THE STATE OF SOUTH CAROLINA
In The Court of Appeals

South Carolina Lottery Commission, Respondent,

v.

George S. Glassmeyer, Appellant.

Appellate Case No. 2016-001112

Appeal From Richland County
L. Casey Manning, Circuit Court Judge

Opinion No. 5671
Submitted September 19, 2018 – Filed July 31, 2019

AFFIRMED IN PART, REVERSED IN PART, AND REMANDED

Andrew Sims Radeker and Taylor Meriwether Smith, IV, of Harrison, Radeker & Smith, P.A., of Columbia, both for Appellant.

Karl Smith Bowers, Jr., of Columbia, for Respondent.

THOMAS, J.: George Glassmeyer appeals the circuit court's order granting declaratory and injunctive relief in this Freedom of Information Act (FOIA) case. On appeal, Glassmeyer argues the circuit court erred by (1) failing to address his counterclaims, (2) entering judgment on the pleadings, (3) finding the South Carolina Lottery Commission (SCLC) had standing to bring the action, and (4) failing to grant his motion to dismiss. We affirm in part, reverse in part, and remand.

On March 31, 2014, Glassmeyer submitted a FOIA request to SCLC for information related to any claims for any South Carolina lottery prize equal to or greater than one million dollars in gross proceeds from March 1, 2013, to March 20, 2014. Specifically, Glassmeyer requested (1) the claimants' full names, (2) the claimants' complete addresses, (3) the claimants' telephone numbers, (4) the gross dollar amount of the claims, (5) the dates of the claims, and (6) a copy of any form of identification SCLC obtained from the claimants. On April 1, 2014, SCLC mailed letters to the claimants who were affected by the FOIA request. Many of the claimants objected to the release of their personal information and filed complaints against SCLC. On April 4, 2014, one of the claimants, "John Doe," requested the circuit court to grant a permanent injunction enjoining SCLC from disclosing Doe's name, address, telephone number, amount of claim, date of claim, and any forms of identification obtained for the claim.[1]

SCLC then responded to Glassmeyer's request on April 16, 2014. In sum, SCLC informed Glassmeyer that (1) the request for the claimants' full names, complete addresses, telephone numbers, and forms of identification were exempted from disclosure by section 30-2-310 (A)(1)(e) of the South Carolina Code (Supp. 2018)[2] and, therefore, were exempted from disclosure under section 30-4-40(a)(4) of the South Carolina Code (2007)[3]; (2) the request for copies of the claimants' forms of identification, such as their driver's licenses, were not public records under FOIA; and (3) SCLC could not disclose an individual's personal identifying information because it would be an invasion of privacy. However, SCLC did disclose the following information to Glassmeyer: the gross dollar amount of the claims, dates of the claims, the hometowns and states of the claimants, and the games associated with the prizes won.

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[1] The record only includes the full disposition of Doe's case, *John Doe v. South Carolina Lottery Commission*, Civil Action No. 2014-CP-40-2446. The record does not contain information regarding the outcomes of the other cases involving the claimants who filed complaints against SCLC.

[2] Section 30-2-310(A)(1)(e) provides, in pertinent part, that a public body may not "intentionally communicate or otherwise make available to the general public an individual's social security number or a portion of it containing six digits or more or other personal identifying information."

[3] Section 30-4-40(a)(4) provides, "A public body may but is not required to exempt from disclosure . . . [m]atters specifically exempted from disclosure by statute or law."

Glassmeyer submitted two more FOIA requests in letters dated April 16 and April 17, 2014. Glassmeyer stated that the response he received from SCLC on April 16 "**did not** satisfy my request." (emphasis in original). Again, Glassmeyer requested that SCLC provide him with the "claimants' full names."

