

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

APPEAL FROM SUMTER COUNTY  
Court of Common Pleas

R. Ferrell Cothran, Jr., Circuit Court Judge

---

Civil Action No. 2020-CP-43-00734  
**Appellate Case No. 2024-001532**

---

Ronald L. Jones.....Appellant,

v.

Gary A. Jones, Sr., Becky J.  
Jones, Ima Lee Jones and Shel-  
ley Allsbrooks.....Respondents.

---

**MEMORANDUM OF APPELLANT**

---

Appellant’s Appeal is allowed by S.C. Code Section 14-3-330(2), “Appellate jurisdiction in law cases.” (1976, as amended). S.C. Code Section 14-3-330 (2) reads as follows, “(2) An order affecting a substantial right made in an action when such order...(c) strikes out an answer or any part thereof or any pleading in any action”, because the Lower Court’s Orders (*Addendum pgs. 1-7*), have denied Appellant’s ability to proceed with a substantial right and strikes part of a pleading. Appellant is not appealing the Lower Court’s Orders themselves, Appellant is appealing because of the Orders impact on a substantial right as allowed under the Statute. In essence, the Orders appealed from are Orders striking a part of a pleading rather than an Order denying amendment and therefore is immediately appealable, (*Addendum pgs. 1-7*).

## BACKGROUND

The nexus of this Appeal is not the underlying dispute outlined in Appellant's Complaint, (Second Amended), but instead the nexus is the "three important factual admissions" that Respondent, Shelley Allsbrooks, (hereinafter, "Respondent Allsbrooks") made in deposition<sup>1</sup>, *(Addendum pgs. 8-14)*.

Respondent, Allsbrooks' factual admissions fully supported Appellant's Causes of Action, *(Addendum pgs. 8-14)*. Respondents' Lower Court counsel apparently realized the significance of the "three important factual admissions" after Appellant moved to amend his Complaint to add a Cause of Action for "Unjust Enrichment". Respondents' Lower Court counsel mounted a vigorous campaign to strike the factual admissions "three important factual admissions". Respondents' Lower Court counsel claimed that it was improper for Appellant to support his new Cause of Action for "Unjust Enrichment" with the "three important factual admissions". Respondents' counsel in the Lower Court claimed that the very specific "three important factual admissions" were improper. (July 29, 2024, Hearing Transcript p. 6, LL. 21-25), *(Addendum pg. 20)*.

---

<sup>1</sup> At Deposition, Respondent, Allsbrooks, made "three important factual admissions", which admissions directly supported the allegations of Appellant's case. Those three important factual admissions were:

- Appellant had lived on the Property for a little over ten years (Deposition Transcript pg. 14 L. 16 – pg. 15 L. 10), *(Addendum pgs. 11-12)*
- Respondent Shelley Allsbrooks conspired, *inter alia*, with her father against the economic interests of Appellant, (Deposition Transcript pg. 15 L. 17 – pg. 17 L. 15), *(Addendum pgs. 12-14)*; and
- Respondent Shelley Allsbrooks was the decision maker in the conspiracy with her father. (Deposition Transcript pg. 12 LL. 1-11), *(Addendum pg. 10)*.

The Lower Court struck the “three important factual admissions<sup>2</sup>”, Appellant appealed in Appellate Case Number 2021-001150 and this Court found Appellant’s Appeal to be interlocutory. In order to be successful in the prior Appeal, Respondents’ counsel argued to this Court that Appellant had not lost any substantial right by the Lower Court’s Order<sup>3</sup>, by striking the admissions. Because Respondents’ counsel argued in Appellate Case Number 2021-001150, that Appellant had not lost any substantial right, Respondents’ Lower Court’s counsel was prevented by Judicial Estoppel from arguing that Appellant was not permitted to make further use of the “three important factual admissions”, (July 29, 2024, Hearing Transcript p. 4, L. 24 – p. 5 L.10), (*Addendum pgs. 18-19*). The Lower Court agreed with Respondents’ argument and the “three important factual admissions” were struck. Also see, Footnote “4” herein.

