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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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

Appellate Case No. 2020-001030

Maybank 2754, LLC…….Appellant,

Versus

Eugene 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.

REPLY BRIEF OF APPELLANT

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s/Scarlet B. Moore

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May 28, 2021

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ARGUMENT

I. THE TRIAL COURT DID NOT HAVE SUBJECT MATTER JURISDICTION OF THIS MATTER, AND THE DOCTRINE OF "HARMLESS ERROR" IS INAPPLICABLE TO THE ISSUE OF SUBJECT MATTER JURISDICTION.

The Respondents seem to concede at least the possibility that the Master in Equity did not have subject matter jurisdiction to return this case to the Circuit Court by noting in a footnote that even if there were no subject matter jurisdiction, this was harmless error. (Zurlo's Initial Brief, p. 16 n. 5); (Beach Fenwick, LLC's and The Beach Company's Initial Brief, p. 13 n. 5). As the Appellant noted in brief, subject matter jurisdiction jurisprudence does not provide for a "harmless error" exception nor remedy, due to the fact that subject matter jurisdiction cannot be waived, nor consented to, and can be raised for the first time on appeal – even up to the South Carolina Supreme Court. Additionally, the Respondents failed to point out in brief that counsel for the Appellant did, in fact, raise the issue of jurisdiction at the summary judgment hearing before Judge Price, despite the fact that raising this issue for the record was unnecessary pursuant to the jurisprudence regarding subject matter jurisdiction. However, the Respondents accurately state the facts in pointing out that the Master's order transferring this case back to the Circuit Court was issued ***after*** the filing of the Appellant's notice of appeal, which notice was filed ***prior*** to the referenced status conference with the Master, which conference led to the transfer order. Additionally, it is wholly irrelevant that the Master's order coincided with the relief ultimately sought by the Appellant, as the issue of subject matter jurisdiction is a crucial threshold consideration for any court in the State of South Carolina: any order by a court lacking subject matter jurisdiction in this state is simply void. Appellant is satisfied, however, that the Respondents admit in brief that the Appellant invited the Respondents to enter into a consent order of dismissal of this appeal in its Return to the

Respondents' failed effort to have this Court dismiss this appeal. A consent order filed with this Court would have properly resolved the jurisdictional issue -- however, the Respondents plainly admit in brief that the Appellant's invitation to resolve this matter properly was ignored.

Further, the argument of Respondents that this appeal is somehow now moot (pursuant to the prevailing mootness jurisprudence in the State of South Carolina), wholly lacks merit. The only relevant "intervening event" in this case was the filing of the notices of appeal by the Appellant, which placed jurisdiction squarely before this Honorable Appellate Court at the time of the Master's transfer order. The Master simply and plainly had no jurisdiction to issue its order transferring this case to the Circuit Court, and this Honorable Court should reject the unmeritorious arguments of the Respondents in brief.

Lastly, the Respondents make the very curious argument that somehow the Appellants have failed to prosecute their appeal. The appeals in this case were consolidated by this Honorable Court's order, and the Appellant has complied with all requirements and orders of this Court. As the appeals were consolidated, all issues are being considered at the same time and the Respondents' designation of the "first" or "second" appeal is erroneous. All issues regarding these parties have been consolidated into one appeal, and Respondents can find no justification for this failed argument. Therefore, as the arguments of Respondents lack merit, this Honorable Court should reverse the order of Honorable Bentley Price.

II. THE RESOLUTION, CONTRACT FOR ASSIGNMENT AND ASSIGNMENT CREATE AN EASEMENT AND DO NOT AMOUNT TO A MERE AGREEMENT TO AGREE.

Appellant claims an easement by virtue of the Resolution of the Sole Shareholder of Penny Creek Associates, L.L.C. (herein "Resolution"), the Contract for Assignment of Interest (herein

"Contract for Assignment"), and the Assignment of Membership Interest and Written Consent in Lieu of a Special Meeting of the Sole Member of Maybank 2754, LLC (herein "Assignment"). Beach Fenwick, LLC's and The Beach Company's argument that the Resolution, Contract for Assignment and Assignment did not create an easement and only amount to a mere agreement to agree is wholly without merit as demonstrated by the following cases. (Beach Fenwick, LLC's and The Beach Company's Initial Brief, p. 15-32).