Meanwhile, Doe's action against SCLC proceeded forward in the circuit court. The circuit court found that

> [Doe] therefore is entitled to a declaratory judgment that the release of all or any part of [Doe's] personal identifying information, such as [claimant's] name, would result in an unreasonable invasion of [Doe's] personal privacy in accordance with Section 30-4-40(a)(2).[4]

Thus, on April 25, 2014, the court granted a permanent injunction and ordered that SCLC be "permanently restrained and enjoined from releasing any and all information regarding [Doe] in response to the FOIA request of Mr. George Glassmeyer and any other FOIA request."[5]

Thereafter, in a letter dated May 7, 2014, SCLC responded to Glassmeyer's April 16 and April 17 requests. SCLC granted Glassmeyer's request pertaining to information that it determined was disclosable, but informed Glassmeyer that his

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[4] Section 30-4-40(a)(2) of the South Carolina Code (Supp. 2018) provides, "A public body may but is not required to exempt from disclosure . . . [i]nformation of a personal nature where the public disclosure thereof would constitute unreasonable invasion of personal privacy. Information of a personal nature shall include, but not be limited to, information as to gross receipts contained in applications for business licenses, information relating to public records which include the name, address, and telephone number or other such information of an individual or individuals who are handicapped or disabled when the information is requested for person-to-person commercial solicitation of handicapped persons solely by virtue of their handicap, and any audio recording of the final statements of a dying victim in a call to 911 emergency services. Any audio of the victim's statements must be redacted prior to the release of the recording unless the privacy interest is waived by the victim's next of kin. This provision must not be interpreted to restrict access by the public and press to information contained in public records."

[5] This order only addressed Doe's rights and how releasing his personal information would affect him.

request for the claimants' full names would constitute an unreasonable invasion of personal privacy and this information was exempt under section 30-4-40(a)(2). On that same day, SCLC filed a summons and complaint against Glassmeyer requesting the court grant declaratory judgment and injunctive relief "with respect to the release of personal information regarding claimants of lottery winnings," which resulted in the present appeal.

STANDARD OF REVIEW

"A suit for declaratory judgment is neither legal nor equitable, but is determined by the nature of the underlying issue." *Felts v. Richland Cty.*, 303 S.C. 354, 356, 400 S.E.2d 781, 782 (1991). "In equitable actions, the appellate court may find facts in accordance with its own view of the preponderance of the evidence." *Id.* "In law actions, the lower court must be affirmed where there is 'any evidence' to support its findings." *Id.* "An issue [that is] essentially one at law will not be transformed into one in equity simply because declaratory relief is sought." *Id.* "A declaratory judgment action under the FOIA to determine whether certain information should be disclosed is an action at law." *Burton v. York Cty. Sheriff's Dep't*, 358 S.C. 339, 346, 594 S.E.2d 888, 892 (Ct. App. 2004). The appellate court reviews questions of law de novo. *See Glassmeyer v. City of Columbia*, 414 S.C. 213, 218, 777 S.E.2d 835, 838 (Ct. App. 2015).

STANDING

Glassmeyer argues SCLC did not have standing under FOIA to file this action because the statute indicates only citizens may apply to the circuit court for a declaratory judgment or injunction. We disagree.

"To have standing, one must have a personal stake in the subject matter of the lawsuit. In other words, one must be a real party in interest." *Sea Pines Ass'n for the Prot. of Wildlife, Inc. v. S.C. Dep't of Nat. Res.*, 345 S.C. 594, 600, 550 S.E.2d 287, 291 (2001). "Standing may be acquired: (1) by statute; (2) through the rubric of 'constitutional standing;' or (3) under the 'public importance' exception." *ATC S., Inc. v. Charleston Cty.*, 380 S.C. 191, 195, 669 S.E.2d 337, 339 (2008). The FOIA statute specifically "contains a civil enforcement provision granting standing to a South Carolina citizen to seek injunctive relief against a violation of any FOIA provision." *Cricket Cove Ventures, LLC v. Gilland*, 390 S.C. 312, 327, 701 S.E.2d 39, 47 (Ct. App. 2010). Specifically, section 30-4-100(A) of the South Carolina Code (Supp. 2018) states:

> A citizen of the State may apply to the circuit court for a declaratory judgment, injunctive relief, or both, to enforce the provisions of this chapter in appropriate cases if the application is made no later than one year after the date of the alleged violation or one year after a public vote in public session, whichever comes later.

