

THE STATE OF SOUTH CAROLINA
In The Court of
Appeals

APPEAL FROM OCONEE COUNTY
Court of Common Pleas

Steven C. Kirven, Master in Equity

Case No. 2023-CP-37-00620

RECEIVED

JUN 30 2025

SC Court of Appeals

Ex Parte: Christopher A. Pierce, Appellant

Foxwood Hills Property Owners Association, Respondent,

v.

Michael D. Jewell, Lori Marcengill, South Carolina Department of Motor Vehicles,
Defendant's,

of which Michael D. Jewell is an Appellant.

Case No. 2025-000223

INITIAL BRIEF OF APPELLANTS

TABLE OF CONTENTS

| | |
|------------------------------------|----|
| Table of Authorities..... | 2 |
| Statement of Issues on Appeal..... | 3 |
| Statement of the Case..... | 4 |
| Statement of the Facts..... | 6 |
| Argument..... | 8 |
| Conclusion..... | 10 |

TABLE OF AUTHORITIES

CASES

1. Avila v. Standard Oil Co. (1985) 167 Cal.App.3d 441, 446.)

Summary Judgment may not be applied if a genuine issue of material fact remains in dispute. Summary judgment or adjudication is only appropriate when no material issue of fact exists and where the record establishes as a matter of law that a cause of action asserted cannot prevail.

2. Hunnicut vs Richenbacher 268 S.C. 511, 234 S.E. 2d 887 (1977)

Rule 19 SCRCP joining

3. Kiekel Vs. Four Colonies HOA Kansas Appellate Court 162 p.3d 57 Kan. Ct. App. 2007

Restrictions are primary document to Bylaws - Accepted around US and in South Carolina

4. Kitchen Planners LLC vs Friedman 440 S.C. 456, 892 S.E. 2d 297 (SC App. 2023) Op. no. 28173

Standard of Review in Summary Judgment is De Novo.

5. Lovering Vs. Seabrook Island HOA 289 S.C. 77,344 S.E. (2d) 862 (Ct. S.C. App. 1986)

Affirms principle of Restrictions being primary to Bylaws.

6. Pelzer Vs. Seabrook Island HOA - 356 S.E. 2d 411;292 S.C. 343; Ct. S.C. App 1987

Affirms principle of Restrictions being primary to Bylaws

7. Pierce Vs. Foxwood Hills Property Owners Association - Bankruptcy Court (2023) C/A no. 20-02092-HB Adv. Pro. No. 20-80049-HB

Christopher Pierce (ex-parte appellant) affirms restrictions preempt Bylaws with FHPOA

8. South Carolina Community Bank vs Salon Proz, LLC App. Case No. 2014-002627

Citation - 420 S.C. 89, 800 S.E. 2d 422 (Ct. App. 2017)

Standard of review for Jury trial consideration de novo. Case involves foreclosure. Salon , like Jewell, did not waive right to a jury trial.

9. Snow vs, Smith, 416 S.C. 72, 85, 784 S.e. 2d 242, 248 (Ct. App.2016)

Appellate court may decide questions of law with no deference to circuit courts findings. De novo

10. United States v. Stein, No. 16-10914 (11th Cir. 2018) F. 2 D

Self serving Affidavit creating dispute as to material fact even if self serving and used to overcome Summary Judgment in above case and should also serve in the same capacity for Jewell.

STATUTES AND RULES

1. Lis Pendens Statute of South Carolina S.C. Code of Laws Ann. S. 15-11
2. Rule 19 SCRPC
3. Rule 56 SCRPC
4. Seventh Amendment US Constitution

STATEMENT OF ISSUES ON APPEAL

1. **Motion for Adjudicative Joinder** - Rule 19 SCRPC. Did Judge

Kervin err in his use of judicial discretion to deny intervenor Ex Parte Appellant Pierce from joining the foreclosure lawsuit given he is part owner of the property in the foreclosure lawsuit?

2. **Motion for Jury Demand** - Did Judge Kervin err in denying Appellant Jewell's Motion for Jury Demand, and was it the same as his earlier motion to refer the case back to Common Pleas Court from Master in Equity Court?

3. **Motion For Summary Judgement** - Did Judge Kervin err in failing to recognize that numerous issues of genuine material fact were in dispute between appellant Jewell and Respondent Foxwood Hills Property Owners Association and improperly grant Summary Judgment to Respondent Foxwood Hills Property Owners Association?

