

1 STATE OF SOUTH CAROLINA ) IN THE CIRCUIT COURT 9  
2 COUNTY OF CHARLESTON ) DOCKET NO. 2024-CP-10-01489

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4

5 MICHAEL D. ROYAL, )

6 Plaintiff, )

7 versus )

8 )

9 Ashley House Council of Co-Owners, )  
10 Inc., )

11 Defendant. )

12

13

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15 H E A R I N G

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19 PRESENT: Michael D. Royal  
20 DATE: August 29, 2024  
21 LOCATION: South Carolina Circuit Court 9  
22 JUDGE: Milton Kimpson  
23 TRANSCRIBED BY: Jeanne Meldrim

24

25

**RECEIVED**

**Sep 22 2025**

**SC Court of Appeals**

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1 APPEARANCES:

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11 Mt Pleasant, SC 29464  
12 Attorney for the Defendant

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Also Attending:

15 Rosie Moran - Copeland Stair Valz & Lovell

16 Multiple Ashley House condominium owners

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EXHIBITS

(No exhibits marked)

(THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH MATERIAL IS REPRODUCED AS READ OR QUOTED BY THE SPEAKER.)

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1           THE COURT: All right. The next case that we have  
2 is Michael Royal versus Ashley House Counsel of  
3 Homeowners. This is case 2024-CP-100 --- excuse me ---  
4 CP-10-01489.

5           Who do I have that is present on this case that's  
6 participating ---

7           MR. ROYAL: Your Honor ---

8           THE COURT: --- in this case?

9           MR. ROYAL: --- I'm Michael Royal, the pro se  
10 plaintiff. And after your introductory comments and  
11 introductions I would be very happy to give the Court a  
12 short summary of the purpose of my lawsuit and update on  
13 its procedural status and an overview of my motion.  
14 Thank you, sir.

15           THE COURT: Thank you. If --- if the other  
16 participants will introduce themselves and then I will  
17 start again with Mr. Royal. Who else is present on this?

18           MR. O'KELLY: I'm --- I'm here, Your Honor, Hamlin  
19 O'Kelley, for the Ashley House Counsel of Co-Owners.  
20 With me is Skyler Wilson who is also. I think Mr. Royal  
21 and Mr. Wilson, Your Honor, and I are the only ones on  
22 video right now.

23           THE COURT: All right. And yes, sir, your name  
24 again, please.

25           MR. O'KELLY: It's Hamlin, H-A-M-L-I-N, Your Honor,

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1 O'Kelley is my last name.

2 THE COURT: And I've got you. Yes, sir. The ---  
3 the other person on the video?

4 MR. WILSON: Skyler Wilson, Your Honor.

5 THE COURT: I'm sorry, say it again? Skyler Wilson?  
6 Yes, sir.

7 MR. WILSON: Yes, sir.

8 THE COURT: Now, let me ask this question, there are  
9 a lot of attendees, are they members of the association?

10 MR. ROYAL: Yes, sir, I believe there are many ---

11 (Simultaneous speaking)

12 MR. ROYAL: --- co-owners who are very interested in  
13 the outcome of this --- this hearing, Your Honor --- Your  
14 Honor.

15 THE COURT: Okay. That's fine. That's fine. With  
16 that, Mr. Royal, if you'll give me the overview and tell  
17 me what this is about.

18 MR. ROYAL: Yes, sir. I shall. Thank you very  
19 much. And sir, I have a demonstrative exhibit which I  
20 would like to share with the Court and opposing counsel.  
21 I believe it will make my presentation much more  
22 efficient because I'll be looking at simply excerpts of  
23 certain exhibits rather than, you know, showing the  
24 entire exhibit to the Court; would that it be acceptable  
25 if I share a document for the Court?

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1           THE COURT: I think that is fine. I --- I do want  
2 to --- as I eventually have to make a decision, I'd like  
3 to make your demonstrative --- your demonstrative as a  
4 Court exhibit. Would there be any objections from the  
5 other side?

6           MR. O'KELLY: Generally --- generally, no, Your  
7 Honor. We don't know what they are of course. And last  
8 night just so Your Honor knows, we filed a memorandum  
9 with numerous exhibits. Mr. Royal has already submitted  
10 a memorandum with numerous exhibits. In theory, we  
11 shouldn't have a problem with anything anyone submitted,  
12 but we don't know what these demonstratives are, Your  
13 Honor.

14          THE COURT: Okay. We'll take a look and then I'll  
15 ask that question again. But yes, sir. Mr. Royal, if  
16 you're able to share that screen, that's well beyond me  
17 and my ---

18          MR. ROYAL: Okay.

19          THE COURT: --- capability. So I will look forward  
20 to seeing it.

21          MR. ROYAL: Okay. I'm attempting to do that now,  
22 Your Honor, and let's see if this works. Are you able  
23 to --- to see that document, Your Honor?

24          THE COURT: I am. Yes, sir.

25          MR. ROYAL: It should be a PDF. Okay. Now, if

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1 I --- let's see here. Do you see it changing screens  
2 now?

3 THE COURT: Yes, sir. I do.

4 MR. ROYAL: Okay. Thank you, Your Honor. I  
5 appreciate this. And I will try to be brief, Your Honor.  
6 I --- I know that everyone here has many other  
7 business --- business items to attend to. But Your  
8 Honor, I am Michael Royal. I am the pro se plaintiff in  
9 this matter.

10 And here are some very basic background facts. The  
11 defendant in this case is called Ashley House Counsel of  
12 Co-Owners, Inc. It is a condominium corporation formed  
13 in South Carolina as a non-profit corporation. The  
14 property of this corporation is the Ashley House  
15 Building, which is a downtown condominium that is a  
16 13-story brick building on Lockwood Drive across from the  
17 City Marina. You --- Your Honor probably driven past it  
18 innumerable times.

19 That large brick building that's across from the  
20 City Marina has 147 condominium units. Now, I am one of  
21 the owners and members of the corporation sir, by virtue  
22 of having purchased one of the units some years ago.

23 THE COURT: Yes, sir.

24 MR. ROYAL: Okay. So and in this case you'll hear  
25 members of the corporation referred to as co-owners and

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1 that's a term in our master deed, bylaws, and also in  
2 South Carolina Horizontal Property Act. So it just means  
3 an owner of the corporation. Okay.

4 So here's a quick summary of case history. Your  
5 Honor, there is a --- a mountain of paper that's already  
6 piled up in this case as you may have noticed and so  
7 here's a --- an attempt for a succinct overview. But I'd  
8 ask Court to please not be distracted. The purpose of  
9 this motion hearing today is only to find the answer to a  
10 single question, did a majority of the owners of this  
11 condominium corporation vote to fire and replace six  
12 directors on our board on August 17th, where the motion  
13 is only to determine who is on the board today. Okay?

14 But earlier this year, on March 20th, I filed my  
15 original complaint in this lawsuit. In it, sir, I  
16 alleged that the then directors were violating the  
17 corporation's bylaws and South Carolina statute by  
18 refusing to acknowledge members' votes on a motion which  
19 was raised at the 2023 annual meeting.

20 Again, I --- I don't want to bog the Court down in  
21 the details unrelated to today's question of who are the  
22 directors, but suffice it to say that my original  
23 complaint was seeking to have the Court force the  
24 directors to adhere to the bylaws of the corporation.

25 THE COURT: Uh-huh.

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1           MR. ROYAL: You'll --- you'll hear allegations I'm  
2           sure this afternoon that my attempt to rally against a  
3           building project. That is not the purpose of my  
4           litigation, I'm seeking to have the board follow the  
5           rules of the corporation.

6           Okay. I also then filed a motion for a temporary  
7           restraining order and a motion for temporary injunction  
8           on --- on the same date, Your Honor. Because I felt it  
9           was important for the corporation not to hold its 2024  
10          annual meeting until my lawsuit was resolved. So that  
11          motion for TRO and temporary injunction was --- was not  
12          granted by Judge Price in part because Your Honor, he was  
13          not able to hear my motion until after the annual meeting  
14          started. It ended up being a two-day meeting. I --- the  
15          meeting was already started by the time he heard my  
16          motion. He did not grant my motion ---

17          THE COURT: Yes, sir.

18          MR. ROYAL: --- (unintelligible) the 12th it ---  
19          defendant Ashley House Corporation filed a motion to  
20          dismiss. It later updated that motion on May 23rd,  
21          alleging that the Board owed me no fiduciary duties. And  
22          in response, Your Honor, on August the 12th, I filed a  
23          motion to amend my complaint to convert it to a  
24          derivative action so that I could step into the shoes of  
25          the corporation in order to pursue claims against the

1 directors. That motion, Your Honor, is still pending.

2 Meanwhile, I had already (technical difficulty) my  
3 compliant once to broaden the scope of the complaint  
4 alleging other director abuses of their positions.

5 Now, one area specifically where I felt that the  
6 directors were abusing their position, and I think you'll  
7 probably hear more about this in the hearing today, is  
8 that many members of the corporation and I'm sure many of  
9 those who are watching on today, were extremely shocked  
10 and dismayed to learn that the board was planning to  
11 contractually bind the corporation to a building project  
12 that is estimated to be --- had a budget of 21 to  
13 \$23 million without co-owner approval.

14 That's where I --- we're --- we're about to come to  
15 the subject of today's hearing, but just because I am  
16 anticipating opposing counsel to harp on this the  
17 building project quite a lot, I want to go ahead and  
18 (technical difficulty) the bylaws, the specific section  
19 here that --- that applies. The section ---

20 THE COURT: Yes, sir.

21 MR. ROYAL: --- 6.4 --- 6.4 of the bylaws says  
22 whenever in the judgment of a board --- the board of  
23 directors --- whenever in the judgment of the board of  
24 directors, the common elements shall require additions,  
25 alterations, or improvements which are --- excuse me ---

1 intended to be assessed as common charges and the cost of  
2 which will equal or exceed a sum equal to ten percent of  
3 the operating budget then in effect. The making of such  
4 additions, alterations, or improvements shall require an  
5 approval by a majority of the co-owners.

6 So, Your Honor, the --- the board clearly must and  
7 it's required to ask the co-owners for approval of a  
8 project that is approximately 150 times the threshold  
9 cost required for approval by the bylaws. Now, the ---  
10 I --- I will also just note that the counter argument to  
11 this also comes from the bylaws. The --- Ashley House  
12 board's argument is that the board does not require a  
13 vote of approval from the co-owners for the 20-plus  
14 million dollar project because Section 9.1 says: Any  
15 portion of the condominium damaged or destroyed shall be  
16 repaired or restored promptly by the board of directors.

17 They're saying that that --- if --- if you can call  
18 something a repair, then it gives the board carte blanche  
19 to expend any amount of money and charge the  
20 co-owners --- and related assessments.

21 Your Honor, as I've outlined in red here, Section  
22 9.1 comes from Article 9 of the bylaws which relates to  
23 insurable losses. So this is in case of a hurricane or a  
24 truck runs into the side of the building and destroys  
25 some bricks. This section relates to those kind of

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1 losses. But regardless as long as the project can fairly  
2 be described as a alteration addition or improvement,  
3 then it is required to meet Section 6.4, Your Honor.  
4 So --- and --- and they're asking to reclad the entire  
5 building, change out the awning and do a whole bunch of  
6 things any one of which can be called an alteration or an  
7 improvement if not also an addition.

