

EXHIBIT PRO.1 - Order of 09/21/21 (O921)

The Supreme Court of South Carolina

Raymond A. Wedlake, individually and derivatively, on behalf of all Members of the Woodington Homeowners' Association, Inc., Petitioner,

RECEIVED

Sep 27 2021

v.

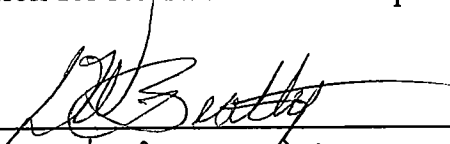
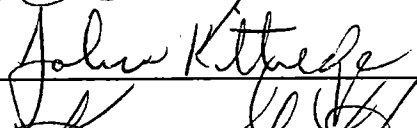

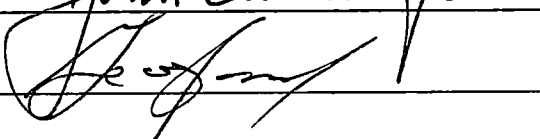

S.C. SUPREME COURT

Benjamin Acord, William Craigo, Denis Esteve, and Brian James in their capacity as the current Board of Directors of the Woodington Homeowners' Association, Inc., Respondents.

Appellate Case No. 2021-000665

ORDER

The Clerk of this Court dismissed the petition for a writ of certiorari in this matter based on Petitioner's failure to file the petition in conformity with Rule 242(d), SCACR. Petitioner has filed a petition for reinstatement. The petition is denied.

	_____	C.J.
	_____	J.
	_____	J.
	_____	J.
	_____	J.

Columbia, South Carolina
September 21, 2021

cc:

Ely Owen Grote, Esquire

Raymond A. Wedlake

The South Carolina Court of Appeals

Raymond A. Wedlake, individually and derivatively, on behalf of all Members of the Woodington Homeowners' Association, Inc., Appellant,

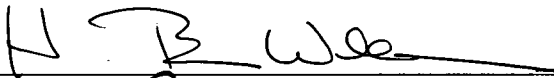
v.

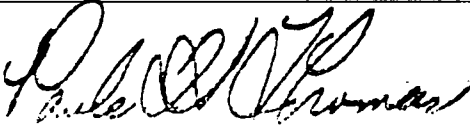
Benjamin Acord, William Craigo, Denis Esteve, and Brian James in their capacity as the current Board of Directors of the Woodington Homeowners' Association, Inc., Respondents.


Appellate Case No. 2018-001209

ORDER

After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Rule 221, SCACR. In his petition for rehearing, Appellant Raymond Wedlake indicates the Woodington Homeowners' Association Bylaws are recorded with the Greenville County Registrar of Deeds. This argument has not been presented before, and we cannot address it at the rehearing stage. Accordingly, the petition for rehearing is denied.


_____ J.


_____ J.


_____ J.

Columbia, South Carolina

FILED
Jun 15 2021

cc:

Raymond A. Wedlake

Grant Henry Gibson, Esquire

Ely Owen Grote, Esquire

The Honorable Charles B. Simmons, Jr.

**EXHIBIT PRO.2.1 - Appellant did not receive service of Order until well after 06/15/21
Spencer, Shelby**

From: Spencer, Shelby
Sent: Tuesday, June 15, 2021 3:22 PM
To: 'atty@ggibsonassociates.com'; 'ely.grote@mccabetrotter.com'
Cc: Simmons, Charles B.
Subject: Raymond A. Wedlake v. Benjamin Acord (2018-001209)
Attachments: SS Wedlake v. Acord - No Vote Letter.pdf; Wedlake v. Acord - Order Denying Rehearing.pdf

Dear Counsel,

Attached is a copy of this Court's cover letter and order. If you have any questions or concerns, please do not hesitate to contact our office.

Warmly,

Shelby Spencer
Appeals Specialist II
SC Court of Appeals
1220 Senate Street
Columbia, SC 29201
803.734.1890

EXHIBIT PRO.3 - Notice of Appeal

RECEIVED

Jun 24 2021

S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM GREENVILLE COUNTY
Court of Appeals

The Honorable Judges: Williams, Thomas, and Hill

Appellate Case No. 2021-_____
Court of Appeals Case No. 2018-001209
Case No. 2017-CP-23-06301

Raymond A. Wedlake, individually and derivatively, on behalf of all Members of the
Woodington Homeowners' Association, Inc., Appellant,

v.

Benjamin Acord, William Craigo, Denis Esteve, and Brian James in their capacity as the
current Board of Directors of the Woodington Homeowners' Association, Inc., Respondents.