STATEMENT OF THE CASE

This case under appeal is a foreclosure action brought by the Respondent Foxwood Hills Property Owners Association ("FHPOA") against Appellant Michael D. Jewell ("Jewell") for the purpose of alleged recovery of dues, fines and associated charges totalling \$18,079.93 on Final Judgment issued January 2, 2025. Jewell did not agree with Respondent's Complaint as stated in his Answer timely filed on September 12, 2023, and that he would pay \$6000 in dues but did not agree to owing the amount in Respondent's Complaint which was \$9332.05. He felt that the other charges such as fines, interest, late fees, and attorney fees were charges he did not owe based on his Answer.

The Respondent's case was initiated in August 17, 2023 and continued until December 5, 2024 where upon an Order granting Summary Judgment was issued against Jewell.

Christopher A. Pierce, Ex Parte Appellant ("Pierce") during the same hearing sought to intervene in the case as a party defendant under Rule 19 SCRPC and was denied admission. On December 5th, 2024 a motion for Adjudicative Joinder under this rule was brought by Pierce seeking to protect his interests under Rule 19(a)(2) (ii) SCRPC. Pierce stated in his Motion that he owned a 1/3 property interest and desired to protect it by becoming a party defendant. Respondent stated that Pierce was late in joining and a Lis pendens was filed preventing him from joining. Judge Kirven ruled in favor of Respondent preventing Pierce from joining.

A Motion for Jury Demand was also included as introduced by Jewell based on a motion that

stated US Constitution, Seventh Amendment provided his right to a jury. Respondent argued Rule 38 SCRPC prevented him from having a jury along with South Carolina law. Judge Kirven ruled in favor of Respondent denying a jury for Jewell

A Motion to Compel was also to be heard from 6 months prior to the December 5th, 2024 hearing before the presiding judge in Master in Equity Court, Judge Kirven, but was delayed until December 5, 2024 in order to allow for a sale of the property. The sale of the property was never completed due to unknown reasons. This Motion to Compel by Jewell alleged FHPOA failed to properly respond to all Discovery Interrogatories. Respondent claimed he had complied with SCRPC in his response. Additionally the Motion to Compel was never presented by the judge during the December 5, 2024 hearing.

FHPOA filed a Motion For Summary Judgment through their attorney John Kay alleging that there was no genuine issue of material fact in dispute in accordance with Rule 56 SCRPC in the case and that Summary Judgment was appropriate. An affidavit was included to support their claim as mentioned above. Jewell responded with his own affidavit that indicated there were numerous genuine issues of material fact in dispute.. This motion was originally scheduled in May 2024, but was delayed due to settlement proposal and attempted sale of the property. It was later included during the hearing on December 5, 2024. Judge Kirven ruled in favor of Respondent granting Summary Judgment.

Jewell was also the sole owner of property at 428 Odessa Ave, Westminster, SC upon the start of the Circuit Court action 2023CP3700620 in August 17, 2023. On October 21, 2024 Jewell

decided to sell a 1/3 interest in the property to Pierce for \$500 and a promise of additional work and capital for renovation of the property.

Pierce argues that a Lis Pendens, which indicates the property is subject to a legal , does not preclude him from joining in the action.(See Transcript pages 3-10). Pierce believes a liberal interpretation for joining under South Carolina Supreme Court opinion should allow him to join clearly to protect his interests, as well as language in Rule19 SCRPC. Those interests can only be protected by Pierce joining the case to defend his interests in his property. Nothing in the Lis Pendens Law, S.C. Code of Laws Ann. S.15-11 requires that he give up his interests in this property.

ARGUMENT

Motion for Adjudicative Joinder - Rule 19 SCRPC. Did Judge Kervin err in his use of judicial discretion to deny intervenor Ex Parte Appellant Pierce from joining the foreclosure lawsuit given he is part owner of the property in the foreclosure lawsuit?

STANDARD OF REVIEW

De Novo

Hunnicut vs Richenbacher 268 S.C. 511, 234 S.E. 2d 887 (1977)

Provides details as to standard of review in Rule 19 SCRPC joining. Standard should be Denovo base on whether or not a rule or statute is violated such as Rule 19 SCRPC or Lis Pendens statute S.C. Code of Laws Ann. S.15-11.

