

**M C N A I R**  
ATTORNEYS

May 21, 2013

Ariail Burnside Kirk

akirk@mcnair.net  
T 803.799.9800  
F 803.753.3278

**Via Fax (703-734-1839) and US Mail**

Jenny Abbott Kitchings  
Clerk of Court  
S.C. Court of Appeals  
1015 Sumter Street  
Columbia, SC 29201

Re: Daniel Island Club v. Berkeley County Assessor  
Civil Action No. 2013-000534  
McNair File No. 44091.00002

**RECEIVED**  
MAY 23 2013  
SC Court of Appeals

Dear Ms. Kitchings:

I am writing in response to the Berkeley County Assessor's May 16, 2013 correspondence and April 22, 2013 Motion to Reinstate. On behalf of the Daniel Island Club, we request that the Motion to Reinstate be denied on the grounds that the Motion to Reinstate relies upon inaccurate facts and assertions and the Berkeley County Assessor has refused to respond to the taxpayers inquiry of April 17, 2013.

On April 17, 2013, we wrote to counsel for the Berkeley County Assessor requesting that it comply with the Final Order and Decision of the Administrative Law Court regarding valuation of the subject property and pointing out that we were unaware of the transcript being ordered. Exhibit 1. We have not received any response to our April 17, 2013 correspondence. Furthermore, on April 26, 2013, we pointed out that the Motion to Reinstate was inaccurate in that a copy of the request for transcript was not sent to Respondent's Counsel until two (2) days after the Motion to Reinstate was signed. Exhibit 2. Once again, we have not received any response to our correspondence. The Motion to Reinstate is factually erroneous and the Berkeley County Assessor has not shown good cause to reinstate as required by Rule 260(a) of the South Carolina Appellate Court Rules.

Therefore, we respectfully request the Court remit this case to the Administrative Law Court in accordance with Rule 221 of the South Carolina Appellate Court Rules.

McNair Law Firm, P. A.  
1221 Main Street  
Suite 1600  
Columbia, SC 29201

Mailing Address  
Post Office Box 11390  
Columbia, SC 29211

mcnair.net

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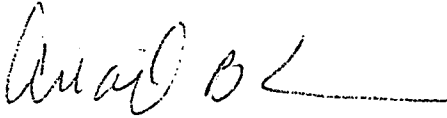
Jenny Abbott Kitchings  
May 21, 2013  
Page 2

MCNAIR  
ATTORNEYS

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Sincerely,

McNAIR LAW FIRM, P.A.

A handwritten signature in black ink, appearing to read "Ariail Burnside Kirk", with a long horizontal flourish extending to the right.

Ariail Burnside Kirk

ABK:df

Enclosures

cc: Elizabeth Smith Cannon, Esquire (*w/ Enclosures*)  
Nicole Scott Ewing, Esquire (*w/ Enclosures*)  
Mary Bass Lohr, Esquire (*w/ Enclosures*)

MCNAIR  
ATTORNEYS

April 17, 2013

Arlail Burnside Kirk

akirk@mcnair.net  
T 803.799.9800  
F 803.753.3278

Elizabeth Smith Cannon, Esquire  
Nicole Scott Ewing, Esquire  
Berkeley County Legal Dept.  
1003 Highway 52  
PO Box 6122  
Moncks Corner, SC 29461

Mary Bass Lohr, Esquire  
Howell, Gibson and Hughes, P.A.  
P.O. Box 40  
Beaufort, SC 29901-0040

RECEIVED  
MAY 23 2013  
SC Court of Appeals

Re: *Daniel Island Club v. Berkeley County Assessor*  
Docket No. 11-ALJ-17-0461-CC  
McNair File No. 044091.00002

Counsel:

I am writing to formally request that the Berkeley County Assessor value the subject property at Seven Million Dollars (\$7,000,000.00) for the 2010 tax year as ordered by the Honorable Shirley C. Robinson, Administrative Law Judge on February 7, 2013 and timely refund the overpayment plus interest received from the Daniel Island Club. I understand that the Berkeley County Assessor is currently relying upon S.C. Code Ann. § 12-60-2550 to avoid paying the overpayment. S.C. Code Ann. § 12-60-2550 relates to matters "heard by the Administrative Law Judge Division or appealed to a court as provided in this subarticle." There is no provision for appeals to the Court of Appeals in "this subarticle"—subarticle 9. As such, the assessor's objection to valuing the subject property at Seven Million Dollars (\$7,000,000.00) for the 2010 tax year as ordered by the Honorable Shirley C. Robinson is without merit.