8 Okay, Your Honor. I promised to try to get quickly  
9 to today's subject matter.

10 (Simultaneous speaking)

11 MR. ROYAL: Yes, sir. Did you say something? I'm  
12 sorry.

13 THE COURT: No, sir. I didn't. I'm not sure who  
14 did. I did hear something. I'm not sure who said  
15 anything.

16 MR. ROYAL: Okay.

17 THE COURT: If I might ask anyone who is observing  
18 and not participating if you would please mute your  
19 microphone. Mr. Royal, continue please.

20 MR. ROYAL: Thank you, sir. Now, Your Honor,  
21 everyone who lives at the Ashley House is very intent on  
22 maintaining the property and investing in it because  
23 after all, Your Honor, it is their home. And, Your  
24 Honor, every person has a different idea of how to do  
25 that. But as it turns out a demonstrable majority of the

1 owners disagree with the plan advocated by the board.  
2 And I'm going to call it the previous board, Your Honor,  
3 because my position is that they were voted out recently.

4 So a key question of the larger case is whether the  
5 board must seek approval of the owners in binding the  
6 corporation to a project that it wanted to pursue.

7 But again, Your Honor, the more we get into the  
8 weeds on this topic, the more we are straying away from  
9 the subject of today's hearing which is were the  
10 directors voted off the board? Who are the --- who  
11 are --- who is the current constituency of the board?

12 So then this is where we come to today's hearing.  
13 Your Honor --- Your Honor, the owners at the Ashley  
14 House, again, many of whom are present today and looking  
15 on, became extremely exasperated and frustrated with the  
16 board of directors and they decided to call a meeting to  
17 fire the offending directors from the board.

18 And now what are the rules for members of a South  
19 Carolina non-profit corporation to remove directors? And  
20 we need to break that down into two parts. First, what  
21 are the rules for the members to call a special meeting  
22 of the corporation? Secondly, what are the rules for  
23 removing directors from the board at a special meeting?

24 Here I've shown on my screen and hopefully, you can  
25 see it, Your Honor. I'm showing you the rules under

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1 South Carolina statutory law and under the bylaws of our  
2 corporation, what are the rules for calling a special  
3 meeting. And under South Carolina code 330-31-701, a  
4 subsection entitled special meetings, the law says a  
5 corporation with members shall --- and this comes, Your  
6 Honor, from the South Carolina Non-Profit Corporation  
7 Act. So it applies in this case because our corporation  
8 is a non-profit corporation. It says: A corporation  
9 with members shall hold special meetings of members if  
10 the holders of at least five percent of the voting power  
11 of any corporation sign, date, and deliver to any  
12 corporate officer one or more written demands for the  
13 meeting describing the purpose or purposes for which it  
14 is to be held. That's how --- South Carolina statutory  
15 law.

16 Now, our bylaws also have a provision regarding the  
17 calling of special meetings and it is in Section 3.3 of  
18 the bylaws. It says: It shall be the duty of the  
19 president and this is very important because the  
20 president never called the meeting. But it shall be the  
21 duties of the president to call a special meeting of the  
22 co-owners if so directed by a resolution of the board of  
23 directors or upon a petition signed and presented to the  
24 secretary by not less than 25 percent of the co-owners.  
25 Now, I'll note here, Your Honor, there is a discrepancy

1           between our bylaws and South Carolina statute. Our  
2           bylaws call for 25 percent of the ownership to call for  
3           the special meeting. That is superseded by statutory law  
4           which says only five percent is required to force the  
5           president then to call the special meeting. Okay, Your  
6           Honor. Those are the requirements for calling a special  
7           meeting of the corporation.

8           Now, the second question was what are the rules for  
9           removing directors from the board at a special meeting?  
10          And there, Your Honor, I'm now showing both statutory  
11          and, again, bylaws relating to this question of what are  
12          the specific requirements for removing directors from the  
13          board? So South Carolina --- a Non-Profit Act Section  
14          33-31-808, says that the members may remove one or more  
15          directors elected by them without cause.

16          And then in Subsection E says a director elected by  
17          members may be removed by the members only at a meeting  
18          called for the purpose of removing the director, and the  
19          meeting notice must state that the purpose or one of the  
20          purposes of the meeting is removal of a director. Okay?

21          Now, Section 2.4 of our corporate bylaws also  
22          addresses the removal of directors. And it says at any  
23          regular or special meeting of co-owners any director may  
24          be removed with or without cause by a majority of the  
25          co-owners, and a successor may then and there or

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1           thereafter be elected to fill the vacancy thus created.  
2           A director whose removal has been proposed by the  
3           co-owners shall be given an opportunity to be heard at  
4           the meeting if present.   Okay.

5           So the next question is, did we satisfy the  
6           co-owners who called the meeting for --- the special  
7           meeting to remove directors, did we satisfy the bylaws in  
8           South Carolina statute?   And the answer is a resounding  
9           yes.   Your Honor, we did.   And by the way, this --- this  
10          exists in the context of a condominium association in  
11          which rules are just ignored as --- as a matter of  
12          course.   The annual meetings are typically just chaos.

13          But Your Honor, we knew that we would face such  
14          resistance that we were extremely, extremely careful to  
15          look at the laws and the corporate governing documents to  
16          dot every I and cross every T to make sure that we had an  
17          absolutely bulletproof special meeting.

18          So that's where this next slide comes in, Your  
19          Honor.   This is an e-mail that was the sent --- that I  
20          sent to the board of directors, all of the officers, and  
21          directors, and counsel for the Ashley House who are  
22          sitting with us today.   And in it, Your Honor, there is a  
23          cover e-mail which is the first part of that excerpt.  
24          And you can see specifically that Ms. --- the  
25          president --- then President Lisa Burbage (phonetic) is

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1 the first person addressed in the two-line area. And it  
2 says --- this says: Attached is --- a petition signed in  
3 three counterparts demanding a special meeting of the  
4 co-owners to decide whether or not to remove one or more  
5 of the members of the board of directors. At the special  
6 meeting, one or more of the co-owners may make one or  
7 more motions to remove one or more members of the board  
8 of directors.

9 Each member of the board of directors should be  
10 present at the meeting should he or she wish to speak on  
11 behalf of himself or herself.

12 And that last sentence I've outlined, Your Honor,  
13 because it goes to Section 2.4 of the bylaws which says  
14 that if directors whose jobs are threatened attend a  
15 special meeting for their removal, they should be able to  
16 defend themselves and speak for themselves.

17 So this is specifically a notice to the directors,  
18 all directors are subject to removal and each member of  
19 the board who wishes to speak on his or her behalf should  
20 appear at the meeting.

21 Okay. Now, attached to that e-mail was the --- the  
22 demand letter from the co-owners side by more than five  
23 percent. It is not disputed in this case, Your Honor,  
24 that more than five percent of the corporation signed the  
25 demand letter and counterparts attached to the e-mail

1 that was sent here on April the 8th --- 18th.

2 And the purpose of the meeting is very clearly  
3 stated in the second paragraph that's shown in this  
4 excerpt. It says: Pursuant to three point --- Section  
5 3.3 of the bylaws of the Ashley House counsel of  
6 co-owners, Inc., amended and restated. The below signed  
7 co-owners petition the president to convene a special  
8 meeting of the co-owners to discuss and vote upon the  
9 removal and replacement of one or more members of the  
10 board of directors.

11 So Your Honor, when we drafted this, we were looking  
12 very carefully at South Carolina law. I already cited  
13 33-31-702. And 33-31-705 with notice requirements to  
14 make sure that we satisfied every part of the law. We  
15 are very conscientious in doing this, Your Honor. But  
16 this slide here is the evidence that we demanded the  
17 meeting properly. And under the law and under our bylaws  
18 at that point President Lisa Burgage should have called  
19 the meeting as --- as we reviewed earlier under bylaw  
20 Section 3.3: It shall be the duty of the president to  
21 call the special meeting if demanded by 25 percent of the  
22 co-owners. Which again is superseded by South Carolina  
23 law that says only five percent. But it shall be the  
24 duty of the president. Okay.

25 So we sent this demand letter signed by more than

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1 five percent of the corporation on April the 18th. And,  
2 Your Honor, I still have not received any response to  
3 this demand letter, the cover e-mail, or the demand  
4 letter. There has been no direct response from President  
5 Lisa Burbage, from the counsel --- attorneys who are  
6 working with her, any officer, any board member. It has  
7 been complete silence and I've never heard anything in  
8 response to this.

9 Now, I didn't let it lie, Your Honor, because, you  
10 know, maybe somebody just missed an e-mail. So the next  
11 slide is an e-mail from me on April 21st. And it says:  
12 I --- on Thursday, I delivered to you notice of a demand  
13 for a special meeting along with proof of the required  
14 five percent of co-owner support. I have not received  
15 any acknowledgement of receipt. Please provide  
16 acknowledgement of receipt and information about the  
17 date, time, and location of the meeting. So, Your Honor,  
18 I'm not just simply sending the demand letter, I'm  
19 following up with communications to the board, hey, why  
20 aren't are you responding? The co-owners are earnestly  
21 trying to set up a meeting which is provided for both in  
22 our bylaws and under South Carolina law.

23 So this is an e-mail --- this next slide, Your  
24 Honor, is an e-mail from President Lisa Burbage, and this  
25 is --- let's see. It's a little small on my screen. I'm

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1 going to try to expand it here. Working off of a little  
2 laptop here. Okay.

3 This is from August the 12th and Ms. Burbage says to  
4 date no one --- this is a letter, Your Honor, on just  
5 several days before the special meeting occurred. That  
6 special meeting occurred on August the 17th, to jump  
7 ahead a little bit.

8 But the --- the board members and their attorneys  
9 went to great lengths to attempt to suppress the  
10 attendance. And --- and --- and suppress the outcome of  
11 this meeting. And this is one of the propaganda ---  
12 propaganda items. And in it, Ms. --- President Burbage  
13 says: To date, no one has provided the board with the  
14 proof that five percent of the owners have called this  
15 meeting. And then she says within 30 days' notice as  
16 required by state law.

17 I'm not sure what she's referring to with that last  
18 phrase. It doesn't seem to correspond to any law that  
19 I've seen, but she is saying that she has not received  
20 the required five percent notice. But as we just saw,  
21 Your Honor, we gave her the five percent notice and  
22 called for a special meeting. And we've made sure that  
23 her e-mail address was the very first one on the e-mail.  
24 I'll also just note that the outlined sentence below  
25 in --- in which is Ms. Burbage says: We have hearings in

1 the case Michael Royal brought against the Ashley House,  
2 that is the proper forum for the determination of such  
3 matters and not an improperly-called meeting.

4 In other words, Your Honor, she's telling the  
5 co-owners don't go to the special meeting, we'll find out  
6 who the directors are in court.

7 But Your Honor, we shouldn't be discussing this in  
8 court. It is not really generally the province of the  
9 Court to determine who is on the board. That is a  
10 political methodology that is used both for government  
11 and for corporation, the owner determine in an election  
12 process who is on the board. But Ms. Burbage here is  
13 trying to discourage people from attending the special  
14 meeting and by saying this will all be worked out in  
15 court.

16 Your Honor the --- so what happened after that? The  
17 board, again, never responded to --- to my e-mails. And  
18 Ms. Burbage never called the meeting. So in fact,  
19 neither she nor any director, nor any officer, nor any  
20 attorney, ever replied to my e-mails or --- or to my  
21 demand letter.

22 So I want the Court to just be aware at this moment  
23 and we'll come back to this, that whatever technical  
24 issue opposing counsel may want to complain about today,  
25 it was President Burbage's duty to call the special

1 meeting. And when she failed to do so, we tried to take  
2 the proper course of action as best we could. And we put  
3 forth a lot of effort.

