

**EXHIBIT 10**

**RECEIVED**

**Apr 20 2026**

**SC Court of Appeals**



instructed Plaintiff to amend their Order and refile it. In accordance with that instruction, the Amended Order was filed March 30, 2026.

On that same day, Defendants filed an Amended Notice of Appeal and a Petition for Supersedeas with the South Carolina Court of Appeals. Defendants filed their unverified Petition for Supersedeas directly to the Court of Appeals claiming extraordinary circumstances.

### **Supersedeas Should be Denied**

The Court of Appeals has stated and directed:

**“After careful consideration, we remand this case to the circuit court for an expedited hearing on Defendants’ petition for a writ of supersedeas. See Rule 241(d)(1), SCACR (“Except where extraordinary circumstances make it impracticable, an application for an order lifting the automatic stay or for supersedeas must first be made to the lower court or administrative tribunal which entered the order or decision on appeal.”).”**

Defendants seek extraordinary relief under Rule 241, SCACR, while disregarding the Rule’s mandatory procedural requirements. Their Petition should be denied at the threshold. Rule 241 requires that a party first seek supersedeas from the trial court and demonstrate extraordinary circumstances before invoking this Court’s jurisdiction. Second, Rule 241(d) clearly requires the Petition to be verified. Defendants did neither. The Petition does not meet the threshold requirements to be considered by this Court.

Instead, Defendants bypassed an actively engaged trial court which conducted multiple hearings, supervised mediation, entertained post-order motions, and required ongoing status reporting to allow Defendants the opportunity to remedy the dangerous conditions on their own prior to judicial intervention. Defendants now seek to circumvent Rule 241 and obtain relief from the appellate court in the first instance. This procedural failure alone requires denial and dismissal of the Petition.

More fundamentally, the record establishes not merely a property dispute, but an ongoing and dangerous condition involving high-velocity golf balls entering a residential community and

posing a continuing risk of bodily injury to residents, guests, and children. The trial court's injunction was entered to prevent that danger. Defendants now seek to lift those protections during the pendency of the appeal.

Even if the Court were to reach the merits, Defendants cannot demonstrate that supersedeas is necessary to preserve appellate jurisdiction, prevent mootness, or maintain the status quo. Rather, Defendants seek to undo a properly entered injunction and permit the continuation of conduct the trial court found to be unlawful and dangerous.

### **Defendants Failed to Comply with Rule 241(d), SCACR**

#### **A. Rule 241(d) Requires Initial Application to the Trial Court**

Rule 241(d)(1), SCACR, provides that an application for supersedeas "shall ordinarily be made in the first instance to the lower court," and only upon a showing of extraordinary circumstances may a party seek relief directly from the appellate court.

South Carolina courts recognize that supersedeas is limited relief intended to preserve appellate jurisdiction, not to provide an alternative avenue for relief that should first be sought below. See *Graham v. Graham*, 301 S.C. 128, 130, 390 S.E.2d 469, 470 (Ct. App. 1990).

#### **B. Defendants Failed to First Seek Relief from the Trial Court**

Defendants have not demonstrated that they sought supersedeas or a stay from the trial court prior to filing their Petition with this Court. This omission is particularly significant given the procedural posture of this case. The trial court conducted multiple hearings, ordered and supervised mediation on December 20, 2024, which resulted in an impasse, and required ongoing 30-60-90 day status reports to monitor conditions and compliance. The trial court further entered its Order Granting Temporary Injunctive Relief on February 13, 2026, followed by its Amended Order on March 30, 2026, and continued to exercise jurisdiction as stated in its Orders. At all

relevant times, the trial court remained actively engaged and available to consider any request for supersedeas and any attempts made by Defendants to rectify their dangerous business practices. Defendants' failure to first seek relief from the trial court constitutes a clear violation of Rule 241(d)(1) and warrants denial of the Petition. Rather than remedy a dangerous situation or follow the rules, Defendants seeks only to make money in disregard of the Rules and the safety of the Plaintiffs community.