Motion For Adjudicative Joinder

As indicated in the Statement of the Case, Pierce filed a Motion for Adjudicative Joinder under Rule 19 SCRPC for Hearing December 5, 2024. This involves the joining under Rule 19 SCRPC and the important part is that Pierce should join because without his presence he would risk losing property interests or have them compromised by failure to protect them in court.. And that's exactly what happened with Mike Jewell representing himself without the aid of Pierce. Pierce lost his property rights interest, he lost, causing a loss of an interest in the property and a judgment in favor of the Respondent on the property. Therefore Pierce must be joined to protect his interests under Rule 19 (a)(2)(ii) SCRPC. The importance of having that interest protected by him being included to protect his interest in the property are very important. Additionally there is no indication of any Lis Pendens law, S.C. Code of Laws Ann. S.15-11 that would preclude him from joining after a year as indicated by opposing counsel. On page 9 of Transcript the judge states "well the problem is the Lis pendans is filed and there's a reason those things are filed in connection with the foreclosure proceedings and the statute basically provides that anybody who acquires an interest in the property after with expenses filed takes subject to the action and really don't have to be a party. The issues in the case involved assessments against this property it doesn't really matter who owns it it's a matter of whether the assessments are owed or not and it enforcement to take action against that property by selling it so your motion is denied and you

have have a seat back in the back." I disagree with the judges opinion as that opinion is not based on law and disregards the law. Stating that I cannot join after a year it's arbitrary and capricious and is a poor judicial decision which disregards the law and SCRPC. Pierce should be joined absolutely having met the requirements of rule 19 a (2). In that I must be included because in order to protect my interest to the property otherwise it'd be an adverse decision without Pierce's presence.

I ask the Appeals Court to allow me to join and then to remand the case back to the Circuit Court where upon I have a right to a Final Hearing in Master in Equity Court and I can present my case as to protection of my property interest of 33.3% in the property. I ask the Appeals Court to reverse on the Final Order issued January 2, 2025. Thank you for your consideration of my position.

ARGUMENT

Motion for Jury Demand - Did Judge Kervin err in denying Appellant Jewell's Motion for Jury Demand, and was it the same as his earlier motion to refer the case back to Common Pleas Court from Master in Equity Court?

Standard of Review

South Carolina Community Bank vs Salon Proz, LLC App. Case No. 2014-002627

Citation - 420 S.C. 89, 800 S.E. 2d 422 (Ct. App. 2017) - Established De Novo as the standard of review based on a particular rule or law being violated. Salon had right to a jury in this appeal. Jewel was also denied under circumstances similar to Salon in that he was improperly referred to Master in Equity Court.

De Novo

Motion For Jury Demand

This Motion is heard in pages 10-14 of the transcript.

Judge Kervin argues that he already had a motion to move the case back to Circuit Court and that's different than asking for a jury but in reality it is asking for a jury because in Common Pleas Court he can ask for a jury and he never had that opportunity because he was moved into Master on in Equity Court based on a false affidavit filed by the plaintiff's attorney John Kay. Transcript page 12 ll 18-21 seem to indicate that the judge can refer a case for jury. Therefore he should have that opportunity that he never had because there was a false affidavit filed.

Transcript Page 13 ll 3-6. Jewell was referred to Master in Equity Court with a false affidavit filed by FHPOA John Kay stating he was in Default for not Answering when in fact he was not and had clearly Answered FHPOA Complaint. Had Kay not filed the false Affidavit, Jewell would have had the right to ask for Jury Trial while still in Common Pleas Court. His due process rights were clearly violated. He also asserts rights under the Seventh Amendment US Constitution which also allow for juries in Federal cases.

ARGUMENT

Motion For Summary Judgement - Did Judge Kervin err in failing to recognize that numerous issues of genuine material fact were in dispute based on Rule 56 SCRPC between appellant Jewell and Respondent Foxwood Hills Property Owners Association and improperly grant

Summary Judgment to Respondent Foxwood Hills Property Owners Association?

Standard of Review

De Novo

Kitchen Planners LLC vs Friedman 440 S.C. 456, 892 S.E. 2d 297 (SC App. 2023) Op. no. 28173

Standard of Review in Summary Judgment is De Novo for this South Carolina case. De Novo because Summary judgment relies on a Rule 56 SCRPC so Appeals Court can decide it as a matter of law.

