

Feb 24 2025

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
CIRCUIT COURT

2025-000164
2024-0001626

The Honorable Jocelyn Newman
The Honorable Daniel Coble
The Honorable Thomas McGee, III
The Honorable Jean Toal

Rhonda Meisner,

Appellant

Grant Meisner, Grant Meisner, MD, LLC

Sheila Robinson, Erwin Mangubat, MD; Moore, Taylor & Thomas, P.A.;
Moore Taylor LawFirm, P.A.; Moore Bradley Myers, P.A; Tricia L. Flowers;
Flowers Consulting, LLC; Richard G. Whiting, Esquire; Law Offices of Richard
Whiting, P.A.; John Does, (1-10) a fictional name assigned to identify parties that
are not yet known or not yet determined.

Respondents

REPLY TO OPPOSITION OF CONSOLIDATION BY THE MANGUBAT AND
WHITING RESPONDENT(S)

The appellant Rhonda Meisner submitted a motion to consolidate appellate case numbers 2024-0001626 and 2025-000164 pursuant to S.C. App. Ct. R. 214. R. Both the Whiting¹ and the Mangubat Respondents have submitted a Return to the Motion. This Reply is timely filed within 5 days of receipt on Monday February 17, 2025 via email.

BACKGROUND

¹ The Whiting Respondent's titled their action Reply to Motion to Dismiss and Memorandum in opposition to consolidation; however, there was no memorandum in opposition attached to the filings. Nor was an argument contained in the Reply to the Motion to Dismiss other than the reiteration that the Whiting Respondent's should not be involved.

Appellate case number 2024-0001626 and 2025-000164 both have the same Plaintiff, Defendants, and common legal questions such as jurisdictional inquiries, dismissal review, and privilege defenses.

On December 15th and 20th of 2022, some defendants, *but not all* defendants were dismissed by the Honorable Jean Toal, acting circuit court judge, via a Form 4 that did not designate whether with or without prejudice.

Importantly, when the first appeal was filed, there was an outstanding motion to alter and amend pursuant to Rule 52 *and* Rule 60 that the Honorable Jean Toal had not yet acted upon. SCRCR Rule 52 (b) upon motion of a party made not later than 10 days after receipt of written notice of entry of judgment the court may amend its findings or make additional findings and amend the judgment accordingly.

The Appellant's January 11th 2023 motion referenced both the December 15th and December 20th Orders because the law firm Defendants *were the link* between the Whiting and the Mangubat Defendants. No defendants, upon information and belief, were dismissed *with prejudice* in either the December 15th or the December 20th order, despite the fact that some Defendants requested dismissal *with prejudice* during the hearing and in the motion before the court. The only dismissal with prejudice was granted in 2024 to the Flowers Defendants which is the subject of the related appeals, for which consolidation is requested.

On December 15th *and* December 20th of 2022, the Doe defendants were *not identified* and Tricia Flowers and Flowers Consulting, LLC (“Flowers”) were *default* defendants.

Argument

As an initial matter, Respondent Whiting did not submit a separate memorandum in opposition of consolidation from his reply to the Motion to Dismiss. Respondent Mangubat stated the January 11, 2025 motion to alter and amend pursuant to SCRCR Rule 52 and Rule 60 did not involve him; however, a review of the Motion referenced both the underlying December 15, 2022 order and the December 20, 2022 order. Both dismissals were *before* any discovery and were the result of affirmative defenses and the argument that the circuit court did not have jurisdiction to hear claims of civil conspiracy, abuse of process, trespass, trespass after notice, negligence etc.

Respondent Mangubat suggests the motion did not mention him, this is inaccurate. The motion was specifically addressed to all defendants including him, pointed to the motion to dismiss of all Defendants and mentioned the order itself directs this Honorable Court to the wording in the motion related to the request for the court to review both orders, instead of the underlying Amended Complaint and the allegations therein that unite all Respondent. The appellant avers it is the amended complaint along with allegations against each Defendant that determines whether the orders (which were referenced in the Motion) involve them.

