

RECEIVED

Dec 06 2021

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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

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

Jimmy Helms.....Respondent,

v.

Debbie Willing,Appellant.

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

Remarkably, in his Return, Respondent never once quotes the lower court’s actual order, preferring instead to provide his own interpretation of what he thinks the judge might have meant. This is because Respondent cannot point to any language within the order itself which puts the order outside the automatic stay of Rule 240(a), SCACR. Rule 241(a) is clear and uncomplicated in its direction that, “as a General Rule, the service of a notice of appeal in a civil matter acts to automatically stay matters decided in the order.” R. 241, SCACR. The Rule is equally clear as to the express circumstances that constitute exceptions to the General Rule. None of the exceptions are applicable here, where the circuit court made broad findings of fact and law, applicable to both parties, without

directing the parties to act nor assessing judgment against one or the other.¹ See Exhibit 1, Order; Rule 241(b), SCACR.

Respondent's Return contains only his attorney's "spin" on the order on appeal, without quotation of a single word within that order. Respondent's Return also fails to identify which exception might apply, citing vaguely to the list of exceptions in "Rule 240(b)" and attempting to blur the distinctly different requirements of each exception. This is because there is nothing in the order directing the sale or delivery of property, which would be necessary for the exception in Rule 240(b)(4) to apply. There is nothing in the order directing the execution of any instrument, which would be necessary for the exception in Rule 240(b)(3). There is nothing directing the payment of money by one party to another, which would be necessary for the exception in Rule 240(b)(1).

¹ Here are the specific holdings made in the trial court's order:

- "The court finds that the Defendant owns the disputed properties of 1900 Ocoola, 1904 Ocoola, 809 Shull, and 185 Harbour Watch."
- "The court finds that the Plaintiff owns the disputed property at 1905 Ocoola."
- "The court finds that Plaintiff holds legal title to 812 Meeting Street and 820 Meeting Street."
- "The court finds that Plaintiff and Defendant are each entitled to one half of the sale amount for Jimmy's Mini Mart/Jimmy's Citgo and one half of the settlement amount from the Lexington County lawsuit."
- "The court finds that Plaintiff and Defendant are each entitled to one half of the Deposit Account funds, valued at \$86,620.48 by the Forensic Report, as the money was acquired as partnership funds during the period of co-habitation by Plaintiff and Defendant."

The plain language of the trial court's order contradicts Respondent's argument that the order directs Appellant to execute a deed transferring title to Respondent, or to otherwise convey property to Respondent. The order simply states:

The court finds that **[Respondent] holds legal title to 812 Meeting Street and 820 Meeting Street.**

Exhibit 1, Circuit Court Order, p. 3 (emphasis added). That is a finding of law by the trial court, and that finding of law now is on appeal.² Nowhere in the order does the court direct that title should be transferred for equitable reasons, as Respondent argues . . . **it simply states who holds title, as a matter of law** (specifically finding "Plaintiff holds legal title," with no mention of equitable title).

Respondent can certainly argue in Respondent's brief as to what he perceives the circuit court might have meant, or intended, when it made this legal ruling. However, Rule 241 and this Court are concerned with the plain and literal language of the order itself. See *Weil v. Weil*, 299 S.C. 84, 382 S.E.2d 471 (Ct. App. 1989) ("The language of the decree is plain and unambiguous . . . Accordingly, there is no room for construction or interpretation and the effect of these plain words must be declared in the light of the literal meaning of the language used."), citing 49 C.J.S. Judgments Section 436 (1947) ("[I]f the language employed [by the order] is plain and unambiguous, there is no room for construction or interpretation, and the effect thereof must be declared in the light of the literal meaning of the language used.").

² Appellant incorporates herein her Motion to Enforce Automatic Stay, filed September 27, 2021, as well as her Reply to Respondent's Return to Appellant's Motion to Enforce Automatic Stay, filed November 1, 2021, as well as their exhibits.

Importantly, because the circuit court's order does not direct either party to act, and nor does it make any judgment specifically directed against either party, the clerks of the circuit court have not entered the order as a judgment. The undersigned counsel recently learned of numerous *ex parte* communications in which Respondent's attorney tried to convince (1) the Attorney for Lexington County, (2) a Lexington County clerk of court, and (3) a Lexington County judge to enroll this Richland County order, which is now on appeal, as a judgment. **Both the judge and the clerk of court declined to enroll the order as a judgment.** Here are portions of that *ex parte* conversation—which took place only two weeks ago, while this motion has been pending before this Court:

County Attorney: Please see the attached letter and attachments from Jake Moore³ I am not sure why a case that concerned property in Lexington County was heard in Richland County. But is there a reason this case cannot be filed like a transcript of judgment in Lexington County?

Clerk of Court: I received this letter from Jeff Anderson [the County Attorney] asking why our office would not file the attached order [*i.e.*, the order on appeal] from Richland County. As far as we know, there has not been an attempt to file the order with us, only Richland County. **It is also our understanding that a transcript was requested from Richland County but they will not transcribe it because it does not read like a judgment order.**

. . .

It has been requested that my office file the order as is because it involves property in Lexington County. I am not aware of any way that I can file the order as it is now, we would need a transcript from Richland County.⁴

³ The undersigned counsel would like to know what that letter said, but since they were not copied on that letter by opposing counsel, they have no way of knowing.

⁴ The clerk later noted: "I do not think that a transcript has been submitted for filing. It is my understanding that Richland County will not issue a transcript. I have been asked if I can file the Richland County order without it being transcribed."

Resp. Atty: [I am] amazed a clerk of court determines what will and will not be filed. As a member of the bar, I need a final order of a [S]outh Carolina circuit court filed. The clerk says no. I do not want to have to file a mandamus action just to get a court order filed. I am open to suggestions.

