

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Commons Pleas

R. Markley Dennis Jr., Circuit Court Judge

Case No. 2010-CP-10-9305

Cambridge Lakes HOA,..... Respondent,

v.

Johnson Koola,.....Appellant.

RESPONDENT'S REPLY TO APPELLANT'S
RETURN TO MOTION TO DISMISS

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SC Court of Appeals

Respondent, by and through its undersigned counsel, hereby replies to
Appellant's Return to the Motion to Dismiss.

The underlying case is still pending in the lower court. Appellant is relying
on a scrivener's error in the Form 4 Order (file-stamped March 4, 2013), dismissing
Defendant's counterclaims for Case No. 2010-CP-10-9305, which has since been
corrected. Respondent's exhibit filed with their Motion to Dismiss is a screenshot of
the Charleston County Clerk of Court's website shows that the case is active, and
has a time-stamped date of September 19, 2013. An error without prejudice does not
warrant reversal. *E.g., Loftis v. SCE & G*, 361 S.C. 434, 604 S.E.2d 714 (Ct. App.
2004).

Since 1892, the Supreme Court of South Carolina has maintained that interlocutory orders are only appealable in exceptional circumstances. *Capell v. Moses*, 36 S.C. 559, 15 S.E. 711 (1892). Absent some specialized statute, determining if an interlocutory order is immediately appealable depends on whether the order falls within one of the several categories of appealable judgments, decrees, or orders listed in S.C. Code Ann. § 14-3-330; *Baldwin Const. Co., Inc. v. Graham*, 357 S.C. 227, 230, 593 S.E. 2d, 146, 147 (2004). None of these categories apply to this case.

The lower court's order granting summary judgment dismissed Appellant's counterclaims only. The pending case is a debt collections action that was filed in 2010 and needs to move forward. Appellant's apparent purpose in filing the counterclaims was to delay payment of monies owed to Respondent. The Appellant has made clear to counsel that he intends to use every means possible, including appeals, to delay this matter. The dismissal of Appellant's counterclaims does not affect a substantial right to defend this action. In the interest of judicial economy, the underlying case should be tried and a final judgment rendered before any appellate review take place. *See Ashenfelder v. City of Georgetown*, 389 S.C. 568, 577, 698 S.E.2d 856, 861 (Ct. App. 2010).

Therefore, Respondent respectfully requests this Court grant Respondent's Motion and enter an Order dismissing this Appeal.

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Respectfully submitted,



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CAMBRIDGE LAKES HOA

October 3, 2013

THE STATE OF SOUTH CAROLINA
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PROOF OF SERVICE

I certify that I have served the foregoing **RESPONDENT'S REPLY TO APPELLANT'S RETURN TO MOTION TO DISMISS** on all parties of record by depositing a copy of it in the United States Mail, postage prepaid, on October 3, 2013, addressed to their attorneys of record as follows:

Johnson Koola, *pro se*
1587 Cambridge Lakes Drive
Mt. Pleasant, SC 29464

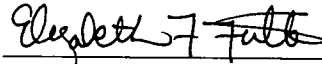
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Appellant pro se

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[SIGNATURE PAGE TO FOLLOW]

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