NOTICE OF APPEAL

Pursuant to Rule 203, SCACR, Raymond A. Wedlake appeals the “Unpublished Opinion No. 2021-UP-113” (U113, submitted February 1, 2021 – Filed April 7, 2021; Exhibit NOA.1) issued from the Court of Appeals by Honorable Judges: Williams, Thomas, and Hill. Appellant submitted a petition for rehearing after receipt of U113. Appellant received written notice of an

RECEIVED

Jun 22 2021

SC Court of Appeals

Order that denied his petition after June 15, 2021 (Exhibit NOA.2). U113 affirmed dismissal, via granting of involuntary non-suit, of Appellant's case by a Master's-Court Order of May 29, 2018 (Exhibit NOA.3). Appellant attaches Proof of Service to Counsel of Record. A filing fee of \$250 is remitted by Priority Mail.

June 22, 2021



Raymond A. Wedlake,
703 Creekview Drive,
wedlakera@mail.com

Appellant (*Pro Se*)
Greenville, SC 29607
864-254-9262

Other Counsel of Record:

Ely O. Grote, Esq.
McCabe, Trotter & Beverly, P.C.
PO Box 212069
Columbia, SC 29221
ely.grote@mccabetrotter.com
Attorney for Respondent
803-724-5000

The Supreme Court of South Carolina

Raymond A. Wedlake, individually and derivatively, on behalf of all Members of the Woodington Homeowners' Association, Inc., Petitioner,

v.

Benjamin Acord, William Craigo, Denis Esteve, and Brian James in their capacity as the current Board of Directors of the Woodington Homeowners' Association, Inc., Respondents.

Appellate Case No. 2021-000665

ORDER

Petitioner has filed a notice of appeal seeking review of the decision of the South Carolina Court of Appeals in Appellate Case Number 2018-001209. Since review of a decision of the Court of Appeals is sought by serving and filing a petition for a writ of certiorari under Rule 242 of the South Carolina Appellate Court Rules (SCACR), this notice of appeal has been construed as a petition for a writ of certiorari.

This petition for a writ of certiorari does not have the content required by Rule 242(d), SCACR.¹ Accordingly, this matter is dismissed.

¹ Under Section (e) of this Court's order entitled "Operation of the Appellate Courts During the Coronavirus Emergency (As Amended May 29, 2020)" (available at <https://www.sccourts.org/whatsnew/displaywhatsnew.cfm?indexID=2505>), the requirement that the petitioner file two copies of an appendix under Rule 242(e), SCACR, has been suspended.

FOR THE COURT

BY 
CLERK

Columbia, South Carolina
June 24, 2021

cc: Ely Owen Grote, Esquire

EXHIBIT PRO.5 - Petition for Rehearing of Order (O24)

THE STATE OF SOUTH CAROLINA
In The Supreme Court

RECEIVED

Jul 12 2021

APPEAL FROM GREENVILLE COUNTY
Court of Appeals

S.C. SUPREME COURT

The Honorable Judges: Williams, Thomas, and Hill

Appellate Case No. 2021-000665
Court of Appeals Case No. 2018-001209
Case No. 2017-CP-23-06301

Raymond A. Wedlake, individually and derivatively, on behalf of all Members of the
Woodington Homeowners' Association, Inc., Appellant,

v.

Benjamin Acord, William Craigo, Denis Esteve, and Brian James in their capacity as the
current Board of Directors of the Woodington Homeowners' Association, Inc., Respondents.

PETITION FOR REHEARING OF ORDER

Pursuant to Rule 242(c), SCACR, Raymond A. Wedlake submits this “Petition for Rehearing of Order”, objecting to **Error of Fact** contained in the order (O24) filed 06/24/2021, as follows. The time period of thirty (30) days in which Appellant may file a “Petition for Writ of Certiorari” is **not** expired, where Rule 242(c), SCACR shows (excerpted, emphasis added):

RULE 242 CERTIORARI TO THE COURT OF APPEALS
(c) **Time for Petitioning** and Filing Fee. A decision of the Court of Appeals is not final for the purpose of review by the Supreme Court until the petition for rehearing or reinstatement has been acted on by the Court of Appeals. A **petition for writ of certiorari** shall be **served** on opposing counsel and filed with proof of service with the Clerk of the Court of Appeals and

the Clerk of the Supreme Court **within thirty (30) days after the petition for rehearing** or reinstatement is finally decided by the Court of Appeals. An original and six (6) copies of the petition shall be filed with the Supreme Court. The copies filed with the Supreme Court shall be accompanied by the filing fee set by order of the Supreme Court. ...

ADMINISTRATIVE HISTORY

After 06/15/2021, Appellant received service of an order that denied his 04/19/2021 filing of “Petition for Rehearing With a New Panel of Judges; or, Alternately *En Banc*”. O24 was filed on 06/24/2021.

