

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

S. Phillip Lenski, Administrative Law Judge

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Case No. 15-ALJ-17-0050-CC

Appellate Case No. 2015-002637

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**RECEIVED**

OCT 24 2016

SC Court of Appeals

81357

Brett Gries, Appellant,

v.

Aiken County Assessor, Respondent.

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MOTION BY RESPONDENT TO DISMISS APPEAL, TO STRIKE THIRD  
AMENDED INITIAL BRIEF AND/OR FOR OTHER RELIEF

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Brett Gries, Pro Se  
680 Implement Road  
Aiken, SC 29803  
(815)-342-2628  
Appellant

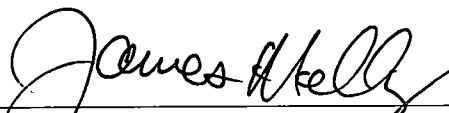
James M. Holly  
SC Bar No. 02572  
P. O. Box 5925  
Aiken, SC 29804  
(803)-221-4276  
Attorney for Respondent

Respondent, Aiken County Tax Assessor, through its counsel of record, hereby moves before this Court for an Order dismissing this appeal on the grounds that the Third Amended Initial Brief violates the Orders of this Court filed May 20, 2016, and August 25, 2016, and also violates Rules 209(b) and 210(c), SCARC. Appellant's Third Amended Initial Brief, as further explained in the Memorandum filed in support of this Motion, includes alleged facts, information and arguments that were not before the Administrative Law Court. Despite the clear language of the aforementioned Orders, the Third Amended Initial Brief constitutes at least a third attempt by Appellant to retry the matter de novo on appeal before this Court and to add events that occurred, and information that was obtained, after the hearing before the Administrative Law Court. Such actions by Appellant are also in violation of S.C. Code Ann. Section 1-23-610 (B) (Supp. 2015).

Based on the foregoing, Respondent respectfully moves in the alternative that the Court strike Appellant's Third Amended Initial Brief and/or issue such other relief against Appellant as it determines is proper including awarding Respondent his attorneys' fees and costs incurred in making this Motion and the prior motions that resulted in the aforementioned Orders.

Further, Respondent requests that the Court stay the time limits for perfecting the appeal pursuant to Rule 240(b), SCACR, until this motion is decided.

This motion is made pursuant to Rules 209(b), 210(c), 260(a) and 269, SCARC,  
and is supported by the Memorandum filed herewith.

A handwritten signature in cursive script that reads "James M. Holly". The signature is written in black ink and is positioned above a horizontal line.

James M. Holly, S.C. Bar No. 82572  
P. O. Box 5925  
Aiken, SC 29804  
(803) 221-4276  
Attorney for Respondent

October 20, 2016

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MEMORANDUM IN SUPPORT OF MOTION BY RESPONDENT TO DISMISS  
APPEAL, TO STRIKE THIRD AMENDED INITIAL BRIEF AND/OR FOR OTHER  
RELIEF

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Brett Gries, Pro Se  
680 Implement Road  
Aiken, SC 29803  
(815)-342-2628  
Appellant

James M. Holly  
SC Bar No. 02572  
P. O. Box 5925  
Aiken, SC 29804  
(803)-221-4276  
Attorney for Respondent

## HISTORY

Respondent respectfully submits the legal authorities, facts and arguments set forth hereinafter in support of its Motion to Dismiss Appeal, Strike Third Amended Initial Brief and/or for Other Relief. Respondent also incorporates by reference herein the records and documents on this appeal that are on file with the Court.

This matter involves the appeal of an order by the Administrative Law Court that affirmed the Respondent's determination of the fair market value and taxable value of Appellant's real property for purposes of ad valorem taxation. Therefore, the appeal to this Court is made pursuant to S.C. Code Ann. Section 1-23-610 (Supp. 2015). The Notice of Appeal in this matter was filed December 29, 2015.

Respondent previously filed and served two motions similar to the instant Motion based on similar grounds. In each instance, this Court issued Orders directing Appellant to file and serve corrected Initial Briefs and/or Designations of Record. As a result, Appellant filed and served a Second Amended Initial Brief and revised Designation of Record and then a Third Amended Initial Brief and revised Designation of Record. The latter Brief and Designation were received by this Court on September 23, 2016.

On October 4, 2016, Appellant filed a Motion for a Stay. On October 11, 2016, this Court issued an order providing Appellant until November 14, 2016, in which "to file a motion to file his amended initial brief and designation of matter." The Order also stated: "The deadline for respondent's initial brief and designation of matter is hereby stayed."

It is unclear to the undersigned counsel for Respondent whether Appellant intends to seek to file and serve a fourth Amended Initial Brief and/or Designation of Record or

will rely on his Third Amended Initial Brief and Designation of Record. For this reason and so the Court will be aware of the issues raised herein before any further actions on this appeal, Respondent is submitting the following motion.

#### ARGUMENT

After considering Respondent's first Motion filed March 25, 2016, concerning the improper contents of Appellant's Initial Brief and Designation of Record, this Court issued its Order filed May 20, 2016, striking Appellant's initial brief and directing Appellant to:

...serve and file an amended initial brief that excludes all references to the "new exhibits." Appellant shall also serve a designation of matter within thirty days of this order, which lists the documents Appellant intends to include in the record on appeal. *See* Rule 209, SCACR. Appellant is reminded that his designation of matter shall not include any documents that were not presented to the Administrative Law Court. *See* Rule 210(c), SCARC.

