REVERSED.

HOWARD, J., concurs.

HEARN, C.J., concurs in a separate opinion.

HEARN, C.J.: I concur but write separately to explain why I believe the decision by the arbitrator not to award attorney fees to the prevailing party was mere error and not manifest disregard of the law. Although vacating arbitration awards should not be taken lightly, manifest disregard of the law is established when the arbitrator recognizes the law and refuses to apply it. In South Carolina, the best definition of when this ground applies comes from this court's opinion in Harris v. Bennett, 332 S.C. 238, 246, 503 S.E.2d 782, 787 (Ct. App. 1998), stating:

> We cannot say the arbitrators appreciated the existence of a clearly governing legal principle and decided to ignore it. See, e.g., Marshall v. Green Giant Co., 942 F.2d 539 (8th Cir.1991) ("manifest disregard of the law" which allows court to intrude upon arbitrator's decision exists when arbitrator commits error that was obvious and capable of being instantly perceived by average person qualified to be an arbitrator; "disregard" implies the arbitrator appreciates the existence of a clearly governing legal principle, but decides to ignore or pay no attention to it).

Under our statutory scheme, the award of fees to the prevailing party in a mechanic's lien action is automatic and mandatory. S.C. Code Ann. §§ 29-5-10 & 20 (1991 & Supp. 2001); T.W. Morton Builders, Inc. v. von Buedingen, 316 S.C. 388, 402-03, 450 S.E.2d 87, 95 (Ct. App. 1994). Under the statute as amended in 1999, the method of determining the prevailing party reads in part:

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issue of the appropriate amount of attorney's fees to the arbitrator.