



# The South Carolina Court of Appeals

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November 23, 2022

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Re: Shem Creek Development Group, LLC v. The Town of Mount Pleasant  
Appellate Case No. 2021-000501

Dear Counsel:

Enclosed is the decision of the Court. The remittitur will be sent as provided by Rule 221(b) of the South Carolina Appellate Court Rules.

Very truly yours,

A handwritten signature in blue ink that reads "Jenny A. Kiteley". The signature is written in a cursive style with a large initial 'J' and a prominent flourish at the end.

CLERK

cc: The Honorable Maite Murphy

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE  
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING  
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA  
In The Court of Appeals**

Shem Creek Development Group, LLC, Respondent,

v.

The Town of Mount Pleasant, Appellant.

Appellate Case No. 2021-000501

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Appeal From Charleston County  
Maite Murphy, Circuit Court Judge

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Unpublished Opinion No. 2022-UP-421  
Submitted November 17, 2022 – Filed November 23, 2022

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**APPEAL DISMISSED**

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Andrew F. Lindemann, of Lindemann & Davis, P.A., of  
Columbia; Claudius O. Tackett, II, of Sheffer &  
Monhollen, PLLC, of Louisville, Kentucky; and David  
Guy Pagliarini, of Pagliarini Law Firm, LLC, of Daniel  
Island, all for Appellant.

E. Brandon Gaskins, of Moore & Van Allen, PLLC, of  
Charleston, for Respondent.

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**PER CURIAM:** The Town of Mount Pleasant (the Town) appeals an order of the  
circuit court deferring its ruling on the Town's motion to alter or amend its order

awarding Shem Creek Development Group (Shem Creek) attorney's fees and costs in a breach of contract action Shem Creek brought against the Town. On appeal, the Town argues the circuit court erred (1) in finding it had jurisdiction to rule on Shem Creek's request for attorney's fees when an appeal was pending in this court, and (2) in *sua sponte* deferring its ruling on the Town's Rule 59(e), SCRCP, motion to alter or amend the award of attorney's fees without also vacating the attorney's fee judgment when that judgment was enrolled and accruing post-judgment interest. We dismiss the appeal because the circuit court's order is interlocutory and not immediately appealable. *See Ex parte Wilson*, 367 S.C. 7, 12, 625 S.E.2d 205, 208 (2005) ("Any judgment or decree, leaving some further act to be done by the court before the rights of the parties are determined, is interlocutory and not final."); *id.* at 13, 625 S.E.2d at 208 ("[T]he immediate appealability of an interlocutory or intermediate order depends on whether the order falls within [South Carolina Code section] 14-3-330."); S.C. Code Ann. § 14-3-330(1)-(2) (2017) (stating a party may appeal an intermediate or interlocutory order only if it "involve[s] the merits", "determine[s] the action and prevent[s] a judgment from which an appeal may be taken", or "discontinue[s] the action"); *Ashenfelder v. City of Georgetown*, 389 S.C. 568, 571, 698 S.E.2d 856, 858 (Ct. App. 2010) ("Even if not raised by the parties, this court may address the issue of appealability *ex mero motu*.").

**APPEAL DISMISSED.<sup>1</sup>**

**KONDUROS, HEWITT, and VINSON, JJ., concur.**

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<sup>1</sup> We decide this case without oral argument pursuant to Rule 215, SCACR.