

IN THE SOUTH CAROLINA COURT
COURT OF APPEALS

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Apr 22 2022

SC Court of Appeals

Alfie Investors, LLC,)
Respondent,)
)
v.)
International Palm Oil and Biodiesel, LLC.)
Judith Oglesby; Thomas Oglesby;)
James T. Donovan; Carter Lumber of the)
South, Inc.; Universal Funding Group, LLC;)
Christopher Jones; and International Palm,)
Defendants,)
Of Whom Christopher Jones is the Appellant.)

**APPELLANTS' REPLY TO
RESPONDENT'S RETURN,
PURSUANT TO RULE 240(f)
S.C.A.C.R.**

APPEAL NO. 2022-000322

Pursuant to Rules 240 S.C. Appeals Court Rule, the Appellant hereby submit his reply pursuant to the provisions of Rule 240(f). Appellant respectfully renew his request that this Honorable Court of Appeals to grant and sustain the automatic stay pursuant to Rule 241 S.C. A.C.R for the duration of the appeal. The *Appellant* respectfully submits that the factors governing whether to issue a stay pending appeal all weigh heavily for a stay to preserve the status quo. Specifically, because:

The appeal **is not** barred by res judicata. The Respondents base their assertion that the matter is barred by res judicata for the very reason for which the appeal is properly before this Honorable Court, the April 21, 2021 Foreclosure Decree. On February 2, 2022 the Respondents moved to Amend the April 21, 2021 Foreclosure Decree and motion to adjust the Statement of Accounts, which the Appellant object thereto on the Record. The Order on Appeal is not the April 21, 2021 Order but the Order on appeal is the March 2, 2022 Order. Therefore, the elements of res judicata are not met here. (See Attached Greenville County Case Docket). The Respondents reopened the case by filing to amend the April 21, 2021 order. The March 2, 2022 order is a final judgement upon which appeal may be taken.

Res judicata bars subsequent actions by the same parties when the claims arise out of the same transaction or occurrence that was the subject of a prior action between those parties. *Sub-zero Freezer Co. v. R.J. Clarkson Co.*, 308 S.C. 188, 417 S.E.2d 569 (1992). Under the doctrine of res judicata, "[a] litigant is barred from raising any issues which were adjudicated in the former suit and any issues which might have been raised in the former suit." *Hilton Head Center of South Carolina, Inc. v. Public Service Comm'n of South Carolina*, 294 S.C. 9, 11, 362 S.E.2d

176, 177 (1987). To establish res judicata, the defendant must prove the following three elements: (1) identity of the parties; (2) identity of the subject matter; and (3) adjudication of the issue in the former suit. *Riedman Corp. v. Greenville Steel Structures, Inc.*, 308 S.C. 467, 419 S.E.2d 217 (1992); *Sealy v. Dodge*, 289 S.C. 543, 347 S.E.2d 504 (1986). The standard for res judicata is not met here. There was no final adjudication of the matter the case was continued by Respondents filing to amend the April 21, 2021 Order.

Respondents further argue that the Appellant failed to comply with S.C. Code Ann 18-9-170, however, this argument itself also fails, because the Statute specifically states that “the sum is fixed by the judge of the Court by which the judgment was rendered and which shall be specified in the undertaking”. The question for this Court is how could a defendant/appellant know what is the sum fixed for the undertaking without first having that determination made by the judge, per Statute. This Appellant made every attempt to provide the undertaking and even on the Friday before made the sale offered to satisfy directly to the Respondents. (copy of email attached). The Respondents refused and left Appellant no choice but to seek emergency action from the “judge of the court”. Appellant sought to provide the bond undertaking but was boxed out by not having an amount of bond set by the judge for the undertaking. The April 4, 2022 sale of the subject property does not render the appeal moot. See (*Wachesaw Plantation East Community Services, Inc. Respondents v. Todd C. Alexander, Petitioner*, 2012-213400 opinion No. 27585). Since the foreclosure sale has taken place, a stay is required under the law without posting a bond. (*Wachesaw Plantation East Community Services Association, Inc. v Todd C. Alexander, Petitioner*) (Opinion No. 27585 2015).

The April 4, 2022 foreclosure sale for the subject properties is not closed. The matter of 213 Barker Rd, and 217 Barker Rd Simpsonville, SC 29680 is subject to being placed back on the Greenville County foreclosure sale list as of the timing of this filing. A stay would not be detrimental to the Respondents. The matter regarding Respondent’s bad faith argument in that the Appellant has been an obstructionist in this foreclosure process is pure absurdity. The Appellant only took steps afforded to him under the Law. The matter of filing bankruptcy is not obstructionist, unless every one that seeks bankruptcy protection can be called the same. There was and is no bad faith. The conclusion is simple, the Appellant is fighting to retain his properties under the Law.

Generally, if there is a reasonable ground for contesting a claim, there is no bad faith in the denial of it. See Cock-N-Bull Steak House, Inc. v. Generali Ins. Co., 321 S.C. 1, 7, 466 S.E.2d 727, 730 (1996); Crossley v. State Farm Mut. Auto. Ins. Co., 307 S.C. 354, 359-60, 415 S.E.2d 393, 396-97 (1992). In this regard, our supreme court has ruled that an insurance company should be able to litigate novel issues **without fear of being accused of acting in bad faith**. See Nelson v. United Fire Ins. Co., 275 S.C. 92, 267 S.E.2d 604 (1980); Myers v. Gov't Employees Ins. Co., 279 S.C. 70, 302 S.E.2d 331 (1983); see also Smothers v. U.S. Fid. & Guar. Co., 322 S.C. 207, 470 S.E.2d 858 (Ct. App. 1996). American argues this is such a case because there is no clear-cut precedent establishing that the ATM is a safe. American contends the trial court was correct in ruling that the issue is a novel one, rendering the denial of the claim reasonable as a matter of law.

On the basis of establish law and precedent, the Appellant prays that this Honorable Court grant him an appropriate relief in light of the evidence presented. Because the foreclosure sale has already taken place on April 4, 2022 and is now under judicial review by the Greenville County Master in Equity, whom may recuse himself, a **Stay** is warranted as a matter of Law, without application of S.C. Code 18-9-170.

