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May 28 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

The Honorable J. Derham Cole, Circuit Court Judge
Case No.: 2021-CP-23-04416

Appellate Case No. 2023-000081

Christian Wienands, Gregory Muxlow and Charlotte Muxlow,

Appellants,

v.

South Wind Ranch, Ronald Hakala, and Ashley Black,

Respondents.

RESPONDENT'S RESPONSE TO PETITION FOR REHEARING

Respondents South Wind Ranch, Ronald Hakala, and Ashley Black (collectively “Respondents”) submit this brief in response to Appellants’ Petition for Rehearing (the “Petition”). In short, Appellants’ Petition contains only bare, general, and unsupported allegations while alleging that they provided a “plethora of evidence”, “voluminous evidence”, and established “many genuine issues of material fact.” See Petition at pp. 1, 3. In this way, the Petition is similar to the Appellants’ Initial Brief which also contained conclusory statements without citations to the Record on Appeal.

As with the Initial Brief, Appellants cite only to their own pleadings and direct this Court

to assume them to be true. See Petition, p.2. Yet, this is not the standard for summary judgment. As noted by Judge Cole and this Court, “the non-moving party must offer some evidence that a genuine issue of material fact exists as to each element of the claim.” Wright v. PRG Real Estate Mgmt., Inc., 413 S.C. 276, 279-80, 777 S.E.2d 399, 401 (Ct. App. 2015). The appellate court must affirm summary judgment where the non-moving party fails to establish the existence of an element essential to the party’s case. See id.

At the trial court and on appeal, Respondents provided numerous specific examples of documentary evidence and excerpts from deposition testimony to demonstrate the question before the Court was purely one of law. Most of these were recited within the brief and each was supported with a specific citation to the Record on Appeal. In contrast, in the Petition, as in the Initial Brief, Appellants failed to direct his Court to any specific evidence, instead relying on general allegations. As a result, while Respondents demonstrated the lack of any genuine issue of material fact, Appellants failed to offer the responsive evidence required by Wright.

Given this, the trial court properly granted summary judgment and this Court properly affirmed. Appellants’ Petition should therefore be denied.

Respectfully Submitted,
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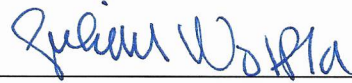
Respondents.

PROOF OF SERVICE

I certify that on this date, May 28, 2024, I filed the foregoing Respondent's Response to Petition for Rehearing with the South Carolina Court of Appeals via electronic filing only, to ctappfilings@sccourts.org and served a copy on Appellants via electronic service, addressed to the attorneys of record below:

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