

The South Carolina Court of Appeals

State of South Carolina on the relation of William Walter
Wilkins, III, Solicitor of the Thirteenth Judicial Circuit,
Respondent,

v.

Elephant, Inc. and Frontage Road Associates, Inc.,
Defendants,

Of Which Elephant, Inc. is the Appellant.

Appellate Case No. 2015-000982

ORDER

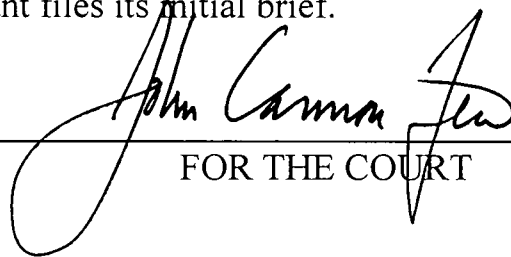
Appellant has appealed the circuit court's order granting Respondent's motion for a temporary injunction, which requires Appellant to "wind-down and cease" the operations of its business known as "Platinum Plus" within forty-eight hours pending further order of the court. Appellant has also filed a petition, requesting this court to issue a supersedeas and conduct an expedited review of the lower court order.

After reviewing all of the materials filed with this Court so far, Appellant's petition for supersedeas is denied. Initially, this Court finds an order of supersedeas is not necessary to preserve jurisdiction of the appeal or to prevent a contested issue from becoming moot. *See* Rule 241(c)(2), SCACR. Appellant argues the purpose of "the purpose of supersedeas . . . is to . . . preserve the status quo." *See Graham v. Graham*, 301 S.C. 128, 130, 390 S.E.2d 469, 470 (Ct. App. 1990). We find preservation of the status quo requires this court to consider the law applicable to the business of the Appellant and whether granting supersedeas preserves law and order or enables the continuation of a public nuisance. While we do not reach the merits of the circuit court's order, we find preservation of the status quo favors denial of the supersedeas because the circuit court set forth a detailed factual basis

for its finding that Appellant is operating its business as a nuisance in violation of the law.

Appellant further argues the purpose of "the purpose of supersedeas . . . is to . . . preserve to appellant the fruits of the meritorious appeal where they might otherwise be lost to him." *Id.* Appellant states, "Appellant expects to prevail on the merits." To the extent Appellant is requesting this Court consider its likelihood of success on the merits, we find Appellant has not at this point made such a showing.

Finally, Appellant argues, "Such a drastic measure—closing down Platinum Plus's entire business—would undoubtedly prove fatal to the Appellant by the time this appeal is resolved." We do not find this to be a proper basis to grant supersedeas in this case; however, this Court will consider Appellant's request for an expedited review of this appeal after Appellant files its initial brief.


C.J.
FOR THE COURT

Columbia, South Carolina

cc:
Hannah Rogers Metcalfe, Esquire
Courtney Celeste Atkinson, Esquire
Lane Whittaker Davis, Esquire
Andrew Scott Culbreath, Esquire
Randall Scott Hiller, Esquire
John S. Nichols, Esquire
The Honorable Charles B. Simmons, Jr.

FILED
5/7/15 gjk