FACTUAL HISTORY

1. O24 marks a date of 06/24/2021 that begins a 30-day period within which Appellant may file a “Petition for Writ of Certiorari”.
2. To date, Appellant has **not** received service of O24, and presumes that service of O24 “... got lost in the mail ...”; Appellant became aware of O24 via inspection of the Public Index for “South Carolina Appellate Case Management System” on 07/08/2021.
3. A 30-day period that began on 06/24 does not end until 07/24/2021.

ARGUMENT

4. The Court’s statement in O24 is incorrect; to construe that Appellant’s “Notice of Appeal” was a petition for a “Writ of Certiorari” is not justified, and represents an “Error of Fact”; O24 shows:

... this notice of appeal has been construed as a petition for a writ of certiorari.

5. The Court’s statement of dismissal in O24 is also an “Error of Fact”, where O24 shows:

This petition for a writ of certiorari does not have the content required by Rule 242(d), SCACR.¹ Accordingly, this matter is dismissed.

6. Appellant has ample time to complete and submit a “Petition for Writ of Certiorari” to comply with Rule 242(d), SCACR, before 07/24/2021.

7. Only in the event that before 07/24/2021 Appellant does **not** file a “Petition for Writ of Certiorari”, can the Court construe Appellant’s “Notice of Appeal” as a deficient “Petition for Writ of Certiorari”, and dismiss.

CONCLUSION

Based on all content herein, O24 stating dismissal cannot stand at this date, being before 07/24/2021. Consequently, O24 must be reversed and rescinded. Appellant’s plan to comply with Rule 242(d) before 07/24/2021 cannot be taken away by the premature dismissal found in O24.

Appellant attaches Proof of Service to Counsel of Record. A filing fee of \$50 is remitted by Priority Mail.

July 9, 2021



Raymond A. Wedlake,
703 Creekview Drive,
wedlakera@mail.com

Appellant (*Pro Se*)
Greenville, SC 29607
864-254-9262

EXHIBIT PRO.6 - Petition for Writ of Certiorari

THE STATE OF SOUTH CAROLINA

In The Supreme Court

APPEAL FROM GREENVILLE COUNTY

Court of Appeals

The Honorable Judges: Williams, Thomas, and Hill

Appellate Case No. 2021-000665

Court of Appeals Case No. 2018-001209

Case No. 2017-CP-23-06301

Raymond A. Wedlake, individually and derivatively, on behalf of all Members of the
Woodington Homeowners' Association, Inc., Appellant,

v.

Benjamin Acord, William Craigo, Denis Esteve, and Brian James in their capacity as the
current Board of Directors of the Woodington Homeowners' Association, Inc., Respondents.

PETITION FOR WRIT OF CERTIORARI

RECEIVED

Jul 22 2021

S.C. SUPREME COURT

Table of Contents

Paragraph 1	.....	1
ADMINISTRATIVE HISTORY	.....	1 - 2
OVERVIEW	.....	2 - 4
CONTENT REQUIRED BY RULE 242(d)	.....	4 - 12
A) Required by Rule 242(d)(1) : Certification	.....	4
B) Required by Rule 242(d)(2) : Questions presented for review	.....	4
Ba) Questions raised in the Court of Appeals (COA)	.....	4
Bb) Questions raised in the Petition for Rehearing	.....	4
C) Required by Rule 242(d)(3) : Statement of the case, containing the facts	..	4 - 6
Ca) Testimony and Appellant’s Final Brief (BOA)	.....	4 - 5
p. 2 gave “Statement of the Case”		
Cb) BOA pp. 3 - 4 gave “Statement of Facts”	.....	5 - 6
Cb.1. Appellant reiterates a few facts from BOA	.....	5
Cb.2. Appellant reiterates from Petition for Rehearing “B) Errors of Fact	..	5 - 6
cannot be used to conclude affirmation of involuntary non-suit”		
D) Required by Rule 242(d)(4) : Argument in support	.....	6 - 12
Da) Appellant’s Individual Claim was totally ignored	.....	6 - 7
Db) Appellant attempted to enter his evidence but was denied	.....	7
Dc) Authority speaks to Judicial Notice of Court Records	.....	8
Dd) Authority speaks to routine Judicial Notice of certain categories	.....	8
De) COA committed Error of Law by ignoring Rule 201(d), SCRE	.....	8
Df) COA committed Error of Law by ignoring Rule 201(f), SCRE	.....	9
Dg) COA committed Error of Law by ignoring Rule 901(a), SCRE	.....	9
Dh) The Board may have “talked the talk”, but evidence shows	.....	10 - 11
they did not “walk the walk”		
Di) Appellant’s “Pre-Trial Brief ...” verifies the Master knew	.....	11
of Complaint and Exhibits		
Dj) Court policy favors Declaratory Judgment actions	.....	12
CONCLUSION	.....	12

