

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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SC Court of Appeals

APPEAL FROM GREENVILLE COUNTY
The Honorable Letitia H. Verdin, Circuit Court Judge

Appellate Case No. 2021-000511

Appellate Case No. 2020-CP-23-05996
Civil Action No. 2020-CV-23-10201384

Raymond A. Wedlake, as a Member of Woodington Homeowners' Association, Inc.,
and on behalf of all other similarly situated Members of Woodington Homeowners'
Association, Inc.,

Appellant

v.

Board of Directors of Woodington Homeowners' Association, Inc., comprised of Mona Craigo,
Edward Decker, and Sandra LaCroix; McCabe, Trotter & Beverly, P.C.; and, State Farm Fire and
Casualty Company,

Respondents

REPLY BRIEF OF APPELLANT FOR MCCABE TROTTER & BEVERLY RESPONDENT

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PREFACE

Pursuant to Rule 208(a)(3), SCACR, Raymond A. Wedlake, Appellant (*Pro Se*) files and serves this “Reply Brief of Appellant” responding to the “Respondent McCabe Trotter & Beverly, PC’s Initial Brief ...” (BORM). McCabe Trotter & Beverly (MTB), like the Board of Directors (Board) of Woodington Homeowners’ Association, Inc. (WHOA), is **but one Defendant of three Defendants** cited in an original case: 2020-CV-23-10201384 (C1384). Appellant reminds the Court of Appeals (CAP) that both “Brief of Appellant” (BOA), plus an “Initial Brief of Appellant” (to Circuit Court, IBOA, Figure BOA.5), are matters of CAP record, received by CAP as stamped August 9, 2021.

I. REPLY TO “STATEMENT OF ISSUES ON APPEAL”

A) Reply to BORM six issues

1. Previously, Appellant addressed all six issues found in BORM. For some issues BOA cited excerpts, but IBOA covered all issues, with references to prior pleadings where needed.

2. BORM seems to admit, then, that ten-other “Issues on Appeal” found in BOA (BOA, p. 8-10) form a solid groundwork that necessarily shows dismissal of all C1384 issues, and dismissal of all-three-C1384 Defendants, cannot stand.

A1. Did the lower court correctly hold that Appellant's claim for “casting in a false light” was barred by the Statute of Limitations? {BORM Issue I = IBOA (J)}

3. On 09/11/20 for C1384, Appellant submitted his “Memorandum in Opposition to Defendant McCabe Trotter & Beverly, PC’s Motion to Dismiss” (MOP1, Attachment IB.2, pp. 80 - 95 of “IBOA - Part 3 of 4”) . IBOA with reference to MOP1 addressed this issue. Simply in excerpted summary:

MOP1 stated “... moot and academic as to ... False Light ...”, and showed ... (IBOA, Section J, p. 17, referring to MOP1, par. 1, p. 3)

A2. Did the lower court correctly find Appellant was not permitted to bring the derivative claims? {BORM Issue II = IBOA (E)}

4. IBOA addressed this issue. Simply in excerpted summary:

E1. C1384 was **not** brought as a derivative suit on behalf of WHOA

E2. *Res Judicata* annuls a claim of "... prohibited from bringing a derivative suit ..."
(IBOA, Section E, pp. 14 – 15)

A3. Did the lower court correctly hold that Appellant's claims regarding the invoicing and payment of McCabe Trotter & Beverly, P.C.'s legal fees were barred by collateral estoppel? {BORM Issue III = IBOA(A2)}

5. IBOA with reference to MOP1 addressed this issue, citing *Carrigg v. Cannon*, and

Beall v. Doe. Simply in excerpted summary:

8. ... a claim of "relitigation" is false. ...

10. Defendant's contention of "... same theory ..." is ridiculous, ... where Defendant, themselves, admit that "... MTB was not a named party to Case 2019-CP-23-01501."
(IBOA, Section A, pp. 8 - 10, Section A2 referring to MTB, pp. 9 – 10; referring to MOP1, pars. 8 – 10)

A4. Did the lower court correctly dismiss Appellant's conspiracy claim because Appellant failed to plead special damages? {BORM Issue IV = IBOA (K)}

6. IBOA with reference to MOP1 addressed this issue. Simply in excerpted summary:

16. Specific damages suffered as a result of an alleged conspiracy were contained in SUC: ["Supplement to Complaint" - Attachment IB.1,
(pp. 29 - 76 of "IBOA - Part 1 of 4")]

