

THE STATE OF SOUTH CAROLINA
In The Supreme Court

FROM SOUTH CAROLINA COURT OF APPEALS

Thomas E. Huff; Paul E. Short Jr.; Aphrodite K. Konduros
Appellate Court Judges

Appellate Case No. 2013-000714

Ronald Jarmuth

v.

The South Carolina Court of Appeals;
The International Club Homeowners Association, Inc;
Rosemary Toth; and
K. A. Diehl & Associates. Inc

S.C. SUPREME COURT

Petitioner APR 01 2016

SC Court of Appeals

Respondents

PETITION FOR WRIT OF PROHIBITION AND MANDAMUS

Ronald Jarmuth
249 Pickering Drive
Murrells Inlet, SC 29576
843-314-4355
Petitioner, Pro Se

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CONSTITUTION

**Article V, Section 5, South Carolina State Constitution,
Jurisdiction of Supreme Court;**

STATUTES

**SC Code 14-03-310, Original Jurisdiction of Supreme Court;
SC Code 14-03-330 (3) Appellate Jurisdiction in Law Cases.**

RULES

South Carolina

Rule 207 SCACR Transcript of Proceedings

Rule 210 SCACR Record on Appeal

Rule 222 SCACR Costs of Appeal

Rule 240 SCACR Motions

Rule 245 SCACR Original Jurisdiction of Supreme Court

RELIEF REQUESTED

The South Carolina Supreme Court is asked to grant a writ which vacates the Order of the South Carolina Court of Appeals awarding costs in its entirety and direct the South Carolina Court of Appeals to communicate this to the trial court – civil case 2009CP263596 in the Court of Common Pleas, Horry County.

FACTUAL BACKGROUND

This Petition presents an extra-ordinary first impressions circumstance for which there is no case law to be found in federal or any state practice because when the South Carolina Court of Appeals granted costs in favor of Respondent where no costs had actually been incurred by Respondent, it violated the letter and spirit of the law, ignored the clear facts, and established a dangerous precedent. The situation is also

extra-ordinary in that, except through extra-ordinary writ, no recourse is available to correct this injustice because the authors of the appellate rules did not contemplate a situation where the Court of Appeals would exercise such an aberration in judgment relating to the award of costs so no provision exists in the South Carolina Rules of Appellate Court Procedure, SCACR, for reconsideration of an order awarding costs.

SUMMARY

We arrive at this situation because the Respondent, the International Club Homeowners Association, Inc. (“IHOA”) has an insurance policy Appendix p.1 which provides that after the IHOA paid a single \$2,500 deductible in any case, the IHOA would pay no further costs in the first case nor any costs at all in any other case involving the IHOA during the policy period. The policy has no provision for subrogation in favor of the insurance company nor any provision obligating the IHOA to recover any costs on behalf of the insurance company or obligating the IHOA to repay the insurance company any costs recovered in litigation. After an appeal was decided in favor of the IHOA as a respondent, the IHOA claimed Appendix p.15 various costs which it never incurred, including costs actually paid by Petitioner¹, Petitioner filed an evidence and rule based objection Appendix p.19 to the IHOA’s Motion for Costs, the IHOA failed to reply, the Court of Appeals ignored the evidence and legal infirmities presented by Petitioner, and awarded costs Appendix p.27 to Respondent that Respondent never incurred, including costs actually paid by Petitioner, not the Respondent.²

CHRONOLOGY

- a. In early 2009 the IHOA paid McCutcheon law firm various sums which

¹ Petitioner paid for and filed the Transcript of the Trial, yet the Court of Appeals awarded transcript costs to Respondent without explanation.

² The Transcript.

cumulatively met the IHOA's annual deductible. Appendix p.4.

b. On April 7, 2009 Petitioner Ronald Jarmuth ("Jarmuth") filed civil complaint 2009CP263596 Appendix p.3 in the Horry County Court of Common Pleas. After being served, the IHOA reported this to its insurance company, Travelers C&S Co. of America, ("Travelers") and paid no deductible. Thereafter Travelers paid all costs at both the trial and appellate levels. Appendix pp.4-7.

c. Per its 2009 General Ledger Appendix pp.4-5, the only instance in 2009 where the IHOA paid its law firm anything was on October 14, 2009 when the IHOA paid McNair Law \$2,500 in connection ("Sep 9 Legal Service") with a civil rights (violation) investigation of the IHOA by the South Carolina Human Affairs Commission ("SCHAC").

d. Per its 2010 General Ledger Appendix pp. 6-7, the only instance in 2010 when the IHOA paid its attorneys McNair Law anything was in connection with an easement sold to South Carolina Central Electric "Central Electric") under threat of condemnation. In relation to that on March 16, 2010 the IHOA paid McNair \$889.50 in "Matter #051490" and on April 30, 2010 was reimbursed that same sum by Central Electric. On June 9, 2010 the IHOA paid McNair \$2500, the IHOA's single deductible in the 2010 Travelers policy year, as the cost for legal service in "051490" – the Central Electric easement condemnation matter.

e. On October 12, 2010 Petitioner filed suit against the IHOA on another matter in the Magistrates Court of Horry County. Once again the IHOA retained McNair Law. Per the IHOA's request the case was transferred to the Court of Common Pleas as case 2010CP26-11320. Per the IHOA's 2010 General Ledger Appendix pp.6-7, Respondent never paid anything for the 2010 case prior to or after consolidation with 2009CP26-3596.

f. At trial the IHOA never disputed that Travelers paid all costs in litigation – attorney fees, document copying and mailing, deposition witness fees, etc. At trial on August 8, 2012 the IHOA’s president testified that the only costs actually incurred by the IHOA were (he testified) the 2009 and 2010 checks (\$2,500 each) to McNair. IHOA President William Freiboth testified under oath that these were recoverable because they were “to enforce the covenants” even though in 2009 there was no alleged covenant violation (by Jarmuth), even though the IHOA did not file a counter-claim to recover the \$2500 related to the SCHAC Civil Rights Investigation,³ and even though the IHOA provided no testimony as to how Jarmuth was related in any way to the Central Electric easement condemnation.

g. After a trial on August 8, 2012 Petitioner appealed the September 10, 2012 final order.

h. On April 9, 2013 Petitioner filed with the Court of Appeals a “Form 11, Letter Ordering Transcript from Court Reporter” Appendix pp.13-14 with a copy of the paid bill showing that Petitioner Jarmuth had paid for the transcript. Thereafter Jarmuth provided the IHOA a copy of the transcript as part of the Record on Appeal. .

i. On January 21, 2016 the Court of Appeals issued and sent its Remittitur.

j. On February 5, 2016 the IHOA mailed a Motion for Costs Appendix pp.15-18 which the Court of Appeals received on February 8, 2016. On February 8, 2016 Jarmuth filed a Return with evidence Appendix pp.19-26 in opposition to the Motion for Costs including evidence (Form 11) Appendix pp.13-14 that Jarmuth paid for the transcript and that the IHOA never actually incurred nor was indebted to a third party for any trial or post-trial expenses.

k. The IHOA did not reply to Jarmuth’s Return in Opposition.

³ Per 42 USC 3617 such a demand is a federal crime and may not be asserted.

l. On March 24, 2016 the Court of Appeals issued a “non-dispositional decision” Appendix p.27 granting without explanation the IHOA’s Motion for Costs. The order requires Jarmuth to pay Respondent for the transcript that Jarmuth in fact paid for and filed with the Court of Appeals, for items which are not recoverable per Rule 222 SCACR, and for costs not actually incurred by the IHOA.

m. On March 28, 2016 Jarmuth filed a Motion for Reconsideration of the Order for Costs Appendix pp.28-33. Jarmuth received clocked copies of the Motion with evidentiary exhibits and a receipt for payment Appendix p.34 of the \$25 motion filing fee. The Court of Appeals never entered the Jarmuth’s Motion for Reconsideration on the appellate case docket.

GROUND

JURISDICTION

The Supreme Court has jurisdiction to issue extra-ordinary writs pursuant to:

- a. Article V, Section 5 of the South Carolina State Constitution, Jurisdiction of Supreme Court;**
- b. SC Code 14-03-310, Original Jurisdiction of Supreme Court;**
- c. Rule 245 SCACR. Original Jurisdiction of Supreme Court.**

The Supreme Court has additional jurisdiction to consider the Court of Appeals’ Order granting costs as an appellate matter, pursuant to S.C. Code Ann. § 14-03-330 (3) Appellate Jurisdiction in Law Cases, as it provides a final determination of Petitioner’s rights relating to costs “upon a summary application in any action after judgment”.

LEGAL ARGUMENTS

RULE 222 SCACR RULE COSTS OF APPEAL

The Order for Costs Appendix p.27 cites SCACR Rule 222 but section(b) of the Rule says that the Court can only award costs

“to the extent the party actually incurred these costs”

Rule 222(d) SCACR provides that

“ the motion shall be accompanied by a sworn, itemized statement of costs incurred in the form prescribed in the Appendix to these rules.” (Italics added)

The Appellate Rules provide that “Form 17 Itemized Statement of Costs” shall be used for that purpose. Form 17 contains the following mandatory text:

“I, _____, do swear or affirm that the foregoing costs are correct and were necessarily incurred in this action.” (Italics added)

The IHOA’s counsel, Alicia Thompson, filed an “Itemized Statement of Costs” Appendix pp.17-18 with the following text:

“I, Alicia E. Thompson, do swear that the foregoing costs are correct and were necessarily incurred in this action.” (Italics added)

The IHOA’s insurance policy Appendix pp.1-2 provides that after the IHOA pays its \$2,500 annual deductible in a policy year (2009),⁴ the IHOA pays nothing for the case the \$2,500 is related to nor for any other case initiated that year.

Page 1 of Jarmuth’s Return in Opposition to the Motion for Costs Appendix p.19 asserted that

“Respondent has not actually incurred any costs”

and asserted further that

“All attorney fees and costs of any nature related to the underlying case and to all appeals thereof were paid by the “Travelers C&S Co. of America””⁵

As further evidence Jarmuth attached as exhibits the IHOA’s 2009 General Ledgers – Legal Cost section Appendix pp.4-5 and the Appellate Court Form 11

⁴ This is an annual deductible paid for the first case in any year. There is no deductible for later cases filed the same year. On June 4, 2009 Respondent paid McCutcheon, Mumford \$2500 for “File 4997” which was a controversy involving The Villas HOA. Respondent paid no deductible and no other costs in this case.

⁵ The IHOA’s Travelers Policy No. 194460344 dated January 20, 2009

(Transcript Order) Appendix pp.10-11 with the paid (by Jarmuth) bill for the transcript. This evidence makes it unmistakable that the IHOA paid nothing, not even an initial insurance deductible, at both the trial and the appellate levels.

The IHOA's Motion for Costs Appendix pp.15-18 and the Order Granting Costs Appendix p.27 lacks the authority of Rule 222 SCACR which provides what costs are recoverable and by whom. The list is inclusive.

The IHOA requested and the Court of Appeals granted the costs of the IHOA's Return to Jarmuth's Motion for Reconsideration of the Appellate Final Order. No costs of motion nor returns to same are allowed by Rule 222 SCACR.

Rule 222(b) SCACR provides that, except for the cost of printing the IHOA's Final Response Brief and an attorney fee if actually incurred, only an Appellant is allowed costs – if successful. The exclusive list set out in the rule (and its relevant application) is as follows:

“(b) Costs Allowed. ...

“(1) the filing fee paid under Rule 203(d);” This is paid by the Appellant.

“(2) the cost of the court reporter's transcript;”.

Rule 207 SCACR provides that it is the Appellant, not the Respondent, who pays for the transcript. The rule states:

“Rule 207, Transcript of Proceedings. (a) Appeals From a Lower Court.
(1) Ordering the Transcript. Where a transcript of the proceeding must be prepared... appellant shall ... make satisfactory arrangements ... in writing with the court reporter for furnishing the transcript.”
(underlining / italics added)

Jarmuth provided the Court of Appeals proof that he, not the IHOA, paid for the transcript Appendix pp.13-14.

“(4) the cost of printing the Record on Appeal under Rule 209; and”

Rule 210(b) SCACR provides, once again, that this is a cost which is incurred by

Jarmuth, not the IHOA.