April 20, 2022

Respectfully,

s/Christopher Jones _____

Christopher Jones, Appellant Pro Se
213 Barker Rd
Simpsonville, S.C. 29680
864-526-2800

Cc:

Alfie Investors, LLC
Amber B. Glidewell, Esquire
James H. Cassidy, Esquire

EXHIBIT A

**THE STATE OF SOUTH CAROLINA
In The Supreme Court**

Wachesaw Plantation East Community Services
Association, Inc., Respondent,

v.

Todd C. Alexander, Petitioner.

Appellate Case No. 2012-213400

ON WRIT OF CERTIORARI TO THE COURT OF APPEALS

Appeal From Georgetown County
The Honorable Joe M. Crosby, Master-in-Equity

Opinion No. 27585
Heard November 19, 2014 – Filed November 4, 2015

REVERSED AND REMANDED

Charles T. Smith, of Georgetown, for Petitioner.

Hal LaVaughn Beverly, Jr., of McCabe, Trotter &
Beverly, P.C., of Columbia, for Respondent.

Jack M. Scoville, Jr., of Law Offices of Jack M. Scoville,
Jr., P.A., of Georgetown, for Third-Party Bidder William
George.

JUSTICE BEATTY: This action arose out of the foreclosure of a lien for delinquent homeowner regime fees against Todd C. Alexander. Alexander did not appeal the foreclosure; however, he moved to vacate the resulting sale. Alexander's motion to vacate the sale was denied and Alexander appealed. The Court of Appeals dismissed the appeal, finding Alexander failed to comply with section 18-9-170¹ of the South Carolina Code to stay the sale and, therefore, the master-in-equity's issuance of the deed rendered the appeal moot.

I. Facts

Alexander purchased a home for his elderly father in Murrells Inlet, South Carolina. After his father was released from a second hospitalization, he did not return to the house. Alexander neglected to pay the regime fees on the home and subsequently the homeowners' association's attorney informed him that a lien had been placed against the house.

The homeowners' association initiated a foreclosure action and served a summons, complaint and lis pendens on Alexander. He signed the certified receipt acknowledging that he received the documents. However, he never responded to the complaint, which led to a default. He was subsequently served with notice of the hearing, affidavit of default, and the order of default at the same address. He made no appearance and filed no appeal.

¹ Section 18-9-170 reads in relevant portion:

If the judgment appealed from direct the sale or delivery of possession 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 judgment was rendered and which shall be specified in the undertaking.

The homeowners' association properly proceeded to have the home auctioned off to the highest bidder at a foreclosure sale. Jerry Callahan, William George's authorized agent, was the highest bidder. By Report and Judgment of Foreclosure Sale filed on April 29, 2011, the master-in-equity sold the property but did not issue the deed.

Alexander, who lives in Pennsylvania, employed a property management company to inspect the house bi-weekly and maintain the property and grounds during the two years that the house had been vacant after his father moved out. In June 2011, while he was hospitalized², he learned from the property management company that the home had a new owner. He then asked a friend to bring his mail to the hospital. He alleges he first received notice of the foreclosure action and sale at that time.

He immediately tendered the regime fee payment in full to the homeowners' association's attorneys but they declined to accept it because of potential liability to the third-party bidder. Alexander then filed a motion to vacate the sale. In his memorandum in support of the motion, Alexander argued four grounds: (1) the sale price was inadequate and the sale was accompanied by other facts warranting the court's interference; (2) the sale should be vacated to avoid forfeiture; (3) the sale should be vacated to avoid the third-party bidder's unjust enrichment; and (4) he timely redeemed the property.

The master-in-equity denied the motion for several reasons. He found that Alexander failed to allege improper service, lack of notice, lack of jurisdiction, excusable neglect and offered no reason for not sending a check once he received the summons and complaint. Moreover, the master-in-equity found Alexander's failure to appeal the Decree of Foreclosure waived his equity-of-redemption rights.

The master-in-equity then issued the deed to Callahan, as agent for George, and it was duly recorded. Alexander timely filed and served a Notice of Appeal from the master's order denying his motion. George filed and served a motion to dismiss the appeal on the ground that the issue appealed is moot because the foreclosure sale was finalized before Alexander filed and served his appeal.

The Court of Appeals agreed with George in its order of dismissal. It concluded that Alexander failed to stay the foreclosure sale because he did not

² Alexander was not hospitalized at the time of the foreclosure sale.

comply with section 18-9-170 and the appeal is now moot because the master-in-equity properly issued the deed. This Court granted certiorari to review the Court of Appeals' decision.

II. Issue Presented

Does the subsequent issuance of a deed moot a timely appealed order denying a motion to vacate the sale of foreclosed property?

III. Discussion

A. Mootness

"A case is moot where a judgment rendered by the Court will have no practical legal effect upon an existing controversy because an intervening event renders any grant of effectual relief impossible for the Court." *S.C. Ret. Syst. Inv. Comm'n v. Loftis*, 402 S.C. 382, 384, 741 S.E.2d 757, 758 (2013). "[M]oot appeals result when intervening events prevent a decision on appeal from having an immediate impact on the parties." 15 S.C. Jur. *Appeal and Error* § 19 (Supp. 2014). "Appellate court[s] will not pass on moot and academic questions or make an adjudication where there remains no actual controversy." *Linda Mc. Co., Inc. v. Shore*, 390 S.C. 543, 558, 703 S.E.2d 499, 506 (2010).

"In the civil context, there are three general exceptions to the mootness doctrine." *Curtis v. State*, 345 S.C. 557, 568, 549 S.E.2d 591, 596 (2001). "First, an appellate court can take jurisdiction, despite mootness, if the issue raised is capable of repetition but evading review." *Id.* "Second, an appellate court may decide questions of imperative and manifest urgency to establish a rule for future conduct in matters of important public interest." *Id.* at 568, 549 S.E.2d at 596. "Finally, if a decision by the trial court may affect future events, or have collateral consequences for the parties, an appeal from that decision is not moot, even though the appellate court cannot give effective relief in the present case." *Id.* at 568, 549 S.E.2d at 596.