Table of Authorities

Cases

<i>W.R. Livingston v. Noland Corporation, et al</i> , 9293 S.C. 521, 362 S.E.2d 16 (SC Sup. Ct. 1987)	.....	1
<i>Carver v. Medical Society</i> , 286 SC 347 (1985)	.....	1
<i>Fielding Home for Funerals v. Public Savings Life Ins. Co.</i> , 271 S.C. 117, 245 S.E. (2d) 238 (1978)	.....	1
<i>Micronics, Inc. v. S.C. Dep't of Revenue</i> , 345 S.C. 506, 548 S.E.2d 223 (Ct. App. 2001)	.....	1
<i>Brown v. Steward</i> , 557 N.E.2d 676, 684 (S.C. Ct. App. 2001)	.....	6
<i>Sandel v. Cousins</i> , 266 S.C. 19, 221 S.E.2d 111 (1975)	.....	7
<i>Tallabs, Inc. v. Makor Issues & Rights, Ltd.</i> , 551 U.S. 308 (2007)	.....	7
<i>Colonial Penn Ins. Co. v. Coil</i> , 887 F.2d 1236, 1239 (4th Cir. 1989)	.....	8
<i>Green v. Warden U.S. Penitentiary</i> , 699 F.2d 364, 369 (7th Cir. 1983)	.....	8

Rules

South Carolina Appellate Court Rules: Rule 242(d), SCACR	.....	1, 4, 6
South Carolina Rules of Evidence: Rule 201(d), SCRE	.....	8
South Carolina Rules of Evidence: Rule 201(f), SCRE	.....	9
South Carolina Rules of Evidence: Rule 901(a), SCRE	.....	9

Statutes

S.C. Code Ann. § 33-31-140(3)	6
-------------------------------	-------	---

Other

Constitution of the United States, Amendment XIV	3, 7, 12
--------------------------------------------------	-------	----------

Pursuant to Rule 242(d), SCACR, Appellant Raymond A. Wedlake (*Pro Se*) submits this “Petition for Writ of Certiorari”. Appellant firmly believes the Court of Appeals (COA) has misapplied and misapprehended the law in arriving at its decision. COA ignored several rationales that required reversal and remand, had they been properly understood. COA affirmed the granting of an involuntary non-suit; this action violated Court rules. Several authorities say non-suit contradicted policies and procedures (*W.R. Livingston v. Noland Corp. ...*, *Carver v. Medical Society*; see [Final] “Brief of Appellant” (BOA), p. 7; *Fielding Home ... v. Public Savings ...* also, *Micronics, Inc. v. S.C. Dep’t of Revenue*; BOA, p. 28). At an original, bench trial heard by a Master in Equity (Master, or Judge), the Master basically ignored **all** evidence before the Court. Contrary to applying evidence that was placed before the Court, and furthermore contrary to applying testimony heard during trial, the Master applied procedural grounds to overrule the merits of Appellant’s case, and to grant involuntary non-suit. South Carolina has a policy “favoring the disposition of issues on their merits rather than on technicalities” (*Microtronics v. SC Dep’t of Revenue*; see BOA pp. 28 – 29).

ADMINISTRATIVE HISTORY

Found from “South Carolina Appellate Case Management System” :

06/24/2021 Petition for Writ of Certiorari and Responses -
Appendix documents pulled by case manager from COA

for Supreme Court Case No.: 2021-000665 (A665) as filed on 06/24/2021, are eight reference documents pulled from COA:

Unpublished Opinion (UPO), Rehearing (REH), Rehearing Order (REHO)
Final Brief: Respondent, Appellant (BOA); plus: Final Reply Brief
Record on Appeal: [volume] 1 and 2

On 05/29/2018 the Master filed an Order (R. pp. 7-11) granting involuntary non-suit. On 06/26/2018, Appellant gave “Notice of Appeal” (R. pp. 531-532) to COA. On 04/07/2021, COA issued its Unpublished Opinion (UPO) affirming the Master’s Order. On 04/19/2021, Appellant served “Petition for Rehearing ...” (REH) to request review of UPO. On 06/15/2021, a COA Order (REHO) denied Appellant’s Petition for Rehearing. On 06/22/2021, Appellant served “Notice of Appeal” to the Supreme Court (as received A665, 06/24/2021). On 06/24/2021, a Supreme Court Order dismissed Appellant’s appeal. On 07/09/2021, Appellant served “Petition for Rehearing of Order”, against this 06/24/2021-Supreme-Court Order.

OVERVIEW

Appellant firmly believes that issues presented in this Petition are fully appropriate for resolution by the Supreme Court. Appellant believes issues herein are of extreme public interest. Thus, the Supreme Court has an obligation to provide resolution. Appellant thinks issues have been decided differently by a variety of lower courts. Such has thereby created confusion and necessitates a uniform interpretation of the law. Only the Supreme Court can provide a uniform interpretation. Consequently, this Petition presents matters which are appropriate for consideration by the Supreme Court.