“Rule 210 Record on Appeal... (b) Time for Filing. The appellant must file ...the Record on Appeal”

While the IHOA is permitted to recover costs actually incurred in filing supplements to the Record on Appeal ordered by the Appellate Court, the rule still demonstrates the general intent of the rule that -- with the exception of item (5) below -- document costs are only recoverable to the Appellant if he prevails.

“(5) the cost of printing the party's final brief(s) under Rule 210.”

This is the only recoverable printing costs normally allowed to a Respondent by Rule 207(b) SCACR, and it is only allowable if actually incurred.

Rule 222(b) SCACR's language controlling the award of attorney fees, the rule reiterates that these, too, are a recovery of costs actually incurred, not an award for prevailing. Rule 222(b) SCACR states:

“In addition, the party shall be entitled to recover an attorney's fee in an amount which shall be set by order of the Supreme Court.”

The key phrase in the rule is “to recover”. Rule 222 SCACR provides that costs must be actually and necessarily incurred. The rule DOES NOT read “shall be entitled to an attorney's fee” but rather reads “to recover an attorney's fee” which by the clear meaning of the rule means that the IHOA must have PAID an attorney's fee. The IHOA chose not to reply to the evidence based assertion that Respondent never paid any attorney fees at all in this case. Having failed to provide at least an argument as to how Appellant was wrong on the matter, the IHOA failed to meet it's burden of overcoming Appellant's evidence based opposition to the Motion for Costs.

The Court of Appeals thus erred as a matter of law and of fact by ignoring the law and the applicable facts and awarding costs as if the matter were uncontroverted.

When Jarmuth moved the Court of Appeals for Reconsideration of the Order

awarding costs to the IHOA (so as to give that Court an opportunity to correct its errors and avoid burdening the South Carolina Supreme Court with having to correct the matter) Jarmuth submitted as additional evidence the IHOA's 2010 General Ledger Appendix pp. 6-7 together with the IHOA's February 5, 2016 Motion for Costs Appendix pp.15-18 and the Court of Appeals March 24, 2015 Order granting costs Appendix p.27.

In Jarmuth's March 28, 2016 Motion for Reconsideration Appendix pp.28-33 Jarmuth noted that the matter of costs and insurance policies is not in the abstract nor rarely encountered and asked the Appellate Panel to apply their individual knowledge and experience in the practice of law in realizing the absurdity of the IHOA's claims – that it is beyond belief that the IHOA covered by a standard commercial insurance policy, could be claiming that it incurred actual costs beyond an initial deductible.

In the Motion for Reconsideration Jarmuth pointed out that at trial Respondent claimed that it's legal expenses through the date of trial consisted of only an initial \$2500 insurance deductible⁶ and the IHOA never asked at trial for motion fees or any costs subsequent to answering the Complaint – obviously because none were incurred. If the IHOA never paid anything for (and never claimed) any costs for any of the nine (9) depositions⁷ held pre-trial, Jarmuth asked how could the Court of Appeals honestly believe that the IHOA paid anything related to the Appeal?

**CONSIDERATION OF FILED MOTION FOR RECONSIDERATION
KEPT FROM APPELLATE JUDGES BY CLERK OF COURT**

The morning of March 28, 2016 Jarmuth presented to the Clerk of the Court of Appeals a "Motion for Reconsideration of Order Granting Costs on Appeal" Appendix

⁶ The Court should note that during the trial the Respondent's President testified that this was not the deductible in this case but was related to defending a South Carolina Human Affairs Commission investigation that Respondent had violated civil rights.

⁷ Record on Appeal Items 31 – 39, pp. 1055 – 1862.

pp.28-33. Jarmuth paid the \$25.00 filing fee and received a “clocked” copy of the Motion as well as a printed receipt Appendix p.34.

According to inspection of the on-line docket ⁸ for the appellate case, the Clerk of Court never entered the Motion on the docket of the case Appendix pp.35-36.

On March 30, 2016 Jarmuth phoned “Diane” the case manager and asked why the motion was not listed on the on-line case docket. “Diane” stated that she could not post the motion until she determined the appropriate “return date” for the motion. However, this excuse presents a mystery because return dates to motions are determined by the date of service of the motion and not by a docketing date. Per SCACR 262(a) the motion was “filed” and should have been entered on the docket because it complied with the rule that

“filing may be accomplished by: (1) Delivering the document to the clerk of the appellate court.”

The Clerk of the Court of Appeals states on the appellate court web site that

“the Clerk's Office provides the medium for transferring the legal issues from the litigants to the Judges of the Court, including any motions that may be filed.”

The Order awarding costs was dispositive of Jarmuth’s rights relating to the money involved ⁹. By failing to docket the motion and thereafter present the motion to the Judges of the Court, the Clerk usurped the judicial function and denied Jarmuth fair consideration of the obvious legal and factual errors underlying the Order awarding costs.

As of the date this Petition was filed with the Supreme Court, Jarmuth’s Motion for Reconsideration is still “in limbo”. Jarmuth attempted to provide the Court of

⁸ In addition to preserving a record of all related documents, the on-line docket allows the public to “download” and read every document – and to act as a safeguard on the integrity of the judiciary.

⁹ and his obligations towards the IHOA respondent.

Appeals with an opportunity to correct the clearly erroneous order. The action of the Clerk of the Court of Appeals left Jarmuth with no recourse except Petition for Extraordinary Writ to the Supreme Court.

EXTRAORDINARY CIRCUMSTANCES

The circumstances of this case are so novel that there are no ordinary alternative means of adequate redress. Further, allowing costs where none were incurred or where the cost was actually incurred by the opposing party (ordered to pay) establishes a new rule of practice affecting other litigants.

Rule 222 SCACR contemplates that a prevailing party will honestly state and apply only for those costs he has actually incurred and to which he is entitled. Rule 222 SCACR, in conjunction with Rule 240 SCACR, contemplates that deciding an application for costs will be so straightforward that legal and factual error will not occur, hence no need for redress need be provided. Neither assumptions are present in this case.

Rule 240 SCACR excludes rehearing of decisions on Motions for Costs. The Rule reads:

“(i) Rehearing. The court will not entertain petitions for rehearing on a motion or petition unless the action of the court on the motion or petition has the effect of dismissing or finally deciding a party's appeal.”

Orders allowing costs are not dispositive of “a party's appeal” and per Rule 222(d) SCACR provides that a motion for costs shall be filed “within fifteen (15) days of the issuance of the remittitur,” which is after the Court's order “finally deciding a party's appeal” – after the final disposition of the appeal.

Thus except for an extraordinary writ, no adequate remedy at law exists and the issue cannot be meaningfully reviewed.

The award of costs to the IHOA where none were incurred, or where they were

incurred by Jarmuth establishes a new interpretation and practice (in effect a new rule) by the Court of Appeals relating to Rule 222 SCACR which will affect other litigants in a manner dramatically different from prior practice in the Court of Appeals, which also sets the award of costs apart from the practice in every other state as well as in federal appellate forums. The fact that the Court of Appeals Order awarding costs was signed by all three Appellate Court Judges of the Panel makes it clear that they are embarking on a change in practice likely to continue on to other cases.

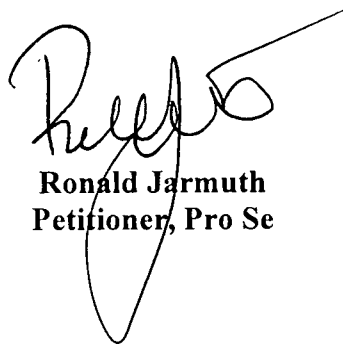
CONCLUSION

The Supreme Court has Jurisdiction to Issue an Extraordinary Writ vacating the Court of Appeals Order awarding costs.

Petitioner has satisfied the minimal procedural requirements needed to place this issue before this Court.

Such a Writ is appropriate on the merits.

The Writ should be issued forthwith.

A handwritten signature in black ink, appearing to read 'R. Jarmuth', with a long horizontal line extending from the top right of the signature.

Ronald Jarmuth
Petitioner, Pro Se

Ronald Jarmuth
249 Pickering Drive
Murrells Inlet, SC 29576
843-314-4355
April 1, 2016

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

IN THE SUPREME COURT

Case No.: _____

Ronald Jarmuth)
249 Pickering Drive)
Murrells Inlet, SC 29576)
843-314-4355)

COMPLAINT

ACCOMPANYING

Plaintiff)

PETITION FOR EXTRA-ORDINARY

vs)

WRIT OF PROHIBITION AND

The International Club)
Home Owner's Association, Inc.,)
c/o K.A. Diehl,)
Registered Agent)
11822 Hwy 17 Bypass S)
Murrells Inlet, SC 29576)
843-357-9888)

MANDAMUS

and)

K.A. Diehl,)
11822 Hwy 17 Bypass S)
Murrells Inlet SC 29576)
843-357-9888)

and)

Rosemary Toth)
238 Seville Dr)
Murrells Inlet, SC 29576-7585)
843-651-1392)

and)

South Carolina Court of Appeals)
c/o Clerk of Court)
1220 Senate Street)
Columbia, SC 29201)
803-734-1890)

Defendants)
_____)

The Plaintiff, complaining of the Defendant, would respectfully show and allege unto this Honorable Court as follows:

PARTIES

1. The Plaintiff is a citizen and resident of Horry County residing at 249 Pickering Drive; Murrells Inlet, SC 29576.

2. The Defendants:

a. **The International Club Home Owners Association, Inc. (IHOA) is a non-profit corporation organized and existing under the laws of the State of South Carolina, on or about March 1, 2001. Its registered agent is K.A. Diehl, with offices at 11822 Hwy 17 Bypass S; Murrells Inlet, SC 29576-9335; 843-357-9888.**

b. **K.A. Diehl and Associates, Inc. Its registered agent is Kellie Diehl. Its offices include 11822 Hwy 17 Bypass S; Murrells Inlet, SC 29576-9335; 843-357-9888. Its officers include Jack Boselli CEO and Vicki Gallagher, VP. K.A. Diehl is a "for profit" corporation organized and existing under the laws of the State of South Carolina on January 7, 2002.**

c. **Rosemary Toth, who is a citizen and resident of Horry County residing at 238 Seville Dr; Murrells Inlet, SC 29576-7585; 843-651-1392.**

d. **The South Carolina Court of Appeals is located at 1220 Senate Street; Columbia, South Carolina 29201; (803) 734-1890. The Court of Appeals is a constitutional entity of the state.**

JURISDICTION

3. The South Carolina Supreme Court has original jurisdiction as provided by Article 5, Section 5 of the South Carolina Constitution, by S.C. Code Ann. § 14-03-310, Original Jurisdiction of Supreme Court; and by Rule 245 SCACR. Original Jurisdiction of Supreme Court.

FACTS

4. Facts.

a. **On January 15, 2009 the International Club Homeowners Association, Inc.**

(“IHOA”) obtained an insurance policy from Travelers C&S Co. of America (“Travelers”) Appendix pp.1-2 with a policy period of January 20, 2009 through January 20, 2010, Policy No. 104460344. The policy provided coverage to the IHOA for legal actions against the IHOA. Its’ provisions included a single deductible of \$2,500 per policy year no matter how many claims were stated or filed against the IHOA. The policy further provided that after the initial action for which the deductible was paid, the IHOA would pay nothing at all in legal or other expenses for such other cases. The only expense to the IHOA for the initial case was the single deductible. The expenses to be borne by Travelers included all costs related to appeals.

b. In early 2009 the IHOA paid McCutcheon law firm various sums which cumulatively met the IHOA’s annual deductible. Appendix pp.4.

c. In April 7, 2009 Petitioner Ronald Jarmuth (“Jarmuth”) filed civil complaint 2009CP263596 in the Horry County Court of Common Pleas Appendix p.3. After being served, the IHOA reported this to its insurance company, Travelers C&S Co. of America, (“Travelers”) and paid no deductible. Thereafter Travelers paid all costs at both the trial and appellate levels.

d. Per its 2009 General Ledger Appendix pp.4-5, the only instance in 2009 where the IHOA paid its law firm anything was on October 14, 2009 when the IHOA paid McNair Law \$2,500 in connection (“Sep 9 Legal Service”) with a civil rights (violation) investigation of the IHOA by the South Carolina Human Affairs Commission (“SCHAC”).

e. Per its 2010 General Ledger Appendix pp.6-7, the only instance in 2010 when the IHOA paid its attorneys McNair Law anything was in connection with an easement sold to South Carolina Central Electric “Central Electric”) under threat of condemnation.

