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THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM HORRY COUNTY

Court of Common Pleas

Steven H. John, Presiding Judge

Case No. 2009-CP-26-10523

Appellate Case No. 2012-213287

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JUN 02 2015
SC Court of Appeals

Elizabeth A. Crotty and James K. Orzech..... Appellants,

v.

Windjammer Village of Little River,
Property Owners' Association, a South Carolina
Eleemosynary Corporation..... Respondent.

**RETURN TO RESPONDENT'S MOTION FOR SANCTIONS AGAINST
APPELLANTS FOR FRIVOLOUS PROCEEDINGS AND APPEAL**

Appellants Elizabeth A. Crotty and James K. Orzech, hereby, submit a RETURN TO RESPONDENT'S MOTION FOR SANCTIONS AGAINST APPELLANTS FOR FRIVOLOUS PROCEEDINGS AND APPEAL, asking that Respondent's MOTION be denied. Respondent's MOTION was filed on May 21, 2015, fewer that fifteen (15) days after the Court of Appeals' released its unpublished OPINION No. 2015-UP-249 on May 13th. Per Rule 221(b), this was prior to the Court's issuance of a REMITTITUR. Appellants then filed a PETITION FOR REHEARING per Rule 221(a) on May 26th, staying the issuance of a REMITTITUR until after the Court of Appeals can rule upon that

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PETITION. Respondent's MOTION FOR SANCTIONS, therefore, should be rejected as untimely and, in itself, frivolous.

Some Examples of Respondent's Frivolity

Throughout this Appeals' process, now lasting over two and a half years, *pro se* Appellants have met every challenge presented us by the court's rules and decisions related to so many MOTIONS, smartly in a timely and direct way. However, Respondent's attorney seems to have found and utilized every imaginable delaying tactic. Attorney Moss created for himself scores of unnecessary billable hours against his client, the Windjammer Village Property Owners' Association, as well as hours and even days of extra work for us and for the Court of Appeals. As Appellants who are also Members of that POA, we are appalled at attorney Moss' wasteful tactics. Now he is asking the Court to shift the burden of his misbehavior on us.

For example, we filed our original INITIAL BRIEF and DESIGNATION OF MATTER on time on March 13, 2013. Then two days later, Respondent's attorney filed a PETITION FOR AN EXTENSION OF TIME TO FILE ITS INITIAL BRIEF AND DESIGNATION OF MATTER. On March 29th, the Court of Appeals sent an ORDER signed by Chief Judge John Cannon Few, extending Respondent's time to May 13, 2013.

Rather than producing Respondent's INITIAL BRIEF by that extended due date, attorney Moss filed Respondent's MOTION TO DISMISS, OR IN THE ALTERNATIVE, TO STRIKE MATTER FROM APPELLANTS' INITIAL BRIEF AND DESIGNATION OF MATTER TO BE INCLUDED IN THE RECORD ON APPEAL on Apr. 29, 2013. In that

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MOTION, just like in Respondent's prior MOTION TO STRIKE, which already had been denied, attorney Moss attempted to confound the Honorable Court with heaps of old documents, asking the circuit court to award even more costs from us, which too had been denied, and which were not part of this Appeal, while trying to interject a **decoy** into the equation so as to misdirect the Court away from the true matters actually on Appeal.

On July 2, 2013, the Court of Appeals issued an ORDER signed by A.J. Jasper M. Curitan, striking just pages 1 and 2, as well as the non-enumerated paragraphs on page 3, from Appellants' 50-page INITIAL BRIEF, and ordering that Appellant file an Amended INITIAL BRIEF within ten days. Then Judge Curitan went on to say,

“Appellants have filed a Motion to amend their Designation of Matter, which Respondent does **not** oppose. Appellants' Motion is hereby **granted**.”

We, as Appellants, then submitted an Amended INITIAL BRIEF within the allotted time, together with our Amended DESIGNATION OF MATTER, which Judge Curitan already had approved for inclusion to the Court of Appeals, on July 12, 2013, within ten (10) days as ordered.

