

Jane K. Richardson

 (SEAL)
Rachel C. Brown

STATE OF SOUTH CAROLINA
COUNTY OF SUMTER

The foregoing instrument was acknowledged before me this 18 day of April, 2019, by Rachel C. Brown.


Notary Public for SC

My Commission Expires 07/31/20

(SEAL)

WITNESS the execution hereof by the undersigned Grantor this 18 day of April, 2019, and in the two hundred and forty-third of Sovereignty and Independence of the United States of America.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

[Signature]
Bryanna Carlson
[Signature]
Jane K. Richardson

[Signature] (SEAL)
Henry Champion, Jr.

STATE OF SOUTH CAROLINA
COUNTY OF SUMTER

The foregoing instrument was acknowledged before me this 18 day of April, 2019, by Henry Champion, Jr.

[Signature]
Notary Public for SC

My Commission Expires: 07/31/20

(SEAL)

WITNESS the execution hereof by the undersigned Grantor this 15 day of April, 2019, and in the two hundred and forty-third year of Sovereignty and Independence of the United States of America.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

Cheryl Heisen
Janie M. Champion

Janie M. Champion (SEAL)
Janie M. Champion

STATE OF SOUTH CAROLINA
COUNTY OF SUMTER

The foregoing instrument was acknowledged before me this 15 day of April, 2019, by Janie M. Champion.

Janie M. Champion
Notary Public for SC

My Commission Expires: 07/17/20

(SEAL)

WITNESS the execution hereof by the undersigned Grantor this 18 day of April, 2019, and in the two hundred and forty-third year of Sovereignty and Independence of the United States of America.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

[Signature]

Ernest Gibson

[Signature]

Jane K. Richardson

[Signature] (SEAL)

Mary Johnson

STATE OF SOUTH CAROLINA
COUNTY OF SUMTER

The foregoing instrument was acknowledged before me this 18 day of April, 2019, by Mary Johnson.

[Signature]

Notary Public for SC

Jane K. Richardson

My Commission Expires: 07/19/20

(SEAL)

WITNESS the execution hereof by the undersigned Grantor this 27 day of April, 2019, and in the two hundred and forty-third year of Sovereignty and Independence of the United States of America.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

[Signature]
Krisna C. Johnson
[Signature]
Jane K. Richardson

[Signature] (SEAL)
John L. Champion

STATE OF SOUTH CAROLINA
COUNTY OF SUMTER

The foregoing instrument was acknowledged before me this 27 day of April, 2019, by John L. Champion.

[Signature]
Notary Public for SC
Jane K. Richardson

My Commission Expires 07/13/20

(SEAL)

SCHEDULE A

A non-exclusive, permanent and perpetual easement and right of way over and across that certain piece, parcel or strip of land situate, lying and being in Providence Township, County of Sumter, State of South Carolina, containing .39 acre, more or less, and being more particularly shown and delineated as Parcel A on that certain plat by Louis White Tisdale, RLS, dated May 26, 2017, as recorded in the Office of the Register of Deeds for Sumter County in Plat Book 2019, at page 7, and having such boundaries, metes, courses and distances as are shown on said plat, reference to which is hereby made pursuant to authority contained in Section 30-5-250 of the Code of Laws of South Carolina, 1976, as amended. Said Easement is 50 foot in width and extends over the entire parcel above described and is being given for purposes of ingress and egress to lands of the within Grantees more particularly set forth on Schedule B appended hereto and made a part hereof. This easement is to be appurtenant to said lands of the within Grantees and is being given as a part of the Settlement of the Cause of Action referenced in the introductory paragraphs of this easement deed.

The within Grantors acquired the property over which the easement extends by the following deeds:

1. Being a portion of the property conveyed to Henry Champion and Fannie M. Champion by deed of William M. Reynolds, Master In Equity for Sumter County, by his deed dated February 10, 1993, and recorded in said ROD Office on February 19, 1993, in Volume 564, at page 156. Henry Champion died intestate on March 5, 2006 his interest in said properties having been distributed to his children (being the Grantors herein other than Fannie M. Champion) by Deed of Distribution dated January 5, 2007, and recorded in said ROD Office on January 5, 2007 in Book 1060, at page 153. Fannie M. Champion died on January 10, 2016 as will appear by reference to the administration of her Estate on file in the Office of the Probate Court for Sumter County, Case No. 2016-ES-43-00366; and
2. Being a portion of the property conveyed to Michael L. Ludd and Evelyn C. Ludd by Deed of Henry Champion and Fannie Champion dated July 26, 2002 and recorded in said ROD Office on July 31, 2002 in Book 851, at page 402. Michael L. Ludd subsequently died on February 8, 2010 leaving his interest in said property to his spouse, Evelyn C. Ludd as will appear by reference to his Estate on file in the Office of the Probate Judge for Sumter County, File No. 2010-ES-43-00128, as confirmed by Deed of Distribution from said Estate dated February 16, 2011 and filed in said ROD on February 22, 2011 in Book 1150, at page 3853.

