

RECEIVED

Jun 21 2021

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas

William H. Seals, Jr., Circuit Court Judge

Case No. 2016-CP-26-00673
Case No. 2016-CP-26-00674
Case No. 2016-CP-26-00743
Case No. 2016-CP-26-00744
Appellate Case No. 2018-000041

Jim Perkins, Colleen Franke, a/k/a Colleen Franke Perkins, Mark Dos Santos, Nancy Moore, William Moore, Steven Dame, Errol Dos Santos, and Jeffrey Richardson, on behalf of themselves and all other similarly situated, Plaintiffs,

v.

Ocean Front Spa Horizontal Property Regime, Inc., Bill Cameron, Walter Jordan, Ralph Jump, Stanley Jordan, Ray Coghill, and John Doe past board directors of Ocean Front Spa Horizontal Property Regime, Inc.,Defendants,

And

Jim Perkins, Colleen Franke, a/k/a Colleen Franke Perkins, Mark Dos Santos, Nancy Moore, William Moore, Steven Dame, Errol Dos Santos, and Jeffrey Richardson, on behalf of themselves and all other similarly situated, Plaintiffs,

v.

The Myrtle Beach Resort Homeowners Association, Inc., Phil Cox, Bill Cameron, Stanley Jordan, Walter Jordan, Wayne Urban, Ken Perkins, and John Doe past board directors of The Myrtle Beach Resort Homeowners Association, Inc.,Defendants,

And

Jim Perkins, Colleen Franke, a/k/a Colleen Franke Perkins, Mark Dos Santos, Nancy Moore, William Moore, Steven Dame, and Errol Dos Santos, and Jeffrey Richardson, individually in their capacity as derivative shareholders, Plaintiffs,

v.

K.A. Diehl and Associates, Inc., The Myrtle Beach Resort Homeowners Association, Inc., Phil Cox, Bill Cameron, Stanley Jordan, Wayne Urban, Walter Jordan, Ken Perkins, and John Doe past board directors of The Myrtle Beach Resort Homeowners Association, Inc., Defendants,

And

Jim Perkins, Colleen Franke, a/k/a Colleen Franke Perkins, Mark Dos Santos, Nancy Moore, William Moore, Steven Dame, Errol Dos Santos, and Jeffrey Richardson, individually in their capacity as derivative shareholders of Ocean Front Spa Horizontal Property Regime, Inc., Plaintiffs,

v.

Ocean Front Spa Horizontal Property Regime, Inc., Walter Jordan, Ralph Jump, Ray Coghill, John Doe past board directors of Ocean Front Spa Horizontal Property Regime, Inc., The Myrtle Beach Resort Homeowners Association, Inc., Phil Cox, Bill Cameron, Stanley Jordan, Wayne Urban, Ken Perkins, John Doe past board directors of The Myrtle Beach Resort Homeowners Association, Inc., and K.A. Diehl and Associates, Inc. Defendants,

Of whom Mark Dos Santos is the Appellant,

And

Ocean Front Spa Horizontal Property Regime, Inc., Walter Jordan, Ralph Jump, Ray Coghill, John Doe past board directors of Ocean Front Spa Horizontal Property Regime, Inc., The Myrtle Beach Resort Homeowners Association, Inc., Phil Cox, Bill Cameron, Stanley Jordan, Wayne Urban, Ken Perkins, John Doe past board directors of The Myrtle Beach Resort Homeowners Association, Inc., and K.A. Diehl and Associates, Inc., are the Respondents.

JOINT MOTION TO DISMISS APPEAL

Pursuant to Rule 260(b), SCACR, Appellant Mark dos Santos (“Appellant” or “Santos”) and Respondents The Myrtle Beach Resort Homeowners Association, Inc. (“MBR”), Ocean Front Spa Horizontal Property Regime, Inc. (“OFS”), their respective Defendant Board Members, and

FirstService Residential South Carolina, Inc., formerly known as K.A. Diehl & Associates, Inc.¹ (“K.A. Diehl”) (collectively “Moving Parties”) move to dismiss this appeal.

