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Oct 16 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Mikell R. Scarborough, Master-In-Equity

Court of Appeals Case No. 2021-001014

Bonnie Wall, individually and derivatively,
and Walter B. Wall, Jr.,

Appellants,

v.

Jonathan Dye, Shaun Dye, Shellmore Homeowners’
Association, Inc., and John H. Chakides, Jr., individually and
in his capacity as Director of Shellmore Homeowners’
Association, Inc.,

Respondents.

RETURN TO MOTION TO STAY

In October of 2021, the Respondents filed a motion to consolidate this case with Appellate Case No. 2020-01583 on the grounds that the two appeals “involve overlapping questions of law.” *See* Mot. to Consolidate, App. Case. 2020-01583, p. 2, filed Oct. 21, 2021. At the time, Appellants opposed the motion arguing that the notion that the two appeals involve overlapping questions of law “is **patently wrong**[.]” *See* Return to Mot., App. Case. 2020-01583, p. 3, filed Oct. 29, 2021 (emphasis in original). Ultimately, this Court denied the motion to consolidate. Now, Appellants have completely reversed their earlier position and seek a stay of this appeal claiming that the two appeals share “fundamental,” “core” “legal questions.” *See* Mot. to Stay, pp. 1-2. Having succeeded in their earlier position, judicial estoppel prohibits Appellants seeking an advantage from adopting the exact opposite position for the present motion. *Hayne Fed. Credit Union v. Bailey*, 327 S.C. 242, 251, 489 S.E.2d 472, 477 (1997). (“Judicial estoppel precludes a party from

adopting a position in conflict with one earlier taken in the same or related litigation.”). Appellants motion should be denied.

Respectfully submitted,

By: /s/ Andrew M. Connor

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Association, Inc., and John H. Chakides, Jr.*

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Respondents.

PROOF OF SERVICE

I certify that on October 16, 2024, I served Respondents' Return to Motion to Stay on
Petitioners by sending the same to their attorneys of record, Ainsley F. Tillman and Ian S. Ford, at
their email addresses of record with the AIS.

By: /s/ Andrew M. Connor _____
Andrew M. Connor