In relation to that on March 16, 2010 the IHOA paid McNair \$889.50 in "Matter #051490" and on April 30, 2010 was reimbursed that same sum by Central Electric. On June 9, 2010 the IHOA paid McNair \$2500, the IHOA's single deductible in the 2010 Travelers policy year, as the cost for legal service in "051490" – the Central Electric easement condemnation matter.

f. On October 12, 2010 Petitioner filed suit against the IHOA on another matter in the Magistrates Court of Horry County. Once again the IHOA retained McNair Law. Per the IHOA's request the case was transferred to the Court of Common Pleas as case 2010CP26-11320. Per the IHOA's General Ledgers, Respondent never paid anything for the 2010 case prior to or after consolidation with 2009CP26-3596.

g. At trial the IHOA never disputed that Travelers paid all costs in litigation – attorney fees, document copying and mailing, deposition witness fees, etc. At trial on August 8, 2012 the IHOA's president testified that the only costs actually incurred by the IHOA were (he testified) the 2009 and 2010 checks (\$2,500 each) to McNair. IHOA President William Freiboth testified under oath that these were recoverable because they were "to enforce the covenants" even though in 2009 there was no alleged covenant violation (by Jarmuth), even though the IHOA did not file a counter-claim to recover the \$2500 related to the SCHAC Civil Rights Investigation,¹ and even though the IHOA provided no testimony as to how Jarmuth was related in any way to the Central Electric easement condemnation.

h. After a trial on August 8, 2012 Petitioner appealed the September 10, 2012 final order. Travelers paid all of Defendant's costs related to the appeal.

i. On April 9, 2013 Petitioner filed with the Court of Appeals a "Form 11,

Letter Ordering Transcript from Court Reporter” Appendix pp.13-14 with a copy of the paid bill showing that Petitioner Jarmuth had paid for the transcript. Thereafter Jarmuth provided the IHOA a copy of the transcript as part of the Record on Appeal.

j. On March 4, 2015 the Court of Appeals entered a decision affirming the trial Court’s September 12, 2012 Final Order. On March 24, 2015 the Court of Appeals denied a Petition for Rehearing.

k. On January 21, 2016 the Court of Appeals issued and sent its Remittitur.

l. On February 5, 2016 the IHOA mailed a Motion for Costs which the Court of Appeals received on February 8, 2016. Appendix pp.15-18.

m. On February 8, 2016 Jarmuth filed a Return with evidence Appendix pp.19-26 in opposition to the Motion for Costs. This included evidence (Form 11) that Jarmuth paid for the transcript and that the IHOA never actually incurred nor was indebted to a third party for any trial or post-trial expenses. The IHOA never incurred any costs on appeal.

n. The IHOA did not reply to Jarmuth’s Return in Opposition and hence admitted all of Jarmuth’s allegations that the IHOA never incurred any costs.

o. On March 24, 2016 the Court of Appeals issued a “non-dispositional decision” Appendix pp.27 granting without explanation the IHOA’s Motion for Costs. The order requires Jarmuth to pay Respondent for the transcript that Jarmuth, not the IHOA, in fact paid for and that Jarmuth filed with the Court of Appeals as part of the Record on Appeal. The Order Allowing Costs also ordered costs for items which are not recoverable per Rule 222 SCACR, and for costs not actually incurred by the IHOA. Specifically, the Order allowed costs for the IHOA’s Return on Jarmuth’s Motion for Reconsideration,

¹ Per 42 USC 3617 such a demand is a federal crime and may not be asserted.

which is not an allowable cost item to either party. It also allowed attorney fees in appeal to the IHOA which the IHOA never incurred. Appendix pp.17-18, 27.

p. On March 28, 2016 Jarmuth filed a Motion for Reconsideration of the Order for Costs Appendix pp.28-33. Jarmuth received clocked copies of the Motion with evidentiary exhibits and a receipt Appendix p.34 for payment of the \$25 motion filing fee. The Court of Appeals never entered the Jarmuth's Motion for Reconsideration on the appellate case docket Appendix pp.35-36.

q. The IHOA's claim for costs was fraudulent on a false affirmation or verification in violation of Rule 222, SCACR.

CLAIM FOR RELIEF

5. First Claim.

Jarmuth demands that the Supreme Court vacate the March 24, 2016 Order of the Court of Appeals awarding costs to the IHOA.

6. Second Claim.

Jarmuth demands that the Supreme Court award punitive damages in an amount of the Supreme Court's discretion against the IHOA Defendant because it was obviously and knowingly falsely asserted on an affirmation or verification.

LEGAL ARGUMENT

7. Legal Argument.

a. Rule 222 SCACR allows costs only to the extent they are actually incurred. The IHOA Respondent incurred no costs. The IHOA incurred no expenses.

b. Rule 207 SCACR Transcript of Proceedings, provides that the Appellant shall purchase the Transcript of the Trial proceedings. Jarmuth purchased the Transcript

and informed the Court of Appeals of that fact by filing a Form 11 Appendix pp.13-14.

c. Rule 210 SCACR Record on Appeal provides that Jarmuth, the Appellant, was to file the Transcript. Jarmuth filed the transcript as part of the Record on Appeal. The IHOA Respondent never filed the transcript with the Court of Appeals in any form.

d. The IHOA Respondent never provided any explanation or rationale justifying the award of costs to it. Instead, by affirmation Appendix p.18, the IHOA falsely claimed that it had actually incurred the cost of the Transcript as well as the other costs claimed.

e. By not replying to Jarmuth's evidence based Return in Opposition the IHOA by default admitted Jarmuth's allegations.

f. The Court of Appeals exceeded its authority and lacked any discretion to grant the cost of the Transcript to the IHOA, nor the cost of the Return to the Motion for Rehearing.

g. The Court of Appeals Order allowing costs to the IHOA clearly had no basis in fact and was thus clearly erroneous. Because the IHOA never actually incurred any costs at all, the award of costs was also an error of law.

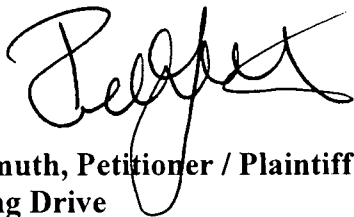
h. The IHOA Defendant had actual knowledge and possession of controlling evidence to know that the Motion for Costs was false. The affirmation or verification accompanying the Form 11 was false. The IHOA knew that it had never written a single check to reimburse its attorneys for a single expense in a period spanning approximately seven (7) years Appendix pp.4-7. This is clearly not an instance of innocent error or oversight.

PRAYER FOR RELIEF

8. Prayer for Relief.

a. The South Carolina Supreme Court should issue an Order vacating the March 24, 2016 Order of the Court of Appeals awarding costs to the IHOA Defendant in Appellate Case 2013-000714, Jarmuth v IHOA et al.

b. The South Carolina Supreme Court should enter an Order awarding Jarmuth punitive damages in an amount of the Supreme Court's choosing as a deterrent to any further false claims as to costs on appeal.



Ronald Jarmuth, Petitioner / Plaintiff Pro Se
249 Pickering Drive
Murrells Inlet, SC 29576
843-314-4355
April 1, 2016

**THE STATE OF SOUTH CAROLINA
In The Supreme Court**

FROM SOUTH CAROLINA COURT OF APPEALS

**Thomas E. Huff; Paul E. Short Jr.; Aphrodite K. Konduros
Appellate Court Judges**

Appellate Case No. 2013-000714

Ronald Jarmuth

Petitioner

v.

**The South Carolina Court of Appeals;
The International Club Homeowners Association, Inc;
Rosemary Toth; and
K. A. Diehl & Associates. Inc**

Respondents

**APPENDIX TO
PETITION FOR WRIT OF PROHIBITION AND MANDAMUS**

**Ronald Jarmuth
249 Pickering Drive
Murrells Inlet, SC 29576
843-314-4355
Petitioner, Pro Se**

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Appendix Exhibit Cross Reference to Motions			
Item	Page in Appendix to Petition for Extraordinary Writ	February 8 2016 Jarmuth Opposition to IHOA Motion for Costs	March 28 2016 Jarmuth Motion for Reconsideration
IHOA 2009 Insurance Policy	1	A	F
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2009 IHOA General Ledger - Legal Expenses	4	C	B
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11A

January 15, 2009

International Club POA, Inc.
K.A. Diehl & Associates, Inc.
P.O. Box 2537
Murrells Inlet, SC 29576



RE: Policy No. 104460344
Type of Policy: Directors & Officers Liability
Company: Travelers C&S Co. of America
Inception Date: 01/20/09

Dear Beckie:

Enclosed is your renewal Directors & Officers Liability policy. Please read it carefully and contact our office if there are any adjustments which should be made or if you have had any changes in your exposure such as acquisitions or sales.

If for any reason this renewal coverage is not desired, please return the policy (ies) to our office within ten (10) days with your instructions. Please note that some policies have minimum earned premiums, taxes, and fees if returned after the effective date of coverage.

If we can be of assistance with any of your other insurance matters, please feel free to contact us. We have a full range of products available for business, homeowners, auto, life, health and retirement planning. We appreciate your continued business.

Kindest Regards,

Robin E. Rossi

Customer Service Representative

#RENENCO1

Myrtle Beach
1813 N. Oak Street • P.O. Box 2410
Myrtle Beach, SC 29578
Tel: 843-626-3030
Fax: 843-448-5633

Quality Insurance Protection
www.WaccamawInsurance.com
Generalmail@WaccamawInsurance.com

Murrells Inlet
3955 Highway 17 Bypass • P.O. Box 3948
Murrells Inlet, SC 29576
Tel: 843-357-9090
Fax: 843-357-6343



NON-PROFIT MANAGEMENT AND ORGANIZATION LIABILITY
INSURANCE POLICY

DECLARATIONS POLICY NO. 104460344

Travelers Casualty and Surety Company of America
Hartford, CT 06183
(Herein, the "Insurer")

THIS IS A CLAIMS MADE AND REPORTED POLICY WITH DEFENSE COSTS INCLUDED IN THE LIMIT OF LIABILITY.
PLEASE READ THE ENTIRE POLICY CAREFULLY.

NOTICE: THIS POLICY APPLIES ONLY TO CLAIMS FIRST MADE AGAINST THE "INSUREDS" DURING THE "POLICY PERIOD" AND REPORTED IN WRITING TO THE INSURER PURSUANT TO THE TERMS HEREIN. THE LIMIT OF LIABILITY AVAILABLE TO PAY DAMAGES OR SETTLEMENTS SHALL BE REDUCED BY AMOUNTS INCURRED AS "DEFENSE COSTS." ANY "DEFENSE COSTS" THAT ARE INCURRED SHALL BE APPLIED AGAINST THE APPLICABLE RETENTION. THE INSURER SHALL HAVE THE RIGHT AND DUTY TO DEFEND ANY CLAIM AGAINST THE INSUREDS UNDER THIS POLICY.

ITEM 1. INSURED ORGANIZATION'S NAME and PRINCIPAL ADDRESS:

INTERNATIONAL-CLUB PROPERTY OWNERS ASSOCIATION, INC.
PO BOX 2537
C/O K.A. DIEHL & ASSOCIATES
MURRELLS INLET, SC 29576

ITEM 2. POLICY PERIOD:

(a) From January 20, 2009 (b) To January 20, 2010 at 12:01 a.m.
Local Time both dates at the Principal Address stated in ITEM 1

ITEM 3. LIMIT OF LIABILITY (Inclusive of Defense Costs):

\$1,000,000.00 maximum aggregate Limit of Liability for all Claims first made in the Policy Period.

ITEM 4. RETENTION:

(a) No Retention shall apply to Non-Indemnified Loss
(b) \$2,500.00 all Indemnified Loss.

ITEM 5. PREMIUM:

\$1,935.00 prepaid premium for the Policy Period.

ITEM 6. PREMIUM FOR DISCOVERY PERIOD: \$1,451.25

ITEM 7. LENGTH OF DISCOVERY PERIOD: 365 days.

