

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

APPEAL FROM GREENVILLE COUNTY  
Edward W. Miller, Circuit Court Judge

Appellate Case # 2018-000142

Ronald J. Ferguson,

Vs.

Mill Creek, LP, John D. Hatcher, Rachel Shaluly,  
James F. Gilbert, Molly A. Miller and Michael  
Stehney, individually and as members of the  
Architectural Committee of Mill Creek Estates, Respondents.

**RECEIVED**  
FEB 26 2018  
SC Court of Appeals  
Appellate

AND/OR

Ronald J. Ferguson,

Appellant

v.

John D. Hatcher, Rachel Shaluly,  
James F. Gilbert, Molly A. Miller and Michael  
Stehney, individually and as members of the  
Architectural Committee of Mill Creek Estates, Respondents.

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**MOTION TO DISMISS THE APPEAL AS TO CASE  
NUMBER 2013-CP-23-01810**

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The Respondents in both the appeals/cases referenced above are requesting the Court  
to dismiss State Court Action 2013-CP-23-01810 from the appeal. Appellate Case Number

2018-000142 is a case sent to the Court of Appeals from the Supreme Court where the Appellant attempted to use the original jurisdiction of the Supreme Court. It is concerning a Court Order dismissing case number 2013-CP-23-05102 by Judge Edward W. Miller. In that appeal, the Appellant also included the second case number 2013-CP-23-01810 (correct heading is John D. Hatcher, Rachel Shaluly, James F. Gilbert, Molly A. Miller and Michael Stehney, individually and as members of the Architectural Committee of Mill Creek Estates, the Plaintiffs vs. Ronald J. Ferguson, the Defendant) along with that case.

I believe the Supreme Court addressed this issue. The Appellant's requested that the Supreme Court use their original jurisdiction in this appeal (2018-000142). The Supreme Court remanded case number 2013-CP-23-05102 but did not remand case number 2013-CP-23-01810 to the Court of Appeals. There is no Order in 2013-CP-23-01810 that is appealable. The last Court Order has already been appealed, and the appeal was denied.

The Appellant only attempted to bootstrap 2013-CP-23-01810 to keep the State Court from having any hearings or having the case move forward in any way. The Respondents are requesting the Court of Appeals to come to the same conclusion as the Supreme Court did and keep case number 2013-CP-23-01810 out of the Court of Appeals. The Orders from the Supreme Court are attached showing that the Motion to Dismiss was moot but in failing to transfer case number 2013-CP-23-01810 to the Court of Appeals.

The Appellant recently filed the Notice of Appeal and Application for Supersedas (a copy is attached hereto) again attempting to co-mingle and bootstrap 2013-CP-23-01810 in with his other appeal. The document I received showed it was filed in the Supreme Court and an appeal from Judge Simmons but there is no Order from Judge Simmons that hasn't been appealed. I

believe it should be in the Court of Appeals. That is the basis of this Motion to Dismiss to remove case number 2013-CP-23-01810 from the appeal of Judge Miller's Order in case number 2013-CP-23-05102.

The Appellant is attempting to again co-mingle case number 2013-CP-23-01810 with his appeal of case number 2013-CP-23-05102 known as Appellate Case Number 2018-000142.

The Appellant is appealing an Order of The Honorable Edward Miller in case number 2013-CP-23-05102 dismissing the action. There is absolutely NO Order or Decision in case number 2013-CP-23-01810 that is being appealed.

The Appellant has utilized any and every method of delay, manipulating the legal system in these matters. He has done everything he can to keep the cases from being heard. He appealed this case two (2) days before a Rule to Show Cause to find him in contempt of Court and a Motion to Dismiss because of failure to comply with discovery in case number 2013-CP-23-01810.

The Appellant has appealed these two (2) cases more than five (5) or six (6) times and has twice removed case number 2013-CP-23-01810 to Federal Court. He then appealed the Federal Court's Decision to the 4<sup>th</sup> Circuit. The 4<sup>th</sup> Circuit ordered the Appellant herein to never attempt to remove this case again to District Court.

I could only hope the Court of Appeals would order the Appellant, also, not to continue to appeal all these interlocutory Orders. The Court of Appeals in 2015-000593, 2013-002360, 2014-000556, 2014-000792 that the appeals were inappropriate because they were interlocutory in nature.

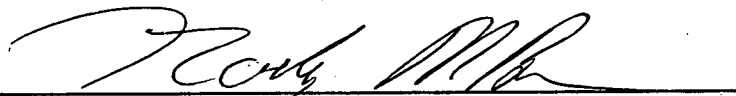
However, the Appellant continues to file appeal after appeal of interlocutory matters and has delayed the cases from getting through discovery let alone a trial. Case number 2013-CP-23-01810 is five (5) years old and the Appellant has delayed it by frivolous appeals and Motions to Remove to Federal Court. In this appeal, he is trying to bootstrap case number 2013-CP-23-01810 along with his appeal of case number 2013-CP-23-05102 to keep the Common Pleas Court from hearing any matters in that case and to keep it from moving forward in any manner, shape or form. Again there is no Order in case number 2013-CP-23-01810 that the Appellant is appealing.

