

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM HORRY COUNTY  
Court of Common Pleas

Ralph P. Stroman, Special Referee

**RECEIVED**

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

APR 08 2016

**SC Court of Appeals**

Ronald Jarmuth, ..... *Pro Se* Appellant,

v.

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

RESPONDENTS' RETURN TO APPELLANT'S  
MOTION FOR RECONSIDERATION OF  
ORDER ALLOWING COSTS ON APPEAL

The Respondents, The International Club Homeowners Association, Inc. ("Association"), Rosemary Toth ("Toth"), and K.A. Diehl & Associates, Inc. ("K.A. Diehl") (collectively hereinafter referred to as "Respondents"), hereby submit this Return to the Motion for Reconsideration of Order Allowing Costs on Appeal dated March 28, 2016.

## ARGUMENT

### **I. No Facts or Arguments Were Overlooked or Misapprehended.**

This Court did not misapprehend or overlook arguments or the facts that requires a reversal of the Order filed on March 24, 2016 (hereinafter “Order”) awarding the Respondents \$3,793.40 in attorneys’ fees and costs.

Appellant asks this Court to reconsider his arguments made in opposition to the Respondents’ Motion for Costs dated February 5, 2016 (hereinafter “Motion for Costs”). In other words, Appellant is simply seeking an opportunity to have this Court reconsider the merits of his arguments that have already been considered, presented, and ruled upon. It is axiomatic that the purpose of a petition for rehearing is not to have the arguments of the appellant reconsidered a second time. Kennedy v. South Carolina Retirement Sys., 349 S.C. 531, 532, 564 S.E.2d 322, 322 (2001). Instead, the petition’s purpose is to identify facts or arguments that this Court overlooked or misapprehended. Rule 221, SCACR (2014).

Appellant failed to identify any facts or legal arguments that the Court overlooked or misapprehended. Accordingly, Appellant’s argument that the Order is in error should be rejected summarily.

### **II. Appellant’s Costs do not Bar the Order.**

Appellant’s assertion that the Respondents are not entitled to costs because he paid for his own costs of printing the transcript, the final brief, and the supplemental record is unfounded.

Pursuant to Rule 222, SCACR, “[u]nless otherwise ordered by the appellate court or agreed by the parties, costs *shall* be taxed against the appellant when the appeal is

dismissed or judgment on appeal is affirmed.” Rule 222, SCACR. (Emphasis added). “The party is entitled to recover costs under this rule may, to the extent the party actually incurred these costs, recover the following: . . . the costs of the court report transcript . . . the cost of printing the Record on Appeal under Rule 209 . . . the costs of printing or copying the Final Brief . . .” Id. The respondent is also “entitled to recover an attorneys’ fee [of \$1,000]. . .” Id.

As set forth in the Respondents’ Motion for Costs dated February 5, 2016, the Respondents “actually incurred” the above referenced expenses as itemized on the exhibit attached to the motion. The fact that the Appellant also incurred these costs does not prevent the Respondents from recovering fees and costs under Rule 222, SCACR. As a result, the Respondents are entitled to the fees and costs sought, and the Order should not be disturbed.

### **III. Respondents are Entitled to Fees and Costs Actually Incurred.**

Likewise, Appellant’s argument that the Motion for Costs is barred due to any indemnity agreement between the Respondents’ and their carrier is also without merit. The costs and fees sought were actually incurred and are recoverable under Rule 222, SCACR.

## CONCLUSION

For the foregoing reasons, Respondents respectfully request that the Appellant's motion for reconsideration be DENIED.

Respectfully submitted,



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

Myrtle Beach, South Carolina  
Date: April 6, 2016

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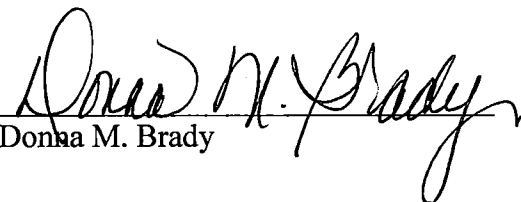
The International Club Homeowners  
Association, Inc., Rosemary Toth, and  
K.A. Diehl & Associates, Inc., ..... Respondents.

PROOF OF SERVICE

I, Donna M. Brady, an employee of McNair Law Firm, P.A., *Pro Se* Appellant Ronald Jarmuth in the above-entitled action, certify that I have served the Respondents' Return to Appellant's Motion for Reconsideration of Order Allowing Costs on Appeal, and Proof of Service on all parties to this matter by depositing a copy in the United States Mail, first class postage prepaid on the 6th day of April, 2016.

*Pro Se* Appellant of Record:

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

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SC Court of Appeals

RE: *Ronald Jarmuth v. International Club HOA, Inc. et al.*  
Case Track #: 2013-000714  
Civil Action Nos.: 2009-CP-26-3596 and 2010-CP-26-11320  
Our File No.: 051490.00001

Dear Ms. Kitchings:

With regard to the above matter, enclosed for filing with the Court, please find the following:

- Original (unbound) and seven copies of the Respondents' Return to Appellant's Motion for Reconsideration of Order Allowing Costs on Appeal; and
- Proof of Service.

By copy of this letter to parties of record, and as shown on the Proof of Service, I hereby serve a copy of the aforementioned documents to the parties of record.

Please return to me one clocked copy of the enclosed documents in the enclosed self-addressed envelope.

Sincerely,

McNair Law Firm, P.A.



Alicia Thompson

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Enclosures

cc: Ronald Jarmuth  
Clients



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The Honorable Jenny Abbott Kitchings  
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