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Jan 04 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas
William H. Seals, Jr., Circuit Court Judge
Case Number 2018-CP-26-03173

Appellate Case No. 2022-001529

Frederick E. Brown, Charles O. Pakosta, Conrad A. Calvano, Gayle N. Scott, and Phillip D. Cox, individually and derivatively on behalf of Myrtle Beach Resort Homeowners' Association, Inc., and on behalf of all other similarly situated Co-owners, and Lori Niedzwiecki, and Robert S. Rosencrans, individually and derivatively on behalf of the Myrtle Beach Resort Homeowners' Association, Inc. for its right and benefit,
Appellants,

v.

Jeffery L. Richardson and Nancy L. Moore, individually and as current members of the Board of Directors for Myrtle Beach Resort Homeowners' Association, Inc., and Peter A. Grusauskas and Jim Perkins, individually and as former members of the Board of Directors for Myrtle Beach Resort Homeowners' Association, Inc. Respondents.

and

Myrtle Beach Resort Homeowners' Association, Inc., Nominal Respondent.

RESPONDENTS' MOTION FOR AWARD OF COSTS ON APPEAL

Respondents Jeffery L. Richardson, Nancy L. Moore, Peter A. Grusauskas, and Jim Perkins, pursuant to Rule 222, SCACR, respectfully move for entry of an order taxing costs against Appellants. In support of this motion, Respondents would show as follows:

1. On October 27, 2022, Appellants appealed the circuit court's order granting summary judgment in favor of Sea Pines. On December 4, 2023, Appellants voluntarily and unilaterally withdrew their appeal. By Order dated December 5, 2023, this Court dismissed the appeal. Accordingly, Respondents are the prevailing parties on appeal.

2. This Court issued its remittitur on December 28, 2023.
3. Respondents timely filed with this Court, and served on counsel for Appellants, an itemized statement of costs on January 2, 2024.
4. On January 3, 2024, this Court issued a deficiency notice instructing Respondents to serve and file a motion pursuant to Rule 222(d), SCACR, together with the filing fee of \$25, within ten days of the date of the letter (*i.e.* by January 13, 2024).
5. Respondents are entitled to an award of costs under Rule 222(a), SCACR, which provides that “costs shall be taxed against the appellant when the appeal is dismissed”
6. A sworn, itemized statement of costs is attached hereto as **Exhibit A** to this motion.
7. The appeal having been dismissed, Respondents request that this Court tax costs against Appellants as set forth in **Exhibit A**.

Respectfully submitted,

s/ R. Bruce Wallace

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Attorneys for Respondents

January 4, 2024

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and

Myrtle Beach Resort Homeowners' Association, Inc., Nominal Respondent.

PROOF OF SERVICE

I, Bruce Wallace, an attorney with Maynard Nexsen PC, hereby certify that I served one copy of **Respondents Motion to Award Costs Pursuant to Rule 222, SCACR** and **Itemized Statement of Costs** on Appellants at the below address on January 4, 2024, via AIS email address.

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[SIGNATURE ON FOLLOW PAGE]



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Attorneys for Respondents



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SC Court of Appeals

R. Bruce Wallace
Shareholder
Admitted in SC

January 4, 2024

VIA EMAIL AND FIRST CLASS US MAIL

Ms. Jenny Abbott Kitchings
South Carolina Court of Appeals - Clerk of the Court
PO Box 11629
Columbia, SC 29211
Email: ctappfilings@sccourts.org

Re: *Frederick E. Brown, et al. v Jeffrey L. Richardson, et al*
Circuit Court Case No.: 2018-CP-26-03173
Appellate Case No.: 2022-001529

Dear Ms. Kitchings:

Enclosed for filing is Respondents' Motion for Award of Costs of Appeal, Itemized Statement of Costs and Proof of Service for same. In addition, I am enclosing our firm's check in the amount of \$25.00 for the Court's filing fee.

Thank you for your consideration of this matter. If you have any questions or need anything additional from us, please do let me know. With kind regards, I am

Very truly yours,

A handwritten signature in blue ink, appearing to read "R. Wallace".

R. Bruce Wallace

RBW/amj

cc (via email only): Howell V. Bellamy, III (hbellamyiii@bellamylaw.com)
Charles B. Jordan, Jr. (cjordan@pearcelawgroup.com)