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May 15 2026

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Honorable Marvin H. Dukes, III, Master In Equity and Special Circuit Court Judge

APPELLATE CASE NO.: 2022-000475

Coffin Point Plantation Homeowners Association, Inc.

Appellants,

vs.

The State of South Carolina, Estate of Charles H. Lyman, The St. Helena Company, Its Successors or Assigns, The Estate of J.D. Cameron a/k/a J. Donald Cameron, The Estate of J.E. McTeer, Wilma Clark, Jeanine Skok, Lawrence Casler, Dean Morrissey, Carol Morrissey, Ralph Netherland, Gloria Netherland, Special Trust of William B. Fahrner, Mark Heles, Beverly Heles, David Smith, Lynn Smith, LiLi, LLC, Revocable Living Trust of Thomas Walterhoefer, Ceclily Deegan McMillan, Steven Teets, Lucinda Teets, Beverly Boulware, Russell Waldon, Nicolette Waldon, David Shaffer, Delora Cook, Gerald Hartwig, Carol Hartwig, Paulette Brown, Benjamin Couch, Thomas S. Clark Family Living Trust, Eunice Teen Diggs, Janet Kathleen Reynolds Trust, Slade Family Revocable Trust, David C. Strother, Andrew Seward, Ashley Heath Madilon, Arnold Hollis, Lillian Hollis, Jennifer Allen, Zia As Exchange Company, LLC, Qualified Intermediary for Barbara J. Bailey Limited Partnership, Travis Washington, Janet Embly, Trustee and Individually, William S. Embly, Trustee and Individually, Scott Simmons Omari Trust, Mary Hudson, Rachelle Carolynne Owens Revocable Trust, Gerald Hartwig, Carol Hartwig, Gerald L. Wayne, Vivian M. Wayne, Lorrie Gaskin Germann, Grant Martin Germann, Gregory J. Giardina, Melissa Basenburg, Mark M. Hazard, Micah L. Myers, Jennifer J. Myers, John Joseph Edwards, Nancy Jean Edwards, Preston Ventures, LLC, Donald Lunardini, Kristina Barbara Moore Lunardini, Melissa Uhlman Revocable Trust and All Other Persons Known or Unknown Having Any Interest, Title, Estate or Interest In Or Lien Upon the Real Property Described in the

Complaint Herein Through the Above Defendants or Any Other Source Being Designated Collectively As John Doe and Mary Roe Including All Persons Who May Be Deceased, Minors, Persons in the Armed Forces of the United States of America, Insane or Incompetent Persons, and All Other Persons Under Any Other Disability Who Might Have or Claim to Have Any Right, Title or Interest in or Lien Upon the Real Property Described in the Complaint.

Respondents.

MEMORANDUM OF APPELLANT
COFFIN POINT PLANTATION HOMEOWNERS ASSOCIATION, INC.

This Memorandum is respectfully submitted on behalf of the Appellant, Coffin Point Plantation Homeowners Association, Inc. in compliance with this Court’s request of May 6, 2026 to provide a Memorandum addressing the question of whether this case presents a justiciable controversy and if so, whether this case is immediately appealable. Each of these issues is addressed in turn below.

I. JUSTICIABLE CONTROVERSY

It is respectfully submitted that this appeal presents a justiciable controversy. Two (2) entities, the Coffin Point Plantation Homeowners Association, Inc. (“Coffin Point”) and the State of South Carolina (the “State”) each contend that they are the exclusive owner of a certain parcel of real property located in Beaufort County, South Carolina.

“A threshold inquiry for any Court is the determination of justiciability, i.e., whether the litigation presents an active case or controversy.” *Crescent Homes SC, LLC v. CJN, LLC*, 445 S.C. 164, 182, 912 S.E.2d 389, 398 (Cl. App. 2024), *Rehearing Denied* (March 12, 2025). “A justiciable controversy is a real and substantial controversy appropriate for judicial determination,

as opposed to a dispute or difference of a contingent, hypothetical or abstract character.” *Id.* See also *Sloan v. Greenville County*, 356 S.C. 531, 546, 590 S.E.2d 338, 346 (Ct. App. 2003).

This is a quiet title action in which both the Appellant Coffin Point and the Respondent South Carolina claim ownership of a specific parcel of real property. The dispute between these parties is real and substantial. The determination of ownership will neither be hypothetical nor abstract. To the contrary, nothing could be more real or substantial than a determination of ownership of the subject real property.

II. IMMEDIATE APPEALABILITY

The issue of immediate appealability is much more nuanced. The subject appeal is from an Order Granting Partial Summary Judgment to the State. Citing S.C. Code Ann. §48-39-220 the Trial Court granted summary judgment in favor of the State to the extent that the property at issue is a “beach” and denied summary judgment to the extent that the property at issue is not a “beach.” What portions, if any, of the subject property fall within the definition of a “beach” is not part of the record and is unknown, inasmuch as a trial has not yet taken place.