All sub-arguments to be evaluated De Novo

Motion For Summary Judgment

Failure of Judge to Present Motion to Compel

In both Appellant's Response to Summary Judgment and Affidavit Jewell makes clear that he needs the Motion to Compel to be heard before the Summary Judgment hearing (see exhibits) in order to be made aware of all the facts surrounding the case since there are numerous issues of genuine material fact in dispute. Additionally, most (about 90%) of the Discovery questions were left unanswered by the Respondent (see Defendant's Discovery Request). Therefore Jewell was at a serious disadvantage during the Summary Judgment hearing and could not properly defend himself during the Summary Judgment hearing. Jewell's due process rights were violated and the result was the Respondent prevailed in his Summary Judgment motion. This was a clear due process violation and Jewell needed to have the Motion to Compel rescheduled in a separate hearing where upon he would have then been able to have all facts and Discovery available to

him. He feels that only then can he properly defend in a Summary Judgment hearing. His due process rights clearly violated as not all the facts were known to him from his Discovery.

Therefore any hearing for Summary Judgment is completely out of order by Judge Kervin. The Summary Judgment hearing should never have even been scheduled until a Motion to Compel hearing was scheduled separately before the Summary Judgment hearing. There can be no Summary Judgment unless all the facts are known. Without it, numerous genuine issues of material fact remain in dispute in Rule 56 SCRPC and Summary Judgment should have been denied.

Defendant Affidavit Clearly Disputes the Facts of Respondent

Respondent uses Rule 56(c) SCRPC, "The judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." All the Answers to interrogatories were not available to Jewell as Motion to Compel indicated. Appellant Jewell's Affidavit also clearly contradicts material facts made in Respondent's Affidavit. Yet the hearing judge appears to ignore his Affidavit while accepting respondents's Affidavit. South Carolina Rule 56(e) SCRPC clearly states that a Defendant party may not dispute Summary Judgment on allegations alone but must use sworn Affidavit(s) to contradict plaintiff in order to be successful in defeating the motion. Additionally Jewell could not properly oppose this motion as he did not have all the Answers to Interrogatories as his Motion to Compel indicated. His due process rights to properly

defend Summary Judgment were compromised. Jewell clearly met this standard of Rule 56 (e) with his Affidavit in his challenge, yet Judge Kervin seemed to ignore both his Affidavit and Response to Summary Judgment pleadings in favor of Respondent's Affidavit. Ultimately Jewell provided a self serving Affidavit which should have been suitable evidence to overcome Summary Judgment as supported by federal court in, United States v. Stein, No. 16-10914 (11th Cir. 2018) F. 2D Judges opinion, "Self serving Affidavit creating dispute as to material fact even if self serving." Additionally the following case law also supports that if a genuine issue of material fact remains in dispute that Summary Judgment cannot be granted. Jewell clearly provided a self serving Affidavit, like Stein and that should have been sufficient to defeat Respondent's Summary Judgment Motion. Clearly many facts in Appellant Jewell's Affidavit are in direct contradiction to that of the Respondent Affidavit as indicated by Avila v. Standard Oil Co. (1985) 167 Cal.App.3d 441, 446. Therefore trial judge erred in failure to recognize that Appellant Jewell's affidavit being sworn evidence directly contradicts Respondent's and therefore numerous genuine issues of material fact remain in dispute. Summary Judgment should have been denied, not granted.

Inconsistent Application of Rules

During the Summary Judgment hearing Jewell consistently challenges fines and the procedures involved in assessing those fine, yet the judge, for example, seems to ignore his challenges to fines and other charges. Jewell met with Foxwood Hills Property Owners Association Board members in a good faith attempt to resolve these disputes (an acceptable method of appeal). The judge and opposing counsel disputed that he met the standards for appeal of the charges in that he

didn't file a written appeal. Yet during these meetings he did both orally and in writing challenge the charges. Several witnesses observed this. Yet, the Judge Kervin, trial judge simply accepts that he had not met the standard for appeal based on Respondent's attorney statements that Jewell had not, while offering no proof whatsoever as it is his burden to do so. Transcript P.31-32. Meanwhile in a similar case in a neighbor nearby, Wayne Raffaldt 2023CP3700703, he challenged the fines and the same judge, Judge Kirven ruled that the fines were to be removed based on the Worksheet he prepared during Final Hearing. Jewell considers his fines to be similar to that of the above case in that a similar defendant challenging the dues had over \$28,000 in frivolous fines removed while Jewell's almost \$6000 would not be removed. This seems unfair and is arbitrary and capricious in application. Jewell asks that fines and other charges be removed similarly to what happened with Mr. Raffaldt and that clearly the frivolous application of fines qualifies as a genuine issue of material fact in dispute and therefore Summary Judgement should have been denied. This matter with the FHPOA vs Wayne Raffaldt was not brought up during Jewell's Hearing as it happened several months after Jewell's hearing December 5, 2024, but should be included here as completely relevant in application to Jewell.

