

RECEIVED

Feb 23 2021

SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM ANDERSON COUNTY  
Court of Common Pleas

Honorable R. Lawton McIntosh, Circuit Court Judge

Appellate Case No. 2020-\_\_\_\_\_

Case No. 2019-CP-04-00752

Robert Ayers, Paul Barkal, Susan Barkal, Gloria Bennett, Kurt  
Blaettler, Vandy Kim, Glenn Kornett, Gudrun Kornett, David Larson,  
Lucye Larson, Florence Lince, Mike Lince, Michael McGraw, Diane  
Bernat, and William Schaidle, ..... Plaintiffs / Respondents,

v.

Chris Dixon; Samuel J. Dixon; Black Harbor Wealth Management, LLC;  
Faw Casson & Co., LLP; Shurwest, LLC; and Pacific Life Insurance  
Company, ..... Defendants,

of whom Shurwest, LLC is the ..... Appellant.

and

Shurwest, LLC, ..... Third-Party Plaintiff / Appellant,

v.

MJSM Financial, LLC and Melanie  
Schulze-Miller ..... Third-Party Defendant / Respondent.

*And*

---

APPEAL FROM ANDERSON COUNTY  
Court of Common Pleas

Honorable R. Lawton McIntosh, Circuit Court Judge

Appellate Case No. 2020-\_\_\_\_\_

Case No. 2019-CP-04-02151

---

**RECEIVED**

**Feb 23 2021**

**SC Court of Appeals**

William and Karen Rich, ..... Plaintiffs / Respondents,

v.

J. Christopher Dixon; Christopher J. Dixon; Black Harbor  
Wealth Management, LLC; and Shurwest, LLC, ..... Defendants,

of whom Shurwest, LLC is the ..... Appellant.

and

Shurwest, LLC, ..... Third-Party Plaintiff / Appellant,

v.

MJSM Financial, LLC and Melanie  
Schulze-Miller ..... Third-Party Defendant / Respondent.

*And*

**RECEIVED**

**Feb 23 2021**

**SC Court of Appeals**

---

APPEAL FROM ANDERSON COUNTY  
Court of Common Pleas

Honorable R. Lawton McIntosh, Circuit Court Judge

Appellate Case No. 2020-\_\_\_\_\_

Case No. 2019-CP-04-00479

---

Elizabeth Billings, Pamela Bott, Devon and Barbara Corley,  
Thomas Dantzler, Jane Downing, Thomas and Laura Eliason,  
Dennis Ellis, Bobby Floyd, Steven Ganley, Stanley Hix, Suzanne  
Hofford, Robert Johnson, Jerome and Robin Karnowski, Jerry and  
Kerry Kelley, Christine Lawson, Robert Manning, Diane Mayfield  
Kelley McGraw Gray, Jeff Mitchell, Fred Myette, Mary Orem,  
Drucilla Perry, Dennis and Maxine Pierson "Dennis and Maxine  
Pierson living Trust," Earl Switzer, Alan Weeks, John and Mary  
Wendorf, and Virginia Howard, ..... Plaintiffs / Respondents,

v.

Chris Dixon; Black Harbor Wealth Management, LLC; Faw Casson  
& Co., LLP; and Shurwest, LLC,.....Defendants,

of whom Shurwest, LLC is the ..... Appellant.

and

Shurwest, LLC, ..... Third-Party Plaintiff / Appellant,

v.

MJSM Financial, LLC and Melanie  
Schulze-Miller ..... Third-Party Defendant / Respondent.

---

MOTION TO CONSOLIDATE

---

Pursuant to Rules 214 and 240, SCACR, Shurwest, LLC moves to consolidate these three appeals.

These three appeals all arise from the same set of facts. In 2019, Future Income Payments, LLC was indicted in the District of South Carolina by federal officials for running a Ponzi scheme. That criminal indictment led to myriad lawsuits, including these three. In short, the plaintiffs in all three cases allege that Chris Dixon and his company, Black Harbor Wealth Management, LLC, gave them bad financial advice regarding Future Income Payments, LLC's product, and that Dixon got his advice from Shurwest. Shurwest denied that it did anything wrong, but said if it did, Melanie Schulze-Miller and her company (MJSM Financial, LLC) were liable to Shurwest because Schulze-Miller and her company (not Shurwest) recommended Future Income Payments, LLC's product without Shurwest's knowledge (which had in fact refused to endorse Future Income Payments, LLC's product).