Rule 7(b)(1) SCRCF requires that motions “shall state with particularity the grounds there for, and shall set forth the relief or order sought.” The particularity requirement “is to be read flexibly in ‘recognition of the peculiar circumstances of the case.’ Cambridge Plating Co., Inc. v. Napco, Inc., 85 F.3d 752, 760 (1st Cir. 1996) (quoting Registration Control Sys., Inc. v. Compusystems, Inc., 922 F.2d 805, 808 (Fed. Cir. 1990))

The Motion itself was directed to all defendants including the Mangubat and Whiting Respondents. Additionally, the motion specifically points to the Complaint, the Amended Complaint and all the returns to the Motions to Dismiss. As such, to the extent the Mangubat Respondent stated he was not mentioned, the appellant avers that was inaccurate. In addition, the motion also specifically evidences both the Mangubat and the Whiting Respondents are implicated with the law firm Respondents in several claims.

Pursuant to SCRCF Rule 41, the Court did *not* make findings of fact pursuant to Rule 52 (a) and instead ordered the dismissal on a Form 4. This motion was based on SCRCF Rule 52 and Rule 60 because when the law firm defendants were dismissed, the agency relationship was not only not addressed in the Form 4 but the relationship between the parties was not addressed given the default status of the Flowers defendants and the presence of the Doe defendants.

Based on claims that involved Mangubat and his affirmative defense that he was an expert witness of the law firm, it was clear the Rule 52 and Rule 60 motion that dismissed the law firm defendants involved the Mangubat defendant. As such,

the appellant avers the SCRCR Rule 52 and Rule 60 motion tolled the time to appeal given the need for a ruling on the Doe Defendants and the agency relationship between the Default Defendants and the other defendants. As such, the appellant avers the motion was timely and tolled the time to appeal and consolidation is appropriate because the civil conspiracy, trespass, and trespass after notice, abuse of process etc. involved the law firm defendants as the point of contact for the other defendants.

All Defendants argued the circuit court did not have subject matter jurisdiction and some argued for other/different affirmative defenses that are not appropriate prior to discovery. As such, the initial appeal was filed while there was a default defendant and a pending motion to reconsider. To the extent necessary to resolve the issues the appellant requests reinstatement of the initial appeal that was dismissed prior to the January 11, 2023 order being adjudicated.

Because the claims and issues on appeal have common legal questions including but not limited to this Court's interpretation of whether the circuit court had subject matter jurisdiction and whether it is appropriate to orders dismissals pursuant to Rule 12 prior to discovery, which are related to all the defendants and the jurisdiction, the appellant respectfully requests consolidation for the reasons of judicial economy.

February 22, 2025

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RECEIVED

Feb 24 2025

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

Appeal from Richland County Circuit Court
The Honorable Jean Toal, retired Chief Justice
2024-001626

Rhonda Meisner,

Appellant,

v.

Grant Meisner, Grant Meisner,
MD, LLC; Sheila Robinson; Erwin
Mangubat, MD; Moore, Taylor, &
Thomas, P.A.; Moore Taylor
Lawfirm; Moore Bradley Myers Law
Firm, LLC; Tricia L. Flowers;
Flowers Consulting, LLC; Richard
G. Whiting, Esquire; Law Offices of
Richard Whiting, P.A.; John Doe
(1-10) a fictional name assigned to
identify parties that are not yet
known or not yet determined.

Respondents.

**PROOF OF SERVICE-REPLY TO RESPONDENT MANGUBAT AND
WHITING'S MOTION TO CONSOLIDATE**

Rhonda Meisner has electronically filed her REPLY and proof of service and copied the following attorneys emailing
michaelctannerllc@bellsouth.net; sburton@gibbesburton.com; ward@mbmlawsc.com; jparham@jparhamlaw.com; scorequipment@gmail.com; murrell@smithrobinsonlaw.com; ward@mbmlawsc.com; shanon.peake@smithrobinsonlaw.com; Additionally, I mailed a copy postage prepaid by U.S. mail to : James Edward Bradley Post Office Box 5709 W.Columbia, SC 29171 Stephanie Burton 308 E. Saint John Street Spartanburg, SC 29302 James Parham PO Box 1576 Irmo, SC 29063 Michael C. Tanner PO Box 1061 Bamberg, SC 29003 and Shannon Peake 2530 Devine Street Columbia SC 29205.

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