

Apr 16 2026

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of
Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Jocelyn Newman, Circuit Court Judge

Case No. 2026-000079

Tony Williams

Appellant,

v.

Lowe's Home Centers, LLC
and Andrew Melling,

Respondent
s.

Motion for Attorney Fees

Michelle E. Gaston, Esq.
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Attorney for Respondents

Respondents Lowe's Home Centers, LLC and Andrew Melling respectfully move the Court for an award of appellate attorney's fees pursuant to Rule 222, SCACR, and in support of this Motion state as follows.

This appeal arises from an order of the Beaufort County Court of Common Pleas granting Respondents' motion to dismiss. Appellant filed his Notice of Appeal on January 12, 2026. Under Rules 207 and 208, SCACR, Appellant was required to order transcripts of the September 5, 2025 and December 12, 2025 circuit court hearings within thirty days of filing the Notice of Appeal, or alternatively to timely proceed under the rules governing appeals without a transcript. Appellant failed to order any transcript and instead filed a unilateral "Statement of No Transcript," despite the fact that the issues raised on appeal required a record of the circuit court proceedings. As a result of Appellant's noncompliance with the appellate rules, the appeal was dismissed.

After dismissal, Appellant undertook multiple additional filings seeking to revive the appeal. He filed an emergency motion to vacate the dismissal and reinstate the appeal, which this Court construed as a petition for rehearing. Appellant also filed supplemental notices and motions to strike Respondents' filings. Each of these filings required Respondents to prepare and submit responsive pleadings to defend the dismissal and address Appellant's procedural and substantive assertions. Respondents further addressed collateral issues raised by Appellant that were unrelated to the transcript deficiency but nonetheless required briefing.

By Order dated April 8, 2026, the Court of Appeals denied Appellant's petition for rehearing after careful consideration of the filings, concluding that no material fact or principle of law had been overlooked or disregarded and that there was no basis for reinstating the appeal. The Court also denied Appellant's motions to strike and declined to rule on certain additional motions

filed by Appellant based on the posture of the case. As a result of this disposition, Respondents are the prevailing parties on appeal.

Rule 222, SCACR governs the taxation of appellate costs and the award of an automatic attorney's fee to the prevailing party on appeal. Rule 222(b) expressly provides that, in addition to enumerated costs, "the party shall be entitled to recover an attorney's fee in an amount which shall be set by order of the Supreme Court." Rule 222(e) further provides that attorney's fees awarded under Rule 222 are taxed exclusively in the appellate court and become part of the appellate judgment included in the remittitur.

South Carolina appellate courts have recognized that Rule 222 provides for an automatic attorney's fee award to the prevailing party on appeal, which is taxed in the appellate court. In *Muller v. Myrtle Beach Golf & Yacht Club*, the Supreme Court explained that Rule 222 provides an automatic attorney's fee award for the prevailing party on appeal and that the award is taxed in the appellate court, subject to the prevailing party's compliance with the procedural requirements of the rule, including the timely filing of a sworn, itemized statement of costs. 313 S.C. 412, 416, 438 S.E.2d 248, 250 (1993).

Respondents timely file this Motion for Attorney's Fees within fifteen days of the Court's Order, in compliance with Rule 222(d), SCACR, and contemporaneously submit the required sworn statement solely in support of the requested appellate attorney's fee in the amount of \$2,500. Respondents do not seek recovery of any other appellate costs under Rule 222(b).

Because the appeal was dismissed and the dismissal was upheld upon rehearing, and because no extraordinary circumstances exist that would justify denial or reduction of the automatic attorney's fee award, Respondents respectfully request that this Court award

Respondents the appellate attorney's fee authorized by Rule 222, SCACR, and tax that fee against Appellant as part of the Court's judgment.

Respectfully Submitted,

/s/ Michelle E. Gaston
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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served via U.S. Mail, postage prepaid, this April 16, 2026, addressed as follows:

Tony A. Williams
145 Fort Sullivan Drive
Ridgeland, SC 29936
Pro Se

RECEIVED
Apr 16 2026
SC Court of Appeals

/s/ Michelle E. Gaston, Esq.
COUNSEL FOR RESPONDENTS

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The Appellate Court is requested to tax the following costs against Appellant Tony Williams.

COSTS TAXABLE UNDER RULE 222, SCACR	NO. OF PAGES	RATE	REQUESTED	ALLOWED (For Court Use Only)
Attorney's Fee Provided By Rule 222(b), SCACR			\$2,500 ¹	
		TOTAL	\$2,500	

¹ Rule 222, SCACR provides an automatic attorney's fee award for the prevailing party on appeal. *See Muller v. Myrtle Beach Golf & Yacht Club*, 313 S.C. 412, 416 (1993). By order of the Supreme Court of South Carolina dated January 17, 2018, the amount of attorney's fee under Rule 222(b) was set at \$2,500.

I, Michelle Gaston, do swear or affirm that the foregoing costs are correct and were necessarily incurred in this action. A copy of this statement was (mailed to/served upon) opposing counsel.

Michelle Gaston
(Signature)
Attorney for Defendants

Subscribed and sworn to before me this 16th day of April, 2026.

Sandra M. Page
Notary Public for South Carolina

My Commission Expires: 8-14-30

(Seal)

**SANDRA M. PAGE
NOTARY PUBLIC
SOUTH CAROLINA
MY COMMISSION EXPIRES 08-14-30**