

RECEIVED

Oct 25 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM AIKEN COUNTY
Court of Common Pleas
The Honorable J. Cordell Maddox, Jr. Circuit Court Judge

Appellate Case No. 2024-000864
Court of Appeals Appellate Case No. 2023-001479
Case No. 2021-CP-02-00889

Julianne Foster

Respondent,

v.

Rhett Riviere, Katherine A. Thomas, Chase Enterprises, LLC of
South Carolina, and Airbnb, Inc.,

Defendants,

of which

Airbnb, Inc., is the

Appellant.

and

Rhett Riviere is a

Respondent.

**Appellant Airbnb, Inc.’s Return to
Respondent Julianne Foster’s Motion for Oral Argument**

Respondent-Plaintiff Julianne Foster moves the Court to hold oral argument in December in this matter. There is no reason to deviate from the Court’s standard practice of scheduling oral argument with reference to counsel’s conflict letters. The scheduling of oral argument is based upon the South Carolina Appellate Court Rules, the Court’s internal systems, and otherwise is within this Court’s discretion. As for the December term, all of the cases, including this one, that undersigned counsel listed in prior correspondence have been apparently moved to the February

term,¹ and the undersigned has submitted potential conflicts for that term as requested by the Clerk.

This Court correctly denied Respondent-Plaintiff’s motion to dismiss this appeal and for sanctions, concluding that this appeal is not frivolous. (Order Denying Motion to Dismiss Appeal, Nov. 1, 2023.) Respondent-Plaintiff again now seeks unconventional Court action, *i.e.*, setting the case out of order for the December oral argument term, on the same basis that this appeal is frivolous, (Mot. for Oral Argument at 2), a position already rejected by this Court.

Undersigned counsel’s oral argument conflict letters are an accurate reflection of the other cases pending for oral argument and other business obligations that are currently scheduled. These conflict letters are filed at the Clerk’s request. Rule 216(a)(2), SCACR (“Upon receipt of the preliminary list, counsel shall immediately notify the clerk of the appellate court in writing of any anticipated conflict which may prevent his appearance, with copies to all parties on appeal.”).

Respondent-Plaintiff complains about the timing in the lower court of the motions to compel arbitration. But the legal effect of that timing is an issue on appeal. Another issue is whether the contempt ruling by the trial court should be reversed (it should be). Respondent-Plaintiff is again complaining about what it views as a meritless appeal. But again, this position has already been rejected by this Court. (Order Denying Motion to Dismiss Appeal, Nov. 1, 2023.)

Further, Respondent-Plaintiff has delayed her own appeal by filing a litany of motions rejected by this Court and the Supreme Court. First, Respondent-Plaintiff delayed the briefing by filing the motion to dismiss the appeal. Rule 240(b), SCACR (“A motion to dismiss an appeal or

¹ In the body of her motion, Respondent-Plaintiff references a separate appeal by Riviere relating to one of the same Orders on appeal in this case—Case Number 2023-001211, to which she is not a party. The instant motion thus does not seek oral argument in December as to that matter.

a motion to relieve counsel shall, however, automatically stay the time limits for perfecting the appeal until the motion is decided.”). Then, Respondent-Plaintiff also moved for a transfer (certification) order from this Court to the South Carolina Supreme Court, which was correctly denied. Respondent-Plaintiff then moved for a transfer order from the South Carolina Supreme Court, which was also denied. Most recently, Respondent-Plaintiff filed this motion without serving it on Airbnb’s counsel, necessitating a consent extension motion. (*See* Email from Cassy Young, Oct. 7, 2024.)²

Respondent-Plaintiff’s references to other cases involving Respondent Rhett Riviere and allegations that Airbnb “facilitated” the claims in those actions is both misleading and irrelevant to the present motion. (Mot. for Oral Argument at 3 n.2.) Airbnb is not a party to the other actions involving Riviere cited by Respondent-Plaintiff and Respondent-Plaintiff provides no explanation for why these other cases (not involving Airbnb) are relevant here.

In short, Respondent-Plaintiff presents no grounds warranting a deviation from the standard appellate practice for scheduling oral argument with reference to the conflict letters presented by counsel. *See* Rule 216(a)(2), SCACR.

Conclusion

For the reasons set forth above, Airbnb requests that the Court deny the motion and schedule the oral argument in this matter using the normal process that it employs.

[Signature on following page.]

