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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Perry H. Gravely, Circuit Court Judge

Appellate Case No. 2023-001889

Case No. 2020-CP-23-01458

Beverly Taylor, Marvin Taylor and Ada Alvarez, individually and on behalf of all
similarly situated individuals, Respondents

v.

Raymond A. Wedlake a/k/a R. Allan Joy, Appellant

REPLY BRIEF OF APPELLANT

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August 17, 2024

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PREFACE

Pursuant to Rule 208(a)(3), SCACR, R. Allan Joy (f/k/a Raymond A. Wedlake), Appellant (*Pro Se*) files and serves this “Reply Brief of Appellant” responding to the “Initial Brief of Respondents” (BOR). “Brief of Appellant” is denoted by BOA. Reference is made to Woodington Homeowners’ Association, Inc. (WHOA). South Carolina Code of Laws is referred to by “Code”, or by “Law”.

I. Reply to “Statement of the Issues on Appeal”

A) BOR cites no additional issues, thereby affirming Appellant’s issues

1. Appellant notes that without specificity, Counsel for Respondents (Counsel) cannot merely point towards Rule 22(c), SCACR, to suggest the Court use “... any ground ...” to apply a “rubber stamp” of affirmed.

B) BOA cited six Issues on Appeal that need to be addressed

2. BOA cited six issues, all of which are pertinent to receive **due process** in this Court.

II. Reply to “Statement of the Case”

3. Appellant finds no discrepancies in events or dates as found in BOR.

III. Reply to “Standard of Review”

A) BOA cited “Abuse of Discretion” as one, last Issue on Appeal

4. BOR leads with focus on “abuse of discretion”. BOA cited this issue as a last, and thus least important, Issue on Appeal (see: BOA p.2 par.F ; and p.32 par. 54 referring to Court’s Exhibit 1). This issue as presented was limited to the Judge’s - not the Jury’s - abuse of discretion as related exclusively to denial of Appellant’s desired, *voir-dire* questions. As such, BOR with its extensions to other issues is impertinent, irrelevant, and all cited “case law” must be discounted.

**B) BOA cited a maximum, proper amount \$43428 that the Jury could award
for actual damages**

5. A Jury's award for actual damages must be based upon **EVIDENCE**. Appellant presented **EVIDENCE proving** he caused **NO DAMAGE** to Plaintiffs' Class (see: BOA p.10 par.11, 11(a,b) referring to Defense Exhibit "D-10", and SC Code of Laws Section 33-31-612). As per the Judge's charge to the Jury, actual damages can **NOT** be based upon guesswork (see: BOA p.22 par.38). The Jury guessed and awarded an inflated, exorbitant amount of \$125,000 (= more than 3 times proper, actual damages of \$43428 sustained by Plaintiffs' Class; see: BOA p.20 par.32 referring to Court's Exhibit 4 p.1 par.2c). As such, BOR with its extensions to other issues is impertinent, irrelevant, and most cited "case law" must be discounted. Particularly, as BOR states with reference to *Welch*, 342 S.C. at 303, 536 S.E.2d at 420, as is easily seen to apply here: the Jury's award **must** be disturbed on appeal because the award "... clearly appears [that] the exercise of discretion was controlled by a manifest error ...", that is, **ERROR OF FACT** on the part of a Jury whose discretion was compromised due to emotional response.

**C) BOA cited Appellant's share of damages as ZERO, making the Jury's award
for punitive damages as not applicable**

6. Appellant reiterates **EVIDENCE** {Defense Exhibit "D-10", and BOA p.10 par.11, 11(a,b)} **proved** his share of damages to Plaintiffs' Class was **ZERO**. Based upon such **evidence**, the Jury improperly awarded actual damages. As such, BOR with its extensions to other issues is impertinent, irrelevant, and cited "case law" must be discounted. Consequently in this instance when no actual damages applied, then **no punitive** damages can be awarded. Such was contained in the Judge's charge to the Jury:

... But you can only award punitive damages if you have awarded actual damages. But if you award actual damages, you don't have to award punitive damages ... (T. p.388 ll.16-19)

7. BOR particularly **misrepresents** a quote from *Austin*: "... must affirm the circuit court's punitive damages finding if any evidence reasonably supports the court's factual findings. *Austin v. Specialty Transp. Servs., Inc.*, 358 S.C. 298, 314, 594 S.E.2d 867, 875 (Ct.App.2004)." This Court will easily confirm that **NO EVIDENCE** supports the Jury's factual findings to award punitive damages. Punitive damages were awarded **contrary** to **EVIDENCE** presented to the Jury by Appellant (see BOA: p.15 par.24; p.16 par.25; p.22 par. 39).