Meanwhile, after missing the extended deadline to file a RETURN opposing Appellants' MOTION TO AMEND AND REPLACE APPELLANTS' DESIGNATION OF MATTER, attorney Moss belatedly filed Respondent's MOTION TO STRIKE MATTER INCLUDED IN APPELLANTS' AMENDED DESIGNATION OF MATTER TO BE INCLUDED IN THE RECORD ON APPEAL -- on July 8, 2013 -- six days after the Honorable Court already had granted Appellants' MOTION to amend our DESIGNATION

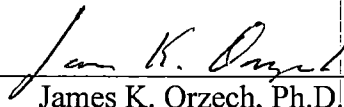
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OF MATTER without Respondent's objection. By then Attorney Moss already had filed two MOTIONS TO DISMISS and three MOTIONS TO STRIKE without much success, but he continued to do so again and again, brazenly and redundantly challenging prior decisions of The Honorable Court.

Respondent's attorney Moss is seeking **\$789.40** from the Court of Common Pleas proceedings that Judge John already denied him. Further, he failed to account in any way for how he arrived at the arbitrary figures **\$789.40**, **\$40,933,33** and **\$1,156.92**. At the RULE TO SHOW CAUSE Hearing on Aug. 30, 2012, we then as *pro se* Plaintiffs documented so many of attorney Moss' accounting discrepancies in our MEMORANDUM IN OPPOSITION TO DEFENDANT'S PROPOSED ORDER AWARDING DEFANDANT EVEN MORE TAXABLE COSTS that Judge John refused to award him any more funds.

For all of the above reasons, Appellants pray that the Court will not award Respondent's Attorney any legal fees or costs.

Respectfully submitted,



James K. Orzech, Ph.D.¹

Pro Se Appellant

The B00 House
2148 Gamecock Circle
Little River, SC 29566
Tel: (843) 281-2299

Little River, South Carolina

May 30, 2015

¹ Appellant Crotty is on travel and unavailable for signature.

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Attorney for Respondent

Kenneth R. Moss, Esq.
628A Sea Mountain Highway
North Myrtle Beach, SC 29582
Tel: (843) 281-9901

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APPEAL FROM HORRY COUNTY
Court of Common Pleas of the Fifteenth Judicial Circuit
Steven H. John, Presiding Judge

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Case No. 2009-CP-26-10523

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Elizabeth A. Crotty and James K. Orzech, Appellants,

v.

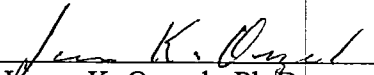
Windjammer Village of Little River, Property Owners' Association, a South Carolina
Eleemosynary Corporation, Respondent.

PROOF OF SERVICE

I certify that I have served a copy of Appellant's RETURN TO RESPONDENT'S MOTION FOR SANCTIONS AGAINST APPELLANTS FOR FRIVOLOUS PROCEEDINGS AND APPEAL and Proof of Service of same in the above-captioned Appeal to Respondent's Counsel of Record by United States Mail, with sufficient first-class postage affixed, addressed as follows:

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

Respectfully submitted,


James K. Orzech, Ph.D.
Pro Se Appellant

The B00 House
2148 Gamecock Circle
Little River, SC 29566

May 30, 2015

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Little River, SC 29566

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SC Court of Appeals

VIA U.S. MAIL

The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
2120 Senate Street
P.O. Box 11629
Columbia, SC 29211
Clerk of Court

Re: Elizabeth A. Crotty and James K. Orzech, Appellants, v. Windjammer
Village of Little River, South Carolina, Property Owners' Association, a
South Carolina Eleemosynary Corporation, Respondent

C/A No. 2009-CP-26-10523

Appellate Case No: 2012-213287

Dear Ms. Kitchings:

Please find enclosed Appellant's RETURN TO RESPONDENT'S MOTION FOR
SANCTIONS AGAINST APPELLANTS FOR FRIVOLOUS PROCEEDINGS AND APPEAL
and Proof of Service of same in the above-captioned Appeal

Sincerely,



James K. Orzech
Pro Se Appellant

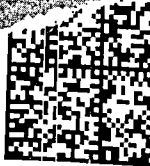
Cc: Kenneth R, Moss, Respondent's attorney

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E.A. Crotty & J.K. Orzech
The B00 House
2148 Gamecock Circle
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SC Court of Appeals

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Clerk of Court
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

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