In *Ten Woodruff Oaks , LLC v. Point Development, LLC*, 385 S.C. 174, 180 683 S.E.2d 510 (Ct. App. 2009), which is analogous to this case, this Court rejected the same argument being made by Beach Fenwick, LLC and The Beach Company in the instant case, and stated:

> [Appellant] "**contends that the letter agreement that CICC and TWO signed was a best a contract evidencing the parties' intent to create an easement upon the preparation and recording of various legal documents**. [Appellant] further asserts CICC and TWO failed to follow through on numerous issues that were either required or contemplated by the letter agreement, such as the preparation of reciprocal easement agreements and a specific description of the easement terms. **We disagree**.
>
> '**As a general rule, to constitute a grant of an easement, any words clearly showing the intention to grant an easement are sufficient**.' 25 Am.Jur.2d Easements and Licenses § 15, at 512 (2004). "Whether a grant in a written instrument creates an easement and the type of easement created are to be determined by ascertaining the intention of the parties as gathered from the language of the instrument; the grant should be construed so as to carry out that intention." *Smith v. Comm'rs of Pub. Works of City of Charleston*, 312 S.C. 460, 466, 441 S.E.2d 331, 335 (Ct.App.1994). "If the language is uncertain or ambiguous in any respect, all the surrounding circumstances, including the construction which the parties have placed on the language, may be considered by the court, to the end that the intention of the parties may be ascertained and given effect." 25 Am.Jur.2d Easements § 18, at 516 (2004).
>
> We recognize the letter agreement has language suggesting the agreement to establish an easement could be executory in nature; however, contrary to what [Appellant] argues, this language does not indicate the easement CICC intended to grant to TWO was contingent on the completion of the various tasks enumerated in the letter. As a practical matter, enjoyment of the interest would require physical preparation of the grounds subject to the easement, and legal work would have been

> necessary to ensure that the easement remained enforceable as to subsequent title holders of the estates involved.
>
> (footnotes omitted) (emphasis added).

Furthermore, this Court stated in *Smith:*

> Whether a grant in a written instrument creates an easement and the type of easement created are to be determined by ascertaining the intention of the parties as gathered from the language of the instrument; the grant should be construed so as to carry out that intention. *Sandy Island Corp. v. Ragsdale*, 246 S.C. 414, 143 S.E.2d 803 (1965); 23 Am.Jur.2d Easements and Licenses § 23 (1966) (**if the language is uncertain or ambiguous in any respect, all surrounding circumstances, including the construction which the parties have placed on the language, may be inquired into and taken into consideration by the court**). (emphasis added).

After this Court in *Smith* found that the agreement established an easement, this Court ruled that the easement was to be located in a location as is reasonably necessary for the full enjoyment of the plaintiffs' property. The Court of Appeals stated, "The subject **unlocated** easement must be interpreted, however, in light of good faith, reasonableness **and what was necessarily the intent of the parties to the 1955 agreement**." *Id*. at 336 (emphasis added). Accordingly, the Court of Appeals in *Smith* remanded the case for a determination of the number of access points and routes to include their width. *Id*. at 337.

Moreover, in *Douglas v. Medical Investors, Inc.*, 256 S.C. 440, 182 S.E.2d 720 (1971), the South Carolina Supreme Court ruled that an instrument creating an easement was an easement in gross for commercial purposes even though it was not apparent on its face. The Court found that the wording of the instrument "leaves the exact character of the easement in doubt", and stated, **"[w]e are therefore presented with a situation where it is impossible to determine the nature or character of the easement from the language used in the reservation. Under such**

circumstances, parole evidence was properly considered in determining the character of the easement reserved." *Id*. (emphasis added). In reaching its ruling the Court stated, "The fallacy in respondent's argument [that the character of the easement should be determined solely from the working of the instrument and parole evidence also was inadmissible] lies in the fact that...the wording of the present reservation leaves the exact character of the easement in doubt." *Id*. at 447. Thus, the Court ruled that parole evidence was properly admitted to determine the character of the easement. Therefore, parole evidence is necessary and admissible to determine the intention of the parties relative to the nature or character, extent and location of the easement, and the intention of the parties relative to the reference to "that certain roadway known as Pitch Fork Road".