Although Glassmeyer argues SCLC is not a "citizen" and therefore lacked standing under section 30-4-100(A) to file for a declaratory judgment, SCLC did not bring an action under section 30-4-100(A). Instead, SCLC brought an action under the Declaratory Judgments Act seeking confirmation that the release of the information Glassmeyer requested would constitute an unreasonable invasion of the lottery winners' personal privacy in accordance with section 30-4-40(a)(2) and therefore may be withheld from disclosure. *See* S.C. Code Ann. §§ 15-53-10 to -140 (2005). The Declaratory Judgments Act provides that "[c]ourts of record within their respective jurisdictions shall have power to declare rights, status and other legal relations whether or not further relief is or could be claimed." S.C. Code Ann. § 15-53-20 (2005). As such,

> [a]ny person . . . whose rights, status or other legal relations are affected by a statute . . . may have determined any question of construction or validity arising under the . . . statute . . . and obtain a declaration of rights, status or other legal relations . . . .

S.C. Code Ann. § 15-53-30 (2005). The purpose of the Declaratory Judgments Act "is to settle and to afford relief from uncertainty and insecurity with respect to rights, status and other legal relations." S.C. Code Ann. § 15-53-130 (2005); *see also Sunset Cay, LLC v. City of Folly Beach*, 357 S.C. 414, 423, 593 S.E.2d 462, 466 (2004) ("The basic purpose of the [Declaratory Judgments] Act is to provide for declaratory judgments without awaiting a breach of existing rights."). Further, "[t]he Declaratory Judgments Act is a proper vehicle in which to bring a controversy before the court when there is an existing controversy or at least the ripening seeds of a controversy." *Sunset Cay, LLC*, 357 S.C. at 423, 593 S.E.2d at 466. Moreover, the Act "is to be liberally construed and administered." § 15-53-130.

"To fall within the intended purpose and scope of the Declaratory Judgments Act, the parties must seek adjudication of a justiciable controversy." *Tourism Expenditure Review Comm. v. City of Myrtle Beach*, 403 S.C. 76, 81, 742 S.E.2d

371, 373–74 (2013) (footnote omitted). "Questions of statutory interpretation, by themselves, do not rise to the level of actual controversy." *Id*. at 81, 742 S.E.2d at 374 (internal citations omitted). An adjudication that would not settle the legal rights of the parties would be "only advisory and, therefore, beyond the intended purpose and scope of a declaratory judgement." *Power v. McNair*, 255 S.C. 150, 154–55, 177 S.E.2d 551, 553 (1970) (holding action for declaratory judgment to determine whether simultaneous holding of office of city policeman and commission as state constable without compensation would constitute dual office holding prohibited by the South Carolina Constitution presented no justiciable controversy); *see also City of Columbia v. Sanders*, 231 S.C. 61, 68, 97 S.E.2d 210, 213 (1957) ("The Uniform Declaratory Judgment[s] Act . . . 'does not require the court to give a purely advisory opinion which the parties might, so to speak, put on ice to be used if and when the occasion might arise,' or 'license litigants to fish in judicial ponds for legal advice.'" (citations omitted)). Thus,

> [w]here a concrete issue is present, and there is a definite assertion of legal rights and a positive legal duty with respect thereto, which are denied by the adverse party, there is a justiciable controversy calling for the invocation of declaratory judgment action.

Power, 255 S.C. at 153–54, 177 S.E.2d at 553 (quoting *Dantzler v. Callison*, 227 S.C. 317, 321, 88 S.E.2d 64, 66 (1955)).

Here, there was an on-going controversy affecting the duties and obligations of SCLC and the rights of Glassmeyer and all the claimants who were affected by his FOIA requests. The permanent injunction that was granted for Doe only resolved the matter as to that particular claimant, and it only prohibited the release of Doe's personal identifying information. Moreover, SCLC had already informed Glassmeyer that the personal identifying information he sought was exempted under FOIA. Glassmeyer made it clear that SCLC's reasoning for not disclosing the requested information "**did not**" satisfy his request, and he made another request for the exact same information. Consequently, as reflected in the minutes of the "Executive Committee of the South Carolina Education Lottery Board of Commissioners," SCLC experienced

> an unusually strong negative reaction after the winners were notified [about Glassmeyer's request]. The number of calls and the concerns expressed over privacy and safety were greater than the last time similar information

> was requested. Several attorneys called to inquire about filing a lawsuit and to express concern over their client[s] bearing the costs associated with filing. Other winners asked if they could be put on "a list" as wishing to not have their information disclosed.

