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Jul 16 2021

SC Court of Appeals

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HAMPTON COUNTY
Court of Common Pleas
Honorable Kristi F. Curtis Presiding

Appellate Case No. 2017-CP-25-00170

The Station, Inc., dba Company Two, Inc.,.....Appellant

v.

Hampton County,Respondent

REPLY TO RETURN TO MOTION TO DISMISS APPEAL, OR, IN THE ALTERNATIVE,
TO STAY APPEAL

Respondent hereby replies to the Appellant's Return to Respondent's Motion to Dismiss. Respondent asserts the appeal should be dismissed, without prejudice, as premature, or stayed in the interests of judicial economy, so that the case may be concluded in the trial court.

In its Return, Appellant cites *Ashenfelder v. City of Georgetown*, 389 S.C. 568, 698 S.E.2d 856 (Ct. App. 2010), in which the trial court directed a verdict on six causes of action, allowed two causes to proceed to jury determination, and declared a mistrial on the remaining causes when the jury could not reach a verdict, leaving two causes of action remaining for retrial. In a cross appeal, the plaintiff appealed the grants of directed verdict, and the City appealed the denial of directed verdict on the two remaining causes. As the remaining causes had not been tried to conclusion,

the Court of Appeals dismissed the appeal, without prejudice, as premature. Respondent agrees that *Ashenfelder* is applicable to the instant appeal, which is even more premature than that in *Ashenfelder*. The trial of the instant case remains incomplete until the trial court: 1) rules on a directed verdict motion on the remaining cause of action; 2) if the directed verdict motion is denied, decides the remaining, nonjury, cause of action on its merits; and, 3) considers and rules upon any post-trial motions.

Mindful, and considerate, of Appellant's concern that its appeal filing should be timely, Respondent asserts only that the appeal should be dismissed without prejudice, or, at the very least, stayed in order to allow the trial court to complete its work before briefing commences on appeal.

July 16, 2021

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing Reply to Return to Motion to Dismiss Appeal, or, in the Alternative, to Stay Appeal, has been served upon counsel of record for Appellant using their primary email addresses listed in the Attorney Information System as shown below, on July 16, 2021:

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July 16, 2021

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