

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

Sep 21 2020

SC Court of Appeals

Appeal from Charleston County
Court of Common Pleas, Ninth Judicial Circuit
Hon. Judge Bentley D. Price, Circuit Court Judge, Presiding

2020-CP-10-00209

Eugene J. Zurlo, Individually and as Co-Trustee of the Eugene J. Zurlo Living Trust Dated December 11, 1997; 1776, LLC; Beach Fenwick, LLC; The Beach Company; Seamon, Whiteside & Associates, Inc.; Penny Creek Associates, LLC; John Doe and Mary Roe.....Respondents,

Versus

Maybank 2754, LLC..... Appellant.

**RETURN TO RESPONDENTS'
MOTION TO DISMISS**

s/Scarlet B. Moore

Scarlet B. Moore, #72534
Attorney for Appellant, Maybank 2754, LLC
P.O. Box 17615
Greenville, S.C. 29606
(864) 214-5805
(864) 752-0930 (FAX)

September 21, 2020

NOW INTO COURT, comes the Appellant Maybank 2754, LLC, who submits the following Return to the Respondents' Motion to Dismiss. The Appellant asserts that the appeal should not be dismissed, due to the fact that the order entered by the Master-In-Equity transferring this matter back to the Circuit Court was entered without jurisdiction. Rule 205 of the SCRAP is clear that upon the service of the notice of appeal, the appellate court shall have exclusive jurisdiction over the appeal. Rule 205 permits the lower court to proceed with matters not affected by the appeal, however this exception is not applicable in this case. The Master's order purports to usurp the jurisdiction of the appellate court on the issue directly before this court – namely whether this matter shall be tried by a jury. However, it appears from the Respondents' motion to dismiss that they would be willing to execute a consent order for this Court's consideration, with all parties consenting to the jurisdiction of the Circuit Court for a trial by jury in this matter.

Further, the Respondents' request for a bond is meritless as a final judgment has not been entered in their favor in this case. Lastly, the Respondents have not followed the proper procedure for requesting an appeal bond by placing a request in a motion to this Court.

The Respondents' motion to dismiss this matter lacks merit, and it should be dismissed, with prejudice.

Respectfully Submitted,

s/Scarlet B. Moore

Scarlet B. Moore, #72534
Attorney for Appellant,
Maybank 2754, LLC
P.O. Box 17615
Greenville, S.C. 29606
(864) 214-5805
(864) 752-0930 (FAX)

Greenville, South Carolina
September 21, 2020.

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

Sep 21 2020

SC Court of Appeals

Appeal from Charleston County
Court of Common Pleas, Ninth Judicial Circuit
Hon. Judge Bentley D. Price, Circuit Court Judge, Presiding

2020-CP-10-00209

Eugene J. Zurlo, Individually and as Co-Trustee of the Eugene J. Zurlo Living Trust Dated December 11, 1997; 1776, LLC; Beach Fenwick, LLC; The Beach Company; Seamon, Whiteside & Associates, Inc.; Penny Creek Associates, LLC; John Doe and Mary Roe.....Respondents,

Versus

Maybank 2754, LLC..... Appellant.

CERTIFICATE OF SERVICE

I certify that on this date, I have served the **Appellant's Return to the Respondents' Motion to Dismiss**, on opposing counsel to their respective e-mail addresses, pursuant to the Order of the Supreme Court Appellate Case No, 2020-000447(g)(3).

Cheryl D. Shoun - cshoun@nexsenpruet.com

Alexandra Harrington Austin -aaustin@nexsenpruet.com

John Patrick Turner Norris - pnorris@cskl.law

Kent Taylor Stair - kstair@cskl.law

Jordan N. Teich - jteich@cskl.law

Jason S. Smith - js@hellmanyates.com

Brian A. Hellman - bh@hellmanyates.com

J. Rutledge Young, Jr. - ryoung@duffyandyoung.com

Blake Abernethy McKie - bmckie@duffyandyoung.com

Thomas Bacot Pritchard - tpritchard@pnalaw.net

Jason Tarokh – jason@tarokhlaw.com

Jennifer Canaday -- jcanaday@cskl.law

Katie Shaw – kshaw@cskl.law

Respectfully Submitted,

s/Scarlet B. Moore

Scarlet B. Moore, #72534
Attorney for Appellant,
Maybank 2754, LLC
P.O. Box 17615
Greenville, S.C. 29606
(864) 214-5805
(864) 752-0930 (FAX)

Greenville, South Carolina
September 21 2020.

SCARLET B. MOORE, ESQ.

Attorney at Law

P.O. BOX 17615
GREENVILLE, SC 29606
(864) 214-5805
(864) 752-0930 (FAX)

September 21, 2020

Jenny Abbott Kitchings
Clerk, The South Carolina Court of Appeals
P.O. Box 11629
Columbia, S.C. 29211

RECEIVED

Sep 21 2020

SC Court of Appeals

**RE: Maybank 2754, LLC, Appellant vs. Eugene J. Zurlo, Individually and as Co-Trustee of the Eugene J. Zurlo Living Trust dated December 11, 1997; Beach Fenwick, LLC; The Beach Company; Seamon, Whiteside & Associates, Inc.; Penny Creek Associates, LLC; John Doe and Mary Roe, Respondents
Case Number: 2020-001030**

Dear Madam Clerk,

Enclosed please find the Appellant's Return to Respondents' Motion to Dismiss, and a Certificate of Service. If the Court requires further information, please do not hesitate to contact me. With kind regards, I remain

Very Truly Yours,

s/Scarlet B. Moore

Scarlet B. Moore, Esq.
Counsel for Appellant

SBM/sfk

Cc: Alexandra Harrington Austin, Esq.
Blake Abernethy McKie, Esq.
Thomas Bacot Pritchard, Esq.
Jason S. Smith, Esq.
Jason M. Tarokh, Esq.
J. Rutledge Young, Jr., Esq.
Jenifer Canaday

Brian A. Hellman, Esq.
John Patrick Turner Norris, Esq.
Cheryl D. Shoun, Esq.
Kent Taylor Stair, Esq.
Jordan N. Teich, Esq.
Katie Shaw