

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM Horry COUNTY

Court of Common Pleas

Larry B. Hyman, Circuit Court Judge

RECEIVED
SEP 29 2014
SC Court of Appeals

Case No. 2013-CP-26-08446

(Court of Appeals Case No. 2014-000756)

Marilyn Hatley, individually and as Mayor of the City of North Myrtle Beach, Michael G. Mahaney, Christopher Noury, and the City of North Myrtle Beach.....Respondents,

v.

William H. Bailey, Jr.....Appellant.

RESPONDENTS' RESPONSE TO APPELLANT'S MOTION TO STRIKE MATTERS
FROM RESPONDENT'S DESIGNATION OF MATTER
AND FROM APPELLANT'S INITIAL BRIEF

Respondents Marilyn Hatley, individually and as Mayor of the City of North Myrtle Beach, Michael G. Mahaney, Christopher Noury, and the City of North Myrtle Beach will amend their designation of matter by excluding: "8. Trial Court Order dismissing individuals in *Mitchell Bellamy v. Marilyn Hatley, et. al.* C/A No.: 2013-CP-26-07765." Respondents consent to the preparation of the Record on Appeal without

including the trial court order from *Mitchell Bellamy v. Marilyn Hatley, et. al.* C/A No.: 2013-CP-26-07765.

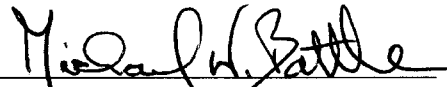
Respondents oppose Appellant's motion to strike reference to the trial court order of *Mitchell Bellamy v. Marilyn Hatley, et. al.* C/A No.: 2013-CP-26-07765 from its brief. The trial court order is relevant because it demonstrates the burden that can be placed upon individual governmental employees if they are named as individuals in every FOIA suit filed against a governmental entity. In the present case, the same individuals were named in two different lawsuits for nearly identical FOIA claims alleging the same acts to be violations and subjecting the individuals to two claims for attorneys' fees and costs for those same acts.

Respondents acknowledge that the proper procedure to bring the trial court order to the appellate court's attention is to request that the appellate court take judicial notice of the trial court order in *Mitchell Bellamy v. Marilyn Hatley, et. al.* C/A No.: 2013-CP-26-07765. Respondents have requested the court to take judicial notice of the trial court order by separate motion. See the accompanying Motion and Request to Take Judicial Notice, dated September 26, 2014.

CONCLUSION

Respondents consent to Appellant's motion in connection with the Designation of Matter and Respondents have submitted an amended Designation of Matter to the Court. Respondents oppose Appellant's motion to strike in connection with their brief and have requested the appellate court to take judicial notice of the trial court order in the case of *Mitchell Bellamy v. Marilyn Hatley, et. al.* C/A No.: 2013-CP-26-07765.

(Signature only follows this page.)



Michael W. Battle, SC Bar # 00584

Battle Law Firm LLC

PO Box 530

Conway, SC 29528

(843) 248-4321

Attorneys for Respondents

September 26, 2014

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

RECEIVED

SFP 29 2014

SC Court of Appeals

APPEAL FROM HORRY COUNTY

Court of Common Pleas

Larry B. Hyman, Circuit Court Judge

Case No. 2013-CP-26-08446

(Court of Appeals Case No. 2014-000756)

Marilyn Hatley, individually and as Mayor of the City of North Myrtle Beach, Michael G. Mahaney, Christopher Noury, and the City of North Myrtle Beach.....Respondents,

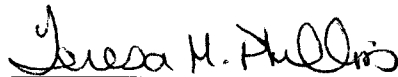
v.

William H. Bailey, Jr.....Appellant.

PROOF OF SERVICE

Teresa M. Phillips certifies that she is a Paralegal with Battle Law Firm, LLC, attorneys for Respondent and that she has mailed Respondents' Response to Appellant's Motion to Strike Matters from Respondents' Designation of Matter and from Appellant's Initial Brief to the address shown this 26th day of September, 2014, with proper postage attached thereto.

Kenneth R. Moss
628A Sea Mountain Highway
North Myrtle Beach, SC 29566



Teresa M. Phillips, Paralegal
Battle Law Firm, LLC
PO Box 530
Conway, SC 29528

BATTLE LAW FIRM, LLC
ATTORNEYS AND COUNSELORS AT LAW
1200 MAIN STREET
POST OFFICE BOX 530
CONWAY, SOUTH CAROLINA 29528
TELEPHONE (843) 248-4321
FACSIMILE (843) 248-4512
www.battlelawfirm.com

MICHAEL W. BATTLE
E-Mail Address: mbattle@battlelawsc.com
JAMES R. BATTLE, II
E-Mail Address: jbattle@battlelawsc.com

M. KIRK BATTLE
E-Mail Address: kbattle@battlelawsc.com

September 26, 2014

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
Post Office Box 116929
Columbia, SC 29211

RE: William H. Bailey, Jr. v. Marilyn Hatley, et al
C/A No.: 2013-CP-26-08466
Appellate C/A No: 2014-000756

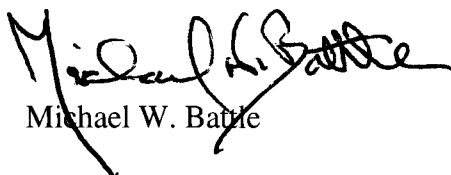
Dear Ms. Kitchings:

Enclosed is an original and six copies of Respondents' Amended Designation of Matter to be Included in the Record on Appeal, Respondents' Response to Appellant's Motion to Strike Matters from Respondents' Designation of Matter and from Appellant's Initial Brief and Respondent's Request for Judicial Notice in the above-referenced case. I am enclosing the required filing fee in the amount of \$25.00 to cover the cost for the Request for Judicial Notice. The grounds for the motion are stated in the body of the motion.

By copy of this letter I am serving the attorney for the Appellant with copies of the documents listed above. Please return a "clocked" copy of the Proofs of Service. I have enclosed extra copies of the Proofs of Service, as well as a self-addressed, stamped envelope for your convenience

Thank you for your attention to this matter.

Very truly yours,


Michael W. Battle

Enclosure: Stated

C: Kenneth R. Moss, Chris Noury

RECEIVED

SEP 29 2014

SC Court of Appeals