Inconsistent amounts due

Respondent writes in his Complaint that Jewell owes \$9332.05 in his complaint. Some how that amount grows to \$18, 079.93 in the January 2, 2025 Order. This seems unreasonable and with little if any explanation and Page 14 and page 16 of transcript Plaintiff Affidavit offer conflicting

amount of total dues due on page 14 it's about \$16,003.72 on page 16 it's 16,983.72. on the final order it's \$18,079.93 and that's a moving target for the defendant who doesn't know what the real amount due is and FHPOA also provides summaries of what the dues are owed not individual itemized dues and other charges so defendant is left wondering what he really in fact does owe.. And there is a genuine issue of material fact in dispute based on that discrepancy. This matter should be litigated in final hearing where precise evidence of charges can be presented and challenged.

Question of ownership and jurisdiction of bankruptcy ruling and final decree

Defendant doesn't know whether or not the property was owned by Stacy Beckett, previous owner, when she was listed on the bankruptcy final decree in fact Mr Jewell believes that he was the owner at that time yet she was listed therefore he's not required and bound by the bankruptcy final decree which demands that he pay budget base billing and Bylaw based dues and he doesn't feel he's responsible for that. Bylaw based dues are about \$650 whereas restriction based dues are \$60.

Mr Jewell goes on to describe that Stacy Beckett did not own property when the lawsuit was filed or the final decree issued in the bankruptcy filing. Transcript Pages 15-17, 19. So the issue of ownership and whether or not he is bound by Bylaws is in dispute. Summary Judgment is not possible when a genuine issue of material fact is in dispute.

Dispute of the fines charged related to condition of the property

On page 20 of transcript defendant discusses the condition of his property and describes that he kept the yard in consistent good condition not only that that everybody in the area appreciated his yard on Facebook he had numerous comments of appreciation for his yard. Mr Jewell offered to show pictures to the court of the condition of the yard which is in good quality. The judge did not accept those pictures during the hearing. His only caveat is that the yard conditions suffered due to the tropical storm Helene that passed through the area. He was also waiting on FEMA relief assistance. Jewell makes clear that his yard was in good condition in his affidavit which is sworn evidence and that he had numerous supporting friends and people on Facebook that agreed his yard was in good condition. Only the FHPOA in the area was disputing the condition of the yard. The belief is that since he believes his yard wasn't in good condition that's a genuine material issue of a fact that is in dispute and that he has brought this up in his affidavit and had support of friends and other the thought otherwise the condition was good therefore as this is disputed factually this argument alone should defeat the summary judgment argument in that it's disputed about the yard condition materially disputed. Mr Jewel also went through a process where he met with the Board of FHPOA to discuss the fines and dues and other charges and attempted to appeal the decision by the FHPOA security people labeling his yard to be in violation of the covenants or restrictions. Furthermore, he is disputing that they have any right to charge him for fines because the restrictions on his property do not allow a charge of \$33.33/day that charges in the Bylaws and the charge for a restriction violation in the bylaws it requires a lawsuit to be filed specifically relating to it but not any monetary damages charged against him and since

the bylaws and restrictions are in dispute the restrictions should supersede the bylaws and they're trying to alter the restrictions with their their by law charge of \$33.33 they are restricted from charging this amount since it's not in the restrictions. In Pierce Vs. Foxwood Hills Property Owners Association - Bankruptcy Court (2023) C/A no. 20-02092-HB Adv. Pro. No. 20-80049-HB, Kiekel Vs. Four Colonies HOA Kansas Appellate Court 162 p.3d 57 Kan. Ct. App. 2007 the Bankruptcy Court judge rules in favor of Restrictions over Bylaws. FHPOA continues to charge fines associated with a Bylaw based mechanism. Fines must comply with a Restriction based mechanism and there is nothing in the restrictions that allows the Respondent to charge \$33.33/day. This mechanism is in dispute and Appellant should have to right to prove that Respondent cannot charge these fines during Final Hearing. The fine mechanism is in dispute and therefore Summary Judgment not appropriate.