Judge: I think the question is where to file it and how to go about it . . . I am trying to get a handle on it. I remember seeing things like this in miscellaneous books in the ROD office, though I am not suggesting whether that should be done. I really don't know why Richland won't send a transcript of judgment, but I will try to see what can be done.

Resp. Atty: Your honor it is a final judgment and is presently under appeal⁵

Judge: I understand.

Resp. Atty: . . . I would like it filed as the judgment it is and in the rod.

...

Judge: I have spent a couple of hours looking over statutes, etc. and feel that I cannot do more or extend into giving legal advice. I will gladly consider any petition for writ of mandamus, with citations to authority, but at this point, I understand why the Lexington Clerk of Court feels that she needs a transcript of judgment from Richland County to file this order or some case/petition filed in Lexington seeking to enroll the order in Lexington . . .

(Exhibit 2). When the undersigned counsel belatedly learned of this conversation, they replied to all, but they received no response from anyone. Hopefully the *ex parte* conversation now has stopped. (Exhibit 3).

⁵ A belated acknowledgement of the appeal, given that it was made on day 5 of this lengthy dialogue.

This lawsuit by the Respondent against the Appellant has been plagued from the outset by questionable conduct, to the great detriment of Appellant. The *ex parte* conversation quoted above is the last straw. Appellant seeks an order from this Court enforcing the Automatic Stay, because – without such an order – Respondent will persist in inappropriate attitudes toward justice and the judicial system.

For example, as set forth in Appellant’s prior filings relevant to this motion, Respondent’s attorney is currently collecting rents belonging to the Appellant, after having alarmed her tenant – with whom she has a personal lease – into believing that she does not own the rental property.⁶ Appellant needs these rents because – as the title holder of record – she is obligated to DHEC to comply with costly and complicated regulatory requirements for the maintenance of underground petroleum tanks on the property. (See Appellant’s Motion to Enforce Automatic Stay, and Reply). Also importantly, if there were a leak in the underground storage tanks, Appellant would face the prospect of personal liability, as the legal title holder. DHEC requires her to obtain costly insurance because she holds title.

Until this appeal is resolved, legal title to the various properties identified in the order should remain as it is currently held, according to the public record. Respondent argues that this would be akin to ordering injunctive relief that this Court cannot grant.

⁶ Respondent’s attorney – again without notice to opposing counsel – called up Appellant’s tenant (with whom she has a personal lease) and told the tenant that the leased property did not belong to Appellant. See Exhibit 4 to Motion to Enforce Automatic Stay (“I promised you during our recent phone call that I would provide you with any Order confirming the judgment in this case . . . as you can see, the property at 812 Meeting Street and 820 Meeting Street in West Columbia belonged [sic] to Jimmy Helms.”); see also Exhibit 2, Letter from S. Jahue Moore, Esq. to Tenant, dated October 7, 2021, (“As of the writing of this letter, Jimmy still owns the convenience store. You should continue making the payments [to me] as you have been.”).

But Respondent misunderstands a stay, as well as this Court’s power. “When it is said that an appeal or writ of error acts as a supersedeas, what is meant is that the proceedings in the court below are suspended in the same manner as if by an order of supersedeas The general rule is that the effect of a supersedeas or stay is to **suspend proceedings and preserve the status quo pending the determination of the appeal** or proceeding in error. It suspends all further proceedings on the judgment, order, or decree appealed from, or as to any matter embraced therein, and prevents the enforcement thereof in whole or in part pending the appeal.” *Melton v. Walker*, 209 S.C. 330, 40 S.E.2d 161, 164 (1946), citing 4 C.J.S, Appeal and Error, §§ 626, 662, pp. 1108, 1149, 1150; see also *Santee Cooper Resort, Inc. v. S.C. Pub. Serv. Comm'n*, 298 S.C. 179, 184, 379 S.E.2d 119, 122 (1989) (“To stay an order is to hold it in abeyance or refrain from enforcing it; a stay is a stopping.” (internal quotations omitted)); *Graham v. Graham*, 301 S.C. 128, 130, 390 S.E.2d 469, 470 (Ct. App. 1990) (holding the purpose of a stay is to preserve the status quo pending the determination on appeal).

Appellant respectfully asks that this Court issue an order holding that the circuit court’s findings of law and its equitable rulings are automatically stayed pending the resolution of this appeal, pursuant to Rule 241(a), SCACR. Until such time as this appeal is decided, and for the duration of the appeal, the order’s decisions on who holds legal title should be suspended and the *status quo* maintained, pursuant to the General Rule of Rule 241(a), SCACR. This Court should order the lower courts—and the Respondent—to refrain from taking any steps to enforce the order on appeal, until the appeal is resolved.

Respectfully submitted,

FORD WALLACE THOMSON LLC

s/Ainsley F. Tillman

Ainsley F. Tillman

Ainsley.Tillman@FordWallace.com

Ian S. Ford

Ian.Ford@FordWallace.com

715 King Street

Charleston, South Carolina 29403

(843) 277-2011

Attorneys for Appellant Debbie Willing

Charleston, South Carolina

December 6, 2021

EXHIBIT 1

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)
JIMMY HELMS,)
Plaintiff,)
v.)
DEBBIE WILLING,)
Defendant.)
_____)

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

C/A No.: 2015-CP-40-07268

ORDER

PROCEDURAL HISTORY

This action was commenced on December 15, 2015 by the filing of a Summons and Complaint. The complaint alleged (1) that the parties were engaged in a partnership and that the partnership property should be divided, (2) a breach of fiduciary duty by Defendant, and (3) conversion by Defendant. A bench trial was held on July 13 and 14, 2020 with S. Jahue Moore, Esq. appearing on behalf of Plaintiff and Lakesha Jeffries, Esq. appearing on behalf of Defendant. The court considered all filings and testimony when making its conclusions of law, including the reports (hereinafter Forensic Report) prepared by the forensic accountant Marcus B. Hodge, CPA/ABV/CFE, MBA, CFE, of ASC Forensic.

