

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM MARION COUNTY
Court of Common Pleas

Michael G. Nettles, Circuit Court Judge

RECEIVED

JAN - 8 2015

S.C. Supreme Court

Opinion 5010 (S.C. Ct. App. filed July 25, 2012)

The South Carolina Department of TransportationRespondent,

vs.

Janell P. Revels and R.J. Poston, Jr.Landowners,

and

John Doe and Mary Roe, representing all unknown persons having or claiming to have any right, title or interest in or to, or lien on the lands described herein, including all unknown heirs of Reamer J. Poston, Sr., a/k/a R.J. Poston, Sr., deceased.....Unknown Claimants,

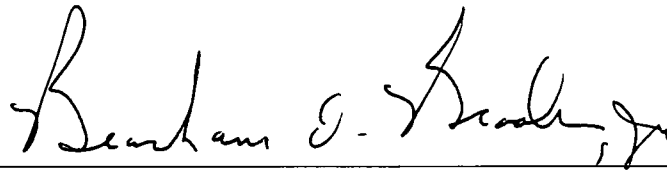
Of Whom Janell P. Revels and R.J. Poston, Jr. are Petitioners.

RESPONDENT’S RETURN TO PETITIONER’S MOTION TO TAX COSTS

Respondent, the South Carolina Department of Transportation, respectfully submits this return in opposition to Petitioners’ motion to tax costs.

Petitioners seek costs on the ground that the Court “reversed and remanded the issue of the amount of a reasonable attorney’s fee.” However, the Court affirmed the holdings of the Circuit Court and the Court of Appeals on Petitioners’ “sole contention that the Court of Appeals erred in affirming an award of attorney’s fees that was calculated based on a lodestar method rather than their contingency fee agreement.” Opinion No. 27469 (Dec. 10, 2014). The Court

remanded the case to the Circuit Court for reconsideration instructing that, if the court determines in its discretion that an award is warranted, it must consider a constellation of factors in calculating the award. The decision of this Court had the effect of affirming or reversing in part the judgment of the lower courts. Thus, under Rule 242(j), SCACR, the Court should deny fees due to Petitioners' failure to prevail on their appeal.



Beacham O. Brooker, Jr., S.C. Bar #909
South Carolina Department of Transportation
Post Office Box 191
Columbia, SC 29202-0191
(803) 737-1347
brookerbo@scdot.org

Attorney for Respondent

Columbia, S.C.
January 7, 2015

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM MARION COUNTY
Court of Common Pleas

Michael G. Nettles, Circuit Court Judge

RECEIVED

JAN - 8 2015

S.C. Supreme Court

Opinion 5010 (S.C. Ct. App. filed July 25, 2012)

The South Carolina Department of Transportation Respondent,

vs.

Janell P. Revels and R.J. Poston, Jr. Landowners,

and

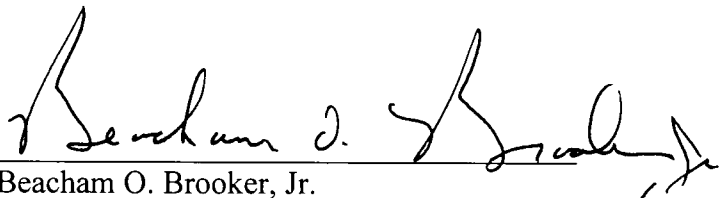
John Doe and Mary Roe, representing all unknown persons having or
claiming to have any right, title or interest in or to, or lien on the lands
described herein, including all unknown heirs of Reamer J. Poston, Sr.,
a/k/a R.J. Poston, Sr., deceased Unknown Claimants,

Of Whom Janell P. Revels and R.J. Poston, Jr. are Petitioners.

PROOF OF SERVICE

I certify that I have served the Respondent's Return to Petitioner's Motion to Tax Costs on the Appellants by depositing a copy in the United States Mail, postage prepaid, on January 7, 2015, addressed to its attorneys of record as follows:

GENE McCAIN CONNELL, JR.
KELAHER CONNELL & CONNOR
P O DRAWER 14547
SURSIDE BEACH SC 29587



Becham O. Brooker, Jr.
Post Office Box 191
Columbia, South Carolina 29202-0191
(803) 737-1347
brookerbo@scdot.org

Attorney for Respondent

January 7, 2015



South Carolina
Department of Transportation
Office of Legal Services

Linda C. McDonald,
Chief Counsel

Assistant Chief Counsel,
Natalie J. Moore
Barbara M. Wessinger
Beacham O. Brooker, Jr.
Amanda T. Taylor, Claims

Claims Office 737-1260

RECEIVED

JAN 08 2015

January 7, 2015

S.C. SUPREME COURT

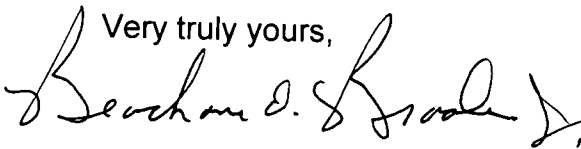
The Honorable Daniel E. Shearouse
Clerk of the South Carolina Supreme Court
P.O. Box 11330
Columbia, SC 29211

RE: South Carolina Department of Transportation, Respondent vs.
Janell P. Revels and R. J. Poston, Petitioners
Appellate Case No. 2012-213378

Dear Mr. Shearouse:

Please find enclosed herewith an original and seven copies of Respondent's Return to Petitioner's Motion to Tax Costs in the above captioned matter, along with a Proof of Service regarding same. Please return a filed copy to me using the envelope provided.

By copy of this letter, I am hereby serving the opposing counsel, Gene McCain Connell, Jr., with a copy of these documents on today's date.

Very truly yours,


Beacham O. Brooker, Jr.

BOB, JR:jmt

Enclosures

cc: Gene McCain Connell, Jr., Esquire