Dues in dispute

Jewell offered to pay his fees for dues but he never indicated that he received any amenities and indicates, "how am I supposed to pay for something that I ain't never been offered" so it's clear from his testimony that the POA never offered him any amenities so since he was never offered anything he never paid for anything. Since it's a contract both sides have to perform and since the FHPOA didn't offer amenities he's not under any obligation to pay for something he did not receive. He further indicates on page 21 that the proper remedy for restriction violation halfway down the page is to handle by taking me to court not by fining me everyday he clearly identifies the process in the restrictions versus the bylaws. And that the restrictions preempt the bylaws.

This based on . Kiekel Vs. Four Colonies HOA Kansas Appellate Court 162 p.3d 57 Kan. Ct. App. 2007, Pelzer Vs. Seabrook Island HOA - 356 S.E. 2d 411;292 S.C. 343; Ct. S.C. App 1987, Lovering Vs. Seabrook Island HOA 289 S.C. 77,344 S.E. (2d) 862 (Ct. S.C. App. 1986) and Pierce Vs. Foxwood Hills Property Owners Association - Bankruptcy Court (2023) C/A no. 20-02092-HB Adv. Pro. No. 20-80049-HB.

Mr Jewell also on page 21 brings up further conflicts of charges that are all over the place for the total amount he owes and disputes factually what amount is truly due to the POA.

He also indicates clearly in the middle of the paragraph that he went down there and tried to meet with the Board to talk to them to explain the issue of the fines and disputes on the dues so he attempted to follow a recognized appeal process of executive session to meet with board members to try to resolve it's disputes on both fines and dues and other amounts charged. Summary Judgment not appropriate given that dues are also in dispute.

Appeals Process at FHPOA related to Dues, Fines and Other Charges

On page 24 and 25 of the transcript the judge makes clear that there's an appeals process to follow and he believes that Mr Jewell did not follow this process however he did and then he actually did meet with board members to discuss it and he did file a written appeal but he did it in writing meeting with a board member and submitted written documentation to the board about his dispute of the amounts charged including dues fines and other charges. Mr Jewell did contact the board did meet with them to try to resolve the matters and question including dues

finer and other charges on several occasions and had witnesses present to corroborate these meetings and discussion.

Charging dues and Assessments by POA, Breach of Contract

The court view on the right to charge assessments stating they do however have specific charges are in dispute by Mr Jewell. Although defendant Mr Jewell recognizes the FHPOA does have some rights to charge dues and assessments providing they meet their part of the contract in providing amenities. And Mr Jewell disputes that they've provided amenities for the payments required. Mr Jewell specifically questions the actual charges and whether they're accurate but does not necessarily disagree with that they have some rights to charge based on the governing documents. But most of it is in dispute because he's being over charged. The FHPOA does not have a blanket right to charge anything they want and they violated the the integrity of restrictions and bylaws being the restrictions being primary over the Bylaws they've been trying to put Bylaws in place that override the restrictions and that's the violation of case law well settled by Mr Jewell also on page 21 brings up further conflicts of charges that are all over the place for the total amount he owes and disputes factually what amount is truly due to the POA.

He also indicates clearly in the middle of the paragraph that he went down there and tried to meet with the Board to talk to them to explain the issue of the fines and disputes on the dues so he attempted to follow a recognized appeal process of executive session to meet with board

members to try to resolve it's disputes on both fines and dues and other amounts charged.

and appellate cases in South Carolina including Seabrook Island vs Pelzer and Lovering vs Seabrook Island POA. Lastly Christopher Pierce versus Foxwood Hill's POA in US bankruptcy Court. In that case Pierce prevailed and proved Restrictions are primary over Bylaws.