This is an action which involves title and interest in the following real estate and property: 1900 Ocoola Drive, 1904 Ocoola Drive, 1905 Ocoola Drive, 812 Meeting Street, 820 Meeting Street, 809 Shull Street, and 185 Harbor Watch; payments made by Viral Patel for the convenience store located at 812 and 820 Meeting Street; proceeds from a lawsuit of \$100,000; and a deposit account valued at \$86,620.48. This Court finds that both Parties have had sufficient time, over the course of the six years this action has been pending, to have all real estate and property appraised and valued to support their opinions.

CONCLUSIONS OF FACT AND LAW

The court finds that the Defendant owns the disputed properties of 1900 Oceola, 1904 Oceola, 809 Shull, and 185 Harbour Watch. According to the Forensic Report, the real estate listed above was purchased by the Defendant. The conclusions of the Forensic Report and the testimony of the parties show that the real estate listed above was not only purchased by the Defendant but the Defendant also paid mortgages and bills associated with the properties.

The court finds that the Plaintiff owns the disputed property at 1905 Oceola. According to the Forensic Report, 1905 Oceola was purchased by the Plaintiff on May 4, 2010 and that Plaintiff sold the property on May 15, 2017. There is no evidence from the Forensic Report or the parties testimony that 1905 Oceola was claimed by the Defendant or that the Defendant shared in the profits or losses associated with the property.

According to the Forensic Report, Plaintiff purchased 812 Meeting Street on May 1, 2002 and Defendant purchased 820 Meeting Street on August 27, 2004. Subsequently, Plaintiff transferred 812 Meeting Street to Defendant for \$5.00 on January 6, 2006. L&D Enterprises, LLC's alias was Jimmy's Mini Mart, located on both 812 Meeting Street and 820 Meeting Street.

The Plaintiff and Defendant testified that they worked at Jimmy's Mini Mart in various capacities, with Defendant retaining the purported legal title to the Meeting Street properties through Defendant's management of L&D Enterprises. The Forensic Report notes that both Plaintiff and Defendant were authorized signers on L&D Enterprises accounts and that when the property was sold to Viral Patel, Mr. Patel believed the seller to be both Plaintiff and Defendant.

The court finds that the disputed property was held as partnership property. Under the common law, a partnership is a "voluntary contract between two or more competent persons to place their money, effects, labor and skill, or some or all of them, in lawful commerce or business,

with the understanding that there shall be a proportional sharing of the profits and losses between them. *Black's Law Dictionary* 1120 (6th ed. 1990). To determine whether a partnership exists, the following tests are used: (1) the sharing of profits and losses; (2) community of interest in capital or property; and (3) community if interest in control and management. *Moore v. Moore*, 360 S.C. 241, 599 S.E.2d 467 (Ct. App. 2004). A partnership may be found to exist by implication from the parties' conduct. *Stephens v. Stephens*, 213 S.C. 525, 50 S.E.2d 577 (1948); see also *Wyman v. Davis*, 223 S.C. 172, 74 S.E.2d 694 (1953) (a partnership agreement may be implied and without express intention). *Corley v. Ott*, 326 S.C. 89, 92, 485 S.E.2d 97, 99 (1997).

The parties have sought an equitable division of disputed property. The court finds that Plaintiff holds legal title to 812 Meeting Street and 820 Meeting Street. The court finds that it would be inequitable to divide the Meeting Street properties as they operate as joint property for Jimmy's Mini Mart, now Jimmy's Citgo.

The court finds that Plaintiff and Defendant are each entitled to one half of the sale amount for Jimmy's Mini Mart/Jimmy's Citgo and one half of the settlement amount from the Lexington County lawsuit. The combined amount from the Forensic Report is \$208,335.00.

The court finds that Plaintiff and Defendant are each entitled to one half of the Deposit Account funds, valued at \$86,620.48 by the Forensic Report, as the money was acquired as partnership funds during the period of co-habitation by Plaintiff and Defendant.

AND IT IS SO ORDERED.

THE HONORABLE L. CASEY MANNING
CHIEF ADMINISTRATIVE JUDGE
FIFTH JUDICIAL CIRCUIT

_____, 2021
Columbia, South Carolina



Richland Common Pleas

Case Caption: Jimmy Helms vs Debbie Willing

Case Number: 2015CP4007268

Type: Order/Other

So Ordered

s/L. Casey Manning, 2061

EXHIBIT 2

From: Keesley, William P. <WKeesleyj@sccourts.org>
Sent: Tuesday, November 23, 2021 3:22 PM
To: Manning, L. Casey; Manning, L. Casey Law Clerk (Victoria Elgin)
Cc: Lakesha Jeffries; Keesley, William P. Law Clerk (Aaron McCall); Diane Corley; Jake Moore; Comer, Lisa
Subject: Fw: [External] Richland County case

FYI, please see the emails below concerning a dispute between Jake Moore, Sr. and the Lexington Clerk's office about filing a Richland County order issued by Judge Manning. Thank you.

