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Feb 23 2026

S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM RICHLAND COUNTY

Jocelyn Newman, Circuit Court Judge

Appellate Case No. 2026-000066

Curtis D. Bale,.....Petitioner,

v.

John A. Dougherty, Wachovia Securities Financial Holdings, LLC, Wells Fargo Clearing Services, LLC, f/k/a Wells Fargo Advisors, LLC, Wells Fargo & Company, Wells Fargo Bank, N.A., and LPL Financial, LLC, Defendants,

of which John A. Dougherty, Wells Fargo Clearing Services, LLC, f/k/a Wells Fargo Advisors, LLC, Wells Fargo Bank, N.A., and LPL Financial, LLC are Respondents.

PETITION FOR WRIT OF SUPERSEDEAS

Under Rules 240(a), and 241(c), SCACR, Curtis D. Bale petitions this Court for a writ of supersedeas staying the circuit court’s July 9, 2025 orders compelling arbitration pending his petition for a writ of certiorari to determine whether Bale has the right to appeal those orders. The issue in Bale’s appeal is whether a valid and enforceable arbitration agreement exists with Respondents. Four days after Bale filed his appeal, Respondents Wells Fargo Clearing Services, LLC and John Dougherty filed an arbitration with the Financial Industry Regulatory Authority seeking a declaration that they have no liability to Bale and damages for malicious prosecution in connection with the appeal. Without a stay, Bale must execute a submission agreement in which he

contractually agrees that the claims are arbitrable, thereby likely mooted his appeal, or alternatively refuse to answer and risk losing all defenses and the ability to present facts at an arbitration hearing. Either option produces irreparable harm.

Bale requested that FINRA stay the arbitration pending this Court's consideration of his petition for certiorari. Wells Fargo and Dougherty opposed Bale's motion, and FINRA refused to stay the case absent a court order. Given the pending deadlines for Bale to submit to FINRA, there is insufficient time for Bale to also request that the circuit court stay its order. Bale therefore petitions this Court for a writ of supersedeas to stay the circuit court's order and Wells Fargo and Dougherty's ensuing arbitration, to prevent Bale's appeal from becoming moot and prevent him from suffering other irreparable harm.

BACKGROUND

This case began nearly three years ago, when Bale filed a complaint in South Carolina state court against Respondents and others on January 17, 2023. Respondent LPL Financial, LLC removed the case to federal court, alleging diversity jurisdiction. After LPL failed to meet its burden to prove diversity of citizenship, the district court remanded the case on March 25, 2024. Respondents moved to compel arbitration on April 3, 2024. The court's order granting Respondents' motions became final on September 16, 2025. The principal issue before the circuit court was whether a valid and enforceable arbitration agreement exists between Bale and Respondents.

Bale timely appealed on October 16. Four days later, Respondents Wells Fargo Clearing Services, LLC, f/k/a Wells Fargo and Advisors, and John Dougherty filed their arbitration statement of claim in FINRA. That statement of claim seeks a declaration that Wells Fargo and

Dougherty have no liability to Bale and damages for malicious prosecution based on Bale's appeal of the order compelling arbitration. *See* Exhibit A, Statement of Claim. Respondents Wells Fargo Bank, N.A. and LPL Financial, LLC did not file an arbitration.

The South Carolina Court of Appeals dismissed the appeal as interlocutory on October 22, 2025, because, under existing case law stemming from *Heffner v. Destiny, Inc.*, 321 S.C. 536, 471 S.E.2d 135 (1995), orders compelling arbitration are not immediately appealable. Bale timely moved to reinstate the appeal, which the Court of Appeals construed as a petition for rehearing. As expected, the Court of Appeals denied rehearing given *Heffner* and its progeny. That denial allowed Bale to petition this Court for a writ of certiorari to resolve the conflict between *Heffner* and later decisions which remove *Heffner's* foundation. Bale timely filed his petition on January 12, 2026. As Bale's petition outlines, *Heffner* no longer good law considering this Court's repudiation of a policy favoring arbitration in *Palmetto Construction Group, LLC v. Restoration Specialists, LLC*, 432 S.C. 633, 856 S.E.2d 150 (2021), and other decisions allowing for review of orders compelling arbitration. Respondents filed returns to the petition on February 11, and Bale will file his reply today, February 23.

Despite Bale's active appeal which will resolve, with finality, the question of arbitrability in this case, Wells Fargo and Dougherty wish to force arbitration of this matter on their own terms before this Court can address Bale's appealability arguments. Absent supersedeas, Bale has two choices. One, he can answer the statement of claim. This requires Bale to sign a FINRA submission agreement. *See* FINRA Rule 12303(a)(1). In that document, Bale must contractually agree to "submit the present matter in controversy, as set forth in the attached statement of claim, answers, and all related cross claims, counterclaims, and/or third-party claims which may be asserted, to

arbitration in accordance with the FINRA By-Laws, Rules, and Code of Arbitration Procedure.” Exhibit B, Submission Agreement. He must also agree to follow and be bound by FINRA arbitration rules and procedures and to “abide by and perform” any award which is made. *Id.* Signing that agreement may moot Bale’s appeal regarding whether a valid and enforceable arbitration agreement exists. Alternatively, Bale could not answer the statement of claim. If he chooses this path and is unable able to obtain any interim relief, then Wells Fargo and Dougherty could move to bar Bale from submitting any defenses or facts at the hearing. *See* FINRA 12308(a). While that is not technically a default under FINRA Rule 12801(a), the result is the same when Bale obtains no discovery, he cannot defend himself at the hearing, and the panel reaches a decision based on a one-sided presentation of facts. This Hobson’s choice likely is the reason Wells Fargo and Dougherty filed their arbitration when they did.