These three appeals followed similar procedural paths in circuit court. First, Shurwest moved to dismiss each case based on lack of personal jurisdiction. The circuit court denied those motions in essentially identical orders. Next, when it answered the complaints, Shurwest also filed third-party complaints against Schulze-Miller and MJSM Financial, LLC. The plaintiffs in each case moved to strike or sever the third-party complaints, and Schulze-Miller and MJSM Financial, LLC moved to dismiss the third-party complaints. The circuit court granted all of the motions to strike and to dismiss, again in essentially identical orders. Now, Shurwest has appealed in each case.

Because these three appeals arise from the same set of facts and followed similar procedural paths, they now raise the same legal questions in this Court. First, they raise the issue of personal jurisdiction, as the circuit court held that Shurwest was subject to both general and specific jurisdiction in South Carolina.\* Second, they involve the third-party complaint and whether it can proceed not only as part of this case but also whether it can proceed at all, after the circuit court held Shurwest's claims were barred and would complicate the litigation.

This is therefore precisely the situation Rule 214 covers: "where the same question is involved in two or more appeals in different cases." *See also Wooten v. Wooten*, 364 S.C. 532, 538, 615 S.E.2d 98, 101 (2005) (consolidating "two appeals for review and resolution" under Rule 214). Consolidation makes sense here. There is no need to brief this case three times and have three panels of this Court address these issues. One set of briefs and one panel are sufficient. That will ensure the best use of the parties' and the Court's resources, and it will eliminate the risk of inconsistent decisions.

These three appeals should accordingly be consolidated for all purposes.

---

\* Although orders denying motions to dismiss for lack of personal jurisdiction are typically not immediately appealable, a personal jurisdiction question "can be considered when other appealable issues are presented to an appellate court." *QZO, Inc. v. Moyer*, 358 S.C. 246, 252, 594 S.E.2d 541, 545 (Ct. App. 2004).

Respectfully submitted,

s/ Wm. Grayson Lambert

Wm. Grayson Lambert

S.C. Bar No. 101282

Benjamin E. Nicholson, V

S.C. Bar No. 10137

BURR & FORMAN LLP

Post Office Box 11390

Columbia, S.C. 29211

(803) 799-9800

IS Leevy Johnson

S.C. Bar No. 3020

George C. Johnson

S.C. Bar No. 9308

JOHNSON, TOAL & BATTISTE, PA

1615 Barnwell Street

Columbia, SC 29201

(803) 252-9700

*Counsel for Appellant*

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

---

APPEAL FROM ANDERSON COUNTY  
Court of Common Pleas

Honorable R. Lawton McIntosh, Circuit Court Judge

Appellate Case No. 2020-\_\_\_\_\_

Case No. 2019-CP-04-00752

---

Robert Ayers, Paul Barkal, Susan Barkal, Gloria Bennett, Kurt  
Blaettler, Vandy Kim, Glenn Kornett, Gudrun Kornett, David Larson,  
Lucye Larson, Florence Lince, Mike Lince, Michael McGraw, Diane  
Bernat, and William Schaidle, ..... Plaintiffs / Respondents,

v.

Chris Dixon; Samuel J. Dixon; Black Harbor Wealth Management, LLC;  
Faw Casson & Co., LLP; Shurwest, LLC; and Pacific Life Insurance  
Company, ..... Defendants,

of whom Shurwest, LLC is the ..... Appellant.

and

Shurwest, LLC, ..... Third-Party Plaintiff / Appellant,

v.

MJSM Financial, LLC and Melanie  
Schulze-Miller ..... Third-Party Defendant / Respondent.

*And*

---

APPEAL FROM ANDERSON COUNTY  
Court of Common Pleas

Honorable R. Lawton McIntosh, Circuit Court Judge

Appellate Case No. 2020-\_\_\_\_\_

Case No. 2019-CP-04-02151

---

William and Karen Rich, ..... Plaintiffs / Respondents,

v.

J. Christopher Dixon; Christopher J. Dixon; Black Harbor  
Wealth Management, LLC; and Shurwest, LLC, ..... Defendants,

of whom Shurwest, LLC is the ..... Appellant.

and

Shurwest, LLC, ..... Third-Party Plaintiff / Appellant,

v.

MJSM Financial, LLC and Melanie  
Schulze-Miller ..... Third-Party Defendant / Respondent.

