

# The "Hotel California" of the Lowcountry

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Pat Symons has not set foot on Callawassie Island since 2014, yet she and her husband are locked in litigation over more than \$203,000 in membership dues to the island's golf and social club.

Symons' case is one of 38 ongoing lawsuits originally brought by the Callawassie Island Members Club, seeking former residents of the luxurious island community tucked between Bluffton and Beaufort to continue to pay for their lapsed club memberships. [Upheld in a 2018 S.C. Supreme Court ruling](#), club rules dictate that members must be able to offload their membership to someone else or continue to pay indefinitely.

The few legitimate ways to exit the club: sell your property and membership as a bundle to someone else, stop paying so you get kicked out or, in some instances, work out a way to leave with the CIMC management after resigning.

**Exhibit 1**



However, many members said the club kept them from leaving. They argue they've been unable to get anyone to buy their [\\$16,253 yearly Callawassie Island club membership](#) (not including an \$18,000 first-year payment) along with their property. They say the club unilaterally made complex rule changes and, in many cases, was unwilling to negotiate.

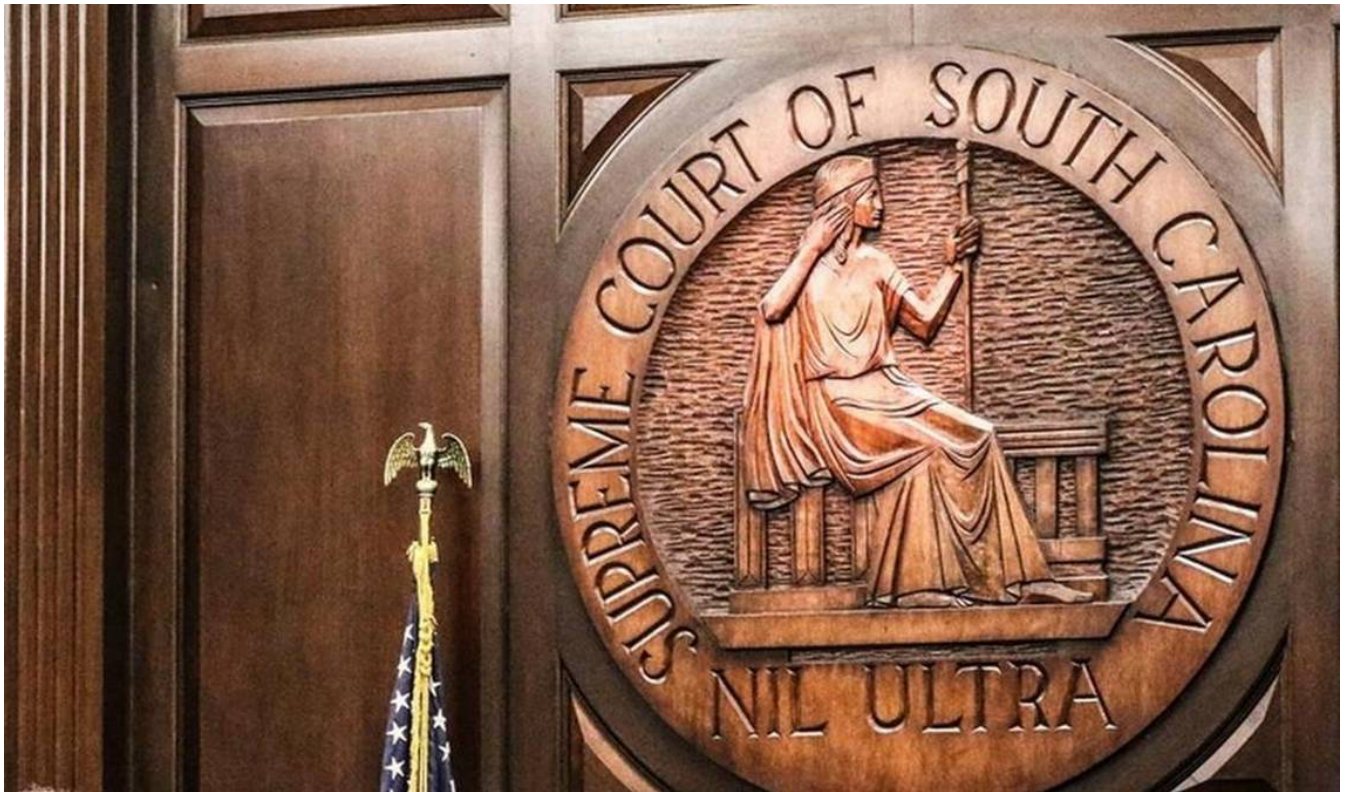
The first option members typically try is to sell their property. But many members whom the club has sued said it was difficult to persuade others to pick up their membership.

"Over and over again people would ask us to sell our property without the membership. We kind of realized it was hopeless. We sold [our house] for the same amount we bought it for," said Symons.

Club membership is required upon buying property on Callawassie Island. The couple was forced to sell their property — after 10 years and more than \$100,000 spent in renovations — at its original price of \$410,000.

