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SC Court of Appeals

NOTICE TO APPEAL MOTION TO DISMISS VERDICT IN CASE NO. 2023-CP-00410-22

The Court rejected my testimony and evidence that Live Oak Excavation Company has been in operation from the time of my complaint to the present time. The Court states that the operation of this company in Wedgefield's restricted area consisted of "a series of events", to which the Court interprets as "a continual breach theory" which "South Carolina does not recognize". The Court included all of the rest of my documented violations of ten other of by-laws, policies, covenants, and State Laws in this continuous breach theory, which also bars them from consideration. This decision leaves me in the same position as before: Living in a commercial area, and forbidden to have any contact with the Board, just their attorney, Judge Crosby, who has refused to reply.

The Court made no comment and took no action on my objections to three fraudulent statements in their motion. 1. Defendants changed the name of my suit, adding Johnathan Rutstein as a defendant separate from the board. 2. The defendants stated "...the Plaintiff contacted the association on numerous occasions, including "dozens of letters" raising concerns that his neighbor had been operating Live Oak [Excavation] Company from his home on Live Oak Lane." I told the Judge that this was a fabricated quote and I had never complained to the Association about my neighbor. The Judge made no comment nor did he ask defendants to show the letters they referenced. 3. Defendants changed the third cause of action from failure to enforce Sections 830 and 834, to "lack of good faith" which they interpret as a "breach of the implied contract of good faith." Good Faith is a State Law, not an implied contract. The Judge accepted this theory and defendants were able to avoid answering the documented 830 violations. Even the HOA's insurer warned the board in a letter dated April 7, 2021, "Your policy additionally includes several exclusions which could apply to limit or exclude coverage in whole or in part, including the following: A. Knowing violation of rights of another B. Material published with knowledge of falsity C. Contractual liability D. Breach of contract"

Defendants claimed "...the Association has responded to his complaints with its interpretation of the covenants. Simply put, the Association is merely not enforcing the covenants with the Plaintiff's liking..." Other than the letter on June 12, 2019, there is no evidence of these responses. The Board's explanation to the violations was, "We see no violations here." The Court rules that I was unreasonable to not agree with their interpretation, and to expect a reply to my rebuttal letter.

The Defendants stated, "...the Association's actions are protected by the business judgment rule." When I asked Judge Hyman if they could use the business judgment rule as a get out of jail free card, he did not answer. So, I said, this is what the Supreme Court said in Fisher v Shipyard Village. He refused to allow me to enter it into the trial record. It says "The business judgment rule should only apply when the board acts within its authority, without corrupt motives, and in good faith."

Concluding the hearing, Judge Hyman advised me that I had sued the wrong party. I should have sued the resident that violated the covenants. One of the many directives that place the responsibility of enforcement of the HOA's rules on the Board, is Policy Manual V, Code of Ethics: "Directors will act with scrupulous good faith and candor. They will avoid even the perception of conflicts of interests, favoritism, and acting in self interests. Directors will uphold and safeguard the by-laws, conditions, restrictions, and policies regarding Wedgefield Plantation." Another directive is Policy Manual Section I, 2.01: "The WPA board is responsible for assuring adherence to the covenants in order to protect and enhance the quality of life and the value of the homes of Wedgefield residents." This is why we pay dues in order to live in a residential area.

My thirty page packet of evidence contained over fifty violations of fourteen of Wedgefield's by-laws, policies and covenants, as well as State laws. The majority of these violations have no connection to my complaint about the HOA's allowing a construction company to operate in our residential area. The Court denies my claims because I allowed too much time for the HOA to make corrections, overlapped my causes of action, and unreasonably refused to accept "We see no violations here", as an answer to all fifty violations. Defendants, however, can prevail even after entering false statements, and denying any responsibility for being accountable for Section 830, by calling it an implied covenant of good faith, which is not recognized in South Carolina. Judge Hyman sided with fellow fifteenth circuit Judge Crosby on all of his infractions, including discrimination by eliminating my rights as a member because I am not a member of a protected class.

For these reasons, and others, I wish to notify you of my intention to appeal so that this evidence can be judged outside of the fifteenth circuit.

Sincerely,

William Steiner

8/14/23

This is to verify that I sent notice to appeal (attached) to defendants (Wall Templeton & Haldrup, P. A.) by certified mail, on August 11, 2023.

William Steiner  
180 Live Oak Lane  
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SC Court of Appeals

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