*And*

RECEIVED

Feb 23 2021

SC Court of Appeals

APPEAL FROM ANDERSON COUNTY  
Court of Common Pleas

Honorable R. Lawton McIntosh, Circuit Court Judge

Appellate Case No. 2020-\_\_\_\_\_

Case No. 2019-CP-04-00479

Elizabeth Billings, Pamela Bott, Devon and Barbara Corley,  
Thomas Dantzler, Jane Downing, Thomas and Laura Eliason,  
Dennis Ellis, Bobby Floyd, Steven Ganley, Stanley Hix, Suzanne  
Hofford, Robert Johnson, Jerome and Robin Karnowski, Jerry and  
Kerry Kelley, Christine Lawson, Robert Manning, Diane Mayfield  
Kelley McGraw Gray, Jeff Mitchell, Fred Myette, Mary Orem,  
Drucilla Perry, Dennis and Maxine Pierson "Dennis and Maxine  
Pierson living Trust," Earl Switzer, Alan Weeks, John and Mary  
Wendorf, and Virginia Howard, ..... Plaintiffs / Respondents,

v.

Chris Dixon; Black Harbor Wealth Management, LLC; Faw Casson  
& Co., LLP; and Shurwest, LLC,.....Defendants,

of whom Shurwest, LLC is the ..... Appellant.

and

Shurwest, LLC, ..... Third-Party Plaintiff / Appellant,

v.

MJSM Financial, LLC and Melanie  
Schulze-Miller ..... Third-Party Defendant / Respondent.

CERTIFICATE OF SERVICE

I certify that the MOTION TO CONSOLIDATE was served on all counsel of record via electronic mail, pursuant to Supreme Court Order 2020-03-20-01, § (g)(3), on February 23, 2021, and a copy of that electronic mail is attached to this certificate:

Robert G. Rikard  
rgr@rplegalgroup.com  
Peter D. Protopapas  
pdp@rplegalgroup.com  
Jescelyn T. Spitz  
jspitz@rplegalgroup.com  
Jeremy C. Hodges  
jhodges@rplegalgroup.com  
RIKARD & PROTOPAPAS, LLC  
P.O. Box 5640  
Columbia, SC 29250

*Counsel for Plaintiffs / Respondents*

Charles A. Kinney  
ckinney@collinsandlacy.com  
COLLINS & LACY, P.C.  
P.O. Box 12487  
Columbia, SC 29211

Benjamin J. Biard  
biard.b@wssllp.com  
WINGET SPADAFORA & SCHWARTZBERG, LLP  
14 NE 1st Ave., Suite 600  
Miami, FL 33132

*Counsel for Chris Dixon, Samuel J. Dixon, and Black Harbor Wealth Management, LLC*

David W. Overstreet  
david@earhartoverstreet.com  
Michael B. McCall  
mike@earhartoverstreet.com  
Joshua H. Umbarger  
josh@earhartoverstreet.com  
EARHART OVERSTREET LLC  
P.O. Box 22528  
Charleston, SC 29413

*Counsel for Faw Casson & Co., LLP*

J. Derrick Quattlebaum  
dquattlebaum@hsblawfirm.com  
Jonathan D. Klett  
jklett@hsblawfirm.com  
HAYNSWORTH SINKLER BOYD  
One North Main St., 2nd Floor  
Greenville, SC 29601

*Counsel for Pacific Life Insurance Company*

Deborah B. Barbier  
dbb@deborahbarbier.com  
DEBORAH B. BARBIER, ATTORNEY AT LAW  
1811 Pickens St.  
Columbia, SC 29201

*Counsel for MJSM Financial, LLC and Melanie Schulze-Miller*

s/ Wm. Grayson Lambert  
Wm. Grayson Lambert

## Lambert, Grayson

---

**From:** Lambert, Grayson  
**Sent:** Tuesday, February 23, 2021 5:06 PM  
**To:** 'rgr@rlegalgroup.com'; 'pdp@rlegalgroup.com'; 'jspitz@rlegalgroup.com';  
'jhodges@rlegalgroup.com'; 'ckinney@collinsandlacy.com'; 'biard.b@wsslip.com';  
'david@earhartoverstreet.com'; 'mike@earhartoverstreet.com';  
'josh@earhartoverstreet.com'; 'dquattlebaum@hsblawfirm.com';  
'jklett@hsblawfirm.com'; 'dbb@deborahbarbier.com'  
**Cc:** Nicholson, Ned; 'islj@jtbpa.com'; 'Hopkins, Jason'  
**Subject:** Ayers, Billings, and Rich Appeals - Motion to Consolidate  
**Attachments:** Ayers, Billings, and Rich - Motion to Consolidate.pdf

Counsel:

Please find attached a motion to consolidate these three appeals.

Regards,  
Grayson