

**RECEIVED**

SEP 14 2020

SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

APPEAL FROM HORRY COUNTY  
Court of Common Pleas

The Honorable Larry B. Hyman, Jr., Circuit Court Judge

CASE NO. 2016-CP-26-05916

Green Lotus Sports, LLC. .... Respondent

vs.

Black Bear Global, LLC ..... Appellant

**APPELLANT'S RETURN TO RESPONDENT'S MOTION FOR COSTS**

Appellant Black Bear Global, LLC responds to the Motion for Costs by Respondent Green Lotus Sports, LLC as follows:

South Carolina Appellate Court Rule 222(a) provides in pertinent part:

Unless otherwise ordered by the appellate court or agreed by the parties, costs shall be taxed against the appellant when the appeal is dismissed or judgment on appeal is affirmed.

In this case, Appellant Black Bear Global LLC voluntarily dismissed its appeal without ruling by this Court. Under SCACR 222(a), costs may only be taxed when the Court dismisses the appeal or judgment on appeal is affirmed. Here, the Court did not dismiss the appeal, nor was judgment affirmed. Accordingly, no costs are allowed. Further, attorney's fees are not allowed except by order of the Court.

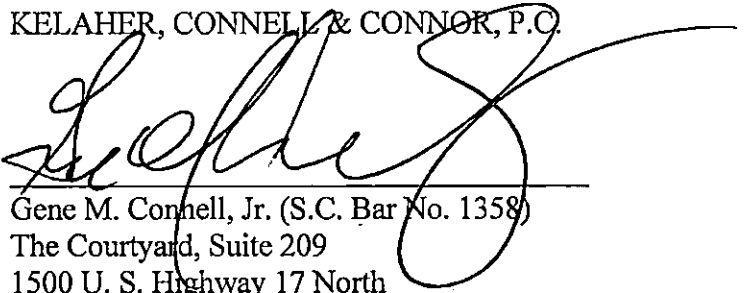
Appellant is aware of no authority that costs are allowed when Appellant voluntarily dismissed its appeal with prejudice. The cases which have allowed costs and attorney's fees are cases in which an appeal is affirmed or reversed and, in those cases, only when ordered by the Appellate Court.

Further, Respondent should not be entitled to an attorney's fee of \$1,500.00 because Respondent has not had to do anything yet in this appeal. In fact, Appellant filed a Notice of Appeal, requested and was granted an extension of time to file its Initial Brief and Designation of Matter, and then decided to voluntarily dismiss the appeal. Thus, there are no circumstances which allow Respondent to be awarded attorney's fees in this case. Normally, attorney's fees are awarded when this Court affirms or reverses a judgment. See *Taylor v. Medenica*, 332 S.C. 324, 504 S.E.2d 590 (S.C. 1998) (plaintiff was entitled to recover \$1,000.00 attorney's fee and \$81.66 for costs of printing their brief upon Supreme Court's affirmance of judgment.)

Accordingly, Appellant Black Bear Global, LLC moves the Court for an Order denying costs to Respondent because Appellant voluntarily dismissed the appeal.

Respectfully submitted

KELAHER, CONNELL & CONNOR, P.C.



Gene M. Connell, Jr. (S.C. Bar No. 1358)  
The Courtyard, Suite 209  
1500 U. S. Highway 17 North  
Post Office Drawer 14547  
Surfside Beach, South Carolina 29587-4547  
(843) 238-5648 (phone)  
(843) 238-5050 (facsimile)  
gconnell@classactlaw.net  
**Attorneys for Appellant**

September 10, 2020

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

**RECEIVED**

SEP 14 2020

APPEAL FROM Horry COUNTY  
Court of Common Pleas

**SC Court of Appeals**

The Honorable Larry B. Hyman, Jr., Circuit Court Judge

CASE NO. 2016-CP-26-05916

Green Lotus Sports, LLC. .... Respondent

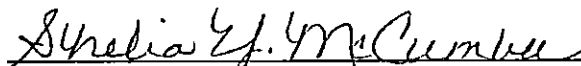
vs.

Black Bear Global, LLC ..... Appellant

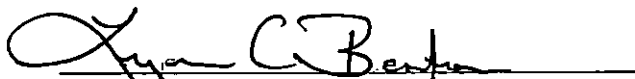
PROOF OF SERVICE

PERSONALLY appeared before me, Shelia Y. McCumbee, who being duly sworn, deposes and says that she is an employee of Kelaher, Connell & Connor, P.C., and that she has served a copy of the **Appellant's Return to Respondent's Motion for Costs** on the Respondent, on the 10<sup>th</sup> day of September, 2020, by depositing a copy of same in the United States Mail, postage prepaid, to:

Natale Fata, Esquire  
Nate Fata, P.A.  
P.O. Box 16620  
Surfside Beach, SC 29587

  
Shelia Y. McCumbee

SWORN AND SUBSCRIBED before me,  
this 10<sup>th</sup> day of September, 2020.

  
Notary Public for South Carolina  
My Commission Expires: 1-22-24

KELAHER, CONNELL & CONNOR, P.C.

ATTORNEYS AT LAW

SUITE 209

THE COURTYARD

1500 U.S. HIGHWAY 17 NORTH

P.O. DRAWER 14547

SURFSIDE BEACH, SOUTH CAROLINA 29587

EDWARD T. KELAHER\*  
GENE M. CONNELL, JR.  
L. SIDNEY CONNOR, IV  
LISA POE DAVIS  
\*OF COUNSEL

AREA CODE 843  
238-5648  
FAX: 238-5050

September 10, 2020

**RECEIVED**  
SEP 14 2020  
SC Court of Appeals

Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211

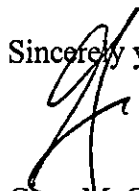
Re: *Green Lotus Sports, LLC v. Black Bear Global, LLC, et al.*  
Appellate Case No. 2020-000852  
C/A No. 2016-CP-26-05916  
Our File No. 2016-0188C

Dear Ms. Kitchings:

Enclosed please find an original and seven (7) copies of Appellant's Return to Respondent's Motion for Costs and Proof of Service in the above-captioned matter. Please return a filed copy in the self-addressed, stamped envelope enclosed for your convenience.

By copy of this letter, we hereby serve a copy of the above-stated documents on Respondent through counsel of record.

Sincerely yours,



Gene M. Connell, Jr.

GMC,Jr.:sm  
Enclosures

cc w/enc.: Nate Fata, Esquire

KELAHER, CONNELL & CONNOR, P.C.

Attorneys at Law  
Post Office Drawer 14547  
Surfside Beach, SC 29587



KELAHER CONNELL & CONNOR, P.C.  
Attorneys at Law  
P. O. Drawer 14547  
Surfside Beach, SC 29587-4547

**RECEIVED**

SEP 14 2020

**SC Court of Appeals**

Jemy Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211