4 So now the --- the next question, Your Honor, is,  
5 what happens when the co-owners of a condominium  
6 corporation in South Carolina make a proper demand for a  
7 special meeting and that demand is simply ignored by the  
8 board and by the president? But it turns out that South  
9 Carolina legislature has specifically anticipated this  
10 situation and they wrote into section 33-31-702(c), what  
11 happens in that case.

12 So, again --- one moment, Your Honor. I'm just  
13 catching up with myself here.

14 THE COURT: That's quite all right. You're doing  
15 fine.

16 MR. ROYAL: Okay. Okay. This slide that you see  
17 now, Your Honor, the middle section is the one that I  
18 would like for you to focus on. We've already looked at  
19 the --- at the top one, 33-31-702, about special  
20 meetings. Just below that the law says if a notice for a  
21 special meeting demanded under Subsection(a)(2), which is  
22 the part we've already read above, is not given pursuant  
23 to section 33-31-705, which is provisions related to  
24 notice requirements within 30 days after the date of the  
25 written demand or demands are delivered to a corporate

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1 officer. A person signing the demand or demands may set  
2 the time and place of the meeting and give notice  
3 pursuant to again, 33-31-705, which is the notice  
4 requirements.

5 In other words, Your Honor, the legislature ---  
6 legislature in South Carolina anticipated this event.  
7 They said we may have a misbehaving board on a non-profit  
8 corporation, and they may --- the --- the owners of the  
9 corporation may want to kick them off the board.

10 So the owners may present a demand for a special  
11 meeting, and then the board simply ignores it and then  
12 how are the owners of the corporation then supposed to  
13 get justice and remove them from the board? Well, the  
14 answer is if the president and the board ignore the  
15 demand letter then the co-owners are specifically  
16 empowered under South Carolina statute to call the  
17 meeting themselves.

18 And that is with a we did, Your Honor. So the next  
19 slide here, Your Honor, is the notice to the co-owners,  
20 and we were --- we were very patient with the board, we  
21 thought eventually they will sort of come to their senses  
22 and they're going to hopefully, you know, follow the law  
23 and the president will follow her duty under the bylaws,  
24 but they never did.

25 So, Your Honor, on August the 4th, this --- this

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1 notice --- notice letter is dated August 3rd, but I  
2 believe it was actually put in the mail --- US Postal  
3 Service on August the 4th. And this is an excerpt from  
4 the notice. So this is sent --- this is authored by me  
5 and it says: You know, pursuant to South Carolina  
6 Non-Profit Act 33-31-702(a) and (c), this letter serves  
7 as notice of a special meeting of the Ashley House  
8 Counsel of Co-Owners, Inc. This meeting has been called  
9 by certain co-owners because the board has chosen not to  
10 seek co-owner approval for a proposed 21 to 23 million  
11 Dollar capital improvements project. These co-owners  
12 believe that directors who support excluding co-owners  
13 from such approval should be removed from the board.  
14 Therefore, the purpose of the meeting is to discuss and  
15 vote on the removal and replacement of one or more board  
16 members. You are invited to attend and participate in  
17 the meeting. And then it names the date, and time, and  
18 location and therefore satisfies the requirements for  
19 notice. And says the purpose of the meeting, it says the  
20 date of the meeting, it says the location of the meeting  
21 and it says the time of the meeting. Those are the  
22 things that are required under 702 and 705.

23 Now, this next slide, Your Honor, again shows the  
24 lengths to which we went. This is a small portion of  
25 Exhibit F to my memorandum in support of --- of the

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1 motion. And this is just one image of dozens and dozens  
2 of envelopes which were hand-addressed in order to try to  
3 get notice out to the co-owners. I and several other  
4 co-owners asked the board for the add --- notice  
5 addresses of the co-owners so that we could do, you know,  
6 do the duty that the board had denied --- had --- had not  
7 fulfilled themselves. And we never got those. So one of  
8 the co-owners, her name is Gail, she actually went to the  
9 Charleston County ROD to research the current  
10 addresses --- mailing addresses for all 140 units in the  
11 building, because the board would not share this  
12 information with us, so we had to do it ourselves.

13 Another co-owner, her name is Charlotte Humphreys  
14 (phonetic), took those addresses that had been researched  
15 and handwrote all of these addresses on the envelopes.  
16 And you can see her table is underneath those letters,  
17 it's a puzzle --- some puzzle pieces under there. I  
18 think she was working on a puzzle at the time.

19 So Your Honor, this is saying that we went, you  
20 know, bent over backwards, you know, to make sure that we  
21 were doing the best that we could.

22 And I followed up --- this was mailed out again on  
23 August the 4th to the own --- to the owners of the  
24 corporation, notifying them that there was a special  
25 meeting coming on August the 17th, and which would

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1 determine which board members would be removed and  
2 whether or not to replace them. Okay.

3 So that did go out on August the 4th and under  
4 the --- the law already --- that we've already looked at,  
5 it requires a ten-day requirement, that's 33-31-705,  
6 requires a ten-day notice period and we were 13 days in  
7 advance. So we satisfied again, another requirement  
8 checked the box. Okay.

9 Now, after that was sent out, I reminded the board,  
10 you have ignored my communications, why? Among the  
11 duties you have to the co-owners are the duties of care,  
12 good faith, fair dealing, and candor. How are you  
13 satisfying those duties by ignoring the earnest and good  
14 faith efforts of co-owners to call a meeting pursuant to  
15 South Carolina law and our bylaws. If you believe there  
16 is some defect in the co-owner's actions, you have a duty  
17 to say why.

18 So, Your Honor, again, this is about four months  
19 after we sent the demand letter to the board. They still  
20 hadn't replied. And I'm simply saying you have --- if  
21 you think there's something wrong with our demand letter,  
22 why not tell us? We're acting in good faith and we're  
23 doing our earnest best. Okay. So the --- the week  
24 before the special meeting, the board, their counsel,  
25 officers, put on a sort of propagandist circus trying to

1       dissuade co-owners from attending the meeting. And I  
2       think that they have eventually backed away from many of  
3       the allegations that they made, but this is the one that  
4       they haven't backed away from, and this is the one you're  
5       going to hear argued today.

6               And this --- so this comes from a letter that was  
7       sent to all of the co-owners --- or an e-mail sent to all  
8       of the co-owners the day before the special meetings. So  
9       this is August the 16th --- Friday, August 16th, the day  
10      before the special meeting. And in this e-mail blast to  
11      the co-owners they say: We're writing to inform you that  
12      the notice for the special meeting contains a deficiency  
13      under section 33-31-808(e), specifically, the notice does  
14      not identify the director or directors threatened with  
15      removal.

16             So I want you to try to remember that, Your Honor.  
17      I'm going to come back to this, because this is really  
18      the only argument that opposing counsel is relying upon  
19      and --- and so we're going to address that and look ---  
20      I'll --- I'll just note here, Your Honor, that when the  
21      e-mail was drafted, what was not included was --- was any  
22      quotation of the statute itself. It --- it quote --- it  
23      cites to a provision and statutory law and does not  
24      provide any language for that law and we'll see why  
25      pretty soon. Okay.

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1           Now here is the fact, Your Honor, that is still  
2 undisputed: We did meet on August 17th and 54 percent of  
3 the corporation voted to fire and replace six of the nine  
4 directors. So last night, opposing counsel filed a  
5 memorandum with the court in opposition to my motion  
6 for --- for the DJ. And that memorandum is absolutely  
7 chock full of matters that are totally unrelated to the  
8 purpose of this hearing. In fact it, you know, makes  
9 reference to engineering reports about the building from  
10 the 1990s. These reports I've never seen before, have  
11 never been part of this case so far. But what is missing  
12 from opposing counsel's memorandum to the court is any  
13 argument that this fact is incorrect. So everyone who is  
14 a party to this case accepts this fact that on August  
15 the 17th, we held the special meeting and 54 percent of  
16 the corporation voted to fire and replace six directors.

17           Now, I will just spend one quick moment here, Your  
18 Honor, on a --- on a very problematic situation that  
19 involves this hearing itself. If it's the truth that  
20 54 percent of the corporation disagrees with the  
21 direction that the attorneys have taken because they are  
22 protecting former board members. So that means they are  
23 making arguments in this hearing today against the  
24 interests of their client, the Ashley House Counsel of  
25 Co-Owners, the corporation. They are making arguments

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1           against the interest of their client. This is, Your  
2           Honor, extremely problematic. And we'll --- well come  
3           back to that.

4           Your Honor, this next excerpt here is from Exhibit J  
5           to my memorandum in support. And it is a --- just an  
6           excerpt of the tally of a quorum --- a meeting quorum and  
7           the vote that happened at the special meeting. And it  
8           shows that, you know, of the entire voting power of the  
9           corporation, 56.0730 percent were present at the meeting.  
10          And 54.5476 percent of the total voting power of the  
11          corporation voted to remove and replace those six  
12          directors. So however you want to cut it, if there's a  
13          complaint about some technical aspect of the notice, this  
14          is a fact which is not in dispute that most of the  
15          corporation and only 51 percent is required of the votes  
16          to remove those directors.

17          Let's see. Now, Your Honor, here are the things  
18          which opposing counsel is arguing. And again, if you try  
19          to read through their memorandum there's a bunch of  
20          unrelated stuff, but what you come to is three sentences  
21          on page 5. And I want to go through each one of these  
22          three sentences, they're all in one paragraph, so I'm  
23          glad that they made it easy for us. But I want to look  
24          at each of these three sentences. The first sentence  
25          says the notice did not provide the opportunity for a

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1 director to be heard at the meeting, as required by  
2 Section 2.4 of the bylaws prior to any removal of any  
3 director at any regular or special meeting.

4 So again, I don't think opposing counsel is arguing  
5 that this meeting happened, what the vote turnout was, et  
6 cetera. They're trying to make a technical argument for  
7 why our procedure was not perfectly correct. And the  
8 first argument there is the notice did not provide  
9 opportunity for a director to be heard at the meeting as  
10 required in section 2.4.

11 Well, Your Honor, on the lower part of this slide, I  
12 have a copy of Section 2.4 of the bylaws which they have  
13 cited above. And it says that any regular or special  
14 meeting of the co-owners any director may be removed with  
15 or without cause by a majority of the co-owners. And a  
16 successor may then and --- and there or thereafter be  
17 elected to fill the vacancy thus created. A director  
18 whose removal has been proposed by the co-owners shall be  
19 given an opportunity to be heard at the meeting if  
20 present.

21 So in other words, Your Honor, the thing that they  
22 are saying is in the bylaws is simply not there because  
23 they've said in this --- in the sentence which I've  
24 outlined in red that the notice must discuss the ability  
25 for board members to speak on their own behalf. Section

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1           2.4 does not say anything about that notice requiring  
2           that --- that notice case. It simply says a director  
3           whose removal has been proposed shall be given an  
4           opportunity to be heard at the meeting and present.

5           That opportunity was availed. I asked during the  
6           special meeting on multiple occasions, are any officers  
7           or directors of the corporation present today? Because  
8           if so you shall be afforded the right to speak on your  
9           own behalf in defense if there is a motion to remove you.  
10          There was no officer and there was no director at the  
11          meeting. Therefore we satisfied Section 2.4 and opposing  
12          counsel's sentence up here is totally misleading. Okay.

13          Next sentence, this is --- they say the notice did  
14          not name any director as required by South Carolina code  
15          Section 808(e).

