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**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas  
The Honorable L. Casey Manning

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Circuit Court Case No. 2015-CP-40-07268  
Appellate Case No. 2021-00898

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Jimmy Helms.....Respondent,

v.

Debbie Willing.....Appellant.

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**RESPONDENT’S RETURN TO APPELLANT’S  
PETITION FOR *EN BANC* REVIEW OF THE ORDER ON APPELLANT’S MOTION  
TO ENFORCE AUTOMATIC STAY**

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This matter arises out of an appeal filed by Appellant Debbie Willing of an Order of the Honorable L. Casey Manning entered into on June 21, 2021, and Judge Manning’s subsequent Order denying Appellant’s Motion for Reconsideration dated July 19, 2021. Appellant subsequently moved before this Court pursuant to South Carolina Appellant Court Rules 240 and 241 for an Order enforcing the automatic stay provisions of Rule 241(a) and to “desist representing to others that he is the legal title holder of the Property, pending Appeal.” On November 3, 2021, a Judge of this Court issued an Order denying Appellant’s Motion to enforce the automatic stay provision of Rule 241(a). Appellant subsequently filed a Petition for *En Banc* Review of this Order.

For the reasons set forth below, the Respondent submits that Appellant is not entitled to the relief sought in her Petition as the automatic stay provisions of Rule 240 and Rule 241 are not

applicable to the Court's Judgment. The Appellant's Petition for an *En Banc* Review should be denied.

### **BACKGROUND**

The underlying action in this case was commenced on December 15, 2015, by the filing of a Summons and Complaint by the Respondent Jimmy Helms ("Respondent") brought against Appellant Debbie Willing ("Appellant") alleging that the parties were engaged in an ongoing partnership and that the partnership property should be divided (Order of the Honorable L. Casey Manning, dated June 21, 2021 (Attachment "A")). Respondent's Complaint also sought recovery under causes of action for breach of fiduciary duty and conversion. One of the issues in this case involved the ownership of properties, including a piece of property located at 812 Meeting Street and 820 Meeting Street.

This matter was tried before Judge Manning on July 13, 2020, and July 14, 2020. The Court took in testimony from the parties as well as forensic evidence. After hearing the evidence presented before him, Judge Manning found the Appellant owned certain properties and that Respondent owned certain properties (Order of Judge Manning dated June 21, 2021). The Court determined and ruled that the property located at 812 Meeting Street and 820 Meeting Street were held as partnership property. In equitably dividing this partnership property, the Court found and ruled that Respondent owns title to the 812 Meeting Street and the 820 Meeting Street property (Order of Judge Manning dated June 21, 2021). Appellant timely filed a Notice of Appeal and this matter is presently before the Court.

Appellant subsequently moved for an Order pursuant to Rule 240 and 241 of the South Carolina Rules of Appellant Procedure after Respondent's counsel contacted the individual/entity operating a service station on the property requesting rent paid each month by the tenant in order

to operate a business on the property. This request formed the basis of Appellant's Motion which was denied by the Court on or about November 3, 2021. The Respondent asserts that the Court's November 3, 2021, Order is correct and that the Appellant's Petition for an *En Banc* Review should be denied.

### **ARGUMENT**

Rule 241(a) provides that as a "general rule" the service of a notice of appeal in a civil matter acts to stay all matters decided in the underlying order. Rule 241(b) sets forth a number of exceptions to the automatic stay. Respondent argues the Rule 241(b) exception applies and the Appellant's Petition should be denied.

Judge Manning's Order clearly provides that Respondent holds title of the Meeting Street properties. Rule 240(b)(3) and Rule 240(b)(4) specifically provide that the automatic stay provision of Rule 240(a) does not apply to judgments that direct the conveyances of instruments provided for in South Carolina Code Section 18-9-160 or judgments directing the sale or delivery of possession of real property pursuant to South Carolina Code Section 18-9-170. Judge Manning's Order clearly provides that title of the Meeting Street properties is held by Respondent and not Appellant. Appellant's argument that this judgement does not direct transfer of ownership/title from Appellant to Respondent ignores the clear language contained in Judge Manning's Order. The Appellant's argument in her initial Petition and in her Motion for *En Banc* review clearly ignores and disregards the clear language contained in Judge Manning's Order. Contrary to the argument of Appellant, this case clearly falls under the exceptions contained in Rule 241(b) of the South Carolina Rules of Appellant Procedure.

In her initial Motion, Appellant also asked this Court to issue an Order for Respondent to "desist representing to others that he is the legal title owner of the property, pending this appeal."

Until the Court reverses the Lower Court's Order, (which the Respondent does not believe it should) there is a valid and binding Court Order to this effect. The Court's November 3, 2021, Order did not address this request. Respondent would continue to assert that this request is akin to asking that this Court issue some type of declaratory or injunctive relief, which is outside the scope of any motion allowed under the rules cited by Appellant in her Brief.

Respondent respectfully requests that this Court issue its Order denying the Appellant's Petition for an *En Banc* review.

Respectfully submitted,

December 1, 2021

s/S. Jahue Moore  
S. Jahue Moore, SC Bar # 4063  
Moore Bradley Myers Law Firm, P.A.  
P.O. Box 5709  
West Columbia, SC 29171  
(803) 796-9160  
jake@mbmlaw.com  
Attorney for Respondent

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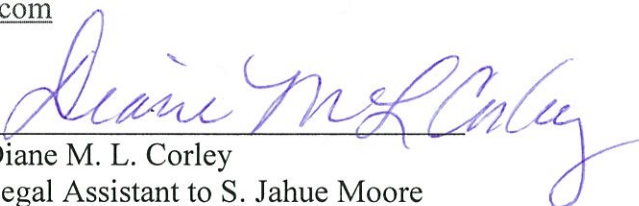
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**PROOF OF SERVICE**

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I, Diane M. L. Corley, an employee of the Moore Bradley Myers Law Firm, P.A., certify that I have served the Respondent's Return to Appellant's Petition for En Banc Review of the Order on Appellant's Motion to Enforce Automatic Stay on the Appellant by depositing a copy of same in the United States Mail, postage prepaid and via electronic mail (email), on December 1, 2021, addressed to their attorney of record as follows:

Ainsley F. Tillman, Esquire  
715 King Street  
Charleston, SC 29403  
[Ainsley.Tillman@FordWallace.com](mailto:Ainsley.Tillman@FordWallace.com)

  
Diane M. L. Corley  
Legal Assistant to S. Jahue Moore