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Aug 20 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM CHEROKEE COUNTY
COURT OF COMMON PLEAS

THE HONORABLE J. MARK HAYES, II

CASE NO. 2021-CP-11-00448
APPELLATE CASE NUMBER: 2024-000523

Michael Wayne Gault and Hard Rock Investments, LLC.,

Appellants,

versus

Sheriff Steve Mueller and Cherokee County,

Respondents.

MOTION TO WITHDRAW APPEAL

The Appellants, through their undersigned counsel, do hereby file this Motion seeking to withdraw its pending appeal. This appeal comes from a Motion for Summary Judgment filed by the Respondents. The Motion sought Summary Judgment because Sheriff Steve Mueller had been named individually in the pleading. The trial court granted Summary Judgment dismissing Sheriff Steve Mueller as a party because the Sheriff was acting within the course and scope of his employment with Cherokee County when the action was taken. [No appeal will be taken from this.] However, the trial court also granted Summary Judgment dismissing the right of the Appellants to seek damages against Cherokee County because the Complaint only alleged negligence. This issue was not in the Motion for Summary Judgment and was not proper before the trial court. This would be the issue on appeal.

Attorneys for the Appellants in the trial court have filed a Motion to Amend the pleading and that matter is pending, but the trial court will not hear the Motion while this appeal is pending.

The Appellants wish to withdraw its appeal and allow the Circuit Court to decide whether the Complaint should be amended.



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August 20, 2024

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PROOF OF DELIVERY

This is to certify that on the 20th day of August, 2024, the undersigned, secretary to Richard H. Rhodes, Esq., served a copy of the **MOTION TO WITHDRAW APPEAL** by e-mailing a copy to opposing counsel.

Chad M. Graham, Esquire
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Via Email: cgraham@wardfirm.com
Attorney for Respondents



JO ANN CHAMPION

SWORN to before me this 20th
day of August, 2024



(SEAL)
NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission Expires: 12-18-2025