

THE STATE OF SOUTH CAROLINA
In The Supreme Court

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S.C. SUPREME COURT

APPEAL FROM BEAUFORT COUNTY
Carmen T. Mullen, Circuit Court Judge

Appellate Case No. 2020-000670
Lower Court Case No. 2011-CP-07-3322

The Callawassie Island Members Club, Inc., Respondent-Petitioner,

v.

Ronnie D. Dennis and Jeanette Dennis, Petitioners-Respondents.

**RETURN IN OPPOSITION TO MOTION
TO STRIKE MATERIAL MISREPRESENTATION**

The Petitioners-Respondents Ronnie D. Dennis and Jeanette Dennis (“Dennises”) have filed a Motion to Strike Material Misrepresentation. The Respondent-Petitioner Callawassie Island Members Club, Inc. (“CIMC”) opposes that motion on procedural and substantive bases.

First, the Dennises cite no applicable Rule of Appellate Procedure that allows for the filing of this motion. To the extent that the Dennises contend that the position stated by CIMC is incorrect or not supported by the record, they have the opportunity to make that argument by way of the filings actually allowed by the Rules. Indeed, the Dennises have done just that. They

have actually made the same arguments raised in their current motion to the Court in the Reply in Support of Petition for Writ of Certiorari which was filed contemporaneously with the motion.

Second, the Dennises' motion is objectionable because they make certain representations and statements that are unsupported by the record. The Dennises fail to support their position with any reference to the Record on Appeal or any CIMC governing documents or other evidence contained therein.

Third, the Dennises have unnecessarily caused this controversy in two specific ways. First, in their Petition for Writ of Certiorari, the Dennises have improperly raised the issue of "perpetual liability" which was never raised in the trial court and, in fact, was not even raised in their Petition for Rehearing filed in the Court of Appeals. Thus, the issue is not even properly before this Court for further appellate review. Second, the Dennises went beyond the record by stating that the Court "may take judicial notice that the Dennises no longer own the property alleged in the Club's lawsuit: 16 Spring Island Drive." *See*, Dennises' Petition, p. 19. In footnote 4 of its Return to Dennises' Petition for Writ of Certiorari, CIMC was simply relying on that information volunteered by the Dennises to point out that the issue of "perpetual liability," if even properly raised, is nonetheless moot.

Fourth, as CIMC has already pointed out in its Return to Dennises' Petition for Writ of Certiorari, this Court has previously rejected the dissent's assertion of "perpetual liability" in *The Callawassie Island Members Club, Inc. v. Dennis*, 425 S.C. 193, 821 S.E.2d 667, 673 (2018) ("*Dennis I*"), where this Court wrote: "We are *not* deciding whether the governing documents could support perpetual liability under these or any other facts." 821 S.E.2d at 672. (Emphasis in original). The Court explained that "we decide only the issues before us in *this* case," and the issue of perpetual liability was not raised below. *Id.* (Emphasis in original). As this Court

recognized, “[t]he Dennises have not asked the circuit court, the court of appeals, nor this Court to decide the case based on any alleged harshness of having to pay dues.” *Id.*

Fifth, in footnote 4 of its Return to Dennises’ Petition for Writ of Certiorari, CIMC was simply following up on this Court’s observation that “[i]f the Dennises truly wish to avoid paying membership dues, they may sell their house.” 821 S.E.2d at 672. The Dennises pointed out that their property has been conveyed, and thus based on the Court’s previous ruling, “perpetual liability” is no longer an issue for the Dennises -- even if it had been properly raised in the trial court and the Court of Appeals. The Dennises have not disputed that they no longer accrue dues and fees owed to CIMC but only remain liable for the past indebtedness that accrued prior to the conveyance of their property. That is consistent with the governing documents in effect at the time of the Dennises’ resignation, as this Court has already ruled.¹

Based on the foregoing reasons, CIMC respectfully requests that the Motion to Strike Material Misrepresentation be denied.

Respectfully submitted,

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¹ This Court has previously ruled that “[w]hen the Dennises resigned in 2010, the membership documents in effect were the 2008 Plan, the 2009 Bylaws, and the 2009 Rules.” *Dennis*, 821 S.E.2d at 670.

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