16          Now, this is the one that I said we would come back  
17          to. They are --- they are stating here that South  
18          Carolina statutory law requires that the director who may  
19          be removed at such a special meeting must be identified  
20          at --- by name --- by name. Now, on the second half of  
21          the slide, Your Honor, I have put a copy of 33-31-808.  
22          The --- this is the portion of the statute which the ---  
23          board just simply failed to quote in their e-mail to the  
24          co-owners. So it says the members may remove one or more  
25          directors elected by them without cause.

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1           And then Subsection E which they have cited above, a  
2 director elected by members may be removed by the members  
3 only at a special meeting called for the purpose of  
4 removing the director, and the meeting notice must state  
5 the purpose or one of the purposes of the meeting is  
6 removal of the director. Nowhere in 808(e) does it say  
7 the director must be identified by name.

8           Now, cast your eyes once again upon the sentence  
9 outlined in red. They are saying that 808(e) requires  
10 the identification of the director by name. This is  
11 misleading and false. There is no requirement in 808 to  
12 identify any director by name.

13           So once again, Your Honor, we checked the box, we  
14 did everything required under South Carolina law and our  
15 bylaws. And so the --- the complaints that are coming  
16 from opposing counsel just fall flat.

17           Now, here's the third sentence so again, we've ---  
18 we've looked at the first sentence in this --- on page 5  
19 paragraph, we looked at the second sentence, here's the  
20 final argument. They say the notice appointed --- the  
21 notice appointed proxy holders as well, but without  
22 notice in the proxy of the time and place of the meeting  
23 or the length of time for which the proxy would be good.  
24 They're complaining that we didn't --- that our notice  
25 did not include information that should have been

1 included but here is the notice in the second half of the  
2 page. You'll notice there is no proxy form on the  
3 notice, so opposing counsel must be confused, they may be  
4 thinking about the demand letter. Our demand letter had  
5 a second part which allowed co-owners to sign a proxy.

6 But opposing counsel while they appear to have mixed  
7 up documents in the --- and unfortunately made a false  
8 allegation here they also have not cited to any provision  
9 of the law or our governing documents which creates the  
10 requirement which they are citing to.

11 Okay. So now, Your Honor, this is I'm --- I'm sorry  
12 to have gone on for so long. I wanted to give you ---

13 THE COURT: Okay.

14 MR. ROYAL: --- all the facts which are required.  
15 In this final section of my presentation, I want to ask  
16 the question, okay, even if there were a technical  
17 problem with notice, and hopefully have overcome all of  
18 the objections here, because I think that we did  
19 everything perfectly.

20 I'll just say, I think we --- we crossed every T and  
21 dotted every I. But let's just imagine for a moment that  
22 there were some technical problem with the notice for the  
23 special meeting. Okay. Attendance at the special  
24 meeting operates as a waiver of notice. So even if there  
25 were some technical issue with the notice that was sent

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1 out, that objection would be overcome both by our bylaws  
2 and by South Carolina statute.

3 Under the bylaws of the corporation, section 3.4 ---  
4 let's see. I --- the --- the --- sorry, the --- the red  
5 outline is a line below where it should be. But if you  
6 look just above that, it says no notice need be given to  
7 co-owners who attend a meeting in person. No notice  
8 needs to be given to a member who attends a meeting in  
9 person.

10 Now, that is reflected also in South Carolina  
11 Statutory Law 33-31-706(b) and (b)(1). And members  
12 attendance at a meeting --- again, this comes from the  
13 South Carolina Non-Profit Corporation Act --- a member's  
14 attendance at a meeting waives objection to lack of  
15 notice or defective notice of the meeting unless a member  
16 at the beginning of the meeting objects or --- objects to  
17 holding the meeting or transacting business at the  
18 meeting.

19 Now, Your Honor, I attended the entire meeting. I  
20 actually officiated the --- at the --- at the whole  
21 meeting. There was never a single objection whether  
22 procedural or any other kind of objection at the entire  
23 meeting. No one waived. No one --- sorry. No one  
24 objected to any notice.

25 Therefore, Your Honor, the argument of opposing

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1       counsel simply fails even if on the hypothetical that  
2       there was a notice --- a technical notice problem that  
3       fails because attendance operates as a waiver of notice  
4       and there were 56 percent of the corporation attending  
5       the meeting.

6               Now, let's say for some reason the Court didn't like  
7       that argument even if there were a technical problem with  
8       notice. Okay. The Court has discretion to consider the  
9       circumstances. So under South Carolina code 33-31-705,  
10      which discussing the notice of the meeting, subsection B  
11      says other means of giving notice also may be fair and  
12      reasonable when all the circumstances are considered.

13              And hopefully, Your Honor, at this point, you will  
14      understand the great lengths to which we went to try to  
15      perfect all of the requirements of holding the special  
16      meeting against the will of the president who refused to  
17      acknowledge even demand of the special meeting. The  
18      lengths that we went to to make sure that we had a  
19      bullet-proof process even if we failed somehow in that  
20      process, the Court has discretion to look at all the  
21      circumstances and say, you know, what? This notice was  
22      reasonable after all given all the circumstances.

23              And the final thing, Your Honor, that I would offer  
24      the Court is even if there were a technical problem with  
25      the notice, are these board members in a position to

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1 complain? Your Honor, I strongly would argue that these  
2 board members who have now been removed from the board  
3 and have done everything in their power to subvert their  
4 own removal and simply ignored the co-owners and the  
5 demonstrable majority of the corporation's will, are in  
6 no position to argue that there is some technical problem  
7 with notice especially when it was the duty of the  
8 president to set up the special meeting in the first  
9 place.

10 Thank you so much, Your Honor, for your patience and  
11 allowing me to get through this presentation. And I  
12 don't know if yield my time is the right phrase here but  
13 thank you for your --- for --- for listening.

14 THE COURT: Certainly. Thank you. I'm going to ask  
15 for a response from counsel --- opposing counsel, and  
16 then, Mr. Royal, I'll come back with some questions.

17 MR. ROYAL: And --- and, Your Honor, I'm trying to  
18 figure out how to stop sharing ---

19 THE COURT: Uh-huh.

20 MR. ROYAL: --- because I'm sure other folks will  
21 want to do that. Let me just figure that out here.  
22 Okay. Hopefully I'm no longer sharing my screen.

23 THE COURT: Can you all give me one second? Do we  
24 have some other attendees that may be member ---  
25 co-owners so who is here?

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1           MR. O'KELLY: Your Honor, but --- but for Mr. Wilson  
2 and I, everyone --- and you --- and yourself, and the  
3 clerk's office, everyone else is a co-owner, Your Honor.  
4 You're muted, Your Honor.

5           THE COURT: I've got a number of people, Betsy  
6 Hensley, Charlotte Humphreys, David Smiley, D. Hamilton,  
7 Delores John, Dixie Dunbar, are all of these persons who  
8 should be here?

9           MR. O'KELLY: Open court, fine with me, Your Honor.  
10 They're all owners.

11          THE COURT: Good enough. Give me one second. I'll  
12 be happy to hear from you.

13          MR. O'KELLY: Thank you, Your Honor. Again, Hamlin  
14 O'Kelley and Skyler Wilson here for the defendant, the  
15 Ashley House Counsel of Co-Owners.

16          Your Honor, we're here today on a matter of law and  
17 equity. It is Mr. Royal's motion about the composition  
18 of the board pursuant to the Declaratory Judgment Act.  
19 We did file our memorandum and --- and exhibits last ---  
20 yesterday afternoon. Mr. Royal is pro se, so I just  
21 wanted the Court to notice the certificate of service was  
22 filed. Obviously Mr. Royal has received those because  
23 he's referenced them in his argument.

24          Your Honor, there's some real problems Mr. Royal has  
25 in this case and he ignored them in his arguments, but

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1 I'll --- I'll get to those in a minute. It's important  
2 to know the history of this building, really, Your Honor,  
3 and the history of this horizontal property regime.

4 THE COURT: Yes, sir.

5 MR. O'KELLY: It's --- it's the Ashley House is an  
6 old building, Your Honor. It was built sometime in the  
7 1960s. And in 1980 it was converted to condominiums by  
8 the filing of a master deed that was recorded in Book  
9 Z121 page 231. And that's the --- the document by which  
10 we live and die in the horizontal property regime world  
11 as Your Honor well knows.

12 The board in this case and the association acts  
13 through its bylaws. There are amended and restated  
14 bylaws for May of 2017. Those were recorded in book  
15 0638, page 549. The Horizontal Property Act and all the  
16 provisions therein, starting in code Section 27-31-10.  
17 Ed sec applies as does the non-corporation --- non-profit  
18 corporation act.

19 And Your Honor, Mr. Royal pointed out the location  
20 of the Ashley House, and it's important, because it's  
21 right across Lockwood from the Ashley river. It also  
22 sits next to a park and a tidal pond called Alberta Long  
23 Lake. And the Ashley House does not have single lick of  
24 trees around it, it is exposed to the elements.

25 It's an old building. And starting in 1980, Your

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1 Honor, the folks at the Ashley House were aware of  
2 problems with the building. And in fact the --- one of  
3 the letters that's attached in the exhibit to our  
4 memorandum says that as early as 1977 they knew there  
5 were problems with this building. Water has been causing  
6 damage to the Ashley House for well over 40 years,  
7 pushing 50 at this point, Your Honor.

8 One of the exhibits we have is a letter from Haag,  
9 H-A-A-G Engineering from 1989 after Hurricane Hugo. In  
10 that letter Haag Engineering states that the Ashley House  
11 has a quote/unquote history of masonry problems and  
12 deterioration.

13 In 1977, Sinclair & Associates wrote and Charlotte  
14 Humphreys who has been referenced here, the then property  
15 manager for the building, of the fact that there needed  
16 to be a four-phased approach to fixing the problems as  
17 quote/unquote, everyone is in full agreement, the  
18 proposals received to date do not adequately address the  
19 situation. And those three letters are Exhibit 1 to our  
20 memo, Your Honor.

21 In spite of these recommendations and notice, past  
22 boards for reasons that we don't know, we can't surmise,  
23 failed to make repairs in compliance with their duties  
24 under the master deed, the bylaws, and the Horizontal  
25 Property Act. And that becomes very relevant in a

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1 minute, Your Honor.

2 The Horizontal Property Act under Section 27-31-160,  
3 creates a duty for the care, upkeep, surveillance of the  
4 property and its general or limited common elements.  
5 Under sections 180 and 190, those expenses must be shared  
6 pro rata among the unit owners according to their  
7 percentage ownerships which are affixed at the time the  
8 condos are established and are permanent and cannot be  
9 changed without the acquiescence of all the owners and  
10 mortgagees, Your Honor.

11 Additionally, the bylaws for the Ashley House  
12 actually track the language of the statute and provide  
13 that the board is to provide for the maintenance for in  
14 prompt repair of the bylaws as set forth in section 9.

15 Pursuant to section 170 of the Horizontal Property  
16 Act, Your Honor, there must be strict compliance with the  
17 bylaws, rules, and regulations of any horizontal property  
18 (unintelligible). And --- and that's important, Your  
19 Honor. I'm going to say it again, pursuant to section  
20 170 of the Horizontal Property Act, there must be strict  
21 compliance. Our courts have agreed with us, with  
22 that --- with that language, and in fact they have a  
23 seminal case that we have cited Fisher versus Shipyard  
24 Village, Counsel of Co-Owners it's found at 409 S.C. 164  
25 760 SE 2nd 120. And that confirms a homeowner's

1 association has an undelegatable duty to maintain common  
2 elements, and to investigate those common elements and to  
3 pursue any recover if possible, Your Honor.

4 In the last four years, there was a change for the  
5 board of directors. Again, the Ashley House for years  
6 kind of got by to get by, nobody was rocking the boat.  
7 We don't know why boards didn't do what they were  
8 supposed to do, but they didn't.