B. Arguments

Alexander posits three arguments for why the Court of Appeals erred in issuing an order to dismiss the appeal. First, a nonparty filed the motion to dismiss the appeal in contravention of *Condon v. State*, 354 S.C. 634, 583 S.E.2d 430 (2003). Alexander notes that George could have intervened pursuant to Rule 24 of

the South Carolina Rules of Civil Procedure and Rule 213 of the South Carolina Appellate Court Rules. Second, the dismissal created a new rule that a judicial sale cannot be appealed unless a writ of supersedeas has been issued and a bond posted, which runs counter to the rule in *Ex Parte Moore*, 346 S.C. 274, 550 S.E.2d 877 (Ct. App. 2001). Finally, the dismissal conflicts with *McLemore v. Powell*, 32 S.C. 582, 10 S.E. 550 (1889), in that it holds the issuance of a deed renders an appeal from a judicial sale moot.

C. Analysis

Alexander argues the Court of Appeals' order conflicted with established precedent that the issuance of a deed does not moot an appeal. Although we offer no opinion on the merits of Alexander's appeal, we agree that the Court of Appeals erred.

Our jurisprudence establishes that, despite the master-in-equity's issuance of a deed, an appellate court may reach the merits of the appeal. *See Antrum v. Hartsville Prod. Credit Ass'n*, 228 S.C. 201, 89 S.E.2d 376 (1955) (deciding on petition to set aside foreclosure sale and declaring deed to purchaser void); *Nichols v. Andrews*, 157 S.C. 334, 154 S.E. 305 (1930) (deciding appeal from foreclosure and sale of property where deed was issued and no bond posted) ; *Ex Parte Andrews*, 152 S.C. 325, 150 S.E. 313 (1929) (explaining that purchaser of property was entitled to possession of property pending appeal because no bond was posted; remanding the case to be heard on the merits); *Muckenfuss v. Fishburne*, 68 S.C. 41, 46 S.E. 537 (1903) (deciding defendant's appeal from order to set aside judgment of foreclosure where deed was executed to the purchaser); *Scott v. Scott*, 29 S.C. 414, 7 S.E. 811 (1888) (deciding an action to enjoin the foreclosure of a mortgage for the sale of a mortgaged property after a deed was issued to plaintiff); *Heritage Fed. Sav. & Loan v. Eagle Lake & Golf Condominiums*, 318 S.C. 535, 458 S.E.2d 561 (Ct. App. 1995) (deciding homeowners' association appeal from foreclosure and sale where a master deed was issued).

Based on the above-cited cases, it is clear that the issuance of a deed does not moot the appeal of a foreclosure sale and an appellate court may reach the merits. Accordingly, we find the Court of Appeals erred in declaring the case moot because a deed was issued after the sale of the property.

IV. Conclusion

The issuance of a deed does not render a motion to vacate the foreclosure sale moot. Our state appellate courts have reached the merits of such appeals time and again.

We therefore reverse and remand³ this matter to the Court of Appeals to be considered on the merits.

REVERSED AND REMANDED.

**TOAL, C.J., HEARN, J., and Acting Justice James E. Moore, concur.
PLEICONES, J., concurring in a separate opinion.**

³ See *State v. Grovenstein*, 335 S.C. 347, 354 n.6, 517 S.E.2d 216, 219 n.6 (1999) (explaining that remaining issues would be remanded to the Court of Appeals since they were not considered by that court previously).

JUSTICE PLEICONES: I agree with the majority that the Court of Appeals erred in dismissing petitioner's appeal as moot because the master issued a deed while the appeal was pending. I reach my conclusion by a different route, however, and therefore concur only in the result reached by the majority.

Here we are concerned with an appeal from an order refusing to set aside a judicial sale. Petitioner's timely appeal of that order acted as an automatic stay of further proceedings, including the issuance of a deed, pursuant to S.C. Code Ann. § 18-9-220 (Supp. 2014). As the Court has explained,

The defendant certainly had the right to appeal from [the order confirming the judicial sale]⁴ and obtain the judgment of the tribunal of last resort as to its correctness before any proceedings could be had under it [here, the buyer seeking possession], for until such final judgment was obtained, it could not be known whether there was any valid order of confirmation. The notice of appeal from that order [confirming the judicial sale] operated as a stay of further proceedings under the provisions of section 356⁵ of the code.

LeConte v. Irwin, 23 S.C. 106, 112 (1885).

In my view, the parties, the Court of Appeals, and the majority are in error when they analyze the question whether the appeal prevented the master from issuing the deed under S.C. Code Ann. § 18-9-170 (1985), and decisions applying that statute in appeals from orders of foreclosure.⁶ While § 18-9-170 applies to an appeal from an order that directs the sale or delivery of possession of real property, such as an

⁴ Recall that under our earlier practice almost all foreclosure matters were referred to the master-in-equity to make a report, which was not final until confirmed by the circuit court. See *Wachovia Bank of South Carolina, N.A. v. Player*, 341 S.C. 424, 535 S.E.2d 128 (2000).

⁵ Now codified as § 18-9-220.

⁶ An appellant's failure to post the statutory bond required by § 18-9-170 does not moot the foreclosure appeal. However, since the failure to post this bond permits the foreclosure sale to proceed during the appeal, *Ex parte Andrews*, 152 S.C. 325, 150 S.E. 313 (1929), the remedy available to the mortgager is limited to the recalculation of the debt owed. *E.g., Nichols v. Andrews*, 157 S.C. 334, 154 S.E. 305 (1930).

order of foreclosure,⁷ it does not apply to an appeal of an order refusing to vacate a judicial sale. *LeConte, supra*.

I agree that the master should not have issued a deed during the pendency of petitioner's appeal because that appeal acted as an automatic stay pursuant to § 18-9-220. I agree that this erroneous action did not moot the appeal. I agree that petitioner is entitled to have the merits of his appeal decided by the Court of Appeals. I therefore concur in the majority's decision to reverse the Court of Appeals' dismissal order and to remand the matter to that court for consideration of the direct appeal.

⁷ See, e.g., *Gerald v. Gerald*, 30 S.C. 348, 9 S.E. 274 (1889).