In *West v. Newberry Electric Cooperative*, 357. S.C. 537 (S.C. Ct. App. 2004), this Court found that a 1955 written easement agreement was a restrictive covenant despite the fact that the agreement was unrecorded. In so finding, the Court of Appeals stated:

> **The very language of the 1955 easement reveals it to be a restrictive covenant that runs with the land**. In the agreement, NEC promises to relocate the power line should the property ever "be developed." That agreement applies to the land. While the agreement does not specify whether this promise was to be honored only with respect to the Matthews, **it does envision the future of the land** and thus applies to the Wests. *See Marathon, 325 S.C. at 604, 483 S.E.2d at 765* (explaining that a "restrictive covenant runs with the land, and is thus enforceable by a successor-in-interest, if the covenanting parties intended that the covenant run with the land, and the covenant touches and concerns the land") (citation omitted).
>
> Moreover, the restrictive covenants in the 1955 easement touch and concern the subject property. The Matthews insisted upon several conditions in order to maintain the safety and value of the property. The subject of the covenants is a power line connected to and crossing over the land. Adherence to the covenants by NEC directly affects the nature and value of the easement to both NEC and the Wests. The covenants in the easement also restrict the manner in which NEC can use the easement. **The exact location of the easement on the property is not described in the easement, but its possible relocation is contemplated.** The covenants were obviously intended to touch and concern the subject property.

Id. at 542-3.

Just as the exact location of the easement was not described in *West* and was found to be enforceable as a restrictive covenant, the exact location of the easement is not described in the Resolution, Contract for Assignment and Assignment. *Id.*

The Resolution, Contract for Assignment and Assignment create an easement do not amount to a mere agreement to agree based upon their language. Parole evidence is necessary to determine the intention of the parties relative to the nature or character, extent and specific location of the easement over the servient estate, and the intention of the parties relative to the reference to the "Pitchfork Road" language in these documents.

III. THE ISSUE OF SUBORDINATION IS A RED HERRING.

All the Respondents except for Seamon, Whiteside & Associates, Inc. (herein "SWA"), argue that S.C. Code Ann. § 30-7-20 is controlling on the issue of validity of the subject easement. (Zurlo's Initial Brief, p. 17 -18, 22; Penny Creek Associates, LLC's Initial Brief, p. 4; Beach Fenwick, LLC's and The Beach Company's Initial Brief, p. 25; and 1776, LLC's Initial Brief, p. 4). However, this argument creates a red herring issue. Said Respondents are misconstruing and misapplying the plain language of this statute by effectively arguing that that when a superior lien exists on the servient estate, an easement must be expressly subordinated to it in a recorded written instrument as a prerequisite to the easement's validity. However, this position is not supported by the plain language of the statute, which only concerns the manner and form in which a lien existing on real property can be subsequently subordinated, waived or extended. The statute plainly has nothing to do with easements at all. S.C. Code Ann. § 30-7-20 states:

SECTION 30-7-20. Manner and form of recordation of contract affecting recorded lien on real property.

The recordation of **any contract in the nature of a subordination, waiver or extension of any lien on real property**, created by law or by agreement of the parties, shall be upon the record of the recorded mortgage or other written instrument except that it may be recorded elsewhere, if in the book for the recording of mortgages there should be no place upon the record of the recorded mortgage or other written instrument sufficient for the recordation of **such contract in the nature of a subordination, waiver or extension**, in which event there shall be entered on the margin of the recorded mortgage or other written instrument in regard to which such contract in the nature of a subordination, waiver or extension has been thus recorded elsewhere an appropriate reference to such recordation, giving the names of the parties thereto and the date and the book and page where such instrument is recorded. But in any county where the records are photographed, or microphotographed, or filmed, and there shall be no place upon the record of the recorded mortgage or other written instrument or upon the margin of the recorded mortgage or other written instrument sufficient for the recordation of **such contract in the nature of a subordination, waiver or extension**, such documents may be separately recorded as other instruments, and notation of the place of such recordation shall be entered on the index for the mortgage or other written instrument, or in a legible manner in the jacket or other container for such photograph, microphotograph or film. **Any contract in the nature of a subordination, waiver or extension of any lien on real property** created by law or by agreement of the parties, to be entitled to be recorded as herein provided shall be in writing and witnessed as mortgages of real property are required to be witnessed and not probated when it is upon the original mortgage or other instrument itself, but when it is upon a separate piece then it shall be probated in the same manner as is provided by law for the probating of mortgages of real property.(emphasis added).

