

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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

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SC Court of Appeals

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 BOARD RESPONDENT

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November 7, 2021

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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 “Brief of Respondent Board ...” (BORB). 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, R. pp. 641 - 665), are matters of CAP record, received by CAP as stamped August 9, 2021, and November 8, 2021 for Final Brief.

I. REPLY TO “STATEMENT OF THE ISSUES ON APPEAL”

A) BORB cites one, and only one issue, that ONE ISSUE being:

“... Dismiss Based On Collateral Estoppel Grounds ...”

1. Appellant finds that focus by BORB upon one issue, only, seems incomplete. BORB seems to admit, then, that fifteen-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. IBOA cited **EVIDENCE** (Exhibits OD.1 to OD.5; R. pp. 615 - 620, 622 - 624) put before the Court proving that collateral estoppel **cannot be used to dismiss** C1384 in its entirety. Being a “Court of Law”, CAP is obliged to see and understand all evidence and argument, which necessarily leads to a conclusion that collateral estoppel **does not apply to all aspects** of C1384 (BOA, pp. 6 – 13).

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

2. BOA cited 12 authorities (see BOA, “Table of Authorities”, p. v), with 8 supporting Figures (BOA, Figure BOA.1 to BOA.8; R. pp. 43 - 45, 638, 396 - 407, 638 - 640, 641 - 665, 666 - 669, 670, 671 - 682). BOA relied upon IBOA (Figure BOA.5; R. pp. 641 - 665), where IBOA included 108 supporting documents (attachments, exhibits, and figures; R. pp. [various]).

II. Reply to “Statement of the Case”

A) Respondent does not deny that new issues were brought by Appellant

3. BORB does not deny that new issues were brought by Appellant.

4. BORB reiterates pages of history, much of which is redundant, immaterial, impertinent or scandalous matter, and as such is subject to Rule 12(f), SCRC, “Motion to Strike”.

B) Dismissal can be done only for those issues that are deemed re-litigation

5. BORB cites issues claiming “re-litigation”. The Court is obliged to determine which, if any, of cited issues are truly re-litigation. In that event, only those issues so determined can be dismissed. All issues cannot be dismissed, particularly where **evidence proves new issues** are **NOT** re-litigation.

III. Reply to “Standard of Review”

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

6. Appellant finds generic comments in BORB vague and ambiguous. BORB cites no specifics showing deficiency in any of Appellant’s causes of action. BORB does not challenge, nor more pertinently shows any evidence, that denies any of Appellant’s facts.

B) Respondent admits evidence must be viewed as favorable to Appellant

7. BORB affirms that Appellant’s “... evidence and all reasonable inferences must be viewed in a light most favorable to the nonmoving party [Appellant],” *Fleming v. Rose*, 350 S.C. 488, 493, 567 S.E.2d 857, 860 (2002). As stated above in paragraph 3, BORB does not deny that new issues were brought by Appellant in C1384. Without denial of new issues, BORB effectively admits that collateral estoppel, or issue preclusion, was inappropriately applied to dismiss C1384 in its entirety. BORB brings **NO EVIDENCE** that supports entire dismissal, and therefore this Court **cannot possibly** uphold the Magistrate’s Court decision to dismiss C1384 in

its entirety, where BORB's **prevaricative** claim shows:

Since the Appellant has not made any new claims against The Board, this Court should uphold the Magistrate's Court decision.

IV. Argument

A) EVIDENCE proved claims of "re-litigation" are FALSE; BOA cited thirteen New Issues never litigated before

8. Dismissal of Appellant's entire case, and dismissal of all-three Defendants, represents several Errors of Law, and several Errors of Fact. Thirteen New Issues never litigated before are itemized specifically in BOA: pars. AA.2.1 through AA.2.13 (BOA, pp. 8-10). Such evidence (Exhibit OD.5 – "Issues 2020-CV-23-10201384"; R. pp. 622 - 624) is a matter of Court Record. Evidence cannot be ignored to conclude that collateral estoppel forms a basis for dismissal of Appellant's ENTIRE case.

9. Appellant reiterates content from BOA:

AA.2.14 The Judge ruled upon a **presumption** that evidence existed to support prevaricative innuendos presented by attorneys claiming "re-litigation" (REL). It is a matter of Court Record that no such evidence exists showing that all of Appellant's issues represent REL. Without such evidence, CAP is obliged to recognize this wrongful abuse of judicial discretion in granting dismissal, in whole. Without such evidence, a conclusion by the Judge based upon: "... agrees with ... lawsuit is an attempt to re-litigate the issues that have already been decided ...", cannot be a basis upon which dismissal was affirmed. ... (BOA, p. 10)

B) BORB contains erroneous content

B.1. Only "same issues" can be subject to dismissal; Appellant's entire case cannot be subject to dismissal

10. Appellant reiterates content from BOA (excerpted):

1. ... Evidence in the Public Index **proved** that Appellant's case, in whole, was **not** re-litigation of previously decided issues. Several **new**, and **never** litigated-before issues were totally ignored with the granting of dismissal, in whole, of Appellant's-entire case.