ITEM 8. NOTICE REQUIRED TO BE GIVEN TO THE INSURER SHALL BE ADDRESSED TO:

Travelers Bond & Financial Products Claim
One Tower Square, 2S2
Hartford, CT 06183

ITEM 9. PENDING AND PRIOR LITIGATION DATE: January 20, 2005

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	FIFTEENTH JUDICIAL CIRCUIT
COUNTY OF HORRY)	Civil Action No. 2009-CP-26 - <u>3596</u>
)	
Ronald Jarmuth)	
)	
Plaintiff)	COMPLAINT
)	(NON-JURY)
vs.)	
)	(DECLARATORY JUDGMENT)
The International Club)	(AND EQUITABLE RELIEF)
Homeowners Association, Inc.,)	
)	(DERIVATIVE ACTION BY SHAREHOLDERS)
And)	
)	
Rosemary Toth)	
)	
Defendants)	
)	

HONORABLE COURT
 09 APR 27 PM 3:49
 CLERK OF COURT

Ronald Jarmuth (“Jarmuth” complaining of the Defendants, The International Club Homeowners Association, Inc (“HOA”) and Rosemary Toth, putative President of the HOA, respectfully shows and alleges unto this Honorable Court as follows:

1. The Plaintiff is a citizen of South Carolina, a resident of Horry County, a member of the HOA and is an owner of a lot in the International Club Planned Unit Development (“PUD”) and which lot is subjected to certain covenants which allegedly apply to all properties within the PUD.
2. The Defendant HOA is a non-profit corporation organized and existing under the laws of the State of South Carolina by virtue of its non-profit corporation Articles of Incorporation filed with the Office of the Secretary of State of South Carolina on or about March 1, 2001.
3. Rosemary Toth is the putative President of the HOA. She is the co-owner (with Charles Roche) of a lot in the HOA subject to the same certain covenants under dispute.
4. The property that is the subject of this action is located in Horry County, South Carolina and lies within the PUD. The events that are the subject of this action took place in Horry County, South Carolina.
5. This is an action for declaratory judgment relief pursuant to the Uniform Declaratory

GENERAL LEDGER TRIAL BALANCE

Starting account #: "First"
 Ending account #: "Last"
 *** Not a standard period ***
 Profit center: "All"

Starting date: 01/01/09
 Ending date: 12/31/09

Acct#	Description	Begin-balance	Total-DR	Total-CR	Net-change	End-balance
611-003	Printing	.00	40.00	40.00	.00	.00
	DATE SOURCE REFERENCE DR-AMOUNT CR-AMOUNT DESCRIPTION A/P REFERENCE					
	09/11/09 AR0000 2709 40.00 Dear - copies					
	09/30/09 GJ0200 2709 40.00 R/C miskeyed deposit					
612-000	Postage Expense	.00	6,735.32	7.18	6,728.14	6,728.14
	DATE SOURCE REFERENCE DR-AMOUNT CR-AMOUNT DESCRIPTION A/P REFERENCE					
	01/31/09 AP0000 VH3291 163.81 K. A. DIEHL & ASSOCIATES, Jan 09 monthly charges					
	02/28/09 AP0000 VH3350 61.12 K. A. DIEHL & ASSOCIATES, Feb 09 monthly charges					
	03/10/09 AP0000 VH3352 420.87 CAROLINA MAIL HOUSE, INC Board mailing					
	03/10/09 AP0000 VH3353 181.93 CAROLINA MAIL HOUSE, INC Newsletter mailing					
	03/31/09 AP0000 VH3406 256.53 K. A. DIEHL & ASSOCIATES, March 09 monthly charges					
	04/08/09 AP0000 VH3419 166.86 CAROLINA MAIL HOUSE, INC trash ltr mailing					
	04/30/09 AP0000 VH3470 385.16 K. A. DIEHL & ASSOCIATES, April 09 monthly charges					
	05/15/09 AP0000 VH3510 7.18 POST MASTER To fund returned mail					
	05/18/09 AP0000 3510 7.18 POST MASTER To fund returned mail					
	05/31/09 AP0000 VH3528 944.40 K. A. DIEHL & ASSOCIATES, May 09 monthly charges					
	06/17/09 AP0000 VH3570 626.63 CAROLINA MAIL HOUSE, INC Certificate mailing					
	06/17/09 AP0000 VH3571 536.15 CAROLINA MAIL HOUSE, INC Legal lawsuit information					
	06/17/09 AP0000 VH3571 1.55 CAROLINA MAIL HOUSE, INC Legal lawsuit information					
	06/17/09 AP0000 VH3582 550.00 POST MASTER Postage for mailing					
	06/30/09 AP0000 VH3600 536.31 CAROLINA MAIL HOUSE, INC Spec mtg mailing					
	06/30/09 AP0000 VH3610 163.35 K. A. DIEHL & ASSOCIATES, June 09 monthly charges					
	07/31/09 AP0000 VH3672 122.37 K. A. DIEHL & ASSOCIATES, July 09 monthly charges					
	08/27/09 AP0000 VH3742 456.92 K. A. DIEHL & ASSOCIATES, Aug 09 monthly charges					
	09/15/09 AP0000 VH3777 543.98 CAROLINA MAIL HOUSE, INC Proxy mailing					
	09/30/09 AP0000 VH3800 193.24 K. A. DIEHL & ASSOCIATES, Sept 09 monthly charges					
	10/30/09 AP0000 VH3883 130.74 K. A. DIEHL & ASSOCIATES, Oct 09 monthly charges					
	11/30/09 AP0000 VH3934 143.53 K. A. DIEHL & ASSOCIATES, Nov 09 monthly charges					
	12/31/09 AP0000 VH3995 142.69 K. A. DIEHL & ASSOCIATES, Dec 09 monthly charges					
620-000	Legal Services	.00	32,038.50	5,697.00	26,341.50	26,341.50
	DATE SOURCE REFERENCE DR-AMOUNT CR-AMOUNT DESCRIPTION A/P REFERENCE					
	01/27/09 AP0000 VH3265 4,672.50 MCCUTCHEN,MUMFORD,VAUGHT, File #49927					
	02/24/09 AP0000 VH3327 1,848.25 MCCUTCHEN,MUMFORD,VAUGHT, File #49927					
	03/17/09 AP0000 VH3381 520.00 MCCUTCHEN,MUMFORD,VAUGHT, File #49927					
	04/21/09 AP0000 VH3456 3,568.50 MCCUTCHEN,MUMFORD,VAUGHT, File #49927					
	04/30/09 AP0000 VH3473 861.50 MCCUTCHEN,MUMFORD,VAUGHT, 3/30/09-4/24/09 srvs					
	04/30/09 AP0000 VH3474 1,060.00 MCCUTCHEN,MUMFORD,VAUGHT, 4/16/09-4/28/09 srvs					
	04/30/09 AP0000 VH3475 1,900.00 MCCUTCHEN,MUMFORD,VAUGHT, 3/31/09-4/21/09 srvs					
	06/01/09 GJ0167 AUDIT 4,577.00 To accrue 123108 expenses					
	06/01/09 GJ0167 AUDIT 1,120.00 To accrue 123108 expenses					
	06/04/09 AP0000 VH3541 80.00 MCCUTCHEN,MUMFORD,VAUGHT, File #51413					
	06/04/09 AP0000 VH3542 920.00 MCCUTCHEN,MUMFORD,VAUGHT, File #51294					

GENERAL LEDGER TRIAL BALANCE

Starting account #: "First"
 Ending account #: "Last"
 *** Not a standard period ***
 Profit center: "All"

Starting date: 01/01/09
 Ending date: 12/31/09

Acct#	Description	Begin-balance	Total-DR	Total-CR	Net-change	End-balance
06/04/09	AP0000 VH3543	2,500.00		MCCUTCHEN,MUMFORD,VAUGHT,		File #49927
06/09/09	AP0000 VH3564	52.50		PATRICK & STATHOS, LLC		File #07-076
07/07/09	AP0000 VH3615	1,293.75		J. THOMAS MIKELL, PC		Legal services
07/15/09	AP0000 VH3647	2,241.50		MCCUTCHEN,MUMFORD,VAUGHT,		Legal service
07/15/09	AP0000 VH3648	2,220.00		MCCUTCHEN,MUMFORD,VAUGHT,		Legal services
07/15/09	AP0000 VH3649	60.00		MCCUTCHEN,MUMFORD,VAUGHT,		Legal services
07/31/09	AP0000 VH3700	2,980.00		MCCUTCHEN,MUMFORD,VAUGHT,		Legal services
07/31/09	AP0000 VH3701	260.00		MCCUTCHEN,MUMFORD,VAUGHT,		Legal Services
10/13/09	AP0000 VH3838	2,500.00		MCNAIR LAW FIRM, P.A.		Sept 09 legal services
11/18/09	AP0000 VH3919	2,500.00		PARKER, POE, ADAMS & BERN		File #IN769-114955 legal

621-000 Audit Services .00 2,350.00 .00 2,350.00 2,350.00

DATE	SOURCE	REFERENCE	DR-AMOUNT	CR-AMOUNT	DESCRIPTION	A/P REFERENCE
01/06/09	AP0000	VH3215	350.00		C. NICHOLAS DIEZ, CPA LLC	Rev of fin stmts
03/31/09	AP0000	VH3401	500.00		C. NICHOLAS DIEZ, CPA LLC	Rev of fin stmts yr end
07/28/09	AP0000	VH3667	1,500.00		ANDREW C. THOMPSON, CPA	Audit of fin stmts

622-000 Management Services .00 54,498.34 6,787.20 47,711.14 47,711.14

DATE	SOURCE	REFERENCE	DR-AMOUNT	CR-AMOUNT	DESCRIPTION	A/P REFERENCE
01/05/09	AP0000	1	3,770.67		K. A. DIEHL & ASSOCIATES,	MANAGEMENT FEE
02/02/09	AP0000	1	3,770.67		K. A. DIEHL & ASSOCIATES,	MANAGEMENT FEE
03/02/09	AP0000	1	3,770.67		K. A. DIEHL & ASSOCIATES,	MANAGEMENT FEE
04/01/09	AP0000	1	3,770.67		K. A. DIEHL & ASSOCIATES,	MANAGEMENT FEE
04/30/09	GJ0138	NEWBUDG		4,524.80	R/C 30% mgmt fee	
05/01/09	AP0000	1	3,770.67		K. A. DIEHL & ASSOCIATES,	MANAGEMENT FEE
05/31/09	GJ0145	BUDGET		1,131.20	R/C Mgmt Fee 30% to ament	
06/01/09	AP0000	1	3,770.67		K. A. DIEHL & ASSOCIATES,	MANAGEMENT FEE
06/30/09	GJ0162	BUDGET		1,131.20	R/C 30% mgmt fee to amen.	
07/01/09	AP0000	1	2,639.47		K. A. DIEHL & ASSOCIATES,	MANAGEMENT FEE
08/03/09	AP0000	1	2,639.47		K. A. DIEHL & ASSOCIATES,	MANAGEMENT FEE
09/01/09	AP0000	1	2,639.47		K. A. DIEHL & ASSOCIATES,	MANAGEMENT FEE
10/01/09	AP0000	1	2,639.47		K. A. DIEHL & ASSOCIATES,	MANAGEMENT FEE
11/02/09	AP0000	1	2,639.47		K. A. DIEHL & ASSOCIATES,	MANAGEMENT FEE
11/18/09	AP0000	VH3918	15,037.50		K. A. DIEHL & ASSOCIATES,	Admins & mtg attendance
12/01/09	AP0000	1	2,639.47		K. A. DIEHL & ASSOCIATES,	MANAGEMENT FEE
12/31/09	GJ0231	697	1,000.00		To R/C to mgmt fee	

623-000 Insurance Expense .00 2,268.25 165.00 2,103.25 2,103.25

DATE	SOURCE	REFERENCE	DR-AMOUNT	CR-AMOUNT	DESCRIPTION	A/P REFERENCE
01/31/09	RJ0001	INS SCH	58.32		Amort Ins Expense	
02/28/09	RJ0001	INS SCH	161.25		Amort Ins Expense	
03/31/09	RJ0001	INS SCH	161.25		Amort Ins Expense	
04/30/09	RJ0001	INS SCH	161.25		Amort Ins Expense	
05/31/09	RJ0001	INS SCH	161.25		Amort Ins Expense	

GENERAL LEDGER TRIAL BALANCE

Starting account #: "First"
 Ending account #: "Last"
 *** Not a standard period ***
 Profit center: "All"