EXHIBIT B



Greenville County 13th Judicial Circuit Public Index



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Switch View

Alfie Investors LLC vs. International Palm Oil And Biodiesel LLC , defendant, et al

| | | | | | |
|-----------------------------|-------------------|--------------------------|--------------------------------|---------------------------|-------------------------|
| Case Number: | 2020CP2304007 | Court Agency: | Greenville County Common Pleas | Filed Date: | 08/27/2020 |
| Case Type: | Common Pleas | Case Sub Type: | Foreclosure 420 | File Type: | Non-Jury |
| Status: | Appeal | Assigned Judge: | | | |
| Disposition: | Ended by Non Jury | Disposition Date: | 04/21/2021 | Disposition Judge: | Simmons, Charles B. Jr. |
| Original Source Doc: | | Original Case #: | | | |
| Judgment Number: | 2020CP2304007 | Court Roster: | | | |

Case Parties Judgments Tax Map Information Associated Cases Actions Financials

| Name | Description | Type | Motion Roster | Begin Date | Completion Date | Documents |
|---------------------|---|--------|---------------|------------------|-----------------|-----------|
| Alfie Investors LLC | NEF(04-06-2022 11:34:02 AM) Affidavit/Publication | Filing | | 04/06/2022-11:34 | | |
| Alfie Investors LLC | Affidavit/Publication | Filing | | 04/06/2022-11:34 | | |
| Jones, Christopher | Notice of Appeal Master Order of 3/2/22 and Service | Filing | | 03/24/2022-14:02 | | |
| Alfie Investors LLC | NEF(03-23-2022 01:03:38 PM) Transcript/Transcript of Tes... | Filing | | 03/23/2022-13:04 | | |
| Alfie Investors LLC | Transcript/Transcript of Testimony | Filing | | 03/23/2022-13:03 | | |
| Alfie Investors LLC | NEF(03-04-2022 11:10:45 AM) Service/Certificate Of Servi... | Filing | | 03/04/2022-11:47 | | |
| Alfie Investors LLC | Service/Certificate Of Service | Filing | | 03/04/2022-11:10 | | |
| Alfie Investors LLC | NEF(03-02-2022 08:48:54 AM) Master/Order/Supplemental Fo... | Filing | | 03/02/2022-08:49 | | |
| Alfie Investors LLC | Master/Order/Supplemental Foreclosure & Sale and Form 4 | Order | | 03/02/2022-08:48 | | |
| Jones, Christopher | Def/Christopher Jones Motion/Dismiss | Motion | | 02/23/2022-15:03 | | |
| Alfie Investors LLC | NEF(02-11-2022 10:01:58 AM) Proposed Master/Order/Supple... | Filing | | 02/11/2022-12:01 | | |
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| Alfie Investors LLC | Master/Exhibit/Affidavit of Debt | Filing | | 02/11/2022-10:01 | | |
| Alfie Investors LLC | Master/Exhibit/Affidavit of Attorney Fees | Filing | | 02/11/2022-10:01 | | |
| Alfie Investors LLC | NEF(02-02-2022 10:17:22 AM) Notice/Notice of | Filing | | 02/02/2022-10:55 | | |

| | Hearing and... | | | | |
|---------------------|---|--------|--|------------------|--|
| Alfie Investors LLC | Notice/Notice of Hearing and Service | Filing | | 02/02/2022-10:17 | |
| Alfie Investors LLC | NEF(02-01-2022 08:32:09 AM) Motion/Alter and/or Amend | Filing | | 02/01/2022-09:21 | |
| Alfie Investors LLC | Motion/Alter and/or Amend | Motion | | 02/01/2022-08:32 | |
| Alfie Investors LLC | Notice/Notice of Appearance | Filing | | 02/01/2022-08:32 | |
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| Alfie Investors LLC | Master/Exhibit/Affidavit of Attorney Fees | Filing | | 10/22/2021-11:52 | |
| Alfie Investors LLC | Master/Exhibit/Affidavit of Debt | Filing | | 10/22/2021-11:52 | |
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| Alfie Investors LLC | NEF(10-07-2021 04:19:23 PM) Notice/Notice of Hearing and... | Filing | | 10/07/2021-16:32 | |
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| Alfie Investors LLC | NEF(10-01-2021 03:08:25 PM) Service/Certificate Of Servi... | Filing | | 10/01/2021-15:31 | |
| Alfie Investors LLC | Service/Certificate Of Service | Filing | | 10/01/2021-15:08 | |
| Oglesby, Judith | Bankruptcy Filing/Order Dismissing Case | Filing | | 09/22/2021-10:51 | |
| Alfie Investors LLC | Remittitur From Court Of Appeals/Appeal Dismissed | Filing | | 08/24/2021-11:09 | |
| Alfie Investors LLC | NEF(07-23-2021 02:08:07 PM) Master/Taxation of Costs | Filing | | 07/23/2021-14:08 | |
| Alfie Investors LLC | Master/Taxation of Costs | Filing | | 07/23/2021-14:08 | |
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| Alfie Investors LLC | Affidavit/Publication | Filing | | 07/09/2021-13:48 | |
| Oglesby, Judith | Bankruptcy Filing/Notice of Chapter 13 Plan | Filing | | 07/07/2021-12:20 | |
| Oglesby, Judith | Bankruptcy Filing/Order List of Creditors | Filing | | 07/07/2021-12:19 | |
| Oglesby, Judith | Bankruptcy Filing/Chapter 13 Plan and Motions | Filing | | 07/07/2021-12:17 | |
| Oglesby, Judith | Bankruptcy Filing/Chapter 13 | Filing | | 06/29/2021-11:03 | |
| Alfie Investors LLC | NEF(06-24-2021 02:47:48 PM) Master/Taxation of Costs | Filing | | 06/24/2021-14:48 | |
| Alfie Investors LLC | Master/Taxation of Costs | Filing | | 06/24/2021-14:47 | |
| Jones, Christopher | Appeal/Notice of Appeal & Service | Filing | | 06/24/2021-14:41 | |
| Alfie Investors LLC | NEF(06-14-2021 02:24:55 PM) Service/Certificate Of Servi... | Filing | | 06/14/2021-14:44 | |
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| Alfie Investors LLC | NEF(06-11-2021 09:08:19 AM) Motion/Vacate | Filing | | 06/11/2021-09:39 | |

