

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

Nov 08 2023

APPEAL FROM GREENVILLE COUNTY
Court Of Common Pleas

SC Court of Appeals

The Honorable Robin B. Stilwell, Judicial Circuit Court Judge
Trial Court Case No.: 2017-CP-23-00311

Appellate Case No. 2019-001506

Ex Parte: Trustgard Insurance CompanyAppellant-Respondent,

In Re:

Terence Graham,..... Plaintiff,

v.

Full Logistics, Inc.,Defendant,

Of Whom Terence Graham is theRespondent-Appellant.

CONSENT MOTION TO STAY APPEAL PENDING MEDIATION

Shelley S. Montague (S.C. Bar. No. 68019)
Jessica Waller Laffitte (S. C. Bar No. 100256)
Gallivan, White & Boyd, P.A.
1201 Main Street, Suite 1200
Columbia, South Carolina 29201
(803) 779-1833
smontague@gwblawfirm.com
jlaffitte@gwblawfirm.com

*Attorneys for Appellant-Respondent
Trustgard Insurance Company*

Appellant-Respondent Trustgard Insurance Company (“Trustgard”), with the consent of Respondent-Appellant Terrence Graham, respectfully moves pursuant to Rule 240 of the South Carolina Appellate Court Rules for an order from this Honorable Court staying all proceedings in this matter until after December 22, 2023. The reason for the request is that the Parties involved in this matter have scheduled a mediation and are hopeful to avoid the need for the Court’s further involvement, thereby conserving judicial resources and promoting efficiency. In support of this motion, Appellant-Respondent shows as follows:

1. This case arises from a lawsuit that was filed in the Court of Common Pleas for Greenville, South Carolina captioned, Terrence Graham v. Johnnie William Foster, Full Logistics, Inc., Case No. 2017-CP-23-00311 (“Graham Lawsuit”). Trustgard filed a Motion to Intervene in the Graham Lawsuit for the purpose of posing its Motion to Set Aside a Default Judgment that had been entered against Defendant Full Logistics, Inc. (“Full Logistics”), Trustgard’s insured. Trustgard also filed a Motion to Stay a Formal Ruling requesting the ability to conduct discovery into the circumstances of service of process.

2. Following briefing and hearings, the Circuit Court entered an order granting Trustgard’s Motion for Permissive Intervention and denying Trustgard’s Motion to Set Aside Default Judgment and Trustgard’s Motion to Stay on August 09, 2019.

3. Trustgard filed its Notice of Appeal on September 06, 2019. Graham served his cross-appeal on September 10, 2019. Following briefing and oral arguments, this Honorable Court entered its Opinion No. 6027 on September 13, 2023, affirming the circuit court’s rulings.

4. On September 28, 2023, Respondent-Appellant Graham filed a timely Petition for Rehearing of the Court’s decision.

5. On October 13, 2023, Appellant-Respondent Trustgard filed a timely Petition for Rehearing and Suggestion for Rehearing *En Banc* of the Court's decision.

6. The Parties have scheduled a mediation for December 18, 2023.

7. An order granting a stay until December 22, 2023, will permit the Parties to conserve resources in the hopes of avoiding the need for this Court's further involvement.


8. Counsel for Appellant-Respondent Trustgard has consulted with counsel for Respondent-Appellant Graham regarding the relief requested in this motion, and Respondent-Appellant consents to this relief.

9. Pursuant to Supreme Court Orders 2021-08-25-01 and 2021-08-25-02, Appellant-Respondent Trustgard files and serves this motion via email using the email addresses listed in the Attorney Information System, and it will separately send motion the \$50 filing fee by U.S. Mail.

WHEREFORE, Appellant-Respondent Trustgard respectfully requests this Court stay all proceedings in this case until after December 22, 2023, to allow the Parties to attempt to resolve this matter through mediation to conserve judicial resources and promote efficiency. Appellant-Respondent Trustgard will notify the Court on or before December 22, 2023, as to the results of mediation and the Parties' intentions regarding this appeal. This stay would be without prejudice to either party's rights in this appeal.

Respectfully submitted,

GALLIVAN, WHITE & BOYD, P.A.

By: 
Shelley S. Montague (S.C. Bar. No. 68019)
Jessica Waller Laffitte (S. C. Bar No. 100256)
Gallivan, White & Boyd, P.A.

1201 Main Street, Suite 1200
Columbia, South Carolina 29201
(803) 779-1833

smontague@gwblawfirm.com

jlaffitte@gwblawfirm.com

*Attorneys for Appellant-Respondent
Trustgard Insurance Company*

Columbia, South Carolina
November 8, 2023