

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BERKELEY COUNTY
Court of Common Pleas

Dale E. Van Slambrook, Special Circuit Court Judge

C.A. No. 2016-CP-08-01261
Appellate Case No. 2017-000796

RECEIVED
APR 18 2019
SC Court of Appeals

Benjamin Reyna, d/b/a, El Alamo Restaurant,..... Appellant,

v.

The Town of Hanahan.....Respondent.

RETURN IN OPPOSITION TO MOTION FOR COSTS

The City of Hanahan (the “City”) does not oppose the Appellant’s motion to withdraw his appeal, provided that the dismissal states that the parties are to bear their own costs. The City strenuously objects to any request for costs from either this Court or on remand to the Circuit Court.

This appeal is from a business license revocation. The action was initially heard by City Council and was affirmed on appeal to the Circuit Court. Appellant has been unsuccessful at all stages of this litigation.

Appellant now seeks to argue unsupported factual allegations not in the record in this appeal to justify an award of costs in this case. The City denies those allegations. To the extent

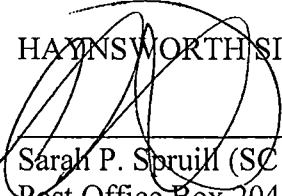
Appellant believes it has a claim against the City based on those allegations, it can attempt to assert those claims in another action.

Appellant has not cited any authority in support of its motion, because there is no authority to cite. Rule 222, SCACR provides that costs “shall be taxed against the appellant when the appeal is dismissed or judgment on appeal is affirmed.” If anything, this rule suggests costs should be taxed against the Appellant in the event the appeal is dismissed. There no cases under Rule 260, SCACR, which governs the withdrawal of appeals, that support the relief requested by the Appellant.

The Appellant has not prevailed at any stage of this action. He should not be allowed to prolong matters further and squander additional judicial resources seeking costs now. For these reasons, the City asks that the Court permit the Appellant to withdraw his appeal but deny the request for costs in its entirety.

Respectfully submitted,

HAYNSWORTH SINKLER BOYD, P.A.



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Attorneys for Respondent

Dated: April 15, 2019

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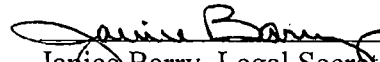
v.

The Town of Hanahan Respondent

PROOF OF SERVICE

I certify that I have served the Respondent's Return in Opposition to Appellant's Motion for Costs on all attorneys of record by depositing a copy of the same in the United States Mail, postage prepaid, on April 15, 2019, addressed to

Thomas R. Goldstein
Belk, Cobb, Infinger & Goldstein P.A.
P.O. Box 71121
Charleston, SC 29415-1121


Janice Barry, Legal Secretary
HAYNSWORTH SINKLER BOYD, P.A.
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April 15, 2019

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

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Re: Benjamin Reyna, d/b/a El Alamo Restaurant v. The Town of Hanahan
Appellate Case No. 2017-000796

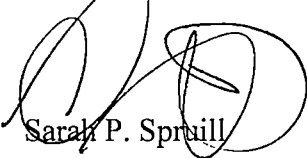
Dear Ms. Kitchings:

Enclosed herewith for filing is an original and seven (7) copies of Respondent's Return in Opposition to Appellant's Motion for Costs, regarding the above-referenced case together with a Proof of Service. Please file the originals and return a clocked copy to me in the enclosed self-addressed stamped envelope.

Thank you for your assistance.

Sincerely yours,

HAYNSWORTH SINKLER BOYD, P.A.



Sarah P. Spruill

SPS/jmb
Enclosures

cc: Thomas R. Goldstein
Mac McQuillin (via email only)



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