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Aug 31 2021

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas
R. Lawton McIntosh, Circuit Court Judge

Case No. 2019-CP-04-00752

Appellate Case No. 2020-000182

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,

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

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In The Court of Appeals

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas
R. Lawton McIntosh, Circuit Court Judge

Case No. 2019-CP-04-02151

Appellate Case No. 2020-000187

William and Karen Rich,
Plaintiffs / Respondents,

v.

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

Of whom Shurwest, LLC is the Appellant.

and

Shurwest, LLC,

Third-Party Plaintiff / Appellant,

v.

MJSM Financial, LLC and Melanie Schulze-Miller,

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Case No. 2019-CP-04-00479

Appellate Case No. 2020-000188

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,

Of whom Shurwest, LLC is the Appellant.

and

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**PLAINTIFFS/RESPONDENTS’ MOTION TO EXPEDITE CONSIDERATION OF
APPEAL**

Pursuant to Rule 240 of the South Carolina Rules of Appellate Procedure, the Individual Respondents¹ respectfully request this Court expedite consideration of this appeal.

Appellant Shurwest, LLC (“Shurwest”) filed Notices of Appeal in the above-referenced consolidated matters on February 23, 2021, appealing the circuit court’s orders denying Shurwest’s Motion to Dismiss, granting the Individual Respondents’ Motion to Strike or in the Alternative to Sever the Third-Party Complaint, and granting Respondents Melanie Schulze-Miller and MJSM Financial, LLC’s Motion to Dismiss the Third-Party Complaint. (R. pp. 1923–62, 1969–2010, 2013–51). The parties Final Briefs are due on August 31, 2021, and the Individual Respondents are filing this Motion with their Final Brief. Therefore, this appeal is currently ready for the Court’s consideration.

This appeal concerns allegations by the Individual Respondents that as part of a retirement planning financial strategy, Shurwest was integrally involved in encouraging and inducing the Individual Respondents to (1) use their hard-earned retirement funds to purchase unnecessary and inappropriate Indexed Universal Life (“IUL”) insurance policies and (2) fund those expensive IUL policies with a structured cash flow provided by Future Income Payments, LLC (“FIP”)—a Ponzi scheme that subsequently collapsed, decimating the Individual Respondents’ retirement savings and leaving the Individual Respondents unable to continue making the exorbitant annual IUL

¹ The Individual Respondents include: Robert Ayers, Paul Barkal, Susan Barkal, Gloria Bennett, Diane Bernat, Kurt Blaettler, Vandy Kim, Glenn Kornett, Gudrum Kornett, David Larson, Lucye Larson, Florence Lince, Mike Lince, Michael McGraw, William Schaidle, Elizabeth Billings, Pamela Bott, Thomas Dantzler, Dennis and Maxine Pierson Living Trust, Davon and Barbara Corley, Jane Downing, Dennis Ellis, Bobby Floyd, Steven Ganley, Kelley McGraw Gray, Stanley Hix, Suzanne Hofford, Virginia Howard, Jerome and Robin Karnowski, Jerry and Kerry Kelley, John and Mary Wendorf, Robert Johnson, Christine Lawson, Robert Manning, Dianne Mayfield, Jeff Mitchell, Fred Myette, Mary Orem, Drucilla Perry, Earl Switzer, Thomas and Laura Eliason, Alan Weeks, and William and Karen Rich.