98. Evidence presented ...

18. Plaintiff specifically stated damages to comply with Rule 9(g), SCRPC: ...
(IBOA, Section K, pp. 17 - 18, referring to MOP1, Section B, par. 16, 18; pp. 9 - 10)

A5. Does South Carolina recognize a civil cause of action for extortion? {BORM Issue V = IBOA (L)}

7. IBOA with reference to MOP1 addressed this issue. Appellant cited SC Code of Laws:

§40-11-110 (MOP1, par. 21, p. 10), as well as: §22-3-520, -550 (MOP1, par. 23, p. 11). Simply in

excerpted summary:

22. Plaintiff's case was plainly captioned showing "Extort", and it was the judgment of the Court to label Complaint as a civil action, rather than as a criminal action against MTB, ...

23. Magistrates have jurisdiction in criminal cases: ...

(IBOA, Section L, p. 18, referring to MOP1, Section C, pars. 19 – 23, pp. 10 - 11)

A6. Does S.C. Code § 33-31-833 require McCabe Trotter & Beverly, P.C. disgorge attorney's fees received from Woodington Homeowners' Association? {BORM Issue VI = MOP1 (Par. 26)}

8. In MOP1, Appellant argued that an "... **unlawful distribution** ..." as manifested by (emphasis added) "... a refund of legal fees allegedly **paid in violation of the WHOA's covenants** ..." (MOP1, par. 17, p. 10) must be paid back to the WHOA Board (not paid back to Appellant).

Statutory law makes it plain that **unlawful distributions** must be paid back (excerpted):

SECTION 33-31-833. Liability for **unlawful distributions**.

(b) A director held liable for an **unlawful distribution** under subsection (a) is entitled to contribution:

(2) from each person who received an unlawful distribution for the amount of the distribution whether or not the person receiving the distribution knew it was made in violation of this chapter.

(MOP1, par. 26, p. 13)

B) BOA cited sixteen Issues on Appeal that need to be addressed

9. BOA cited 12 authorities (see BOA, "Table of Authorities", p. v), with 8 supporting Figures (BOA, Figure BOA.1 to BOA.8). BOA relied upon IBOA (Figure BOA.5), where IBOA included 108 supporting documents (attachments, exhibits, and figures).

C) Separation of powers prohibits the Judicial Branch of government from usurping authority of the Legislative Branch as given by statutory law

10. It is the Legislative Branch of government who makes law. It is **NOT** the Judicial Branch of government that makes law – separation of powers exist. Precedents as cited in BORM must conform to statutory law if they are claimed to apply as a basis for judgment. The

SUPREME COURT of South Carolina addressed these issues in *Smith v. Tiffany*. A few excerpts show (emphasis added):

“... we are likewise **constrained by the plain meaning of the unambiguous language** in the [Contribution Among Joint Tortfeasors] Act. While we appreciate the equity-driven argument of Appellants, **we must honor legislative intent** as clearly expressed in the Act, lest we run afoul of separation of powers.”

‘It is **axiomatic that statutory interpretation begins (and often ends) with the text of the statute** in question. See *Timmons v. S.C. Tricentennial Comm'n*, 254 S.C. 378, 401, 175 S.E.2d 805, 817 (1970) (“**If a statute is clear and explicit** in its language, then there is **no need to resort to statutory interpretation or legislative intent to determine its meaning.**”); see also *Transp. Ins. Co. v. S.C. Second Injury Fund*, 389 S.C. 422, 429, 699 S.E.2d 687, 690 (2010) (“The text of a **statute as DRAFTED by the LEGISLATURE** is considered the **BEST EVIDENCE**

[419 S.C. 556]

of the **legislative intent or will.**” (citing *Hodges v. Rainey*, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000))). **Absent an ambiguity**, there is nothing for a court to construe, that is, a **court should not look beyond the statutory text to discern its meaning.**” [T]here is no occasion for employing rules of statutory interpretation and the **court has no right to look for or impose another meaning**” unless a statutory provision **is ambiguous.** *Paschal v. State Election Comm'n*, 317 S.C. 434, 436, 454 S.E.2d 890, 892 (1995) (citing *Miller v. Doe*, 312 S.C. 444, 441 S.E.2d 319 (1994)); see also *Tilley v. Pacesetter Corp.*, 355 S.C. 361, 373, 585 S.E.2d 292, 298 (2003) (observing that **unless a statute is ambiguous**, “the application of standard rules of statutory **interpretation is unwarranted**”). _Only “[w]here the **language of an act gives rise to doubt or uncertainty** as to legislative intent” **may the construing court “search for that intent beyond the borders of the act itself.”** *Kennedy v. S.C. Ret. Sys.*, 345 S.C. 339, 348, 549 S.E.2d 243, 247 (2001) (citing *Lite House, Inc. v. J.C. Roy Co.*, 309 S.C. 50, 53, 419 S.E.2d 817, 819 (Ct. App. 1992)).’

