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Oct 15 2026

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENWOOD COUNTY
Court of Common Pleas

Charles B. Simmons, Jr., Special Referee

App. Case No. 2026-002044
Common Pleas Case No. 2025-CP-24-00155

Edgefield Holdings, LLCRespondent,

v.

John W. Polasky, Pucketts Ferry Homeowners Association, Inc., Greenwood County,
South State Bank, N.A.,.....Defendants,

Of which John W. Polasky is the.....Appellant.

REPLY TO RETURN TO MOTION AND PETITION TO PREVENT LOWER
COURT FROM PROCEEDING WITH MATTERS AFFECTED BY APPEAL AND
TO DECLARE POST-APPEAL LOWER COURT ORDER VOID

Appellant hereby submits this reply to the Respondent's return to the Appellant's motion for this court to issue an order that 1) directs the lower court not to proceed with matters affected by this appeal and 2) declares the lower court's order filed on September 30, 2026, to be violative of Rules 205 and 241, SCACR, and to be void.

Under governing precedent, the appealed order is immediately appealable. Nauful v. Milligan, 258 S.C. 139, 187 S.E.2d 511 (1972) (grant of partial summary judgment on liability only is immediately appealable); Thornton v. S.C. Elec. & Gas Corp., 391 S.C. 297, 705 S.E.2d 475 (Ct. App. 2011) (same). Respondent does not

spend much time analyzing why it would not be, instead contending that because there is more to travel on the road to implementing a total victory for Respondent, that makes this order unappealable. Respondent ignores that it has already received a total victory on liability, which is immediately appealable under South Carolina law. Nauful, *supra*; Thornton, *supra*.

Respondent's counsel acknowledged to the lower court (see transcript exhibit to Appellant's motion) that the order that has been appealed fully determined liability in the Respondent's favor, leaving no questions remaining as to whether Respondent is entitled to the judgment it seeks and leaving only the debt amounts associated with its claimed liens for determination, along with the administrative handling of a judicial sale. It is immaterial whether, in some other context, some order granting partial summary judgment might not be appealable. The appealed order granted summary judgment on liability to the Respondent. Under the established law of this state, under the precedent of the Supreme Court and as noted by this court, the order made an immediately appealable ruling. Nauful, *supra*; Thornton, *supra*. "[E]ying the nature and effect of this order, not merely its label[,]" Tillman v. Tillman, 420 S.C. 246, 250, 801 S.E.2d 757, 760 (Ct. App. 2017), the appealed order finally determined liability in Respondent's favor and is, thus, immediately appealable under governing precedent. Nauful, *supra*; Thornton, *supra*.

Respondent contends that Appellant's sole object, here and below, is and has been delay to prevent the enforcement of Respondent's judgment liens. Those judgment liens have not existed since 2018, and that is largely what this appeal is about. See S.C. Code Ann. § 15-35-810 (lien of judgment expires after "ten years from the

date of such final judgment or decree”). Appellant has not sought delay so much as he has sought a correct ruling that would reflect these liens’ nonexistence for the past eight years. See id. Appellant’s counsel are certainly not ashamed of seeking to protect their client’s rights and have courts follow the law. If that involves fending off an unlawful judicial sale that would enforce liens that have long since ceased to exist, id., Appellant’s counsel take up that task openly and proudly. Yes, we oppose Respondent having a judicial sale to enforce liens that ran out years ago. There is nothing improper in that.

Moreover, in making contentions about Appellant’s motives rather than about the merits of this motion’s issues, Respondent reveals the lack of support for its position. “*Ad hominem* arguments, of course, constitute one of the most common errors in logic: Trying to win an argument by calling your opponent names (‘Jane you ignorant etcetera . . .’) only shows the paucity of your own reasoning.” Huntington Beach City Council v. Superior Ct., 115 Cal. Rptr. 2d 439, 448, 94 Cal. App. 4th 1417, 1430 (Cal. App. 4th 2002). Lacking a good merits-based argument, Respondent has attacked Appellant instead of the issue. That Respondent makes this argument as a substitute for one on the merits is readily illustrated when one remembers that, even if Respondent were right about Appellant’s motives, that would not change whether Rules 205 and 241, SCACR, prevent the lower court from moving forward as it has done and plans to continue doing.

“Under Rule 205, the lower court is deprived of the power to proceed with matters that are affected by the appeal[.]” Tillman v. Oakes, 398 S.C. 245, 254-55, 728 S.E.2d 45, 50-51 (Ct. App. 2012). When a lower court proceeds with matters outside

its jurisdiction per Rule 205, those proceedings and orders they produce are void. E.g., id. Respondent cannot get around that and does not really try. Instead, it argues a point on which the law has already come down on the other side, Nauful, *supra*; Thornton, *supra*, and attempts to impugn Appellant.

WHEREFORE Appellant prays for an order that directs the lower court not to proceed with matters affected by this appeal and which declares the lower court's order filed September 30, 2026, to be void.

Respectfully submitted,

/s/ Andrew S. Radeker

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PROOF OF SERVICE

I certify that I have served the foregoing reply to return to motion to prevent the
lower court from proceeding with matters subject of appeal on the date given below by
emailing it to opposing counsel at the address(es) noted below.

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Respectfully submitted,

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