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SC Court of Appeals

IN THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM DORCHESTER COUNTY

Court of Common Pleas

The Honorable Diane S. Goodstein

Case No.: 2020-CP-18-01856

Joseph R. Davis and Jennifer Davis, individually
and as representative of all those similarly situated.....Appellants-Respondents,

v.

River Oaks Homeowners Association, Inc.....Respondent-Appellant

Halcyon Real Estate Services, LLC, and
Dorchester Real Estate Services, Inc.....Respondents.

RESPONDENT-APPELLANT’S FINAL REPLY BRIEF

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SUMMARY OF REPLY

This case presents two consolidated appeals. In the first, the Davises appeal the Order filed July 24, 2024, Granting River Oaks' Motion for Summary Judgment as well as the Order filed August 16, 2022, partially certifying a class of plaintiffs ("Summary Judgment Appeal"). In the second, River Oaks appeals the August 16, 2022, Order only ("Class Certification Appeal"). River Oaks submits that the Trial Court properly granted summary judgment to River Oaks and the Trial Court's ruling order should be affirmed in the Davises' appeal. In affirming summary judgment, this Court would render the issue of class certification moot as the case against River Oaks would end and River Oaks would withdraw its appeal. The Davises use that position to argue that River Oaks' appeal should be dismissed because its appeal is either moot or interlocutory. While River Oaks disagrees with the Davises, River Oaks submits that the most judicially-economic path forward would be to either dismiss all appeals challenging class certification or stay the issue pending resolution of the issue of summary judgment. In essence, either everyone can appeal the August 16, 2022, Order partially certifying a class of plaintiffs, or no one can.

ARGUMENT

1. River Oaks' appeal is not interlocutory because the Trial Court's Order Granting Summary Judgment is a final judgment.

The Davises argue that River Oaks' appeal must be dismissed because the Class Certification Order might become interlocutory *if* the Court of Appeals reverses summary judgment. While that may be true, the Davises are currently appealing a final judgment against them and in favor of River Oaks. Orders regarding class certification may be appealed only after final judgment. *Stanley v. S. States Police Benevolent Ass'n, Inc.*, 435 S.C. 524, 526, 868 S.E.2d 412, 413 (Ct. App. 2021). A final judgment is one that ends the action and leaves the court with nothing to do but enforce the judgment by execution. *Tillman v. Tillman*, 420 S.C. 246, 249, 801 S.E.2d 757, 759 (Ct. App. 2017). Summary judgment, when entered for the moving party, is an adjudication on the merits. *Baird v. Charleston Cnty.*, 333 S.C. 519, 529, 511 S.E.2d 69, 74 (1999). The Trial Court properly granted summary judgment in favor of River Oaks and that order serves as a final judgment in this case.

2. If the Court were to dismiss River Oaks' appeal, then it must also dismiss the Davises' appeal of the August 16, 2022, order granting class certification.

While the Davises seek dismissal of River Oaks' appeal, the Davises have filed their *own* appeal of the August 16, 2022, order and are currently asking this Court to reverse that order. *See* Notice of Appeal, filed Sept. 13, 2024. If this Court were to agree with the Davises and dismiss River Oaks' appeal on the basis that it is either moot or interlocutory, then it should also dismiss the Davises' appeal for that same reason. Further, while River Oaks asserts that its appeal is not interlocutory, the Davises have now filed a brief arguing that the class certification order is interlocutory and cannot be appealed. Therefore, the Davises must be deemed to have abandoned their own appeal of the order. *See Hamilton v. Reg'l Med. Ctr.*, 440 S.C. 605, 636, 891 S.E.2d 682,

699 (Ct. App. 2023) (judicial admissions withdraw facts from contention). In the alternative, if successful in seeking the dismissal of River Oaks' appeal, the Davises must be judicially estopped from denying the interlocutory nature of the order. *see also Hayne Fed. Credit Union v. Bailey*, 327 S.C. 242, 251, 489 S.E.2d 472, 477 (1997) (judicial estoppel bars a party from taking a certain position after successfully maintaining the opposite). In essence, either all parties must be permitted to appeal the order granting class certification or no one should be permitted to do so.

Conclusion

River Oaks' appeal protects its position regarding class certification and was filed in direct response to the Davises' own appeal of class certification. River Oaks first submits that summary judgment should be affirmed, which would render the issue of class certification moot, but River Oaks submits as a second basis that this Court may address River Oaks' appeal of the August 16, 2022, order and should reverse the Circuit Court's grant of class certification. In the event, however, that this Court were to dismiss River Oaks' appeal, then it must also dismiss the Davises' appeal of the same issue. River Oaks is amenable to a joint dismissal of all appeals of class certification.

Respectfully submitted,

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Dated: September 24, 2025

Charleston, South Carolina

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CERTIFICATE OF SERVICE

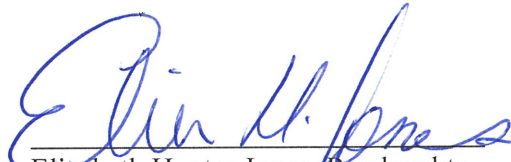
I certify that on this 24th day of September, 2025, I have served the Respondent-Appellant's Final Reply Brief upon Appellants-Respondents via U.S. Regular Mail and via electronic transmission addressed to their attorneys of record, D. Conor Keys, Esquire and Mary Leigh Arnold, Esquire and via electronic transmission upon all other counsel of record listed as follows:

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