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Jan 09 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM DORCHESTER COUNTY
Court of Common Pleas

The Honorable Maite Murphy
Circuit Court Judge

2021-CP-18-02173

SHANNON SHAW.....Respondent,

v.

AMAZON.COM, INC.; AMAZON.COM, LLC;
AMAZON.COM SERVICES, INC.; AMAZON
LOGISTICS, INC.; MJV LOGISTICS, LLC; AND
KEVIN ANTHONY BLEKICKI.....Defendants,

Of whom AMAZON.COM, INC.; AMAZON.COM, LLC;
AMAZON.COM SERVICES, INC.; and AMAZON
LOGISTICS, INC. are.....Appellants.

RETURN TO MOTION FOR LIMITED REMAND

Pursuant to Rule 240(e), SCACR, Respondent respectfully responds to Appellants' motion to remand this matter to the trial court. Respondent consents to the request for remand, because this appeal is premature and improper. Appellants timely filed a motion to alter or amend the judgment as to the award of punitive damages pursuant to Rule 59(e), SCRCP, upon which the trial court has not yet ruled. See Rule 203(b)(1), SCACR (providing that the time to appeal is stayed pending a timely filed motion to alter or amend pursuant to Rule 59(e), SCRCP); see also Rule 59(f), SCRCP (providing for the same and specifying that the time to appeal does not run

until receipt of written notice of entry of the order granting or denying such a motion).¹ Yet, Appellants' premature appeal has deprived the trial court of jurisdiction. See Rule 205, SCACR (providing that "[u]pon the service of the notice of appeal, the appellate court shall have exclusive jurisdiction over the appeal").

Respondent agrees with Appellants that jurisdiction should be returned to the trial court for final resolution and entry of final judgment before any appeal proceeds. Respondent therefore requests that the Court, in its discretion, either dismiss the appeal without prejudice or hold the appeal in abeyance and remand the case to the trial court. See *Elam v. S.C. Dept. of Transp.*, 361 S.C. 9, 20, 602 S.E.2d 772, 778 n. 2 (2004) (observing "that a party may attempt to file both a Rule 59(e) motion and a notice of appeal" and "one or the other will be inappropriate") (citing *Hudson v. Hudson*, 290 S.C. 215, 216, 349 S.E.2d 341, 342 (1986) (holding when a timely post-trial motion is pending before the trial court, any premature appeal will be dismissed without prejudice)).

[signature follows]

¹ Respondent disputes the merits of that motion.

Respectfully submitted,

YARBOROUGH APPEGATE LLC

s/ David B. Yarborough, Jr.

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Attorneys for Respondent

Shannon Shaw

Charleston, South Carolina
January 9, 2023

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Of whom AMAZON.COM, INC.; AMAZON.COM, LLC;
AMAZON.COM SERVICES, INC.; and AMAZON
LOGISTICS, INC. are.....Appellants.

PROOF OF SERVICE

I hereby certify that I have served Respondent’s Return to Appellants’ Motion for Limited Remand upon all counsel in this action by email in accordance with Supreme Court Order 2022-05-06-04. A copy of the email is attached.

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Anthony Blekicki*

s/ Reynolds H. Blankenship, Jr.
Reynolds H. Blankenship, Jr.

Attorney for Respondent Shannon Shaw

January 9, 2024

Reynolds Blankenship

From: Reynolds Blankenship
Sent: Tuesday, January 9, 2024 12:35 PM
To: Eileen Hindman; William Applegate (YA); Alexandra Heaton; Douglas Jennings; David Yarborough; francis.ervin@rogerstownsends.com; jeremy.stephenson@wilsonelser.com; rebecca.rayner@wilsonelser.com; stephanie.mascella@wilsonelser.com; Mitch Brown; Matt Bogan; Morgan Spires
Cc: Sara Harrigan
Subject: RE: Shannon Shaw v. Amazon.Com, Inc.; et al. - Case No. 2021-CP-18-02173
Attachments: Return to Motion to Remand.pdf; Return to Motion to Remand - POS.pdf

Apologies for the second email. Attached for service is the corrected return with our bar numbers included.

Reynolds Blankenship
(843) 974-3798 direct
(843) 270-1665 cell

From: Reynolds Blankenship
Sent: Tuesday, January 9, 2024 12:17 PM
To: 'Eileen Hindman' <eileen.hindman@nelsonmullins.com>; William Applegate (YA) <william@yarboroughapplegate.com>; Alexandra Heaton <Alex@yarboroughapplegate.com>; Douglas Jennings <douglas@yarboroughapplegate.com>; David Yarborough <david@yarboroughapplegate.com>; francis.ervin@rogerstownsends.com; jeremy.stephenson@wilsonelser.com; rebecca.rayner@wilsonelser.com; stephanie.mascella@wilsonelser.com; Mitch Brown <mitch.brown@nelsonmullins.com>; Matt Bogan <Matt.Bogan@nelsonmullins.com>; Morgan Spires <morgan.spires@nelsonmullins.com>
Cc: Sara Harrigan <sara@yarboroughapplegate.com>
Subject: RE: Shannon Shaw v. Amazon.Com, Inc.; et al. - Case No. 2021-CP-18-02173

Good afternoon. Please see attached respondent's return to appellants' motion along with proof of service. (I do not see where an appellate case number has been assigned yet, so we have not included one.)

Reynolds

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**YARBOROUGH
APPLGATE**
ATTORNEYS AT LAW

From: Eileen Hindman <eileen.hindman@nelsonmullins.com>
Sent: Monday, January 8, 2024 5:43 PM
To: William Applegate (YA) <william@yarboroughapplegate.com>; Reynolds Blankenship <reynolds@yarboroughapplegate.com>; Alexandra Heaton <Alex@yarboroughapplegate.com>; Douglas Jennings <Douglas@yarboroughapplegate.com>; David Yarborough <david@yarboroughapplegate.com>; francis.ervin@rogerstownsend.com; jeremy.stephenson@wilsonelser.com; rebecca.rayner@wilsonelser.com; stephanie.mascella@wilsonelser.com; Mitch Brown <mitch.brown@nelsonmullins.com>; Matt Bogan <Matt.Bogan@nelsonmullins.com>; Morgan Spires <morgan.spires@nelsonmullins.com>
Subject: Shannon Shaw v. Amazon.Com, Inc.; et al. - Case No. 2021-CP-18-02173

Good afternoon.

Attached for service upon you in the above matter is a Motion for Limited Remand and Proof of Service.

Thank you.



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