The Appellant is appealing the Order of Judge Miller, a copy is attached granting the Motion to Dismiss in case number 2013-CP-23-05102, nothing in case number 2013-CP-23-01810.

The Respondents are not addressing the merits of the Appellant's appeal in case number 2013-CP-23-05102 again. The Respondents will address those later.

Herein, the Respondents respectfully request the Court of Appeals to immediately dismiss the appeal regarding case number 2013-CP-23-01810 and remand it to Common Pleas Court so that the matter may proceed finally.

Respectfully submitted.



Rodney M. Brown, #953  
Attorney for Respondents, John D. Hatcher, Rachel Shaluly, James F. Gilbert, Molly A. Miller and Michael Stehney, individually and as members of the Architectural Committee of Mill Creek Estates  
210 S. Main Street  
Fountain Inn, South Carolina 29644  
(864) 862-2528

February 23, 2018



Interveners/Defendants have requested that the Plaintiff be required to join all the necessary parties for complete and just adjudication.

After carefully reviewing the arguments of counsel, the file and the Complaint in the other case involving these Defendants and this Plaintiff being 2013-CP-23-01810, the Court concludes that it would be appropriate pursuant to Rule 12(b)(8) to dismiss this action. The Court believes that action was filed prior to this case, and it involves the same issue regarding the Restrictive Covenants at a subdivision known as Mill Creek Estates. The Plaintiff herein can raise any and all claims, counterclaims against these parties and any other parties which he deems necessary in that case. Accordingly, the Plaintiff herein and Defendant in that case is granted an additional thirty (30) days to file any amended pleadings and counterclaims to add additional causes of actions or parties.

ACCORDINGLY, IT IS HEREBY ORDERED, ADJUDGED AND DECREED, that this action being 2013-CP-23-05102 is dismissed and that Ronald J. Ferguson, the Plaintiff in this case who is the Defendant in case number 2013-CP-23-01810 is granted thirty (30) days to amend his counterclaim in that case.

IT IS SO ORDERED.

\_\_\_\_\_  
The Honorable Edward W. Miller

Date: \_\_\_\_\_



Greenville Common Pleas

**Case Caption:** Ronald J Ferguson vs. Mill Creek LP , defendant, et al  
**Case Number:** 2013CP2305102  
**Type:** Order/Dismissal

So Ordered

s/ Edward W. Miller

Electronically signed on 2017-12-21 10:39:36 page 3 of 3

# The Supreme Court of South Carolina

Ronald J. Ferguson, Appellant,

v.

Mill Creek, LP, John D. Hatcher, Rachel Shaluly, James F. Gilbert, Molly A. Miller and Michael Stheney, individually and as members of the Architectural Committee of Mill Creek Estates, Respondents.

Appellate Case No. 2018-000142

The Honorable Edward W. Miller  
Greenville County  
Trial Court Case No. 2013CP2305102

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SC Court of Appeals

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ORDER

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Pursuant to Rule 204(a) of the South Carolina Appellate Court Rules, the appeal in the above entitled matter is hereby transferred to the South Carolina Court of Appeals.

FOR THE COURT

BY



CLERK

Columbia, South Carolina

February 1, 2018

cc:

Mr. Ronald J. Ferguson

Rodney M. Brown, Esquire

The Honorable Jenny Abbott Kitchings

# The Supreme Court of South Carolina

Ronald J. Ferguson, Petitioner,

v.

Honorable Robin B. Stilwell, Chief Judge for Thirteenth  
Circuit Court of Common Pleas; Mill Creek, LP;  
John D. Hatcher, Rachel Shaluly, James F. Gilbert, Molly  
A. Miller, and Michael Stehney, individually and as  
members of the Architectural Committee of Mill Creek  
Estates, Respondents.

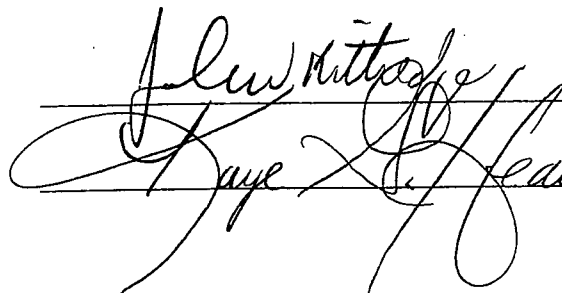
Appellate Case No. 2017-002489

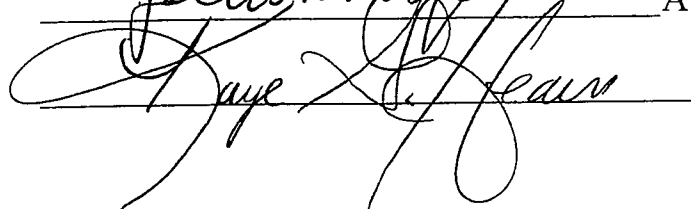
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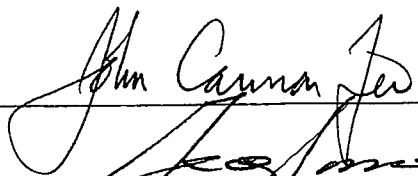
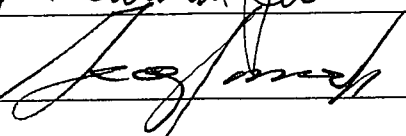
## ORDER

