

THE STATE OF SOUTH CAROLINA
In The Court of Appeals Court

APPEAL FROM DILLON COUNTY
J. Michael Baxley, Circuit Court Judge

Case No. 2013-000752
Opinion No. 5398
(S.C. Ct. App. filed March 30, 2016)

RECEIVED

OCT 04 2017

SC Court of Appeals

Claude W. Graham,Respondent-Appellant,

v.

Town of Latta, South Carolina,Appellant-Respondent

And

Vickie B. Graham,Respondent-Appellant,

v.

Town of Latta, South Carolina,Appellant-Respondent.

**RETURN TO APPELLANT-RESPONDENT'S
MOTION FOR COSTS ON APPEAL**

On March 30, 2016, this Court affirmed by unpublished opinion the judgment issued in the lower court in its entirety. The South Carolina Supreme Court denied the Appellant-Respondent's Petition for *Writ of Certiorari* and this Court's Remittitur followed on September 15, 2017. The Appellant-Respondent Town of Latta has,

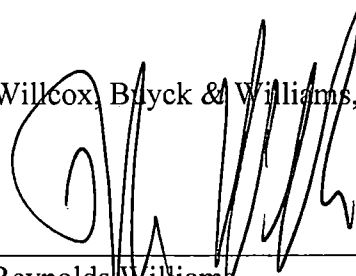
nonetheless, filed a Motion for Costs on Appeal pursuant to Rule 222, SCACR and the Grahams oppose that Motion.

The Town of Latta does not qualify as a prevailing party. The trial court's March 18, 2013 Order was entered on March 11, 2013. The Town of Latta appealed that Order on April 9, 2013, within the 30 days allowed by the Rule. The Respondents-Appellants Grahams, having declined to appeal from the trial court's order within the period allowed, did assert a cross-appeal on April 12, 2013, a cross-appeal permitted only by grace of the 5-day period granted by 203(c) SCACR. As the instigating appellant, first to file a notice of appeal, the Town of Latta is designated as the primary Appellant, responsible for the transcript below and the record on appeal. For that reason alone, the "Cost of Printing Record on Appeal" is not a cost occasioned by the Grahams' cross-appeal.

Since all of the costs in this matter were occasioned by the Town of Latta, the Town of Latta and its appeal, since the Grahams did not initiate the appeals process from the judgment below, and since the Grahams only entered a cross-appeal in response to the Town of Latta's appeal, the Respondents-Appellants, Mr. and Mrs. Graham submit that the Town of Latta's request for costs on appeal should be denied in its entirety. In the alternative, the Court should deny the Town of Latta's request for the cost of printing the record on appeal.

Respectfully submitted,

Willcox, Blyck & Williams, P.A.



Reynolds Williams
P.O. Box 1909
Florence, S.C. 29503
843-662-3258

Attorneys for Respondents-Appellants
Claude W. Graham and Vickie B. Graham

Florence, South Carolina

October 3, 2017

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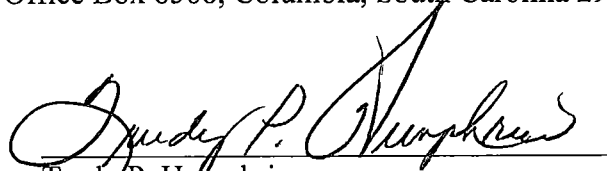
Vickie B. Graham, Respondent-Appellant,

v.

Town of Latta, South Carolina, Appellant-Respondent.

CERTIFICATE OF SERVICE

The undersigned employee of Willcox, Buyck & Williams, P.A., counsel for the Respondents-Appellants, Claude W. Graham and Vickie B. Graham, does hereby certify that service of the **Return to Appellant-Respondent's Motion for Costs** in the above-captioned case was made upon all counsel of record for the Appellant-Respondent by depositing a copy of same in the US Mail, postage prepaid, to: Andrew F. Lindemann, Michael B. Wren, Daniel C. Plyler, Davidson & Lindemann, PA, Post Office Box 8568, Columbia, South Carolina 29202



Trudy P. Humphries
Paralegal to Reynolds Williams

October 3, 2017

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SC Court of Appeals

THE HONORABLE JENNY ABBOTT KITCHINGS
CLERK OF COURT
SC COURT OF APPEALS
PO BOX 11629
COLUMBIA SC 29211

RE: Claude W. Graham and Vickie B. Graham vs. Town of Latta, South Carolina
Appellate Case No. **2013-000752**
Lower Court Case Nos.: 2008CP1700376 and 208CP1700377
Our File: 15410.15281

Dear Ms. Kitchings:

Please find enclosed for filing the originals and seven copies each of the Respondents-Appellants', Mr. and Mrs. Graham's, **Return to Appellant-Respondent's Motion for Costs on Appeal** in connection with the above case. Please file the original and return a clocked-in copy to us in the self-addressed, stamped envelope.

By copy of this correspondence, we are serving a copy on counsel of record for Appellant-Respondent, Town of Latta.

Yours very truly,

Reynolds Williams
Email: reynolds@willcoxlaw.com

WRW/tpH
Enclosures

cc: Andrew F. Lindemann, Esquire (w/enclosure)
Michael B. Wren, Esquire (w/enclosure)
Daniel C. Plyler, Esquire (w/enclosure)
Claude and Vickie Graham (w/enclosure)



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