Dismissal is appropriate because an agreement exists between the parties that resolves the dispute. The resolution stipulates for the dismissal of this appeal. The Moving Parties further agree that each party shall bear its own costs and attorneys’ fees incurred in connection with this appeal (and that costs shall not be taxed against the Appellant pursuant to Rule 222(a), SCACR)). For these reasons, the Moving Parties respectfully request that the appeal be dismissed.

WE SO JOINTLY MOVE AND CONSENT:

/s/Kirby D. Shealy III
Kirby D. Shealy III
ADAMS AND REESE LLP
1501 Main Street, Fifth Floor
Columbia, South Carolina 29201
Telephone: (803) 254-4190
Kirby.shealy@arlaw.com

Attorneys for Appellant

/s/Phillip A. Kilgore
Phillip A. Kilgore
Lucas J. Asper
OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.
300 North Main Street, Suite 500
Greenville, South Carolina 29601
(864) 271-1300 (telephone)
(864) 235-8806 (facsimile)
phillip.kilgore@ogletree.com
lucas.asper@ogletree.com

*Attorneys for Respondents The Myrtle Beach
Resort Homeowners Association, Inc., Ocean
Front Spa Horizontal Property Regime, Phil
Cox, Bill Cameron, Stanley Jordan, Walter
Jordan, Wayne Urban, Ralph Jump, Ray
Coghill and Ken Perkins*

/s/Alicia E. Thompson
Henrietta U. Golding, Esq.
Alicia E. Thompson, Esq.
BURR FOREMAN LLP
Post Office Box 336
Myrtle Beach, SC 29578-0336
(843) 444-1107 (telephone)

¹ FirstService Residential South Carolina, Inc., is the same legal entity as K.A. Diehl & Associates, Inc., and has simply changed its name.

(843) 444-4729 (facsimile)

*Attorneys for Respondent FirstService
Residential South Carolina, Inc., formerly
known as K.A. Diehl & Associates, Inc.*

June 21, 2021

RECEIVED

Jun 21 2021

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas

William H. Seals, Jr., Circuit Court Judge

Case No. 2016-CP-26-00673
Case No. 2016-CP-26-00674
Case No. 2016-CP-26-00743
Case No. 2016-CP-26-00744
Appellate Case No. 2018-000041

Jim Perkins, Colleen Franke, a/k/a Colleen Franke Perkins, Mark Dos Santos, Nancy Moore, William Moore, Steven Dame, Errol Dos Santos, and Jeffrey Richardson, on behalf of themselves and all other similarly situated, Plaintiffs,

v.

Ocean Front Spa Horizontal Property Regime, Inc., Bill Cameron, Walter Jordan, Ralph Jump, Stanley Jordan, Ray Coghill, and John Doe past board directors of Ocean Front Spa Horizontal Property Regime, Inc.,Defendants,

And

Jim Perkins, Colleen Franke, a/k/a Colleen Franke Perkins, Mark Dos Santos, Nancy Moore, William Moore, Steven Dame, Errol Dos Santos, and Jeffrey Richardson, on behalf of themselves and all other similarly situated, Plaintiffs,

v.

The Myrtle Beach Resort Homeowners Association, Inc., Phil Cox, Bill Cameron, Stanley Jordan, Walter Jordan, Wayne Urban, Ken Perkins, and John Doe past board directors of The Myrtle Beach Resort Homeowners Association, Inc.,Defendants,

And

Jim Perkins, Colleen Franke, a/k/a Colleen Franke Perkins, Mark Dos Santos, Nancy Moore, William Moore, Steven Dame, and Errol Dos Santos, and Jeffrey Richardson, individually in their capacity as derivative shareholders, Plaintiffs,

v.