An Order Granting Partial Summary Judgment is immediately appealable if it is an Order “involving the merits.” S.C. Code Ann. §14-3-330(1) (“The Supreme Court shall have appellate jurisdiction for correction of errors of law in law cases, and shall review upon appeal . . . Any intermediate judgment, order or decree in a law case involving the merits . . .”).

“An interlocutory Order is not immediately appealable unless it involves the merits of the case or affects a substantial right.” *Richardson v. Halcyon Real Estate Services, LP*, 439 S.C. 419, 425, 887 S.E.2d 153, 156 (Ct. App. 2023) citing *Burkey v. Noce*, 398 S.C. 35, 37, 726 S.E.2d 229, 230 (Ct. App. 2012). “An Order which does not finally end a case or prevent a final judgment from which a party may seek appellate review usually is considered an interlocutory Order from which

no immediate appeal is allowed.” *Id.*, citing *Hagood v. Sommerville*, 362 S.C. 191, 195, 607 S.E.2d 707, 709 (2005).

On one hand, the Order Granting Partial Summary Judgment involves the merits of the case and affects a substantial right of Coffin Point inasmuch as the Trial Court’s determination regarding the applicability of §48-39-220, if it stands, absolutely precludes Coffin Point’s claim of ownership to any portion of the subject property which is a beach.

On the other hand, should the evidence at trial prove that no portion of the subject property is a beach, the Order Granting Partial Summary Judgment affects no one’s rights. In the event, however, that the evidence at trial proves that some or all of the subject property is a beach, then Coffin Point should have the opportunity to challenge the correctness of the Trial Court’s application of §48-39-220.

In addressing the appealability of intermediate judgments and Orders §14-3-330(1) provides “that if no appeal be taken until final judgment is entered the (Appellate) Court may upon appeal from such final judgment review any intermediate Order or decree necessarily affecting the judgment not before appealed from.” *Id.*

Accordingly, if this Court should determine that the Order Granting Partial Summary Judgment is not immediately appealable then Coffin Point should have the right, after trial and a final judgment is rendered, to appeal said judgment if it is adverse to Coffin Point as a result of the grant of partial summary judgment.

CONCLUSION

In all candor, Coffin Point filed this appeal out of an abundance of caution and concern that if it did not immediately appeal the Order Granting Partial Summary Judgment that the State may later argue that Coffin Point lost the right to challenge the Order by not immediately appealing

in the event that, after the trial on the merits, the Trial Court should conclude that all or any portion of the subject property is a beach and sticks by its partial summary judgment Order, thereby precluding Coffin Point's claim of ownership to said property. It is accordingly respectfully requested that if this Court should determine that the Order Granting Partial Summary Judgment is not immediately appealable that the dismissal of this appeal be without prejudice to Coffin Point's right to appeal the partial summary judgment Order after a trial and a final judgment on the merits has been rendered, in the event that the Order Granting Partial Judgment should affect that final Order.

Respectfully submitted,

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Beaufort, South Carolina
May 14, 2026

Attorney for the Appellant

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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
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APPEAL FROM BEAUFORT COUNTY
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Respondents.

CERTIFICATE OF SERVICE

The undersigned certifies that the **Memorandum of Appellant Coffin Point Plantation Homeowners Association, Inc.** to which this certificate is affixed, was served upon the parties to this action by depositing a copy of the same, enclosed in a first class, postpaid wrapper properly addressed or via email to the following:

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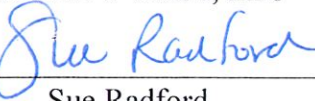
Donald Lunardini and Kristina Lunardini
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in a post office or official depository under the exclusive care and custody of the United States

Postal Service on May 15, 2026.

KUHN LAW FIRM, LLC

By: 
Sue Radford



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SC Court of Appeals

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
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RE: Coffin Point Plantation Homeowners Association, Inc. v. State of South Carolina, et al.
Case No.: 201-CP-07-02109
Appellate Case No.: 2022-000475

Dear Ms. Kitchings:

Pursuant to the Court's request of May 6, 2026, enclosed please find the Memorandum of Appellant and Certificate of Service in the above-referenced matter.

With kindest regards, I am

Very truly yours,

KUHN LAW FIRM, LLC

H. Fred Kuhn, Jr.

HFKjr:sr
Enclosure

cc: Alan McCrory Wilson, Esquire
Robert D. Cook, Esquire
J. Emory Smith, Esquire
Wilma Clark
Janine Skok

Lawrence Casler
Carol Morrissey
Dean Morrissey
Ralph Netherland
Gloria Netherland
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