

The South Carolina Court of Appeals

South Carolina Public Interest Foundation and John Crangle, individually and on behalf of all others similarly situated, Respondents,

v.

Alan Wilson, Attorney General for the State of South Carolina, Willoughby & Hoefer, P.A., and Davidson, Wren & DeMasters, P.A., Defendants,

Of which Willoughby & Hoefer, P.A. and Davidson, Wren & DeMaster, P.A. are the Appellants.

Appellate Case No. 2020-001314

ORDER

Appellants have appealed the circuit court's *Ex Parte* Temporary Restraining Order, which enjoins Appellants "from transferring, spending, pledging, or otherwise encumbering the proceeds of the \$75 Million wire transfer received from the State of South Carolina on September 29, 2020," and requires Appellants to appear for a hearing on the merits of Respondents' motion for a preliminary injunction on October 7, 2020, "to show cause why [Respondents'] motion for a preliminary injunction should not be granted." Appellants have also filed a petition for a writ of supersedeas, requesting that this court issue an order "superseding and dissolving the *Ex Parte* Order," with specific instructions as to the conduct of the October 7, 2020 hearing.¹

After careful consideration of the parties' filings, Appellants' motion is denied, and we decline to supersede or dissolve the *Ex Parte* Temporary Restraining Order.

¹ Respondents subsequently filed a motion to certify this appeal and a petition for original jurisdiction with our Supreme Court. Both the motion and the petition remain pending.

We acknowledge, however, Appellants' concern regarding the language of the circuit court's order as to the burden of proof required during a hearing on a preliminary injunction, and we agree the language of the notice could be interpreted as altering the plaintiff's burden to demonstrate that an injunction is warranted. We recognize that this issue is premature, and the circuit court will have the opportunity to apply the appropriate burden of proof during the hearing, which is currently scheduled for October 7, 2020. We further note the *Ex Parte* Temporary Restraining Order will expire pursuant to Rule 65(b), SCRCP, no later than ten days from the date of its entry.



FOR THE COURT

Columbia, South Carolina

cc:

John S. Simmons, Esquire
James Todd Rutherford, Esquire
James Mixon Griffin, Esquire
Badge Humphries, Esquire
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FILED

October 6, 2020