

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM DORCHESTER COUNTY COURT OF COMMON PLEAS

The Hon. Diane S. Goodstein, Circuit Court Judge

Appellate Case No.: 2015-000599

RECEIVED
FEB 09 2018
SC Court of Appeals

Live Oak Village Homeowners Association, Inc.,
Jennifer McFarland, Carlton Holcombe
and Ute Holcombe,

Plaintiffs,

Of whom Live Oak Village Homeowners Association, Inc.,
Jennifer McFarland and Carlton Holcombe are

The Appellants,

v.

Thomas Morris, David Hannemann, Sofia Mazell
and Michael Mazell,

Respondents.

Sofia Mazell and Michael Mazell,

Third-Party Plaintiffs,

v.

William McFarland,

Third-Party Defendant.

**REPLY TO APPELLANT'S RETURN TO RESPONDENTS MAZELL'S MOTION
TO RECOVER AN AWARD OF COSTS AGAINST APPELLANT HOA**

Respondents Sofia Mazell and Michael Mazell ("Respondents Mazell"), by their attorney, William B. Jung, Esq., submit this Reply to the February 5, 2018 Return filed by Appellant Live Oak Village Homeowner's Association, Inc., Jennifer McFarland and Carlton Holcombe in response to Respondents Mazell's motion for costs pursuant to Rule 222 of the South Carolina Appellate Court Rules.

Appellants argue that Respondents Mazell are not entitled to an award of \$1,083.34 in costs, including the \$1,000.00 attorney's fee, because this Court affirmed in part and reversed in part the order of the circuit court. What Appellants' Return fails to mention is the fact that this Court entirely upheld the portion of the circuit court's order¹ that found that the Appellant HOA lacked the standing to sue Respondents Mazell in the HOA's own name on alleged claims for civil conspiracy and breach of the covenants and/or bylaws. In fact, the circuit court's ruling that the HOA had no standing to sue Mazell in its own name was the only issue on this appeal that pertained to Mazell. While this Court reversed that portion of the circuit court's order that dismissed Respondents McFarland and Holcombe's claims for a declaratory judgment against Appellants Morris and Hannemann, the declaratory judgment claim at issue never named or included Respondents Mazell as parties to that cause of action.

As that portion of the circuit court's order that the HOA lacked standing to sue Respondents Mazell, as well as, Respondents Morris and Hannemann, was upheld in its entirety, Mazell was entirely successful on this appeal in upholding the dismissal of the HOA's claims against them. As that portion of this Court's opinion reversing the circuit's order with respect to McFarland and Holcombe's declaratory judgment claim never pertained to Respondents Mazell, Appellant's citation to having gained a "Reversal in Part" has no merit or applicability with respect to Respondents Mazell. Respondents Mazell were entirely, one hundred percent successful on this Appeal. As

¹ In deciding this appeal, this Court noted that Appellants "contended that the circuit court erred by granting summary judgment on all of the HOA's causes of action based on the circuit court's finding that the HOA lacked standing because it failed to follow its bylaws when authorizing this action." December 21, 2016 Unpublished Opinion, No. 2016-UP-519, page 1.

such, it is respectfully submitted that Respondents Mazell should be awarded their costs of \$1,083.34, which includes the Rule 222's then applicable \$1,000.00 attorney fee.

Conclusion

For the foregoing reasons, Respondents Mazell respectfully request that \$1,083.234 in costs be assessed against Appellant Live Oak Village Homeowners Association, Inc. and in favor of Respondents Mazell as provided in Rules 222(b) of the South Carolina Rules of Appellate Procedure.

Dated: Mount Pleasant, S.C.
February 6, 2018

WILLIAM B. JUNG, ESQ.



