

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

Mikell R. Scarborough, Master-In-Equity

Case No. 2019-000205

The Savannah Homeowners Association, Inc., Respondent,

v.

Denise H. Jones and LVNV Funding LLC, Defendants,  
Of Whom Denise H. Jones is the Appellant.

FINAL BRIEF OF APPELLANT

Denise H. Jones  
506-D Arlington Drive  
Charleston, South Carolina 29414  
843-819-5878  
Appellant

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SC Court of Appeals

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## STATEMENT OF ISSUES ON APPEAL

1. DID THE MASTER-IN-EQUITY COURT ERR IN FAILING TO RELIEVE APPELLANT OF REGIME FEES BILLED FROM JUNE 17, 2016 TO MAY 12, 2017 ON THE BASIS OF ARTICLE X, SECTION 10.6 OF THE BYLAWS OF THE SAVANNAH HOMEOWNERS ASSOCIATION, INC.?
2. DID THE MASTER-IN-EQUITY COURT ERR IN FAILING TO VINDICATE THE APPELLANT IN LIGHT OF RESPONDENT'S INCONSISTENT CORRESPONDENCE AND COMMUNICATIONS TO APPELLANT, AND RESPONDENT'S DISCRIMINATORY BEHAVIOR TOWARDS APPELLANT?
3. IS APPELLANT RESPONSIBLE FOR LEGAL FEES AND OTHER COSTS WHICH RESULTED FROM RESPONDENT'S NEGLIGENCE?

## STATEMENT OF THE CASE

On December 19, 2017, The Savannah Homeowners Association, Inc. brought this action alleging that Denise H. Jones refused to pay homeowner's regime fees. Jones answered alleging that the Homeowners Association failed to provide timely correspondence regarding her account and inaccurately calculated her regime balance.

The case was scheduled to be heard before Judge McCoy on June 20, 2018, but a motion was made by the Homeowners Association to have the case tried before Master-In-Equity Mikell R. Scarborough.

On November 6, 2018, the case was heard by Master-In-Equity Scarborough who found for the Homeowners Association awarding \$8,644.55. On February 5, 2019, Denise Jones served the Notice of Appeal on The Savannah Homeowners Association, Inc.

## ARGUMENTS

- I. BECAUSE ARTICLE X, SECTION 10.6 OF THE BYLAWS OF THE SAVANNAH HOMEOWNERS ASSOCIATION, INC. WAS NOT ENFORCED, THE MASTER-IN-EQUITY COURT ERRED WHEN IT DID NOT RELIEVE APPELLANT OF REGIME FEES BILLED FROM JUNE 17, 2016 THROUGH MAY 12, 2017.

In The Savannah Homeowners Association, Inc.'s complaint, Paragraph 7 stipulates that the Master Deed and Bylaws outline the obligations of Jones to pay monies owed to the Homeowners Association and are collectively referenced as governing documents (R. p.13).

In Article X, Section 10.6 of the Bylaws, it states as follows:

A Co-Owner shall be personally liable for all assessments coming due while he, she, or it is the owner of a Unit (R. p.77).

Based on the Register of Deeds for Charleston County, South Carolina, 506-D Arlington Drive, Charleston, South Carolina 29414, TMS# 310-07-00-104, was the property of The Savannah Homeowners Association, Inc. from June 17, 2016 through May 12, 2017 (R. p.84).

Thus, in accordance with public records of the Charleston County Register of Deeds Office, namely the Savannah Homeowners Association's Bylaws and property information for 506-D Arlington Drive, Charleston, South Carolina 29414, TMS# 310-07-00-104, Jones should be relieved of fees charged to her from June 17, 2016 through May 12, 2017.

- II. BECAUSE CORRESPONDENCE AND COMMUNICATIONS MADE BY RESPONDENT TO APPELLANT WERE INCONSISTENT, AND RESPONDENT EXEMPLIFIED DISCRIMINATORY BEHAVIOR TOWARDS APPELLANT, THE MASTER-IN-EQUITY COURT ERRED WHEN IT DID NOT VINDICATE APPELLANT.

