

The South Carolina Court of Appeals

South Carolina Department of Transportation, Appellant,

v.

Briargate Condominium Association, Inc. (HOA) and
Mohammed Arabi, as class representative for
himself and all unit owners, to pursue just compensation
for all unit owners, Respondents,

and

Magna Capital, Mortgagee, The National Bank of South
Carolina, Mortgagee, South Carolina Department of
Revenue, Tax Liens, Arrow Financial Services, LLC,
Judgment, Portfolio Recovery Associates, LLC,
Judgment, The National Bank of South Carolina,
Mortgagee, State Employees Credit Union, Mortgagee,
NBSC a division of Synovus Bank, Mortgagee, Carolina
First Bank, Mortgagee, Richland County, Judgment,
Bank of America, N.A. c/o Cooling & Winter, LLC,
Judgment, Department of Treasury-Internal Revenue
Service, Judgment, HSBC Mortgage Corporation,
Mortgagee, First Community Bank-Gilbert, Mortgagee,
America's Wholesale Lender, Mortgagee, William R.
Hollingsworth, Jr. and Myong Hollingsworth,
Mortgagee, First Palmetto Savings Bank, Mortgagee,
MERS as nominee for ERA Mortgage, Mortgagee, The
Resolution Trust Corporation as Receiver for
Metropolitan Federal Savings and Loan Association,
Mortgagee, Wachovia Bank National Association,
Mortgagee, The Resolution Trust Corporation as
Receiver for Metropolitan Federal Savings and Loan
Association, Mortgagee, Brittany Frances Minogue,
Mortgagee, Mutual Savings Bank, F.A., Mortgagee,
Richland County Tax Assessor, Delinquent Taxes, Bank
of America, N.A., Mortgagee, UCC Financing, Miriam
Properties Group, LLC, Turnberry Associates, Inc.,

Mathes Auto Sales, Inc., BB&T of South Carolina, Navy
Federal Credit Union, Briargate Condominium
Association, Inc., Foreclosure Action, Other
Condemnee(s).

Appellate Case No. 2024-000582

ORDER

On April 11, 2024, Appellant filed a notice of appeal from orders of the circuit court granting a motion to certify a class and approving class notice. Upon receipt of the notice of appeal, this court requested a memorandum from Appellant addressing whether the orders are immediately appealable. On April 19, 2024, Respondents moved to dismiss the appeal as interlocutory. On May 6, 2024, Appellant submitted a memorandum, arguing the orders were immediately appealable because they affected a substantial right and granted or refused a new trial. *See* S.C. Code Ann. § 14-3-330(2)(b) (2017). Specifically, Appellant argued the granting of a class in this case was averse to the mode of trial provided by The Eminent Domain Procedure Act.

After careful consideration of the filings, we dismiss the appeal as interlocutory. We conclude the orders do not affect the mode of trial. *See Salmonsens v. CGD, Inc.*, 377 S.C. 442, 448, 661 S.E.2d 81, 85 (2008) (“The general rule established by [the supreme c]ourt is that class certification orders are not immediately appealable.”); *Flagstar Corp. v. Royal Surplus Lines*, 341 S.C. 68, 72, 533 S.E.2d 331, 333 (2000) (explaining the “traditional analysis of claims of denial of a mode of trial . . . proceeds by determining whether or not a party is erroneously denied a trial by jury in a law case”); *Cobb v. S.C. Dep’t of Transp.*, 365 S.C. 360, 364-365, 618 S.E.2d 299, 301 (2005) (explaining that inverse condemnation actions and eminent domain actions “are treated equally under our constitution,” and therefore, “there is no constitutional right to a jury trial in an inverse condemnation case just as no such right exists in an eminent domain case”); *id.* at 365, 618 S.E.2d at 301 (holding that because property owners and condemners have a statutory right to a jury trial on the issue of compensation in eminent domain cases, then property owners and condemners have a statutory right to a jury trial on the issue of compensation in inverse condemnation cases).

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FOR THE COURT

Columbia, South Carolina

FILED
May 14 2024

cc:

David Guy Pagliarini, Esquire
Thomas H. Pope, III, Esquire
Walter Henry Bundy, Jr., Esquire
Michael Brent McDonald, Esquire