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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
R. Lawton McIntosh, Circuit Court Judge

Appellate Case No. 2026-000690
Case No. 2024-CP-07-00156

Queens Grant Regime, II, Inc., Horizontal Property Regime, ...Respondent,

vs.

Greenwood Resorts and Communities, Inc. d/b/a Palmetto Dunes Resort and Callaway Brands, Inc. d/b/a Top Tracer Golf,..... Appellants,

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APPELLANTS GREENWOOD RESORTS AND COMMUNITIES, INC. D/B/A PALMETTO DUNES RESORT AND CALLAWAY BRANDS, INC. D/B/A TOP TRACER GOLF'S RENEWED PETITION FOR SUPERSEDEAS

TO: THE HONORABLE JUDGES OF THE SOUTH CAROLINA COURT OF APPEALS:

Pursuant to this Court's April 3, 2026, Order and Rule 241 of the South Carolina Appellate Court Rules, Appellants Greenwood Resorts and Communities, Inc., d/b/a Palmetto Dunes Resort and Callaway Brands, Inc., d/b/a Top Tracer Golf, by and through its undersigned counsel, submit this Renewed Motion for Stay or Supersedeas of the trial court's Order(s) Granting

Temporary Injunctive Relief and Setting Rule 65(c) Bond, and in support thereof states the following:

ADDITIONAL FACTS/PROCEDURAL HISTORY

On April 3, 2026, this Court issued an Order remanding the case to the circuit court for an expedited hearing on Appellants' Petition for Supersedeas and directing the court to reconsider the amount of the bond in light of the ongoing nature of the injunction.

The trial court held a hearing on April 10, 2026.

Prior to the hearing, both parties submitted memoranda supporting their respective positions. (See **Exhibit 9**, Defendants' Memorandum of Law in Support of Supersedeas; **Exhibit 10**, Plaintiff's Memorandum in Response to Remand Order.)

On April 14, 2026, the trial court issued a Form 4 Order denying Appellant's Petition and finding that the previously ordered bond is appropriate. (See **Exhibit 11**, 4/14/2026 Order.)

While the trial court did not offer an explanation for the denial of Appellants' Petition,[1] it did specify that the $75,000 bond is appropriate based

[1] The Court's Order was a Form 4 Order. The Court directed Respondent's counsel to prepare a formal order to follow. At the time of this filing, no

on "the limited duration (i.e. 60 days), the financial impact on the [Appellants], as well as the ability of the [Respondent] to pay." (Id.) While the trial court went on to state that the bond "is limited to the 60 days of the Temporary Restraining Order [sic],[2]" it went on to state that "if the injunction is continued an additional bond ***may*** be required." (Id. (emphasis added).)

LAW/ANALYSIS

In determining whether to issue an order pursuant to Rule 241, this 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.

As previously argued, this Court was vested with exclusive jurisdiction over the issues presented in Appellants' Notice of Appeal. See, e.g., Rule 205, SCACR. Specifically, Appellants argue that the temporary injunction should never have been issued and Appellants are being wrongfully subjected to a

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proposed order had been transmitted to the circuit judge. Time is of the essence for Appellant. Hence, this filing.

[2] Again, the conflation of Temporary Restraining Order and Temporary Injunction in this matter by the Circuit Court and Respondent (in its complaint and subsequent filings at the trial court level) creates that much more confusion for Appellant. Ordinarily, a TRO cannot be issued against a corporation; additionally, its duration is 10 days' time.

curtailment of its business operations, leading to significant financial losses. As will be addressed in more detail in Appellants' briefs to this Court, Appellants seek reversal of the trial court's entering of injunctive relief because:

1. Appellants did not have proper notice that Respondent was seeking a preliminary injunction as opposed to a temporary restraining order, a completely different type of relief with a different standard and the trial court erred in proceeding. See Rules 65(a) and 6(d), SCRCP.

2. The trial court's Orders lack the necessary analysis and conclusions required of an order granting temporary injunctive relief and must therefore be reversed due to an abuse of discretion. See Compton v. S.C. Dep't of Corr., 392 S.C. 361, 366, 709 S.E.2d 639, 642 (2011) ("the applicant must establish three elements to receive this relief: (1) he will suffer immediate, irreparable harm without the injunction; (2) he has a likelihood of success on the merits; and (3) he has no adequate remedy at law."); Zabinski v. Bright Acres Assocs., 346 S.C. 580, 601, 553 S.E.2d 110, 121 (2001) (The granting of temporary injunctive relief is within the sound discretion of the trial court and will not be overturned absent a controlling error of law or factual conclusions without evidentiary support); see also Fontaine v. Peitz, 291 S.C. 536, 538, 354 S.E.2d 565, 566 (1987) ("When the trial judge is vested with discretion, but his ruling reveals no discretion was, in fact, exercised, an error of law has occurred.")

3. The trial court's decisions were controlled by errors of law insofar as the case law cited does not support trial court's holdings.

Appellants seek supersedeas because the trial court's injunction is disrupting the status quo and a stay of those Orders is necessary to restore it. "The purpose of a supersedeas is to stay proceedings in the trial court, to preserve the status quo pending the determination of the appeal, and to preserve to appellant the fruits of a meritorious appeal where they might otherwise be lost to him." Graham v. Graham, 301 S.C. 128, 130, 390 S.E.2d 469, 470 (Ct. App. 1990) (quoting 83 C.J.S. Supersedeas § 8 at 896 (1953)). Indeed, the status quo for nearly sixty years has been for Appellants' driving range to be in operation. Even when focusing on Appellants' incorporation of TopTracer technology into the driving range, the status quo for the last five years has been for that to be in operation. The driving range was shut down at 10:00am, EST on March 30, 2026, pursuant to the trial court's March 30, 2026 Order. (See **Exhibit 12**, Third Franseen Affidavit, ¶ 4.)