² This email from Ms. Young was included in the docket entry for the present motion. Plaintiff-Appellant only copied counsel for the other Respondents, and filed no Proof of Service with the motion, which warrants the denial of the motion as well.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: /s/ C. Mitchell Brown

C. Mitchell Brown, SC Bar No. 012872

E-Mail: mitch.brown@nelsonmullins.com

Blake T. Williams, SC Bar No. 100794

E-Mail: blake.williams@nelsonmullins.com

Matthew A. Abee, SC Bar No. 101100

E-Mail: matt.abee@nelsonmullins.com

Nelson Mullins Riley & Scarborough LLP

E-Mail: matt.abee@nelsonmullins.com

1320 Main Street / 17th Floor

Columbia, SC 29201

(803) 799-2000

RICHARD A. HARPOOTLIAN, P.A.

Richard A. Harpootlian, SC Bar No. 2725

1410 Laurel Street (29201)

Post Office Box 1090

Columbia, South Carolina 29202

(803) 252-4848

rah@harpootlianlaw.com

BEATTIE B. ASHMORE, PA

Beattie B. Ashmore, SC Bar No. 10419

beattie@beattieashmore.com

650 East Washington Street

Greenville, SC 29601

(865) 467-1001

Attorneys for Airbnb, Inc.

Columbia, South Carolina

October 25, 2024

RECEIVED

Oct 25 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM AIKEN COUNTY
Court of Common Pleas
The Honorable J. Cordell Maddox, Jr., Circuit Court Judge

Appellate Case No. 2023-001479
Case No. 2021-CP-02-00889

Julianne FosterRespondent,

v.

Rhett Riviere, Katherine A. Thomas, Chase Enterprises, LLC of
South Carolina, and Airbnb, Inc., Defendants,

of which

Airbnb, Inc., is the.....Appellant.

and

Rhett Riviere is a.....Respondent.

Proof of Service

I, the undersigned of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Airbnb, Inc., do hereby certify that I have served all counsel in this action with a copy of the document(s) set forth below under Supreme Court Order dated April 24, 2024, and a copy of that electronic mail will be attached to this certificate.

Document(s): **Appellant Airbnb, Inc.’s Return to Respondent Julianne Foster’s Motion for Oral Argument**

Served:

Via Email:

Deborah B. Barbier, Esquire
Deborah B. Barbier, LLC
1811 Pickens Street
Columbia, SC 29201
dbb@deborahbarbier.com

Ryan L. Beasley, Esquire
Ryan L. Beasley, Attorney at Law, PA
416 East North Street
Greenville, SC 29601-2931
rlb@ryanbeasleylaw.com

Wesley D. Few, Esquire
Wesley D. Few LLC
PO Box 9398
Greenville, SC 29604
wes@wesleyfew.com; cassy@wesleyfew.com

Attorneys for Julianne Foster

Damon C. Wlodarczyk, Esquire
Howser Newman & Besley, LLC
PO Box 12009
Columbia, SC 29211
damonw@hnblaw.com

Attorney for Katherine A. Thomas

John W Harte, Esquire
John W Harte Attorney at Law, LLC
PO Box 7215
Aiken, SC 29804
john@jwhartelaw.com

Joseph M. McCulloch Jr., Esquire
Kathy R. Schillaci, Esquire
McCulloch and Schillaci
PO Box 11623
Columbia, SC 2921
joe@mccullochlaw.com; kathy@mccullochlaw.com

Attorneys for Rhett Riviere

Margaret Nicole Fox, Esquire
James Mixon Griffin, Esquire
Griffin Humphries LLC
4408 Forest Drive, Suite 300
Columbia, SC 29206
Tel. (803) 744-0800
jgriffin@griffinhumphries.com
mfox@griffinhumphries.com
jharmon@griffinhumphries.com

Attorneys for Rhett Riviere and Chase Enterprises LLC of South Carolina

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: /s/ Matthew A. Abee

C. Mitchell Brown, South Carolina Bar 012872

E-Mail: mitch.brown@nelsonmullins.com

Blake T. Williams, SC Bar 100794

E-Mail: blake.williams@nelsonmullins.com

Matthew A. Abee, SC Bar No. 101100

E-Mail: matt.abee@nelsonmullins.com

1320 Main Street / 17th Floor

Post Office Box 11070 (29211-1070)

Columbia, SC 29201

(803) 799-2000

RICHARD A. HARPOOTLIAN, P.A.

Richard A. Harpootlian, SC Bar No. 2725

1410 Laurel Street (29201)

Post Office Box 1090

Columbia, South Carolina 29202

(803) 252-4848

rah@harpootlianlaw.com

BEATTIE B. ASHMORE, PA

Beattie B. Ashmore, SC Bar No. 10419

beattie@beattieashmore.com

650 East Washington Street

Greenville, SC 29601

(865) 467-1001.

Attorneys for Airbnb, Inc.

Columbia, South Carolina
October 25, 2024