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SC Court of Appeals

**STATE OF SOUTH CAROLINA
In the Court of Appeals**

**APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas
Business Court: The Honorable Maite Murphy**

Appellate Case No. 2021-000225

The Carolina Appraisal Group, Inc. and The Carolina Appraisal
Group-Residential, LLC.....Respondents,

v.

Wagener Insurance Agency and Realty, Inc.; Douglas Appraisal, LLC,
And Robert D. Douglas.....Appellants,

v.

Harris Benjamin Davis, Jr., The Carolina Appraisal Group W-2, LLC
.....Third-Party Defendants.

**APPELLANTS' REPLY TO RETURN OF RESPONDENTS TO EMERGENCY PETITION FOR
WRIT OF SUPERSEDEAS**

Wagener Insurance Agency and Realty, Inc.; Douglas Appraisal, LLC and Robert D.
Douglas (collectively, "Appellants"), reply to the return of Respondents to their Petition as
set forth below and again urge this Court to issue its Order granting the requested relief.

ARGUMENT IN REPLY

- I. The Petition is properly before this Court, and further proceedings on
this issue in the Business Court would serve no purpose other than delay.**

Respondents spend the bulk of their return arguing that Appellants must first seek supersedeas in the Business Court. Rule 241(d)(1), however, clearly contemplates that the request may be brought first in the appellate court under extraordinary circumstances, including unnecessary delay in the lower court's ruling. As shown in Appellants' Petition and supported in the attached documents¹, Appellants *did* ask the Business Court to stay the Injunction pending their motion for reconsideration. [Petition at 8, Exhibit H]. The Business Court has not to date made an explicit ruling on that motion. The Business Court's ruling on Appellants' Rule 59(e) motion, which placed in Respondents' hands the timing of the Injunction coming into effect, is unmistakable evidence that the Business Court will not abate its Injunction pending this appeal.

While Respondents also devote substantial time to arguing against *ex parte* relief, this Court's letter of March 4, 2021, requesting a return from Respondents, along with Respondents' having filed the return, effectively moots the request for *ex parte* relief.

II. Appellants' Petition properly and completely justifies the requested grant of a writ of supersedeas.

Respondents' substantive argument against this Court's issuance of a writ of supersedeas is primarily based on the *assumptions* on which the Business Court relied in granting its Injunction. These include the assumptions that because Appellant Robert Douglas is a licensed real estate and insurance salesperson, which Appellants have shown – and Respondents have presented no evidence to refute – are not Appellants' source of

¹ Appellants note that Respondents, while making extensive factual allegations, did not present affidavits or other documentation to support their Return as required by Rule 241(c)(3).

income. Respondents also argue – with no evidentiary showing – that Appellants’ *past* receipts must allow the current funding of the escrow account mandated by the Business Court’s Injunction. [Return at 15-16] As shown by Appellant Douglas’ affidavit filed with the Petition, the only *evidence* before the Court is that Appellants cannot fund the escrow account mandated by the Injunction.

III. Supersedeas should be granted without a bond.

As shown in the Petition, suspension of the Injunction will have the effect of returning the parties to the *status quo*, as it existed for a year prior to the filing of the underlying litigation and for months between then and the Business Court’s issuance of the Injunction. It is therefore unnecessary to require Appellants to post a supersedeas bond. If, however, this Court wishes to hold a hearing or otherwise request more detailed financial evidence in connection with Respondents’ request, Appellants will of course comply.

CONCLUSION

For the foregoing reasons, Appellants respectfully ask that this Court issue its Order granting a writ of supersedeas pending the outcome of this appeal or further Order of this Court.

Respectfully submitted,

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March 16, 2021

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The Carolina Appraisal Group, Inc. and The Carolina Appraisal
Group-Residential, LLC.....Respondents,

v.

Wagener Insurance Agency and Realty, Inc.; Douglas Appraisal, LLC,
And Robert D. Douglas.....Appellants,

v.

Harris Benjamin Davis, Jr., The Carolina Appraisal Group W-2, LLC
.....Third-Party Defendants.

PROOF OF SERVICE

The undersigned counsel for Appellants hereby certifies that he has served a copy of the Reply to Return of Respondents to Petition for Writ of Supersedeas on the date shown below by emailing a copy of the same to counsel for Respondents, addressed as follows:

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March 16, 2021

s/Adam T. Silvernail
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