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Feb 07 2025

SC Court of Appeals

IN THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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APPEAL FROM BEAUFORT COUNTY  
The Honorable Courtney Clyburn Pope, Circuit Court Judge  
Beaufort County  
Trial Court Case No. 2021-CP-07-1078

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APPELLATE CASE NO. 2023-000581

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James Ware, Alisa Ware, Henry Spahr, Elaine Spahr,  
Julie Sanders, William Craig Denny, Jeff Toomer, Allyson Toomer,  
Louise E. Davis, Donna Nutty, Thomas J. MacDonald,  
Michael G. MacDonald, Susanne B. MacDonald, Arlene Coleman,  
William H. McGee, Patti M. MacDonald, Scott M. MacDonald,  
Rose F. McGee, Jason DuBose, Amanda DuBose, Ronald L. Broome,  
Lawrence E. Jones, D. Diane Burr, Mark H. Thomas, Kelly C. Thomas,  
William Matthew Yollo, Nancy H. Yollo, Joseph DeAngelis,  
Beth DeAngelis, Shelly Horn, Theodore Brammer, Allison Brammer,  
Waymon W. Durden, Constance C. Durden, David C. Powell,

Respondents,

v.

Beaufort County, HPCCA Ferry Company, Inc., and  
The Daufuskie Island Ferry Service, LLC,

Defendants,

of which Beaufort County is the Appellant.

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RETURN OF RESPONDENTS TO APPELLANT'S MOTION FOR AWARD OF  
ATTORNEY'S FEES AND COSTS

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The Respondents object to the Appellant's SCACR 222 Motion for Award of Attorney's Fees and Costs as filed on January 31, 2025, and ask that the motion be denied.

As the Supreme Court noted in Austin v. Stokes-Craven Holding Corp., 406 S.C.187, 750 S.E.2d 78 (2013): “[I]t is within this Court’s discretion whether to award fees and costs under Rule 222.” 406 S.C. at 199.

In their original Complaint filed June 11, 2021, the Plaintiffs, all neighbors in historic Buckingham Landing, alleged that the “Defendants’ ongoing operation of the commercial ferry service from Buckingham Landing...is causing the Plaintiffs immediate, irreparable harm in that the Plaintiffs are affected daily by the nuisance of over-crowded, dangerous residential streets, unknown individuals repeatedly trespassing on their properties, and the continuing loss of value of their properties because of the nuisance.” Complaint, p. 13. First, Judge Price agreed and then Judge Pope agreed.

This Court then agreed: “Although an injunction was appropriate based upon Residents’ nuisance claim, we hold the circuit court abused its discretion by issuing an excessively broad preliminary injunction rather than tailoring the scope to address the specific nuisance elements about which Residents complained.” Unpublished Opinion No. 2025-UP-001. This Court also agreed that “Residents had legitimate grievances regarding how the County operated the ferry service,” but held that the Court “should have tailored the injunctive relief to address Residents’ specific concerns without shutting down the ferry.” (citations omitted) This Court suggested that the circuit court “could have reduced the number of times the ferry departed from and arrived at the Buckingham Landing site or directed the County to increase patrol of the area...” or taken any of several other steps to reduce the daily impact of the ferry operations on the neighborhood. This Court then held that the “complete cessation of the ferry service” was not required to protect the Residents’ interest pending litigation and avoid irreparable harm, but instead noted that the injunction should have been tailored to address the Residents’ specific complaints.

At oral argument in September 2024, this Court was advised that the County ferry operations had been relocated to Pinckney Island on December 31, 2023 in compliance with Judge Pope's Order, and had been operating there continuously for more than seven (7) months as of the date of the arguments notwithstanding the County's protestations that Pinckney Island was an unworkable option.

Although this Court did reverse the grant of the preliminary injunction, the Order makes clear that the Residents were and are entitled to injunctive relief tailored to address the specific concerns set forth in the Complaint and supported by multiple affidavits, should the County attempt to move the ferry service back to Buckingham Landing after operating it without incident from Pinckney Island for more than a year. This case and this Order are analogous to those cases where an appeal was affirmed in part or reversed in part or was vacated, and in those cases, costs are not automatically taxed under SCACR 222, but are discretionary and should be allowed only as ordered by the Court. See *Appellate Practice in South Carolina*, Third Edition, p. 394.

The taxing of costs and attorney's fees in this matter being discretionary, and this Court having affirmed the Plaintiff Residents' right to a more tailored injunction than the one ordered in the event the County elects to resume full time ferry operations from Buckingham Landing, the Plaintiffs pray this honorable Court deny the County's request for costs and attorneys' fees.

The Motion should be denied.

s/ Thomas C. Taylor  
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ATTORNEY FOR RESPONDENTS

February 7, 2025

IN THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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APPEAL FROM BEAUFORT COUNTY  
The Honorable Courtney Clyburn Pope, Circuit Court Judge  
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Beaufort County, HPCCA Ferry Company, Inc., and  
The Daufuskie Island Ferry Service, LLC,

Defendants,

of which Beaufort County is the Appellant.

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PROOF OF SERVICE

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I hereby certify that this law firm represents the Respondents in the above-captioned matter and that on the date below, in Bluffton, South Carolina, I served a copy of the forgoing on the following person via electronic mail to his AIS E-mail address:

**Documents Served: RETURN OF RESPONDENTS' TO APPELLANT'S MOTION FOR AWARD OF ATTORNEY'S FEES AND COSTS**

**Parties Served:**

Danny C. Crowe, Esq.  
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ATTORNEY FOR BEAUFORT COUNTY



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ATTORNEY FOR RESPONDENTS

Bluffton, South Carolina  
February 7, 2025

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**SC Court of Appeals**

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ADMITTED TO THE UNITED STATES  
SUPREME COURT BAR

ADMITTED IN SOUTH CAROLINA,  
COLORADO AND GEORGIA

CERTIFIED SC CIRCUIT  
COURT MEDIATOR

February 7, 2025

**Via US Mail and Email Attachment to: ctappfilings@sccourts.org**

Honorable Jenny A. Kitchings  
Clerk  
South Carolina Court of Appeals  
P.O. Box 11629  
Columbia, SC 29211

**Re: James Ware, et al. v. Beaufort County, et al., Appellate Case No. 2023-000581;  
Respondents' Return to Appellant's Motion for Award of Costs and  
Attorney's Fees**

Dear Clerk Kitchings:

I represent the Respondents in this matter. I am enclosing for filing, the Respondents' Return to the Appellant's Motion For Award of Attorney's Fees and Costs filed January 31, 2025, along with a Proof of Service.

Thank you. Please contact me if you have any questions or need further information. Thank you again as always for your and yours staff's professionalism.

Yours very truly,

**LAW OFFICE OF THOMAS C. TAYLOR, LLC**



Thomas C. Taylor

TCT/dpt

Enclosures

cc: Danny Calvert Crowe, Esq., via email transmittal  
Mr. and Mrs. James Ware via email transmittal