Starting date: 01/01/10
 Ending date: 12/31/10

Acct#	Description	Begin-balance	Total-DR	Total-CR	Net-change	End-balance
07/21/10	AP0000 VH5144	576.00		CAROLINA MAIL HOUSE, INC	Newsletter mailing	
07/21/10	AP0000 VH5145	224.00		CAROLINA MAIL HOUSE, INC	AMM mailing for 2010	
07/30/10	AP0000 VH5161	178.80		K. A. DIEHL & ASSOCIATES,	July 2010 monthly charges	
08/23/10	AP0000 VH5206	19.50		K. A. DIEHL	Aug 2010 coupon order	
08/31/10	AP0000 VH5213	147.28		K. A. DIEHL	Aug 2010 monthly charges	
08/31/10	AP0000 VH5220	315.87		CAROLINA MAIL HOUSE, INC	Annual Mtg Packet	
09/15/10	AP0000 VH5236	566.26		SONSHINE PRINTING	Cover letters	
09/30/10	AP0000 VH5283	465.78		K. A. DIEHL	Sept charges	
10/29/10	AP0000 VH5336	13.00		K. A. DIEHL	Oct 2010 coupon order	
10/31/10	AP0000 VH5340	103.20		K. A. DIEHL	Oct 2010 monthly charges	
11/30/10	AP0000 VH5395	539.20		CAROLINA MAIL HOUSE, INC	Budget mailing	
11/30/10	AP0000 VH5409	68.00		K. A. DIEHL	Nov 2010 monthly charges	
12/16/10	AP0000 VH5437	1,751.75		K. A. DIEHL	2011 coupon order billing	
12/31/10	GJ0372 VH100	71.96		Accr KAD chrgs for Dec		
612-000	Postage Expense	.00	3,697.10	.00	3,697.10	3,697.10

DATE	SOURCE	REFERENCE	DR-AMOUNT	CR-AMOUNT	DESCRIPTION	A/P REFERENCE
01/31/10	AP0000	VH4054	164.22		K. A. DIEHL & ASSOCIATES,	Jan 2010 monthly charges
02/28/10	AP0000	VH4111	86.56		K. A. DIEHL & ASSOCIATES,	Feb 2010 monthly charges
03/30/10	AP0000	VH4193	86.15		K. A. DIEHL & ASSOCIATES,	March '10 monthly charges
03/31/10	AP0000	VH4197	491.91		CAROLINA MAIL HOUSE, INC	Newsletter mailing
04/30/10	AP0000	VH4885	128.18		K. A. DIEHL & ASSOCIATES,	April 2010 monthly charge
05/28/10	AP0000	VH5021	186.20		K. A. DIEHL & ASSOCIATES,	May 2010 monthly charges
06/30/10	AP0000	VH5088	115.31		K. A. DIEHL & ASSOCIATES,	June 2010 monthly charges
07/21/10	AP0000	VH5144	224.89		CAROLINA MAIL HOUSE, INC	Newsletter mailing
07/21/10	AP0000	VH5145	224.89		CAROLINA MAIL HOUSE, INC	AMM mailing for 2010
07/30/10	AP0000	VH5161	132.76		K. A. DIEHL & ASSOCIATES,	July 2010 monthly charges
08/31/10	AP0000	VH5213	132.60		K. A. DIEHL	Aug 2010 monthly charges
08/31/10	AP0000	VH5220	706.35		CAROLINA MAIL HOUSE, INC	Annual Mtg Packet
09/15/10	AP0000	VH5237	345.06		CAROLINA MAIL HOUSE, INC	Letter mailing
09/30/10	AP0000	VH5283	137.65		K. A. DIEHL	Sept charges
10/31/10	AP0000	VH5340	79.99		K. A. DIEHL	Oct 2010 monthly charges
11/30/10	AP0000	VH5395	296.87		CAROLINA MAIL HOUSE, INC	Budget mailing
11/30/10	AP0000	VH5409	98.28		K. A. DIEHL	Nov 2010 monthly charges
12/31/10	GJ0372	VH100	59.23		Accr KAD chrgs for Dec	

620-000	Legal Services	.00	9,232.99	3,607.37	5,625.62	5,625.62
---------	----------------	-----	----------	----------	----------	----------

DATE	SOURCE	REFERENCE	DR-AMOUNT	CR-AMOUNT	DESCRIPTION	A/P REFERENCE
01/15/10	AP0000	VH4028	250.15		MCCUTCHEN,MUMFORD,VAUGHT,	File #52857
02/28/10	AP0000	VH4116	125.00		MCCUTCHEN,MUMFORD,VAUGHT,	Dec 2009 legal svcs
03/16/10	AP0000	VH4154	889.50		MCNAIR LAW FIRM, P.A.	Matter #051490.00003
04/30/10	GJ0284	VH4154		889.50	R/C McNair-easemnt exp	
05/13/10	AP0000	VH4986	585.00		PATRICK & STATHOS, LLC	File #07-076 legal svcs
06/01/10	GJ0305	AUDITOR		250.15	Accrue expenses	
06/01/10	GJ0305	AUDITOR		125.00	Accrue expenses	

GENERAL LEDGER TRIAL BALANCE

Starting account #: "First"
 Ending account #: "Last"
 *** Not a standard period ***
 Profit center: "All"

Starting date: 01/01/10
 Ending date: 12/31/10

Acct#	Description	Begin-balance	Total-DR	Total-CR	Net-change	End-balance
06/09/10	AP0000 VH5044	2,500.00		MCNAIR LAW FIRM, P.A.		051490.00002
06/09/10	AR0000 7898		992.34	atty p&s fees 104-H041		
06/30/10	AP0000 VH5079	325.00		MCCUTCHEN,MUMFORD,VAUGHT,	Legal services	
07/06/10	AR0000 AR06		250.00	Owner Expense Adjust.		
07/13/10	AP0000 VH5096	250.00		MCCUTCHEN,MUMFORD,VAUGHT,	File #54033HC	
07/21/10	AP0000 VH5146	176.11		MCNAIR LAW FIRM, P.A.	Prof svcs thru 6/30/10	
07/30/10	AP0000 VH5163	325.00		MCCUTCHEN,MUMFORD,VAUGHT,	File #53135HC legal svcs	
08/31/10	AP0000 VH5216	125.00		MCCUTCHEN,MUMFORD,VAUGHT,	File #54447HC legal svcs	
09/29/10	AP0000 VH5272	250.00		MCCUTCHEN,MUMFORD,VAUGHT,	Re:Thomas Zegray	
10/08/10	AR0000 AR06		175.00	Owner Expense Adjust.		
10/12/10	AP0000 VH5311	175.00		MCCUTCHEN,MUMFORD,VAUGHT,	File #54450HC legal svcs	
11/10/10	AP0000 VH5355	275.38		MCCUTCHEN,MUMFORD,VAUGHT,	File #54031HC legal svcs	
11/10/10	AP0000 VH5356	325.00		MCCUTCHEN,MUMFORD,VAUGHT,	File #54444HC legal svcs	
11/10/10	AR0000 AR06		325.00	Owner Expense Adjust.		
11/10/10	AR0000 AR06		275.38	Owner Expense Adjust.		
11/17/10	AP0000 VH5382	913.90		MCNAIR LAW FIRM, P.A.	Matter #051490.00004	
11/30/10	AP0000 VH5403	325.00		MCNAIR LAW FIRM, P.A.	Matter #051490.00003	
12/08/10	AP0000 VH5412	5.00		MCCUTCHEN,MUMFORD,VAUGHT,	File #55269HC	
12/17/10	AP0000 VH5443	562.95		MCNAIR LAW FIRM, P.A.	Matter #051490.00004	
12/17/10	AP0000 VH5444	275.00		MCNAIR LAW FIRM, P.A.	Matter #051490.00003	
12/17/10	AP0000 VH5445	250.00		MCCUTCHEN,MUMFORD,VAUGHT,	File #55270HC	
12/17/10	AP0000 VH5449	325.00		MCCUTCHEN,MUMFORD,VAUGHT,	File #54446HC legal svcs	
12/20/10	AR0000 AR06		325.00	Owner Expense Adjust.		
621-000	Audit Services	.00	3,775.00	1,625.00	2,150.00	2,150.00

DATE	SOURCE	REFERENCE	DR-AMOUNT	CR-AMOUNT	DESCRIPTION	A/P REFERENCE
03/23/10	AP0000	4161		1,025.00	ANDREW C. THOMPSON, CPA	wrong community used
03/23/10	AP0000	VH4161	1,025.00		ANDREW C. THOMPSON, CPA	Fin stmts yr end
04/09/10	AP0000	VH4215	600.00		ANDREW C. THOMPSON, CPA	Rev of tax effects
04/30/10	GJ0284	VH4215		600.00	R/C A.Thompson-ease.exp	
07/01/10	AP0000	VH5091	2,150.00		ANDREW C. THOMPSON, CPA	Audit of fin stmts

622-000	Management Services	.00	34,120.80	.00	34,120.80	34,120.80
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DATE	SOURCE	REFERENCE	DR-AMOUNT	CR-AMOUNT	DESCRIPTION	A/P REFERENCE
01/04/10	AP0000	1	2,773.40		K. A. DIEHL & ASSOCIATES,	MANAGEMENT FEE
01/27/10	AP0000	7	70.00		K. A. DIEHL & ASSOCIATES,	MGMT FEE ADJ FOR JAN
02/01/10	AP0000	1	2,843.40		K. A. DIEHL & ASSOCIATES,	MANAGEMENT FEE
03/01/10	AP0000	1	2,843.40		K. A. DIEHL & ASSOCIATES,	MANAGEMENT FEE
04/01/10	AP0000	1	2,843.40		K. A. DIEHL & ASSOCIATES,	MANAGEMENT FEE
05/03/10	AP0000	1	2,843.40		K. A. DIEHL & ASSOCIATES,	MANAGEMENT FEE
06/01/10	AP0000	1	2,843.40		K. A. DIEHL & ASSOCIATES,	MANAGEMENT FEE
07/01/10	AP0000	1	2,843.40		K. A. DIEHL & ASSOCIATES,	MANAGEMENT FEE
08/02/10	AP0000	1	2,843.40		K. A. DIEHL	MANAGEMENT FEE
09/01/10	AP0000	1	2,843.40		K. A. DIEHL	MANAGEMENT FEE
10/01/10	AP0000	1	2,843.40		K. A. DIEHL	MANAGEMENT FEE

COVENANTS

Section 6.1. Creation of the Lien and Personal Obligation of Assessments.

The Developer, for each Unit owned within the Subdivision, hereby covenants, and each Owner of any Unit by acceptance of a deed therefor, whether or not it shall be so expressed in such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association:

(1) **annual Assessments or charges for uses and purposes set forth in Section 6.2 below**, together with such reasonable reserves as the Association may deem necessary, and

(2) **special Assessments for capital improvements**, such Assessments to be established and collected as hereinafter provided.

The annual and special Assessments, together with interest, costs of collection, and reasonable attorney's fees for the collection thereof, shall be a charge on the Unit and shall be a continuing lien upon the Unit and improvements thereon ... Each such Assessment, together with interest, costs of collection, and reasonable attorney's fees for the collection thereof (all of such Assessments, interests, costs and fees being herein referred to as the "Assessment" or "Assessments"), shall also be the personal obligation of the person who was the Owner of the Unit ...

BYLAWS

Section 13.4 Enforcement. Each Owner shall comply strictly with the By-Laws and the published rules and regulations of the Association adopted pursuant to the Declaration, as either of the same may be lawfully amended from time to time, and with the covenants, conditions, and restrictions set forth in the Declaration and in the deed or other instrument of conveyance to such Owner's Unit, if any.

Failure to comply with any of the same shall be grounds ... for instituting an action ... Should the Developer or the Association employ legal counsel to enforce any of the foregoing, all costs incurred in such enforcement, including court costs and reasonable attorneys' fees, shall be paid by the violating Owner

STATE OF SOUTH CAROLINA
COUNTY OF HORRY
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2009 CP-26-03596

RONALD JARMUTH

INTERNATIONAL CLUB HOA

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for : Plaintiff Defendant
or
 Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON): Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other
- ACTION STRICKEN (CHECK REASON): Rule 40(j), SCRPC; Bankruptcy
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):
 Affirmed; Reversed; Remanded; Other

FILED
HORRY COUNTY
12 NOV - 6 PM 3:31
MELANIE HUGGINS-WARD
CLERK OF COURT

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court: PLAINTIFF HAS 10 DAYS FROM TODAY'S DATE TO GET A WRITTEN RESPONSE AS TO WHEN TRANSCRIPT CAN BE PRODUCED FROM COURT REPORTER AS TO MASTERS HEARING. THEN THE COURT WILL SCHEDULE PROCEEDINGS.