‘In light of these well-established rules of statutory interpretation, ... we are unwilling to accept Appellants' invitation to look outside the text of the Act to justify the assumption that the legislature's use of differing terms in section 15-38-15 was not deliberate or that those words mean anything other than what they say. See *Hodges*, 341 S.C. at 87, 533 S.E.2d at 582 (“If the **legislature's intent is clearly apparent from the statutory language, a court may NOT embark upon a search for it outside the statute.**” _ (citing *Abell v. Bell*, 229 S.C. 1, 91 S.E.2d 548 (1956))); see also *CFRE, LLC v. Greenville Cty. Assessor*, 395 S.C. 67, 74, 716 S.E.2d 877, 881 (2011) (“[T]he **words found**

in the statute [must be given] their 'plain and ordinary meaning'" and "if the words are unambiguous, we must apply their literal meaning." (quoting *Sloan v. Hardee*, 371 S.C. 495, 498, 640 S.E.2d 457, 459 (2007)).⁷
Smith v. Tiffany, 799 S.E.2d 479, 419 S.C. 548 (2017)

II. Reply to "Statement of the Case"

A) Appellant gave a more proper "Statement" in his BOA

11. Appellant includes by reference this section from IBOA (Figure BOA.5, pp. 4 – 5).

B) MTB's six issues make irrelevant BORM's "Statement"

12. Given MTB's six Issues on Appeal, essentially all BORM "Statement of the Case" content is subject to Rule 12(f), SCRPC, "Motion to Strike".

III. Reply to "Standard of Review"

A) Respondent cites no specific deficiencies related to Causes of Action

13. Appellant finds generic comments in BORM vague and ambiguous. BORM cites no specifics showing deficiency in any of Appellant's causes of action. BORM does not challenge, nor more pertinently show understandable evidence, that denies any of Appellant's Causes of Action.

B) Respondent cites no failures, nor insufficiencies, of facts

14. BORM does not show failure of any facts, nor show how facts were not "sufficient". BORM does not challenge, nor more pertinently show understandable evidence, that denies any of Appellant's facts.

IV. Argument

A) MTB is one of three Respondents

15. Dismissal of Appellant's entire case, and dismissal of all-three Defendants, represents several Errors of Law, and several Errors of Fact. In the event this Court may decide Appellant

has no standing of claims against MTB, affirmation of dismissal with regard to MTB does not justify C1384 being dismissed in its **ENTIRETY**.

B) Valid arguments are summarized in Section I

16. Appellant summarized arguments as found in Section I. For many Issues on Appeal, statutory law as cited by Appellant is clear and unambiguous. Statutory law cannot be overruled by precedents which do not conform with the law.

C) Moot concepts cannot be used to deny Appellant's Constitutional rights

17. Appellant is given a United-States-constitutional right to seek "... due process ..." and "... equal protection of the laws ..." (Amendment XIV). MTB-Respondent's concept that Appellant is restricted from bringing claims against MTB contradicts Amendment XIV. Evidence before the Court proves that Respondent's concept is **MOOT**, invalid, and contains a basic flaw under Amendment XIV.

V. CONCLUSION

The CAP is obliged to conclude that it:

- a) cannot ignore **EVIDENCE** that proves Appellant met requirements to claim conspiracy, and extortion, against MTB;
- b) cannot ignore contents of the Record that presented a mountain of supporting evidence in favor of Appellant.

CAP must reverse granting and affirmation of **dismissal** of C1384 in its **entirety**, and remand to permit Appellant to seek full adjudication of meritorious issues, which are conspiracy and extortion, against MTB.

Dated this 20st day of September, 2021



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and Casualty Company, Respondents

CERTIFICATE OF SERVICE

It is hereby certified that a copy of “Reply Brief of Appellant for McCabe Trotter & Beverly
Respondent”, was served upon three Counsels as follows:

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