

THE STATE OF SOUTH CAROLINA  
In the Supreme Court

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APPEAL FROM ORANGEBURG COUNTY  
Court of Common Pleas  
Diane S. Goodstein, Circuit Court Judge

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**S.C. Supreme Court**

Case No. 2007-CP-38-0574  
Order (S.C. Ct. App. filed July 1, 2011)  
Appellate Case No. 2011-202847

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Eddie Williams, as Conservator for Catina Nelson, . . . Respondent,

v.

Michael Lee Clemons, . . . . . Petitioner.

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**MOTION FOR COSTS**

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Pursuant to Rules 222(a), 240 and 242(j), SCACR, Respondent Eddie Williams, as Conservator for Catina Nelson, requests that the costs of this appeal be taxed against Michael Lee Clemons.

The Court of Appeals granted Respondent's Motion to dismiss an appeal by Mr. Clemons of an unappealable order from the circuit court. *Williams v. Clemons*, Order (S.C. Ct. App. filed July 1, 2011). Rule 222(a), SCACR, provides "costs shall be taxed against the appellant when the appeal is dismissed or judgment on appeal is affirmed." Thus, Respondent is entitled to an award of costs arising out of the Court of Appeals' order.

Appellant petitioned this Court to review the Court of Appeals' order. This Court issued a writ of certiorari to review that decision, and following oral argument, the Court

affirmed the judgment of the Court of Appeals. *Williams v. Clemons and Johnson v. Clemons*, Op. No. 2014-MO-002 (S.C. Sup. Ct. filed January 8, 2014).

Rule 242(j) provides that unless the court orders otherwise or the parties agree otherwise, costs shall be taxed against the appellant when this Court's decision has the effect of affirming the judgment of the lower court that was reviewed by the Court of Appeals. The lower court's judgment denied a motion to compel settlement and a motion to reconsider that denial, and the subsequent judgment was entered by acceptance of an offer of judgment. The decision to affirm the Court of Appeals' dismissal has the effect of affirming those decisions as they remain unaltered in any way.

In accordance with the instructions of Rules 222(d) and 242(j)(4), an itemized statement of costs is attached to this motion.

February 7, 2014

Respectfully submitted,



John S. Nichols, Esquire  
Bluestein, Nichols, Thompson & Delgado,  
LLC  
PO Box 7965  
Columbia, SC 29202  
(803) 779-7599

H. Woodrow Gooding, Esquire  
Mark B. Tinsley, Esquire  
Gooding and Gooding, PA  
PO Box 1000  
Allendale, SC 29810  
(803) 584-7676

Attorneys for Respondent

THE STATE OF SOUTH CAROLINA  
In The Supreme Court


Eddie Williams, as Conservator	)
for Catina Nelson,	)
	)
Respondent,	)
	)
v.	)
	)
Michael Lee Clemons,	)
	)
Petitioner.	)
_____	)

The Appellate Court is requested to tax the following costs against

Michael Lee Clemons (Petitioner)				
COSTS TAXABLE UNDER RULE 222, SCACR	NO. OF PAGES	RATE	REQUESTED	ALLOWED (For Court Use Only)
Cost of Printing or Copying Final Brief				
Cost of Printing or Copying Final Reply Brief				
Cost of Printing or Copying Record on Appeal				
Filing Fee Paid Under Rule 203(d), SCACR				
Cost of Court Reporter's Transcript				
Attorney's Fee Provided By Rule 222(b), SCACR			\$1,000.00	
Other (specify and explain):				
COSTS TAXABLE UNDER RULE 242(j), SCACR				

Cost of Printing or Copying Brief	756	\$56.15 (plus \$4.19 tax)	\$60.34	
Cost of Printing and Copying Reply Brief				
Cost of Printing or Copying Appendix				
Filing fee paid under Rule 242(c), SCACR				
Attorney's fee provided by Rule 242(j)(2), SCACR			\$1,000.00	
Other (specify and explain):				
		TOTAL	\$2,060.34	

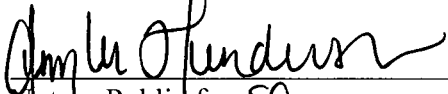
I, John Nichols, do swear or affirm that the forgoing costs are correct and were necessarily incurred in this action. A copy of this statement was (mailed to/served upon) opposing counsel.

  
 (Signature)

Attorney for

Respondent

Subscribed and sworn before me this 7<sup>th</sup> day of February, 2014.

  
 Notary Public for SC  
 My Commission Expires: 4/1/2021

THE STATE OF SOUTH CAROLINA  
In the Supreme Court

APPEAL FROM ORANGEBURG COUNTY  
Court of Common Pleas

Diane S. Goodstein, Circuit Court Judge

Case No. 2007-CP-38-0574  
Order (S.C. Ct. App. filed July 1, 2011)

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**S.C. Supreme Court**

Eddie Williams, as Conservator for Catina Nelson, . . . Respondent,

v.

Michael Lee Clemons, . . . . . Petitioner.