9 In the last four years, Your Honor, the boards  
10 didn't know what they didn't know. So they hire Stantec  
11 Engineering to conduct a reserve study to conduct a field  
12 study to conduct an investigation of the Ashley House.  
13 In October of 2021 --- and again these dates or  
14 important, Your Honor. And they're all in our  
15 memorandum, Edward Porcher, who is a licensed  
16 professional engineer issued his report. And we've  
17 attached the first pages of that report as Exhibit 4 to  
18 our memorandum. After the first 12 pages, it's all  
19 pictures, Your Honor.

20 In that report Mr. Porcher advised that the Ashley  
21 House needed to be reclad and extensive work would be  
22 required to stop water intrusion issues, which as he said  
23 have been known since the 1970s, Your Honor.

24 In attempting to implement those recommendations,  
25 board held meetings of the owners to discuss options

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1 about reclading the building. They hired an architect to  
2 advise on the scope of work that could be done in what  
3 they hoped was the most reasonably cost effective method  
4 for the building. And to meet with the City of  
5 Charleston to get approvals. And they engaged ---  
6 attempted to engage with contractors to get bids for the  
7 building. Again, pursuant to Article 9 of the bylaws,  
8 the board was acting upon its duty to repair and restore  
9 the building.

10 Beginning late last year, Your Honor, Mr. Royal and  
11 a few other owners objected to the work and the scope of  
12 the work. Mr. Royal and others as you've heard today are  
13 calling that work capital improvements.

14 Mr. Royal filed this suit for himself on March 20th  
15 of this year, Your Honor, trying to stop the annual  
16 meeting. Eight days later, after the suit was filed, Mr.  
17 Royal was served with request to admit. Those requests  
18 were not answered, they were not replied to, they were  
19 not qualified.

20 And one of the admissions that Mr. Royal made in  
21 those requests is that he has suffered no damages as a  
22 result of the actions or inactions complained of in his  
23 complaint.

24 As part of his complaint as he said, Your Honor, the  
25 plaintiff sought a temporary restraining order and

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1 preliminary injunction against the defendant. Judge  
2 Bentley Price denied that motion by order date April 8,  
3 2024. And it's important to look at Judge Price's ruling  
4 from April of this year as it still has bearing on the  
5 case today. In that order, Judge Price ruled that Mr.  
6 Royal could a bring a lawsuit challenging any action  
7 considered illegitimate or void, but he would not be  
8 allowed to enjoin the board at that time.

9 Judge Price also ruled that the controlling  
10 documents of the Ashley House do not permit an owner to  
11 make a motion at a meeting without prior notice of that  
12 meeting. Judge Price's order also stated that any  
13 injunction would shut down the board from conducting  
14 business at the Ashley House and he didn't agree with  
15 that method for proceeding with this building.

16 Again, what he said the correct method and the  
17 correct procedure would be to file a lawsuit if someone  
18 disagrees with action by the board. Importantly, Your  
19 Honor, that order is unappealed and remains the law of  
20 the case today. Judge Price --- Judge Price's order is  
21 what we have to deal with, Your Honor.

22 Since that time, Mr. Royal claims to have submitted  
23 his demand for the special meeting to, quote, discuss and  
24 vote upon the removal and replacement of one or more  
25 members of the board or directors. That notice is

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1 Exhibit 6 to our memo and he cited it here today.

2 Less than 30 days later, Your Honor, Mr. Royal then  
3 sought to amend his complaint sinking yet another  
4 injunction or declaratory judgment requiring the board to  
5 hold that special meeting. After requesting that relief,  
6 which is equitable in nature which becomes important in a  
7 minute, Mr. Royal waited and didn't call the special  
8 meeting. On July 24th, as shown in Exhibit 7 to our  
9 memorandum, counsel notified Mr. Royal that the clerk's  
10 office had scheduled numerous motions in the case to be  
11 held last week before Judge Roger Young. Those motions  
12 were scheduled for last Wednesday, Your Honor. That too  
13 becomes important in a minute. The dates --- the dates  
14 are all in other memo and they're --- they're important  
15 here and I'll tell you why shortly.

16 The motions that were to be heard last week included  
17 a motion to dismiss the plaintiff's amended complaint,  
18 and to enjoin the plaintiff from acting in contravention  
19 of Judge Price's order, and from trying to stop the board  
20 from moving forward with its duties to keep the Ashley  
21 House in good repair.

22 After the clerk's office scheduled the hearing and  
23 after notice was sent by counsel of the motions, most of  
24 which motions have granted would have really eviscerated  
25 Mr. Royal's complaint here. Mr. Royal moved to schedule

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1 the special meeting for August 17th for days prior to  
2 Judge Young's hearing. That notice is in our memo as  
3 Exhibit A.

4 Mr. Royal sent that notice out on August 3rd after  
5 he had notice of the motions to be heard last week. Mr.  
6 Royal claims that the notice was sent pursuant to  
7 33-31-702 of the Non-Profit Corporations Act, which  
8 provides for special meetings if at least five percent of  
9 the voters hold --- holding the power to vote demand the  
10 special meeting.

11 Mr. Royal claimed to have those votes by proxies,  
12 all of which were completed in the spring and we  
13 didn't --- had no reference to a meeting for August 17th.

14 The notice, we contend, Your Honor, was not proper  
15 for the removal of directors pursuant to the statute or  
16 pursuant to the bylaws which require strict compliance  
17 because they didn't name any of the directors. Pursuant  
18 to 33-31-808(e) that Mr. Royal has brought to the Court's  
19 attention, a director elected by members may only be  
20 removed at a meeting claimed for the purpose of removing  
21 the directors, and must state the purpose --- or one of  
22 the purposes is the removal of the directors. Again, no  
23 director was named in that notice, Your Honor.

24 Further, the bylaws Section 2.4 provide a director  
25 must be given the opportunity to be heard at any meeting

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1 called prior to any removal. If a director doesn't know  
2 he or she is being voted on to be removed, how in the  
3 world, can he or she show up to defend themselves under  
4 Section 2.4? It simply boggles the mind as to how that  
5 can happen, Your Honor.

6 Again, the notice did not name any of the directors  
7 and none of them were given notice of their removal  
8 pursuant to 2.4. A blanket please come on down, we're  
9 going to remove some directors isn't sufficient when the  
10 statute under the Horizontal Property Act requires strict  
11 compliance, Your Honor. And again, that's not Hamlin  
12 O'Kelley saying it, that's what our friends in Columbia  
13 said when they enacted the Horizontal Property Act.

14 It's important to note the day before the meeting,  
15 Your Honor, the renters in the Ashley House had flyers  
16 pushed under their doors. A copy of those flyers are  
17 attached to are memo as Exhibit 9. In that flyer Mr.  
18 Royal stated the results of the meeting, quote, would be  
19 upheld by the Charleston Court of Pleas. That alleged  
20 notice too doesn't comply with the non-corporation ---  
21 Non-Profit Corporations Act or the bylaws. That act  
22 requires ten-day notice and the bylaws require at least  
23 seven and not less than 50 days' notice for any special  
24 meeting. There --- he's attempting to say that the  
25 notice he pushed under the doors counts. Well, 24 hours

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1 doesn't cut it. Again, strict compliance is required,  
2 Your Honor.

3 Section 27-31-170 also states that failure to  
4 strictly comply subjects a party to civil action to  
5 recover damages and attorney's fees as well as injunctive  
6 relief. Again, Your Honor, one of the things that was  
7 going to be heard last week was the request for  
8 injunctive relief against Mr. Royal. That got pushed out  
9 and I'll --- I'll tell you why, just bear with me. It  
10 got pushed out because Judge Young at the time of the  
11 hearing, said he didn't have time to hear us all.

12 And, again, I need to tell you more about the  
13 history of the matter that brings us here today. On  
14 August 16th as Your Honor has seen, the property manager  
15 sent out notice to the owners that the meeting scheduled  
16 for the 17th was improper, as it didn't identify the  
17 director or directors to be removed. That's the e-mail  
18 and e-blast Mr. Royal has already shown you and it's  
19 Exhibit 10 to our memo.

20 The Monday after the meeting and literally two days  
21 before the hearing with Judge Young, Mr. Royal advised  
22 that board members Lisa Burbage and Connie McElhaney,  
23 Sherri Greenberg, Janice Gorga and Kevin Gaskins were no  
24 longer on the board. He also advised that a board ---  
25 former board member named John Bradley was no longer on

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1 the board, but I'll get to Mr. Bradley in a minute.

2 The letter from Mr. Royal is Exhibit 11 to our memo,  
3 Your Honor. And that correspondence, what he said was  
4 that a lady named Rosse Roland, Chris Kellogg, Shan  
5 Josie, Christina Houston, Sylvia Mitchell, and Charlotte  
6 Humphreys whom you've heard about earlier today, were  
7 allegedly elected as new board members.

8 According to the letter also in Exhibit 11, the  
9 plaintiff claims that he was elected chairman pro tempore  
10 of the meeting pursuant to Roberts Rules of Order.  
11 According to the letter, Ms. Roland motioned at the  
12 meeting to identify and remove the six directors. That  
13 was the first identification of the names of directors to  
14 be removed, Your Honor. And that was a motion by Ms.  
15 Roland organized at the meeting which motion goes  
16 directly against the prohibition against such motions by  
17 the governing documents of the Ashley House that Judge  
18 Price has already ruled you can't do it that way.

19 As I've said, the directors were not IDed in any  
20 way. They weren't identified in the proxies signed in  
21 the spring. On the same day, Monday the 19th, plaintiff  
22 sent the letter and e-mail to the alleged new directors  
23 confirming his position as to the results and that he  
24 quote/unquote wanted to meet with the new directors to  
25 discuss settlement of his litigation regarding the Ashley

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1 House. And those e-mails and letters are Exhibit 12 to  
2 our memo, Your Honor.

3 The day before the motions were to be heard by Judge  
4 Young, the plaintiff filed the motion that brings us here  
5 today. It's been less than ten days, Your Honor. And we  
6 all agreed to waive the ten-day notice. As I stated a  
7 minute ago, Judge Young began to hear the motions, and  
8 when he realized the extent of them. He took a break and  
9 went to talk to Judge McCoy to see if we could be before  
10 Your Honor.

11 THE COURT: Uh-huh.

12 MR. O'KELLY: Your Honor, unfortunately, didn't have  
13 time in the roster this week to hear all the full slate  
14 of motions. So again, procedurally, everyone agreed to  
15 hear the motion that's before Your Honor today. Because  
16 I think it's important that the procedure be followed  
17 that we all --- put on the record that we waive the  
18 ten-day notice, both the plaintiff and the defendant,  
19 Your Honor.

20 After the Court set this hearing with Your Honor,  
21 the plaintiff then brought up an issue saying that Mr.  
22 Wilson and I were somehow conflicted because there was a  
23 new board. That communication is Exhibit 13 to our memo.  
24 Mr. Royal also contacted court administration about that  
25 issue too, Your Honor. That e-mail is Exhibit 14 to our

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1 memo.

2 As we have stated, the we believe the notices were  
3 defective and any action taken when you have to have  
4 strict compliance is voidable, ineffective, and possibly  
5 void ab initio.

6 Again, Your Honor, we go back to Section  
7 33-31-808(e), we go back to Section 2.4 of the bylaws,  
8 again, no director is named.

9 We have cited two cases, Your Honor, in our memo  
10 that reference code section 27-31-70. Relating to the  
11 strict compliance requirement of the Horizontal Property  
12 Act. Those cases are HOA cases, Your Honor.

