

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

15039

APPEAL FROM Horry COUNTY
Court of Common Pleas

William Jeffrey Young, Circuit Court Judge

Case No. 2010-CP-26-5964
Appellate Case No. 2013-000195

William H. Bailey, Jr.,

Appellant,

v.

City of North Myrtle Beach,
a South Carolina Municipal
Corporation,

Respondent.

MOTION TO TAX COSTS AGAINST APPELLANT

Christopher W. Johnson
Derwood L. Aydlette, III
Gignilliat, Savitz & Bettis, LLP
900 Elmwood Avenue, Suite 100
Columbia, South Carolina 29201
(803) 799-9311
Attorneys for Respondent

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SC Court of Appeals

MOTION

Respondent City of North Myrtle Beach moves the Court for an Order taxing costs against Appellant pursuant to Rule 222, SCACR. Rule 222 provides that “costs shall be taxed against the appellant when the appeal is dismissed or judgment on appeal is affirmed.” SCACR 222 (a). The rule further provides that “[w]hen an appeal is affirmed or reversed in part or is vacated, costs shall be allowed only as ordered by the appellate court.” *Id.*

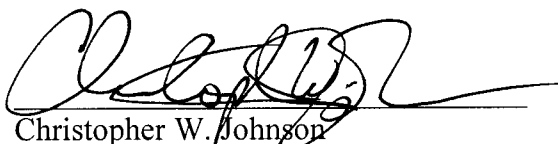
In this matter, Appellant sought a declaratory judgment from the trial court that, at the time that he filed his grievance, he was entitled to a grievance hearing before the City’s Grievance Committee. (R p. 8 (“The sole issue before the Court was whether Plaintiff, the former Public Safety Director for Defendant City of North Myrtle Beach, was entitled to a grievance hearing stemming from his separation from employment with the City.”) The City argued to court below and on appeal that the matter was moot because the City had repealed its grievance procedure during the pendency of the case. In the alternative, the City argued that, even if the matter were not moot, Appellant retired and was not entitled to a grievance hearing for that reason.

The trial court ruled there was no justiciable controversy because the matter was moot and, in the alternative, held that even if the matter was not moot, Appellant was not entitled to a declaratory judgment because he retired. (R p. 8 (“ . . .the Court finds that (1) there is no justiciable case or controversy before the Court for determination and, (2) even if there were, Plaintiff was not entitled to a grievance hearing.”) On appeal, this Court upheld the trial court’s primary determination that the matter was moot. The Court

vacated the trial court's alternate ruling because, having found the matter to be moot, the alternative finding was not necessary to the resolution of the case.

Having had the City's primary argument and the trial court's primary ruling affirmed on appeal, it is clear that Respondent City is the prevailing party. Rule 222 allows costs for printing the final brief and for limited attorney's fees as set by the Supreme Court (currently at \$1,000.00) SCACR 222(b), n.1. Accordingly, costs should be taxed against Appellant in the amount of \$1,139.00, as shown on the attached Itemized Statement of Costs.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Christopher W. Johnson', written over a horizontal line.

Christopher W. Johnson
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Columbia, South Carolina

February 13, 2015

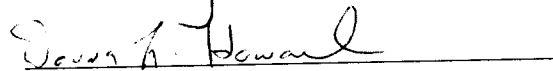
| | | | | |
|--|--|-------|------------|--|
| Cost of Printing or Copying Brief | | | | |
| Cost of Printing or Copying Reply Brief | | | | |
| Cost of Printing or Copying Appendix | | | | |
| Filing fee paid under Rule 242(c), SCACR | | | | |
| Attorney's fee provided by Rule 242(j)(2), SCACR | | | | |
| Other (specify and explain): | | | | |
| | | TOTAL | \$1,139.00 | |

I, Christopher W. Johnson, 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.


 (Signature)

Attorney for Respondent

Subscribed and sworn to before me this 13th day of February, 20 15.



Notary Public for South Carolina

My Commission Expires: 06/16/2020

(Seal)

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City of North Myrtle Beach,
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PROOF OF SERVICE

I hereby certify that I have this day caused to be served a copy of the Respondent's Motion to Tax Costs to Appellant on counsel of record by deposit in the United States mail, first-class postage prepaid, addressed to:

Kenneth R. Moss, Esq.
Wright, Worley, Pope, Ekster & Moss, PLLC
628A Sea Mount Highway
North Myrtle Beach, S.C. 29582



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February 13, 2015



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SPECIAL COUNSEL

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(1939-2002)

*CERTIFIED SPECIALIST
LABOR & EMPLOYMENT LAW

+CERTIFIED MEDIATOR

Sender's email address:
cjohnson@gsblaw.net

February 13, 2015

VIA HAND-DELIVERY

The Honorable Jenny Abbot Kitchings
Clerk of Court
South Carolina Court of Appeals
P.O. Box 11629
Columbia, S.C. 29211

Re: *Bailey v. City of North Myrtle Beach*
Appellate Case No. 2013-000195
C/A No. 2010-CP-26-05964

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SC Court of Appeals

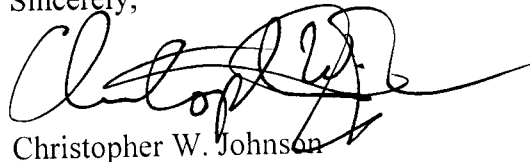
Dear Ms. Kitchings:

Enclosed for filing please find the original and 7 copies of Respondent's Motion to Tax Costs Against Appellant, Itemized Statement of Costs, Proof of Service for same and our check for the filing fee in the amount of \$25.00. Please file the original and six copies and return one clocked copy to me by our courier.

Should you have any questions, please do not hesitate to contact us.

With highest regards,

Sincerely,



Christopher W. Johnson

CWJ/fre
Enclosure
Fltr COA- RetMotSuppRec.439.AJ

cc: Kenneth R. Moss, Esq., Counsel for Appellant (w/ encl.)(via U.S. Mail)