Thus, under these circumstances, it is understandable that SCLC would utilize the Declaratory Judgments Act to remove any uncertainty and insecurity with respect to its duties and obligations regarding disclosure under FOIA that would affect the rights of the remaining claimants and Glassmeyer. *See* § 15-53-130 ("[The Declaratory Judgments Act's] purpose is to settle and to afford relief from uncertainty and insecurity with respect to rights, status and other legal relations."); *see also Sunset Cay, LLC*, 357 S.C. at 423, 593 S.E.2d at 466 ("The basic purpose of the [Declaratory Judgments] Act is to provide for declaratory judgments without awaiting a breach of existing rights."); *id*. ("The Declaratory Judgments Act is a proper vehicle in which to bring a controversy before the court when there is an existing controversy or at least the ripening seeds of a controversy."). Thus, we find SCLC was not constrained from seeking a declaratory judgment in the instant matter.

Additionally, it is important to note that the legislature amended section 30-4-110 of the FOIA statute in 2017. S.C. Code § 30-4-110 (Supp. 2018).[6] Section 30-4-110 is now entitled, "Hearings regarding disclosure; appropriate relief; civil fine for violation." *Id*. Section 30-4-110(A) provides,

> A public body may file a request for hearing with the circuit court to seek relief from unduly burdensome, overly broad, vague, repetitive, or otherwise improper requests, or where it has received a request but it is unable to make a good faith determination as to whether the information is exempt from disclosure.

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[6] The legislative act adopting this amendment provided, "To amend section 30-4-110, relating to penalties for violations of the Freedom of Information Act, so as to remove criminal penalties, and *to provide rights and remedies of public bodies from whom requests are made and persons with specific interests in exempt information for which disclosure is sought*, among other things[.]" Act No. 67, 2017 S.C. Acts 3352 (emphases added).

Section 30-4-110(C) further provides that "[i]f a person or entity seeking relief under this section prevails, the court may order[] equitable relief as [it] considers appropriate[.]" *Id*. The FOIA statute now explicitly provides an avenue for agencies like SCLC to seek relief if presented with a similar factual scenario as the case at bar. However, SCLC did not have the benefit of this provision in 2014. Thus, the Declaratory Judgments Act was a viable means for SCLC to seek relief and to terminate the on-going controversy. *See City of Myrtle Beach,* 403 S.C. at 82, 742 S.E.2d at 374 ("The Declaratory Judgments Act may not be invoked to avoid or circumvent the legislature's exclusive method for challenging [a provision within an act]."). Moreover, given the gravity of the interests at stake—i.e., the potential invasion of personal privacy for the claimants, the risk of unlimited legal exposure for SCLC, the potential to diminish the number of lottery players because of fear of their identity being exposed, and balancing the equities of Glassmeyer's right to request information—prudence dictated the agency's decision to have the circuit court declare its obligations and to remove any doubt it may have had. *See Power*, 255 S.C. at 154–55, 177 S.E.2d at 553 ("Where a concrete issue is present, and there is a definite assertion of legal rights and a positive legal duty with respect thereto, which are denied by the adverse party, there is a justiciable controversy calling for the invocation of declaratory judgment action." (quoting *Dantzler*, 227 S.C. at 321, 88 S.E.2d at 66)). Accordingly, we find SCLC had standing to file for a declaratory judgment.

DECLARATORY JUDGMENT

Glassmeyer argues the circuit court erred in issuing the declaratory judgment for SCLC because the balancing of the individual's privacy against the public's need to know weighs in his favor. Further, Glassmeyer contends the circuit court considered evidence outside of the pleadings and construed the pleadings in the light most favorable to SCLC. We disagree.

"FOIA is remedial in nature and should be liberally construed to carry out its purpose." *Evening Post Publ'g Co. v. Berkeley Cty. Sch. Dist.*, 392 S.C. 76, 82, 708 S.E.2d 745, 748 (2011). As the General Assembly stated,

> [I]t is vital in a democratic society that public business be performed in an open and public manner so that citizens shall be advised of the performance of public officials and of the decisions that are reached in public activity and in the formulation of public policy. Toward this end, provisions of this chapter must be construed so as to

> make it possible for citizens, or their representatives, to learn and report fully the activities of their public officials at a minimum cost or delay to the persons seeking access to public documents or meetings.

S.C. Code Ann. § 30-4-15 (2007).