K.A. Diehl and Associates, Inc., The Myrtle Beach Resort Homeowners Association, Inc., Phil Cox, Bill Cameron, Stanley Jordan, Wayne Urban, Walter Jordan, Ken Perkins, and John Doe past board directors of The Myrtle Beach Resort Homeowners Association, Inc., Defendants,

And

Jim Perkins, Colleen Franke, a/k/a Colleen Franke Perkins, Mark Dos Santos, Nancy Moore, William Moore, Steven Dame, Errol Dos Santos, and Jeffrey Richardson, individually in their capacity as derivative shareholders of Ocean Front Spa Horizontal Property Regime, Inc., Plaintiffs,

v.

Ocean Front Spa Horizontal Property Regime, Inc., Walter Jordan, Ralph Jump, Ray Coghill, John Doe past board directors of Ocean Front Spa Horizontal Property Regime, Inc., The Myrtle Beach Resort Homeowners Association, Inc., Phil Cox, Bill Cameron, Stanley Jordan, Wayne Urban, Ken Perkins, John Doe past board directors of The Myrtle Beach Resort Homeowners Association, Inc., and K.A. Diehl and Associates, Inc. Defendants,

Of whom Mark Dos Santos is the Appellant,

And

Ocean Front Spa Horizontal Property Regime, Inc., Walter Jordan, Ralph Jump, Ray Coghill, John Doe past board directors of Ocean Front Spa Horizontal Property Regime, Inc., The Myrtle Beach Resort Homeowners Association, Inc., Phil Cox, Bill Cameron, Stanley Jordan, Wayne Urban, Ken Perkins, John Doe past board directors of The Myrtle Beach Resort Homeowners Association, Inc., and K.A. Diehl and Associates, Inc., are the Respondents.

PROOF OF SERVICE

This is to certify that I have served upon the persons named below the Joint Motion to Dismiss Appeal in the foregoing matter by electronic mail, with express permission:

Henrietta U. Golding, Esq.
Alicia E. Thompson, Esq.
BURR FOREMAN LLP
Post Office Box 336
Myrtle Beach, SC 29578-0336
(843) 444-1107 (telephone)
(843) 444-4729 (facsimile)

Kirby D. Shealy III
ADAMS AND REESE LLP
1501 Main Street, Fifth Floor
Columbia, South Carolina 29201
Telephone: (803) 254-4190
Kirby.shealy@arlaw.com
Attorneys for Appellant

June 21, 2021

/s/Lucas J. Asper



**OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.**

Attorneys at Law

The Ogletree Building
300 North Main Street, Suite 500
Greenville, SC 29601
Telephone: 864-271-1300
Facsimile: 864-235-8806
www.ogletree.com

Lucas J. Asper
864-240-5697
lucas.asper@ogletree.com

June 21, 2021

RECEIVED

Jun 21 2021

SC Court of Appeals

Via Electronic Mail (ctappfilings@sccourts.org)

Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
1220 Senate Street
Columbia, South Carolina 29201

**Re: Jim Perkins, et al. v. Ocean Front Spa Horizontal Property Regime, Inc., et al.
Appellate Case No.: 2018-000041**

Dear Ms. Kitchings:

Please find attached for filing the parties' Joint Motion to Dismiss Appeal in the above-referenced matter. This Joint Motion is being filed by electronic mail, and the filing fee of Fifty and 00/100 Dollars (\$50.00) is being mailed to your attention within five (5) days of the filing, in accordance with the Supreme Court's Amended Order regarding Operation of the Appellate Courts during the Coronavirus Emergency (As Amended May 29, 2020).

Feel free to contact me if you have any questions.

Sincerely,

OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.

Lucas J. Asper

Attachment

cc: Kirby D. Shealy III, Esq. (via e-mail)
Henrietta U. Golding, Esq. (via e-mail)
Alicia E. Thompson, Esq. (via e-mail)

47546996.1