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|--|---|----------|--|------------------|------------------|--|
| Alfie Investors LLC | Plt/Alfie Investors Motion/Vacate | Motion | | 06/11/2021-09:08 | | |
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| Alfie Investors LLC | Service/Certificate Of Service | Filing | | 06/04/2021-09:31 | | |
| Alfie Investors LLC | NEF(06-03-2021 04:04:10 PM) Waiver/Waiver of Deficiency ... | Filing | | 06/04/2021-09:14 | | |
| Alfie Investors LLC | Waiver/Waiver of Deficiency Judgment | Filing | | 06/03/2021-16:04 | | |
| Oglesby, Judith | Letter/Bankruptcy Filing | Filing | | 06/03/2021-14:38 | | |
| Alfie Investors LLC | NEF(05-25-2021 10:38:43 AM) Service/Certificate Of Servi... | Filing | | 05/25/2021-11:50 | | |
| Alfie Investors LLC | Service/Certificate Of Service | Filing | | 05/25/2021-10:38 | | |
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| Alfie Investors LLC | Transcript/Transcript of Testimony | Filing | | 05/04/2021-09:25 | | |
| Alfie Investors LLC | NEF(04-21-2021 02:19:59 PM) Master/Order/Foreclosure & S... | Filing | | 04/21/2021-14:20 | | |
| Alfie Investors LLC | Master/Order/Foreclosure & Sale and Form 4 | Order | | 04/21/2021-14:19 | | |
| Alfie Investors LLC | Judgment/Foreclosure | Judgment | | 04/21/2021-14:17 | | |
| International Palm | Judgment/Foreclosure | Judgment | | 04/21/2021-14:17 | | |
| Alfie Investors LLC | Judgment/Foreclosure | Judgment | | 04/21/2021-14:17 | | |
| Oglesby, Judith | Judgment/Foreclosure | Judgment | | 04/21/2021-14:17 | | |
| Alfie Investors LLC | Judgment/Foreclosure | Judgment | | 04/21/2021-14:17 | | |
| Oglesby, Thomas | Judgment/Foreclosure | Judgment | | 04/21/2021-14:17 | | |
| Alfie Investors LLC | Judgment/Foreclosure | Judgment | | 04/21/2021-14:17 | | |
| Donovan, James T | Judgment/Foreclosure | Judgment | | 04/21/2021-14:17 | | |
| Alfie Investors LLC | Judgment/Foreclosure | Judgment | | 04/21/2021-14:17 | | |
| Carter Lumber Of The South Inc | Judgment/Foreclosure | Judgment | | 04/21/2021-14:17 | | |
| Alfie Investors LLC | Judgment/Foreclosure | Judgment | | 04/21/2021-14:17 | | |
| Universal Funding Group LLC | Judgment/Foreclosure | Judgment | | 04/21/2021-14:17 | | |
| Alfie Investors LLC | Judgment/Foreclosure | Judgment | | 04/21/2021-14:17 | | |
| Jones, Christopher | Judgment/Foreclosure | Judgment | | 04/21/2021-14:17 | | |
| Alfie Investors LLC | Judgment/Foreclosure | Judgment | | 04/21/2021-14:17 | | |
| International Palm Oil And Biodiesel LLC | Judgment/Foreclosure | Judgment | | 04/21/2021-14:17 | | |
| Alfie Investors LLC | NEF(03-31-2021 09:16:47 AM) Proposed Master/Order/Forecl... | Filing | | 03/31/2021-09:42 | 04/21/2021-09:42 | |
| Alfie Investors | Master/Exhibit/Note and | Filing | | 03/31/2021- | 04/21/2021- | |

