

No. 410PA18-2

TENTH JUDICIAL DISTRICT

SUPREME COURT OF NORTH CAROLINA

TOWN OF APEX,)	
)	
Plaintiff-Appellant,)	<u>From Wake County</u>
v.)	15-CVS-5836
)	COA20-304
BEVERLY L. RUBIN,)	2021-NCCOA-187
)	
Defendant-Appellee.)	

No. 206PA21

TENTH JUDICIAL DISTRICT

SUPREME COURT OF NORTH CAROLINA

TOWN OF APEX,)	
)	
Plaintiff-Appellant,)	<u>From Wake County</u>
v.)	19-CVS-6295
)	COA20-305
BEVERLY L. RUBIN,)	2021-NCCOA-188
)	
Defendant-Appellee.)	

**JOINT MOTION TO CONSOLIDATE APPEALS AND TO SET A
BRIEFING SCHEDULE**

NOW COME Plaintiff-Appellant Town of Apex (“Town”) and Defendant-Appellee Beverly L. Rubin (“Rubin”), by and through counsel, pursuant to Rules 2, 37 and 40 of the Rules of Appellate Procedure, and move to consolidate these appeals for purposes of briefing and hearing. In support of said motion, the parties show to the Court the following:

1. On 8 June 2021 the Town filed a consolidated Petition for Discretionary Review in 410PA18-2 and 206PA21.
2. On 21 June 2021 Rubin filed a consolidated Response to the Town Petition which included an additional issue.
3. The Court construed Rubin’s additional issue as a conditional petition in 410PA18-2.
4. The Court allowed the Petition and the Conditional Petition in 410PA18-2 on 20 October 2023.
5. The Court allowed the Petition in 206PA21 on 20 October 2023.
6. The briefs in 410PA18-2 for both the Town and Rubin are due to be filed in the Supreme Court on 20 December 2023.

7. The time for filing the briefs with the Supreme Court in 410PA18-2 has not expired.

8. The Town's brief in 206PA21 is due to be filed in the Supreme Court on 20 December 2023.

9. The time for filing the Town's brief with the Supreme Court in 206PA21 has not expired.

10. The parties in both appeals are the same, there are overlapping facts, the timeline of events is similar, and the issues of law are common to and intertwined in both actions.

11. Judicial economy will be advanced by consolidation of the two cases for briefing and hearing.

12. The parties also respectfully request the Court set a briefing schedule as follows:

a. January 31, 2024 – Deadline for

i. Town to file its consolidated Appellant Brief in 410PA18-2 and 206PA21.

ii. Rubin to file her Appellant Brief in her conditional Petition in 410PA18-2.

b. March 1, 2024 – Deadline for

- i. Rubin to file her consolidated Response Brief in 410PA18-2 and 206PA21.
- ii. Town to file its Response Brief regarding Rubin's conditional Petition in 410PA18-2.

c. March 18, 2024 – Deadline for

- i. Town to file its consolidated Appellant Reply Brief in 410PA18-2 and 206PA21.
- ii. Rubin to file her Appellant Reply Brief in her conditional Petition in 410PA18-2.

Accordingly, for good cause shown, the Town and Rubin move the Court pursuant to Rules 2, 37 and 40 of the Rules of Appellate Procedure to enter an ordering consolidating these appeals for hearing and briefing and to set the briefing schedule as set out herein.

Respectfully submitted, this the 19th day of December, 2023.

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CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served a copy of the foregoing **JOINT MOTION CONSOLIDATE APPEALS AND TO SET A BRIEFING SCHEDULE** upon the parties by electronic mail and by depositing the same in the United States mail, first class postage prepaid, addressed as follows:

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This the 19th day of December, 2023.

/s David P. Ferrell
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