1a) Cited evidence is found as seen in the “Public Index” for 2020-CP-23-05996 as labeled:

<u>Name</u>	<u>Description</u>	<u>Begin Date</u>	<u>Compl. Date</u>
Wedlake...	In[i]tial Brief of Appellant - Part 4 of 4 (R. pp. 598 - 625, 410 - 414, 253 - 292, 316 - 395, 205 - 210, 1 - 3, 218 - 219)	03/08/2021	05/13/2021
Wedlake...	In[i]tial Brief of Appellant - Part 3 of 4 (R. pp. 494 - 561, 211 - 217, 15, 233 - 252, 190 - 202, 562 - 597, 408 - 409)	03/08/2021	05/13/2021
Wedlake...	In[i]tial Brief of Appellant - Part 2 of 4 (R. pp. 626 - 637, 415 - 493, 293 - 315)	03/08/2021	05/13/2021
Wedlake...	In[i]tial Brief of Appellant - Part 1 of 4 (R. pp. 641 - 665, 136 - 186)	03/08/2021	05/13/2021

As part of “Memorandum in Opposition to Defendants’ Proposed Order” (MOPO, Attachment IB.9; R. pp. 282 - 292), Appellant put evidence before the Court that showed exhibits which itemized issues brought in the original case on appeal: C1384, as well as in previous cases:

- Exhibit OD.1 - Stipulation of Issues for Trial 2017-CP-23-06301 (R. pp. 615 - 617)
- Exhibit OD.2 - Issues 2018-CP-23-03758 (C3758, R. p. 618)
- Exhibit OD.3 - Issues 2019-CP-23-00269 (R. p. 619)
- Exhibit OD.4 - Issues 2019-CP-23-01501 (R. p. 620)
- Exhibit OD.5 - Issues 2020-CV-23-10201384 (R. pp. 622 - 624)

1b) Appellant reiterates important excerpts from what were presented in MOPO (R. pp. 282 - 292), which stated in overview: ‘... no claims in C1384 are “... the same exact claims ...” to any previous case ...’ (excerpted, emphasis added):

- 2b) [The proposed Order] **PO prevaricates** when it states: “... the same exact claims ...”, as **proven by evidence presented herein** via Exhibits OD.1 ... OD.5 (this-instant C1384): (R. p. 285)
 - 2b.1. Inspection of Exhibit OD.5 as compared to prior cases (OD.1 - OD.4) shows **no claims in C1384 are “... the same exact claims ...” to any previous case;** (R. p. 285)
 - 2b.2. **Only where claims are similar** enough to be deemed “... the same ...” **can a contention** be made that “... **re-litigate** the issues ...” **applies;** (R. p. 285)
 - 2b.3 **Only those issues that the Court deems are re-litigation can be dismissed; many new issues in C1384 can not be dismissed based upon such claim;** (R. p. 285)
 - 2b.4 For the Court to **dismiss the entirety** of all of C1384 suggests a **lack of knowledge and understanding** that **new issues in C1384 must be recognized,** contrary to the PO; (R. p. 285)
 - 2b.5 In C3758, no issues were litigated; C3758 was settled by mutual agreement and was not dismissed per Court Order; (R. p. 285)

(BOA, Section AA.1, par. 1, pp. 6 - 7)

B.2. Moot concepts cannot be used to deny Appellant's Constitutional rights

Appellant is given a United-States-constitutional right to seek "... due process ..." and "... equal protection of the laws ..." (Amendment XIV). Board-Respondent's concept that Appellant is restricted from using a Court of Law: "... should not now be allowed to use the Magistrates's Court ...", contradicts Amendment XIV. Evidence before the Court proves that Respondent's concept is **MOOT**, invalid, and contains a basic flaw. BORB **erroneously** shows:

... He [Appellant] should not now be allowed to use the Magistrate's Court as a vehicle to re-litigate the same issues that have been already been argued and decided by the Court in a previous action. Accordingly, the Magistrate's Court correctly dismissed the Appellant's case based on collateral estoppel, and the Circuit Court appropriately upheld the Magistrate's Court's decision. ...

V. CONCLUSION

The CAP must recognize and confirm that Courts of Law:

- a) cannot ignore **EVIDENCE** that proves collateral estoppel does not apply;
- b) cannot ignore contents of the Record that proves **new issues** were brought, and thus issue preclusion cannot apply to new issues;
- c) are obliged to be bound by **EVIDENCE** before the Court, rather than based upon presumption, only, to accept prevaricative claims found in BORB, that are otherwise **NOT** supported by evidence.

Particularly as related to Appellant's **never-before-litigated-new issues** that lower Courts **ignored**, CAP must reverse granting and affirmation of **dismissal** of C1384 in its **entirety**, and remand to permit Appellant to seek full adjudication of meritorious, **new** issues.

Dated this 7th day of November, 2021

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and Casualty Company, Respondents

CERTIFICATE OF APPELLANT

The undersigned certifies that his "Reply Brief of Appellant for Board Respondent"
complies with Rule 211(b), SCACR.

November 7, 2021

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