Sent using OWA for iPad

From: Keesley, William P.
Sent: Tuesday, November 23, 2021 3:13:40 PM
To: Jake Moore
Cc: Comer, Lisa; jeff@oldcourthouse.com
Subject: Re: [External] Richland County case

I have spent a couple of hours looking over statutes, etc. and feel that I cannot do more or extend into giving legal advice. I will gladly consider any petition for writ of mandamus, with citations to authority, but at this point, I understand why the Lexington Clerk of Court feels that she needs a transcript of judgment from Richland County to file this order or some case/petition filed in Lexington seeking to enroll the order in Lexington. Otherwise, I don't know where she could file it where the public would see it. It obviously can be filed with the Clerk in Lexington, but the primary statute for enrolling it and the Court Administration form refers to a money judgment for filing in another county. There appears to be a monetary award in the order, and it is possible that the Richland County Clerk could issue a transcript of that portion with a copy of the order attached and filed in the routine course in Lexington. It also appears that a certified copy of the order can be filed in the office of the ROD in Lexington and cited on the deeds. I note that the Spartanburg County ROD website indicates that it can be done. A lis pendens may also be appropriate. Of course, all of this is subject to any stay that might control by virtue of the appeal, though I read the denial by the Court of Appeals that was submitted. I will send a copy of this to Judge Manning and forward to opposing counsel. Thank you.

Sent using OWA for iPad

From: Keesley, William P.
Sent: Tuesday, November 23, 2021 9:30:04 AM
To: Jake Moore
Cc: Comer, Lisa; jeff@oldcourthouse.com
Subject: RE: [External] Richland County case

Lisa,
Back when I was checking titles, there was a record called a judgment roll, which had an index. If that still exists, is it something kept in your office or the ROD? Second, was the copy of the judgment sent to you an exemplified copy? I will keep looking to see if I can find a process for how

and where to file it. Thank you. [wpk]

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

From: Jake Moore [<mailto:jake@mbmlawsc.com>]
Sent: Tuesday, November 23, 2021 8:26 AM
To: Keesley, William P. <WKeesleyj@sccourts.org>
Cc: Comer, Lisa <lcomer@lex-co.com>; jeff@oldcourthouse.com
Subject: Re: [External] Richland County case

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

Because it affected property in both counties. I would like it filed as the judgment it is and in the rod.

Sent from my iPhone

> On Nov 22, 2021, at 10:09 PM, Keesley, William P. <WKeesleyj@sccourts.org> wrote:

>

> I understand.

>

> Sent using OWA for iPad

>

> _____
> From: Jake Moore <jake@mbmlawsc.com>
> Sent: Monday, November 22, 2021 7:44:46 PM
> To: Keesley, William P.; Comer, Lisa
> Cc: jeff@oldcourthouse.com
> Subject: RE: [External] Richland County case

>

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

>

> Your honor it is a final judgment and is presently under appeal

>

> -----Original Message-----

> From: Keesley, William P. [<mailto:WKeesleyj@sccourts.org>]
> Sent: Monday, November 22, 2021 7:32 PM
> To: Jake Moore <jake@mbmlawsc.com>; Comer, Lisa <lcomer@lex-co.com>
> Cc: jeff@oldcourthouse.com
> Subject: Re: [External] Richland County case

>

> I think the question is where to file it and how to go about it. Since there's no Lexington County case, and I do not know if there is a lis pendens in Lexington, I am trying to get a handle on it. I remember seeing things like this filed in miscellaneous books in the ROD office, though I am not suggesting whether that should be done. I really don't know why Richland won't send a transcript of judgment, but I will try to see what can be done.

>

> Sent using OWA for iPad

>

> _____
> From: Jake Moore <jake@mbmlawsc.com>

> Sent: Monday, November 22, 2021 6:14:29 PM
> To: Comer, Lisa; Keesley, William P.
> Cc: jeff@oldcourthouse.com
> Subject: RE: [External] Richland County case

>
>

> *** EXTERNAL EMAIL: This email originated from outside the organization. Please exercise caution before clicking any links or opening attachments. *** The order is a final order of a circuit court and decrees my client owns real estate in Lexington county. O a, amazed a clerk of court determines what will and will not be filed. As a member of the bar, I need a final order of a south Carolina circuit court filed. The clerk says no. I do not want to have to file a mandamus action just to get a court order filed. I am open to suggestions.

>

> From: Comer, Lisa [<mailto:LComer@lex-co.com>]
> Sent: Monday, November 22, 2021 5:39 PM
> To: William P. Keesley <WKeesleyj@sccourts.org>
> Cc: Jake Moore <jake@mbmlawsc.com>; jeff@oldcourthouse.com
> Subject: RE: [External] Richland County case

>

> Judge Keesley,

>

> I do not think that a transcript has been submitted for filing. It is my understanding that Richland County will not issue a transcript. I have been asked if I can file the Richland County order without it being transcribed.

>

> Thank you,

>

> Lisa

>

> Lisa M. Comer
> Clerk of Court, Lexington County
> 205 East Main Street
> Lexington, S. C. 29072
> (803) 785-8393 (Office)
> (803) 785-2215 (Fax)
> lcomer@lex-co.com<<mailto:lcomer@lex-co.com>>
> [cid:image001.png@01D285DC.C04851B0]

>

> From: Keesley, William P. <WKeesleyj@sccourts.org<<mailto:WKeesleyj@sccourts.org>>>
> Sent: Monday, November 22, 2021 1:15 PM
> To: Comer, Lisa <lcomer@lex-co.com<<mailto:lcomer@lex-co.com>>>
> Cc: Jake Moore <jake@mttlaw.com<<mailto:jake@mttlaw.com>>>;
jeff@oldcourthouse.com<<mailto:jeff@oldcourthouse.com>>
> Subject: RE: [External] Richland County case

>

> I need to see the transcript of judgment that Mr. Moore states that he sent to you in his letter to Jeff Anderson. Thank you.

