The South Carolina Court of Appeals

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April 23, 2014

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Re: Brian Pulliam v. M.U.I. Carolina Corp.
Appellate Case No. 2014-000218

Dear Counsel:

Enclosed is the decision of the Court. The remittitur will be sent as provided by Rule 221(b) of the South Carolina Appellate Court Rules.

Very truly yours,

V. Claire Allen, Deputy

CLERK

The South Carolina Court of Appeals

Brian and Deborah C. Pulliam, Monica Bradshaw, Helen K. Cook, Kala Craig, Victor E. Dirienzo, Cynthia Ditursi, J. Scott Drexel, Kathleen Kramer, Robert Loebe, Melanie McDaniel, David Osborne, Celeste Arrowood, Vincent Dionna, Mikel Marcuse, James P. Wheaton, Jr., Joseph Manfredini, Elena Manfredini, David Cox, Jonathan B. Dillard, Eric Wilson, Don and Debbie Neff, and Marianna Junda, Respondents,

v.

M.U.I. Carolina Corporation, Kensington Place Owners' Association, Inc., and Regent Carolina Corporation, Defendants,

Of whom M.U.I. Carolina Corporation and Regent Carolina Corporation are the Appellants.

Appellate Case No. 2014-000218

ORDER

Respondents move to dismiss this appeal of the circuit court's order denying Appellants' motion for summary judgment. In their return to Respondents' motion, Appellants concede that denials of summary judgment motions are not appealable. However, they argue the circuit court's order is immediately appealable under section 14-3-330 of the South Carolina Code (1976 & Supp. 2013) because it effectively strikes their defense that Respondents lack standing to maintain the suit against them. Appellants also argue the order is appealable because: (1) it would be futile to further argue to the circuit court that Respondents lack standing, (2) the circuit court's order is a clear error of law, (3) review of the order is in the public interest, and (4) review of the order promotes judicial economy.

We dismiss this appeal. "It is well-settled law that denials from summary judgment motions are not appealable." *Cobb v. Maccaro*, 310 S.C. 303, 306, 423 S.E.2d 156, 157 (Ct. App. 1992). We find the circuit court's order neither strikes Appellants' defense, as they argue, nor prevents any judgment from which an appeal may later be taken. *See Ballenger v. Bowen*, 313 S.C. 476, 477, 443 S.E.2d 379, 380 (1994) ("[T]he denial of summary judgment does not finally determine anything about the merits of the case and does not have the effect of striking any defense since that defense may be raised again later in the proceedings."); *Edwards v. SunCom*, 369 S.C. 91, 95, 631 S.E.2d 529, 531 (2006) ("Under § 14-3-330 . . . an order must affect a substantial right **and** prevent a judgment from which an appeal may later be taken in order to be immediately appealed." (emphasis in original)); *see also Mid-State Distribs. v. Century Importers*, 310 S.C. 330, 336, 426 S.E.2d 777, 781 (1993) (holding the denial of a motion to dismiss for lack of personal jurisdiction was not appealable and the defense could be maintained at trial); *Salmonsen v. CGD, Inc.*, 377 S.C. 442, 452, 661 S.E.2d 81, 87 (2008) (declining to review a class certification order because the order did not discontinue the action or prevent a judgment from which an appeal could be taken).

In addition to the motion to dismiss, Respondents move for an inquiry into whether this appeal warrants sanctions under Rule 269, SCACR. Respondents also move for an order enjoining Appellants from filing further improper appeals and remanding the matter to the circuit court for a hearing to determine (1) whether Appellants' answer should be stricken, and (2) whether sanctions are warranted under Rule 11, SCRCP. These motions are denied.

IT IS SO ORDERED.

FOR THE COURT

Columbia, South Carolina

FILED
4/23/14

cc: Robert T. Lyles, Jr., Esquire
W. Jefferson Leath, Jr., Esquire
Michael S. Seekings, Esquire