D) BOR cites other issues not pertinent to this Appeal

8. BOR goes astray with impertinent and irrelevant citing of other issues not pertinent to this Appeal: a) directed verdict ; b) admission or exclusion of evidence ; c) determining whether prejudice exists ; and, d) granting or denying of a motion for mistrial. As such, BOR with its extensions to other issues is impertinent, irrelevant, and cited "case law" must be discounted. Text in BOR related to these issues is put before this Court by Counsel with intent to **mislead**, attempting to obfuscate and misdirect, by clouding stated Issues on Appeal with gobs of case law that does **not** apply.

8a) BOA does not contain the words: "directed verdict", and makes no mention of issue 8(a).

8b) BOA does not contain the words: "admission or exclusion", as related to evidence. BOA makes no mention issue 8(b).

8c) BOA does not contain the word: "prejudice", as related to its existence. BOA makes no mention of issue 8(c).

8d) BOA does not contain the word: "mistrial", and makes no mention of issue 8(d).

IV. Reply to “Argument”

A) EVIDENCE proved several of Respondents’ claims were prevarications

9. Appellant presented a preponderance of **EVIDENCE proving** that he in **no** way was responsible for, nor did he “... force his neighbors ... to defend themselves in court” (see BOA: p.6 par.3, Exhibit D-2; p.7 par.6 T.291-292; p.8 par.7 referring to D-5 p.7 par.2 and D-5 p.2 par.1; p.8 par.8 T. p.288; p.12 par.12 referring to D-11 p.1 par.3; p.17 par.26b; p.26 par.47 referring to P-8). No cases were brought against “neighbors” – all cases were brought against the Board of WHOA. Plus, **no** party had any need to defend themselves against **NOMINAL DAMAGES** (\$1 or **ZERO** dollars, often Declaratory Judgment), as were sought in Appellant’s cases (see BOA: p.4 par.1; p.22 par.38). He testified under oath that his actions were directed by a learned and experienced attorney, who certainly knew the difference between “... abusing the judicial process ...”, and proper court actions (see BOA pp.17-18 pra.27). Appellant did nothing based upon his own volition. The Jury **abrogated their role** as “finders of fact” because there was **no evidence** before them, nor before this Court in the Record, that shows any semblance of ulterior motives that could be interpreted to be “abuse” (see BOA pp.4-5 par.last; p.5 par.2; p.24 par.44). Appellant proved with evidence that a Judge **DENIED** Counsel’s previous claim of “abuse” due to a frivolous lawsuit (see BOA p.15 par.23 referring to Court’s Exhibit 4 p.78 ll. 23-25) .

B) BOR attempts to discredit the Appeal process as invalid

10. BOR suggests that a basic and obvious legal precept: “All parties in civil matters have a **right to appeal** a Jury's verdict against them”, does not apply. Evidence before the Jury contradicted their **emotional** response, and their **exorbitant** awards, which can **not** apply under the Law (see BOA: p.5 par.1; p.16 par.25; p.18 par.29; pp.18-19 par.29; p.19 par.30; p.21 par.37a; p.22 par.37b; p.31 par.52d).

C) BOR attempts to cite “Issue Preservation” to negate the Appeal process

11. Inspection of the Record plainly shows Appellant met four requirements (BOR p.8 par.2) for his six Issues on Appeal (see BOA: p.2 par.A-F; p.4 par.1; p.30 par.52) to be preserved for appellate review. In truth, much of case law cited by BOR speaks to, and for, Appellant. Strong indication exists to suggest that much content of BOR is **merely copy/paste** from **other cases** in which Counsel was involved. Specifically, only with imagination is much content of BOR pertinent and relevant to this Appeal.