This Court must grant Appellants' petition to restore the status quo and preserve to Appellants the fruits of a meritorious appeal which will be forever lost without this Court's immediate intervention. Indeed, even if the injunction is limited to sixty days as the trial court and Respondent claims, the injunction will have run its course before initial briefing with this Court is completed. If the bond set by the trial court were adequate, Appellants would have some

recourse when it is ultimately successful in their appeal or even at trial. However, because the bond is woefully insufficient, Appellants will be damaged without recourse and, at that point, the very fruit of Appellants' meritorious appeal will be lost.

As previously argued to this Court, the "low or nominal" bond set by the trial court is inadequate and fails to meet the requirements of Rule 65(c), SCRCP. As an initial matter, the South Carolina Supreme Court has firmly established that nominal bonds are violative of Rule 65(c) because they "erroneously assume[] the injunction is proper instead of providing an amount sufficient to protect appellants in the event the injunction is ultimately deemed improper." Atwood Agency v. Black, 374 S.C. 68, 73, 646 S.E.2d 882, 884 (2007).

Additionally, this Court has previously held that the refusal to order a bond is grounds for reversal, even when it appeared that the injunction would not curtail any commercial activities, because the injunction could result in damages to the enjoined party, including payment of court and other costs. See AJG Holdings, LLC v. Dunn, 382 S.C. 43, 50, 674 S.E.2d 505, 508 (Ct. App. 2009).

Consequently, the trial court's setting of a bond it plainly describes as "low or nominal" appears facially violative of the requirements of Rule 65(c), SCRCP, and applicable precedent.

Moreover, the verified information before this Court shows that the bond amount of $75,000 is clearly inadequate.

Applying financial information from March 20, 2025, through May 20, 2025, the driving range generated a total of $121,461.00 in revenue. (See **Exhibit 12**, ¶ 7.) Assuming similar figures for the same period in 2026, Appellants stand to lose that same amount during the 60-day injunction imposed by the trial court from the driving range alone. Respondent has attempted to downplay Appellants' losses by arguing that Appellants may continue food and alcohol sales at the driving range. Indeed, food and alcohol sales account for the majority of revenue from the driving range ($94,075 out of $121,461 from March 20, 2025 to May 20, 2025). However, Respondent has admitted that the driving range operations center around golf and the big draw to the driving range is the TopTracer technology. (See Compl. ¶¶ 8-9, 11.) It is axiomatic that food and beverage sales at the driving range disappear with TopTracer shut down.

Appellants are projecting even more significant losses in other areas of their business. With the driving range shut down, Appellants anticipate that some golfers may choose to play elsewhere and, to limit this, Appellants are considering lowering the price of a round of golf from $300 to $250, a reduction of roughly 16.67%. (See **Exhibit 12**, ¶¶ 13-14.) Between March 20, 2025, and May 20, 2025, Appellants' golf courses generated a total of $1,950,262.00 in revenue. (See id. ¶ 12.) Assuming similar figures for this same period in 2026, and even assuming that no golfers cancel based on the driving range being closed, the price reduction alone would result in a further loss of $325,043.67 during the 60-day injunction.

Consequently, the sworn and verified information provided by Appellants demonstrates that they will lose upwards of $446,504.67 in the first 60 days, in addition to further lost revenue and good will, as evidenced by a reduction in Appellants' online reviews based on the closure of the driving range (see id. ¶ 15.) and the fees and costs associated with defending this action.

Again, those are the projected losses when assuming the injunction will end after sixty days. Appellants have grave concerns over whether the injunction would in fact be lifted after sixty days. Despite being entitled as a

sixty day injunction, the March 30 Order contains language indicating that it may not be lifted at the expiration of that term. It appears that for the injunction to be lifted, Appellants must submit to the trial court a professionally created and verified plan outlining how the driving range may be reopened without unreasonable trespass damage or endangerment to Respondent and, upon the trial court's approval of the plan, the driving range may reopen. However, Appellants have not been given any criteria by which any such plan will be judged, other than that the plan must be prepared and attested to by an industry recognized expert. The lifting of the injunction is completely dependent on the the trial court's subjective review.

Appellants have already reduced errant golf balls by 80%, at a cost of $413,000. (See **Exhibit 1**, Second Franseen Affidavit, ¶¶ 3-4, Exhibit A thereto.) How much further do Appellants need to go? Appellants have continued to explore and implement additional changes to further reduce the incidence of errant golf balls and has already submitted proposals, all of which has been completely ignored by Respondent. As it stands, Appellants face the very real prospect of an injunction that goes on for many months and resultant losses into the millions and, to counter that reality, there is only a "low or nominal bond" of $75,000.

WHEREFORE**,** Appellants respectfully request that this Court enter an order staying or imposing a supersedeas of the trial court's Orders Granting Temporary Injunctive Relief and Setting Rule 65(c) Bond.

The facts presented in this petition are supported by sworn affidavit and, therefore, this petition is verified in accordance with Rule 241(d)(3), SCACR.

[SIGNATURE PAGE FOLLOWS]

Respectfully submitted,

COLLINS & LACY, P.C.

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PROOF OF SERVICE

I hereby certify that I have served **APPELLANTS GREENWOOD RESORTS AND COMMUNITIES, INC. D/B/A PALMETTO DUNES RESORT AND CALLAWAY BRANDS, INC. D/B/A TOP TRACER GOLF'S RENEWED PETITION FOR SUPERSEDEAS** upon all parties by electronic mail to the below listed counsel on April 15, 2026, at the following address:

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Respectfully submitted,

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