The procedural history further reflects that the trial court exercised considerable restraint and actively worked to attempt to allow the parties to resolve the ongoing issues before imposing injunctive relief. Rather than immediately entering a temporary restraining order, the trial court conducted hearings, directed the parties to mediation, and provided an opportunity for Defendants to implement corrective measures. Defendants did, in fact, undertake certain modifications that Defendants claim reduced the number of errant golf balls leaving the driving range. However, as reflected in the continued incident tracking maintained by Lt. Col. Andy Lundgren, USMC (Ret.), an unsafe and unacceptable number of errant golf balls continue to enter Queens Grant Regime II, posing a persistent risk of physical injury to residents. This history underscores both the reasonableness of the trial court's approach and the necessity of the injunctive relief ultimately imposed.

### **C. Defendants Have Failed to Demonstrate Extraordinary Circumstances**

Rule 241(d)(1) permits direct application to the appellate court only where extraordinary circumstances render application to the trial court impracticable.

Defendants have made no such showing. The existence of an adverse ruling does not constitute an extraordinary circumstance. Nor does speculation regarding how the trial court might rule or how long it might take. Rule 241 states delay on "this application" meaning the Petition for

Supersedeas. There is no evidence that the trial court would not timely consider a properly filed petition from Defendants.

Here, the trial court was actively exercising jurisdiction, addressing motions, and supervising the case. There was no delay, inaccessibility, or other impediment that would justify bypassing the trial court. Accordingly, Defendants have failed to satisfy the threshold requirement of Rule 241(d).

#### **D. Defendants' Petition Lacks Proper Verification and Competent Evidentiary Support**

Rule 241(b), SCACR, requires that a petition for supersedeas be supported by verified facts or affidavit evidence sufficient to justify the extraordinary relief requested.

Defendants rely on the affidavit of Alex Franseen, which fails to provide competent, verified evidence supporting supersedeas. While the affidavit contains statements regarding business operations and alleged financial impacts, it is deficient in several critical respects.

First, the affiant expressly acknowledges limitations in his knowledge, stating that he is “personally unaware of any instances of injury to people or pets in Queens Grant Regime II” and is only aware of “instances of alleged property damage.” This admission does not rebut the existence of ongoing harm or risk of injury; rather, it underscores the affiant’s lack of personal knowledge regarding the central issue before the Court.

Second, the affidavit focuses primarily on alleged economic harm, including projected revenue losses, employee impacts, and operational costs. Such assertions, even if accepted as true, are insufficient as a matter of law to support supersedeas, which is concerned with preserving appellate jurisdiction, not avoiding economic consequences.

Third, the affidavit relies on generalized operational data and internal records without addressing the continued intrusion of errant golf balls onto Plaintiff's property or the resulting risk to residents.

Accordingly, Defendants have failed to provide the verified, competent evidence required under Rule 241(b), and this deficiency independently warrants denial of the Petition.

### **Supersedeas Is Not Warranted Under Rule 241(c), SCACR**

#### **A. Supersedeas Is Not Necessary to Preserve Jurisdiction or Prevent Mootness**

Rule 241(c)(2), SCACR, provides that supersedeas may be granted only where necessary to preserve the jurisdiction of the appellate court or prevent a contested issue from becoming moot. Defendants have failed to demonstrate either. The issues on appeal, whether injunctive relief was properly granted and whether Defendants' conduct constitutes actionable interference, remain live regardless of the temporary duration of the injunction.

#### **B. Supersedeas Would Not Preserve the Status Quo**

Defendants incorrectly argue that supersedeas is necessary to preserve the status quo. However, the relevant status quo is the condition established by the trial court's Order following its findings of ongoing harm.

Granting supersedeas would not preserve that condition, it would reverse it by allowing the conduct the trial court determined to be unlawful and dangerous to resume.