| LLC | Mortgage | | | 09:16 | 09:16 | |
|--------------------------------|--|--------|--|------------------|------------------|--|
| Alfie Investors LLC | Master/Exhibit/Affidavit of Debt | Filing | | 03/31/2021-09:16 | 04/21/2021-09:16 | |
| Alfie Investors LLC | Master/Exhibit/Note and Mortgage | Filing | | 03/31/2021-09:16 | 04/21/2021-09:16 | |
| Alfie Investors LLC | Master/Exhibit/Affidavit of Debt | Filing | | 03/31/2021-09:16 | 04/21/2021-09:16 | |
| Alfie Investors LLC | Master/Exhibit/Other | Filing | | 03/31/2021-09:16 | 04/21/2021-09:16 | |
| Alfie Investors LLC | Master/Exhibit/Affidavit of Attorney Fees | Filing | | 03/31/2021-09:16 | 04/21/2021-09:16 | |
| Alfie Investors LLC | NEF(03-17-2021 11:46:36 AM) Notice/Notice of Hearing and... | Filing | | 03/17/2021-12:05 | 04/21/2021-12:05 | |
| Alfie Investors LLC | Notice/Notice of Hearing and Service | Filing | | 03/17/2021-11:46 | 04/21/2021-11:46 | |
| Alfie Investors LLC | NEF(03-11-2021 02:59:35 PM) Order/Referred to Master or ... | Filing | | 03/11/2021-14:59 | 04/21/2021-14:59 | |
| Alfie Investors LLC | Order/Referred to Master or Special Referee | Order | | 03/11/2021-14:59 | 04/21/2021-14:59 | |
| Alfie Investors LLC | NEF(03-09-2021 02:46:17 PM) Affidavit/Default | Filing | | 03/09/2021-16:43 | 04/21/2021-16:43 | |
| Alfie Investors LLC | Affidavit/Default | Filing | | 03/09/2021-14:46 | 04/21/2021-14:46 | |
| Alfie Investors LLC | Affidavit/Non Military Service | Filing | | 03/09/2021-14:46 | 04/21/2021-14:46 | |
| Alfie Investors LLC | Order/Order Cover Sheet \$25.00 | Filing | | 03/09/2021-14:46 | 04/21/2021-14:46 | |
| Alfie Investors LLC | NEF(03-09-2021 11:12:10 AM) Affidavit/Affidavit of | Filing | | 03/09/2021-12:52 | 04/21/2021-12:52 | |
| Alfie Investors LLC | Affidavit/Affidavit Of Tammy Hyatt | Filing | | 03/09/2021-11:12 | 04/21/2021-11:12 | |
| Alfie Investors LLC | NEF(01-11-2021 04:26:16 PM) Affidavit/Publication | Filing | | 01/11/2021-16:48 | 04/21/2021-16:48 | |
| Alfie Investors LLC | Affidavit/Publication | Filing | | 01/11/2021-16:26 | 04/21/2021-16:26 | |
| Alfie Investors LLC | NEF(12-14-2020 03:32:40 PM) Order/Publication | Filing | | 12/14/2020-15:32 | 04/21/2021-15:32 | |
| Alfie Investors LLC | Order/Publication | Order | | 12/14/2020-15:32 | 04/21/2021-15:32 | |
| Alfie Investors LLC | NEF(12-11-2020 11:47:44 AM) Notice/Other | Filing | | 12/11/2020-14:32 | 04/21/2021-14:32 | |
| Alfie Investors LLC | Summons and Notice for Filing Complaint | Filing | | 12/11/2020-11:47 | 04/21/2021-11:47 | |
| Alfie Investors LLC | Motion by Service for Publication | Motion | | 12/11/2020-11:47 | 03/11/2021-11:47 | |
| Alfie Investors LLC | Affidavit/Publication | Filing | | 12/11/2020-11:47 | 04/21/2021-11:47 | |
| Alfie Investors LLC | Service/Certificate Of Service | Filing | | 12/11/2020-11:47 | 04/21/2021-11:47 | |
| Alfie Investors LLC | NEF(12-11-2020 08:34:19 AM) Service/Affidavit Of Service | Filing | | 12/11/2020-09:31 | 04/21/2021-09:31 | |
| Alfie Investors LLC | Service/Affidavit Of Service on International Palm Oil And B | Filing | | 12/11/2020-08:34 | 04/21/2021-08:34 | |
| Jones, Christopher | Affidavit/Affidavit Of Christopher Jones | Filing | | 12/03/2020-09:32 | 04/21/2021-09:32 | |
| Alfie Investors LLC | NEF(11-23-2020 09:39:35 AM) Affidavit/Default | Filing | | 11/23/2020-09:42 | 04/21/2021-09:42 | |
| Alfie Investors LLC | Affidavit/Default | Filing | | 11/23/2020-09:39 | 04/21/2021-09:39 | |
| Carter Lumber Of The South Inc | NEF(11-02-2020 01:25:27 PM) Answer/Answer | Filing | | 11/02/2020-14:46 | 04/21/2021-14:46 | |
| Carter Lumber Of The South Inc | Answer/Answer | Filing | | 11/02/2020-13:25 | 04/21/2021-13:25 | |
| Carter Lumber | Notice/Notice of | Filing | | 11/02/2020- | 04/21/2021- | |

| Of The South Inc | Appearance | | | 13:25 | 13:25 | |
|---------------------|---|--------|--|------------------|------------------|--|
| Alfie Investors LLC | NEF(10-05-2020 10:02:05 AM) Service/Acceptance Of Servic... | Filing | | 10/05/2020-10:31 | 04/21/2021-10:31 | |
| Alfie Investors LLC | Service/Acceptance Of Service on Carter Lumber Of The South | Filing | | 10/05/2020-10:02 | 04/21/2021-10:02 | |
| Alfie Investors LLC | NEF(09-21-2020 09:35:51 AM) Service/Affidavit Of Service | Filing | | 09/21/2020-09:42 | 04/21/2021-09:42 | |
| Alfie Investors LLC | Service/Affidavit Of Service on Christopher Jones | Filing | | 09/21/2020-09:35 | 04/21/2021-09:35 | |
| Alfie Investors LLC | Amended and Refiled Lis Pendens Filed | Filing | | 08/27/2020-11:46 | 04/21/2021-11:46 | |
| Alfie Investors LLC | Certificate/Certificate of Exemption | Filing | | 08/27/2020-11:46 | 04/21/2021-11:46 | |
| Alfie Investors LLC | Summons & Complaint | Filing | | 08/27/2020-11:46 | 04/21/2021-11:46 | |

| | | |
|--|---|-----------------------------------|
| STATE OF SOUTH CAROLINA |) | |
| |) | IN THE COURT OF COMMON PLEAS |
| COUNTY OF GREENVILLE |) | |
| | | |
| Alfie Investors, LLC |) | MOTION TO AMEND |
| Plaintiff, |) | FORECLOSURE DECREE |
| |) | |
| vs. |) | C.A. No.: 2020-CP-23-04007 |
| |) | |
| International Palm Oil and Biodiesel, LLC; |) | |
| Judith Oglesby; Thomas Oglesby; James T. |) | |
| Donovan; Carter Lumber of the South, Inc.; |) | |
| Universal Funding Group, LLC; |) | |
| Christopher Jones; and International Palm, |) | |
| |) | |
| Defendants. |) | |
| |) | |

Plaintiff, by and through the undersigned counsel, hereby moves before Charles B. Simmons, Jr. as Master in Equity for Greenville County on February 23, 2022 at 10:00 a.m., at the Greenville County Courthouse, for an order to amend the Foreclosure Decree filed in this matter pursuant to Rule 60 of the South Carolina Rules of Civil Procedure. The Plaintiffs will show unto the Court as follows:

1. Plaintiff filed its Amended and Refiled Lis Pendens, Certificate of Exemption from ADR, Summons and Foreclosure Complaint on August 27, 2020, seeking, among other things, to foreclose its mortgage liens on certain real property located in Greenville County, South Carolina, as a result of a default by Defendant, International Palm Oil and Biodiesel, LLC and its failure to pay under those certain notes to Plaintiff as more particularly set forth in the Complaint.

2. Through mistake and inadvertence, Plaintiff alleged in its Complaint that Defendant International Palm Oil and Biodiesel, LLC was the owner of 217 Barker Road, Simpsonville, South Carolina (“Property 1”). In actuality, 217 Baker Road, Simpsonville, South Carolina was owned by Defendant Universal Funding Group, LLC at the time the Complaint was filed. The Complaint properly alleged that Defendant Universal Funding Group, LLC was the owner of 213 Barker Road, Simpsonville, South Carolina at the time the Complaint was filed.