ORDER INFORMATION

This order ends does not end the case.
Additional Information for the Clerk : _____

INFORMATION FOR THE PUBLIC INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge

Judge Code

Date

FORM 11
LETTER ORDERING TRANSCRIPT FROM COURT REPORTER

November 9, 2012

Sharon Brock
Prestige Court Reporting, Inc.
softballmama3@aol.com.
1301 Third Avenue
Conway, SC 29526
Tel: 843-248-5252
Fax: (843) 488-3189

Re: Jarmuth v IHOA 2009CP26-03596

Dear Sirs:

On August 8, 2012, the above case was tried before the Honorable Ralph Stroman, Special Referee, in Conway (Horry County). My records indicate that you provided the court reporter for this case.

I request that you provide me with a transcript of what was said at the proceedings. Please transcribe the entire record [except for the exhibits]. The transcript and exhibits will be reviewed by the Chief Administrative Judge of the Circuit, Hon. Judge Steven John, at a date to be set, and it will be necessary to obtain those for his examination in conjunction with the transcript of what was said. This transcript is being obtained to enable him to make a decision on post – trial motions in the absence of Judge Stroman who has recused himself. It is not being used for the purpose of an appeal.

I agree to pay the per page charge for this transcript as provided by Rule 607, SCACR.

Sincerely,

Ronald Jarmuth

Ronald Jarmuth
Pro Se
249 Pickering Drive
Murrells Inlet, SC 29576
843-314-4355

cc: Henrietta Golding, Esquire
Attorney for Defendants

Invoice Number:

71142A

Prestige Court Reporting, Inc.

413 Paul Street
Conway, SC 29527

843-248-5252

APPEARANCE

8/8/2012

DATE BILLED:

11/13/2012

BILL TO:

Ronald Jarmuth
249 Pickering Drive
Murrells Inlet, SC 29576

CASE CAPTION:

Jarmuth vs. IHOA
CASE NO: 2009-CP-26-03596

TERMS

Payment in Advance

DELIVERED BY

Priority Mail

REPORTER

SBB

TRANS.

QUANTITY	ITEM CODE	DESCRIPTION	PRICE EACH	AMOUNT
1,380	2002.1	Original transcript of hearing	4.75	6,555.00
1,224	4001.3	Reproduction of Exhibits (digital) (PROVIDED TO THE COURT 8/13/12 PER ORDER OF THE COURT)	0.35	428.40
2	4002	Exhibit book	10.00	20.00
1	6000.1	Postage, Handling and Delivery of Transcript	50.00	50.00

TRANSCRIPT:	6,555.00
DELIVERY	50.00
TOTAL	6,605.00

Total

\$7,053.40

RE: Jarmuth vs. IHOA - Case Number: 2009-CP-26-03596

From: **John, Steven H. Law Clerk (Rose Beth Grossman)** (SJohnLC@sccourts.org)

Sent: Wed 12/12/12 2:46 PM

To: Ronald Jarmuth (ronaldjarmuth@hotmail.com); hgolding@mcnair.net (hgolding@mcnair.net)

Mr. Jarmuth and Ms. Golding,

As I have previously informed you, Judge John has scheduled a hearing in this matter on Monday, February 4, 2013 at 9:30 AM. The parties may submit briefs to the Court by Wednesday, January 23, 2013 via US mail, express delivery, or hand delivery, but not via electronic transmission or facsimile. At the hearing, the Plaintiff and the Defendant will each have two hours to make oral arguments. The oral arguments must pertain to arguments specifically set forth in the post-trial motions and briefs submitted to the Court.

I agree that the \$ 448.40 was the responsibility of the Defendant (actually, the Defendant's insurance company) because it was integral to the trial and was requested by the judge during the trial from the court reporter. I note that if the transcript had not been ordered Prestige would never have tried to collect that sum from me, more than 120 days after the trial. I was never informed about the request from Judge Stroman,

Invoice Number:
71142A

Prestige Court Reporting, Inc.

413 Paul Street
Conway, SC 29527
1 (843) 248-5252
Federal ID# 57-0941643



APPEARANCE
11/9/2012
DATE BILLED:
11/9/2012

BILL TO:

Ronald Jarmuth
249 Pickering Drive
Murrells Inlet, SC 29576

CASE CAPTION:

Jarmuth vs. IHOA
CASE NO: 2009-CP-26-03596

TERMS

Payment in Advance

DELIVERED BY

Priority Mail

REPORTER

SBB

TRANS.

QUANTITY	ITEM CODE	DESCRIPTION	PRICE EACH	AMOUNT
1,036	2002.1	Original transcript of hearing	4.75	4,921.00
2	4002	Transcript Notebooks	10.00	20.00
1	6000.1	Handling and Delivery of Transcript	50.00	50.00

Please include our invoice number on your check, and thank you
for your business.

Total

\$4,991.00

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM Horry COUNTY
Court of Common Pleas

Ralph P. Stroman, Special Referee

Case No.: 2009-CP-26-3596
Consolidated With
Case No.: 2010-CP-26-11320
Appellate No.: 2013-000714

Ronald Jarmuth, *Pro Se* Appellant,

v.

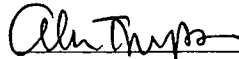
The International Club Homeowners
Association, Inc., Rosemary Toth, and
K.A. Diehl & Associates, Inc., Respondents.

MOTION FOR COSTS

Respondents, The International Club Homeowners Association, Inc., Rosemary Toth, and K.A. Diehl & Associates, Inc., move pursuant to Rule 222, SCACR, for assessment of costs in the matter against the Appellant, Ronald Jarmuth. A sworn, itemized statement of the recoverable costs incurred in this matter accompanies this motion.

SIGNATURE BLOCK – NEXT PAGE

Respectfully submitted,



McNAIR LAW FIRM, P.A.
Henrietta U. Golding, SC Bar #2173
Alicia E. Thompson, SC Bar #77056
Post Office Box 336
2411 Oak Street, Suite 206
Myrtle Beach, SC 29578
(843) 444-1107

Attorneys for Respondents
The International Club Homeowners
Association, Inc., Rosemary Toth, and K.A.
Diehl & Associates, Inc.

Myrtle Beach, South Carolina
Date: February 5, 2016

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas

Ralph P. Stroman, Special Referee

Case No.: 2009-CP-26-3596
Consolidated With
Case No.: 2010-CP-26-11320
Appellate No.: 2013-000714

Ronald Jarmuth, *Pro Se* Appellant,

v.

The International Club Homeowners
Association, Inc., Rosemary Toth, and
K.A. Diehl & Associates, Inc., Respondents.

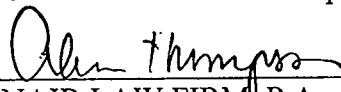
ITEMIZED STATEMENT OF COSTS

The Appellate Court Clerk is requested to tax the following costs against the
Appellant, Ronald Jarmuth (“Appellant”), in this case:

COSTS TAXABLE UNDER RULE 222, SCACR	NO. OF PAGES	RATE	REQUESTED	ALLOWED (For Court Use Only)
Cost of Printing or Copying Final Brief	855	.10 per page and 17 binding strips at \$2.45 strip (includes cost of binding and cover pages)	\$ 127.15	

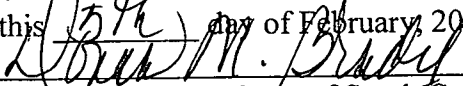
Cost of Court Reporter's Transcript		Prestige Court Reporting	\$2,587.00	
Attorney's Fee Provided By Rule 222(b), SCACR			\$1,000.00	
Other (specify and explain):				
Respondents' Supplemental Record as Ordered by Court on 10/29/13 and filed 11/7/13	266	.10 per page and 17 binding strips at \$2.45 strip (includes cost of binding and cover pages)	\$ 68.25	
Respondents' Supplemental Record as Ordered by Court on 1/2/14 and filed 1/7/14	95		\$ 51.15	
Respondents' Return to Appellant's Motion for Rehearing filed 3/23/15	73	.10 per page	\$ 7.30	
		TOTAL	\$ 3,840.85	\$

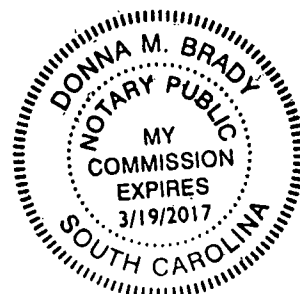
I, Alicia E. Thompson, do swear that the foregoing costs are correct and were necessarily incurred in this action. A copy of this statement was served upon Appellant.


 McNAIR LAW FIRM, P.A.
 Henrietta U. Golding, SC Bar #2173
 Alicia E. Thompson, SC Bar #77056
 Post Office Box 336
 2411 Oak Street, Suite 206
 Myrtle Beach, SC 29578
 (843) 444-1107

Attorneys for Respondents
 The International Club Homeowners
 Association, Inc., Rosemary Toth, and K.A.
 Diehl & Associates, Inc.

Subscribed and sworn before me
 me this 15th day of February, 2016


 Notary Public for the State of South Carolina
 My Commission Expires: 3-19-2017
 (Seal)



IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas

Ralph P. Stroman, Special Referee

Case No.: 2009-CP-26-3596
Consolidated With Case No: 2010-CP-26-11320
Appellate No. 2013-000714

Ronald Jarmuth, Appellant,

Appellant Pro Se

v.

The International Club Homeowners
Association, Inc., Rosemary Toth,
and K. A. Diehl & Associates,

Respondents.

APPELLANT'S RESPONSE IN OPPOSITION TO
RESPONDENTS MOTION FOR COSTS

Appellant Ronald Jarmuth, Pro Se, states his OPPOSITION to Respondents' Motion for Costs, praying the Court to deny the Motion because the Respondent has not actually incurred any costs, and because the Covenants standing as a contract do not provide for the recovery of costs not actually incurred.

1. No Costs Have Been Incurred By Respondent and Respondent Has No Liability to Third Party for Third Party Payment of Costs.

a. All attorney fees and costs of any nature related to the underlying case and to all appeals thereof were paid by the "Travelers C&S Co. of America"

("Travelers") under Respondents' Policy No. 194460344 dated January 20, 2009.

Exhibit A. Per Item 4 thereto, there is a single \$ 2,500 annual deductible, called a

“Retention”, applicable to “ALL” claims during a claim year.

b. The Complaint was filed April 7, 2009. Exhibit B. During 2009 the only payment made by Respondent to Respondent’s Counsel was on October 13, 2009 Exhibit C and it was related to a South Carolina Human Affairs Housing Discrimination investigation. There were no payments by Respondent to it’s attorneys related to this case in any year. All attorney fees, court costs, administrative costs, etc., related to this case were incurred by the Travelers C&S Co of America.

c. Per the insurance policy, Travelers has no cause of action or claim on Respondents to repay Travelers under any scenario, including when and if the insured (Respondent) prevails at trial or on appeal. Likewise, Respondent has no obligation to repay Travelers for any of the funds that Travelers incurred in this case.

2. Contract Between Parties Limits Recovery to Actual Costs Incurred.

a. The underlying action is not tort related, such as to recover damages from negligent injury or from product liability, but rather per the assertions of Respondent it is “at law” controlled by the Covenants and Bylaws related to Appellant’s real property.

(1) In point of fact the Covenants provide no authority to collect attorney fees and court costs when seeking to enforcement of use restrictions, but only, per Section 6.1 of the Covenants, Exhibit D, The Covenants only provide for collection of non-paid “Annual” and “Special” assessments.

(2) The Respondents have cited to the Bylaws of Respondent

International Club Homeowners Association (IHOA), Section 13.4, Enforcement, Exhibit E. Whatever the Appellate Rules might state, the Bylaws limit recovery to “all costs incurred” by “The Association”. This clause acts both as an enabling clause providing authority to recover costs where there is no statutory provision for same, but it also acts as a **LIMITING CLAUSE** restricting recovery, not matter what the Appellate rules might be, to actual costs incurred by the Respondent and not by any third party.