Defendants further contend that enforcement of the trial court's Order during Heritage week and spring break is "purely punitive in effect, whatever its stated justification." This argument is both factually and legally misplaced. The injunction was not entered to punish Defendants, but to prevent an ongoing and documented safety hazard involving errant golf balls entering a residential community. The timing of the Order reflects the procedural posture of the

case, not any punitive intent. Indeed, the trial court exercised restraint over an extended period, attempting to allow Defendants opportunities to implement corrective measures before ultimately concluding that injunctive relief was necessary.

Moreover, the risk to residents is heightened, not diminished, during periods of increased use of the driving range, such as spring break and Heritage week. Increased volume of use necessarily increases the frequency of errant shots, thereby amplifying the danger to individuals lawfully occupying their homes. Defendants' focus on lost revenue ignores the central issue before this Court: the ongoing risk of physical injury. Rule 241 does not permit supersedeas to avoid economic inconvenience, particularly where doing so would allow a known and continuing danger to persist.

### **C. Supersedeas Would Permit Ongoing Irreparable Harm and Danger**

Supersedeas is particularly inappropriate where it would allow ongoing irreparable harm to continue during the pendency of an appeal. That is precisely the case here.

The record demonstrates that errant golf balls are not isolated or incidental, but rather frequent, unpredictable, and dangerous projectiles entering a residential community. These golf balls travel at significant speed and force and are capable of causing serious bodily injury, including head trauma, broken bones, or worse.<sup>1</sup> Residents, guests, and children cannot occupy outdoor areas throughout Queens Grant Regime II, including patios, walkways, and garden spaces, because it places them directly within the zone of danger created by Defendants' operations.

Pursuant to the trial court's directive, Plaintiff submitted a final status report supported by a contemporaneous spreadsheet compiled by Lt. Col. Andy Lundgren, USMC (Ret.) documenting

---

<sup>1</sup> See Exhibit 1 - Affidavit of Plaintiff's expert, Michael Johnstone dated February 26, 2025.

errant golf ball incidents between August 1 and September 26, 2025. That data reflects persistent and concentrated intrusions onto Queens Grant property.

On September 13, 2025, alone, twenty-four (24) errant golf balls landed on Queens Grant property, including three (3) direct impacts to Lt. Col. Lundgren's residence, with the remaining shots concentrated in residential clusters.<sup>2</sup> This evidence confirms ongoing trespass and a continuing risk of physical injury.<sup>3</sup>

Rather than exert effort on stopping their dangerous and damaging practices, Defendants choose to focus on making money. There are no set of facts or principles of law that justify allowing Defendants to continue to inflict damage, danger and injury on Plaintiffs. Granting supersedeas would therefore permit the continuation of a known and documented safety hazard, directly undermining the trial court's findings and the purpose of injunctive relief.

Defendants have failed to comply with the mandatory procedural requirements of Rule 241, SCACR.

Further, Defendants fail to establish that supersedeas is necessary or appropriate to preserve appellate jurisdiction, prevent mootness, or maintain the status quo. Nor do they offer any justification for modifying the Injunction.

### **The Injunction Is Not "Ongoing"**

The Court of Appeals has further stated and directed:

**"We express concern that Defendants appear to have been required to cease operations from January 15, 2026 until March 15, 2026, and that the sixty-day period was renewed without consideration of whether the amount of the nominal bond should increase. On remand, the court shall reconsider the amount of the bond in light of the ongoing nature of the injunction."**

---

<sup>2</sup> See Affidavits of Lundgren and PowerPoint Presentation to the Trial Court.

<sup>3</sup> On March 28, 2026, at 12:02PM, Lt. Col. Lundgren was hit in the shoulder with an errant golf ball while working in his garden. See Supplemental Affidavit of Andy Lundgren.

The Court of Appeals is concerned about the “ongoing nature of the injunction.” However, the injunction was never intended nor desired to be “ongoing.” As an initial matter the Court of Appeals seems to be under the mistaken impression that the injunction is “ongoing.”

