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THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

John D. McLeod, Administrative Law Judge

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Case No. 09-ALC-07-0069-CC

NOV 30 2017

SC Court of Appeals

Town of Arcadia Lakes, Robert L. Jackson, Linda Z. Jackson, Robert E. Williams, Barbara S. Williams, Elizabeth M. Walker, Louis E. Spradlin, Mary Helen Spradlin, Thomas Hutto Utsey, Tony Sinclair, Aaron Small, Bette Small, Gene F. Starr, M.D., Elaine J. Starr, Sanford T. Marcus, Ruth L. Marcus, and Steven Brown, Petitioners,

Of Which Town of Arcadia Lakes is the Appellant/Respondent,

v.

South Carolina Department of Health and Environmental Control, Respondent, and Roper Pond, LLC, Respondent/Appellant.

**MOTION TO EXCEED THE PAGE LIMIT
IMPOSED BY SCACR 208(b)(5)**

PLEASE TAKE NOTICE that the Appellant/Respondent Town of Arcadia Lakes (the "Town"), hereby moves the Court of Appeals for an Order extending the page limit for its Initial Brief. SCACR Rule 208(b)(5) requires that principal briefs shall not exceed fifty (50) pages.

This case involves an appeal of three separate orders from the Administrative Law Court ("ALC"): an Order striking affidavits of Town witnesses; an Order finding the Town liable for attorneys fees and costs under the state action statute and sanctions under ALC Rule 72; and an Order awarding Roper Pond attorneys' fees and costs and sanctions. These orders collectively total seventy (70) pages. The issues surrounding the determination of liability under two

separate rules are complex and require more thorough explanation than the appellate rules normally provide. The issues include whether the Town, as one of seventeen (17) petitioners can be solely liable for all attorneys fees and costs and whether the state action statute even applies in the instant case; whether the Town had a reasonable basis in fact and law for pursuing the case, and explaining the foundation for that reasonable basis; what information is required for the trial court to determine whether attorneys fees and costs are reasonable and whether Roper Pond provided that information, i.e., whether the ALC's fee/cost/sanction awards are supported by any evidence; what it means to bring a case solely for the purpose of delay when any entity or individual challenges agency permits in order to stop or prevent the activities authorized thereunder, particularly when Roper Pond conceded that the challenge was not frivolous; whether the ALC can attribute motives to the Town by way of statements made by other individuals not acting in any official Town capacity; and whether the ALC erred in striking affidavits shedding light on the justification for the case, among others.

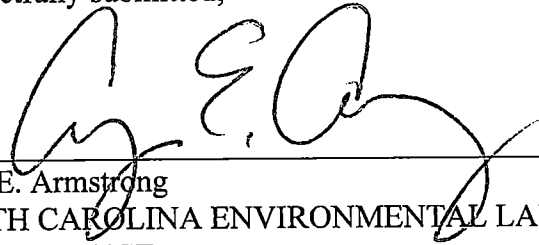
Counsel for the Town has worked diligently to refine and narrow the issues, but due to their complexity, and the need to ensure that all issues are preserved, the Town requests that the Court accept its brief which exceeds the page limit.

The argument section of the Town's brief is sixty-two (62) pages, exclusive of the cover page, table of contents, table of authorities and statement of issues on appeal. Including these ancillary, but requisite, materials, the brief is seventy (70) pages.

Counsel for the Town has consulted with counsel for Roper Pond, who consents to this motion. The issues in this appeal do not involve the Respondent SCDHEC and counsel for the Town does not anticipate that the SCDHEC will be submitting briefs in this appeal.

WHEREFORE, the Appellant/Respondent Town of Arcadia Lakes and respectfully request that the Court of Appeals accept the Town's brief which exceeds the page limit imposed by SCACR 208(b)(5), and which is being contemporaneously and conditionally filed herewith.

Respectfully submitted,



Amy E. Armstrong
SOUTH CAROLINA ENVIRONMENTAL LAW
PROJECT

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November 28, 2017

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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NOV 30 2017

APPEAL FROM THE ADMINISTRATIVE LAW COURT
John D. McLeod, Administrative Law Judge

SC Court of Appeals

Appellate Case No. 2017-001554

Town of Arcadia Lakes, Robert L. Jackson, Linda Z. Jackson, Robert E. Williams, Barbara S. Williams, Elizabeth M. Walker, Louis E. Spradlin, Mary Helen Spradlin, Thomas Hutton Utsey, Tony Sinclair, Aaron Small, Bette Small, Gene F. Starr, M.D., Elaine J. Starr, Sanford T. Marcus, Ruth L. Marcus, and Steven Brown, Petitioners,

Of Which Town of Arcadia Lakes is the Appellant/Respondent,

vs.

South Carolina Department of Health and Environmental Control, Respondent, and Roper Pond, LLC, Respondent/Appellant.

CERTIFICATE OF SERVICE

I hereby certify that on this date I served Respondents Roper Pond, LLC and SCDHEC with the Town of Arcadia Lakes' Initial Brief, Designation of Matter and Motion to Exceed Page Limit by placing copies of same in the U.S. Mail addressed to:

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Columbia, SC 29201

Joan Hartley, Esq. & Tommy Lavendar, Esq.
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Columbia, SC 29201

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SC Court of Appeals

Amy Armstrong

Georgetown, South Carolina

November 28, 2017



South Carolina Environmental Law Project

Lawyers for the Wild Side of South Carolina

November 28, 2017

a 501c3
non-profit organization

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Honorable Jenny Abbott Kitchings
Clerk, S. C. Court of Appeals
P. O. Box 11629
Columbia, SC 29211

RE: Town of Arcadia Lakes, et al. v. Roper Pond, LLC, et al.
Appellate Case No. 2017-001554

Dear Ms. Kitchings:

Enclosed for filing, please find the original and two (2) copies of Appellant/Respondent Town of Arcadia Lakes' Initial Brief and Designation of Matter and the original and seven (7) copies of the Town's Motion to Exceed Page Limit, along with my certificate of service and filing fee.

Please return clocked-in copies of each in the enclosed, postage-paid envelop. Thank you for your assistance.

Yours very truly,


Amy Armstrong

cc: Stephen Hightower, Esq.
Joan Hartley, Esq.
Tommy Lavender, Esq.

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S.C. Environmental Law Project
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Honorable Jenny Abbott Kitchings
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