

# The South Carolina Court of Appeals

Jill Keck Humphries; Dennis L. Johnson, Jr.; Delona Penny Rice; Whitmel L. Brown, Jr.; Gary Steven Robinson; Elizabeth Erin Humphries; and Nancy H. Johnson, Plaintiffs,

v.

Tilghman Beach and Racquet Club Condominium Association, Inc.; James H. Austin, III; Daniel G. Coe; C. Doug Madison; George P. White; and Steele Brice Windle, III, individually and as Members of the Board of Directors of the Tilghman Beach and Racquet Club Condominium Association, Inc., Respondents,

And

Tilghman Beach and Racquet Club Condominium Association, Inc.; James H. Austin, III; Daniel G. Coe; C. Doug Madison; George P. White; and Steele Brice Windle, III, individually and as Members of the Board of Directors of the Tilghman Beach and Racquet Club Condominium Association, Inc., Respondents,

v.

Great American Insurance Company, Appellant.

Appellate Case No. 2018-001180

---

ORDER

---

Appellant appealed the circuit court's ruling that it has a duty to defend Respondents in the underlying action filed by Plaintiffs. Appellant has now filed a motion for an order protecting it from discovery during the pendency of this

appeal. Because Appellant's status as a party in the underlying action is contingent upon its duty to defend Respondents, Appellant's participation in discovery is a matter affected by the appeal. Accordingly, Appellant's motion is granted. See Rule 205, SCACR ("Upon the service of the notice of appeal, the appellate court shall have exclusive jurisdiction over the appeal . . . . Nothing in these Rules shall prohibit the lower court, commission or tribunal from proceeding with matters not affected by the appeal."); *Tillman v. Oakes*, 398 S.C. 245, 255, 728 S.E.2d 45, 51 (Ct. App. 2012) ("[T]he lower court's power to proceed is determined by whether the issue sought to be litigated in the lower court during the appeal is a 'matter[ ] affected by the appeal' under Rules 205 and 241(a).").



---

FOR THE COURT

Columbia, South Carolina

cc: Kirby Darr Shealy, III, Esquire  
Charles B Jordan, Jr., Esquire  
Joshua D. Spencer, Esquire  
Bonnie Allen Lynch, Esquire  
H. Sam Mabry, III, Esquire  
Sarah P. Spruill, Esquire

**FILED**

July 13, 2016