policy premiums Shurwest and its agents induced them to purchase. (R. pp. 110–18, 124, 464–66). Thus, the Individual Respondents are retirement age or elderly individuals who have lost much, if not all, of their retirement savings by virtue of their participation in this failed retirement strategy. Because this appeal concerns an interlocutory denial of a motion to dismiss which was tacked onto an appeal from two final orders regarding the third-party complaint, the litigation against Shurwest in the underlying cases is still at its inception. If this Court were to affirm the decisions on appeal, the cases will still need to be fully litigated below, which is likely to take some time upon remand. Each day of this litigation is a day that the Individual Respondents will spend without access to their lost retirement savings while their remaining retirement savings is drained. Because these allegations concern the Individual Respondents’ retirement savings at the time in their life where this money is crucial, it is imperative that they receive any relief they are entitled to as soon as possible. Further, there are numerous other cases pending against Shurwest in South Carolina with similar facts, and an expedited decision from this Court could provide guidance for similar issues pending in those cases. *See, e.g., Deretchin, et al. v. Storer, et al.*, 2019-CP-23-02042 (Greenville Cty. Ct. Comm. Pleas); *Hess, et al. v. Storer, et al.*, 2018-CP-23-04010 (Greenville Cty. Ct. Comm. Pleas), *Elkins, et al. v. Cornine, et al.*, 2021-CP-25-00097 (Hampton Cty. Comm. Pleas), *Barwich, et al. v. Cornine*, 2021-CP-25-00098 (Hampton Cty. Comm. Pleas), *Breedin et al. v. McCarty, et al.* 2021-CP-32-01170 (Lexington Cty. Comm Pleas), *Stegelin et al. v. Shurwest, et al.*, CA No. 3:21-cv-01444-BHH (D.S.C.), and *Blohm et al. v. Shurwest*, CA No. 8:21-cv-01293-BHH (D.S.C.).

As such, the Individual Respondents respectfully request the Court grant this Motion and expedite consideration of this appeal.

(Signature page follows)

Respectfully submitted,

s/ Shanon N. Peake

G. Murrell Smith, Jr.

Jonathan M. Robinson

Shanon N. Peake (S.C. Bar #102723)

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PROOF OF SERVICE

I certify that a true copy of the Final Brief of Plaintiffs/Respondents, Certificate of Compliance, and Motion to Expedite in this case has been served on the following, this 31st day of August, 2021, by emailing a copy to each attorney listed below using their primary email address listed in the Attorney Information System pursuant to Rule 262, SCACR.

Counsel Served: **E-Mail**

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s/ Shanon N. Peake
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Attorney for Plaintiffs/Respondents

August 31, 2021.

From: [Shanon Peake](#)
To: islj@jtbpa.com; nnicholson@burr.com; ckinney@collinsandlacy.com; jklett@hsblawfirm.com; [Deborah Barbier](#); dquattlebaum@hsblawfirm.com; david@earhartoverstreet.com; mike@earhartoverstreet.com; josh@earhartoverstreet.com
Cc: [Robert Rikard](#); [Jeremy Hodges](#); [Angel Shaw](#); [Jon Robinson](#)
Subject: Appellate Case No. 2021-000182: Plaintiffs/Respondents Final Brief and Motion to Expedite
Date: Tuesday, August 31, 2021 11:15:00 AM
Attachments: [Individual Respondents Final Brief with COC, 1.pdf](#)
[Proof of Service - RFB and Mtn Expedite, 4.pdf](#)
[Motion to Expedite, 3.pdf](#)
[2021.08.31 Ltr Ct App re filing fee, 2.pdf](#)

Good Morning,

Please find attached the Individual Respondents' Final Brief, Motion to Expedite, Proof of Service that we are filing with the Court of Appeals today.

Thank you,
Shanon

SMITH ROBINSON

Forward thinking. Results driven.

Smith Robinson Holler DuBose and Morgan, LLC

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Shanon Peake

Attorney at Law

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SC Court of Appeals

Via U.S. Mail and Email

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
PO Box 11629
Columbia, SC 29211

RE: Ayers v. Shurwest, LLC
Billings v. Shurwest, LLC
Rich v. Shurwest, LLC
Appellate Case No. 2021-00182

Dear Ms. Kitchings:

Please find enclosed a check representing the filing fee for the Motion to Expedite filed on behalf of the Plaintiffs/Respondents in the above-referenced matter today. Please let me know if anything further is needed.

Sincerely,



Shanon N. Peake

SNP

Enclosures

cc: All counsel of record via email only