"FOIA's basic premise is [that] 'any person has a right to inspect or copy any public record of a public body.'" *Evening Post Publ'g Co.*, 392 S.C. at 82, 708 S.E.2d at 748 (quoting § 30-4-30(a)). However, this right is not absolute. "Information of a personal nature where the public disclosure thereof would constitute [an] unreasonable invasion of personal privacy" is exempt from disclosure under FOIA. § 30-4-40(a)(2). The exemption provision gives the public body the discretion to disclose such information, stating the public body "may but is not required to" disclose the information. § 30-4-40(a). "The determination of whether documents or portions thereof are exempt from FOIA must be made on a case-by-case basis, and the exempt and non-exempt material shall be separated and the non[-]exempt material disclosed." *Evening Post Publ'g Co.*, 392 S.C. at 82, 708 S.E.2d at 748.

> Section 30-4-40(a)(2) does not specifically list or define the types of records, reports, or other information that should be classified as personal or private information exempt from disclosure. We must, therefore, resort to general privacy principles, which examination involves a balancing of conflicting interests—the interest of the individual in privacy on the one hand against the interest of the public's need to know on the other.

Burton, 358 S.C. at 352, 594 S.E.2d at 895. "Our [s]upreme [c]ourt has defined the 'right to privacy' as the right of an individual to be let alone and to live a life free from unwarranted publicity." *Id.* A plaintiff must establish three elements in order to receive an injunction: "(1) he will suffer immediate, irreparable harm without the injunction; (2) he has a likelihood of success on the merits; and (3) he has no adequate remedy at law." *Compton v. S.C. Dep't of Corr.*, 392 S.C. 361, 366, 709 S.E.2d 639, 642 (2011).

In *Glassmeyer v. City of Columbia*, Glassmeyer sent a FOIA request to the City of Columbia, requesting all the application materials for the final three applicants for city manager. 414 S.C. at 216–17, 777 S.E.2d at 837. The city provided the applicants' information but redacted the street name and number of the applicants'

home addresses, some of their telephone numbers, their job references, their driver's license numbers, their driver's license restrictions, and some of the applicants' reasons for leaving their previous employment. *Id.* at 217, 777 S.E.2d at 837. Glassmeyer filed a declaratory judgment and injunction action against the city. *Id.* Prior to the circuit court issuing an order, Glassmeyer conceded that the driver's license information was exempt under state law. *Id.* at 217, 777 S.E.2d at 838. The circuit court granted Glassmeyer's request for summary judgment. *Id.* at 218, 777 S.E.2d at 838. This court reversed the circuit court, holding disclosure of the applicants' home addresses, telephone numbers, and personal email addresses would constitute an unreasonable invasion of personal privacy. *Id.* at 223, 777 S.E.2d at 840–41. This court applied the balancing test, considering what information the city provided and noted it "fail[ed] to see how disclosure of the limited information . . . would serve to establish the veracity of the applicants more than the information [the city] already provided." *Id.* at 223, 777 S.E.2d at 841.

We find the instant case is similar to *Glassmeyer v. City of Columbia*. Here, SCLC provided Glassmeyer with the amount of the lottery winnings, the lottery game, and the claimants' home towns and states. Although Glassmeyer argues the test of balancing the individual's privacy against the public's need to know is in his favor, we disagree. Glassmeyer has not provided any reason that the public needs to know the information he requested or any reason as to why the information SCLC provided was not adequate. *See Burton*, 358 S.C. at 352, 594 S.E.2d at 895 ("We must, therefore, resort to general privacy principles, which examination involves a balancing of conflicting interests—the interest of the individual in privacy on the one hand against the interest of the public's need to know on the other."). When asked to explain why he needed the information, Glassmeyer indicated it had the potential for exposing government corruption. However, without more, we are unable to fathom how disclosure of the rest of the information would benefit the public more than what was already provided. We agree with the circuit court's determination that it would be an unreasonable invasion of privacy for SCLC to release the requested information. *See Burton*, 358 S.C. at 352, 594 S.E.2d at 895 ("Our [s]upreme [c]ourt has defined the 'right to privacy' as the right of an individual to be let alone and to live a life free from unwarranted publicity."). The lottery claimants' names are not public knowledge and the release of such information could lead to the discovery of other personal information. Thus, we find the balancing test weighs in favor of preventing the disclosure of the information in order to safeguard the claimants' personal privacy.

