

RECEIVED

Jan 16 2026

S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM BEAUFORT COUNTY COURT OF COMMON PLEAS
Bentley D. Price, Circuit Court Judge

Circuit Court Case No. 2016-CP-07-2541
Court of Appeals Appellate Case No. 2022-000231
Supreme Court of South Carolina Appellate Case No. 2025-000436

Forum Benefits, LLC,

Respondent,

v.

Brian Bannon and Assured Partners, NL,

Petitioners.

RESPONDENT’S REPLY REGARDING MOTION FOR COSTS

Petitioners Brian Bannon and Assured Partners, NL (“Petitioners”) have opposed Respondent Forum Benefits, LLC’s (“Respondent”) motion for costs on three grounds, which will be addressed seriatim.

1. Remittitur

Petitioners argue, “[T]his Court sent down the remittitur to the Circuit Court prior to Plaintiff filing an itemized statement of costs. As a result, the issue of fees and costs should now be reserved for the Circuit Court.” (Petitioners’ Return, p. 2).

Petitioners’ argument does not follow the law. Rule 242(j)(4), SCACR, expressly provides that a motion requesting assessment of costs may be made “within fifteen (15) days of the issuance of the remittitur.” As Petitioners themselves acknowledge, the Court remitted the case on

December 18, 2025 and Respondent's motion for costs was served and filed on December 30, 2025, which is within fifteen days of the issuance of the remittitur. Furthermore, Rule 222(d), SCACR, confirms there is no linkage between the timing of the remittitur and the filing of a motion for costs: "The remittitur shall not be stayed by the filing of a motion for costs."

Petitioners try to muddy the waters by claiming that, because Respondent might also recover attorneys' fees and costs upon retrial of the case under the South Carolina Trade Secrets Act, "An award of any fees and costs at this stage of the litigation may be inconsistent with the Circuit Court's ultimate decision on this issue after the case is retried and a jury verdict is rendered." (Petitioners' Return, p. 3). But the two issues are unrelated. Costs and attorneys' fees are recoverable now, as set out in Respondent's Motion, because Respondent won at every level of appeal and Petitioners lost. That attorneys' fees and costs might also be recovered on the merits of the case when Petitioners lose at retrial has no relationship to that fact.

Petitioners cite *Muller v. Myrtle Beach Golf and Yacht Club*, 313 S.C. 412, 438 S.E.2d 248 (1993). But *Muller* was more concerned with S. C. CODE ANN. § 29-5-10, a mechanics lien statute that has no bearing on the instant case.

2. "No Decision"

The case was fully briefed to this Court. Oral argument was even more than full – each side actually exceeded the allotted time.

Then the writ of certiorari was dismissed as improvidently granted.

Petitioners argue that there was thus no "decision" by the Court.

But Petitioners slice the baloney too thin. Rule 242(j)(1), SCACR, does not speak in terms of a "decision affirming" or a "decision reversing." That rule takes care to address different types of an outcome that "has the effect of....." The determination of the Court to dismiss the writ of

certiorari as improvidently granted – after considering the full briefing of the parties and after hearing the extended oral arguments – had the effect of affirming the Court of Appeals and had the effect of reversing the Circuit Court.¹ Therefore, the attorney fees and costs associated with the proceedings before this Court are properly subject to award under the rules.²

3. “Lots of Issues”

Petitioners end their opposition by arguing that, on retrial, the Circuit Court will have to address many issues and that therefore this Court should deny attorney fees and costs resulting from the appeal.

The logic of Petitioners’ argument is illusive.

Truly, there are many issues that will now have to be addressed at retrial to the Circuit Court. And the reason for that is because Respondent successfully pointed out the errors by the former trial judge at the first trial and spent thousands of dollars pursuing correction of those errors on appeal. Respondent rightfully should recover the allowable attorney fees and costs for having had to undertake that path.

----- * -----

Respondent stands on its motion and requests that costs be assessed as detailed therein.

¹ Petitioners argue about the meaning of the word “decision,” but the Court may be assured that, upon receipt of the dismissal, one attorney reported to his client, “We won,” and the other attorney reported to his client, “We lost.” That is the sign of a decision under Rule 242(j)(1).

² If the Court disagrees with Respondent on this point, the attorney fees and costs of the proceeding before the Court of Appeals should nevertheless be awarded, as they are not challenged by Petitioners in this regard.

Respectfully submitted,

s/Timothy D. St. Clair

Timothy D. St.Clair (SC Bar # 5297)
PARKER POE ADAMS & BERNSTEIN LLP
110 East Court Street, Suite 200
Greenville, SC 29601
(864) 577-6371
timstclair@parkerpoe.com

Katon E. Dawson, Jr. (SC Bar # 101167)
PARKER POE ADAMS & BERNSTEIN LLP
1221 Main Street, Suite 1100
Columbia, SC 29201
(803) 255-8000
katondawson@parkerpoe.com

Tasneem A. Dharamsi (SC Bar # 104868)
PARKER POE ADAMS & BERNSTEIN LLP
301 Fayetteville Street, Suite 1400
Raleigh, NC 27601
(919) 835-4570
tasneemdharamsi@parkerpoe.com

Attorneys for Appellant Forum Benefits, LLC

January 16, 2026