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MAY 11 2014

STATE OF SOUTH CAROLINA
COUNTY OF YORK
IN THE COURT OF COMMON PLEAS

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2012 CP-46-02860

SC Court of Appeals

Frank M. Adams,

The City of Tega Cay, Dennis Pieper, Munical Clerk,
Katie Poulsen

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: W. Mark White

Attorney for : Plaintiff Defendant
or
 Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):** Affirmed; Reversed; Remanded; Other

FILED-RECEIVED
2014 MAY 21 PM 3:41
DAVID HILTON
CLERK
S.C. DISTRICT COURT
YORK COUNTY

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

This order ends does not end the case.
Additional Information for the Clerk :

INFORMATION FOR THE PUBLIC INDEX		
Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.		
Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
The City of Tega Cay	Frank M. Adams	\$15,000.00
		\$
		\$
If applicable, describe the property, including tax map information and address, referenced in the order: N/A		

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

STATE OF SOUTH CAROLINA)
)
COUNTY OF YORK)

IN THE COURT OF COMMON PLEAS

Frank M. Adams,)
)
)
Plaintiff,)

vs.)

The City of Tega Cay, Dennis P. Pieper,)
Municipal Clerk, Katie Poulsen,)
)
Defendants.)

ORDER

Case No. 2012CP46-02860

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2014 MAY 21 PM 3:41
DAVID HAMILTON
C.C. CP. & CS
YORK COUNTY, SC

This matter came before me on April 1, 2014, for a hearing on the Motion for Sanctions of Defendant City of Tega Cay (“City”), pursuant to the Frivolous Civil Proceedings Sanctions Act (S.C. Code Ann. § 15-36-10 et seq. (1976, as amended) (“Act”), and pursuant to Rule 11, SCRPC (“Rule 11”). Representing the parties at the hearing were Frank M. Adams, appearing *pro se*, and W. Mark White for Defendants. Based on the record presented, and the testimony, exhibits, and arguments of the parties, I find and conclude the following.

BACKGROUND

This action was commenced by Plaintiff pursuant to the Freedom of Information Act (S.C. Code Ann. § 30-4-10 et seq.) (“FOIA”) to require the City to provide certain public information documents related to zoning matters. Plaintiff also named particular City employees, Defendants Pieper and Poulsen, as individual Defendants.

Plaintiff has made more than thirty FOIA requests since 2009. As it relates to this case, an annexation and zoning matter pertaining to a particular parcel of property, Plaintiff has made repeated FOIA requests pertaining to same matter and action taken by the City pertaining to the matter. The City has promptly complied with each request. It has furnished full and complete responses to the requests, and has supplemented its responses as new, relevant information was available. In every instance, the City has provided a photocopy of the requested record in the form it has been maintained by the City. Notwithstanding the City’s complete responses, Plaintiff has demanded that copies of records he received be ‘certified’ by the City. Ultimately, Plaintiff commenced this action seeking further compliance FOIA, as well as sanctions against the City, all relating to the same public information. (*See Plaintiff’s Complaint.*)

It is significant and probative in connection with consideration of this motion that

Plaintiff has actually served on one of the City's committees having dealing with planning and land use. He is knowledgeable in these matters, and was, or should have been, aware of the frivolity and baseless nature of his repeated requests.

Defendants Pieper and Poulson responded to the Complaint by making a Motion to Dismiss pursuant to Rule 12(b)(6), SCRPC. The City responded by moving for Summary Judgment.

The motions were heard by me on September 17, 2013. The motions were granted by order dated November 5, 2013, and filed November 18, 2013. No appeal has been taken from the order, and it is a final order.

The City made this motion seeking sanctions and attorneys' fees against Plaintiff, asserting that this action is frivolous and commenced for the purpose of harassment within the prohibition of the Act, as well as being in violation of Rule 11. The motion was served by mail on February 7, 2014, and filed on February 10, 2014.

DISCUSSION

Based on the entire record in this matter, including the extensive presentation made by the City in conjunction with its Motion for Summary Judgment, it is clear that Plaintiff has followed a course of conduct calculated and intended to burden the City with repeated baseless requests for the same public information already provided to Plaintiff in response to prior requests. I further find and conclude that such conduct was both frivolous and done in bad faith. Plaintiff had no reasonable justification for commencing and pursuing this action. The findings of my prior order in this regard are incorporated herein by reference.

A. Frivolous Civil Proceedings Sanctions Act (S.C. Code Ann. § 15-36-10 et seq.).

A ruling on the motion for sanctions under the Act is governed by the language of the Act, and precedent governing pursuit of the remedy sought by Plaintiff in this action.

At the conclusion of a trial and after a verdict for or a verdict against damages has been rendered or a case has been dismissed by a directed verdict, summary judgment, or judgment notwithstanding the verdict, upon motion of the prevailing party, the court shall proceed to determine if the claim or defense was frivolous. (S.C. Code Ann. § 15-36-10(C)(1) (1976, as amended).)

