

THE STATE OF SOUTH CAROLINA

In The Supreme Court

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**Aug 12 2024**

**S.C. SUPREME COURT**

APPEAL FROM CHARLESTON COUNTY

Court of Common Pleas

Edward W. Miller, Circuit Court Judge

Case No. 2015-CP-10-0020

Appellate Case Number 2022-001202

Steven M. Bernard and Deborah J. Bernard, on Behalf of Themselves and all others Similarly Situated, ..... Petitioners,

v.

3 Chisolm Street Homeowners Association, Inc.,.....Respondent.

**RETURN TO RESPONDENT’S MOTION FOR COSTS ON APPEAL**

COME NOW Petitioners, by and through undersigned counsel, and respectfully request that this most Honorable South Carolina Supreme Court, deny Respondents’ Motion for Costs on Appeal.

It is always an honor to appear before the South Carolina Supreme Court. In granting the writ of certiorari, this Supreme Court determined there are special and important reasons to grant review of the decision of the Court of Appeals. Petitioners shall not attempt to second guess this Supreme Court as to their reasons to Dismiss the Writ as Improvidently Granted.

However, Respondent Homeowners Association, should not be rewarded by the granting of Costs on Appeal. There is no question as to the overall negligence of Respondent HOA in

utterly missing the statute of limitations for all causes of action against the Developer-General Contractor which shifted responsibility to Petitioner Class Members to pay the \$ 2.5 million dollar special assessment. Petitioners lost all opportunity for recovery, and were deprived of compensation for their damages by the overriding negligence of Respondent HOA.

For Petitioners, the granting of the writ on the question posed by the Supreme Court, required consideration of the intertwined novel issues of the application of automatic stay provisions of Rules 205, and 241 (a) SCACR; and whether *Stokes-Craven Holding Corp v. Robinson* 416 S.C. 517, 787 S.E.2d 485 (2016), applied to extend the statute of limitations against Respondent.

The Court of Appeals declined to address *Stokes-Craven* in their unpublished opinion, 2022-UP-269 (S.C.Ct.App. filed June 22, 2022). Respondent maintains that *Stokes Craven* does not apply. (Respondent's Brief). Neither the Trial Court's Order nor the Opinion of the Court of Appeals mentions Rules 205 and 241(a) SCACR.

WHEREFORE under all of the facts and circumstances, Petitioners respectfully request that the South Carolina Supreme Court issue an order denying Respondent's Motion for Costs on Appeal.

Respectively Submitted



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