William B. Jung, Esq. (#0068788)
1156 Bowman Road, Ste. 200
Mount Pleasant, S.C. 29464
(843) 576-4200

Attorney for the Respondents Mazell

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM DORCHESTER COUNTY COURT OF COMMON PLEAS

The Hon. Diane S. Goodstein, Circuit Court Judge

Appellate Case No.: 2015-000599

RECEIVED
FEB 09 2018
SC Court of Appeals

Live Oak Village Homeowners Association, Inc.,
Jennifer McFarland, Carlton Holcombe
and Ute Holcombe,

Plaintiffs,

Of whom Live Oak Village Homeowners Association, Inc.,
Jennifer McFarland and Carlton Holcombe are

The Appellants,

v.

Thomas Morris, David Hannemann, Sofia Mazell
and Michael Mazell,

Respondents.

Sofia Mazell and Michael Mazell,

Third-Party Plaintiffs,

v.

William McFarland,

Third-Party Defendant.

**PROOF OF SERVICE OF RESPONDENT'S REPLY TO APPELLANTS' RETURN ON
MOTION TO TAX COSTS**

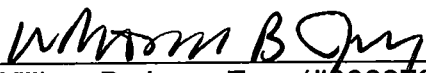
I, William B. Jung, Esq., counsel for Respondents Mazell, certify under penalty of perjury that on February 6, 2018, I served a copy of Respondents Mazell's Reply to the Return on Respondent Mazell's Motion to tax costs and an attorney's fee against Appellant HOA by mailing a true copies thereof to all counsel of record, including counsel for Appellant HOA, by first class postage paid, addressed to the following counsel:

William W. Watkins, Esq.
Wall, Templeton & Haldrup
145 King Street, Ste. 300
P.O. Box 1200
Charleston, S.C. 29402

Lydia P. Davidson, Esq.
Krawchek & Davidson
9 State Street
Charleston, S.C. 29401

Steven L. Brown, Esq.
Russell G. Hines, Esq.
Young Clement Rivers
25 Calhoun Street, Ste. 400
P.O. Box 993
Charleston, S.C. 29401

Dated: February 6, 2018


William B. Jung, Esq. (#0068788)
1156 Bowman Road, Ste. 200
Mount Pleasant, S.C. 29464
(843) 576-4200

Attorney for Respondents Mazell

ADMITTED
SOUTH CAROLINA
NEW YORK

WILLIAM B. JUNG, ESQ.
BOWMAN CENTER
1156 BOWMAN ROAD, STE. 200
MOUNT PLEASANT, S.C. 29464
PHONE (843) 576-4200
FAX (855) 319-2736
EMAIL: bradjung@msn.com
WEBSITE: bradjungattorney.com

RECEIVED
FEB 09 2018
SC Court of Appeals

February 6, 2018

The Hon. Jenny Abbott Kitchings
Clerk of Court
S.C. Court of Appeals
1220 Senate Street
P.O. Box 11629
Columbia, S.C. 29211

Re: Live Oak Village Homeowners Association, Inc. v. Thomas Morris,
et al.
Appellate Case No.: 2015-000599

Dear Madame Clerk:

I represent Respondents Sofia Mazell and Michael Mazell on the above appeal.

I am writing to file Respondents Mazell's Reply to the Return filed by the Appellants in response to Mazell's Motion for costs. An original and 6 copies of this Reply are enclosed. A proof of service is attached to the Motion. I am mailing a copy of this letter and a copy of all of the enclosures to all counsel noted below.

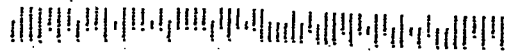
Please file the same. Thank you for your courtesy.

Sincerely yours,



William B. Jung

WBJ:wbj
Encl.
cc. All Counsel of Record



WILLIAM B. JUNG, ESQ.
BOWMAN CENTER
1156 BOWMAN ROAD, STE. 200
MOUNT PLEASANT, S.C. 29464

RECEIVED

FEB 09 2018

SC Court of Appeals

The Hon. Jenny Abbott Kitchings
Clerk of Court
S.C. Court of Appeals
1220 Senate Street
P.O. Box 11629
Columbia, S.C. 29211