To date, trial and appeal Courts abrogated their proper role as the Judicial Branch of government. Research by Appellant finds nothing to indicate that a Court of Law’s ruling can be based upon “**legal wrangling**” (that is: issues not related directly to merits of a case, but other issues that Counsel may bring, that in truth are irrelevant, and a violation of their “Lawyer’s Oath” not to “mislead”). Appellant finds nothing to indicate that “**procedural issues**” can be

a sole basis upon which judgment is based. Content presented in Exhibit PWC.1 affirms Appellant's belief about the "Role / Duty / Function of a Court of Law". The **primary purpose** for a Court of Law is to **resolve disputes**. Resolution cannot occur when either of legal wrangling, or procedure issues, are applied to **deny rights** given to individuals by the "**Constitution** of the United States". Very specifically, a primary purpose for a Court of Law does **not include simple dismissal** of cases, which denies resolution of disputes, and denies constitutional rights.

In granting "involuntary non-suit" and its affirmation by COA, Court's of Law did not conform to their mandated roles, duties, nor functions, to resolve disputes as summarized by excerpts taken from Exhibit PWC.1:

- > The Courts are the place where justice is made. "The purposes of the courts are to seek justice and to discover the truth" (The Structure of Criminal Justice. 2013). ...
- > ... A court is an institution that the government sets up to settle disputes through a legal process. ...
- > The duties of the judicial branch include:
 - * Interpreting state laws;
 - * Settling legal disputes;
 - * Protecting individual rights ...
- > We need courts to interpret and apply the law when parties dispute.
 - ... They [Courts] protect minorities of all types from the majority, and protect the rights of people who can't protect themselves. They also embody notions of equal treatment and fair play. The courts and the protections of the law are open to everybody.
- > Some of the major functions of judiciary are as follows:
 - (2) Protector of Civil Rights: ...
 - (4) Custodian of fundamental rights: ...
 - (5) Guardian of the Constitution: ...

> ... So the major task of the judiciary is to ‘determine’ the facts of laws and to apply them to particular circumstance.

... judiciaries also act as the defenders of the individual’s right. Such role of the judiciary is important as it prevents the individual’s rights from being violated. An individual ... could approach the courts for protection.

CONTENT REQUIRED BY RULE 242(d)

A) Required by Rule 242(d)(1) : Certification

1. Appellant certifies that a “Petition for Rehearing ...” (REH) was made on 04/19/2021.
2. Appellant certifies that REH was finally ruled on (REHO) by COA on 06/15/2021.

B) Required by Rule 242(d)(2) : Questions presented for review ...

Ba) Questions raised in the COA

3. Brief of Appellant (BOA) raised seven questions; see BOA p. 1 .

Bb) Questions raised in the Petition for Rehearing (REH)

4. Appellant’s REH raised seven questions; see REH, A – G, pp. 2 – 14, as listed in “Statement of Grounds – Table of Contents”, pp. ii – iii .

C) Required by Rule 242(d)(3) : Statement of the case, containing the facts ...

Ca) Testimony and BOA p. 2 gave “Statement of the Case”

5. The Attorney General directed Appellant to take his case to the Judiciary:

Q. ... ask the Attorney General’s Office for an advisory opinion on these issues so as – in order to avoid going to Court?

A. As a matter of fact, I did. And we did bring many of these same questions to the Attorney General. Unfortunately, he declined to opine and directed us that this was a matter to bring to the judiciary.

(R. p. 249, ll. 10-16; R. p. 520)

Appellant reiterates the very simple nature of his case:

... Appellant brought this action derivatively on behalf of the Woodington Homeowner Association (WHOA) seeking a Declaratory Judgment regarding interpretation of six stipulated By-Laws of WHOA, and a related

action filed individually by Appellant for specific and particularized injury Appellant sustained as a Member of WHOA. ... (BOA, p. 2)

The individual action is specifically defined in the Record On Appeal:

... individual that sought to present his platform of openness and transparency, which is markedly different, a minority view currently, and get on the Board so that he will have that opportunity and basically got disenfranchised when not being permitted to do so. And that's the individual action on his part. Not derivative but both derivatively and individually. (R. p. 247, ll. 1-6)

Cb) BOA pp. 3 - 4 gave "Statement of Facts"

Cb.1. Appellant reiterates a few facts from BOA

6. Reference to the By-Laws is noted 9 times in BOA pp. 3 - 4 . Selected verification of provisions in the By-Laws in BOA were: a) "... the term-limit of five-years specified in the By-Laws ...", b) "... fill an open vacancy on the Board as required by the By-Laws ...", and, c) "... Appellant's Complaint was supported by Affidavits as well as numerous exhibits, including a full, complete copy of the By-Laws." Important provisions in the By-Laws are also supplied from testimony (R. p. 235, ll. 16-17; R. p. 236, ll. 5-7, ll. 20-23; R. p. 237, ll. 15-18; R. p. 244, ll. 5-15; R. p. 262, ll. 12-16; R. p. 266, ll. 12-16; R. p. 287, ll. 4-6; R. p. 296, ll. 4-6) May it please the Court to note no objections to cited testimony were raised.

