

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

)	
IN RE: RECEIVER FOR RONNIE GENE WILSON)	No. 8:12-cv-02078-JMC
AND ATLANTIC BULLION & COIN, INC.)	
<i>Defendant.</i>)	Related case (No. 8:15-cv-2373-JMC)

MOTION FOR NEW TRIAL OR, ALTERNATIVELY, MOTION TO ALTER OR AMEND ORDER

COMES NOW Interested Party Brigitte Owens and, pursuant to Fed. R. Civ. Pro. 59 and/or 60(b), would respectfully show the Court as follows:

1. On September 9, 2016, this Court entered an order closing this action. [Dkt. 205]. Bridgette Owens, an interested party in this action by virtue of her status as a defendant in *Ashmore v. Owens*, No. 8:15-cv-2373, nevertheless was not part of the service list for the Receiver’s pleadings or the Court’s order.

2. Because the Court’s order expressly noted that it was “retain[ing] jurisdiction” over the related proceedings and that the Court “will” later immunize Receiver for his conduct and because no separate judgment was entered under Fed. R. Civ. Pro. 58(a), the order does not appear to be a final appealable order. *See, e.g., Martinez v. City of Chicago*, 499 F.3d 721, 726 (7th Cir. 2007) (holding that order was final because “nothing remained” for the district court to do following its entry). It appears that the order was instead a mere administrative closure not designed to impact Ms. Owens’ rights at all. *See, e.g., Mire v. Full Spectrum Lending Inc.*, 389 F.3d 163, 167 (5th Cir. 2004) (“District courts frequently make use of [administrative closure] to remove from their pending cases suits which are temporarily active elsewhere (such as before an arbitration panel) or stayed (such as where a bankruptcy is pending).”); *Lehman v. Revolution Portfolio LLC*, 166 F.3d 389, 392 (1st Cir. 1999) (“Administrative closings comprise a familiar, albeit essentially ad hoc,

way in which courts remove cases from their active files without making any final adjudication. The method is used in various districts throughout the nation in order to shelve pending, but dormant, cases.” (citations omitted)). If so, Ms. Owens concedes that the appropriate disposition of the instant motion is to administratively close it pending final judgment in related case *Ashmore v. Owens*, No. 8:15-cv-2373-JMC.

3. Out of an abundance of caution given the atypical nature of this omnibus action and given the adverse consequences attendant to a missed appellate deadline, however, Ms. Owens has filed this motion under Fed. R. Civ. Pro. 59 and/or 60(b).¹ She requests that the Court’s closure order be clarified or amended to reflect that nothing in that order shall be read to preclude her, if later deemed appropriate, from collecting attorney’s fees and other costs recoverable to litigants via the Federal Rules of Civil Procedure and via any applicable federal statutes, specifically including the Equal Access to Justice Act, 28 U.S.C. § 2412 (authorizing an award of attorney’s fees to be paid by the United States in actions involving actions of “any official of the United States acting in his or her official capacity”).²

Dated this 17th day of October, 2016.

Respectfully submitted,

BRIGITTE OWENS

s/Howard W. Anderson III
Howard W. Anderson III
D.S.C. Bar #11456

¹ The motion is timely to suspend the appeal clock for a final judgment. *See* Fed. R. App. Pro. 4. A “[h]oliday” for the purposes of computing deadlines in the Federal Rules of Civil Procedure includes “any...day declared a holiday by the state where the district court is located.” Fed. R. Civ. Pro. 6(a)(6)(C). Due to the damage associated with Hurricane Matthew, South Carolina declared a state-wide legal holiday for the entire period of October 5-14, 2006. S.C. Sup. Ct. Order 2016-10-10-01, available online at <http://www.sccourts.org/whatsnew/displayWhatsNew.cfm?indexId=2154>.

² As a Court-appointed receiver, Mr. Ashmore is an “official” of the United States.

Law Office of Howard W. Anderson III, LLC
PO Box 661
176 E Main St.
Pendleton, SC 29670
864-643-5790 (P)
864-332-9798 (F)
howard@hwalawfirm.com

CERTIFICATE OF SERVICE

I, Howard W. Anderson III, certify that I filed a copy of the foregoing paper using the Court's CM/ECF system, which will deliver a copy to all registered participants. All parties in this case are registered to receive service via CM/ECF except for the following (if any), whom I have served this day by U.S. Mail, proper postage pre-paid:

N/A

s/Howard W. Anderson III
Howard W. Anderson III
D.S.C. Bar #11456