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Nov 14 2023

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

G. D. Morgan, Jr., Circuit Court Judge

Case No. 2022-CP-23-04451
Appellate Case No. 2023-001740
Appellate Case No. 2023-001129

Danny Rose,

Respondent,

v.

Robert Rose, Gloria Rose-Ruch,
Mary Margaret Doll Rose, and John
Does 1-99, Defendants,

Of Whom Robert Rose, Gloria Rose-Ruch,
and Mary Margaret Doll Rose are the

Appellants.

RESPONDENT'S RESPONSE OPPOSING
MOTION TO JOIN APPEALS

Respondent Danny Rose, by and through his undersigned counsel, opposes Appellants' motion to join appellate cases 2023-001129 and 2023-001740. The basis for the opposition is set forth hereinbelow.

By way of background, the underlying action arises out of the Appellants' theft of \$225,000.00 from the Respondent, who is their father/former father-in-law. The first appeal (Case No. 2023-001129) sought review of the trial court's order granting Respondent's

motion for judgment on the pleadings in the amount of \$247,496.75 and granting attorney's fees of \$2,337.75. That appeal was dismissed on October 19, 2023 due to Appellants' failure to comply with Rules 207 and 208, SCACR. Appellants subsequently filed a motion to reinstate that appeal, which has not been ruled upon as of the date of this response.

The second appeal (Case No. 2023-001740) arises out of the circuit court's refusal to allow Appellants to conduct discovery on the remaining causes of action. The circuit court determined the discovery sought was intrinsically intertwined with the matters on appeal and therefore it would be improper and potentially duplicative to allow discovery to proceed while the first appeal is pending. Respondent has moved to dismiss the second appeal on the grounds that the circuit court's order is not immediately appealable.

These appeals should not be joined for several reasons. First, unless and until the first appeal is reinstated, there are not two appeals to join. In addition, and as detailed in Respondent's motion to dismiss, the second appeal is not properly before the Court of Appeals. Therefore, again, there are not two appeals to be joined. Third, the second appeal will be moot upon resolution of the first appeal. If the first appeal is reversed, on remand the parties will conduct the discovery desired by Appellants. If the first appeal is affirmed, Respondent will execute on his judgment, which renders the remaining causes of action superfluous. Therefore, the second appeal outcome is entirely determined by the first appeal's outcome.

Accordingly, for the reasons set forth hereinabove, Appellants' motion to join should be denied.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

The undersigned certifies that on November 14, 2023, he caused to be served the foregoing Response Opposing Appellants' Motion upon all counsel of record, via electronic means, to counsel's email address on file with the South Carolina Attorney Information System.

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