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Nov 17 2022

SC Court of Appeals

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM COURT OF COMMON PLEAS
RICHLAND COUNTY

Appeal No: 2019-000148

Tymika Jones Alston and Harold Alston individually
And as Parents and Guardians on behalf of their minor child, J.A.,..... Appellants,

v.

Donald Richard Torres d/b/a DMT Construction Co., Inc.,
L&L Electric, Inc. and Eduardo Moreno d/b/a
E.S. Moreno Construction, Defendants,
Of which Donald Richard Torres d/b/a/ DMT
Construction Co., Inc., is theRespondent.

MOTION FOR COSTS

Pursuant to Rules 222, 240 and 260(b), SCACR, Respondent Donald Richard Torres d/b/a DMT Construction Co., Inc. hereby moves this Court to award appellate costs. Rule 222, SCACR, provides, in pertinent part, that “[u]nless 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.” The parties did not reach a settlement agreement as to the substance of the appeal in this matter but, instead, Plaintiffs agreed to dismiss their appeal just days before oral argument, with the agreed understanding that the claim of their minor son, J.A., was still viable. Even if the parties had reached a settlement, pursuant to Rule 260(b), an “agreement may contain a provision altering the costs to be assessed under Rule 222 and/or other settlement terms

...” Here, as there is no settlement agreement between Appellants and Respondent, there has been no agreement as to the assessment of appellate costs.

As such, and since Appellants’ appeal has been dismissed and remitted to the lower court, Respondent is entitled to and hereby moves for appellate costs in the amount of \$2,622.54, as provided for under Rule 222. Appellate counsel’s Affidavit of Costs is attached hereto.

November 17, 2022

Respectfully submitted,

MCANGUS GOUDELICK & COURIE, LLC



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*Counsel for Respondent Donald Richard Torres
d/b/a DMT Construction Co., Inc.*

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L&L Electric, Inc. and Eduardo Moreno d/b/a
E.S. Moreno Construction, Defendants,

Of which Donald Richard Torres d/b/a/ DMT
Construction Co., Inc., is theRespondent.

PROOF OF SERVICE

I certify that on the 17th day of November 2022, I served Respondent's **Motion for Costs** on Tymika Jones Alston and Harold Alston individually and as Parents and Guardians on behalf of their minor child by emailing a copy of it to their attorneys of record as follows:

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*Attorneys for Respondent Donald Richard Torres
d/b/a DMT Construction Co., Inc.*



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Reply To

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November 17, 2022

VIA S.C. COURTS E-FILING & U.S. Mail

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

RE: Tymika Jones Alston and Harold Alston individually and as Parents and Guardians on behalf of their minor child Jayden Alston vs. Donald Richard Torres d/b/a DMT Construction, Co., Inc., L&L Electric Inc. and Eduardo Moreno d/b/a E.S. Moreno Construction
Civil Action No.: 2012-CP-40-06895R (Richland)
Carrier Claim No.: MPI80262
MGC File No.: 20362.11008
Appeal No.: 2019-000148

Dear Ms. Kitchings:

Enclosed please find the original of Respondent's Motion for Costs, and the Proof of Service in the above-referenced matter. We are serving counsel of record via email only. Pursuant to the Supreme Court's Order, 2021-08-25-03, Reduced Number of Copies Required in Appellate Matters, and Rule 267(f), SCACR, only one copy of this Motion is being submitted.

We will send our firm's check in the amount of \$50 for filing the motion via U.S. Mail with a copy of this letter.

Please do not hesitate to contact the undersigned if the Court requires additional copies and/or if you have any questions.

Very truly yours,

Helen F. Hiser

Enclosures

cc: Donald Gist, Esq. (via email)
Arron Wallace, Esq. (via email)