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Dec 22 2022
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Jennifer B. McCoy, Circuit Judge

Appellate Case No. 2022-000958

Southern First Bank, N.A. d/b/a Greenville First Bank,..... Respondent,

v.

Kenneth J. Vilcheck, Renee M. Vilcheck, Portfolio Recovery Associates, LLC, United States of America, acting through its agency, Department of Treasury – Internal Revenue Service, Longbridge Financial, LLC, Federal Housing Commissioner, The South Carolina Department of Revenue, Belfair Property Owners’ Association, Inc., and the Greenery, Inc. a South Carolina Corporation, Defendants,

Of Whom Kenneth J. Vilcheck and Renee M. Vilcheck are theAppellants.

RESPONDENT’S RESPONSE TO APPELLANTS’
MOTION TO CONSOLIDATE APPEAL WITH APPEAL NO. 2022-001678

On December 20, 2022, in Appellate Case No. 2022-000958, Appellants submitted their Motion to Consolidate Appeal with Appeal No. 2022-001687 and Proof of Service on the counsel of record for the Respondent, Paul Simmons, Jr., Esq. and Aaron J. Angell Esq. Respondent requests the Court deny this motion.

The grounds for this request are as follows:

1. Appellants have not filed an Initial Brief in either Appeal, instead continuing to

stall by requesting multiple motions for extension, preventing an actual determination of whether Appellants' claims are baseless or if there are common questions involved in the appeals.

2. Appellants move for not just consolidation, but also to have the deadlines in Appeal No. 2022-001678 held in abeyance – further delaying a filing of an initial brief and opportunity for Respondent to hear the Appellants' arguments and reply.
3. Appellants' Motion in Appeal No. 2022-000958 impacts the Respondent in Appeal No. 2022-001678, but the Appellant has chosen to not serve or notify the Respondent's counsel of record in Appeal No. 2022-001678, instead attempting to use the court to bypass the Respondent, removing opportunities for Respondent to hear and reply and further delaying and stalling proceedings.
4. Appellants argue that Appeal No. 2022-001678, while brought later than Appeal No. 2022-000958, has the potential to impact Appeal No. 2022-000958 to the point of making issues in it moot, but Appellants have not explained how that could be, or shown why they chose to not fully address such relevant issues in their initial appeal and instead waited to address them in the later appeal.
5. Appellants argue that court decisions in Appeal No. 2022-001678 could impact Appeal No. 2022-000958 and that, absent consolidation, the court and parties' time could be spent for nothing, ignoring the fact that this is the situation the Appellants created by making multiple appeals and in such an order and manner as to be cumbersome and rationally disjointed for the sole purpose of delaying justice.
6. The Appellants are only now bringing up the issues in Appeal No. 2022-001678, despite having had the opportunity to do so since March of 2013, instead sleeping

on their rights for nine years.

7. While Appellants claim it is in the interest of judicial economy that these appeals be consolidated, they do not provide sufficient basis to consolidate or any evidence that there are worthwhile economies to be gained, blatantly ignoring the fact that the most judicially economic path is to let the Master in Equity fully adjudicate this matter, not clogging the Appellate Court with multiple appeals solely meant to delay and hinder justice.
8. The undersigned has served this document on opposing counsel by email to registered AIS email address on the date given below.

WHEREFORE Respondent prays the court deny Appellants' motion to consolidate Appeal No. 2022-001678 with Appeal No. 2022-000958 and deny Appellants' motion to hold the deadlines in Appeal No. 2022-001678 in abeyance until this motion is decided.

Respectfully submitted,

/s/ Luke R. Hoopes
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Of Whom Kenneth J. Vilcheck and Renee M. Vilcheck are theAppellants.

PROOF OF SERVICE

I certify that I have served the foregoing response to Appellants’ motion to consolidate and notice of appearance on the date given below by emailing it to counsel for the Appellants and all other counsel of record in the underlying action at the addresses noted below.

Andrew S. Radeker, Esq., at drew@harrisonfirm.com
Sarah M. Kovalcheck, Esq., at sarah@harrisonfirm.com

December 22, 2022

Respectfully submitted,

/s/ Luke R. Hoopes
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