13 The first one a called Orgtega versus Kingfisher.  
14 It's from the Court of Appeals. It's at 314 S.C. 180 442  
15 SE 2nd 202.

16 And the next case, Your Honor, is called Murphy  
17 versus Yacht Cove HOA, that's at 289 S.C. 367 345 SE 2nd  
18 709 from the Court of Appeals in 1986.

19 Despite the admissions that there are no damages in  
20 this case and Judge Price's order advising that the  
21 proper avenue to anything that he disagrees with the  
22 board as a lawsuit after the actions of the board and  
23 barring the plaintiff from his temporary relief, he now  
24 claims that all this notice is proper and he's complying  
25 strictly with the statutes. He can't show it, Your

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1 Honor.

2 And again, I'll beat that dead horse all day,  
3 because no director is named. The importance of the name  
4 is direct --- the importance of naming the directors is  
5 illustrated, Your Honor, by reference to former board  
6 member John Bradley. I said a few minutes ago we'd get  
7 back to Mr. Bradley and now we're to him again. Mr.  
8 Bradley resigned from the board in April of this year.  
9 His resignation letter is found as Exhibit 15 to our  
10 memo. The board which it could have done, but did not do  
11 did not appoint someone to fill that vacancy as it is  
12 allowed to do under the bylaws. Had the notice named the  
13 directors to be removed, the issue with Mr. Bradley could  
14 have simply been dealt with. The issue casts further  
15 doubt on the meeting of August 17th, because the board  
16 chose not to fill Mr. Bradley's position. He was not a  
17 board member on the 17th, and couldn't be removed.

18 Again, Your Honor, how can you have strict  
19 compliance when you're naming board --- you name the  
20 board members and then you tell a former board member he  
21 has not been invited back even though he wasn't there.  
22 Any attempt to remove him was moot at the time. This  
23 also means there was no replacement. So the replacement  
24 board that the plaintiff has argued takes place in one  
25 fell swoop by a motion that was not allowed by court

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1 order. We're left to wonder who is replacing Mr.  
2 Bradley.

3 Further, as Judge Price's order states, the  
4 governing documents limit any motion at any meeting to  
5 something that was given notice prior to the meeting.  
6 Ms. Roland's motion is improper and violates Judge  
7 Price's order. It's unappealed, it's the law of the  
8 case.

9 Your Honor, this is also troublesome. The plaintiff  
10 has said that there's been propaganda, and there's been  
11 attempts to suppress things. At the same time talking  
12 about how 49 percent of the owner --- owners appeared and  
13 voted. I'm a little confused how he would say there's  
14 been some sort of propaganda or suppression and at the  
15 same time claiming he has the votes as well. He's been  
16 walking both sides of the street and I'll get to that in  
17 a minute, Your Honor.

18 Plaintiff has also referenced Robert's Rules of  
19 Order to say that he was able to run the meeting that  
20 way. Well Robert's Rules of Order isn't mentioned in the  
21 bylaws. Again, back to the code section saying there's  
22 got to be strict compliance. What he's going to say in  
23 response to that is there was a meeting in April where  
24 Mr. Royal asked the board president if the meeting was  
25 going to be pursuant to Robert's Rules of Order, and she

1       said, yes. Well, she didn't have the authority to do  
2       that at the time, Your Honor, or to adopt rules and  
3       regulations or pass a motion for them without prior  
4       notice, which is already a ruling in this case.

5               Again, there would be no adoption of motions prior  
6       to a meeting without proper notice of that motion given.

7               Your Honor, I want to point out Exhibit 16 to our  
8       memo, because he says the plaintiff also claimed earlier  
9       this year that there were a number of matters adopted by  
10      a number of owners after the annual meeting. A bunch of  
11      guidelines, a bunch of procedures, things that frankly we  
12      don't think are proper. But one of those guidelines was  
13      to have people attend meetings via Zoom or a platform  
14      like the one that brings us here today. If those  
15      guidelines were effective then he violated his own  
16      guidelines, Your Honor, because there was no notice of a  
17      Zoom meeting, or a Webex, or some hosting platform that  
18      anyone could attend the meeting on August 17th following  
19      his own guidelines. So again, Your Honor, what's it  
20      going to be? We can't walk both sides of the street.

21              One of the plaintiff's arguments is that notice was  
22      waived, of course. This is a red herring, Your Honor,  
23      because if the directors didn't show up, they haven't  
24      waived the lack of notice. And none of the directors as  
25      he stated and everyone agrees, did not attend this

1 meeting.

2 The real key here, Your Honor, is the attempt to  
3 thwart the larger issues at the Ashley House, damage to  
4 the building, and the need for the repair and the fact  
5 that there are a number of people at that Ashley House  
6 that frankly should be concerned about potential  
7 liability as former board members, Your Honor. There's  
8 the ongoing duty to keep the building in good repair.

9 There's the ongoing duty as the Fisher case says to  
10 actually survey the property and to promptly repair or  
11 restore any portion of the property and to pursue any  
12 recovery if possible against bad actors who created the  
13 situation. And the Fisher case is out of Pawleys Island.  
14 It relates to windows that were faulty at a condo  
15 association up there, Your Honor.

16 The Fisher case cites an older case, Queen's Grant  
17 Villas Horizontal Property Regimes I-V versus Daniel  
18 International. That's from our Supreme Court in 1985  
19 that also says HOAs have duties to keep buildings in good  
20 repair.

21 Your Honor, it's --- the board should be allowed to  
22 maintain and repair the common elements here. And such  
23 action if they decide to do it generally would not be set  
24 aside under the business judgment rule. The plaintiff in  
25 this case is a licensed attorney. He's not licensed in

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1 South Carolina, but he's a licensed attorney, he's a  
2 smart guy, he knows the business judgment rule.

3 We reference the business judgment rule in our  
4 brief, Your Honor, we cite the Goddard versus Fairways  
5 Development General Partnership case from the Court of  
6 Appeals in 1983.

7 And we cite a case from Charleston, the Dockside  
8 Association versus Detyens case from the Supreme Court in  
9 '87.

10 Again, Your Honor, I want to point out Judge Price's  
11 order that the remedy here is to sue if he doesn't agree  
12 with an action the board takes. It's not to try and  
13 attempt to take over the board and reverse years --- just  
14 try and stop the last four years of trying to make the  
15 building more livable to correct 40 years of problems  
16 here.

17 Your Honor, we point --- we would --- we would also  
18 assert since this is a matter of equity, the plaintiff  
19 has unclean hands in this matter in seeking equitable  
20 relief today. And I'll explain that. Your Honor, the  
21 plaintiff is casting the case as he said he is trying to  
22 make this a derivative action. Well, I --- I don't know  
23 where the --- the demands on the board are except one  
24 e-mail which I don't think would qualify under Rule 23,  
25 but Rule 23 says that unclean hands, the case law is

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1           there, unclean hands applies in derivative action. So  
2           for the sake of argument, let's assume it's going to be  
3           derivative action one day.

4           We say he's got unclean hands as shown by his  
5           request for injunctive relief which is denied.

6           We say he's got unclean hands in trying to hold a  
7           meeting when Judge Price told him by order the right way  
8           to do it.

9           We say he had unclean hands when after getting  
10          notice and proceeding with the lawsuit. He then tries to  
11          circumvent the Court by holding a special meeting and by  
12          saying, oh, the board's no longer the board anymore, so  
13          Mr. O'Kelley, Mr. Wilson, you're fired. We don't have to  
14          make the repairs, we don't have to do what this board  
15          says. Who cares what their duty is under the bylaws,  
16          under the master deed, and under state law and under case  
17          law, it doesn't matter.

18          Scheduling the meeting the Sunday before the hearing  
19          knowing that Judge Young was scheduled to rule, we think  
20          is unclean hands, Your Honor.

21          Claiming counsel is conflicted is unclean hands,  
22          Your Honor, and then filing these motions saying, you  
23          know, the board is somehow not the board and his --- his  
24          cronies are now the board is also a problem.

25          He has also brought up the issue saying that Mr.

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1 Wilson and I are conflicted and shouldn't represent the  
2 POA. Well, the POA is a corporation, Your Honor. You  
3 can't appear in Your Honor's court pro se. The  
4 Renaissance Enterprises case has said for years that  
5 corporations have to have counsel. I haven't been fired  
6 yet, Your Honor, and neither has Mr. Wilson. The  
7 plaintiff is asserting the directors he claim are proper  
8 would somehow agree with him, but they may be unaware of  
9 the full duty placed on them by law, Your Honor.

10 It's very interesting also that after this meeting  
11 took place, he said he wanted to meet with the new board  
12 to discuss settlement. So what's it going to be, Your  
13 Honor? Are you going to seek relief here, or are you  
14 going to and circumvent the Court? Mr. Royal claims that  
15 he has not been responded to, but he's filed litigation  
16 in this case. People often don't respond to litigants,  
17 Your Honor, because anything they say can and will be  
18 used against them in a court of law. There's been no  
19 propaganda in this matter, Your Honor. There's just been  
20 statements of fact. Mr. Royal has stated "we," several  
21 times today, Your Honor, and I hope he's not trying to  
22 say that he's representing someone, since he's not a  
23 licensed attorney in South Carolina, because that's ---  
24 that would be problem. I'm sure that's not what he's  
25 trying to say here, Your Honor.

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1           Again, Your Honor, he sued these folks, this is his  
2 case. I think he was concerned that it's all going to  
3 get blown up on the 22nd and so --- excuse me, the 21st,  
4 so he rushed like a crazy person to try and get a new  
5 board in place. The problem is, he didn't do it right,  
6 Your Honor. And I'm happy to answer any questions Your  
7 Honor may have.

8           THE COURT: I --- I will --- I --- I --- I need to  
9 ask Mr. Royal some questions. I --- I'm very anxious to  
10 hear his response. Mr. Skyler, anything you want to add?

11           MR. WILSON: No, Your Honor, I'll --- I'll leave it  
12 to Mr. O'Kelley's capable hands. Thank you.

13           THE COURT: Mr. Wilson, I'm sorry. Skyler Wilson.

14           Mr. Royal, one or two questions. Overall, I want  
15 you to respond. I would ask you to respond if you have  
16 any response to what has been said by Mr. O'Kelley.

17           But I am curious about please respond to the  
18 allegations that your actions have not been consistent  
19 with Judge Price's order. And then also --- also address  
20 if you will, this allegation that your notice of the  
21 meeting to remove the board members did not comply with  
22 the legal requirements for that notice.

23           MR. ROYAL: Thank you, Your Honor.

24           THE COURT: Of course.

25           MR. ROYAL: Yes. The second part of your question

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1 and the --- and I believe the more substantive part is  
2 the subject of the entire presentation that I --- I gave  
3 to you earlier. And I will send ---

4 THE COURT: Uh-huh.

5 MR. ROYAL: --- by e-mail that document to your  
6 administrative assistant and also to co-counsel and Your  
7 Honor. I would just urge you to please compare the  
8 claims and arguments just made by Mr. O'Kelley to the  
9 point-by-point absolute destruction of his arguments by  
10 my presentation. Because I went through on every  
11 technical requirement under South Carolina law and the  
12 governing documents of the corporation for notice and for  
13 special meetings and on a point-by-point basis showed  
14 that we satisfied every requirement.

15 Again, Your Honor, that is a --- in the context of a  
16 corporation that does not follow rules, but we knew that  
17 we would be challenged and so we went to great lengths to  
18 make sure that we were complying with every requirement.