As indicated by the foregoing section, a motion for sanctions under the Act is a "post-trial" motion. Therefore, a party must file a motion for sanction under the Act within ten days of the filing of the order forming the basis for the claim for sanctions. *Holmes v. East Cooper Community Hospital, Inc.*, S.Ct. Opinion No. 37370, filed March 26, 2014; *In re Beard*, 359 S.C. 351, 597 S.E.2d 835 (Ct.App. 2004). After the ten day filing period, the court is deprived of



By Plaintiff's actions, the case was made more complicated and vexatious than necessary. The time devoted to the case and this motion was reasonable and necessary, and in any event, the City has not sought compensation for all time expended. The City's counsel enjoys a reputation in the legal community, as well as with the general public of being a very competent litigation attorney with substantial experience and expertise. I also recognize, based on my own experience, that counsel is competent and prepared, and adheres to a high standard of professionalism in cases litigated in this court. The affidavit of the City's counsel establishes that the hourly rates charged by counsel's firm in this case are within the range of hourly rates customarily charged for similar services by attorneys in this State. Finally, the City obtained the relief it sought in its entirety.

Based on the foregoing discussion, I find and conclude that \$15,000 is a reasonable amount for the City to be reimbursed for attorneys' fees and costs as a sanction against Plaintiff for violation of Rule 11.

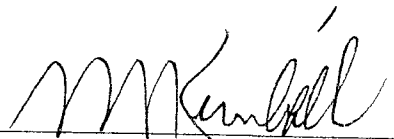
ORDER

Based on the findings and conclusions herein, it is ordered as follows:

1. The City of Tega Cay's motion for sanctions pursuant to Rule 11, SCRPC, is granted, and the City is awarded \$15,000 in reasonable attorneys' fees and costs by way of sanction against Plaintiff for violation of Rule 11, SCRPC.
2. The City of Tega Cay's motion for sanctions pursuant to the South Carolina Frivolous Civil Proceedings Sanctions Act is denied, and such claim is dismissed.
3. The Clerk of Court is authorized and directed to enter judgment against Plaintiff and in favor of the City of Tega Cay in the amount of \$15,000 as sanction for violation of Rule 11, SCRPC.

AND IT IS SO ORDERED.

May 14, 2014



S. Jackson Kimball
Special Circuit Court Judge
York County

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**LETTER TO COURT TRANSCRIPTIONIST
ORDERING TRANSCRIPT**

June 11th, 2014

Dallas Reporting, Inc.
P.O. Box 2711
Rock Hill, SC 29732
Ph(803) 328-9640

RE : Frank M. Adams, Appellant, v. The City of Tega Cay, Dennis P. Pieper, Municipal Clerk, Katie Poulsen, Case No. 12-CP-46-2860, of the hearing on April 1st, 2014, in the Court of the Honorable S. Jackson Kimball, Special Circuit Court Judge.

Dear Ms Shirley Dallas-Gerrald:

This letter is for the purposes of ordering the transcript of the above captioned proceeding for purposes of Appeal, and is pursuant to SCACR Rule 207. I understand that the cost will be in the \$200-\$300. range and am authorizing you to proceed.

Sincerely,

Frank M. Adams
816 Brooksmill Dr.
Tega Cay, South Carolina 29708
(803)371-7565
Pro Se litigant/ Appellant

cc:
Other Counsel of Record:
W. Mark White
226 East Main St.
Post Office Box 790
Rock Hill, South Carolina 29731
Attorney for Respondent
(803) 327-7191

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JUN 11 2014

SC Court of Appeals

**LETTER TO CLERK OF LOWER COURT
FILING NOTICE OF APPEAL**

June 11th, 2014

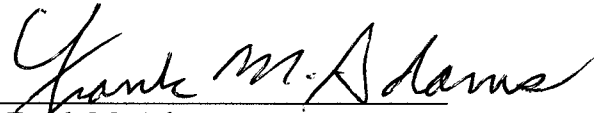
The Honorable David Hamilton
Clerk, York County, South Carolina
PO Box 649 York, SC 29745-0649

**RE: Frank M. Adams, Appellant, v. The City of Tega Cay, Dennis P. Pieper, Municipal Clerk,
Katie Poulsen, Case No. 12-CP-46-2860**

Dear Mr. Hamilton:

Enclosed for filing is a notice of appeal in the above case.

Sincerely,



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816 Brooksmill Dr.
Tega Cay, South Carolina 29708
(803)371-7565
Pro Se litigant/ Appellant

cc:
Other Counsel of Record:
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Post Office Box 790
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**LETTER TO COURT TRANSCRIPTIONIST
ORDERING TRANSCRIPT**

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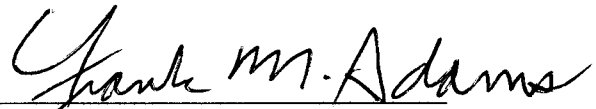
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