In fact, the “suspension” under the Injunction arguably expires after 60 days, unless modified by the Trial Court. The March 30, 2026, Order provides: **“Sixty (60) days from the commencement of the suspension period, or as soon thereafter is practicable, the Court shall hold a hearing to determine whether or not the suspension or the bond should be modified in any way.”**

Further, as stated in the Injunction Order, the Defendants have the ability to lessen or temper the effect of the injunction by making changes to their own operation. This Injunction:

**“strongly encourages the Defendants to immediately develop a professionally created and verified plan such that they can use to apply to the Court to reopen operations, partial operations, conduct test periods of operations, in order to resume maximum operational efficiency in a lawful manner which means without unreasonable trespass damage and endangerment to their neighbors.”**

The injunction was not to be punitive but **“is intended solely to prevent ongoing irreparable harm, serious injury and to provide Defendants with an opportunity to develop corrective measures that will allow operations to resume without continued trespass, damage, or danger”** on the Plaintiffs while the Defendants develop corrective measures.

The Defendants were given open access to the Court to **“apply at any time.”** In fact, this Court set up a mechanism to revisit the matter at least every 60 days. The Defendants have no justification for ignoring the mandates of Rule 241.

The only way the Injunction becomes “ongoing” is if the Defendants fail to follow the directives of the trial court to get professional help to modify their operations such that the

Plaintiffs are no longer being damaged or placed in danger. The Defendants hold the proverbial key to their own cage.

**The Bond Amount is Excessive Under Rule 65(c)**

The bond amount is in the discretion of the Trial Court.

As to the determination of the bond amount, Rule 65c of the SCRPC provides in pertinent part:

“. . . no restraining order or temporary injunction shall issue except upon the giving of security by the applicant, **in such sum as the court deems proper**, for the payment of such costs and damages as may be incurred or suffered by any party who is found to have been wrongfully enjoined or restrained.”

The realistic chance of the injunction being found wrongful is almost nonexistent because as in *Shaw (infra)*, danger trumps economic inconvenience. The Court need not do a dollar-for-dollar analysis, but **balance the equities**. The equities in this case are clearly and convincingly in favor of stopping the unjustified and dangerous manner in which the Defendants operate their business. In *Shaw v. Coleman* the Court of Appeals affirmed that equitable relief may properly restrict the use of property notwithstanding inconvenience in the form of economic consequences, emphasizing that financial impact does not outweigh the need to enforce lawful restrictions and protect affected parties from danger and injury<sup>4</sup>. *Shaw v. Coleman*, 645 S.E.2d 252, 373 S.C. 485

---

<sup>4</sup> The Court stated: The Shaws and the Snowdens testified Coleman willfully fired a rifle towards his neighbors and over their land. There was also testimony that Coleman created excessive noise through the use of an air canon. Based on Coleman's actions, several of the neighbors testified that they felt threatened. Mr. Snowden also testified that Coleman's actions prevented him from selling any area property. Therefore, we agree with the trial court that “Mr. Coleman unreasonably interfered with their ownership and possession of their land.” Although we recognize, as did the trial court, the injunction will inconvenience Coleman by preventing him from maintaining his shooting range and being an instructor, the safety benefits to the Shaws and the Snowdens outweigh the inconvenience suffered by Coleman. See *Citizens for a Safe Grant v. Lone Oak Sportsmen's Club, Inc.*, 624 N.W.2d 796, 804 (Minn.Ct.App.2001) (affirming trial court's decision to issue a permanent injunction and finding that gun club's conduct at shooting range created a nuisance where neighbors were apprehensive about going outside on their property during times of shooting, went indoors to avoid the noise, experienced bullets or shotgun pellets passing over their heads, and saw “signs of indiscriminate shooting on the club property”); see also F.S. Tinio, Annotation, Gun Club, or Shooting Gallery or Range, as Nuisance, 26 A.L.R.3d 661 (1969 & Supp.2007) (“The remedy generally availed of by persons who have been injured or have suffered damages on account of the maintenance of shooting galleries, gun clubs, or shooting ranges, is injunction. The grant or denial of this remedy depends on the relevant surrounding circumstances and the evidence presented by the plaintiff.”). *Shaw v. Coleman*, 645 S.E.2d 252, 373 S.C. 485 (S.C. App. 2007)