They remained paying members of the social club, which offers unlimited golf and [a host of facilities](#), but the club sued the Symonses in 2014 for [refusing to pay dues](#) after they had submitted a letter of resignation the year before. The letter earned the Symonses [suspension of club privileges](#) but no exit from the club. The lawsuit against them is ongoing six years later and bundled with dozens of others represented by attorney Ian Ford of Ford Wallace Thomson LLC.

The club's general manager said the organization has abided by the law and notes that a South Carolina Supreme Court case upheld its rules as legal.



South Carolina Supreme Court Matt Walsh [mwalsh@thestate.com](mailto:mwalsh@thestate.com)

## Can a golf club legally do that?

The state Supreme Court case in 2018 involving another Callawassie couple ruled for the members club, overturning a 2016 appeals court decision and

requiring members to pay dues even if they resign.

The 2016 Court of Appeals decision determined that the club's practices violated state law. The decision was well publicized because it compared trapped club members to proverbial guests in the Eagles' hit song "Hotel California" — "You can check out any time you like, but you can never leave."

The state Supreme Court case has been appealed, and lawyers are watching another lawsuit involving the members' club. Until a final ruling is issued in both cases, the other 36 lawsuits are in limbo.

According to Ford, the main legal issues to be answered are whether the club inequitably let some people leave while forcing others to remain members, and whether the club, as a nonprofit, improperly changed its rules to keep members in the organization.

Ford argues the state Supreme Court erred because it missed evidence that "the Club had modified its governing documents without notice to or a vote of the members," which would violate the state's Nonprofit Corporation Act.

Former Callawassie residents said they were enraged to discover the club had changed its rules governing when it would kick out a member for non-payment — a consequence the residents were seeking because it was one of the few ways to exit the club. The [CIMC's 2001 governing documents](#) state "any member whose account is not settled within the four (4) months' period following suspension *shall* be expelled from the Club."

Members unable to transfer their membership by selling their property sought to leave the club's financial hold the old-fashioned way: by not paying. They would be suspended after 60 days and then kicked out after four months of not paying.

The club's board of directors [changed the governing documents in 2008](#), unpublicized and without a vote of members, to reflect the following: "any member whose account is not settled within the four (4) month period following suspension *may* be expelled from the club."

The simple change from "shall" to "may" kept some members who wanted to leave on the hook for club dues.

Ford argues that the change in words also violates South Carolina's Nonprofit Corporation Act because the club treated members unequally, kicking members out prior to the change and forcing others to stay after. The club, Ford said, significantly changed its "bylaws" without approval of its members.

Lawyers for the club argue they were in compliance and "whether considered 'bylaws' or not, the Rules could be adopted and amended by the Board without a vote of the members," according to Andrew F. Lindemann of Lindemann, Davis & Hughes P.A.

## **"We're not in any position to pay them back"**

One member, who has not been on Callawassie Island in a decade and was sued by the club in 2011, said [he was suspended](#) for not paying but could never leave the organization.

"The Club would not let us leave. They just kept billing us and billing us. We were supposed to be expelled after four months of non-payment," said the member, who did not want his name in this story out of fear of retribution. "They've taken us all the way to the Supreme Court. I can't think of another club in the Lowcountry that would go to these lengths."

His bill is [over \\$264,000](#). Like Symons, the member said the biggest blow

was selling his Callawassie property at a major loss. He bought a lot on the island in 2005 for \$31,000 with plans to build a retirement home. He signed up for the club and invested \$45,000 in equity in the organization, with promises it would pay dividends.

The investment has not offset any of his remaining dues and, by 2017, the member was forced to sell his lot for \$1,000 while also paying a broker \$4,000 to find a buyer.

Executives for the club maintain that these issues were settled with the 2018 S.C. Supreme Court decision.

"It's disappointing there continues to be a question as to whether or not people who want to participate in life on the island need to pay for the expense," said Jeff Spencer, the club's general manager. "We are taking this through the courts and trusting that they will come to the right decision."

Spencer said those who are still members of the club but do not own property on Callawassie Island can "settle that with the Club."

According to [a 2017 financial statement of the club](#), required of all nonprofits, over 60% of the organization's \$9.3 million revenue came from the dues the club imposes on members. Over \$3 million of its funds went to salaries and \$2.5 million to its debt load.

The club currently has 640 members and has constructed a new restaurant and fitness center in the past three years, according to Spencer.

Another member sued by the club, Homer Knearl, now lives in Colorado and sold his home on Callawassie Island in 2016. He originally bought his island property for \$950,000 but was forced to sell below \$500,000. The club said he currently owes more than \$140,000 in unpaid monthly dues. Knearl, 80,

worries what will happen with the 2015 litigation after he passes away.

"They will probably go after my heirs," said Knearl. "It's just stress at this point. We're not in any position to pay them back because it's so much money. So we just keep fighting."

By: Jake Shore

<https://www.islandpacket.com/news/local/article241103111.html>