3. The enabling Appellate Court Rule restricts recovery to **ACTUAL costs ACTUALLY INCURRED**.

a. **SCRAP Rule 222 (b) Costs on Appeal, Costs Allowed**, permits recovery of costs by Respondent “to the extent the party actually incurred these costs”. The rule does not allow the Respondent to recover costs that the Respondent itself did not actually incur, and there is no authority to allow costs incurred by a third party.

b. **Form 17, Appendix to the Appellate Court Rules, Itemized Statement of Costs**.

While Form 17 provides the format to be used to state costs sought, of itself it provides no authority to grant costs sought. Without conceding the accuracy of the costs, an affirmation that the costs stated “were necessarily incurred in this action” does not satisfy the requirement in the controlling rule that the costs must also be incurred by the party, **SCRAP Rule 222(b)**, and in this instance all of the stated costs were incurred by Travelers. As Exhibit C, General Ledger, Legal Costs, demonstrates, despite numerous activity by Respondent’s attorneys related to numerous motions and extensive discovery, not one penny was paid throughout that

year for any of these costs by the Respondent to its attorneys to reimburse them for any of these costs. Appellant proffers that examination of the Respondent's General Ledgers for succeeding years likewise failed to document a single cost incurred by the Respondents in this case.

4. Respondent's affirmation that the "Cost of Court Reporter's Transcript" sought by Respondent "were necessarily incurred in this action" is false.

a. On the bottom of the Form 17 "Itemized Statement of Costs" submitted by Respondents in support of their Motion For Costs is the sworn and notarized oath or affirmation by Respondents' Counsel Alicia Thompson as follows:

"I, Alicia E. Thompson, do swear that the foregoing costs are correct and were necessarily incurred in this action. ..."

b. On the top of the second page of the Itemized Statement she claimed the following:

"Cost of Court Reporter's Transcript; Prestige Court Reporting;
\$2,587.00"

c. As previously noted, Respondents never paid for this or any other item.

d. More importantly, the assertion that the transcript was necessarily incurred in connection with this appeal is a fraud and may rise to the level of perjury.

e. Respondents purchased and used the transcript pursuant to an Order by trial court Chief Administrative Judge Steven John that the transcript was to be used at a post-trial hearing to be scheduled. At the time Respondents purchased the transcript there was nothing in the record to suggest that an appeal would be filed.

(1) The final order following the trial was entered September 10, 2012.

(2) On November 6, 2012 Chief Administrative Judge Steven John issued an Order Exhibit F requiring the production of the trial transcript in connection with a forthcoming hearing, the date for which he would set after being informed when the Court Reporter would have said transcript available. All parties were required to use and cite to the trial transcript at the forthcoming hearing.

(3) On November 9, 2012 Appellant used Standard Form 11, "Letter Ordering Transcript From Court Reporter" Exhibit G, to order the transcript pursuant to the November 6, 2012 Order of Court Exhibit F. The second paragraph of the letter made it clear that the Transcript was NOT being ordered in connection with any appeal:

"This transcript is being obtained to enable him to make a decision on post-trial motions in the absence of Judge Stroman who has recused himself. It is not being used for the purpose of an appeal".
(Underlying added; "him" being Chief Administrative Judge Steven John.

(4) On November 13, 2012 Prestige Court Reporters billed Appellant \$6,555.00 Exhibit H for the transcript, which was paid under protest since this far exceeded the rates for a trial transcript set by the South Carolina Supreme Court. This was more than 250% more than what the Court Reporter – which was a contract employee of Respondent's counsel - charged Respondent (the \$2,586.00 claimed by Respondent on Form 17). Never-the-less Respondent never paid anything anyway: Travelers Insurance paid for the transcript which Respondent used in the hearing set by Chief Administrative Judge Steven John.

(5) On December 12, 2012, Chief Administrative Judge Steven John scheduled the hearing (Exhibit "I") to be held on February 4, 2013. This was the purpose for which the cost of the transcript was "necessarily incurred". This court

is reminded that the Form 11 Transcript Order Exhibit G explicitly stated that the transcript “*is not being used for the purpose of an appeal*”.

f. Clearly the cost of the transcript was not “necessarily incurred in this action”. Clearly the claim that it was “necessarily incurred” in this appeal is fraudulent at the least and perhaps rises to the level of perjury.

5. Demand for payment for “Respondents’ Return to Appellant’s Motion for Rehearing” is prohibited by SCRAP Rule 222.

The last item for which reimbursement is demanded is for Respondents’ Return to Appellant’s Motion for Rehearing”. Apart from the fact that Respondent never actually incurred any cost for this, this item is NOT among those permitted (“Costs Allowed”, SCRAP Rule 222(b). The rule states that

“The allowance of additional costs will generally not be allowed except in the most extraordinary of circumstances.”

Respondent did not provide a single word of explanation as to what is extraordinary about this item. To the contrary, filing a Motion for Reconsideration is a very ordinary, usual, and mandatory precursor to filing a Petition for a Writ of Certiorari to the South Carolina Supreme Court, which Appellant did in this case.

Respondent’s request for reimbursement for this item betrays the contempt that Respondent has for honesty in pleadings and for conformity with rules and statutes. While the amount is trivial, Respondent’s misconduct relating to this matter is significant.

6. Demand for payment for printing costs for Respondent’s supplements to the Record on Appeal sound in fraud given the number of actual pages in the exhibits reprinted.

The two orders allowing Respondent to supplement the Record on Appeal relate to specific exhibits with known page counts. Appellant cannot reconcile the

numbers cited by Respondent in Respondent's Form 17 and suggests that it is a simple matter for the Court to count those pages and verify the accuracy or inaccuracy of the numbers stated by Respondent.

a. The October 29, 2013 Appellate Court Order related to Appellants (Plaintiff) Exhibit 556 (the April 29, 2003 deed from Plantation AD to DR Horton for a certain portion of the development) which had four (4) pages and Respondent's (Defendant) Exhibit 53 (Appellant's April 28, 2009 email from Appellant to Respondent) which has four (4) pages.

Again the item is trivial and the costs were not actually incurred by Respondent but it is a significant indicia about Respondent's overall lack of respect for honesty and the rules. Considering the two exhibits, Appellant is of the belief that the count should be eight (8) pages times seventeen (17) copies (fifteen for the Court; one for Respondent, and one for Appellant) which equal 136 pages, not the 266 asserted under oath and affirmation by Respondent's Counsel.

b. The January 2, 2014 Appellate Court Order related to the single document which Respondent's November 12, 2013 Motion for Reconsideration included as Exhibit A thereto: the single page May 16, 2012 Trial Court Order permitting Appellant (Plaintiff) to Amend his Complaint.

Again, Respondent never actually incurred this cost and the page count stated is inconceivable: Respondent's sworn affidavit stated 95 pages whereas seventeen (17) copies of a one page order is seventeen pages.

The Court is invited to count those exhibits and draw its own conclusion as to the page count, but because SCRAP Rule 222(b) permits recovery only "to the

extent the party actually incurred these costs” Respondent’s request should be denied.

7. CONCLUSION.

a. **FOR THE REASONS STATED, Respondent is not entitled to any reimbursement for costs, as none were actually incurred by Respondent in this action.**

b. **Respondents’ Counsel Alicia Thompson has willfully made several fraudulent statements under oath to the South Carolina Court of Appeals relating to a controlling issue of fact in an attempt to secure an unearned financial gain for her clients.**

Respectfully submitted,

**Ronald Jarmuth, Appellant Pro Se
249 Pickering Drive
Murrells Inlet, SC 29576
843-314-4355**

**Murrells Inlet, South Carolina
February 8, 2016**

Exhibits:

- A - Respondent’s Insurance Policy, Item 4.**
- B - 2009 Complaint, pg. 1 with Court Date Stamp**
- C - Respondent 2009 General Ledger, Legal Costs**
- D - Covenants, Section 6.1**
- E - Respondent Bylaws, Section 13.4, Enforcement.**
- F - November 6, 2012 Form 4 Court Order regarding transcript.**
- G - November 9, 2012 Form 11 Order for Transcript.**
- H - December 13, 2012 Prestige Court Reporting Transcript Invoice.**
- I - December 12, 2012 Chief Administrative Judge’s Order setting February 4, 2013 as the Hearing Date.**

The South Carolina Court of Appeals

Ronald Jarmuth, Appellant,

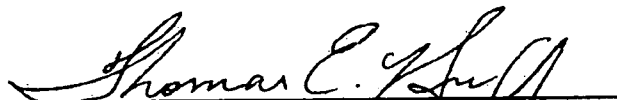
v.

The International Club Homeowners Association, Inc.,
Rosemary Toth, and K.A. Diehl & Associates, Inc.,
Respondents.

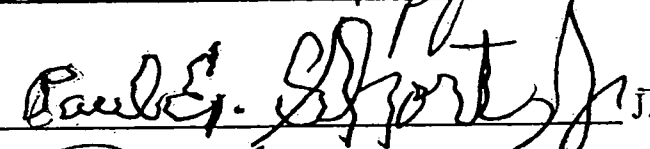
Appellate Case No. 2013-000714

ORDER

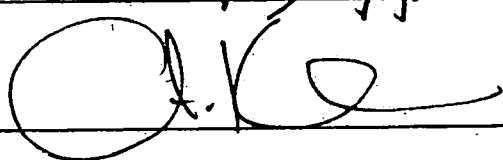
Pursuant to Rule 222 of the South Carolina Appellate Court Rules, the motion for costs filed by Respondents is granted in the amount of \$3,793.40 against Appellant. The lower court or tribunal is directed to add this award of costs to the remittitur.



A.C.J.



J.



J.

Columbia, South Carolina

FILED

March 24, 2016

cc:

**THE STATE OF SOUTH CAROLINA
In the Court of Appeals**

**APPEAL FROM HORRY COUNTY
Court of Common Pleas**

Ralph P. Stroman, Special Referee

CASE NUMBER 2009-CP-26-3596

Ronald Jarmuth, Appellant,

v.

**The International Club Homeowners
Association, Inc., Rosemary Toth,
and K. A. Diehl & Associates, Respondents.**

**APPELLANT'S MOTION FOR RECONSIDERATION OF
ORDER GRANTING COSTS
ON APPEAL**

**Ronald Jarmuth
249 Pickering Drive
Murrells Inlet, SC 29576
843-314-4355
Appellant, Pro Se**

**Henrietta U. Golding
Alicia Thompson
2411 Oak Street; Suite 206
Myrtle Beach, SC 29577-3164
843-444-1107
Attorneys for Respondents**

1. Appellant hereby moves for RECONSIDERATION of the March 24, 2016 Order of the Court of Appeals (Exhibit D) granting costs on appeal to Respondent. The Order granted Respondent \$3,793.40. The award of any costs at all should be reversed because it is unmistakably contrary to the law and totally at odds with the uncontroverted facts and evidence. The order awarding costs is starkly at odds with the letter and intent of SCACR Rule 222 (cited by the Order as its authority) as well as established case law and practice in every state as well as in federal practice.

2. There can be nothing simpler:

a. The Order commands that although Appellant paid for the transcript (see Appellate Court Form 11 with paid invoice, Exhibit A) and although Appellant provided Respondent a copy of the transcript as part of the Record on Appeal, Appellant is ordered to pay Respondent for the same transcript. How mistaken is this?

b. The Order commands that Appellant “reimburse” Respondent for other items when the undisputed evidence is that Respondent never paid a cent for anything from the beginning of the case through this moment.

The Order cites SCACR Rule 222 but section(b) of the Rule says that the Court can only award costs

“to the extent the party actually incurred these costs”

The Respondent’s insurance policy (Exhibit F) provides that after Respondent paid its \$2,500 annual deductible in 2009,¹ thereafter Respondent pays nothing for the

¹ This is an annual deductible paid for the first case in any year. There is no deductible for later cases filed the same year. On June 4, 2009 Respondent paid McCutcheon, Mumford \$2500 for “File 4997” which was a controversy involving The Villas HOA. Respondent paid no deductible and no other costs in this case.

case the \$2,500 is related to NOR FOR ANY OTHER CASE INITIATED THAT YEAR! As members of the Bar, the Judges of the Court of Appeals know how this works. To emphasize this point Appellant provided copies of Respondent's 2009 and 2010 itemized legal expenses – every penny of it – from Respondent's General Ledger (Exhibits B and C) and it can plainly be seen that despite dozens of motions plead to in those years Respondent did not pay a cent for this case. Appellant disputed that Respondent incurred any cost claimed. It is beyond belief that the Court of Appeals decided that all of a sudden in 2013 Respondent started paying legal costs in this case. The Court of Appeals has the Record on Appeal before it. The Court needs to look at the fact that at trial Respondent claimed that it's legal expenses in this case was only an initial \$2500 insurance deductible² and Respondent never asked for motion fees or any costs subsequent to answering the Complaint – obviously because none were incurred. If Respondent never paid anything for (and never claimed) any costs for any of the nine (9) depositions³ held pre-trial, how can the Court of Appeals honestly believe that it paid anything related to the Appeal? To award Respondent any costs on appeal all the Judges of the Panel must have set aside their collective years of experience in legal practice and must have ignored all the evidence set before them by Appellant when he filed his Return in Opposition to the Motion for Costs.