The within holders of said Easement, their heirs and assigns, specifically are granted the right (but not the duty) to maintain and improve said easement, including the right to pave the same.

Sumter County Tax Map No. 197-00-01-019 and 197-00-01-139 (part)

Schedule B

<u>Grantee Landowners</u>	<u>Tax Map Nos. of Parcels to which Easement is appurtenant</u>
Ronald L. Hallman and Marjorie J. Hallman	198-00-01-022 and 197-00-01-055
Elton J. Hallman and Conswalla E. Hallman	198-00-01-064
Mary Ellen Davenport	198-00-01-020 and 021

and possibly others claiming by and through the above named landowners who may be included in the class of defendants named in the Cause of Action as referenced in the introductory paragraph to this easement deed.

Code of Laws of South Carolina 1976 Annotated
Title 18. Appeals
Chapter 9. Appeals to Supreme Court and Court of Appeals

Code 1976 § 18-9-160

§ 18-9-160. Staying judgment to execute conveyance.

Currentness

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 appellate court.

Credits

HISTORY: 1962 Code § 7-416; 1952 Code § 7-416; 1942 Code § 787; 1932 Code § 787; Civ. P. '22 § 652; Civ. P. '12 § 390; Civ. P. '02 § 351; 1870 (14) 362; 1999 Act No. 55, § 30, eff June 1, 1999.

Notes of Decisions (1)

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Code 1976 § 18-9-160, SC ST § 18-9-160

Current through 2021 Act No. 116, subject to final approval by the Legislative Council, technical revisions by the Code Commissioner, and publication in the Official Code of Laws.

EXHIBIT F

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

Subject to the disposition of Plaintiffs'/Appellants' Motion in re Bond on Appeal, which Motion was filed October 18, 2021, and is now pending in the Circuit Court, 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 hereby appeal the following Orders of the Honorable R. Ferrell Cothran, Jr.: (1) Order signed, filed, and served on September 15, 2021; (2) Form 4 Judgment in a Civil Case Denying Plaintiffs' Motion to Alter Or Amend Judgment, which Order was signed, filed, and served October 4, 2021; and (3) Amended Form 4 Judgment in a Civil Case Denying Plaintiffs' Motion to Alter Or Amend; which Order was signed, filed, and served on October 6, 2021.

November 4, 2021

~~Dwight C. Moore, SC Bar No. 63008~~
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Telephone (803) 778-6520
Fax (803) 775-6365
Email: moorelawfirm@ftc-i.net
Attorney for Appellants

Other Counsel of Record:

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Sumter, South Carolina 29151-0580
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Lee, Erter, Wilson, Holler, & Smith, L.L.C.
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Sumter, SC 29151-1268
Email: richardcjones@jonessethjones.com

Attorneys for Respondents

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,

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,

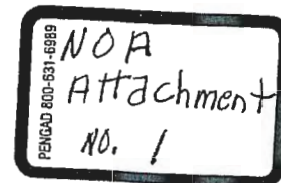
Defendants.

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

**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.

SI Dwight C. Moore

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

26 North Main Street

Post Office Box 1229

Sumter, South Carolina 29151-1229

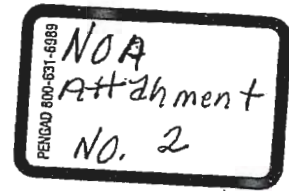
Telephone (803) 778-6520

Fax (803) 775-6365

Email: moorelawfirm@ftc-i.net

Attorney for Plaintiffs

October 18, 2021
Sumter, South Carolina



STATE OF SOUTH CAROLINA)
)
 COUNTY OF SUMTER)
)
)
)
 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,)
 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.)

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

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

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
Attorney for Plaintiffs

November 2, 2021
Sumter, South Carolina

STATE OF SOUTH CAROLINA)
)
COUNTY OF SUMTER)

IN THE COURT OF COMMON PLEAS
FOR THE THIRD JUDICIAL CIRCUIT

CIVIL ACTION NO: 2008-CP-43-2112

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,)

Plaintiffs,)

Vs.)

