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**Apr 12 2023**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

R. Markley Dennis, Jr. Circuit Court Judge

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Appellate Case No. 2018-001766

Charleston Development Company, LLC, Charleston Housing Company, LLC and  
NotSo Hostel, LLC,

Appellants,

v.

Younesse Alami, Simon M. Adell, Matthew Anderson, Matthew Asher, Daniel Baker, Marie Baker, Matthew and Christina Bare, Andre Bauer, Peter Bierce, Brandon Blount, Barbara Brass, Richard T. Brewer, Sigrid Anne Eilertson, Reginald P. Brown IV, Mary Cahill, Ryan Cockrell, Kevin and Virginia Conlon, Anne Marie Crevar, Christina Cross, Darryl J. Damico, Labar Daniel, Stephen Darwak, Lindsay Davenport, Mary Dickerson, Maxwell Streeter, Kathleen Dougherty, David Dressman, Anna Dressman, Michael Elder, Christopher Scott Farley, Michele Ghastin, Timnah Giller, Virginia Geller, Ryan Gilreath, Sonya Gilreath, Kimberly Glenn, Shaun Halsor, Josephine Rex, Arthur Halvorson, Andrew Halvorson, Linda Hancock, Laura Hyatt, Mike Hartel, Nathan Herring, James Hicks, Jr., Laurie Hicks, Preston G. Hipp, Colin Jones, Matthew F. Jones, Robert C. Jones, Robin Joseph, Molly Keeler, John Kenny, Mandi Walters, Abigail King, Aaron Kless, Laurie Kramer, Robert Kramer, Allison Kreutzer, Benjamin Levitt, Richard Levitt, Jesse Lutz, Nikou Manouchehri, Thomas Naselaris, Zoe Naselaris, Beau O'Steen, Cori O'Steen, Lance Parr, Brandon Perdue, Amanda Lee Raymer, Hadassah Rothenberg, Daniel Ryan, Kimberly Bowlin, Kevin Schnittker, Ginger Scofield, Inderjit Singh, Avtar Singh, Alecia Stevens, Lee Stevens, Justin Swan, Merrick Teichman, John Van Vlack, Jr., William Waterhouse, Jennifer Waterhouse, Anne Wohlfeil, Bryan Young, AJB Trust, Anthony & Jacqueline Bradley, Trustees, Hartshorn Family Trust, Helene Kenny / Bridget Denny Revocable Trust, Wilhelmina M. Wieters Life Estate Childrens Trust, 33 Bogard Street LLC, 249 Cumming, LLC, 253 Coming Street LLC, 259 East Bay LLC, 259 East Bay 10 B LLC, 272 D Coming St. LLC, Café International, Inc., Corner At Old Canton, LLC, Geer Interests LLC, Kit Properties LLC, Lambert-Weiss LLC, The Naws LLC, New Lease Capital LLC, One Henrietta LLC, Periwinkle Partners, LLC, Porch Properties LLC, Westbury Properties, LLC, and Westendorff Hardware LLC,

Of whom,

Younesse Alami, Simon M. Adell, Matthew Anderson, Matthew Asher, Andre Bauer, Peter Bierce, Brandon Blount, Reginald P. Brown IV, Mary Cahill, Ryan Cockrell, Kevin and Virginia Conlon, Anne Marie Crevar, Darryl J. Damico, Stephen Darwak, Lindsay Davenport, Kathleen Dougherty, David Dressman, Anna Dressman, Michael Elder, Christopher Scott Farley, Michele Ghastin, Ryan Gilreath, Sonya. Gilreath, Shaun Halsor, Josephine Rex, Laura Hyatt, Nathan Herring, James Hicks, Jr., Laurie Hicks, Preston G. Hipp, Colin Jones, Matthew F. Jones, Robert C. Jones, Robin Joseph, Molly Keeler, John Kenny, Abigail King, Aaron Kless, Laurie Kramer, Robert Kramer, Allison Kreutzer, Jesse Lutz, Thomas Naselaris, Zoe Naselaris, Beau O'Steen, Cori O'Steen, Lance Parr, Brandon Perdue, Hadassah Rothenberg, Daniel Ryan, Kimberly Bowlin, Kevin Schnittker, Ginger Scofield, Alecia Stevens, Justin Swan, Merrick Teichman, John Van Vlacic, Jr., William Waterhouse, Jennifer Waterhouse, Anne Wohlfeil, Bryan Young, Helene Kenny / Bridget Denny Revocable Trust, 259 East Bay LLC, 259 East Bay 10 B LLC, Corner At Old Canton, LLC, Kit Properties LLC, The Naws LLC, One Henrietta LLC, Periwinkle Partners, LLC, Porch Properties LLC, Westbury Properties, LLC, and Westendorff Hardware LLC, are

Respondents.

