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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM LANCASTER COUNTY
Court of Common Pleas
Donald B. Hocker, Circuit Judge

App. Case No. 2026-001299

Transocean Investments, Inc.,.....Appellant-Respondent,

v.

Kent Davis Jones; Lisa A. Page; and Russell J. Sinacori, individually,...Respondents,

Of whom Kent Davis Jones and Lisa A. Page are the.....Respondents-Appellants.

REPLY TO RETURN TO MOTION TO DISMISS CROSS-APPEAL

Appellant-Respondent hereby submits this reply to Respondents-Appellants Jones and Page's return to the motion to dismiss their cross-appeal. Appellant-Respondent replies as follows:

1. As shown by the copy of the order subject of the cross-appeal that was filed with the notice of the cross-appeal, the order makes no decision other than the denial of motions to dismiss.
2. It is doubtful that the cross-appeal even falls within the entwinement circumstances in which an appellate court chooses, on the rare occasions it does so, to review a companion order that would not normally be appealable at all.
3. One of the reasons the cross-appeal was not brought as provided by law is that the Respondents-Appellants, having prevailed at summary

judgment and gotten a ruling that resolved the entire case against Appellant-Respondent, are not aggrieved by the denial of their earlier motions to dismiss. Rule 210(b), SCACR. Having prevailed at summary judgment, they have gotten the same relief that they sought in the motions to dismiss.

4. It is not as though the denial of their motions to dismiss contributed to a later ruling against them. *That* would be entwinement, an arguably sufficient connection between the orders to justify such review. See Brown v. County of Berkeley, 366 S.C. 354, 362 n. 5, 622 S.E.2d 533, 538 n. 5 (2005) (holding that interlocutory orders may be considered on appeal when they are companion to reviewable issues, but finding the motions to dismiss unreviewable because they lacked a sufficient “nexus or companionship” to justify the exercise of immediate appellate review); Morris v. Anderson County, 349 S.C. 607, 610-11, 564 S.E.2d 649, 651 (2002) (holding that the appellate court may, as a matter of discretion, consider an unappealable order along with an appealable issue where such a ruling will avoid unnecessary litigation, but declining to address the appeal based on concerns of creating an impermissible advisory ruling); Queen’s Grant II Horizontal Property Regime v. Greenwood Dev. Corp., 368 S.C. 342, 628 S.E.2d 902, 918 & n. 20 (Ct. App. 2006) (dismissing cross-appeal of denial of summary judgment, stating “we may entertain appeals from interlocutory orders not ordinarily appealable

when they are companion to reviewable issues,” citing cases adhering to this rule); Pitts v. Jackson Nat’l Life Ins. Co., 352 S.C. 319, 338, 574 S.E.2d 502, 511-12 (Ct. App. 2002) (entertaining an appeal from a denial of summary judgment because it was so closely connected with other issues properly before the court).

5. Here, we have the opposite of that: regardless of the outcome of the earlier motions to dismiss, the Respondent-Appellants *won* the case. The orders Appellant-Respondent has appealed did not make any adverse determination against the Respondent-Appellants at all, much less one that is based on, grounded in, or otherwise connected with the denial of their motions to dismiss. It is not necessary for that earlier order to be reversed for them to prevail. Indeed, that earlier order did not decide anything at all. McLendon v. S.C. Dept. of Highways & Pub. Transp., 313 S.C. 525, 526 n. 2, 443 S.E.2d 539, 540 n. 2 (1994); Levi v. Northern Anderson Cnty. EMS, 409 S.C. 374, 382, 762 S.E.2d 44, 48 (Ct. App. 2014). These unaggrieved parties do not need the order denying the motions to dismiss to be undone to keep their win; rather, it is incumbent on them simply to defend the lower court’s summary judgment ruling – which they are allowed to do with arguments that they made in their motions to dismiss.
6. Further, there is another reason why this court should not exercise discretionary review of the order denying the motions to dismiss, if

the court concludes that is even possible here: allowing the cross-appeal to go forward would be futile. To be preserved for appellate review, an argument must have been both raised to and ruled upon by the trial court. E.g., Wilder Corp. v. Wilke, 330 S.C. 71, 497 S.E.2d 731 (1998); Vespazziani v. McAlister, 307 S.C. 411, 413, 415 S.E.2d 427, 428 (Ct. App. 1992). The order subject of the cross-appeal is a curt Form 4 order that simply states the result of the motions to dismiss and does not speak to, much less rule on, any of the arguments made in the brief filed in support of the cross-appeal. For issue preservation reasons, the cross-appellants *could not* prevail on the cross-appeal. E.g., Hatfield v. Hatfield, 327 S.C. 360, 367, 489 S.E.2d 212, 216 (Ct. App. 1997).

7. Respondents-Appellants Jones and Page insinuate, but do not say, that the motion to dismiss the cross-appeal was brought for purposes of delay. It was not. The delay in making the motion (which the undersigned wishes had been made significantly earlier) was the product of things going on in the undersigned's personal life. It was not a strategy. But, moreover, that does not speak to the merits of the motion. Respondents-Appellants Jones and Page make an irrelevant *ad hominem* attack.
8. There do not appear to be cases that discuss the limits of what may be made subject of a cross-appeal, but, when that issue does come to be addressed by the Supreme Court at some point in the future, the

undersigned doubts that the Court will see it as embracing the appeal of an order otherwise unappealable, which decided nothing about the case's merits and which was issued some two years before the primary appeal was brought.

9. The law provides for the dismissal of the cross-appeal, and this court should dismiss it. Permitting it to go forward would be the opposite of judicial economy.
10. The undersigned has served this document on opposing counsel by email to registered AIS email address on the date given below.

WHEREFORE Appellant-Respondent prays for an order dismissing the cross-appeal.

Respectfully submitted,

/s/ Andrew S. Radeker
Andrew S. Radeker
S.C. Bar No. 73743
Radeker Law, P.A.
6511 Dare Circle
Columbia, South Carolina 29206
(803) 500-0891
drew@radekerlaw.com
Attorney for Appellant-Respondent

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PROOF OF SERVICE

I certify that I have served the foregoing motion to dismiss cross-appeal on the date given below by emailing it to opposing counsel at the address(es) noted below.

Amy P. Hunt, Esq., at amy.hunt@alexanderricks.com
Skyler Cole Wilson, Esq., at swilson@csvg.law
Don R. Terry, Esq., at dterry@wtbconstructionlaw.com

Respectfully submitted,

/s/ Andrew S. Radeker
Andrew S. Radeker
S.C. Bar No. 73743
Attorney for Appellant

September 3, 2026