Furthermore, to our knowledge, a transcript of the proceeding before the Administrative Law Court has not been ordered as required by Rule 207, SCACR. Therefore, we will be moving to dismiss the appeal filed with the South Carolina Court of Appeals.

Should you have any questions with respect to this filing, please do not hesitate to contact me.

McNair Law Firm, P. A.  
1221 Main Street  
Suite 1600  
Columbia, SC 29201

Mailing Address  
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Elizabeth Smith Cannon, Esquire  
Mary Bass Lohr, Esquire  
Nicole Scott Ewing  
April 16, 2013  
Page 2

**M C N A I R**  
ATTORNEYS

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Sincerely,



Ariail Burnside Kirk

ABK:dmf

cc: Greg Keating  
Celeste T. Jones

## Kirk, Ariail

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**From:** Kirk, Ariail  
**Sent:** Friday, April 26, 2013 11:47 AM  
**To:** [newing@berkeleycountysc.gov](mailto:newing@berkeleycountysc.gov); [ecannon@berkeleycountysc.gov](mailto:ecannon@berkeleycountysc.gov); Mary B. Lohr  
**Cc:** Jones, Celeste  
**Subject:** RE: {Matter No.[11217 MBL]}{Daniel Island Club vs. Berkeley County Assessor} Case No.: 11-ALJ-17-0461-CC2013-000534  
**Attachments:** 20130426112036919.pdf

We just received the letter referenced in paragraph 3 of the Motion to Reinstate ("As soon as opposing counsel brought this to the Appellant's attention by letter dated April 17, 2013, the error was remedied and a copy of the letter ordering the transcript was sent to Respondent's counsel and the Courts"). It is dated and postmarked April 24, two days after the motion was signed, so it appears that paragraph 3 of the Motion to Reinstate is not accurate.

Furthermore, we have not received any response to our letter dated April 17, 2013 regarding the refund owed to Daniel Island Club. Please remit the refund owed or we will be forced to proceed with collection efforts.

Ariail

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**From:** Ashley Darden [<mailto:ADarden@hgpha.com>]  
**Sent:** Monday, April 22, 2013 4:11 PM  
**To:** [callen@sccourts.org](mailto:callen@sccourts.org)  
**Cc:** Mary B. Lohr; Jones, Celeste; [newing@berkeleycountysc.gov](mailto:newing@berkeleycountysc.gov); [ecannon@berkeleycountysc.gov](mailto:ecannon@berkeleycountysc.gov); Kirk, Ariail  
**Subject:** {Matter No.[11217 MBL]}{Daniel Island Club vs. Berkeley County Assessor} Case No.: 11-ALJ-17-0461-CC2013-000534

Please find the attached Motion to Reinstate the above captioned matter for filing. I have placed the original and six copies of the Motion along with a check for the filing fee in the U.S. Mail today. Please feel free to contact me with any questions or should you need any additional information regarding the attachment.

