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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

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,

v.

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

Respondent's Return to Appellants' Amended and Renewed Petition for Supersedeas with Verification

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COMES NOW Respondent, Queens Grant Regime, II, Inc. ("Queens Grant" or "Respondent"), by and through undersigned counsel, and respectfully submits this Return to Appellants' Amended and Renewed Petition for Supersedeas with Verification dated April 20, 2026, pursuant to Rule 240, SCACR, and shows the Court as follows:

Background:

For the sake of brevity, Respondents hereby adopt and incorporate herein all background, all factual allegations and all legal and procedural arguments set forth in Respondent's Reply to Petition dated April 1, 2026, and Respondent's Motion to Dismiss Appellants' Second Amended Notice of Appeal and Renewed Petition dated April 17, 2026.

Appellants' Amended Renewed Petition for Supersedeas Should Be Denied

Leaving aside (without waiving) the numerous procedural defects in Appellants' multiple filings and looking solely at the substantive issues in their Petition, Appellants fail to meet the burden necessary to meet the requirements for supersedeas under Rule 241.[1] The core and fundamental problem with all of Appellants' positions and arguments is that they fail to overcome the simple propositions set forth in *Carter v. Lake City Baseball Club, Inc.* 218 S.C. 255, 62 S.E.2d 470.[2] Simply put, the Appellants' business operations have and continue to unlawfully cause (until the injunction took effect) damage, danger and nuisance to their neighbors. The undisputed facts presented to the Trial Court evidence the unlawful and dangerous nature of Appellants operations operation.

Turning to the substantive requirements, Rule 241(c)(2) provides:

> **"2. In determining whether an order should issue pursuant to this Rule, the lower court, administrative tribunal, appellate court, or judge or justice of 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."**

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.

Appellants have failed to demonstrate either. The issues on appeal, whether injunctive relief was properly granted and whether Appellants' conduct constitutes an actionable nuisance, remain live regardless of the temporary or permanent duration of the injunction. Because of the

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[1]Appellants have filed a Second Amended Appeal appealing the Trial Court's April 14, 2026, Form 4 Order that "need not" have been filed "until receipt of written notice of entry of the more complete order of judgment." Such filing should be dismissed because it is premature and pointless in light of the plain language in Rule 203(b)(1).

[2] Respondents hereby incorporate all legal arguments states in their Motion to Dismiss dated April 17, 2026, and in their Reply to Appellants' Petition dated April 1, 2026.

dangerous nature of the Appellants' operations, the issues would not become moot if supersedeas were granted because the Respondents would still be subject to damage and danger. See *Carter v. Lake City Baseball Club, Inc.* 218 S.C. 255, 62 S.E.2d 470.

Appellants argue that upon the filing of their appeal the Court of Appeals is vested with exclusive jurisdiction under Rule 205 SCACR. While true as to the appeal, this argument fails to consider Rule 62 SCRCP. Further, the Court of Appeals remanded this matter thereby confirming the interplay between Rule 241 SCACR and Rule 62 SCRCP.

If supersedeas is not granted the Court of Appeals will still have jurisdiction over the appeal due to the ongoing nature of this matter. On the other hand, if the supersedeas is granted, the appeal will likely become moot.

B. Supersedeas Would Not Preserve the Status Quo

The "status quo" in this matter is the state of affairs before the Appellants changed their business model from a traditional driving range which serves an accessory use to a golf course, to a golf themed entertainment venue which serves food and alcohol. 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. See *Carter v. Lake City Baseball Club, Inc.* 218 S.C. 255, 62 S.E.2d 470. ('While it is undoubtedly the correct rule that a court of equity will not interfere by injunction in cases of nuisances, trespasses, and like injuries to property when the parties can have complete redress in a court of law, still if it appears that irreparable mischief will be done by withholding the process, or where the damages that will result to the complainants are incapable of being adequately measured, or where the mischief is such, from its continuous and permanent character, that it must occasion constantly recurring grievances, which cannot be otherwise prevented, a court of equity ought to interfere by injunction to stay the wrong and protect the

complainants' property and personal rights from hurt or destruction.' *Citing Palestine Bldg. Ass'n v. Minor,* 86 S.W. 695, 696, 27 Ky.L.Rep. 781).

Appellants 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 Appellants, but to prevent an ongoing and documented safety hazard involving errant golf balls crossing a property line and entering a neighboring 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 Appellants opportunities to implement corrective measures. During the multiple hearings in this matter, the Trial Court issued numerous warnings and implored the Appellants to take meaningful steps to eliminate the danger, before ultimately concluding that injunctive relief was necessary to protect the Respondents from injury until such time the Appellants got control of their operations. (See Transcript of Hearing dated June 20, 2025).

Although not intentional in its timing, logic dictates that 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. Appellants' focus on lost revenue ignores the central issue before the 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. See *Shaw v. Coleman*, 645 S.E.2d 252, 373 S.C. 485 (S.C. App. 2007). (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).

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. 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 Appellants' operations. See Affidavits of Lundgren.

Appellants have failed to establish that supersedeas is necessary or appropriate to preserve appellate jurisdiction, prevent mootness or to maintain the status quo.

Appellants state three grounds in support of their Amended and Renewed Petition:

1. Lack of proper notice under Rule 65 and Rule 6 SCRCP. This ground does not address jurisdiction or mootness issues as required by Rule 241(c) SCACR. Appellants' filings contain no legal or factual arguments to support any nexus between Rule 241's requirements and their first ground.
2. An argument that the Trial Courts lack analysis and conclusions required to grant temporary injunctive relief. This ground does not address the preservation of jurisdiction or mootness issues as required under Rule 241(c) SCACR. Appellants'

filings contain no legal or factual arguments to support any nexus between Rule 241's requirements and their first ground. Further, as to the February 13, 2026, and March 30, 2026, Orders (which are the same as to dates) both Orders contain substantial findings of facts and conclusions of law.

3. The Trial Courts decisions were errors of law because the case law cited does not support its holding. This ground does not address the preservation of jurisdiction or mootness issues as required under Rule 241(c) SCACR. Appellants' filings contain no legal or factual arguments to support any nexus between Rule 241's requirements and their first ground.

For the foregoing reasons, Respondent respectfully requests that this Court deny Appellants' Amended and Renewed Petition for Supersedeas in its entirety, affirm the Trial Court's Order, and grant such other and further relief as this Court deems just and proper.

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PROOF OF SERVICE

I certify that I have served *Respondent's Return to Appellants' Amended and Renewed Petition for Supersedeas with Verification*, on April 28, 2026, by emailing a copy to its attorney of record, Christian Stegmaier, cstegmaier@collinsandlacy.com.

April 28, 2026.

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GREGORY M. ALFORD*
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April 28, 2026

Via US First Class Mail
The Honorable Jenny Abbott Kitchings
Clerk of Court
The South Carolina Court of Appeals
PO Box 11629
Columbia, SC 29211

Re: ***Queens Grant Regime, II, Inc. v. Greenwood Resorts and Communities, Inc.***
Appellate Case No. 2026-000690
Our Client: Queens Grant Regime, II, Inc.

Dear Ms. Kitchings,

Enclosed please find *Respondent's Return to Appellants' Amended and Renewed Petition for Supersedeas with Verification,* along with the accompanying Proof of Service in connection with the above-referenced matter.

Should you have any questions or concerns, please feel free to contact our office.

With kindest regards, I am,

Sincerely,
ALFORD LAW FIRM, LLC

Gregory M. Alford

Cc: via email: Christian Stegmaier, Esquire
The South Carolina Court of Appeals