We disagree with Glassmeyer's argument that *Glassmeyer v. City of Columbia* is not controlling because the lottery claimants in the instant case filled out a claim

form which stated the information may be subject to disclosure under FOIA. The claimants did not waive their right to privacy just by executing the form. The form merely indicated that *some* of the information included in the form *may* be subject to disclosure under FOIA. However, this warning does not mean the claimants waived any right they had to the privacy of the information on the form, such as their social security numbers. In fact, SCLC did disclose some of the information included on the form—the claimants' home towns and states. Just as *Glassmeyer v. City of Columbia* found "[a]n individual's interest in controlling the dissemination of information regarding personal matters does not dissolve simply because that information may be available to the public in some form," we find this same interest does not dissolve just because the claimants were warned that some of the information may be subject to disclosure. 414 S.C. at 222, 777 S.E.2d at 840 (quoting *U.S. Dep't of Def. v. Fed. Labor Relations Auth.*, 510 U.S. 487, 500 (1994)).

As to Glassmeyer's argument that the circuit court considered evidence outside of the pleadings and construed the pleadings in a light more favorable to SCLC, we disagree. The question of whether the information Glassmeyer requested was exempt under FOIA is a question of law and does not require looking at any facts other than Glassmeyer's request. Although the circuit court cited to news articles that were included in SCLC's complaint as examples of harm that befell lottery winners around the country, we believe these citations were not necessary to the circuit court's order. Furthermore, Rule 12(c) of the South Carolina Rules of Civil Procedure indicates a motion for judgment on the pleadings can be construed as a motion for summary judgment if the circuit court considers facts outside of the pleadings, and therefore, granting the motion would be proper if there was no genuine issue of material fact. *See* Rule 12(c) ("If, on a motion for judgment on the pleadings, matters outside the pleadings are presented to and not excluded by the [c]ourt, the motion shall be treated as one for summary judgment and disposed of as provided in Rule 56[, SCRCP] . . . ."); *Fay v. Total Quality Logistics, LLC*, 419 S.C. 622, 628, 799 S.E.2d 318, 322 (Ct. App. 2017) ("The circuit court should grant a motion for summary judgment when the evidence shows 'there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.'" (quoting Rule 56(c))). Thus, we find the circuit court did not err in issuing the declaratory judgment.

COUNTERCLAIM

Glassmeyer argues the circuit court erred in not addressing his counterclaim for

willful abuse of process.[7] We agree. The circuit court's order did not address Glassmeyer's counterclaim but indicated it "conclude[d] the . . . matter." After the circuit court issued its order, Glassmeyer filed a motion for reconsideration and asked the circuit court to rule on his counterclaim. However, the circuit court did not mention the counterclaim in its order denying Glassmeyer's motion for reconsideration. Thus, we remand to the circuit court to address Glassmeyer's willful abuse of process counterclaim.

CONCLUSION

We find SCLC had standing under the Declaratory Judgments Act to bring this declaratory judgment and injunction action. Thus, we affirm the circuit court's grant of injunctive relief. We affirm the circuit court's declaratory judgment that the information Glassmeyer requested was exempt from FOIA. We remand to the circuit court to address Glassmeyer's counterclaim for willful abuse of process.[8]

AFFIRMED IN PART, REVERSED IN PART, AND REMANDED.[9]

LOCKEMY, C.J., and GEATHERS, J., concur.

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[7] Glassmeyer also argues the circuit court erred in not addressing his counterclaim for a declaratory judgment. However, we find the circuit court implicitly resolved Glassmeyer's counterclaim for declaratory judgment and affirm the circuit court's declaratory judgment.

[8] Glassmeyer also appealed the circuit court's denial of his motion to dismiss. We decline to address this issue because it is not appealable. *See Levi v. N. Anderson Cty. EMS*, 409 S.C. 374, 382, 762 S.E.2d 44, 48 (Ct. App. 2014) ("[T]he denial of a motion to dismiss does not establish the law of the case and the issue raised by the motion can be raised again at a later stage of the proceedings. Therefore, the denial of a motion to dismiss is not directly appealable . . . ." (quoting *McLendon v. S.C. Dep't of Highways & Pub. Transp.*, 313 S.C. 525, 526 n.2, 443 S.E.2d 539, 540 n.2 (1994))).

[9] We decide this case without oral argument pursuant to Rule 215, SCACR.