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Petitioner has filed a petition for original jurisdiction and a summons and complaint seeking the issuance of a writ of mandamus directing the Honorable Robin B. Stilwell to rule on a pending motion in Case No. 2013-CP-23-05102. However, by order dated December 21, 2017, Case No. 2013-CP-23-05102 was dismissed pursuant to Rule 12(b)(8), SCRCP. We therefore deny the petition for original jurisdiction and the request for a writ of mandamus as moot. *See South Carolina Ret. Sys. Comm'n v. Loftis*, 402 S.C. 382, 741 S.E.2d 757 (2013) ("A case is moot where a judgment rendered by the Court will have no practical legal effect upon an existing controversy because an intervening event renders any grant of effectual relief impossible for the Court."). In light of this ruling, we also deny as moot the motion to dismiss filed in this Court by respondents Hatcher, Shaluly, Gilbert, Miller, and Stehney.

  
\_\_\_\_\_  
A.C.J.

  
\_\_\_\_\_  
J.

  
\_\_\_\_\_  
J.  
  
\_\_\_\_\_  
J.

Beatty, C.J., not participating

Columbia, South Carolina

February   , 2018

cc:

Rodney M. Brown, Esquire  
The Honorable Robin B. Stilwell  
Mr. Ronald J. Ferguson

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

APPEAL FROM GREENVILLE COUNTY  
Court of Master-in-Equity  
Charles B. Simmons, Jr

Case No. 2013-CP-23-01810

**RECEIVED**  
FEB 26 2018  
SC Court of Appeals

Ronald J. Ferguson

Appellant,

v.

John D. Hatcher, Rachel Shaluly,  
James F. Gilbert, Molly A. Miller, and Michael  
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Architectural Committee of Mill Creek Estates,

Respondent.

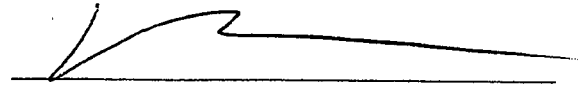
NOTICE OF APPEAL  
AND APPLICATION FOR SUPERSEDAS

Ronald J. Ferguson previously appealed the Order of Judge Edward Miller in 2013CP2305102 vacating the orders and pleadings in that case and directing a new complaint be filed and served in 2013CP2301810 and pending before the Court of Appeals, Appellate Case #2018-000142.

The trial court was advised of respondents motion to lift the stay in 1810 filed with the Supreme Court of South Carolina, which was transferred to the Court of Appeals, and pending disposition.

Upon additional motion of Respodents (5102)/ Plaintiffs (1810), the Master-in-Equity, Honorable Charles B. Simmons, Jr. on February 13, 2018, disregarded precedent and SCACR, Rule 241(c)(2) which required the lower court to consider whether supersedas "is necessary to preserve jurisdiction of the appeal or to prevent a contested issue from becoming moot" and scheduled the hearing of dispositive motions in 1810 for February 20, 2018, via electronic communication.

February 13, 2018

  
\_\_\_\_\_  
Ronald J. Ferguson  
103 Mill Creek Road  
Piedmont, South Carolina 29673  
864-509-0169  
Other Counsel of Record:

Rodney M. Brown  
210 South Main Street  
Fountain Inn, South Carolina 29644  
864-862-2528  
Attorney for Respondent

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

APPEAL FROM GREENVILLE COUNTY  
Edward W. Miller, Circuit Court Judge

Appellate Case # 2018-000142

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CERTIFICATE OF SERVICE

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The undersigned employee of Rodney M. Brown, P.A., counsel for John D. Hatcher, Rachel Shaluly, James F. Gilbert, Molly A. Miller and Michael Stehney, individually and as members of the Architectural committee of Mill Creek Estates, does hereby certify that service of the Motion to Dismiss the Appeal as to Case Number 2013-CP-23-01810 was made upon

Appellant by placing a copy in the United States Mail, first class postage prepaid, at the below listed address clearly indicated on said envelope this 23 day of February, 2018.

Ronald J Ferguson  
103 Mill Creek Road  
Piedmont SC 29673



\_\_\_\_\_

Annette M. Lay

February 23, 2018

**RECEIVED**  
FEB 26 2018  
SC Court of Appeals

South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211

RE: Ronald J. Ferguson vs. Mill Creek, LP, et al.  
Appellate Case No. 2018-000142

Dear Sir or Madam:

Enclosed herein please find an original and six (6) copies of the Motion to Dismiss the Appeal as to Case Number 2013-CP-23-01810 on the above-referenced matter. I am enclosing a check for \$25.00 to cover the motion fee. By Certificate of Service enclosed, I am forwarding a copy of these documents to the Appellant, Ronald J. Ferguson.

As always, your time and cooperation is appreciated.

Sincerely,



Rodney M. Brown

aml

Enclosures

cc: Ronald J. Ferguson