

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Alison Renee Lee, Circuit Court Judge

RECEIVED

Case No. 2014-CP-40-5563
Appellate Case No. 2016-002168

MAY 04 2017
SC Court of Appeals

Renee Hale Shelley, as Personal Representative
of the Estate of Michael Mann Lindler Appellant/Respondent,

v.

South Carolina Highway Patrol Respondent/Appellant.

REPLY

Suppose Renee Shelley did not appeal the circuit court's decision — would anyone seriously contend the Highway Patrol can appeal a directed verdict in its favor? Of course not. The Highway Patrol is not aggrieved by the decision below. The Highway Patrol won. There is no “aggrieved-lite” standard for cross-appeals.

If the Highway Patrol loses before this Court — if this Court holds the circuit court erred in granting a directed verdict based on certain sections of the Tort Claims Act — the Highway Patrol can offer its alternative arguments for immunity in support of rehearing or in a certiorari petition. It can offer the same arguments again when the case is remanded for a new trial. Nobody could plausibly claim the Highway Patrol is precluded from making those arguments: The Highway Patrol could not appeal them. It was not aggrieved (and it will not be aggrieved) until it loses a judgment.

The Court should dismiss the cross-appeal. Parties cannot cross-appeal grants of summary judgment in their favor or grants of directed verdicts in their favor. Only aggrieved parties may appeal. See *Cisson v. McWhorter*, 255 S.C. 174, 178, 177 S.E.2d 603, 605 (1970) (“[I]t is our duty to reject an appeal that is prosecuted by a party who is not aggrieved in a legal sense by the judgment of the trial court.”).

May 4, 2017

Respectfully submitted,



Blake A. Hewitt # 73674

John S. Nichols #4210

BLUESTEIN NICHOLS

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PROOF OF SERVICE

The undersigned hereby certifies that on the date indicated below she served counsel for the Respondent/Appellant with a copy of the *Reply to Return to Motion to Dismiss Cross-Appeal* by mailing copies of the same by United States Mail with first class postage prepaid to the following address:

Andrew F. Lindemann
Joel S. Hughes
Davidson & Lindemann, PA
PO Box 8568
Columbia, SC 29202-8568

May 4, 2017


Erin Bridges



BLUESTEIN · NICHOLS · THOMPSON · DELGADO LLC
ATTORNEYS AT LAW

May 4, 2017

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SC Court of Appeals

VIA HAND DELIVERY

The Honorable Jenny Kitchings
Clerk of Court
South Carolina Court of Appeals
1220 Senate Street
Columbia, South Carolina 29201

Re: Renee Hale Shelley v. SC Highway Patrol
Case Tracking No.: 2016-002168

Dear Ms. Kitchings:

Please find enclosed for filing the original and seven (7) copies of a *Reply to Return to Motion to Dismiss Cross-Appeal* in this case. I have also enclosed a proof of service on counsel for Respondent/Appellant. Please return the additional filed copy to me via our courier.

Thank you for your attention to this matter. If you have any questions or need any additional information, please do not hesitate to contact me.

Sincerely,

Erin Bridges
Paralegal to Blake A. Hewitt
BLUESTEIN, NICHOLS,
THOMPSON & DELGADO, LLC

/emb

Enclosures

cc: Lauren V. Knight, Esquire
Joel S. Hughes, Esquire
Andrew F. Lindemann, Esquire