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AMENDED MOTION FOR ATTORNEY'S FEES  
PURSUANT TO RULE 222(b)

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COMES NOW RESPONDENTS, Matthew Asher, Anne Marie Crevar, Stephen Darwak, and Ann Wohlfeil, through undersigned counsel, who hereby file this Amended Motion for Attorney's Fees, pursuant to Rule 222(b), SCACR and Re: Attorney's Fees Under Rules 222 and 242 of the South Carolina Appellate Court Rules, Or. No. 2018-01-17-02 (S.C. Sup. Ct. January 2018).

In support of this Motion, the undersigned states that he represented these moving respondents in the circuit court and on appeal, that all respondents prevailed on Motions for Summary Judgment and on appeal, Appellants' Petition for Certiorari was denied, and the remittitur was issued March 8, 2023.

The undersigned did not incur costs on appeal as set forth in Rule 222(b)(1)-(5) that were

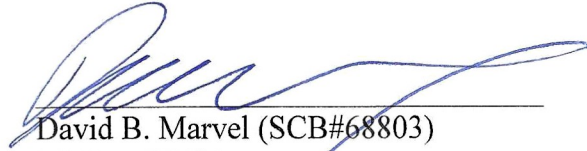
separate and distinct from the costs incurred by counsel for other Respondents, and therefore only seeks an Order awarding attorney's fees against Charleston Development Company, LLC, Charleston Housing Company, LLC and NotSo Hostel, LLC, joint and several, in the amount of \$2,500 for each party, for a total of \$10,000. The attorney's fees incurred in this action far exceed the amount of the award requested or available under Rule 222(b).

Respondents' original Motion for Attorney's fees was filed on March 23, 2023, but deemed deficient by the Clerk of Court due to counsel's failure to include a Notarized Statement of Costs. Rule 222(d), SCACR states "[i]f costs are being sought under (b) above, the motion shall be accompanied by a sworn, itemized statement of costs incurred" (emphasis added). The Rule does not require any sworn statement relating to the mandatory attorney's fee award under Rule 222(b). An attorney's fee award is not included in an award of "costs", as that term is construed under South Carolina law. *See e.g., Belton v. State*, 339 S.C. 71, 73, 529 S.E.2d 4, 5 (2000) (citing *Steinert v. Lanter*, 284 S.C. 65, 325 S.E.2d 532 (1985), *Black v. Roche Biomedical Laboratories*, 315 S.C. 223, 433 S.E.2d 21 (Ct.App.1993)). Nonetheless, upon discovering that a deficiency letter had been issued by the Clerk of Court, the undersigned filed a Motion for Leave to File an Amended Motion for Attorney's Fees Out of Time on April 11, 2023. A Notarized Statement of Costs is attached hereto as Exhibit A.

For all of these reasons and to be argued at any hearing on this matter, Respondents hereby respectfully request that this Honorable Court GRANT the Motion for Attorney's Fees Pursuant to Rule 222(b), SCACR.

[signature block appears on the following page]

RESPECTFULLY SUBMITTED:



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***Attorney for Matthew Asher, Anne Marie Crevar,  
Stephen Darwak, and Ann Wohlfeil***

April 12, 2023  
Soddy Daisy, Tennessee

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PROOF OF SERVICE

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I hereby certify that on April 12, 2023, I served a copy of Respondents' Amended Motion for Attorney's Fees pursuant to Rule 222(b) on all counsel of record, via email.

/s/ David B. Marvel  
David B. Marvel  
*Attorney for Matthew Asher, Anne Marie Crevar,  
Stephen Darwak, and Ann Wohlfeil*