>

> I have copied and pasted some Code sections below so that I can remember what I have pulled up so far, so please disregard those.

- >
- > SECTION 15-35-540. Docketing transcript with clerks of other courts; effect thereof.
- >
- > A transcript of a final judgment of any court of record of this State or of any district or circuit court of the United States within this State directing in whole or in part the payment of money, may be docketed with the clerk of the court of common pleas in any county and when so docketed shall be entered upon the book of abstracts and duly indexed and shall have the same force and effect as a judgment of that court. Any such transcript shall set out the names of the parties, plaintiff and defendant, the attorneys of record, the date and amount of the judgment, the time from which interest is to be computed and the amount of costs.
- >
- > HISTORY: 1962 Code Section 10-1544; 1952 Code Section 10-1544; 1942 Code Sections 664, 743; 1932 Code Sections 664, 743; Civ. P. '22 Sections 603, 610; Civ. P. '12 Sections 341, 348; Civ. P. '02 Sections 302, 309; 1870 (14) 489 Section 305, 491 Section 313; 1873 (15) 498; 1884 (18) 749; 1885 (19) 229; 1909 (26) 39; 1910 (26) 621; 1924 (33) 940; 1928 (35) 1223; 1929 (36) 251; 1946 (44) 1436.
- >
- > SECTION 15-35-170. Judgments against unincorporated associations.
- >
- > On judgment being obtained against an unincorporated association under process served as provided in Section 15-9-330 final process may issue to recover satisfaction of such judgment, and any property of the association and the individual property of any copartner or member thereof found in the State shall be liable to judgment and execution for satisfaction of any such judgment.
- >
- > HISTORY: 1962 Code Section 10-1516; 1952 Code Section 10-1516; 1942 Code Section 7798; 1932 Code Section 7798; Civ. C. '22 Section 5072; Civ. C. '12 Section 3338; Civ. C. '02 Section 2231; G. S. 1412; R. S. 1778; 1863 (13) 215.
- >
- > SECTION 15-35-180. Enforcement of judgments.
- >
- > When a judgment requires the payment of money or the delivery of real or personal property it may be enforced in those respects by execution as provided in this Title. When it requires the performance of any other act a certified copy of the judgment may be served upon the party against whom it is given or the person or officer who is required thereby or by law to obey it and his obedience thereto enforced. If he refuse he may be punished by the court as for contempt.
- >
- > HISTORY: 1962 Code Section 10-1519; 1952 Code Section 10-1519; 1942 Code Section 738; 1932 Code Section 738; Civ. P. '22 Section 605; Civ. P. '12 Section 343; Civ. P. '02 Section 304; 1870 (14) 490 Section 308.
- >
- > SECTION 15-39-40. Counties to which execution may be issued.
- >
- > When the execution is against the property of the judgment debtor it may be issued to the sheriff of any county in which the judgment is docketed by the clerk of court in which the judgment was originally entered up or by the clerk of court of any county in which the judgment is docketed or transcribed. When it requires the delivery of real or personal property it must be issued to the sheriff of the county in which the property or some part thereof is situated. Executions may be issued at the same time to different counties.
- >
- > HISTORY: 1962 Code Section 10-1704; 1952 Code Section 10-1704; 1942 Code Section 740; 1932

Code Section 740; Civ. P. '22 Section 607; Civ. P. '12 Section 345; Civ. P. '02 Section 306; 1870 (14) 490 Section 310; 1872 (15) 194; 1878 (16) 336, 558; 1884 (18) 708; 1885 (19) 7; 1927 (35) 289; 1929 (36) 1052.

>

> From: Keesley, William P.

> Sent: Monday, November 22, 2021 11:24 AM

> To: Comer, Lisa <lcomer@lex-co.com<mailto:lcomer@lex-co.com>>

> Subject: Re: [External] Richland County case

>

> I will look it over and respond later, hopefully today.

>

> Sent using OWA for iPhone

>

> From: Comer, Lisa

> Sent: Monday, November 22, 2021 10:42:39 AM

> To: Keesley, William P.

> Subject: FW: [External] Richland County case

>

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

>

> Judge Keesley,

>

> I hope this e-mail finds you well.

>

> I received this letter from Jeff Anderson asking why our office would not file the attached order from Richland County. As far as we know, there has not been an attempt to file the order with us, only Richland County. It is also our understanding that a transcript was requested from Richland County but they will not transcribe it because it does not read like a judgment order.

>

> It has been requested that my office file the order as is because it involves property in Lexington County. I am not aware of any way that I can file the order as it is now, we would need a transcript from Richland County.

>

> Would you mind reviewing the order and advising whether we can file without a transcript?

>

> Thank you,

>

> Lisa

>

>

>

> Lisa M. Comer

> Clerk of Court, Lexington County

> 205 East Main Street

> Lexington, S. C. 29072

> (803) 785-8393 (Office)

> (803) 785-2215 (Fax)

> lcomer@lex-co.com<<mailto:lcomer@lex-co.com>>

>

>

>

> -----Original Message-----

> From: Jeff Anderson

<jeffanderson@oldcourthouse.com<mailto:jeffanderson@oldcourthouse.com>>

> Sent: Thursday, November 18, 2021 8:48 AM

> To: Comer, Lisa <LComer@lex-co.com<mailto:LComer@lex-co.com>>

> Cc: Dolan, Richard <rdolan@lex-co.com<mailto:rdolan@lex-co.com>>

> Subject: [External] Richland County case

>

> Lisa,

>

> Please see attached letter and attachments from Jake Moore. I have not reviewed all of this yet and I am not sure why a case that concerned property that is in Lexington County was heard in Richland County. But, is there a reason that this case cannot be filed like a transcript of judgment in Lexington County?