**PROOF OF SERVICE**

The undersigned hereby certifies that on the date indicated below she served counsel for the Petitioner with the *Motion for Costs* and *Itemized Statement of Costs* by mailing a copy of the same by United States Mail with first class postage prepaid to the following addresses:

Stephen P. Groves, Sr., Esquire  
Bradish J. Waring, Esquire  
Paul A. Dominick, Esquire  
NEXSEN PRUET, LLC  
205 King Street, Suite 400  
Charleston, South Carolina 29401

James P. Walsh, Esquire  
Clarkson, Walsh, Terrell & Coulter, PA  
Post Office Box 6728  
Greenville, South Carolina 29606



Erin Bridges  
BLUESTEIN, NICHOLS,  
THOMPSON & DELGADO, LLC

February 7, 2014



BLUESTEIN · NICHOLS · THOMPSON · DELGADO LLC  
ATTORNEYS AT LAW

Margaret Miles Bluestein  
John Shannon Nichols  
Stacy Elizabeth Thompson  
John Dennis Delgado  
Allison Paige Sullivan  
Ashley Trout Thompson  
Blake Alexander Hewitt  
Kenneth Henry Dojaquez  
John Clarke Newton

OF COUNSEL  
O. Eugene Powell, Jr.

February 7, 2014

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S.C. Supreme Court

**VIA HAND DELIVERY**

The Honorable Daniel E. Shearouse  
Clerk of Court  
Supreme Court of South Carolina  
Post Office Box 11330  
Columbia, South Carolina 29211

RE: Junell W. Johnson v. Michael Lee Clemons  
Case Tracking No. 2011-202866

Eddie Williams v. Michael Lee Clemons  
Case Tracking No. 2011-202847

Dear Mr. Shearouse:

Please find enclosed for filing the original and seven (7) copies of each Respondents' *Motion for Costs* along with an itemized statement of costs in regards to the above referenced matters. I have also enclosed a Proof of Service upon counsel of record along with a check in the amount of \$25.00 for filing each motion. Please return the additional filed copies to me via our courier.

Thank you for your attention to this matter. If you have any questions or need any additional information, please do not hesitate to contact me.

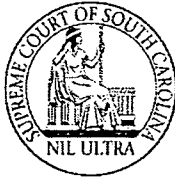
Sincerely,

Erin Bridges

Paralegal to John S. Nichols  
BLUESTEIN, NICHOLS, THOMPSON  
& DELGADO, LLC

/emb

cc: Steven P. Groves, Sr., Esquire  
James P. Walsh, Esquire  
Mark B. Tinsley, Esquire



# The Supreme Court of South Carolina

John S. Nichols  
1614 Taylor St.  
Columbia SC 29201

02/07/2014

## RECEIPT #71225

**Case No:** 2011-202847  
**Case Short Title:** Eddie Williams v. Michael Lee Clemons  
**Event:**  
**Fee Type:** Motion Fee  
**Amount:** \$25.00  
**Payment Type:** Check  
**Reference No:** 2819  
**Check/Money Order Date:** 02/07/2014  
**Comments:**

*Linked*

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE  
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING  
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA  
In The Supreme Court**

Eddie Williams, as Conservator for Catina W. Nelson,  
Respondent,

v.

Michael Lee Clemons, Petitioner.

Appellate Case No. 2011-202847

Junell W. Johnson, as Personal Representative of the  
Estate of Woodrow C. Nelson, Respondent,

v.

Michael Lee Clemons, Petitioner.

Appellate Case No. 2011-202866

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Appeal From Orangeburg County  
Diane Schafer Goodstein, Circuit Court Judge

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Memorandum Opinion No. 2014-MO-002  
Heard November 19, 2013 – Filed January 8, 2014

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**AFFIRMED**

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Stephen P. Groves, Sr., Bradish J. Waring, and Paul A.  
Dominick, all of Nexsen Pruet, LLC, of Charleston, and

James P. Walsh and Amy Miller Snyder, both of  
Clarkson, Walsh, Terrell, & Coulter, P.A., of Greenville,  
for Petitioner.

John S. Nichols, of Bluestein, Nichols, Thompson &  
Delgado, LLC, of Columbia, and H. Woodrow Gooding  
and Mark B. Tinsley, both of Gooding & Gooding, P.A.,  
of Allendale, for Respondents.

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**PER CURIAM:** This Court granted certiorari to review the court of appeals' decisions dismissing Petitioner's appeals on the ground that consent judgments are not appealable. Petitioner argues an acceptance of an offer of judgment does not prevent appellate review of that judgment or of intermediate orders underlying that judgment. We disagree and affirm pursuant to Rule 220(b)(1), SCACR, and the following authorities: *Belton v. State*, 339 S.C. 71, 74 n.4, 529 S.E.2d 4, 5 n.4 (2000) (stating that "[a] case resolved by acceptance of an offer of judgment is considered 'settled'"); *Shelton v. Bressant*, 312 S.C. 183, 184, 439 S.E.2d 833, 834 (1993) (stating that absent fraud or mistake, where an attorney of record for a party agrees to settle a case, the party cannot later rescind the settlement); *S.C. State Highway Dep't v. McKeown Food Store No. 9*, 254 S.C. 180, 183, 174 S.E.2d 342, 343-44 (1970) (finding where a case has been "settled," the settlement ends the litigation and renders moot an appeal of an intermediate order concerning pretrial procedures); *Johnson v. Johnson*, 310 S.C. 44, 46, 425 S.E.2d 46, 48 (Ct. App. 1992) (stating that generally, where a judgment or order is entered by consent, it is binding and conclusive and cannot be attacked by the parties by direct appeal); *see also Chewning v. Ford Motor Co.*, 354 S.C. 72, 86, 579 S.E.2d 605, 613 (2003) (recognizing that "important benefits are achieved by the preservation of final judgments").

**AFFIRMED.**

**TOAL, CJ., PLEICONES, BEATTY, KITTREDGE and HEARN, JJ., concur.**