

The South Carolina Court of Appeals

Willie J. Bennett, Appellant,

v.

Sasha N. Gray, Claire H. Eckert, and Chick-Fil-A, Inc.,
Respondents.

Appellate Case No. 2023-001295

ORDER

On August 15, 2023, Appellant filed a notice of appeal of an August 11, 2023 circuit court order granting Respondents' motion to substitute 2CE, LLC as the real party in interest, in place of Chick-fil-A, Inc. and Claire Eckert, and amending the pleadings accordingly. Such an order, though interlocutory, is immediately appealable. *See Neeltec Enterprises, Inc. v. Long*, 397 S.C. 563, 567, 725 S.E.2d 926, 928-29 (2012) (holding an "order of substitution is appealable under § 14-3-330(2)(a), and that the failure to take such an immediate appeal would bar consideration of the order in an appeal from final judgment").

First, the general rule is that "service of a notice of appeal in a civil matter acts to automatically stay matters decided in the order . . . on appeal," and such a stay continues throughout the pendency of the appeal unless lifted by order of the circuit court or appellate court. *See* Rule 241(a), SCACR. None of the exceptions listed in Rule 241(b), SCACR, apply to the order on appeal in this case. Accordingly, the order on appeal, substituting the parties and amending the pleadings, is automatically stayed by Appellant's filing of the notice of appeal on August 11, 2023.

Additionally, though Rule 241(a), SCACR, provides that the circuit court "retains jurisdiction over matters not affected by the appeal including the authority to enforce any matters not stayed by the appeal," the identity of the parties is central to the development of the proceedings below, including discovery. Therefore, a stay of any further proceedings during pendency of this appeal is necessary in this

case "to preserve jurisdiction of the appeal or to prevent a contested issue from becoming moot." *See* Rule 241(c)(2), SCACR. Accordingly, the motion is granted.


FOR THE COURT

Columbia, South Carolina

cc:
Willie J. Bennett
Christy Elizabeth Mahon, Esquire
Kyle Lee Brady, Esquire
Kelsey Jan Brudvig, Esquire

FILED
Sep 20 2023