Appeals Process at FHPOA

Now on transcript page 28, 31 it's discussed of whether there's a formal appeals process in place at FH POA and in the bylaws with the court asking John k if there's a appeals process John Kay says there is but fails to cite where it is in the in the bylaws and he's required to do so as the plaintiff to make his case. He states that there is a appeals process in place and then states there was not any appeal by Mr Jewell. I doubt he has the knowledge of where or what the appeals process even is. And he wouldn't know whether or not Mr Jewell filed one in fact Mr Jewell did file with the executive session and meeting with the board to appeal all the issues involving his dues and assessments and fines. So in fact Mr Jewel has disputed the fines and other charges such as dues and he does state that there are genuine material issues of fact in dispute as to what the proper numbers are for those dues and assessments and they were challenged properly in an appeals process. Transcript P.21 1114-22

Attorney fees

On page 35 Mr Jewell of transcript brings up that in the plaintiff's affidavit number 15 that Sonya Hale the president indicates that she's going to pay the attorney fees. The judge states later that they can charge the attorney fees based on the Bylaws and covenants that they can charge those fees but yet the president of the association Sonya Hale makes clear in her affidavit to Mr Jewell that she's willing to pay the attorney's fees. The judge later disputes that however it's unclear as to who who's going to pay the attorney fees in fact it seems more likely that Mr Jewell should not pay the attorney's fees based on that affidavit. So this is a clear issue of material fact that is in dispute and that therefore Summary Judgment is not appropriate in that that's a genuine issue of material fact that is indispute and it needs to be fully adjudicated in a final hearing. There are also references to payments for attorney fees in Rule 76 SCRPC and the FHPOA Bylaws. Neither text allows for Jewell to pay attorney fees. So attorney fee payments remain in dispute.

Conclusion

Ex Parte Appellant Pierce asks that the court to grant his motion to be joined as a party Defendant in the foreclosure case consistent with the liberal policy for joinder as defined by the South Carolina Supreme Court and that the case be remanded back to Judge Kervin in Master in Equity Court for a Final Hearing where upon Ex Parte Appellant Pierce will be allowed to participate in the hearing and protect his 1/3 interest in the property consistent with language in

Rule 19 SCRPC.

Appellant Jewell asks the court to deny Respondent FHPOA's Motion For Summary Judgment and to remand case back to Master in Equity Court where upon Jewell may argue all merits of the case in a Final Hearing. Numerous issues of material fact remain in dispute as indicated above and therefore Summary Judgment should be denied required under Rule 56 SCRPC.

Appellant Jewell asks that Appellate Court grant his motion for Jury Demand and allow him to have a jury, or advisory jury for his Final Hearing in Master in Equity Court.

Thank you for your consideration,

Christopher A. Pierce
605 White Owl Ln
Seneca, SC 29678
Ex Parte Appellant
Self Represented
(864) 557-1258

Michael D. Jewell
428 Odessa Ave
Westminster, SC 29693
Appellant
Self Represented
(864) 614-2016

Resubmitted June 23, 2025

THE STATE OF SOUTH CAROLINA
In The Court of
Appeals

APPEAL FROM OCONEE COUNTY
Court of Common Pleas

Steven C. Kirven, Master in
Equity

Case No. 2023-CP-37-00620

Ex Parte: Christopher A. Pierce, Appellant

Foxwood Hills Property Owners Association, Respondent,

v.

Michael D. Jewell, Lori Marcengill, South Carolina Department of Motor Vehicles,
Defendant's,

of which Michael D. Jewell is an Appellant.

CERTIFICATE OF SERVICE

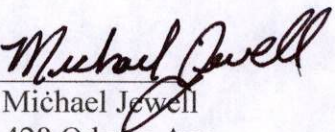
I have deposited in first class mail a copy of revised INITIAL BRIEF OF
APPELLANTS,

DESIGNATION OF MATTER TO BE INCLUDED IN THE RECORD OF APPEAL

to: John Kay, Hutchens Law Firm, P.O. Box 8237 Columbia, SC 29202 on

June 23, 2025

Christopher Pierce Michael Jewell
605 White Owl Ln. 428 Odessa Ave
Seneca, SC 29678 Westminster, SC
864-557-1258 29693



RECEIVED
JUN 30 2025
SC Court of Appeals

Chad Pierce
605 White Owl Ln
Seneca, SC
29678

Retail



RDC 99



29201

U.S. POSTAGE PAID
FCM LG ENV
WESTMINSTER, SC 29693
JUN 23, 2025

\$2.59

S2324K505626-2

RECEIVED
JUN 30 2025
SC Court of Appeals

South Carolina Appeals Court
Clerk of Court
1220 Senate Street
Columbia, SC
29201