3. All Defendants in this matter were in default and a Decree of Foreclosure was entered on April 21, 2021 (the “Decree”). Plaintiff seeks to amend the Decree to identify the proper owner of Property 1 as Universal Funding Group, LLC

WE SO MOVE.

ROE, CASSIDY, COATES & PRICE, P.A.

s/ James H. Cassidy
James H. Cassidy
South Carolina Bar No. 1160
P.O. Box 10529
Greenville, South Carolina 29603
(864) 349-2602
Attorney for Plaintiffs

Greenville, SC

January 31, 2022

EXHIBIT C

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS
FOR THE THIRTEEN JUDICIAL CIRCUIT

C.A. No.: 2020-CP-23-04007

Alfie Investors,

Plaintiff,

v.

Christopher Jones, Judith Oglesby,
International Palm Oil and Biodiesel, LLC

Defendants.

**DEFENDANT'S MOTION TO DISMISS
FORECLOSURE UPDATE ACTION**

FILED
22 FEB 23 PM 2:56
PAUL WICKENS/STAFF/CDC/CLL/SC

Defendants, Christopher Jones and International Palm Oil & Biodiesel, LLC (“Defendants”), hereby file this Motion to Dismiss Plaintiff’s Motion To Amend Foreclosure Decree pursuant to South Carolina Rules of Civil Procedure 60. Defendants request to have this matter dismissed for a lack of subject matter jurisdiction. On June 11, 2021 Plaintiffs filed a Motion to Vacate Judgment with Judge Gravely. On June 11, 2021 Judge Gravely granted the Motion and did issue an Order accordingly. Plaintiffs are now seeking to amend the very foreclosure decree that was predicated on the basis of the very judgment which was properly vacated at their request. Defendants hereby request this Honorable Court dismiss Plaintiff’s Motion in its entirety for lack of subject matter jurisdiction pursuant to Rule 12(b)(1), SCRCF. Plaintiff have failed to plead facts sufficient to support proper jurisdiction for the Court to entertain their Motion To Amend Foreclosure Decree. Defendant’s Memorandum of Law in support thereof is attached.

Respectfully Submitted this
22th day of February, 2022



Christopher Jones
213 Barker Rd
Simpsonville, SC 29601
Phone: (864) 526-2800
intljonesc@gmail.com

Plaintiff-Pro se

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS
FOR THE THIRTEEN JUDICIAL CIRCUIT

Alfie Investors,

Plaintiff,

v.

Christopher Jones, Judith Oglesby,
International Palm Oil and Biodiesel, LLC

Defendants.

C.A. No.: 2020-CP-23-04007

**DEFENDANT’S MEMORANDUM OF
LAW IN SUPPORT OF MOTION TO
DISMISS**

Defendants, Christopher Jones and International Palm Oil & Biodiesel, LLC (“Defendants”), pursuant to Rule 12(b)(1), SCRCF hereby file their Memorandum of Law in Support of their Motion to Dismiss Plaintiff’s Motion To Amend Foreclosure Decree which they filed pursuant to South Carolina Rules of Civil Procedure 60. On June 11, 2021 Plaintiffs filed their Motion to Vacate pursuant to Rule 60 SCRCF. Rule 60(b)(5) states in pertinent part: Relief From Judgment Or Order... (b)

(5) the judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application.

The motion to vacate represented a final Order in the case, although Plaintiffs did reserve their rights under the Note and Mortgage. However, when the Plaintiffs moved to vacate the judgment against certain Defendants, this operated as a discharge and any action to amend would require that a new action be filed to give the Court subject matter jurisdiction because Defendants here, objects to any exercise of jurisdiction by this Honorable Court to hear this matter.

The Master-in-Equity is considered a division of the Circuit Court and obtains jurisdiction through an order of reference from the Circuit Court. See S.C. Code Ann 14-11-15 (Supp. 2013) Rule 53(b), SCRCF.

Pursuant to Rule 53, SCRCF, a master has no power or authority except that which is given to him by the order of reference. *Smith v. Ocean Lakes Family Campground*, S.C., 433 S.E.2d 909 (Ct. App.1993). When a case is referred to a master under the rule, the master is given the power to conduct hearings in the same manner as the circuit court unless the order of reference specifies or limits the master's powers. *Smith Companies of Greenville, Inc. v. Hayes*, 311 S.C. 358, 428 S.E.2d 900 (Ct.App.1993). The order of reference in this case authorized the master to enter a final judgment. Any appeal from the final judgment was to be made directly to the Supreme Court. Once the notice of appeal was served, the Supreme Court had exclusive jurisdiction over the appeal, except the lower court retained jurisdiction to entertain petitions for supersedeas under Rule 225. See Rule 204, SCACR. The appellate court retained jurisdiction of the case until the remittitur was issued and the proceedings were returned to the circuit court. See Rule 221(b), SCACR. At that point, the circuit court re-acquired subject matter jurisdiction to enforce the judgment and take any action consistent with the appellate court's ruling. *Muller v. Myrtle Beach Golf and Yacht Club*, 313 S.C. 412, 438 S.E.2d 248 (1993).

The order of reference in this case did not specifically authorize the master to conduct hearings or enter orders after he entered final judgment. Cf. *Milgroom v. McDaniel*, 308 S.C. 5, 416 S.E.2d 626 (1992). Since the master had entered final judgment in this case, and therefore had no subject matter jurisdiction to hear the motion for assessment of costs, fees, expenses and damages against the appeal bond, his order entering judgment against Bunkum on the appeal bond is void. See *DeWitt v. S.C. Dept. of Highways & Public Transp.*, 274 S.C. 184, 262 S.E.2d 28 (1980)

(all proceedings of a court lacking subject matter jurisdiction are a nullity, and its judgment has no effect).