Several inconsistencies were made by the Homeowners Association when communicating and corresponding with Jones. The Homeowners Association also demonstrated discriminatory behavior towards Jones. These instances are as follows:

- A. Per Amanda Barnes, Sentry Management's representative and Community Association Manager for The Savannahs, because Jones' account was in collections, she was intentionally excluded from all direct correspondence from the Homeowners Association. Jones could only communicate with the Homeowner Association's attorney (R. p.62, lines 4-13). As a result, she was not privy to relevant information distributed by the Homeowners Association and held accountable for information not

furnished to her. Other homeowners were provided correspondence regarding account balances and other matters pertinent to the residents of The Savannahs, while she was not. As an example, the decision for a new roof assessment to begin in 2018 was never communicated to Jones. She was made aware of this information during the November 6, 2018 hearing (R. p.53, lines 12-17).

- B. The Homeowners Association provided Jones a statement of account in February 2017 indicating a zero balance from December 5, 2016 through the beginning balance on January 1, 2017 (R. p.91). On January 31, 2017, a charge of \$861.52 was haphazardly applied to Jones' account (R. p.92).
- C. Correspondence provided in February 2017 by the Homeowners Association's attorney, presented two different balances due (R. p.85, p.92). When Jones requested clarity on the amount due, Dean's reply indicated the discrepancy reflected legal fees (R. p.93). Later, during the November 6, 2018 hearing, Dean stated the discrepancy reflected special assessment costs (R. p.44, lines 17-23).
- D. Based on Barnes' testimony, Jones was not contacted by the Homeowners Association between August 2016 and February 2017 because her account was in collections (R. p.60, line 21 – p.61, line 18). However, according to the Homeowners Association's records, Jones' account was current from December 5, 2016 through January 1, 2017 (R. p.91). When Jones received the February 2017 statement of her account directly from the Homeowners Association, their records indicated her having a balance due of \$1,263.62. This would have qualified her account to be in collections and thus, made her ineligible for direct communication.

Due to having no communication with the Homeowners Association until February 2017, Jones was not made aware of her account balance, monthly regime rate, nor special assessments until then. The Homeowners Association initiated barriers in communication and regime payments between themselves and Jones. Exchanges were made unnecessarily difficult and cumbersome. This proved to be detrimental and unfair to Jones.

III. BECAUSE APPELLANT IS NOT RESPONSIBLE FOR LEGAL FEES AND OTHER COSTS WHICH RESULTED FROM RESPONDENT'S NEGLIGENCE.

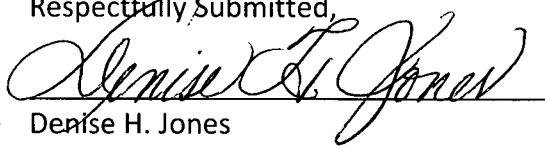
In September 2016, immediately following its negotiations with Jones' mortgage holder, the Homeowners Association failed to provide Jones with a current account balance and monthly regime rate. Having this information would have allowed her the opportunity to timely remit payments, avoiding unnecessary involvement of legal representation.

CONCLUSION

For the reasons stated, this Court should amend the judgement of the Master-In-Equity court to reflect relief from all charges assessed to Denise H. Jones by The Savannah Homeowners Association, Inc. from June 17, 2016 through May 12, 2017. And, Jones should be made free and clear of all legal charges previously awarded by the Master-In-Equity court, to be refunded by the Homeowners Association, as well as all charges in association with this appeal. Also, Jones should be awarded damages for discriminatory behavior exhibited by the Homeowners Association to the maximum extent allowed, or as this Court deems proper and fit. Jones should also be reinstated full privileges as is established for bona fide owners and residents of The Savannah in good standing.

August 12, 2019

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Denise H. Jones", written over a horizontal line.

Denise H. Jones  
506-D Arlington Drive  
Charleston, South Carolina 29414  
843-819-5878  
Appellant

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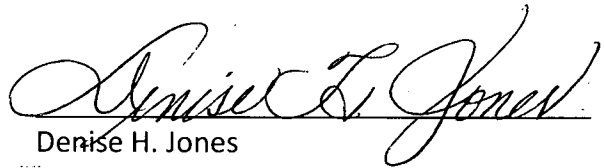
v.

Denise H. Jones and LVNV Funding LLC, Defendants.  
Of Whom Denise H. Jones is the Appellant.

CERTIFICATE OF COUNSEL

I certify that the Final Brief of Appellant and the Final Reply Brief of Appellant complies with Rule 211(b), SCACR.

August 12, 2019



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