

RECEIVED

Oct 18 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas
The Honorable 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.

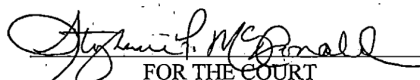
REPLY IN SUPPORT OF MOTION TO STAY

Respondents' opposition to the requested stay of this appeal is that Respondents previously moved to consolidate the two appeals, and the Appellants objected. This Court denied Respondents' Motion to Consolidate.¹ Appellants still do not believe the

¹ Respondents moved to consolidate after Appeal 1 had been fully briefed, and before the transcript in Appeal 2 had been received. Appellants opposed the motion because Respondents' Motion did not meet the test of Rule 214, SCACR, and also because to re-write the briefs in Appeal 1 (which are based on a separate order of the lower court) would have been expensive and inefficient. This Court ruled:

ORDER

Respondents have filed a motion to consolidate this appeal with the appeal in Appellate Case No. 2021-001014. Because these appeals are in different stages of the appellate process, the motion to consolidate is denied.


FOR THE COURT

two appeals should be consolidated, and that is not the relief that they are seeking in their Motion to Stay.

Instead, Appellants request a stay of Appeal 2 for reasons of judicial economy and efficiency. If Appellants are “seeking an advantage” in their Motion to Stay, as Respondents claim, that “advantage” is to the benefit of the appellate court system and all of the litigants involved in these appeals – including Respondents. That “advantage” is efficiency, consistency, and the avoidance of potentially unnecessary duplication of efforts.

The two appeals are based on separate orders issued almost a year apart. This Court issued separate opinions for each order. Therefore these two appeals are at very different stages of consideration by the appellate courts:

- **Appeal 1 has been finally decided by this Court.**
 - As to the issues in Appeal 1: a Petition for Certiorari has been filed with the Supreme Court; Respondents have filed a Return; Appellants have filed a Reply.
 - The Petition for Certiorari is Ready for Consideration by the Supreme Court.

- **Appeal 2 has not yet been finally decided by this Court.**

Importantly, while the two appeals do not involve the same orders by the lower court, nor the same opinions by this Court, the first appeal unequivocally drives the second appeal. Respondents themselves argued:

Appeals I and II involve overlapping questions of law. In Appeal I, Appellants question whether the neighborhood association board members owed Appellants a fiduciary duty. In answering that question, this Court must consider and interpret the requirements of the neighborhood’s

(Order, filed December 9, 2021).

restrictive covenants.

(Respondents' Motion to Consolidate, at p. 2). Particularly because of the sequencing of the two orders in the lower court, and the holdings in the opinions, **the issues in Appeal 1 will bear on the correct result in this second appeal – and not vice versa.** It thus would be prudent, economical, and efficient for this Court to avoid duplication of efforts by staying the outcome of this Appeal 2, pending the decision of the South Carolina Supreme Court as to Appeal 1.

Therefore, the Walls respectfully ask this Court to exercise its discretion to stay this appeal for the reasons set forth above and in their Motion to Stay, and in the interest of efficiency and judicial economy.

Respectfully submitted,

FORD WALLACE THOMSON LLC

s/Ainsley F. Tillman

Ainsley F. Tillman, S.C. Bar No. 70551

Ainsley.Tillman@FordWallace.com

Ian S. Ford, S.C. Bar No. 12463

Ian.Ford@FordWallace.com

715 King Street

Charleston, South Carolina 29403

(843) 277-2011

Attorneys for Appellants Bonnie and Walter Wall

Charleston, South Carolina
October 18, 2024

RECEIVED

Oct 18 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Mikell R. Scarborough, Master-in-Equity

Circuit Court Case No. 2020-CP-10-04185
Appellate Case No. 2021-1014

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.

PROOF OF SERVICE

I certify that on October 18, 2024, I have served Appellants' Reply in Support of
Motion to Stay on Respondents by sending the same to their attorneys of record, Andrew
M. Connor and L. Sidney Connor, at their email addresses of record with AIS.

s/ Ainsley F. Tillman
Attorney for Appellants