

# The South Carolina Court of Appeals

Wendy C. H. Wellin, Respondent,

v.

Peter Wellin, Cynthia W. Plum, and Marjorie W. King,  
Individually and as Co-Trustees and Beneficiaries of the  
Wellin Family 2009 Irrevocable Trust, u/a/b November  
2, 2009, Appellants,

v.

Wendy C. H. Wellin, Individually and as Trustee of the  
Keith S. Wellin Florida Revocable Living Trust u/a/d  
December 11, 2001, Hamilton College, Keith S. Wellin  
Florida Revocable Living Trust, Campbell Hard, and  
Heather Lane, Respondents.

In the Matter of: Keith S. Wellin.

Appellate Case No. 2019-000833

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## ORDER

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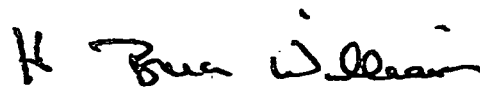
Appellants' petition for a writ of supersedeas is denied. Respondents' motions to dismiss this appeal are granted because the underlying orders<sup>1</sup> are not immediately appealable pursuant to section 14-3-330 of the South Carolina Code (2017).

Appellants acknowledge bifurcation orders generally are not immediately appealable. *See Flagstar Corp. v. Royal Surplus Lines*, 341 S.C. 68, 533 S.E.2d 331 (2000) (holding an order bifurcating the issue of exclusion under an insurance

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<sup>1</sup> Appellants appeal from the circuit courts' orders of May 15, 2019, August 23, 2018, and October 20, 2017. Appellants, however, concede the August 23, 2018 and October 20, 2017 orders, standing alone, are not immediately appealable.

contract from the issue of occurrence was not immediately appealable and, "after trial, [the appellant would] be free to advance on appeal that the trial judge abused his discretion in ordering bifurcation"); *Senter v. Piggly Wiggly Carolina Co.*, 341 S.C. 74, 533 S.E.2d 575 (2000) (holding an order bifurcating issues in a contract case between liability and damages was not immediately appealable). Appellants, however, argue the underlying bifurcation order is immediately appealable based on our supreme court's decision in *Morrow v. Fundamental Long-Term Care Holdings, LLC*, 412 S.C. 534, 773 S.E.2d 144 (2015), wherein the court held an order bifurcating issues of direct liability and corporate liability was immediately appealable because the order impacted the substantial right of the plaintiffs to choose their defendant and effectively granted potential summary judgment on the issue of direct corporate liability. In *Morrow*, the circuit court ordered "discovery and a trial on the nursing home negligence claims could go forward, and only if the Morrows were successful, a new jury could hear the corporate negligence claims in a later proceeding." *Id.* at 536, 773 S.E.2d at 145. This case is distinguishable from *Morrow* as the underlying bifurcation order in this case does not state or even suggest that the first phase of the bifurcated trial will be dispositive of any claim tried in the second phase of the trial, and the order contains no language restricting the evidence Appellants are entitled to present in either phase. Accordingly, this appeal is dismissed,<sup>2</sup> and the remittitur will be sent as provided in Rule 221 of the South Carolina Appellate Court Rules.



J.



J.



J.

Columbia, South Carolina

**FILED**



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<sup>2</sup> Nothing prevents Appellants from appealing after trial and advancing their argument that the circuit court abused its discretion in ordering bifurcation. See *Flagstar Corp.*, 341 S.C. at 72, 533 S.E.2d at 333.

cc:

The Honorable Frank R. Addy, Jr.

The Honorable Julie J. Armstrong

John Thomas Lay, Jr., Esquire

Gray Thomas Culbreath, Esquire

John Dwight Hudson, Jr., Esquire

Robert H. Hood, Esquire

James Bernard Hood, Esquire

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Lindsay Anne Joyner, Esquire

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