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May 09 2023

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM HORRY COUNTY
Court of Common Pleas

The Honorable Thomas A. Russo, Circuit Court Judge
Case No. 2014-CP-26-7790

APPELLATE CASE NO. 2018-002270

Richard Ciampanella Respondent

vs.

City of Myrtle Beach Appellant

**RESPONDENT’S REPLY TO PETITIONER’S RETURN
TO RESPONDENT’S MOTION TO TAX COSTS**

In reply to Petitioner’s Return to Respondent’s Motion to Tax Costs, the Respondent would state that the City of Myrtle Beach’s arguments are unavailing for the following reasons:

1. Rule 222(a) of the South Carolina Appellate Court Rules states “... costs shall be taxed against the appellant when the appeal is dismissed or judgment on appeal is affirmed.” This rule makes no distinction as to whether the appellant is a governmental entity, a private individual or a corporation. All appellants are treated alike under the rule.

2. The City argues it presented a compelling issue on appeal. In fact, this was a garden variety appeal of a new trial motion. There were no new rules of law decided by the Court of Appeals in affirming the circuit court judge’s decision.

3. The fact the Court of Appeals held oral arguments also makes no difference nor does Rule 222(a) of the South Carolina Appellate Court Rules provide an appellant a safe harbor regarding costs when oral argument is heard.

4. The South Carolina Tort Claims Act (S.C. Code Ann. § 15-78-200) has nothing to do with the awarding of costs in this Court. As has been stated previously, Rule 222(a), SCACR applies.

5. Whether the transcript of record was ordered for the new trial motion in circuit court is also of no consequence. Trial transcripts are necessary and required for appeals. Rule 222(b)(2), SCACR provides these costs shall be taxed as a matter of right.

Respectfully submitted,

KELAHER, CONNELL & CONNOR, P.C.

s/Gene M. Connell, Jr.

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May 9, 2023

Attorneys for Respondent

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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM HORRY COUNTY
Court of Common Pleas
The Honorable Thomas A. Russo, Circuit Court Judge
Case No. 2014-CP-26-07790

Opinion No. 2022-UP-085 (filed March 2, 2022)

Appellate Case No. 2022-000693

Richard CiampanellaRespondent

vs.

City of Myrtle Beach Petitioner

PROOF OF SERVICE

PERSONALLY appeared before me, Shelia Y. McCumbee, who being duly sworn, deposes and says that she is an employee of Kelaher, Connell & Connor, P.C., and that she has served a copy of the **Respondent's Reply to Petitioner's Return to Respondent's Motion to Tax Costs** on the 9th day of May 2023, by depositing a copy of same in the United States Mail, postage prepaid, to:

Kelsey J. Brudvig, Esquire
Molly Flynn, Esquire
Collins & Lacy, P.C.
P. O. Box 12487
Columbia, SC 29211

Shelia Y. McCumbee
Shelia Y. McCumbee

SWORN AND SUBSCRIBED before me,
this 9th day of May 2023.

Donna H. Hand
Notary Public for South Carolina
My Commission Expires: 3-28-26

KELAHER, CONNELL & CONNOR, P.C.

ATTORNEYS AT LAW

SUITE 209

THE COURTYARD

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May 9, 2023

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Jenny Abbott Kitchings

Clerk, South Carolina Court of Appeals

Post Office Box 11629

Columbia, South Carolina 29211

Re: Appellate Case No. 2018-002270

Richard Ciampanella v. City of Myrtle Beach

C/A No. 2014-CP-26-07790

Our File No. 2014-0324C

Dear Ms. Kitchings:

Enclosed please find Respondent's Reply to Petitioner's Return to Respondent's Motion to Tax Costs and Proof of Service in the above-captioned case.

By copy of this letter, we hereby serve a copy of the above-stated documents on counsel of record.

With best regards, I am

Sincerely yours,

s/Gene M. Connell, Jr.

Gene M. Connell, Jr.

GM CJr:sm

Enclosures

cc w/enc.: Kelsy J. Brudvig, Esquire

Molly Flynn, Esquire

Julian Z. Hanna, Esquire

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