

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM HORRY COUNTY  
Court of Common Pleas

William Jeffrey Young, Circuit Court Judge

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

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William H. Bailey, Jr.,

Appellant,

v.

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

Respondent.

75152

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FEB 23 2015

**SC Court of Appeals**

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**MOTION TO TAX COSTS AGAINST APPELLANT**

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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

## 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.*

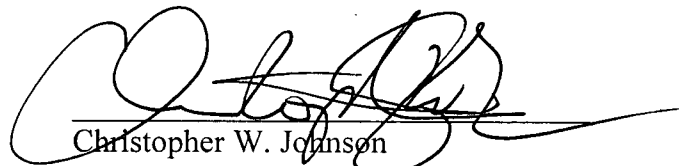
In this matter, Appellant sought a declaratory judgment from the trial court that, at the time that he filed his grievance, he was entitled to a grievance hearing before the City’s Grievance Committee. (R p. 8 (“The sole issue before the Court was whether Plaintiff, the former Public Safety Director 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 The City argued to court below and on appeal that the matter was moot because the City had repealed its grievance procedure during the pendency of the case.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 'C. W. Johnson', written over a horizontal line.

Christopher W. Johnson  
Derwood L. Aydlette, III  
Gignilliat, Savitz & Bettis, LLP  
900 Elmwood Ave., Suite 100  
Columbia, S.C. 29201  
Tel.: (803) 799-9311

Columbia, South Carolina

February 23, 2015

THE STATE OF SOUTH CAROLINA  
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v.	)
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City of North Myrtle Beach, a South	)
Carolina Municipal Corporation,	)
Respondent.	)

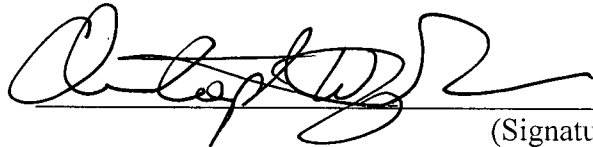
The Appellate Court is requested to tax the following costs against

Appellant William H. Bailey, Jr.  
(Name of Party)

COSTS TAXABLE UNDER RULE 222, SCACR	NO. OF PAGES	RATE	REQUESTED	ALLOWED (For Court Use Only)
Cost of Printing or Copying Final Brief	702		\$139.00	
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				

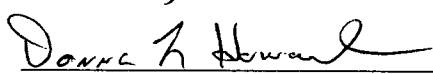
Cost of Printing or Copying Brief				
Cost of Printing or Copying Reply Brief				
Cost of Printing or Copying Appendix				
Filing fee paid under Rule 242(c), SCACR				
Attorney's fee provided by Rule 242(j)(2), SCACR				
Other (specify and explain):				
		TOTAL	\$1,139.00	

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)

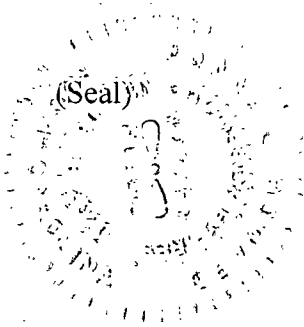
Attorney for Respondent

Subscribed and sworn to before me this 23 day of February, 2015.

  
 \_\_\_\_\_

Notary Public for South Carolina

My Commission Expires: 06/16/2020



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William Jeffrey Young, Circuit Court Judge

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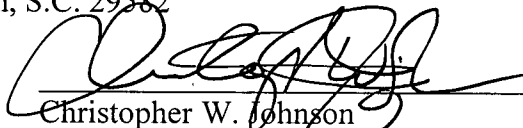
City of North Myrtle Beach,  
a South Carolina Municipal  
Corporation,

Respondent.

**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

  
Christopher W. Johnson  
Gignilliat, Savitz & Bettis, LLP  
900 Elmwood Ave., Suite 100  
Columbia, S.C. 29201  
(803) 799-9311

February 23, 2015



GIGNILLIAT SAVITZ & BETTIS LLP

STEPHEN T. SAVITZ\*\*  
VANCE J. BETTIS\*  
LINDA PEARCE EDWARDS\*  
KATHRYN THOMAS\*  
DERWOOD L. AYDLETTE III\*\*  
CHRISTOPHER W. JOHNSON\*  
FRED A. WILLIAMS\*  
T. FOSTER HASELDEN  
MICHAEL C. GREENE

R. HAYNE HODGES III  
SPECIAL COUNSEL

JULIAN H. GIGNILLIAT  
(1939-2002)

\*CERTIFIED SPECIALIST  
LABOR & EMPLOYMENT LAW

\*CERTIFIED MEDIATOR

February 23, 2015

Sender's email address:  
cjohnson@gsblaw.net

**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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Dear Ms. Kitchings:

Enclosed for re-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,

  
for 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)