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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Deadra L. Jefferson, Circuit Court Judge

Case No. 2023-000718

DARLEEN RASH, Individually and as Personal Representative for the ESTATE OF BRONSON HARLEY RASH,

Appellant/Respondent,

v.

DOMINION ENERGY (formerly SOUTH CAROLINA ELECTRIC & GAS COMPANY); ANTHONY M. AKBAR; and PAUL QUATTLEBAUM,

Respondents/Appellants.

MOTION FOR ORDER UNDER RULE 241 LIFTING AUTOMATIC STAY AS TO RESPONDENT/APPELLANT PAUL QUATTLEBAUM

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Attorney for Appellant/Respondent

Plaintiff and defendant Quattlebaum have settled their dispute. According, the Plaintiff/Appellant/Respondent, Darleen Rash, Individually and as Personal Representative for the Estate of Bronson Harley Rash ("Rash"), respectfully submits this motion for an Order lifting the Rule 241(a) automatic stay as to Defendant/Respondent/Appellant Paul Quattlebaum ("Quattlebaum") for the sole purpose of permitting the trial court to issue an order approving the settlement. Settlement moot the appeal as to Quattlebaum only, and the appeal would continue as to the remaining Respondents/Appellants.

Such an Order will serve the best interests of all involved. Rash will receive funds in a timely fashion; Quattlebaum will avoid the difficulty and expense of defending against Rash's appeal and pursuing his own cross-appeal; and this Court will be spared the intricacy of a four-way appeal.

FACTS

A trial lasting over two weeks was held from March 20, 2023 to April 4, 2023. On May 1, 2023, Rash filed a Notice of Appeal as to several aspects of the case. Quattlebaum filed notice of his cross-appeal on May 8, 2023.

After filing their notices of appeal, Rash and Quattlebaum reached a settlement. Had this not been a wrongful death case, that would have been the end of it – Quattlebaum and Rash would have exchanged a check for a release and gone on their way. However, South Carolina law requires a wrongful-death settlement approval hearing. Accordingly, on August 8, 2023, Rash petitioned the trial court to approve the settlement, and a settlement hearing was held on September 26, 2023.

Unfortunately, after the settlement hearing – but before signing the order approving settlement – the trial court came to believe that it lacked jurisdiction to sign the order due to the pending appeals. Hence this motion.

LEGAL ANALYSIS

"After service of notice of appeal, any party may move for an order lifting the automatic stay." Rule 240(c)(1), SCACR.[1] Such an order should be issued here for the reasons stated above – Rash will receive funds in a timely fashion; Quattlebaum will avoid the difficulty and expense of defending against Rash's appeal and pursuing his own cross-appeal; and this Court will be spared the intricacy of a four-way appeal. *See* 6 S.C. Jur. Compromise and Settlement § 2 ("Courts favor settlements because they avoid costly litigation and delay to an injured party."); *see also Kinghorn as Tr. for the Mildred Ann Kinghorn Tr. dated 28 Apr. 2004 v. Sakakini*, 426 S.C. 147, 152, 825 S.E.2d 748, 750 (Ct. App. 2019) ("It has long been the policy of the court to encourage settlement in lieu of litigation . . . ."). Moreover, such an order lifting the stay for the narrow purpose of approving the settlement will have no adverse on any other party. Instead, every other party will be left in exactly the same position in which they currently are.

CONCLUSION

Both Rash and Quattlebaum, as well as this Court, will benefit from the parties' settlement. No one will be harmed. Therefore, to the extent that an automatic stay applies to settlement approval, Rash respectfully moves this Court to issue an order under Rule 241(c)(1), lifting the stay solely as to Quattlebaum and specifically authorizing the trial court to execute the order approving settlement, as is customary and proper.

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[1] A formal application to the Trial Court for an order lifting the automatic stay would be fruitless, as such a request was implicit in the petition for approval, and the trial court has already stated its belief that it is without jurisdiction to approve the settlement absent an order from this Court. *Boykin v. Hermitage Cotton Mills*, 180 S.C. 364, 185 S.E. 863 (1936) ("The law does not require a party to do a useless thing or to make a futile demand.").

Respectfully submitted,

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