Cb.2. Appellant reiterates from Petition for Rehearing (REH):

"B) Errors of Fact cannot be used to conclude affirmation of involuntary non-suit"

Factual evidence was presented to the Court which proved the Board's violations of By-Law provisions. Affirmation by the Master of many of Appellant's issues demand that involuntary non-suit cannot be allowed to stand after review by Appellate Courts. The Record On Appeal shows the Master **AFFIRMED** many issues.

7. **AFFIRMED** Issue One: "... the Board ... must comply with ... By-Laws" (R. p. 178) - (see REH, B1, pp. 4-5, par. 5; R. p. 11; R. p. 325, ll. 2-5).
8. **AFFIRMED** Issue Two: "... bylaws place a duty on the Board of Directors to fill a vacancy ..." (R. p. 178) - (see REH, B2, p.5, par. 6; R. p. 244, ll. 5-6; R. p. 325, ll. 6-7).
9. **AFFIRMED** Issue Four: "... bylaws do not permit a Director to remain beyond a five-year term ..." (R. p. 179) - (see REH, B4, pp. 5-6, pars. 8-9 [SC Code of Laws Section 33-31-140(3)]; R. p. 36, Section 2; R. p. 65, par. 3; R. p. 217, ll. 11-15; R. p. 218, ll. 10-18; R. p. 294, ll. 20-24; R. p. 325, ll. 6-8; R. p. 446, par.11)
10. Issue Five: "... Bylaws of the Association do not permit delegation of the role or authority of the Board ..." (R. p. 179) - erroneously stated as moot (see REH, B5, pp. 6-7, pars. 10-11; R. P. 38; R. p. 325 - 326, ll. 22- 25, 1).
11. **AFFIRMED** Issue Six: "... Bylaws require the Board of Directors to send out a ballot ..." (R. p. 179) - (see REH, B6, p. 7, par 12; R. p. 325, ll. 11 - 14).

D) Required by Rule 242(d)(4): Argument in support ...

Appellant selects a few, most-important questions to give argument in support.

Da) Appellant's **Individual Claim** was totally ignored

12. A Judge's discretion does **not** go so far as to **ignore an Individual Claim** altogether, especially where there is proof of special, individual damages, as shown for Appellant's case (R. p. 20, par. 4; R. p. 28, par. 65; R. p. 29, par. 69; R. p. 30-31, par. 76; R. p. 171, ll. 2-3; R. p. 176, par. L, *Brown v. Steward*; R. p. 220, ll. 3-4; R. p. 247, ll. 1-6; R. p. 286, ll. 21-25; R. p. 305, ll. 20-21; R. p. 326, ll. 12-16). The Master also affirmed Appellant's status: "... He clearly has rights individually as a member of the Woodington Homeowners ..." (R. p. 324, ll. 24-25).

13. The Master committed both Error of Law and Error of Fact due to failure to comment on, or give guidance about, Appellant's individual claim. Thus, **"Due Process"** was denied (REH, p. 8-9, par. 16). Amendment XIV to the "Constitution of the United States" guarantees to Appellant the right of due process and the right to "... equal protection of the laws ...". Due Process was denied due to no judgment given pertaining to Appellant's individual action, contrary to judiciary policy (emphasis added):

It is the overriding policy of the judiciary in South Carolina to assure that cases are **tried on their merits and not dismissed on technicalities**. This is equally true where, as here, the appeal is from a finding of non-suit. As stated by the Supreme Court of South Carolina in *Sandel v. Cousins*, 266 S.C. 19, 221 S.E.2d 111 (1975), a case where the court found it "impossible to determine .. the points of law or fact" (Id.), yet still reversed. In finding for the Appellant, the **Court reiterated the fundamental principal that "a meritorious case is not disposed of on technical grounds."** (Id.)

Such failure to recognize "Sandel ... not disposed of on technical grounds", with resulting denial of due process by the Court, demand reversal and remand from the Master's granting of involuntary non-suit and from affirmation by COA.