>

> Thanks.

> Jeff

> ~~~ CONFIDENTIALITY NOTICE ~~~ This message is intended only for the addressee and may contain information that is confidential. If you are not the intended recipient, do not read, copy, retain, or disseminate this message or any attachment. If you have received this message in error, please contact the sender immediately and delete all copies of the message and any attachments.

>

> Moore Bradley Myers Law Firm, P.A.

> 1700 Sunset Blvd.

> Post Office Box 5709

> West Columbia, SC 29171

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>

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EXHIBIT 3**Re: [External] Richland County case**

Ainsley Tillman <Ainsley.Tillman@fordwallace.com>

Tue 11/23/2021 4:13 PM

To: Manning, L. Casey Law Clerk (Harvey Shiver) <CManningLC@sccourts.org>; William P. <WKeesleyj@sccourts.org>; CManningSC@sccourts.org <CManningSC@sccourts.org>; jake@mbmlawsc.com <jake@mbmlawsc.com>

Cc: jeff@oldcourthouse.com <jeff@oldcourthouse.com>; LComer@lex-co.com <LComer@lex-co.com>; jeffanderson@oldcourthouse.com <jeffanderson@oldcourthouse.com>; rdolan@lex-co.com <rdolan@lex-co.com>; Court Of Appeals Filings <ctappfilings@sccourts.org>; Lakesha Jeffries <ljeffries@jeffrieslawsc.com>

 2 attachments (449 KB)

Motion.pdf; Letter (3).pdf;

Re: Appellate Case No. 2021-00898//Richland County Circuit Court Case No. 2015-CP-40-07268

Good afternoon, Judge Keesley,

I have been forwarded the messages below by attorney Lakesha Jeffries, and I am copying opposing counsel, as well as Judge Manning, and the Court of Appeals on this email.

This firm represents Debbie Willing, who is the Defendant in the below-referenced Richland County Circuit Court Case No. 2015-CP-4007268 and the Appellant in Appellate Case No. 2021-00898.

On August 18, 2021, we filed a Notice of Appeal in this circuit court case, with the Court of Appeals, where it is currently pending.

The order on appeal is the Richland County order that Jake Moore seeks to have Lexington County enroll as a judgment.

We ask that Lexington County NOT enroll any order (or judgment) against Ms. Willing or against her property, for the following reasons:

1. This case is currently before the Court of Appeals, which has full jurisdiction over it.
2. There is no judgment in Richland County. Instead, the order which Mr. Moore refers to as a "judgment" is simply a final trial order (which is now on appeal).
3. The order which Mr. Moore seeks to have enrolled as a judgment does not direct the payment of money, and nor does it direct the execution of any conveyance or other instrument pertaining to real property.
4. The filing of the Notice of Appeal by the defendant stayed the circuit court's decisions made within the order, including those pertaining to legal title to numerous parcels of property, pending the conclusion of the appeal.
5. Attached is our Motion to Enforce the Automatic Stay in this case, on which we are awaiting a ruling from the Court of Appeals.
6. Also attached is correspondence from the Court of Appeals, requesting that Mr. Moore file a Return to our Motion to Enforce the Stay.

We respectfully ask that Lexington County not take any action with regard to this matter until the appeal is concluded.

Sincerely,
Ainsley

Ainsley Fisher Tillman

Ford Wallace Thomson LLC
[715 King Street](#)
[Charleston, S.C. 29403](#)

T. 843.266.1289
E. Ainsley.Tillman@FordWallace.com
W. www.FordWallace.com

From: Keesley, William P. <WKeesleyj@sccourts.org>
Sent: Tuesday, November 23, 2021 3:22 PM
To: Manning, L. Casey; Manning, L. Casey Law Clerk (Victoria Elgin)
Cc: Lakesha Jeffries; Keesley, William P. Law Clerk (Aaron McCall); Diane Corley; Jake Moore; Comer, Lisa
Subject: Fw: [External] Richland County case

FYI, please see the emails below concerning a dispute between Jake Moore, Sr. and the Lexington Clerk's office about filing a Richland County order issued by Judge Manning. Thank you.

Sent using OWA for iPad

From: Keesley, William P.
Sent: Tuesday, November 23, 2021 3:13:40 PM
To: Jake Moore
Cc: Comer, Lisa; jeff@oldcourthouse.com
Subject: Re: [External] Richland County case

I have spent a couple of hours looking over statutes, etc. and feel that I cannot do more or extend into giving legal advice. I will gladly consider any petition for writ of mandamus, with citations to authority, but at this point, I understand why the Lexington Clerk of Court feels that she needs a transcript of judgment from Richland County to file this order or some case/petition filed in Lexington seeking to enroll the order in Lexington. Otherwise, I don't know where she could file it where the public would see it. It obviously can be filed with the Clerk in Lexington, but the primary statute for enrolling it and the Court Administration form refers to a money judgment for filing in another county. There appears to be a monetary award in the order, and it is possible that the Richland County Clerk could issue a transcript of that portion with a copy of the order attached and filed in the routine course in Lexington. It also appears that a certified copy of the order can be filed in the office of the ROD in Lexington and cited on the deeds. I note that the Spartanburg County ROD website indicates that it can be done. A lis pendens may also be appropriate. Of course, all of this is subject to any stay that might control by virtue of the appeal, though I read the denial by the Court of Appeals that was submitted. I will send a copy of this to Judge Manning and forward to opposing counsel. Thank you.

