

IN THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

R. Markley Dennis, Jr., Circuit Court Judge

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C.A. No.: 2013-CP-10-1400  
Appellate Case No. 2015-000269

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RECEIVED  
MAR 16 2018  
SC Court of Appeals

Robert J. Burke.....Respondent,  
v.  
Republic Parking System, Inc. ....Appellant.

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**RESPONDENT ROBERT J. BURKE’S RETURN TO APPELLANT’S MOTION FOR COSTS**

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Pursuant to Rule 240(e) and Rule 222 of the South Carolina Appellate Court Rules, Respondent Robert J. Burke (“Burke”) hereby files this return to Appellant Republic Parking System, Inc.’s (“Republic”) Motion for Costs in the amount of \$11,961.13 served on March 5, 2018. Respondent Burke respectfully requests that the Court deny Republic’s request.

Respondent Burke was seriously injured on January 24, 2013. The bifurcated trial of this case began on December 15, 2014 and judgment in favor of Burke was found by the jury on

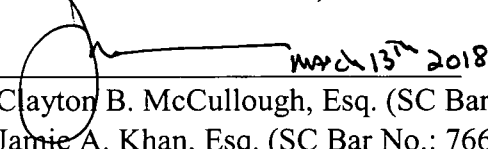
December 19, 2014. Republic filed this appeal on February 9, 2015, oral argument occurred on June 6, 2017 and the Court filed its Opinion on October 25, 2017.

While this Court did reverse the damages portion of the bifurcated trial for a new trial, it did so on an issue the Court found with the trial court's analysis and decision on an evidentiary matter, not because anything Burke did or did not do in the case. The parties will now retry that portion of the case over five (5) years after Burke was significantly injured.

Respondent Burke respectfully requests that the Court deny Appellant's Motion for Costs and deny taxing those costs against Burke as it would be unjust and inequitable to do so for the following reasons: the facts of this case, the significant injuries and damages sustained by Burke as set forth in the Record on Appeal, the jury's liability finding against Republic, the time interval from injury to trial to decision in this case, Burke's continuing accumulation of damages, medical damages and substantial medical treatments since trial, the substance of the error assigned by the Court, the significant costs and expenses incurred by Burke in this case and the need for another trial.

Respectfully Submitted,

McCULLOUGH KHAN, LLC

 *March 13<sup>th</sup> 2018*  
Clayton B. McCullough, Esq. (SC Bar No.: 13722)  
Jamie A. Khan, Esq. (SC Bar No.: 76685)  
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**ATTORNEYS FOR RESPONDENT  
ROBERT J. BURKE**

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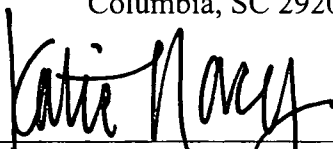
Republic Parking System, Inc. ....Appellant.

**PROOF OF SERVICE**

I hereby certify that a true and correct copy of the *Respondent Robert J. Burke's Return to Appellant's Motion for Costs* has been served upon the following by mailing a copy, properly addressed and with the sufficient postage affixed thereto, via U.S. Mail on this 13<sup>th</sup> day of March, 2018.

Sarah P. Spruill, Esq.  
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Jamie A. Khan  
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March 13, 2018

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SC Court of Appeals

The Honorable Jenny Abbott Kitchings  
Clerk, The South Carolina Court of Appeals  
1220 Senate Street  
Columbia, SC 29201

**Re: *Robert J. Burke and Jane B. Burke v. Republic Parking Systems, Inc.***  
**Civil Action No.: 2013-CP-10-1400**  
**Appellate Case No.: 2015-000269**

Dear Ms. Kitchings:

I hope this letter finds you well. Enclosed for filing please find the original and six (6) copies of Respondent Robert J. Burke's Return to Appellant's Motion for Costs and Proof of Service of the same. We are hereby serving a copy of the Petition on counsel for Appellant pursuant to the Proof of Service.

Thank you in advance for your assistance and please do not hesitate to contact our office if you have any questions or need anything further. With kind regards, I remain

Sincerely yours,

McCULLOUGH KHAN, LLC

Jamie A. Khan

JAK:kbn

Enclosures

cc: Sarah P. Spruill, Esq.  
Roopal S. Ruparelia, Esq.