"An easement is the right of one person to use the land of another for a specific purpose. An easement is characterized as either appurtenant, in gross, or in gross for commercial purposes. A restrictive covenant... is contractual in nature and restricts in some particular the free use of land by its owner." *Smith*, supra. An easement by grant is not required to be recorded to be valid, and recording is not necessary if the buyer has actual notice. *See, Frierson v. Watson*, 636 S.C. 60, 68 (Ct. App. 2006). "A purchaser of land with actual, constructive, or implied notice that the property is burdened with an easement ordinarily takes the estate subject to the easement. *Loftis v. South Carolina Elec. and Gas Co*., 361 S.C. 434, 441 (Ct. App. 2004). As referenced in Appellant's

Initial Brief, a material issue of fact exists as to the Respondent's actual or imputed knowledge of the easement. (Appellant's Initial Brief, p. 8 - 10, 19, 24, 33, 49).

The plain language of S.C. Code Ann. § 30-7-20 makes clear that a contract to subordinate, waive, or extend a lien on real property must be in writing, properly witnessed and recorded. Clearly, an easement is not a "contract in the nature of a subordination, waiver or extension of any lien on real property". *Id*. Therefore, this statute has no application here.

Furthermore, whether or not the easement was subordinated to prior existing liens is entirely irrelevant to the determination of whether an easement exists. Thus, the subordination argument is inherently a red herring issue.

IV. THE FORECLOSURE DID NOT IMPACT THE EASEMENT.

All of the Respondents argue that the easement did not survive because of the foreclosure. (SWA's Initial Brief, p. 9, Zurlo's Initial Brief, p. 4, 5, 16-23, 25; Penny Creek Associates, LLC's Initial Brief, p. 4, Beach Fenwick, LLC's and The Beach Company's Initial Brief, p. 8, 9, 19, 25-30; 1776, LLC's Initial Brief, p. 1, 2 ,4-5). However, these arguments effectively ignore the fact that Michel F. Laplante (herein "Laplante") was expressly severed from the foreclosure claim as set forth on the second page of the foreclosure judgment, which states in relevant part: "Defendant Michel F. Laplante (severed from the foreclosure claim)". These arguments also downplay the very important jurisdictional issue that the Appellant and the other members of the Laplante family were neither named as parties nor served with process in the foreclosure case. Thus, Laplante's rights and interests in the subject property survived the foreclosure because he was no longer a party to the foreclosure action and effectively cut off from any consequence of the foreclosure, which also means that his knowledge of the foreclosure could not be imputed to the Appellant

presuming arguendo it could as Respondents argue (it could not). Furthermore, the Master-in-Equity in the foreclosure case never had personal jurisdiction over the Appellant or the other members of the Laplante family, and as a result, their rights and interests in the subject property were never extinguished or impacted by the foreclosure judgment. *See*, *Green Tree Servicing, LLC v. Adams*, 375 S.C. 583; 654 S.E.2d 100 (S.C. Ct. App. 2007) ("A court may not act against a party without personal jurisdiction...a court should not render a judgment affecting the rights of a party without proper notice.") In *Adams*, this Court agreed in part that the circuit court could not bind Adams to a foreclosure action to which he was not a party. However, because the circuit court properly exercised personal jurisdiction over Adams in a subsequent action to add him as a party to the foreclosure action, there was no reversible error. *Id*. at 586-7. Appellant and the other members of the Laplante family were never joined as parties to the foreclosure in any action.

A judgment is void if a court acts without personal jurisdiction. *Thomas & Howard Co. v. T.W. Graham & Co.*, 318 S.C. 286, 291, 457 S.E.2d 340, 343 (1995). A court generally obtains personal jurisdiction by the service of a summons. *Ex parte S.C. Dep't of Revenue*, 350 S.C. 404, 407, 566 S.E.2d 196, 198 (Ct.App.2002) (citing *State v. Sanders*, 118 S.C. 498, 502, 110 S.E. 808, 810 (1920). ("The purpose of the summons is to acquire jurisdiction of the person of the defendant.. . ."). Thus, the foreclosure judgment is simply void as applied against the rights of Appellant, Laplante and the other members of the Laplante family. Therefore, the easement was not impacted by the foreclosure.