Bale moved FINRA to stay the arbitration pending his petition for a writ of certiorari. Wells Fargo and Dougherty opposed the motion. On February 17, 2026, FINRA denied the motion and declined to stay the arbitration absent an order from the Court. Exhibit C, FINRA Order. Because Bale must select arbitrators, and thereby submit to arbitration, by March 19, 2026, there is insufficient time for Bale to move the circuit court to stay its order. Exhibit D, Extension of Time. Wells Fargo and Dougherty will not agree to stay these FINRA deadlines pending resolution of this petition for writ of supersedeas.

Bale therefore files this petition to ensure his rights in court are protected. As required by Rule 241(d)(3), SCACR, Bale files a certified copy of the circuit court’s order and the notice of appeal with certificate of service with this petition.

LEGAL STANDARD

“In determining whether an order should issue pursuant to this Rule, . . . the appellate court should consider whether such an order is necessary to preserve jurisdiction of the appeal or to prevent a contested issue from becoming moot.” Rule 241(c)(2), SCACR.

ARGUMENT

Supersedeas is needed here to prevent Bale’s appeal of the order compelling him to arbitrate from becoming moot and to prevent him from suffering irreparable harm.

When a party faces the possibility of mootness, stays should be entered to preserve a movant’s appellate rights and avoid the waste of time and resources expended by proceeding prematurely. *See* Rule 241(c)(2), SCACR; *see also Sauer Brands, Inc. v. Polytrade Int’l*, No. 3:23-CV-181-HEH, 2023 WL 4938074, at *3 (E.D. Va. June 12, 2023) (granting stay of arbitration because movant “would be forced to participate in the upcoming arbitration hearing to avoid ASTA from moving forward without Plaintiff present to defend itself.”); *Hicks v. Swanhart*, No. CIV.A. 12-1633 FLW, 2012 WL 6152901, at *3 (D.N.J. Dec. 10, 2012) (“The possibility of mootness, however, is a consideration which weighs in favor of a stay of the proceedings”); *Brown v. United States*, No. 02-CR-20938-SEITZ, 2016 WL 4597538, at *6 (S.D. Fla. Aug. 2, 2016), *report and recommendation adopted*, No. 02-20938-CIV, 2016 WL 4617256 (S.D. Fla. Sept. 2, 2016) (noting one factor in favor of stays is “when the issues presented might be otherwise mooted”); *Rosenbauer Am., LLC v. Advantech Serv. & Parts, LLC*, 437 F. Supp. 2d 1081, 1084 (D.S.D. 2006) (granting a stay when there was a possibility that the proceeding would be moot to avoid waste); *see also Chi. Sch. Reform Bd. of Trs. v. Diversified Pharm. Servs.*, 40 F. Supp. 2d 987, 995 (N.D. Ill. 1999) (finding that the ability for judicial review after arbitration has concluded “is, for all practical purposes, based on an

empty promise[,]” because of the “extremely narrow standard of review applied to arbitrator’s decisions”); *U.S. for Use & Benefit of Cap. Elec. Const. Co. v. Pool & Canfield, Inc.*, 778 F. Supp. 1088, 1092 (W.D. Mo. 1991) (“It would be irrational to hold that there is no irreparable harm in forcing a party to be subjected to the cost and hardship of a meaningless proceeding simply because it could be later reviewed by a proper forum.”).

Without a stay of the order compelling arbitration, Bale’s appeal may become moot. To respond to Wells Fargo and Dougherty’s statement of claim, Bale must sign an agreement submitting his claims to arbitration. He expects that Wells Fargo and Dougherty will argue that this submission agreement constitutes an independent agreement to arbitrate. Indeed, they did not deny that signing this agreement may moot the appeal when opposing Bale’s motion for FINRA to stay the arbitration. And if Bale does not submit to arbitration, he may be barred from presenting evidence or defenses at any hearing. There is no good option—Bale suffers irreparable harm either way. Further, if Bale does submit, he will proceed with an arbitration that could be a nullity if Bale prevails on appeal. That will result in a tremendous waste of resources. This Court therefore should grant a writ of supersedeas to stay the circuit court’s order and any arbitrations brought under it.

CONCLUSION

Allowing arbitration to proceed before this Court can rule on Bale’s petition for writ of certiorari will inflict irreparable harm, destroy the right Bale seeks to preserve on appeal, and undermine this Court’s ability to provide meaningful review. Bale therefore respectfully asks that this Court issue a writ of supersedeas.

Respectfully submitted,

s/ R. Walker Humphrey, II

R. Walker Humphrey, II

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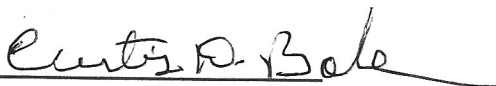
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VERIFICATION

PERSONALLY APPEARED before me, Curtis D. Bale, who, being duly sworn, states as follows:


1. I have read the Petition for Writ of Supersedeas to be filed in this matter. I hereby verify that the factual statements contained therein are true to the best of my knowledge and belief.


Curtis D. Bale

[Notary page follows]

SWORN AND SUBSCRIBED BEFORE ME

This 23rd day of February, 2026


Notary Public for South Carolina

My Commission Expires: 09/14/2032