19 Now, Your Honor, to the first part of your question,  
20 you said respond to allegation that my actions are not  
21 consistent with an order from Judge Price. Your Honor,  
22 the order from Judge Price, again, was an order denying  
23 my motion for temporary restraining order and temporary  
24 injunction.

25 So what happened, Your Honor, when I filed the

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1 lawsuit, I was worried that the board was abridging  
2 rights of the co-owners which would be affected in the  
3 2024 annual meeting. Okay? And I --- I was concerned  
4 that if the Court did not delay the annual meeting, then  
5 the rights of the co-owners would be abridged. So I was  
6 asking the Court, Your Honor, please delay the  
7 meeting --- the annual meeting of this corporation until  
8 these issues can be resolved.

9 The problem, Your Honor, as I stated earlier, is  
10 Judge Price was not able to hear my motion until after  
11 the annual meeting had started. And --- and so he denied  
12 the motion.

13 Now, as you know, Your Honor, what happens generally  
14 is if --- if a --- a judge denies a motion, he'll ask the  
15 prevailing party to draft an order. And in this case Mr.  
16 O'Kelley drafted a humongous order which he filled with  
17 an absolute deluge of forgive me but totally incorrect  
18 facts and totally incorrect claims about the law which  
19 have nothing at all to do and is not germane to whether  
20 or not the judge rejected my TRO. Okay?

21 The judge was simply saying hey, the meeting has  
22 already started and so I'm not going to --- I'm not going  
23 to enjoin the corporation from doing something which it  
24 has already done in the past. So Mr. Hanlon --- Mr.  
25 O'Kelley is, you know, looking at an --- but, Your Honor,

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1 I --- I --- I'm certain that my activities and those of  
2 the other co-owners who have --- have been referenced  
3 just now as my cronies, are perfectly legitimate, valid,  
4 and consistent with both South Carolina State law and  
5 the --- the governing documents.

6 Now, Your Honor, you've invited me to make some  
7 response to Mr. O'Kelley, which I would very much like to  
8 do.

9 THE COURT: Yes, sir, and I --- I want to ---

10 MR. ROYAL: Yes, sir.

11 THE COURT: --- but let --- let me ask one more  
12 thing about this order.

13 MR. ROYAL: Yes, sir.

14 THE COURT: And --- and --- and just let me say  
15 this --- this has nothing to do with any party, but I  
16 used to write those orders, so I --- I can understand  
17 your point.

18 MR. ROYAL: Yes, sir.

19 THE COURT: Completely understand your point and I'm  
20 not saying anything about, because I --- Mr. O'Kelley ---  
21 Mr. O'Kelley's order. I --- I --- but I understand what  
22 you're saying. But when you got that order, did you ask  
23 for reconsideration ---

24 MR. ROYAL: Yes, sir.

25 (Simultaneous speaking)

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1 THE COURT: Certainly I don't believe there's going  
2 to be an appeal.

3 MR. ROYAL: Yes, sir, I did immediately. And ---  
4 (Simultaneous speaking)

5 THE COURT: Tell me what you did.

6 MR. ROYAL: Yes, sir. I --- I --- I asked the Court  
7 to reconsider. The Court denied my motion to reconsider.

8 Now, Mr. O'Kelley has referred to that order as  
9 unappealed. Well, that's simply because I'm not at a  
10 stage in the case yet where I can appeal it. So that's  
11 just extremely misleading Your Honor.

12 But if I may, Your Honor, I'd like to ---  
13 (Simultaneous speaking)

14 MR. ROYAL: --- through some of the things that Mr.  
15 O'Kelley said, but I don't want to preempt anything ---  
16 further questions that you may have for me at this point.

17 THE COURT: No. I --- I --- you --- I --- I  
18 appreciate that response, but please continue for what  
19 you want to respond to his argument.

20 MR. ROYAL: Thank you. Thank you, Your Honor. The  
21 first thing that I would like to point out to the Court  
22 and I wish I can just put this on a huge billboard in  
23 front of the courtroom, Your Honor, is that you've just  
24 listened to Mr. O'Kelley speak at some length. And I  
25 want to just point out the thing that was not said in his

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1 presentation. There is absolutely no dispute that a  
2 majority of this corporation has fired the board. They  
3 have voted to fire the board.

4 The complaint that Mr. O'Kelley is making is that we  
5 have not satisfied some technical requirement, and that's  
6 not true. We have satisfied all the requirements.

7 But the biggest thing, Your Honor, is that the ---  
8 the interests of the corporation have made their will  
9 known. And it happens that the will of the corporation  
10 is directly contrary to the arguments and efforts of the  
11 attorneys who today are pretending to represent their  
12 interest.

13 Your Honor, the --- I --- I want to just make this  
14 real clear: Under South Carolina legal ethics, and ---  
15 and the representation of these attorneys, their client  
16 is not Ms. Lisa Burbage the former president, it is not  
17 any individual board member. Their client is the  
18 corporation as such and we all know because it has not  
19 been disputed today that 54 percent of the corporation  
20 disagrees with the direction these attorneys have taken.  
21 And in fact, Your Honor, on April 11th, the corporation  
22 adopted a resolution --- this has been pre --- pleaded  
23 separately and there are documents proving this including  
24 an audio file.

25 So I have an audio recording of the April 11th

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1 meeting. In that meeting, Your Honor, the co-owner  
2 adopted a resolution ordering the board to immediately  
3 fire Mr. O'Kelley. Immediately fire Mr. O'Kelley not  
4 only because they felt he was wasting corporate  
5 resources, but because he was actively working against  
6 their interests. And now we have indisputable,  
7 demonstrable proof that he is doing so because a vote of  
8 54 percent of the corporation says that the things that  
9 these attorneys are advocating is not in our interest.

10 But Your Honor, I want to go back to where Mr.  
11 O'Kelley started, if I may.

12 THE COURT: Of course.

13 (Simultaneous speaking)

14 MR. ROYAL: At --- at 4:25 p.m., your time,  
15 1:25 p.m. my time --- I'm in Oregon right now --- Mr.  
16 O'Kelley began his presentation with the following  
17 sentence: It's important to know the history of this  
18 building. Okay? And then for 30 minutes as predicted,  
19 he brought the court into an absolute whirlwind of red  
20 herrings, distractions and obfuscations. He went all the  
21 way back to 1980. He talked about the condition of the  
22 building. He talked about someone named Mr. Porcher. He  
23 talked about whether or not Mr. Royal was claiming  
24 damages.

25 And there I will just take a quick note, Your Honor,

1 again, Mr. O'Kelley is being incredibly misleading. He  
2 says that I admitted that I had no damages. Well,  
3 why --- why can he say that? Well, it's because I did  
4 not timely respond to a request for admissions. So that  
5 certainly is not my position, Your Honor, that I --- that  
6 I --- that I don't have damages. And I have filed a  
7 motion which is still pending to allow me to make proper  
8 admissions. Okay? So Mr. O'Kelley is sitting in his  
9 seat there saying that I have no damages and that I've  
10 admitted it is just extremely misleading and not  
11 truthful, Your Honor.

12 He also likes to refer to me as a --- an  
13 attorney --- an intelligent attorney. Well Mr. ---  
14 he --- he never fails to point this out. I went to law  
15 school a lifetime ago. I've never been a practicing  
16 attorney. What I'm doing here today, Your Honor, is  
17 trying to advocate for co-owners, my neighbors in a  
18 building. That's why I filed this lawsuit.

19 And --- and --- and I don't have any personal  
20 interest in --- in --- in destroying the project that's  
21 been proposed. In fact, if it were --- if it were up to  
22 me, Your Honor, we would be doing a much more extensive  
23 project in the building. I feel like we need to have  
24 floor to ceiling glass and do a massive renovation that  
25 would go quite beyond what is even contemplated by the

1 former board.

2 But Mr. O'Kelley never ceases to point out that I'm  
3 just trying to destroy the board's proposed plan. That's  
4 not the truth, Your Honor. What I'm here for is to  
5 require that corporate governance is adhered to. That  
6 the people who own the corporation and therefore own the  
7 building have the final say on what happens. That they  
8 don't get a \$20 million project shoved down their throat  
9 that they disagree with. They have different ideas of  
10 what they --- how they would like to cure those problems.

11 But, Your Honor, I'm going to go back to 4:24 p.m.  
12 your time. At that point ---

13 THE COURT: Uh-huh.

14 MR. ROYAL: --- Mr. O'Kelley began his --- his  
15 presentation saying it's important to know the history of  
16 this building and then he went on to talk about 1980, and  
17 Mr. Porcher, and Judge Price's order, and the Fisher  
18 case, and the Queen case dealing with HOA regimes. Well,  
19 all of that is totally --- totally irrelevant, Your  
20 Honor. I predicted it at the very first part of this  
21 hearing. That is irrelevant to who are the human beings  
22 who today are members of the board of directors. That's  
23 the question of the case.

24 So, you know, we just need to determine who's on the  
25 board of directors. And we do not need to be concerned

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1       today with whether or not the building needs repairs,  
2       whether something is considered a capital improvements  
3       project versus a repair, different ways of classifying  
4       things, history of the building, engineering reports, all  
5       of that is not germane. All we need to know is was the  
6       special meeting valid and is there a new board now. And  
7       there is.

8                Again, what you did not hear from Mr. O'Kelley is  
9       any argument against the fact that 54 percent of the  
10      corporation voted to remove the board.

11              Now, I --- I also just want to remind the Court that  
12      Mr. O'Kelley is --- is calling the other co-owners who  
13      have participated in this effort, my "cronies." He's  
14      implying that I am doing something illegal, something  
15      that is untoward, something that is dirty. He's saying  
16      that I'm --- I'm acting in some way that's improper.

17              Well, Your Honor, it is not improper to fire the  
18      board of a corporation. That's what happens when their  
19      leadership is not considered. Okay. So yeah, 54 percent  
20      of the ownership of this corporation shouldn't be called  
21      my cronies, they should be called active participants in  
22      the self-governance of a corporation.

23              Yeah. He also accused me of being strategic with my  
24      timing, saying that I somehow snuck up and but, Your  
25      Honor, we waited for four months for the president to do

1 her duty. She absolutely failed. And as I pointed out  
2 earlier in my presentation, it was the president's duty  
3 once receiving the demand letter to call the special  
4 meeting. She didn't. We waited and finally we took it  
5 upon ourselves under 33-31-702(c) to call the meeting for  
6 ourselves.

7 Mr. O'Kelley's just very disingenuous in saying that  
8 I --- I think he said is fed up or somehow, you know,  
9 acted strategic in the timing of the special meeting.  
10 That's just the way that it worked.

11 And but again, Your Honor, it's irrelevant. All ---  
12 all of these other matters in the case are really  
13 irrelevant to determining who is on the board. Because  
14 who is on the board is going to be giving instructions to  
15 the attorneys and that is indeed, Your Honor, why these  
16 attorneys are so conflicted. They are arguing against  
17 the majority of the corporation.

18 Now, I just want to go over a couple other things  
19 that were mentioned. I think the most offensive part of  
20 the presentation from manage O'Kelley is that the other  
21 co-owners that I've been working with, the clear  
22 majority, 54 percent have not been strictly complying  
23 with the law. Your Honor, we are the ones who are trying  
24 to follow the rules. Mr. O'Kelley and the former board  
25 are the ones who are trying to ignore the law.

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1           Again, Your Honor, we gave them a clear demand  
2 letter back in April and they still haven't responded to  
3 it. So it is --- it is their duty to respond to it and  
4 they've simply ignored their duty.