Furthermore, Appellant simply has not "already judicially admitted that its alleged easement was lost in the bank's foreclosure action" as Respondent Zurlo alleges. (Zurlo's Initial Brief, p. 20). Appellant simply has not "admitted, in its pleadings and by sworn testimony, that it does not have a valid easement". (Beach Fenwick, LLC's and The Beach Company's Initial Brief,

p. 34-35). Respondents Zurlo and the Beach Entities are referencing the pending malpractice case, *Maybank 2754, LLC v. Buist, Byars & Taylor, LLC; et. al*.; Charleston County Court of Common Pleas Case # 2020-CP-10-02180 (the "malpractice case"). In the malpractice case, Plaintiff alleges it has suffered and continues to suffer damages as a result of the Defendants' legal malpractice and breach of fiduciary duty in failing to properly record a document in the official records to put all future buyers and lenders on notice that the subject property is subject to an easement as would an attorney exercising proper judgment and oversight. The issues and theories of recovery in the malpractice case are different than the issues and theories of recovery present here. Furthermore, the complaint in the malpractice case filed after the instant case, even references the instant case. Paragraph 18 of the complaint filed in the malpractice case states:

> The Property is in the process of being developed. However, upon information and belief, the development plans for the Property do not have any specific provisions or reservations for the thirty (30) foot private right of way easement upon the completion of Pitchfork Road, **a consequence of which is Charleston County Court of Common Pleas Case # 2020-CP-10-00209** [the instant case]**, wherein Maybank is seeking a declaratory judgment for the existence of the thirty (30) foot private right of way easement, or alternatively, a declaratory judgment for the existence of a restrictive covenant, civil conspiracy and temporary injunction against the current owner of the Property and others**.
> (emphasis added).

Therefore, presuming there was a judicial-estoppel-qualifying position (which there was not), the reference to the instant case in the malpractice cannot support any finding that there was an intentional effort to mislead the court, which is a necessary element the court must find to apply judicial estoppel. Furthermore, presuming there was a judicial-estoppel-qualifying position (which there was not), there is no finding or evidence that the Plaintiff has been successful in maintaining that position and received some benefit. See, *Auto-Owners Insurance Company v. Rhodes*, 405 S.C. 584, 597-8, 748 S.E.2d 781 (2013); *State v. McCall*, 364 S.C. 205, 209, 612

S.E.2d 453 (S.C. Ct. App. 2005). Again, no elements of judicial estoppel are present here and the court did not make any such findings of fact.

V. APPELLANT DID NOT ABANDON ITS CLAIMS AGAINST SEAMON WHITESIDE & ASSOCIATES, INC.

Respondent, SWA, argues that Appellant has failed to raise grounds to reverse its Rule 12(b)(6) motion to dismiss and therefore has abandoned the issue because Appellant has not addressed in its appeal SWA's grounds for its motion to dismiss or the courts grounds for granting the motion. (SWA's Initial Brief, p. 6-9). However, this argument is without merit for the reasons explained below.

SWA filed its motion to dismiss the complaint pursuant to Rule 12(b)(6), SCRCP, on February 20, 2020. *See, Defendant Seamon, Whiteside & Associates, Inc.'s Motion to Dismiss Plaintiff's Complaint and Initial Memorandum in Support*, February 20, 2020. More than six months later on August 26, 2020, SWA filed its "Supplement to Motion to Dismiss and/or Motion for Summary Judgment", which sought dismissal with prejudice under Rule 12(b)(6), SCRCP, or in the alternative, pursuant to Rule 56, SCRCP, by incorporating by reference the arguments and analyses of the pending motions for summary judgment of some of the other Defendants. *See, Defendant, Seamon, Whiteside & Associates, Inc.'s Supplement to Motion to Dismiss and/or Motion for Summary Judgment, August 26, 2020*.