Sent using OWA for iPad

From: Keesley, William P.
Sent: Tuesday, November 23, 2021 9:30:04 AM
To: Jake Moore
Cc: Comer, Lisa; jeff@oldcourthouse.com
Subject: RE: [External] Richland County case

Lisa,

Back when I was checking titles, there was a record called a judgment roll, which had an index. If that still exists, is it something kept in your office or the ROD? Second, was the copy of the judgment sent to you an exemplified copy? I will keep looking to see if I can find a process for how and where to file it. Thank you. [wpk]

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

From: Jake Moore [<mailto:jake@mbmlawsc.com>]
Sent: Tuesday, November 23, 2021 8:26 AM
To: Keesley, William P. <WKeesleyj@sccourts.org>
Cc: Comer, Lisa <lcomer@lex-co.com>; jeff@oldcourthouse.com
Subject: Re: [External] Richland County case

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

Because it affected property in both counties. I would like it filed as the judgment it is and in the rod.

Sent from my iPhone

> On Nov 22, 2021, at 10:09 PM, Keesley, William P. <WKeesleyj@sccourts.org> wrote:

>

> I understand.

>

> Sent using OWA for iPad

>

>

> From: Jake Moore <jake@mbmlawsc.com>

> Sent: Monday, November 22, 2021 7:44:46 PM

> To: Keesley, William P.; Comer, Lisa

> Cc: jeff@oldcourthouse.com

> Subject: RE: [External] Richland County case

>

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

>

> Your honor it is a final judgment and is presently under appeal

>

> -----Original Message-----

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

> Sent: Monday, November 22, 2021 7:32 PM

> To: Jake Moore <jake@mbmlawsc.com>; Comer, Lisa <lcomer@lex-co.com>

> Cc: jeff@oldcourthouse.com

> Subject: Re: [External] Richland County case

>

> I think the question is where to file it and how to go about it. Since there's no Lexington County case, and I do not know if there is a lis pendens in Lexington, I am trying to get a handle on it. I remember seeing things like this filed in miscellaneous books in the ROD office, though I am not suggesting whether that should be done. I really don't know why Richland won't send a transcript of judgment, but I will try to see what can be done.

>

> Sent using OWA for iPad

>

>

> From: Jake Moore <jake@mbmlawsc.com>

> Sent: Monday, November 22, 2021 6:14:29 PM

> To: Comer, Lisa; Keesley, William P.

> Cc: jeff@oldcourthouse.com

> Subject: RE: [External] Richland County case

>

>

> *** EXTERNAL EMAIL: This email originated from outside the organization. Please exercise caution before clicking any links or opening attachments. *** The order is a final order of a circuit court and decrees my client owns real estate in Lexington county. O a, amazed a clerk of court determines what will and will not be filed. As a member of the bar, I need a final order of a south Carolina circuit court

filed. The clerk says no. I do not want to have to file a mandamus action just to get a court order filed. I am open to suggestions.

>
> From: Comer, Lisa [<mailto:LComer@lex-co.com>]
> Sent: Monday, November 22, 2021 5:39 PM
> To: William P. Keesley <WKeesleyj@sccourts.org>
> Cc: Jake Moore <jake@mbmlawsc.com>; jeff@oldcourthouse.com
> Subject: RE: [External] Richland County case

>
> Judge Keesley,
>
> I do not think that a transcript has been submitted for filing. It is my understanding that Richland County will not issue a transcript. I have been asked if I can file the Richland County order without it being transcribed.

>
> Thank you,
>
> Lisa
>
> Lisa M. Comer
> Clerk of Court, Lexington County
> 205 East Main Street
> Lexington, S. C. 29072
> (803) 785-8393 (Office)
> (803) 785-2215 (Fax)
> lcomer@lex-co.com<<mailto:lcomer@lex-co.com>>
> [cid:image001.png@01D285DC.C04851B0]

>
> From: Keesley, William P. <WKeesleyj@sccourts.org<<mailto:WKeesleyj@sccourts.org>>>
> Sent: Monday, November 22, 2021 1:15 PM
> To: Comer, Lisa <lcomer@lex-co.com<<mailto:lcomer@lex-co.com>>>
> Cc: Jake Moore <jake@mttlaw.com<<mailto:jake@mttlaw.com>>>;
jeff@oldcourthouse.com<<mailto:jeff@oldcourthouse.com>>
> Subject: RE: [External] Richland County case

>
> I need to see the transcript of judgment that Mr. Moore states that he sent to you in his letter to Jeff Anderson. Thank you.

>
> I have copied and pasted some Code sections below so that I can remember what I have pulled up so far, so please disregard those.

>
> SECTION 15-35-540. Docketing transcript with clerks of other courts; effect thereof.

>
> A transcript of a final judgment of any court of record of this State or of any district or circuit court of the United States within this State directing in whole or in part the payment of money, may be docketed with the clerk of the court of common pleas in any county and when so docketed shall be entered upon the book of abstracts and duly indexed and shall have the same force and effect as a judgment of that court. Any such transcript shall set out the names of the parties, plaintiff and defendant, the attorneys of record, the date and amount of the judgment, the time from which interest is to be computed and the amount of costs.

>
> HISTORY: 1962 Code Section 10-1544; 1952 Code Section 10-1544; 1942 Code Sections 664, 743; 1932 Code Sections 664, 743; Civ. P. '22 Sections 603, 610; Civ. P. '12 Sections 341, 348; Civ. P. '02 Sections 302, 309; 1870 (14) 489 Section 305, 491 Section 313; 1873 (15) 498; 1884 (18) 749; 1885 (19) 229; 1909 (26) 39; 1910 (26) 621; 1924 (33) 940; 1928 (35) 1223; 1929 (36) 251; 1946 (44) 1436.