Db) Appellant attempted to enter his evidence but was denied

14. The Master abused his discretion by denying Appellant's request to "enter into evidence". It must be noted: "... that they would all be in evidence ..." was denied (R. p. 270, ll. 5 – 6). Such is contrary to authority from the United States Supreme Court (emphasis added):

The **United States Supreme Court** weighed in on the issue of entry of Exhibits to Complaints not on the record in *Tallabs, Inc. v. Makor Issues & Rights, Ltd.*, 551 U.S. 308 (2007). It reversed the Court of Appeals refusal to admit Exhibits to the Complaint not on the record and sustained a motion to dismiss, explaining that in analyzing a 12(b)(6) motion to dismiss, the court **must consider "documents incorporated into the complaint by reference, and matters which the court may take judicial notice."** (Id. At 730) (emphasis added). (BOA, p. 24)

Dc) Authority speaks to Judicial Notice of Court Records

15. The Master abused his discretion by denying Judicial Notice of court records:

Judicial records are in particular proper vehicles for judicial notice. Key to this appeal, the 4th Circuit Court of Appeals, has noted that “the most frequent use of judicial notice of ascertainable facts is in noticing the content of court records.” (*Colonial Penn Ins. Co. v. Coil*, 887 F.2d 1236, 1239 (4th Cir. 1989)(emphasis added) (BOA, p. 23, par. 3)

Dd) Authority speaks to routine Judicial Notice of certain categories

16. The Master abused his discretion by denying Judicial Notice of routine categories.

BOA shows (excerpted, emphasis added):

e) Specific Precedent for Entry of Pleadings - Certain categories, such as pleadings, records and judgments in other court cases have routinely been the subject of judicial notice (see, e.g. *Green v. Warden U.S. Penitentiary*, 699 F.2d 364, 369 (7th Cir. 1983). In the instant case it was pleadings arising from the same case that were sought to be judicially recognized. ... (BOA, p. 24, par. 1)

De) COA committed Error of Law by ignoring Rule 201(d), SCRE

17. Appellant cited Rule 201(d) (see BOA p. 1, III.), that COA ignored which constitutes Error of Law. Rule 201(d) demands recognition of the wrongful refusal of the Master to permit Counsel for Appellant to enter Exhibits, including the By-Laws, into evidence during the course of the Trial. BOA contains references to the Record On Appeal (R.), and clearly states that Appellant requested that evidence be entered, and supplied the Court with the necessary information {see BOA, a), pp. 21-22}. Rule 201(d) shows (excerpted, emphasis added):

RULE 201

(d) When Mandatory. A court **shall take judicial notice if requested by a party and supplied with the necessary information.**

Df) COA committed Error of Law by ignoring Rule 201(f), SCRE

18. Appellant cited Rule 201(f) (see BOA p. 1, III.), that COA ignored which constitutes Error of Law. The Master denied 201(f) based upon the stage of the proceeding, but 201(f) specifically allows that Judicial notice may be taken at any stage. {see BOA, (f), p. 23}.

Rule 201(f) shows (excerpted, emphasis added):

RULE 201

(f) Time of Taking Notice. **Judicial notice may be taken at any stage of the proceeding.**

The wrongful refusal of the Master to take judicial notice, under Rules 201(d) and (f), of the Complaint and Exhibits thereto following Appellant's specific request to do so, is clearly abuse of judicial discretion.

Dg) COA committed Error of Law by ignoring Rule 901(a), SCRE

19. Appellant cited Rule 901(a) (REH, p. 2 A), that COA ignored which constitutes Error of Law. The fact that By-Laws are a self-authenticated document was ignored by COA. Whether or not By-Laws are a public record (which they are) is irrelevant. Satisfaction of Rule 901(a) is apparent and assured because Exhibit A (R. p. 35-45) cannot possibly be anything else but what its proponent claims. This rule shows (excerpted, emphasis added):

RULE 901 - Requirement of Authentication or Identification

(a) General Provision. The requirement of **authentication** or identification as a condition precedent to **admissibility is satisfied by evidence sufficient to support a finding that the matter in question is what its proponent claims.** (REH, p. 2, A1, 1)

Dh) The Board may have “talked the talk”, but evidence shows they did **not** “walk the walk”

20. A COA-unpublished Opinion (UPO) affirming non-suit cited the Board as claiming:

“... The law must be followed. By election to the Board, we did agree to abide by the By-Laws. ... ” which is an Error of Fact. With these statements, the Board with slight of hand, merely “talked the talk”, but in truth did not “walk the walk”. Regardless of their claim to “... abide by the By-Laws ...”, the Record On Appeal shows the Board’s “walk” was **not** consistent with their “talk” (BOA, p. 4, ll. 3-6; R. p. 242, ll. 11-21; R. p. 245, ll. 12-15; R. p. 249, ll. 6-8, ll. 19-23; R. p. 253, ll. 19-23; R. p. 255, ll. 21-22; R. p. 256, ll. 11-12; R. p. 265, ll. 3-5, ll. 18-21; R. p. 267, ll. 3-8; R. p. 268, ll. 12-13; R. p. 439, par. 40). A letter from Appellant to the Board further proves the Board’s “walk” was **not** consistent with their “talk”. **Not** consistent with their “talk”, the Board showed **no** “walk” and did **nothing**. As entered into evidence, this letter: “Plaintiff’s Exhibit 5” (R. 353 - 354) shows (excerpted):

Thank you for recent replies. However, they did **not** address the issues raised in, nor reflect the **seriousness** of, my recent messages. This suggests that either they were not read carefully or that the **Board is not seeking a resolution** of such issues ...