5           Also, there's --- there's a lot of sort of blaming  
6 of the victim here. One of the complaints that Mr.  
7 O'Kelley made in his presentation was that I didn't send  
8 a Zoom invitation out to the co-owners. Now, this is  
9 something that Mr. O'Kelley himself would say is not  
10 required of the board. But in the absence of the board  
11 doing their response built in setting up the special  
12 meeting, he's now complaining that I didn't set up a Zoom  
13 meeting. This is crazy. That's not my responsibility,  
14 Your Honor. That is the secretary's responsibility, or  
15 the board's responsibility.

16           He also says --- asks the Court, how is there  
17 suppression? Mr. --- Mr. Royal alleged that the board  
18 was trying to suppress the turnout for the special  
19 meeting.

20           Well, let me offer a story that comes from the  
21 special meeting. One of the co-owners stood up and said,  
22 I do not feel comfortable voting in this special meeting  
23 because the e-mails that the board has been sending out  
24 make me fear of a lawsuit from the corporation on me if I  
25 should vote in this meeting. Well, that's suppression,

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1 Your Honor. So there --- there likely would have  
2 been ---

3 MR. O'KELLY: It's also --- it's also hearsay, Your  
4 Honor.

5 THE COURT: Understand. Mr. Royal, please continue.

6 MR. ROYAL: Yes, sir. I have ---

7 (Simultaneous speaking)

8 MR. ROYAL: Your Honor, I would be happy for people  
9 who attended the meeting to --- to object, but all of  
10 those people didn't attend. So this is something that  
11 happened. I have an official opinion of that meeting  
12 because I was administering it. And as I've offered, I'm  
13 happy to help with the minutes of the meeting based on my  
14 participation as the --- as the official there.

15 Your Honor, the --- one last thing that I'd like to  
16 mention.

17 THE COURT: Yes, sir.

18 MR. ROYAL: Mr. O'Kelley argues that a case in point  
19 of why our notice was wrong is that we named Mr. John  
20 Bradley as one of the directors who would be removed from  
21 the board. Well, the memorandum that opposing counsel  
22 sent me last night and sent the Court last night was the  
23 very first time that the board or the attorneys for the  
24 former board ever gave anybody notice that Mr. John  
25 Bradley was no longer on the board. So this will give

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1           you some idea of the way that this board operates.  
2           They're --- they're --- by saying that our --- our  
3           notice --- or notice was improper because the co-owners  
4           were never even told that somebody stepped off of the  
5           board, that's just totally improper.

6           And I think that's all that I have for right now,  
7           Your Honor. And I'm happy to ask --- answer further  
8           questions that you may have. Thank you for listening to  
9           me.

10          THE COURT: You addressed the major procedural  
11          question that I had. So I think we're good on that. Mr.  
12          O'Kelley, anything further?

13          MR. O'KELLY: Yes, Your Honor. You know lawyers, we  
14          can't help ourselves. I'll --- I'll be brief, Your  
15          Honor. Mr. --- Mr. Royal's a frequent flyer in our  
16          courts, Your Honor. He --- he is a --- been pro se in  
17          front of this Court. He's pro --- pro se in a case in  
18          front of Judge Scarborough. He's knows what he's doing,  
19          Your Honor. So for him to claim, well, I --- I don't  
20          know this, I'm just a simple caveman-lawyer type of  
21          thing, really doesn't hold much water, Your Honor.

22          I --- I would point out page for of Judge Price's  
23          order which Your Honor noted it. It --- it is what it  
24          is. It's the law of the case. Whoever wrote it doesn't  
25          matter. In fact, I'm happy to --- to tell the Court that

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1 my learned co-counsel, Mr. Wilson, actually wrote that  
2 order and not me. But it doesn't matter because it's the  
3 law of the case. If something material affects the  
4 outcome of the case, it's appealable whether it's a final  
5 order or not. It was not appealed, Your Honor. And the  
6 notice was wrong. What happened at that meeting was  
7 volitive of court order.

8 And that's the end of my arguments before you today,  
9 Your Honor. And, Your Honor, I --- I know that you're  
10 probably swamped with non-jury stuff this week so I don't  
11 know if Your Honor wants us to submit proposed orders.  
12 Happy to do whatever Your Honor wants.

13 THE COURT: Let me think about that for a second.  
14 Let me ask this: But now, Mr. Royal, you said you did  
15 file a motion for reconsideration and is that still  
16 pending? And ---

17 MR. ROYAL: Yes, sir.

18 (Simultaneous speaking)

19 MS. MORAN: It was denied, Your Honor.

20 THE COURT: Oh, it was denied. I'm sorry. Okay.

21 MR. ROYAL: The --- the --- the correct. I'm sorry.  
22 The motion for reconsideration was denied, but it is  
23 still appealable. So my --- what I was saying earlier is  
24 that Mr. O'Kelley's simply describing it as an unappealed  
25 order is disingenuous. It --- it can be appealed. It

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1 just is not at the stage in this case where I could  
2 appeal it. But I --- I would like to offer one last  
3 thing ---

4 THE COURT: Yes, sir.

5 MR. ROYAL: --- which is that Mr. O'Kelley I believe  
6 is --- is making the argument that Judge Price's order  
7 means that no one at the special meeting that happened on  
8 August 17th could actually make any motion to remove any  
9 director. Now, I'm happy for the Court to question Mr.  
10 O'Kelley on this, because maybe I'm misunderstanding it.  
11 But even though the demand letter said this is a meeting  
12 for the purpose of removing directors, and even though  
13 the notice to all the co-owners said the subject matter  
14 of the meeting is to remove directors and replace them,  
15 even though the purpose was very clearly stated, I  
16 believe that what Mr. O'Kelley is trying to get the Court  
17 to agree to is that no member who showed up at a member  
18 meeting was allowed to make any actual motion to remove a  
19 director because that motion would have to have been  
20 given to the board in exact phrasing, "ten days in  
21 advance," which is totally absurd, Your Honor. Totally  
22 absurd.

23 Mr. O'Kelley's position and --- and what he tried to  
24 get Mr. Judge Price --- Judge Price to agree to is that  
25 no motion can ever be made by a member of the corporation

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1 in a member meeting unless that motion has been noticed  
2 to the board of directors ten days in advance. And that  
3 includes, Your Honor, any procedural motion.

4 And --- and I know this to be a fact because at the  
5 2024 annual meeting, Mr. Hamlin stood up out of order  
6 because he's not a member. And he argued on behalf of  
7 the board that a co-owner who had stood up during that  
8 meeting to make a procedural objection to the chair, Mr.  
9 O'Kelley said that is improper because under, you know,  
10 because you have to have made this motion --- submitted  
11 it to the board ten days in advance.

12 So let me give you an example, Your Honor. Let's  
13 say that the --- the person chairing the meeting who in  
14 this case would be the president, let's say is at an  
15 annual meeting and the president is chairing the meeting  
16 and says I believe that anyone who is wearing a --- a  
17 blue dress must be removed from the meeting immediately.  
18 Now, somebody in the audience, a member could stand up  
19 and say chair, I --- I --- I object to that. That ---  
20 that --- that's nowhere in the rules. I don't think  
21 you're following --- proper --- proper proceedings and  
22 procedure. Under Mr. O'Kelley's theory, that would be an  
23 improper objection, because it was not noticed ten days  
24 in advance. Now, what that means, Your Honor, is it  
25 would be absolutely impossible to run a member meeting

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1 because you would have to anticipate with absolute  
2 certainty and perfection everything that happened during  
3 the meeting in advance of it happening. Otherwise you  
4 could never make a procedural or any other objection.  
5 You would have to know the future.

6 So the --- the --- the case that Mr. O'Kelley is ---  
7 is making and which he may or may not have gotten Judge  
8 Price to agree to in that order it is absurd on its face  
9 and totally impossible.

10 Now, I would very happy for Mr. O'Kelley to explain  
11 if he disagrees with me. I don't want to misrepresent  
12 his position. But my belief is that his position is that  
13 any kind of motion is not allowed by a member at their  
14 own member meeting unless it has been given to the board  
15 of directors ten days in advance even procedural  
16 objections.

17 Thank you, Your Honor.

18 THE COURT: Thank you, Mr. Royal. Mr. O'Kelley,  
19 I --- I --- you have any response solely to that last  
20 question by Mr. Royal?

21 MR. O'KELLY: Your Honor, I'll just read from Judge  
22 Price's order: The language in the matter deed and  
23 bylaws generally require prior notice to all co-owners in  
24 order for the co-owners to conduct business.

25 That's all it --- that's what it says. And he's

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1 quoting from the bylaws. And --- and funny, Your Honor,  
2 I --- I --- I didn't know I was party to this case until  
3 about 15 minutes ago.

4 MR. ROYAL: So is --- is it --- Your Honor, I would  
5 be very interested to know, does that mean that at the  
6 special meeting to remove directors, no member should  
7 have been enabled to make a motion to remove directors at  
8 a --- at a special meeting to remove directors? Is it  
9 therefore impossible for a member to have made a motion  
10 to remove a director unless the --- the exact phrasing of  
11 that motion had been given to the board of directors ten  
12 days in advance?

13 THE COURT: I --- I --- I tell you what we're going  
14 to do. I'm going to read these. I --- I will make a  
15 decision on that. I think I would like proposed orders  
16 because that gives me something to start with. So how  
17 long would it take each of you to get me a proposed  
18 order?

19 MR. O'KELLY: Less than ten days from us, Your  
20 Honor.

21 (Simultaneous speaking)

22 MR. ROYAL: I would be happy as with that as well,  
23 Your Honor.

24 THE COURT: Mr. Royal?

25 MR. ROYAL: Yes, sir.

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1           THE COURT: Ten --- ten days is --- I --- from ---  
2 from a practical standpoint, I will not be able to  
3 address this within the next ten days. Let's say within  
4 20 days. By --- by 20 days I will be a little more  
5 stationary.

6           MR. ROYAL: Thank you.

7           THE COURT: So if you could get me some proposed  
8 orders within 20 days of today's date. That would be  
9 wonderful. Is that good with everyone?

10                           (Simultaneous speaking)

11           MR. O'KELLY: And let me --- so that would be the  
12 17th.

13           THE COURT: Correct. September 17th. Is that ---  
14 I --- I don't have my calendar in front of me. Is that a  
15 weekday?

16           MR. WILSON: It's a Tuesday, looks like.

17           THE COURT: Tuesday. That --- that would be perfect  
18 for me.

19                           (Simultaneous speaking)

20           THE COURT: And if either of you run into any  
21 problems and need additional time, just contact me ---  
22 my --- my --- my law clerk by e-mail will be fine.

23           MR. O'KELLY: Thank you, Judge.

24           MR. ROYAL: Thank you, Your Honor.

25           THE COURT: Thank you. Thank --- thank of you. And

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1 I --- I want to thank all of the homeowners who were  
2 present as well.

3 (PROCEEDINGS CONCLUDED)

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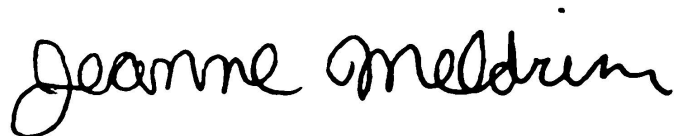
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CERTIFICATE OF TRANSCRIBER

I, JEANNE MELDRIM, a court-approved transcriber, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of CIRCUIT COURT 9 for CHARLESTON COUNTY, South Carolina, on the 29th Day of August, 2024.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

September 10, 2024

A handwritten signature in black ink that reads "Jeanne Meldrim". The signature is written in a cursive, flowing style with a prominent dot over the 'i' in "Meldrim".

Jeanne Meldrim

Transcriber