3. For additional cause, Appellant points out that:

² The Court should note that during the trial the Respondent's President testified that this was not the deductible in this case but was related to defending a South Carolina Human Affairs Commission investigation that Respondent had violated civil rights.

³ Record on Appeal Items 31 – 39, pp. 1055 – 1862.

a. The Order would have Appellant pay TWICE for the transcript which he, not the Respondent, paid for. See Exhibit A, Appellant's Form 11 (Transcript Order) April 9, 2013. Appellant, not Respondent, paid for the transcript, which Appellant, nor Respondent, filed as part of the Record on Appeal. Respondent had no need for a separate copy because Appellant provided Respondent a copy of the transcript as part of the Record on Appeal.

b. The Respondent never denied Appellant's allegation, submitted with evidence (in Appellant's Response in Opposition) that Respondent never actually incurred any costs in appeal at all. Respondent's bare itemized list was not sufficient to overcome evidence that Respondent never paid for anything related to this case from its inception forward. See 2009 and 2010 Respondent General Ledgers, Legal Expenses, Exhibits B and C.

c. Granting costs of a response to a motion for reconsideration (final Order) filed prior to a Petition for Writ is explicitly outside the very limited and inclusive list of what items reimbursement is permitted for. SCRAP Rule 223(b) provides that, except for the cost of printing Respondent's Response Brief, only an Appellant is allowed costs – if successful. The exclusive list set out in the rule is as follows:

“(b) Costs Allowed. ...

“(1) the filing fee paid under Rule 203(d);” This is paid by the Appellant.

“(2) the cost of the court reporter's transcript;”.

SCRAP Rule 207 provides that it is the Appellant, not the Respondent, who pays for the transcript:

“Rule 207, Transcript of Proceedings. (a) Appeals From a Lower Court. (1) Ordering the Transcript. Where a transcript of the proceeding must be prepared... appellant shall ... make satisfactory arrangements ... in writing with the court reporter for furnishing the transcript. “ (underlining / italics added)

See Exhibit A. Appellant submitted evidence, including a paid bill, that Appellant paid for the transcript. Respondent filed only the itemized list. Upon challenge by Appellant, Respondent did not file a Reply with evidence of payment.

“(3) premiums paid for costs of supersedeas bonds or other bonds obtained to preserve rights pending appeal;

This third in the exclusive list of allowable charges is, again, available only to an Appellant.

“(4) the cost of printing the Record on Appeal under Rule 209; and”

SCRAP Rule 210(b) provides, once again, that this is a cost which is incurred by the Appellant, not the Respondent:

“Rule 210 Record on Appeal... (b) Time for Filing. The appellant must file ...the Record on Appeal “

While Respondent is permitted to recover costs actually incurred in filing supplements to the Record on Appeal ordered by the Appellate Court, this illustrates the principal that with the exception of item (5) below, document costs are only recoverable to the Appellant if he prevails.

“(5) the cost of printing the party's final brief(s) under Rule 210.”

This is the only recoverable printing costs allowed to a Respondent by SCRAP Rule 207(b), and it is only allowable if actually incurred. When challenged, Respondent had a burden which Respondent chose not to meet to prove the costs were actually incurred. Per the Respondent' General Ledgers, Exhibits B and C, Respondent never actually incurred any cost in this case.

“In addition, the party shall be entitled to recover an attorney's fee in an amount which shall be set by order of the Supreme Court.”

The key phrase in the rule is “to recover”. SCRAP Rule 207 provides that costs must be actually and necessarily incurred. The rule DOES NOT read “shall be entitled to an attorney’s fee” but rather reads “to recover an attorney’s fee” which by the clear meaning of the rule means that the Respondent must have PAID an attorney’s fee. Respondent chose not to reply to the evidence based assertion that Respondent never paid any attorney fees at all in this case, not in the trial court nor in the appellate court. Having failed to provide at least an argument as to how Appellant was wrong on the matter, the Appellate Court must observe that the Respondent failed to meet it’s burden of overcoming Appellant’s evidence based opposition to the Motion for Costs.

As to the costs of Respondent’s printing of the Response Brief and Supplement to the Record on Appeal, that same abdication of the need for at least a Reply to the assertion of “no costs actually incurred” must be taken as an admission of no costs actually incurred and no entitlement to any costs at all.

4. CONCLUSION

For the reasons stated, Appellant MOVES THE COURT to set aside it’s Order allowing Costs and to Deny Respondent’s Motion for Costs in its entirety.

Ronald Jarmuth, Appellant Pro Se
249 Pickering Drive
Murrells Inlet, SC 29576
843-314-4355
March 28, 2016



The South Carolina Court of Appeals

Ronald Karmuth

03/28/2016

RECEIPT #79072

Case No: 2013-000714
Case Short Title: Ronald Jarmuth v. The International Club
Event:
Fee Type: Motion Fee
Amount: \$25.00
Payment Type: Check
Reference No: 3193
Check/Money Order Date: 03/28/2016
Comments:

South Carolina Appellate Case Management System

CLERK'S OFFICE
SUPREME COURT
COURT OF APPEALS

C-Track, the browser based CMS for Appellate Courts

Appellate Case No. ...

Cases
Case Search
Participant Search

Disclaimer: The information and documents available here should not be relied upon as an official record of action. Only filed documents can be viewed. Some documents received in a case may not be available for viewing. Some documents originating from a lower court, including records and appendices, may not be available for viewing.

Case Information: 2013-000714			
Court:	Court of Appeals	Classification:	Appeal - Common Pleas - Other
Short Title:	Ronald Jarmuth v. The International Club View Full Title	Case Status:	Remittitur
Consolidated:			
Filed Date:	04/05/2013	Oral Argument Date:	
Disposition Date:	03/04/2015	Disposition Type:	Opinion
Remittitur Date:	01/21/2016		
Lower Court or Tribunal:	Horry (2009CP2603596, 2010CP2611320)		

- Party Information			
Appellate Role	Party Name	Former	Attorney(s)
Appellant	Ronald Jarmuth	N	Self Represented
Respondent	International Club Homeowners' Association, Inc., et al.	N	Henrietta U. Golding Alicia E. Thompson
Respondent	K.A. Diehl, Inc.	N	Henrietta U. Golding Alicia E. Thompson
Respondent	Rosemary Toth	N	Henrietta U. Golding Alicia E. Thompson

Views		
Display:	<input type="text" value="Descending"/> <input type="button" value="Go"/>	
Event Information		
Filed Date	Event Information	Doc
03/24/2016	Non-Dispositional Decision - Order granting motion for costs	---
02/08/2016	Motion - Return	---
02/08/2016	Motion - Costs	---
01/21/2016	Remittitur - Remittitur Sent	---
01/15/2016	Correspondence - Incoming (Supreme Court order denying petition for certiorari)	---
05/14/2015	Correspondence - Incoming (Supreme Court)	---
05/12/2015	Correspondence - Incoming (Other)	---
04/24/2015	Rehearing - Denied	---
03/27/2015	Rehearing - Reply	---
03/24/2015	Rehearing - Return	---
03/20/2015	Correspondence - Incoming (Other)	---
03/12/2015	Rehearing - Petition for Rehearing	---
03/04/2015	Correspondence - Outgoing	---
03/04/2015	Dispositional Decision - Opinion	---
03/02/2015	Motion - Supplement Record-Amended	---
02/24/2015	Motion - Supplement Record	---
01/02/2015	Calendaring - Case Submitted	---
06/12/2014	Final Brief - Briefing and Record Complete	---
04/21/2014	Record - Record on Appeal Filed- Corrected	---
04/17/2014	Deficiency - Deficiency Letter Sent	---
01/08/2014	Record - Supplemental	---
01/02/2014	Non-Dispositional Decision - Order	---

12/02/2013	Motion - Reply
11/21/2013	Motion - Reply
11/19/2013	Final Brief - Respondent
11/18/2013	Motion - Return
11/15/2013	Motion - Return
11/13/2013	Motion - Other Motion
11/08/2013	Record - Supplemental
11/05/2013	Motion - Supplement Record
10/29/2013	Non-Dispositional Decision - Order
10/29/2013	Deficiency - Deficiency Letter Sent
08/13/2013	Motion - Reply
08/06/2013	Motion - Return
08/06/2013	Motion - Return
08/02/2013	Motion - Other Motion
08/02/2013	Motion - Extension of Time (1st)
07/29/2013	Deficiency - Correction
07/29/2013	Record - Record on Appeal Filed-Corrected
07/29/2013	Correspondence - Incoming (Other)
07/23/2013	Deficiency - Deficiency Letter Sent
07/22/2013	Final Brief - Reply
07/22/2013	Final Brief - Appellant
07/22/2013	Record - Record on Appeal Filed
07/16/2013	Record - Proof of Service of Record on Appeal
06/17/2013	Designation of Matter - Designation of Matter Filed
06/17/2013	Initial Brief - Reply
06/12/2013	Correspondence - Outgoing
06/07/2013	Non-Dispositional Decision - Order
06/04/2013	Designation of Matter - Designation of Matter Filed
06/04/2013	Initial Brief - Respondent
05/02/2013	Initial Brief - Appellant
04/30/2013	Motion - Reply
04/29/2013	Motion - Return
04/24/2013	Designation of Matter - Designation of Matter Filed
04/22/2013	Motion - Other Motion
04/22/2013	Motion - Other Motion
04/18/2013	Correspondence - Outgoing (Notice of Appeal Initial Letter)
04/08/2013	Transfer - To Court of Appeals
04/05/2013	Notice of Appeal (Civil) - Initial

THE STATE OF SOUTH CAROLINA
In The Supreme Court

FROM SOUTH CAROLINA COURT OF APPEALS

Thomas E. Huff; Paul E. Short Jr.; Aphrodite K. Kondros
Appellate Court Judges

Appellate Case No. 2013-000714

Ronald Jarmuth

v.

The International Club Homeowners Association, Inc;
Rosemary Toth;
K. A. Diehl & Associates. Inc.; and
South Carolina Court of Appeals

Respondents

NOTICE

NOTICE TO RESPONDENTS: Be advised -- You have twenty (20) days from the date of service to serve and file a return to the petition.



Ronald Jarmuth
249 Pickering Drive
Murrells Inlet, SC 29576
843-314-4355
Petitioner, Pro Se

RECEIVED

APR 01 2016

S.C. SUPREME COURT

RECEIVED

Petitioner

APR 01 2016

SC Court of Appeals

Ronald Jarmuth
249 Pickering Drive
Murrells Inlet, SC 29576
843-314-4355
April 1, 2016

The Honorable Daniel E. Shearouse,
Clerk of the Supreme Court
Supreme Court of South Carolina
Supreme Court Building
1231 Gervais Street
Columbia, South Carolina 29201-3206
(803) 734-1080

RECEIVED

APR 01 2016

S.C. SUPREME COURT

RE: Petition for Writ of Prohibition and Mandamus
Ronald Jarmuth (Petitioner) v
South Carolina Court of Appeals;
International Club HOA; Rosemary Toth; and
K.A. Diehl, (Respondents)
Case No. 2013-000714 In The Court of Appeals

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APR 01 2016

SC Court of Appeals

Subject: Filing of Petition for Writ of Prohibition and Mandamus

Dear Clerk:

Attached find for filing seven (7) copies (1 unbound) of "Notice", "Petition", "Complaint", "Appendix", "Certificate of Service" and Summons of which one is unbound.

I present for return after file stamping 4 additional copies of same.

The Affidavit of Service will be filed after service on the Respondents.

If there are any problems, please phone me immediately.

Thank you for your attention to this matter.



Ronald Jarmuth

Encls:
as