Thanks,

Ashley Darden  
Assistant to Patrick M. Higgins  
and Mary Bass Lohr  
Howell, Gibson & Hughes, P.A.  
Post Office Box 40  
Beaufort, SC 29901  
(843) 522-2400  
(843) 522-2429 (Fax)  
[adarden@hgpha.com](mailto:adarden@hgpha.com)

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ATTORNEYS AT LAW

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WILLIAM T. YOUNG III  
JASON F. WARD

TELEPHONE: 843 - 522-2400  
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E-Mail: hghpa@islc.net  
WRITER'S DIRECT: 843 - 522-2428

JAMES S. GIBSON, JR \*  
Of Counsel

\* Certified Mediator

April 24, 2013

Hon. Jenny Abbott Kitchings, Clerk of Court  
South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, SC 29211

Re: Daniel Island Club vs. Berkeley County Assessor  
Civil Action No.: 2013 - 000534  
Our File No.: 11217 MBL

Dear Hon. Kitchings:

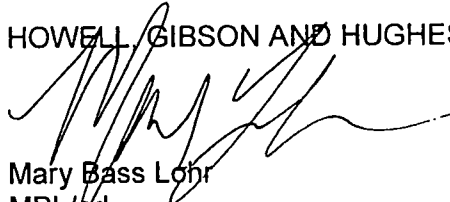
Please find enclosed herein a copy of the letter dated March 14, 2013 to Creel Court Reporting ordering the transcript of the hearing in connection with the above referenced matter. The Appellant recently filed a Motion to Reinstate, in which we stated that this letter was provided to Respondent's Counsel and the Court. However, it has come to our attention that this was not the case. By copy of this letter, I am providing the March 14, 2013 letter to all counsel at this time.

I apologize for any confusion this may have caused the Court. Please do not hesitate to contact me should you have any question or comment regarding the enclosure.

With kindest regards, I am

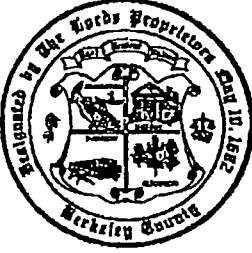
Yours truly,

HOWELL, GIBSON AND HUGHES, P.A.



Mary Bass Lohr  
MBL/ad

cc: Ariail B. Kirk  
Celeste T. Jones  
Elizabeth S. Cannon  
Nicole S. Ewing  
Enclosure



# BERKELEY COUNTY

Office of the County Attorney

1003 Highway 52 Post Office Box 6122  
Moncks Corner, SC 29461  
843.719.4011 phone  
843.719.4306 fax

Ginger Gaskins-Weiss  
*Paralegal*

Nicole Scott Ewing  
*County Attorney*

Elizabeth Smith Cannon  
*Assistant County Attorney*

VIA U.S. MAIL AND E-MAIL (CRYSTAL@CREELREPORTING.COM)

March 14, 2013

Ms. Andrea R. Taylor  
Court Reporter  
Creel Court Reporting, Inc.  
1230 Richland St.  
Columbia, SC 29201

Re: Transcript Request: Daniel Island Club v. Berkeley County Assessor  
Docket Number 11-ALJ-17-0461-CC

Dear Ms. Taylor:

I am writing to request a transcript of the above-referenced hearing in the Administrative Law Court. The hearing was held on June 26 and June 27, 2012, before Judge Shirley C. Robinson. Please transcribe the entire hearing. I spoke with Crystal at Creel Court Reporting, who gave me an estimate of \$1,957.50 to prepare the transcript. Please let me know in advance if the cost will exceed this amount.

Please send an electronic copy of the transcript to me at [ecannon@berkeleycountysc.gov](mailto:ecannon@berkeleycountysc.gov), and send the hard copy of the transcript to:

Mary B. Lohr, Esq.  
Howell, Gibson & Hughes, P.A.  
P.O. Box 40  
Beaufort, SC 29901

Should you have any questions, please do not hesitate to contact me at (843) 719-4011.

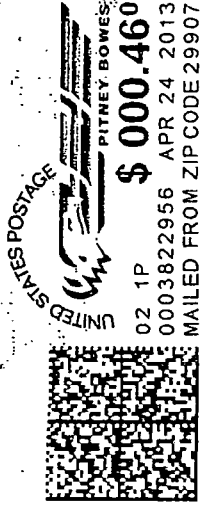
With kind regards, I remain

Sincerely yours,

Elizabeth Smith Cannon

CC: Mary B. Lohr, Esq. (via e-mail)

HOWELL, GIBSON & HUGHES, P.A.  
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MBL



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29211-11390