Subsequently, on October 7, 2020, the court entered a Form 4 order, which stated in relevant part, "Defendant Seamon Whiteside and Associates Inc.'s Motion to Supplement/Motion to Dismiss is GRANTED", without stating any grounds. *See, Form 4 Order, October 7, 2020*. The next day, on October 8, 2020 the court entered another Form 4 order, which supplemented the October 7, 2020 Form 4 order by adding that the summary judgment motions three other

defendants were granted. *See, Form 4 Order, October 8, 2020*. The Form 4 orders entered on October 7, 2020 and October 8, 2020, were the result of a September 24, 2020 hearing. Subsequently, on October 12, 2020, the court entered an Order Granting All Defendants Summary Judgment. *See, Order Granting All Defendants Summary Judgment, October 12, 2020*. Of note is that the October 12, 2020 order references the September 24, 2020 hearing and specifically states, "No genuine issue of material fact exists to prolong this litigation; **therefore, it is Ordered that the Defendants' Motions for Summary Judgment are hereby granted**, and this matter is dismissed in its entirety." *Id*. p. 1, 16. (emphasis added). Therefore, the court treated SWA's Rule 12(b)(6) motion to dismiss as a motion for summary judgment, which is what SWA intended to happen by virtue of its August 26, 2020 Supplement to Motion to Dismiss and/or Motion for Summary Judgment. In effect, the court converted SWA's 12(b)(6) motion to dismiss as a summary judgment motion, which is what SWA intended. *See*, Rule 12(b)(6), SCRCP ("...the motion shall be treated as one for summary judgment and disposed of as provided in Rule 56, and all parties shall be given reasonably opportunity to present all material made pertinent to such a motion by Rule 56.")

Furthermore, Appellant did address the issues raised in SWA's Rule 12(b)(6) motion to dismiss/motion for summary judgment in its initial brief. Appellant argues that a material issue of fact exists as to "Zurlo and/or all the Defendants being part of a deceitful scheme and conspiracy to develop the subject property without affording any provisions or reservations for the easement with the specific intent to harm the Appellant, which caused the Appellant damages, including special damages. (Appellant's Initial Brief, p. 19).

Moreover, if SWA's Rule 12(b)(6) motion to dismiss was not treated by the court as a motion for summary judgment (it was so treated), then that is even more reason to reverse the

court's Order Granting All Defendants Summary Judgment dated October 12, 2020, because it effectively denied Plaintiff's motion to amend its complaint. (Appellant's Initial Brief, p. 49). *See* *Foman v. Davis*, 371 U.S. 178, 179, 182, 83 S. Ct. 227, 228, 230, 9 L. Ed. 2d 222, 224, 226 (1962) (where a complaint is dismissed "for failure to state a claim upon which relief might be granted," leave to amend the complaint "should, as the rules require, be 'freely given'" (quoting Rule 15(a), Fed. R. Civ. P.)); *Dockside Ass'n, Inc. v. Detyens, Simmons & Carlisle*, 297 S.C. 91, 95, 374 S.E.2d 907, 909 (Ct. App. 1988) (holding "Dockside should have been given leave to amend its complaint" before it was finally dismissed pursuant to Rule 12(b), SCRCP (citing *Foman*, 371 U.S. at 182, 83 S. Ct. at 230, 9 L. Ed. 2d at 226)). Rule 15(a) "strongly favors amendments and the court is encouraged to freely grant leave to amend." *Patton v. Miller*, 420 S.C. 471, 489-90, 804 S.E.2d 252, 261 (2017) (quoting *Parker v. Spartanburg Sanitary Sewer Dist.*, 362 S.C. 276, 286, 607 S.E.2d 711, 717 (Ct. App. 2005)). Additionally, as discussed above, this Court consolidated all the appeals in this case.

CONCLUSION

The Appellant respectfully prays that this Honorable Court will reverse the order of Hon. Judge Bentley D. Price transferring this matter to the Master-in-Equity, denying the Appellant's Motion to Amend its Complaint, reverse the orders of Judge Price granting to the Respondents their respective motions for summary judgment, and for any further relief the Court deems appropriate and necessary.

Respectfully submitted,

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THE STATE OF SOUTH CAROLINA
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Court of Common Pleas, Ninth Judicial Circuit
Hon. Judge Bentley D. Price, Circuit Court Judge, Presiding

2020-001030

Maybank 2754, LLC…….Appellant,

Versus

Eugene 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.

CERTIFICATE OF SERVICE

I certify that on this date, May 28, 2021, I have served the **Appellant's Initial Reply Brief,** on opposing counsel to their respective e-mail addresses, pursuant to the Order of the Supreme Court Appellate Case No, 2020-000447(g)(3):

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Case Number: 2020-001030

Dear Madam Clerk,

Enclosed please find the Appellant's Initial Reply Brief, and a Certificate of Service, which is filed today.

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

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Enclosures

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