After considering Respondent's second Motion filed July 6, 2016, concerning the improper contents of Appellant's Second Amended Initial Brief and attachments, this Court issued its Order filed August 25, 2016, directing Appellant to:

...file an amended initial brief that omits any references or citations to matters that were not presented to the lower court. Failure of Appellant to timely comply with this order and with the South Carolina Rules of Appellate Procedure may result in the dismissal of this appeal.

In his Third Amended Initial Brief, Appellant has continued his practice of failing to comply with the rules and orders of this Court.

The undersigned counsel for Respondent respectfully refers the Court as examples to Respondent's Memorandum in support of his Motion filed March 25, 2016: specifically, page 2 of Attachment 5 (Excerpts from Appellant's Initial Brief) where Appellant cites the Columbia, South Carolina Police Report; the last paragraph on page 3 of Attachment 5 which refers to that same February 19, 2016 report; the first full paragraph on page 5 of Attachment 5 which discusses the report; the bottom portion of page 38 of Attachment 5 which discusses the same report; and the listing of Exhibit T in Attachment 7 which again lists the same report. These references concern a police report sought and obtained by Appellant after the hearing held on May 25, 2016, before the Administrative Law Court and after the appeal to this Court was filed on December 29, 2015.

The undersigned counsel further refers the Court to the last paragraph on page 2 and Attachments 1 and 2 of Respondent's Memorandum in support of his second Motion filed July 6, 2016, which concern the same police report. That motion related to Appellant's Second Amended Initial Brief.

Despite the aforementioned Orders of this Court and materials filed by Respondent in support of his motion, Appellant's Third Amended Initial Brief yet again includes the same police report, information and arguments referenced in the preceding paragraphs. On page 3 the Third Amended Initial Brief, please see that under the heading "Other Authorities", Appellant lists the Columbia, South Carolina Police Report and

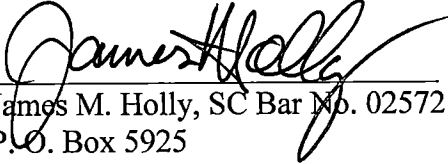
states that it is cited on pages 6, 7 and 8 of the Brief. Again on page 2, Issue Number One concerns the same police report as does the discussion at pages 6-7.

The review of an order of the administrative law court in such matters on appeal is confined to the record before that court. S.C. Code Ann. Section 1-23-610(B) (Supp. 2015).

Pro se litigants who chose to represent themselves must comply with the procedural requirements of the law. Lack of familiarity with legal proceedings is not an excuse to allow lesser standards to be applied to them than would be applied to an attorney. State v. Policao, 402 S.C. 547, 558, 741 S.E.2d 774, 779-780 (Ct. App. 2013); State v. Burton, 356 S.C. 259, 265, n.5, 589 S.E.2d 6, 9 n. 5 (2003); Goodson v. American Bankers Ins. Co., 295 S.C. 400, 403, 369 S.E.2d 687, 689 (Ct. App. 1988).

#### CONCLUSION

Appellant's has repeatedly violated the applicable rules and orders of this Court. Based on the foregoing, Respondent respectfully moves the Court to dismiss this, strike the Appellant's Third Amended Initial Brief, and/or issue such other orders as it deems proper.

  
James M. Holly, SC Bar No. 02572  
P.O. Box 5925  
Aiken, SC 29804  
(803)-221-4276  
Attorney for Respondent

October 20, 2016

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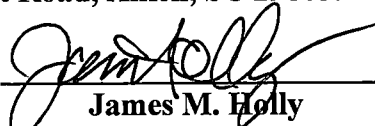
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**CERTIFICATE OF SERVICE**

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**I certify that I served the Motion to Dismiss Appeal, Strike Third Amended Initial Brief and/or for Other Relief by Respondent together with the Memorandum in Support by depositing a copy of thereof in the United States Mail, postage prepaid, on October 20, 2016, addressed to Appellant Brett Gries, 680 Implement Road, Aiken, SC 29803.**

**October 20, 2016**

  
**James M. Holly**  
**P.O. Box 5925**  
**Aiken, SC 29804**  
**(803)-221-4276**  
**SC Bar No.0002572**  
**Attorney for Respondent**



Aiken County  
County Attorney

*Remembering the Past, Preparing for the Future*

James M. Holly  
County Attorney

October 20, 2016

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

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SC Court of Appeals

RE: Brett Gries vs. Aiken County Assessor  
**SC Court of Appeals: Appellate Case No. 2015-002637**

Dear Clerk Kitchings:

Please find enclosed for filing one original and six copies of the Respondent's Motion to Dismiss Appeal, to Strike or for Other Relief together with a supporting Memorandum and one copy of the Certificate of Service on Appellant. Also enclosed is a check for the filing fee.

Thank you for your assistance.

Yours very truly,

A handwritten signature in black ink, appearing to be "James M. Holly", written over a horizontal line.

James M. Holly  
Attorney for Respondent

Cc: Mr. Brett Gries, Appellant Pro Se

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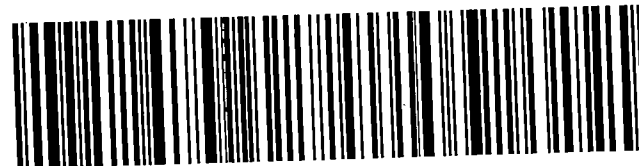
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THE HONORABLE V. CLAIRE ALLEN  
DEPUTY CLERK  
SOUTH CAROLINA COURT OF APPEALS  
P. O. BOX 11629  
COLUMBIA, SC 29211

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OCT 24 2018

SC Court of Appeals