

# The South Carolina Court of Appeals

TriStar Investors, Inc., Minerva Realty, LLC, and  
Angeline Johnson, Appellants,

v.

The Horry County Council and American Towers, LLC,  
Respondents.

Appellate Case No. 2013-001178

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## ORDER

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The petition for supersedeas is denied.

There are three petitioners—TriStar, its real estate subsidiary, and the landowner. There are two respondents to the petition—American Towers and Horry County Council.

As to TriStar and its subsidiary's efforts to enjoin American Towers, the Rules of Appellate Procedure were never intended to allow a corporation that fails to outmaneuver its competitor in the marketplace to then invoke the power of the court to regain its lost competitive advantage. The key fact we rely on in denying this supersedeas request is that TriStar and American Towers are competitors. In addition, while we do not intend to address the merits of the appeal, we find ourselves required to observe that there is no contractual relationship between them and they owe each other no legal duties. The cell phone tower in dispute belongs to American Towers. Thus, TriStar seeks to control through the power of the court the ability of its competitor to dispose of the competitor's own property. If American Towers wants to disassemble its own cell phone tower, and the objection to its doing so is voiced by a competitor with the stated intent that the competitor may eventually gain the use of a tower without having to pay to construct it, this court has no business, and no power, to interfere.

As to the landowner, we find no basis in this petition or in any of its attachments to support a conclusion that she cannot be fully compensated with money damages if her theory of American Towers' breach of the lease is valid.

To the extent the petition for supersedeas seeks to enjoin Horry County Council as to the manner in which it permits the location of cell phone towers, we find no basis to grant the petition.

 C.J.  
FOR THE COURT

Columbia, South Carolina

cc:

Susan Pardue MacDonald  
James Christopher Clark  
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**FILED**  
LG 6/13/13