D) BOR hints that “technical errors” should annul the Appeal process

12. SC Code of Laws sets a high bar to which the Court of Appeals ought to comply, based upon information and belief of Appellant. BOR hints in several places to “technical errors”, and suggests that Appellant’s appeal be ignored, based upon such-alleged errors. In truth, the Code says “... the appellate court shall give judgment according to the justice of the case, without regard to technical errors and defects which do not affect the merits. ...” (emphasis added):

SECTION 18-7-170. Judgment on appeal.

Upon hearing the appeal the appellate court shall give judgment according to the justice of the case, **without regard to technical errors and defects** which do not affect the merits. In giving judgment the court may affirm or reverse the judgment of the court below, in whole or in part, as to any or all the parties and for **errors of law or fact**.

13. BOR again tries to misdirect and obfuscate by citing “... directed verdict ...” (BOR p.6 par.last). This issue is **not** an Issue on Appeal (see p.3 par.8 above). As such, BOR with its extensions to other issues is impertinent, irrelevant, and cited “case law” must be discounted.

**E) BOR presents argument related to abuse of discretion
which is not an Issue on Appeal**

14. BOR attempts to hand wave to substantiate awards given by the Jury. BOR p.10 par.1 cites the Judge's thoughts and actions in relation to **exorbitant** awards given by the jury. There is **no evidence** in the Record that supports the magnitude of awards given by the Jury. Further, legal fees to Counsel can **NOT** be included as part of actual damages (see BOA p.18 par.29). This Court is obliged - based upon information and belief of Appellant - to recognize this **reversible error**, and **remand** for correction. As such, BOR with its extensions to other issues is impertinent, irrelevant, and cited "case law" must be discounted.

Factually, the Jury asked for reference for an amount for actual damages:

Can we have the calculation of actual damages from the plaintiff?

Stacy Burger

11/30/1969

1:02 pm

(Court's Exhibit 3)

The foreman for the Jury seemingly disconnected himself from reality, when he dated his request with "1969" - the trial took place in 2024. Thoughts and actions of a "crazy person" such as Foreman Burger **certainly** swayed the remainder of jurors – based upon information and belief - to **contradict** the "**reasonableness standard**" with their awards.

15. The Judge **mistakenly** with **ERROR OF FACT** claimed there was evidence in the Record to "... support the actual damages finding of \$125,000. ...". As such, BOR with its extensions to other issues is impertinent, irrelevant, and cited "case law" must be discounted:

15a) BOR **prevaricates** when it points to "... *see also* Tr. 236-238 for admission of evidence. ...". These Transcript pages are testimony from a witness for Plaintiffs. No evidence was admitted per these Transcript pages;

15b) Factually, witness testimony confirmed a payment of \$658 for each voting unit in WHOA (T. p.236 ll.10-11). For 66 voting units this total equals Appellant's cited **\$43,428** – a very **far cry** from \$125,000. Further, this amount included – based upon information and belief of Appellant – legal costs and fees of \$53,200 (T. p.237 l.18 citing \$52,000; and T. p.237 l.18 citing \$1,200; $\$53,200 = 52,000 + 1,200$). Without evidence in the Record showing a private contract existed – and no evidence exists - legal fees to Counsel can **NOT** be included as part of actual damages (see BOA p.18 par.29).

**F) Moot concepts cannot be used to deny Appellant's Constitutional rights
for due process**

16. BOR **prevaricates** when it claims "... what was presented by Appellant was not a proposed jury charge. ...". Factually, Appellant presented a proposed jury charge, regardless of the Judge's **misunderstanding** and **misapprehension** over what was proposed. Details from Appellant's proposed jury charge are shown in BOA (referring to Court's Exhibit 4 p.1), which itemized 5 references to SC Code of Laws and 8 references to By-Laws of WHOA (see BOA p.18 par.28). To reiterate, the Judge did **NOT** mention any of these pertinent, and necessary, points of law in his charge to the Jury. Consequently, the Jury was **NOT** properly informed about about law in their deliberations.

17. BOR attempts to mislead, misdirect, and obfuscate in its "C. Argument Regarding Issues on Appeal". To reiterate, BOA cited no "... abuse of judicial discretion or other error of law ...", as related to the Jury, who abrogated their responsibility to be a "finder of fact". Plainly and simply, the Jury's verdict was based upon a **multitude of ERRORS OF FACT**. The Jury made **no** attempt to understand and apprehend Appellant's testimony, and the **preponderance of evidence** presented by Appellant, **proving** that Appellant was painted in a **false** light by Counsel throughout much of the trial:

17a) Issue on Appeal “A” - the Jury as a finder of fact **ignored EVIDENCE** from Appellant, and consequently deliberated with **misunderstanding** and **misapprehension** about the true facts of the matter. A myriad of samples showing the Jury’s misconduct are noted in BOA.

