

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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JAN 23 2025
SC Court of Appeals

APPEAL FROM GREENVILLE COUNTY
JESSICA ANN SALVINI, CIRCUIT COURT JUDGE
Case No. 2024-CP-23-03329

Appellate Case No. 2024-002201

Joseph M. Plaxco, Respondents,

v.

Paul Hulseley, Cherie Durand, Kimberly
Thomason, Devon Puriefey, Desa Ballard,
Mayra Michalski, Luis Michalski,
John & Jane Does #1-14, Defendants,

Of which Paul Hulseley, Cherie Durand, Kimberly
Thomason, Devon Puriefey, Desa Ballard,
Mayra Michalski, Luis Michalski, Appellants

APPELLANTS' MOTION TO REINSTATE APPEAL

Pursuant to Rule 240, Appellants file this motion to reinstate the appeal following the Court's Order of Dismissal filed on January 6, 2025.

Procedural Background

Respondents Joseph M. Plaxco (hereinafter "Respondents") initiated the underlying civil action on May 29, 2024, asserting claims of defamation, abuse of process, intentional infliction of emotional distress, intentional interference with prospective contracts, and declaratory judgment against Appellants.

This case arises from a pre-litigation letter sent to Respondents on or about May 17, 2024, in which Respondents incorrectly assert they were defamed. Appellant Ballard, along with

Appellants Hulsey, Durand, Thomason, and Puriefoy (collectively referred to herein as “Appellant attorneys”), represents Appellants Michalski, in separate civil actions. In Spring 2024 following extensive investigation, Appellant attorneys were preparing to file three separate civil actions in federal court on behalf of Appellants Michalski, asserting causes of action against multiple defendants, including Respondents herein, for violation of the Racketeer Influenced and Corrupt Organizations Act (“RICO”). Prior to filing suit, Appellant attorneys sent pre-litigation letters to each of the potential defendants that were to be named in the respective federal court actions on or about May 17, 2024, providing them with formal notice of the impending litigation, a summary of the allegations asserted, and the legal basis supporting the litigation. On or about May 29, 2024, Respondents filed the underlying action against Appellants asserting, among other things, that the statements within the pre-litigation letter were false and defamatory. All named Defendants subsequently filed Motions to Dismiss Plaintiffs’ action on the grounds that the statements within the prelitigation letter, which Respondents claim are defamatory, are privileged and thus Defendants are immune from suit.

A hearing on Defendants’ Motions to Dismiss was held on September 23, 2024, before Judge Salvini during which the trial court heard five separate Motions to Dismiss, related to five separate suits, brought against five named attorney Defendants and four non-attorney Defendants. At the outset, Appellants were taken aback that such deference was given to the honor and integrity of the Respondents as members of the Greenville Bar who are defendants in actions in federal court without giving the same deference to the honor and integrity of the attorneys who brought those actions. As reflected by the hearing transcript, the trial court made several statements which demonstrated clear bias and deference in favor of the Respondents, all of which are members of the Greenville Bar. Ultimately, and unsurprisingly given the remarks during the hearing, the trial

court issued an order denying Appellant's Motion to Dismiss on October 2, 2024, from which the instant appeal initiated.

Due to the undeniable bias displayed by Judge Salvini during the motions hearing, on November 4, 2024, Appellants filed a Petition to the Chief Justice of the South Carolina Supreme Court seeking appointment of a neutral judge to hearing the trial court cases. A copy of the Petition was previously filed with this Court on December 27, 2024. Despite the fact that the Petition is pending, Judge Salvini issued a Final Order denying Appellants' Motion to Reconsider on November 27, 2024. Appellants assert that the Final Order should not have been issued while the Petition was still pending, especially given the reasons necessitating the filing of the Petition.

After timely filing a Notice of Appeal on December 27, 2024, this honorable Court issued an Order dismissing the instant appeal on January 6, 2025. Appellants submit this motion seeking to reinstate the appeal.

Legal Standard

While interlocutory orders are generally not immediately appealable, S.C. Code Ann. § 14-3-330(1) permits immediate appeal and review of interlocutory orders if it involves the merits of the case or affects a substantial right.

Argument

It is of utmost importance that Appellants make specific note of the fact that they are not suggesting that the denial of a motion to dismiss is generally an appealable interlocutory order. Appellants due however believe a substantial right was affected when Judge Salvini issued the court's November 27, 2024 order while there was an active petition before the Chief Justice of the South Carolina Supreme Court requesting an unbiased judge to oversee the proceedings. In

Appellants' petition to the Chief Justice, specific instances of Judge Salvini's apparent inability to separate her professional and/or personal relationship with a number of the named Plaintiffs in the pending defamation suit were referenced and relied upon in support of the same. In fact, the crux of that petition was Appellants' collective belief that Judge Salvini's remarks made evident the fact that although highly respected, the Greenville County judiciary would likely struggle maintaining objectivity given its characterization of the reputations of the defamation suit plaintiffs, and as a direct result of the same Appellants' rights as litigants could not be properly safeguarded absent the appointment of a truly neutral judge.

CONCLUSION

Therefore, Appellants respectfully request this Court reinstate the previously dismissed appeal for further determination of the appropriateness of Judge Salvini's ruling during the pendency of Appellant's petition to the Chief Justice of the South Carolina Supreme Court.

Respectfully submitted,

s/ Haley Hubbard

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ATTORNEYS FOR APPELLANTS

January 16, 2025

CERTIFICATE SERVICE

I, the undersigned, served a copy of this Motion to Reinstate Appeal on the following counsel of record this 16th day of January, 2025, by email to the following address of record
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January 17, 2025

South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

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SC Court of Appeals

Re: Appellate Case No. 2024-002202
Appellate Case No. 2024-002199
Appellate Case No. 2024-002187
Appellate Case No. 2024-002206
Appellate Case No. 2024-002201

Dear Clerk:

Enclosed find Appellants' Motion to Reinstate Appeal for the cases referenced above, as well as the filing fee for each in the amount of Two Hundred Fifty dollars and 00/100 (\$250.00).

Feel free to contact our office if you have any questions.

TRULUCK THOMASON, LLC

Very respectfully,

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enclosures



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