

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM GREENVILLE COUNTY

Court of Common Pleas  
Robin B. Stilwell, Circuit Court Judge

**RECEIVED**

JUL 02 2019

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Appellate Case No. 2019-000959

**SC Court of Appeals**

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Ray Polgar ..... Appellant,

v.

Board of Directors Fox Run CC ..... Respondent.

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**RESPONDENT'S MEMORANDUM RE: APPEALABILITY**

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R. O'Neil Rabon, Jr., Esquire  
Ashmore Leaphart & Rabon, LLC  
P. O. Box 10766  
Greenville, SC 29603  
(864) 271-2594  
*Attorney for Respondent*

Other Counsel of Record:

Christopher R. Antley, Esquire  
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P. O. Box 10387  
Greenville, SC 29603  
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*Attorney for Appellant*

This appeal arose after issuance of an interlocutory order of the Honorable Robin Stillwell of the Court of Common Pleas for Greenville County, remanding the matter to the summary court for complete consideration. The case was initially filed in the court of Common Pleas seeking injunctive and permanent relief. The Circuit Court refused to consider the merits of the matter and directed that the case be heard at the summary court level. The Appellant timely filed his notice of intent to appeal.

An interlocutory order which is not governed by a specialized appealability statute may not be appealed before the entry of final judgment unless the order fits into one of the categories set forth in section 14-3-330 of the South Carolina Code. *Thornton v. South Carolina Electric & Gas Corp. (SCE & G)*, 391 S.C. 297, 705 S.E.2d 475 (S.C. App., 2011). There is no appealability statute which applies to the allegations or relief sought in the present matter. Thus, the ability to appeal the interlocutory order remanding the case to a summary court must be based on requirements of South Carolina Code 14-3-330.

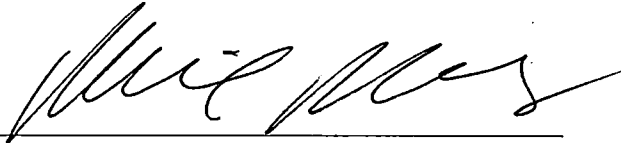
The relevant portion of section 14-3-330 of the SC Code Ann. reads as follows:

The Supreme Court shall have appellate jurisdiction for correction of errors of law in law cases, and shall review upon appeal:

...(4) An interlocutory order or decree in a court of common pleas granting, continuing, modifying, or refusing an injunction...

In the case at bar, the Court did not grant, deny, continue or refuse to issue an injunction. Indeed, the court did not consider or even accept any argument with regard to the merits of the action, but addressed the appropriate jurisdiction being in a court other than Common Pleas. Thus appeal of the remand, an interlocutory order, is not available to the Appellant.

14-3-330 would allow for appeal of a final order, such as a dismissal of the claim. Had Judge Stillwell issued a final order the Respondent would acknowledge the availability of an appeal. However, in this case the appeal of the interlocutory order of remand should be dismissed and the matter returned to the summary court for determination on the merits.



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Dated: July 1, 2019  
Greenville, South Carolina

Ben G. Leaphart♦♦  
R. O'Neil Rabon, Jr.†  
G. Maurice Ashmore (Retired)

♦ LLM Taxation  
• also admitted in Ga.  
† certified Mediator and Arbitrator

July 1, 2019

V. Claire Allen, Deputy Clerk  
South Carolina Court of Appeals  
1220 Senate Street  
Columbia, SC 29201

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JUL 02 2019  
SC Court of Appeals

**Re: *Ray Polgar vs. Board of Directors Fox Run CC***  
***Appellate Case No: 2019-000959***

Dear Ms. Allen:

Please find enclosed herewith Respondent's Memorandum Re: Appealability regarding the above-referenced matter.

Should you have any questions, please do not hesitate to contact me.

Yours very truly,

ASHMORE LEAPHART & RABON, LLC

By: R. O'Neil Rabon, Jr.

ROR:tsr

Enclosure

cc: Christopher R. Antley, Esquire (*with enclosures*)

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TRACI ROBERTS  
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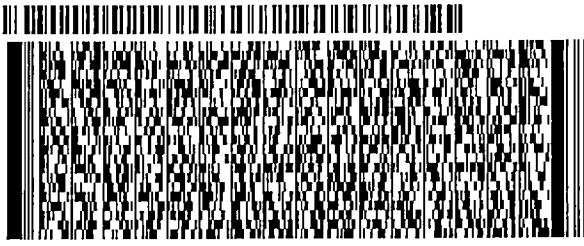
(803) 734-1890

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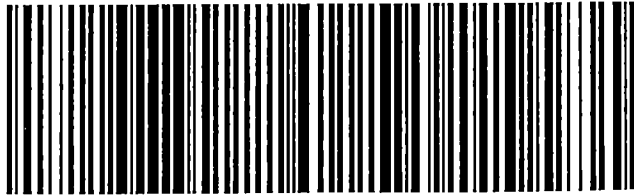


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