17b) Issue on Appeal “B” - The fact that the Judge did not charge the Jury with any of Appellant’s points of law, left the Jury without proper perspective towards rationale that was critical to their understanding of Appellant’s judicial actions – as advised and directed by an experienced and learned attorney. The Judge not liking the **format** of Appellant’s proposed charge to the Jury, and discriminating against Appellant as a *pro-se* party, does **not** excuse a judge from properly charging a jury with **all** necessary and pertinent law. The Jury ignored that Appellant’s desire: to bring improvements to WHOA and benefits to its members, was a totally and completely **LAWFUL RIGHT** under both the Constitution, and as very specifically allowed under the “Covenants”.

17c) Issue on Appeal “C” - A jury can **NOT** act in direct contradiction to a judge’s charge to them (see: BOA pp.21-23 ppar.36-39). Such contradictory behavior by the Jury elicited this Appeal.

17d) Issue on Appeal “D” - Though Appellant objected to all Respondents’ exhibits entered into evidence, Appellant did not cite such as abuse of discretion. As such, BOR with its extensions to other issues is impertinent, irrelevant, and must be discounted. However, severe prejudice was heaped upon Appellant by Counsel, who with prevaricative intent, **misrepresented** to the Jury content of “... court records and letters authored by Appellant.” – as admitted in BOR. Such **misrepresentation** elicited an emotional response from the Jury, who thereafter ignored Appellant’s **evidence**. Appellant believes that the Court of Appeals has the authority to correct this “**reversible error**”.

17e) Issue on Appeal “E” - Issue E “standing” was challenged several times over course of the trial (see T. p.11 ll.13-18; T. p. 187 ll.13-16; T. p.242 ll.20-24). Such specificity of the issue belies any claim of “... not preserved for appeal ...”.

17f) Issue on Appeal “F” - The Judge did not ask potential jurors any of *voir-dire* questions desired by Appellant (Court’s Exhibit 1). All of four questions were critical for Appellant to understand if potential jurors would be biased against him. Appellant was denied this knowledge by the Judge’s lack of discretion. Of particular importance was a first question:

Do you believe a Court of Law is **bound by facts and evidence** brought before the Court?

Thereafter in trial, the Jury **ignored facts and evidence** presented to them by Appellant. Such denial of this knowledge as part of Appellant’s *voir dire* from was extremely prejudicial to him. Appellant understands **no** rationale **nor** legitimate reasons for the Judge to abuse his discretion by not asking potential jurors any of Appellant’s *voir-dire* questions.

V. CONCLUSION

Content herein and as found in BOA is such that the Court of Appeals can easily recognize “**reversible error**”, to restore justice by negating all **ERRORS OF FACT** committed by an emotional Jury who **IGNORED EVIDENCE**, that led to their verdict. A preponderance of **EVIDENCE** presented by Appellant, which was **ignored** by the Jury contrary to their role as a “finder of fact”, certainly requires the **evidence** be assessed *de novo* by this Court.

The Court of Appeals must recognize and confirm that a Jury in a Court of Law:

- a) cannot ignore **EVIDENCE** that **proves** Appellant was a “wrong party” against whom
to award damages;
- b) cannot award actual damages that were far and beyond what Plaintiffs’ Class experienced;
- c) cannot award arbitrary, punitive damages more than 100,000 times the “Nominal Damages”
that Appellant sought in his cases against the Board of Directors of WHOA;
- d) are obliged to be bound by **EVIDENCE** before the Jury, rather than **presume** a law-abiding citizen deserves punishment, based upon their **emotional response** to claims, that in many instances were **proven** by **EVIDENCE** to be **prevarications**.

Dated this 17th day of August, 2024



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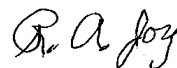
CERTIFICATE OF SERVICE

It is hereby certified that a copy of "Reply Brief of Appellant" was served upon the
following:

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