>

> SECTION 15-35-170. Judgments against unincorporated associations.
>
> On judgment being obtained against an unincorporated association under process served as provided in Section 15-9-330 final process may issue to recover satisfaction of such judgment, and any property of the association and the individual property of any copartner or member thereof found in the State shall be liable to judgment and execution for satisfaction of any such judgment.
>
> HISTORY: 1962 Code Section 10-1516; 1952 Code Section 10-1516; 1942 Code Section 7798; 1932 Code Section 7798; Civ. C. '22 Section 5072; Civ. C. '12 Section 3338; Civ. C. '02 Section 2231; G. S. 1412; R. S. 1778; 1863 (13) 215.
>
> SECTION 15-35-180. Enforcement of judgments.
>
> When a judgment requires the payment of money or the delivery of real or personal property it may be enforced in those respects by execution as provided in this Title. When it requires the performance of any other act a certified copy of the judgment may be served upon the party against whom it is given or the person or officer who is required thereby or by law to obey it and his obedience thereto enforced. If he refuse he may be punished by the court as for contempt.
>
> HISTORY: 1962 Code Section 10-1519; 1952 Code Section 10-1519; 1942 Code Section 738; 1932 Code Section 738; Civ. P. '22 Section 605; Civ. P. '12 Section 343; Civ. P. '02 Section 304; 1870 (14) 490 Section 308.
>
> SECTION 15-39-40. Counties to which execution may be issued.
>
> When the execution is against the property of the judgment debtor it may be issued to the sheriff of any county in which the judgment is docketed by the clerk of court in which the judgment was originally entered up or by the clerk of court of any county in which the judgment is docketed or transcribed. When it requires the delivery of real or personal property it must be issued to the sheriff of the county in which the property or some part thereof is situated. Executions may be issued at the same time to different counties.
>
> HISTORY: 1962 Code Section 10-1704; 1952 Code Section 10-1704; 1942 Code Section 740; 1932 Code Section 740; Civ. P. '22 Section 607; Civ. P. '12 Section 345; Civ. P. '02 Section 306; 1870 (14) 490 Section 310; 1872 (15) 194; 1878 (16) 336, 558; 1884 (18) 708; 1885 (19) 7; 1927 (35) 289; 1929 (36) 1052.
>
> From: Keesley, William P.
> Sent: Monday, November 22, 2021 11:24 AM
> To: Comer, Lisa <lcomer@lex-co.com<mailto:lcomer@lex-co.com>>
> Subject: Re: [External] Richland County case
>
> I will look it over and respond later, hopefully today.
>
> Sent using OWA for iPhone
>
> _____
> From: Comer, Lisa
> Sent: Monday, November 22, 2021 10:42:39 AM
> To: Keesley, William P.
> Subject: FW: [External] Richland County case
>
> *** EXTERNAL EMAIL: This email originated from outside the organization. Please exercise caution before clicking any links or opening attachments. ***
>
> Judge Keesley,
>
> I hope this e-mail finds you well.

>
> I received this letter from Jeff Anderson asking why our office would not file the attached order from Richland County. As far as we know, there has not been an attempt to file the order with us, only Richland County. It is also our understanding that a transcript was requested from Richland County but they will not transcribe it because it does not read like a judgment order.
>
> It has been requested that my office file the order as is because it involves property in Lexington County. I am not aware of any way that I can file the order as it is now, we would need a transcript from Richland County.
>
> Would you mind reviewing the order and advising whether we can file without a transcript?
>
> Thank you,
>
> Lisa
>
>
>
> Lisa M. Comer
> Clerk of Court, Lexington County
> 205 East Main Street
> Lexington, S. C. 29072
> (803) 785-8393 (Office)
> (803) 785-2215 (Fax)
> lcomer@lex-co.com<<mailto:lcomer@lex-co.com>>
>
>
>
> -----Original Message-----
> From: Jeff Anderson
> <jeffanderson@oldcourthouse.com<<mailto:jeffanderson@oldcourthouse.com>>>
> Sent: Thursday, November 18, 2021 8:48 AM
> To: Comer, Lisa <LComer@lex-co.com<<mailto:LComer@lex-co.com>>>
> Cc: Dolan, Richard <rdolan@lex-co.com<<mailto:rdolan@lex-co.com>>>
> Subject: [External] Richland County case
>
> Lisa,
>
> Please see attached letter and attachments from Jake Moore. I have not reviewed all of this yet and I am not sure why a case that concerned property that is in Lexington County was heard in Richland County. But, is there a reason that this case cannot be filed like a transcript of judgment in Lexington County?
>
> Thanks.
> Jeff
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>
> Moore Bradley Myers Law Firm, P.A.
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>

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RECEIVED

Dec 06 2021

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

The Honorable L. Casey Manning

Circuit Court Case No. 2015-CP-40-07268
Appellate Case No. 2021-000898

Jimmy Helms.....Respondent,

v.

Debbie Willing,Appellant.

PROOF OF SERVICE

I certify that I have served the Appellant’s Reply to Respondent’s Return to the Petition for Review en Banc on Respondent Jimmy Helms by sending the same to his attorney of record S. Jahue Moore, Esquire, at his email address of record with AIS, pursuant to the Supreme Court’s Order regarding Electronic Filing and Service:

jake@mbmlawsc.com

Respectfully submitted,

FORD WALLACE THOMSON LLC

s/Ainsley F. Tillman

Ainsley F. Tillman, S.C. Bar No. 70551

Ainsley.Tillman@FordWallace.com

715 King Street

Charleston, South Carolina 29403

(843) 277-2011

December 6, 2021

Charleston, South Carolina