A court, lacking subject matter jurisdiction cannot enforce its own decrees. It would serve no useful purposes to determine issues submitted to the Court since the jurisdiction as to subject matter jurisdiction can be raised at any time, the Court would have no authority to carry out its previously ordered mandate. *Gainey v. Gainey*, 382 S.C. 414, 424 675 S.E.2d 792, 797 Ct. Appeal 2009). Subject matter jurisdiction refers to the “Court’s power to hear and determine cases of the general class to which the proceedings in question belong” *Dove v. Gold Kist, Inc.* 314 S.C. 235 442 S.E.2d 598 (1994). The jurisdiction of the Court is determined by the sovereign creating it, and thus the question of the specific court in which an action is to be brought is determined in the first instance by reference to local law. See also, *Hallums v. Bowens*, 318 S.C. 1,2, 428 S.E.2d 894, 895 (Ct. App. 1993); *Watson v. Watson*, 319 S.C.92, 93 460 S.e.2d 394, 395 (1995). At all times relevant, the facts were the same at the time Plaintiffs filed their original Summons & Complaint. International Palm Oil and Biodiesel LLC was and is the registered lawful owner of 217 barker Rd Simpsonville, SC 29680. See Attachment.

WHEREFORE, the Defendant, upon prayer and having provided this Honorable Court good and sufficient cause to grant his motion to dismiss this action for lack of subject matter jurisdiction pursuant Rule 12(b)(1), SCRCF. Because an Order of Reference was sent in the original matter prior to the judgment being vacated. A new order of reference indicating a new action should be required and a new judgment rendered. The Defendants are forever prejudiced if this matter is heard and decided by this Court.

Respectfully Submitted this
22th day of February, 2022



Christopher Jones for
Christopher Jones, Managing Partner
International Palm Oil and Biodiesel,
213 Barker Rd
Simpsonville, SC 29601
Phone: (864) 526-2800
intljonesc@gmail.com

Plaintiff-Pro se

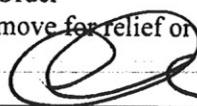
STATE OF SOUTH CAROLINA)
 COUNTY OF Greenville)
Alfie Investors,)
 Plaintiff,)
 vs.)
International Palm Oil & Rice)
 Defendant.)

IN THE COURT OF COMMON PLEAS
 JUDICIAL CIRCUIT

CASE NO.: 2020-CP-23-4007

MOTION AND ORDER INFORMATION
 FORM AND COVERSHEET

22 FEB 23 PM 2:56
 Paul Wickensmer, CSCS, SCLSC

| | |
|---|--|
| Plaintiff's Attorney: <u>Amber Glidwell</u> , Bar No. _____ Address: <u>1052 N. Church St Greenville SC</u> Phone: <u>864 349-0305</u> Fax _____ E-mail: _____ Other: _____ | Defendant's Attorney: <u>Pro Se</u> , Bar No. _____ Address: <u>Chris Jones</u> Phone: <u>252 26-2900</u> Fax _____ E-mail: _____ Other: _____ |
| <input type="checkbox"/> MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) <input checked="" type="checkbox"/> FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) <input type="checkbox"/> PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III) | |
| SECTION I: Hearing Information | |
| Nature of Motion: <u>Motion To Dismiss</u> Estimated Time Needed: _____ Court Reporter Needed: <input type="checkbox"/> YES / <input checked="" type="checkbox"/> NO | |
| SECTION II: Motion/Order Type | |
| <input checked="" type="checkbox"/> Written motion attached <input type="checkbox"/> 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 <input type="checkbox"/> Plaintiff / <input checked="" type="checkbox"/> Defendant | |
| <u>2-23-</u> , 20 <u>22</u> Date submitted | |
| SECTION III: Motion Fee | |
| <input type="checkbox"/> PAID - AMOUNT: \$ _____ <input type="checkbox"/> EXEMPT: (check reason) | |
| <input type="checkbox"/> Rule to Show Cause in Child or Spousal Support <input type="checkbox"/> Domestic Abuse or Abuse and Neglect <input type="checkbox"/> Indigent Status <input type="checkbox"/> State Agency v. Indigent Party <input type="checkbox"/> Sexually Violent Predator Act <input type="checkbox"/> Post-Conviction Relief <input type="checkbox"/> Motion for Stay in Bankruptcy <input type="checkbox"/> Motion for Publication <input type="checkbox"/> Motion for Execution (Rule 69, SCRPC) <input type="checkbox"/> 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: _____ <input type="checkbox"/> Other: _____ | |
| JUDGE'S SECTION | |
| <input type="checkbox"/> Motion Fee to be paid upon filing of the attached order. <input type="checkbox"/> Other: _____ | JUDGE CODE _____ Date: _____, 20____ |
| CLERK'S VERIFICATION | |
| Collected by: <u>William L Kluber</u> | Date Filed: <u>February 23</u> , 20 <u>22</u> |
| <input checked="" type="checkbox"/> MOTION FEE COLLECTED: \$ <u>25.00</u> <input type="checkbox"/> CONTESTED - AMOUNT DUE: \$ _____ | |

RECEIVED

Apr 22 2022

SC Court of Appeals

**IN THE SOUTH CAROLINA COURT
COURT OF APPEALS**

Alfie Investors, LLC,)
Respondent,)
)
v.)
International Palm Oil and Biodiesel, LLC.)
Judith Oglesby; Thomas Oglesby;)
James T. Donovan; Carter Lumber of the)
South, Inc.; Universal Funding Group, LLC;)
Christopher Jones; and International Palm,)
Defendants,)
Of Whom Christopher Jones is the Appellant.)

**APPELLANTS' REPLY TO
RESPONDENT'S RETURN,
PURSUANT TO RULE 240(f)
S.C.A.C.R.**

APPEAL NO. 2022-000322

CERTIFICATE OF SERVICE

I, Christopher Jones hereby certify that on April 20, 2022, that I served Respondents with the Appellant's Reply which was filed with the S.C. Court of Appeals Clerk of Court and will send notifications of such filing to the following:

ROE & CASSIDY, PA
Amber Glidewell, Esquire
James Cassidy, Esquire
1052 N. Church Street
Greenville, SC 29601
(864)349-2600

Under penalties of perjury, I hereby certify that on April 20, 2022 I emailed and caused the same documents to be filed with the Clerk of Court and the above-named Counsel for Respondents.

s/ Christopher Jones
Christopher Jones
Appellant