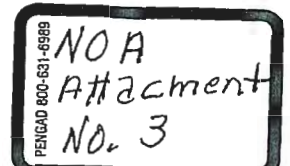
ORDER

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

Defendants)

By motion of June 2, 2020, Defendants move for relief under Rule 70, SCRPC. This access easement dispute was called to trial on April 25, 2017, and a settlement was placed upon the record pursuant to Rule 43(k), SCRPC. On January 4, 2019, an Order was entered setting forth the terms of the settlement. As set forth below, the parties are hereby ordered to conclude the terms of the settlement as follows:

1. A plat dated May 26, 2017, entitled "SHINGLE MILL ROAD ACCESS" was prepared by Louis White Tisdale, RLS, has been recorded in the Office of the Register of Deeds for Sumter County in Plat Book 2019, at page 7 (hereinafter referred to as "LAND SWAP plat"), and sets forth the exact property descriptions for the affected properties.
2. Within 30 days of entry of this Order, Plaintiffs shall convey to Defendants a Fifty (50) foot non-exclusive easement in perpetuity of ingress and egress across certain real property described as Parcel A and shown on the LAND SWAP plat. See attached deed.
3. Within 30 days of entry of this Order, Plaintiffs shall convey in fee simple certain real property consisting of several tracts of land equaling 0.96 acres and more fully described as Parcel B in the LAND SWAP plat to Defendants; See attached deed.



4. Within 30 days of entry of this Order, Defendants shall convey in fee simple certain real property consisting of several tracts of land equaling 0.97 acres and more fully described as Parcel C in the LAND SWAP plat to Plaintiffs. See attached deed.

5. On the 31st day after entry of this Order, if any one or more of the three deeds described above in (2), (3) and (4) have not been executed and filed in the office of the Register of Deeds (ROD), the Sumter County Clerk of Court shall immediately execute and record the deeds with the ROD office. See attached deed for execution by Clerk of Court.

6. Upon recording of the last of the deeds described in (2) through (4), or alternatively (5), Defendants shall take all necessary action to clear and construct a private exclusive roadway for the purpose of ingress and egress to their real property over and upon Parcel B.

7. No later than six months after the recording of the last of the three deeds described in (2) through (4), or alternatively (5), Defendants shall no longer use that portion of Shingle Mill Road (Shingle Mill current situs) that transverses through the center of Plaintiffs' real property.

8. 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.



Sumter Common Pleas

Case Caption: Fannie M Champion , plaintiff, et al VS Ronald L Hallman ,
defendant, et al
Case Number: 2008CP4302112
Type: Order/Other

So Ordered

s/ R. Ferrell Cothran, Jr., 2144

STATE OF SOUTH CAROLINA
 COUNTY OF SUMTER
 IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2008 CP-43-02112

THE ESTATE OF FANNIE M. CHAMPION, ET AL
 PLAINTIFF(S)

RONALD L. HALLMAN, ET AL
 DEFENDANT(S)

Submitted by:	Attorney for : <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant
	or
	<input type="checkbox"/> Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court: **ATTORNEY JUSTIN D. MAINES' MOTION TO BE RELIEVED OF COUNSEL IS CONSENTED TO BY ALL PARTIES AND IS GRANTED BY THIS COURT.**

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk :

PLAINTIFF'S MOTION TO ALTER OR AMEND JUDGEMENT IS DENIED.

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

6889-800-631-6889
 NOA
 Attachment
 No. 4

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCF.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

FORM 4C INSTRUCTIONS—JUDGMENT IN A CIVIL CASE
(Instructions for Information Only-Not to be filed with Form 4C)

1. Form 4C-Judgment in a Civil Case has been modified to add order information and enrollment instructions for the clerk of court. The purpose of Form 4 has not changed with the exception that judgment information is provided when applicable.
2. Please note that the Form 4C must be attached to all orders that include information to enroll in the judgment index. The clerk will not be responsible for reading the order to determine enrollment information.

The attorney or prevailing party will prepare and attach the Form 4C when submitting the proposed order that includes judgment enrollment information for the judgment index. The judge will review and sign Form 4C when he or she signs an order that includes judgment enrollment information for the judgment index.

3. Form 4C is not required to be submitted to the Court with orders that do not include information to enroll in the judgment index. If the clerk receives such an order without Form 4C attached, the clerk should enter and process the order pursuant to Rule 58 and Rule 77(d), SC Rules of Civil Procedure (i.e., the clerk should serve notice of entry of the judgment by mail or provide the attorneys with copies of the signed order by other means).
4. The “Information for the Judgment Index” section should be completed when the judgment affects title to real or personal property or if any amount should be enrolled. In the “Judgment in Favor of” column, enter the name of the party to whom the judgment is awarded. In the “Judgment Against” column, enter the name of the person to whom the judgment is against. The judgment amount to be enrolled should be noted in the “Judgment Amount” column. As necessary, describe any property referenced in the order if it is to be enrolled in the judgment index. If there is no judgment information to enroll, indicate “N/A” in one of the boxes in this section of the form.
5. To enter information to accommodate multiple parties, additional Form 4Cs may be used as necessary. Additional space may be inserted on the form as necessary.
6. The section “For the Clerk of Court Office Use Only” should be completed by the clerk as it has been with the previous version of Form 4.
7. If the matter is on appeal to the Circuit Court, then the parties on the form should be changed from Plaintiff and Defendant to Appellant and Respondent.
8. If an arbitrator prepares an order after arbitration, the arbitrator should strike through “Circuit Court Judge” and indicate “Arbitrator” in the signature block.

