

LAW OFFICES OF
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February 16, 2017

Honorable Jenny Abbott Kitchings
Clerk of the Court
South Carolina Court of Appeals
Post Office Box 116929
Columbia, South Carolina 29211

RECEIVED

FEB 22 2017

SC Court of Appeals

Attn: Elizabeth

Re: *Captains Harbour and Racquet Club Homeowners Association, Inc.*
v. Jerald W. Jones
Appeal from Horry County
Appellate Case No. 2016-CP-26-002299

Dear Elizabeth:

This is to follow up on your telephone call with my paralegal, Suzy Pettipas, last week.

The above-referenced appeal was timely filed on or about November 15, 2016 after a Form 4 Order was entered in Horry County on October 4, 2016. A copy of the Form 4 Order was attached to and filed with our Notice of Appeal; however, I am enclosing a another, highlighted, copy for your convenience.

As you can see, the Form 4 Order notes "PLAINTIFF'S COUNSEL TO PREPARE A FORMAL ORDER." In an overabundance of precaution, I filed the Notice of Appeal, thinking that the Order referenced in the Form 4 Order would be filed shortly thereafter and that I would amend the Notice of Appeal. As of this date, a formal order has not been entered by the trial court.

As the Form 4 Order contemplated a more formal order was to follow, I probably could have waited to file the Notice of Appeal. See Rule 203(b)(1), SCACR and Doe v. Berkeley Publishers, 322 S.C. 307, 471 S.E.2d 731 (Ct. App. 1996), *reversed on other grounds*, 329 S.C. 412, 496 S.E.2d 636 (1998). In Appellate Practice in South Carolina, 2nd ed., at 121, the following suggestion is made:

Although the Rules do not specifically address the issue, if a party appeals a form order that indicates a more complete order is to follow, the prudent practice may be to serve and file a second notice of appeal when the complete order is issued to preempt any argument that the appellate court lacks jurisdiction to review the complete order. No additional filing fee will be necessary in this situation.

South Carolina Court of Appeals
February 17, 2017
Page Two

Once the more complete order is filed and entered, we would file a second Notice of Appeal as indicated above.

I would ask the Court to consider holding this matter in abeyance until the more complete Order is filed. If it would be more expedient, I can file a Motion to Stay proceedings until the Formal Order is entered. Under the circumstances, I would also request that all the timelines in the appeal be stayed until the Formal Order is entered and the appeal is ready to proceed.

I look forward to hearing from you.

Sincerely yours,

LAW OFFICES OF JOHN M. LEITER, PA


John M. Leiter

JML/mbk
Enclosure

cc: Douglas Walker MacKelean, III - w. encl.
Jerald Jones - w. encl.

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

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2014-CP-26-7617

RECEIVED

FEB 22 2017

SC Court of Appeals

Captain's Harbour and Racquet Club Homeowners
 Association, Inc.

Jerald W. Jones

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:	Attorney for : <input type="checkbox"/> Plaintiff	<input type="checkbox"/> Defendant
	or	
	<input type="checkbox"/> 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. See Page 2 for additional information.
- 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

2016 OCT 4 AM 8:52

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:

ORDER INFORMATION

THE COURT DENIES DEFENDANT'S MOTION FOR RECONSIDERATION. INASMUCH AS IDENTICAL GROUNDS WERE ARGUED AT PREVIOUS HEARING THE REQUEST FOR A HEARING ON THIS MOTION IS DENIED. THE COURT NOTES THAT DEFENDANT'S MOTION FOR RECONSIDERATION WAS NOT PROVIDED TO THE COURT UNTIL AUGUST 25, 2016. PLAINTIFF'S COUNSEL TO PREPARE A FORMAL ORDER.

This order ends does not end the case.

Additional Information for the Clerk :

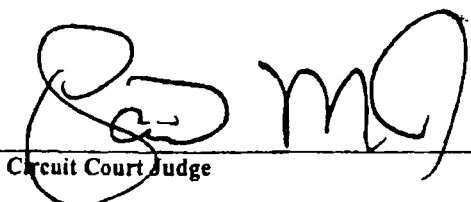
INFORMATION FOR THE JUDGMENT INDEX

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

2155
Judge Code

9-1-16
Date

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter:

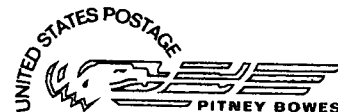
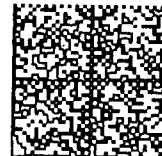
ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

copy of order, _____
filed 10-4-16 mailed to all
parties not in default on 10-11-16
initials fw

LAW OFFICES OF
JOHN M. LEITER, PA

ATTORNEY AND COUNSELOR AT LAW

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MYRTLE BEACH, SC 29577



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SC Court of Appeals

Honorable Jenny Abbott Kitchings
Clerk of the Court
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Att: ELIZABETH