So, here is a last-ditch proposal: four short meetings (more if necessary) to work together to listen and respond to open issues. Indeed, you may have some points to raise as well! ... One last time, I respectfully request that the Board **get serious** about **committing** to [the] time required for **negotiation** with intent to **resolve** open issues.

In order to be productive, such private meetings cannot be a forum where the Board merely listens ... without **addressing** such concerns ... It may be that you believe the issue is proper to address but needs to be resolved with a different solution, which could conceivably lead to resolution. It is **not** “my way or the Highway”! After all, we are all in this for the **benefit of WHOA** membership, right?

Of course, if the proposed schedule needs “tweaking” please send alternative dates. However, other suggested dates should be **targeted to resolve issues** ...

It is a matter of record that the Board would not meet (“walk”) with Appellant to attempt to resolve issues (“talk”) related to alleged violations of By-Laws (R. p. 242, ll. 11-21; R. p. 439, par. 40). Such leaves their “talk” as substantively **neither** justified **nor** shown. Thus, the Board’s “talk” cannot be used as cited by COA.

Di) Appellant’s “Pre-Trial Brief ...” verifies the Master knew of Complaint and Exhibits

21. Counsel for Appellant submitted his “Pre-Trial Brief” before trial. It apprised the Master of several items brought to his attention, and for his consideration, in the Court Record (excerpted, emphasis added):

... This Pre-Trial Brief of course **incorporates all existing pleadings, including our Complaint** and Memorandum in Response to Defendants’ Memorandum in Support of Motion to Dismiss and Alternatively for a More Definite Statement, **along with related Affidavits and Exhibits.**
(R. p. 474, par. 2)

- Requirement for this HOA **Board to adhere to the By-Laws**, and to **stipulate that future Boards must also adhere to the By-Laws.**
(R. p. 475, I. , dash 2)

... **Board** Defendants and the 2016 Board before them, have **engaged in continuing violations of the By-Laws** despite clear and repeated notification and explanation by Plaintiff, and that **such violations will continue to occur with future Boards** to the detriment of Members without confirmation of violations as claimed by Plaintiff, and without clear **direction from this Court that the By-Laws must be followed** (See attached Original Affidavit 14 – 23, 49, 61 – 63, 66)
(R. p. 475, II. , dash 2)

... issues ... It is for these reasons we are bringing them before the Master in Equity so that we may have **clarity for this Board, for future Boards, and for the Members** of the WHOA. (R. p. 481, par. 8)

So, the Master was fully aware of Exhibits to the Complaint, which included Exhibit A, By-Laws (R. p. 35-45), and was given a good idea about the extent of contents in the Court Record, and a good idea of issues before the Court.

Dj) Court policy favors **Declaratory Judgment** actions

22. The Master failed to apply the Court's policy that favors Declaratory Judgment actions. Appellant's case requires adjudication on its simple, factual merits, which demands reversal and remand from involuntary non-suit.

CONCLUSION

The Supreme Court must, as can only be done by the Supreme Court, affirm that Courts of Law:

- a) cannot arbitrarily ignore evidence specifically known to the Court, and/or made known to the Court via testimony;
- b) cannot conclude "affirm" (as COA) when direct violations of the Court's own rules exist;
- c) are obliged to apply precedents from authorities, particularly when lower Courts ignore and go against authority established by the Supreme Court, itself;
- d) are obliged to uphold the "Constitution of the United States" which guarantees litigants the right of "Due Process" and a right to "... equal protection of the laws ...";
- e) have a role as part of the Judicial branch of government, which is abrogated when simple dismissal (or in Appellant's case: involuntary non-suit) of meritorious cases occurs.

The Supreme Court **must restore integrity** to the judicial process by reversing the finding and affirmation of involuntary non-suit, regarding the action for Declaratory Judgment, as well as reverse lower Court's having ignored Appellant's individual action, to permit

Appellant to seek a new trial on the merits.

Dated this 22nd day of July 2021.



Raymond A. Wedlake, Appellant (*Pro Se*)
703 Creekview Drive, Greenville, SC 29607
864-254-9262 wedlakera@mail.com