(S.C. App. 2007) (emphasis added). There is no case law nor statutory law that allows one to make money while actively trespassing against and injuring their neighbors in doing so.

The Court of Appeals remanded this matter for the limited purpose of allowing this Court to consider Defendants' request for supersedeas and to "reconsider the amount of the bond in light of the ongoing nature of the injunction." The appellate court did not disturb the trial court's findings regarding the ongoing trespass, damage, and safety risks caused by errant golf balls, nor did it question the necessity of injunctive relief. The sole issue on remand is whether the bond remains appropriate, not whether the injunction should be lifted.

**The Franseen Affidavits Demonstrate That the Economic Impact Is Limited and That The \$75,000 Bond Is More Than Sufficient**

Defendants rely heavily on the affidavits of Paul A. Franseen to assert economic harm. However, those affidavits demonstrate that any such harm is limited, overstated, and largely speculative. First, the Affidavits show that the golf range revenue for the first 168 days of 2024 was \$163,032 and the golf range revenue for the first 170 days of 2025 was \$164,000. This equates to a two-year average of \$967 per day. The Court required a \$75,000 bond for a 60-day suspension of golf range activity. The bond is therefore more than sufficient to cover any potential loss if the injunction were improvidently issued.

Importantly, the injunction did not shut down Defendants' operations. The Court expressly allowed continued food and beverage sales and other non-ball-hitting activities. As the Franseen affidavits acknowledge, those operations generate significant revenue. Accordingly, Defendants have continued to operate substantial portions of their business during the injunction period.

Rule 65(c), SCRCPC, requires that a bond reflect a reasonable estimate of damages actually and proximately caused by the injunction, not speculative or remote losses.

The injunction was entered to prevent an ongoing safety hazard involving numerous recorded acts of errant golf balls entering a residential community and causing physical injury and physical damage. The Court of Appeals did not disturb those findings. Defendants' focus on economic impact does not outweigh the risk of physical injury to residents, guests, and children, which remains the central issue before this Court. South Carolina law does not permit a party to avoid injunctive relief designed to prevent ongoing harm simply by asserting financial inconvenience. *Shaw*.

Because the injunction remains justified, the only proper inquiry is whether the bond is reasonable. The bond amount is more than reasonable, to the Defendants, it is generous and improperly shifts the burden of cost to the Plaintiffs who merely want quiet enjoyment of their property as law guarantees them. Because the equities clearly and convincingly favor the Plaintiffs, the Bond amount should be lowered.

Finally, when are the Defendants doing to address the real problem? How do they propose to operate their business without injuring and endangering their neighbors? The Court has been more than patient with the Defendants; they need to follow the Courts' directives and find a way to or at least try to lessen the danger to their neighbors.

### **Conclusion**

For the foregoing reasons, Plaintiff respectfully requests that this Court:

1. Deny Defendants' request for supersedeas;
2. Maintain the existing injunction in full force and effect; and
3. Either leave th3e bond amount as is or reduce the Rule 65(c) bond to a lesser amount that reflects a balance of the equities between the parties.

Respectfully submitted,

#### **ALFORD LAW FIRM**

By: s/Gregory M. Alford  
Gregory M. Alford (#6932)  
Post Office Drawer 8008  
Hilton Head Island, SC 29938  
gregg@alfordlawsc.com  
(843) 842-5500  
*Attorneys for Plaintiff*

Dated this 9<sup>th</sup> day of April 2026  
Hilton Head Island, South Carolina.