During the Hearing which lead to the Lower Court’s issuance of an Order Denying Re-hearing/Reconsideration, styled as “Order”, dated September 10, 2024 [one of two Orders under Appeal, (*Addendum pg. 6*)], which would have allowed Appellant to amend his Complaint (Second Amended). Respondents’ counsel argued vigorously before the Lower Court, that Appellant’s

---

<sup>2</sup> Appellant’s counsel took the Deposition of Respondent, Shelley Allsbrooks on March 16, 2021, wherein she made “three important factual admissions”. Thereafter, Appellant filed his Complaint (Second Amended) containing the “three important factual admissions”, on **April 22, 2021**. Fourteen days later on **May 6, 2021**, Respondents’ counsel, after apparently reviewing the allegations of Appellant’s Complaint (Second Amended), and apparently realizing that the “three important factual admissions”, fully supported Appellant’s Causes of Action for Promissory Estoppel and Civil Conspiracy, filed Respondents’ Motion to Strike the “three important factual admissions” made by Respondent Allsbrooks. The “three important factual admissions” do not fall within the standards of Rule 12(f), of the South Carolina Rules of Civil Procedure. The “three important factual allegations” are not redundant, immaterial, impertinent or scandalous.

<sup>3</sup> See, “Respondents’ Reply to Appellant’s Return to Motion to Dismiss”, dated February 18, 2022, page “5” (*Addendum p.16*).

Motion to Amend should not be granted and that the “three important factual admissions” could not be included in the Complaint that Appellant sought to amend, which the Lower Court denied on September 10, 2024 (Hearing Transcript of July 29, 2024, p.6 L..22; p. 7, L. 12; p. 8 L. 21; p. 9 LL. 17-18.), (*Addendum pgs. 20-23*).

The Lower Court agreed and the “three important factual admissions”, contrary to Respondents’ Appellant counsel’s arguments, have been “lost” by the Appellant. Thereby Appellant has lost a substantial right, which is immediately appealable under S.C. Code Section 14-3-330(2), (1976, as amended) and this appeal follows. See, Footnote “4” herein.

### **ARGUMENT**

This Court instructed Appellant and Respondents to file a Memorandum addressing the issue of appealability. Respondents began their Memorandum on appealability with an inapposite reference to State v. Ledford, 422 S.C. 244, 249, 810 S.E.2d 868, 870 (2018), which was a criminal case. In State v. Ledford the Court discussed restrictions on the State concerning the applicability of S.C. Code Section 14-3-330(2), (1976, as amended). Obviously, a civil litigant, as in the instant case, is not in the same posture as the State in a criminal prosecution.

Respondents admit in their Memorandum on Appealability that the determination of whether a party may immediately appeal an order issued before or during trial is “...governed primarily by [section 14-3-330 of the South Carolina Code].”, (page “4” of Respondents’ Memorandum). Obviously, the Lower Court’s Order(s) have struck part of a pleading, as shown in paragraph “12” of the Lower Court’s Order of April 9, 2024, see, Footnote “4” herein.

The Lower Court's Order of April 9, 2024, (*Addendum pgs. 1-5*) denying Appellant the right to amend strikes the following, "three important factual admissions" from Appellant's Complaint<sup>4</sup>. If Appellant had not appealed the Lower Court's Orders striking the "three important factual admissions", the striking of the "three important factual admissions" would become the Law of the Case and lost to the Appellant forever.

### CONCLUSION

Based on the foregoing argument and applicable law, this Court should find that Appellant is permitted to proceed with his Appeal based on (i) the loss of a substantial right (ii) S.C. Code Section 14-3-330(2), (1976, as amended). There are no grounds for Appellant's Appeal to be dismissed.

**[Signature Page Follows]**

---

<sup>4</sup>From the Lower Court's Order of April 9, 2024, see, paragraph "12", "That the proposed Third Amended Complaint contains numerous evidentiary facts as opposed to ultimate facts as well as almost identical language in paragraphs 13, 30 and 31 from the Plaintiff's Second Amended Complaint which were stricken by this Court's Order dated September 22, 2021 (as shown in paragraph 12 and paragraph 30 of the proposed Third Amended Complaint). To permit the proposed amendment would sanction the violation of the Court's previous Order. The Plaintiff's Appeal was dismissed and the **Plaintiff is precluded from repleading matters previously stricken.**" (emphasis added).

/s/Richard L. Whitt,

Richard L. Whitt, S.C. Bar #: 62895

Jefferson D. Griffith, III, S.C. Bar #: 2299

**Whitt Law Firm, LLC**

Mailing Address: Post Office Box 362

Irmo, South Carolina 29063

Email: Richard @RLWhitt.law

Email: Jeff@RLWhitt.law

(803) 960-9240

D. Randolph Whitt, S.C. Bar #: 13068

344 Blossom View Court

West Columbia, S.C. 29170

Email: DWhitt2001@aol.com

(803) 422-2176

*Attorneys for Appellant.*