9. If a Special Circuit Court Judge, Master in Equity, or Special Referee prepares an order after hearing a Circuit Court matter, then he or she should strike through the title "Circuit Court Judge" below the signature line and indicate the appropriate title.
10. When an Order of Foreclosure is filed, neither the parties or debt owed should be listed in the Information for the Judgment Index Section, unless the foreclosure order specifically requires entry of the full judgment amount before the foreclosure sale, pursuant to Section 29-3-650 of the SC Code.
11. If the deficiency judgment is waived in a Foreclosure action, indicate N/A in the "Judgment Amount To Be Enrolled" box.
12. Foreclosure actions should be ended by the Clerk of Court upon receipt of the Order of Foreclosure. Subsequent information, including deficiency judgments, can be added to the action after the case is ended. The Master in Equity should end the action in the MIE system upon the receipt of the Order of Foreclosure.
13. When judgment enrollment information is included in the Information for the Judgment Index Section (for example, when there is a deficiency judgment), only the parties who the judgment is for and against should be included in the Section. Subordinate parties and lienholders should not be included in the box if there is not a judgment amount specifically for or against them.
14. Form 4C is not required to be attached to Transcripts of Judgment and Confession of Judgment.



Sumter Common Pleas

Case Caption: Fannie M Champion , plaintiff, et al VS Ronald L Hallman ,
defendant, et al
Case Number: 2008CP4302112
Type: Order/Form 4

So Ordered

s/ R. Ferrell Cothran, Jr., 2144

STATE OF SOUTH CAROLINA
COUNTY OF SUMTER
IN THE COURT OF COMMON PLEAS
2222
FANNIE M. CHAMPION, ET AL

AMENDED JUDGMENT IN A CIVIL CASE
CASE NO. 2008 CP-43-02112
RONALD L. HALLMAN, ET AL

ELECTRONICALLY FILED - 2021 Oct 06 9:34 AM - SUMTER - COMMON PLEAS - CASE#2008CP4302112

<u>PLAINTIFF(S)</u>	<u>DEFENDANT(S)</u>
Submitted by:	Attorney for : <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant or <input type="checkbox"/> Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

This order ends does not end the case. **PLAINTIFF'S MOTION TO ALTER OR AMEND IS DENIED.**

INFORMATION FOR THE JUDGMENT INDEX

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		\$
		\$
		\$

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PENGAD 800-531-6989
 N O R
 Attachment
 No. 5

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14. Form 4C is not required to be attached to Transcripts of Judgment and Confession of Judgment.



Sumter Common Pleas

Case Caption: Fannie M Champion , plaintiff, et al VS Ronald L Hallman ,
defendant, et al
Case Number: 2008CP4302112
Type: Order/Form 4

So Ordered

s/ R. Ferrell Cothran, Jr., 2144

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.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal in the above-referenced case upon the Respondents by electronic transmission and by depositing a copy of the same in the United States Mail, postage prepaid, on November 4, 2021, addressed to Respondents' attorneys at the following addresses:

David C. Holler, Esquire
Smith, Robinson, Holler, Morgan & DuBose, LLC
Post Office Box 580
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Sumter, SC 29151-1268
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November 4, 2021


Dwight C. Moore, SC Bar No. 63008
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Attorney for Appellants

RECEIVED

Nov 08 2021

SC Court of Appeals

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SUMTER COUNTY
Court of Common Pleas

The Honorable R. Ferrell Cothran, Jr.
Circuit Court Judge

Case No. 2008-CP-43-02112

Appellate Case No. 2021-001293

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,

v.

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.

PROOF OF SERVICE

I certify that I have served the Respondents' Motion to Dismiss in the above-referenced matter upon all counsel of record by electronic transmission as set forth below on the 8th day of November, 2021.

Dwight C. Moore, Esquire
moorelawfirm@ftc-i.net

Thomas E. Player, Jr., Esquire
tommyplayer@playermcmillan.com

Richard C. Jones, Esquire
richardcjones@jonesethjones.com

s/David C. Holler
David C. Holler
126 North Main Street
P. O. Box 580
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803-778-2471
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ATTORNEY FOR RESPONDENTS
4890-3229-5938, v. 1