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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM AIKEN COUNTY
Court of Common Pleas
The Honorable J. Cordell Maddox, Jr. Circuit Court Judge

Appellate Case No. 2023-001479
Case No. 2021-CP-02-00889

Julianne Foster..... Respondent,

v.

Rhett Riviere, Katherine A. Thomas, Chase Enterprises, LLC of
South Carolina, and Airbnb, Inc.,..... Defendants,

of which

Airbnb, Inc., is the..... Appellant.

and

Rhett Riviere is a..... Respondent.

**Appellant Airbnb, Inc.’s Return to
Respondent-Plaintiff Julianne Foster’s Motion for Certification**

Respondent-Plaintiff Julianne Foster (“Respondent-Plaintiff”) asks this Court to exercise its discretion to request that the Supreme Court transfer this appeal. Respondent-Plaintiff fails to articulate a valid basis for this Court to make such a request. She identifies no significant public interest or legal principle of major importance warranting transfer under Rule 204(b), SCACR.

Further, Respondent-Plaintiff simultaneously argues that this appeal is so important to warrant deviating from the standard appellate process, but also that this appeal is frivolous. At

the time Rule 204(b), SCACR was adopted in 1999, Black’s Law Dictionary defined frivolous as “[l]acking a legal basis or legal merit; not serious; not reasonably purposeful.” FRIVOLOUS, Black’s Law Dictionary (7th ed. 1999); *see also* FRIVOLOUS, Black’s Law Dictionary (11th ed. 2019) (“[l]acking in high purpose; trifling, trivial, and silly . . . Lacking a legal basis or legal merit; manifestly insufficient as a matter or law.”). Respondent-Plaintiff’s argument that this appeal is frivolous is in direct contradiction to her argument in the Motion for Certification that the appeal presents issues of significant public interest or legal principles of major importance such that this Court should request the South Carolina Supreme Court to transfer this appeal.

The parties have now fully briefed the issues on the merits in this appeal, and the issues are set forth in the briefing before this Court.¹ Respondent-Plaintiff has provided no valid basis for this Court to ask the South Carolina Supreme Court to remove this appeal from this Court’s docket and transfer the appeal. This Court should determine the questions set forth in this appeal in the first instance, as is normal procedure.

Conclusion

For the reasons set forth above, the Court should deny Plaintiff’s Motion for Certification Under Rule 204(b), SCACR.

[Signature on following page.]

¹ The separate appeal filed by Respondent Rhett Riviere pending before this Court is also fully briefed.

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May 2, 2024

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of which

Airbnb, Inc., is the.....Appellant.

and

Rhett Riviere is a.....Respondent.

Proof of Service

I, the undersigned of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Airbnb, Inc., do hereby certify that I have served all counsel in this action with a copy of the pleading(s) hereinbelow specified, pursuant to the Supreme Court Order dated April 24, 2024, and a copy of that electronic mail will be attached to this certificate.

Document(s): **Appellant Airbnb, Inc.’s Return to Respondent-Plaintiff
Julianne Foster’s Motion for Certification**

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May 2, 2024

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From: Eileen Hindman
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Subject: Julianne Foster v. Airbnb, Inc. - Appellate Case No. 2023-001479
Attachments: 2024.05.02 Return to Motion for Certification - Airbnb Appeal (No. 2023-001479) 4892-1920-0186 v.1.pdf; 2024.05.02 Proof of Service - Return to Motion for Certification.pdf

Good morning,

Attached for service upon you in the above matter is Appellant Airbnb, Inc.'s Return to Respondent-Plaintiff Julianne Foster's Motion for Certification and Proof of Service.

Thank you,



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