

THE STATE OF SOUTH CAROLINA
In The Supreme Court

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AUG 13 2013

APPEAL FROM CHARLESTON COUNTY
Roger M. Young, Circuit Court Judge

S.C. Supreme Court

Opinion No. 27252
(S.C. S.Ct. filed May 15, 2013)

The Town of Hollywood, Appellant-Respondent,

v.

William Floyd a/k/a Jeff Floyd, Troy Readan and
Edward McCracken a/k/a Eddie McCracken, Respondents-Appellants.

**REPLY MEMORANDUM IN SUPPORT OF
MOTION FOR COSTS ON APPEAL**

The Appellant-Respondent Town of Hollywood has filed a motion for costs on appeal in the amount of \$7,566.14 because this Court's published opinion affirmed the claims on which the Town prevailed in the lower court and reversed the claim on which the Town had lost in the lower court. The net effect was a complete victory on all claims by the Town, and as a result, the Town is a

prevailing party entitled to an award of costs on appeal in accordance with Rule 222(b), SCACR.

The Respondents-Appellants object to an award of costs on appeal on the basis that they are "unjust." This objection is without merit. In support, the Respondents-Appellants re-argue the unfairness of the Town's conduct, which goes to the merits of the suit -- issues on which they did not prevail. Even if there may be a weighing of equities where one party has clearly prevailed on appeal, the equities are not in the favor of the Respondents-Appellants here.

The Respondents-Appellants also object to an award of costs on appeal by arguing that the Town's defense costs are underwritten by the taxpayers of South Carolina. That is not a valid argument. There is no provision in Rule 222 or in any case law to the effect that the government cannot claim costs on appeal. To the contrary, the government must act as good stewards of tax dollars, and if appeal costs may be recovered from the party whose litigation caused those appeal costs to be incurred, then the government should recover such costs so as not to needlessly waste taxpayer dollars.

Finally, the Respondents-Appellants complain that the Statement of Costs on Appeal does not identify the number of pages and copying rate for the preparation of the Record on Appeal and final briefs. In reply, the Town has attached hereto the invoices from Copy Pick-Up, the copy shop which prepared the Record on Appeal and final briefs, to show the copying expenses incurred by the Town. The

Town would further note that the Respondents-Appellants are the ones who designated Plaintiff Exhibits 23 and 53 and Defendant Exhibit 5 for inclusion in the Record on Appeal, and those exhibits consisted of 96 pages of color photographs that were costly to reproduce in the Record on Appeal. Therefore, the Respondents-Appellants should not complain about the cost of the Record on Appeal. Each copy of the Record on Appeal had a total of 1208 pages, including covers, the index, and certificates. A total of 18 copies of the Record on Appeal were prepared, which includes 21,744 copies of which 1,728 were color copies. The total cost of \$3,351.59 for the Record on Appeal is therefore reasonable and should be awarded.

For the foregoing reasons, the Court is requested to grant costs on appeal against the Respondents-Appellants in the amount of \$7,566.14.

DAVIDSON & LINDEMANN, P.A.

BY: 

ANDREW F. LINDEMANN
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Post Office Box 8568
Columbia, South Carolina 29202
(803) 806-8222

*Counsel for Appellant-Respondent
Town of Hollywood*

Columbia, South Carolina

August 13, 2013

COPY PICKUP INC.
1830 ROSEWOOD DRIVE
COLUMBIA, SC 29205

Invoice

Date 6/4/2012
Invoice # 3872

Bill To
DAVIDSON & LINDEMANN PA
1611 DEVONSHIRE DRIVE
COLUMBIA, SC 29204

Ship To

P.O. #
Terms

Ship Date 6/4/2012
Due Date 6/4/2012
Other

Item	Description	Qty	Price	Amount
SALES	2 sets of 3 volumes for 103.8743 attn Jennifer	1200 pgs	517.82	517.82T

2 copies of Record
(1) Goldstein
(2) AFL working copy

Subtotal	\$517.82
Sales Tax (7.0%)	\$36.25
Total	\$554.07
Payments/Credits	\$0.00
Balance Due	\$554.07

COPY PICKUP INC.
COPYPICKUP@COPYPICKUP.COM
<http://www.copypickup.com>

803-799-2679
Fax 803-252-2431

COPY PICKUP INC.
 1830 ROSEWOOD DRIVE
 COLUMBIA, SC 29205

Invoice

Date 7/3/2012
 Invoice # 3996

Bill To:

DAVIDSON & LINDEMANN PA
 1611 DEVONSHIRE DRIVE
 COLUMBIA, SC 29204

Ship To:

P.O. #
 Terms

Ship Date 7/3/2012
 Due Date 7/3/2012
 Other

Item	Description	Qty	Price	Amount
SALES	15 SETS X 3 FILE 103-8743 HOLLYWOOD ROA JENNIFER Record on Appeal	15 Sets p 1,208 pgs total	2,462.50	2,462.50
			Subtotal	\$2,462.50
			Sales Tax (7.0%)	\$172.38
			Total	\$2,634.88
			Payments/Credits	\$0.00
			Balance Due	\$2,634.88

COPY PICKUP INC.
 COPYPICKUP@COPYPICKUP.COM
<http://www.copypickup.com>

803-799-2679
 Fax 803-252-2431

COPY PICKUP INC.
 1830 ROSEWOOD DRIVE
 COLUMBIA, SC 29205

Invoice

Date 7/9/2012
 Invoice # 3999

Bill To:

DAVIDSON & LINDEMANN PA
 1611 DEVONSHIRE DRIVE
 COLUMBIA, SC 29204

Ship To:

P.O. #
 Terms

Ship Date 7/9/2012
 Due Date 7/9/2012
 Other

Item	Description	Qty	Price	Amount
SALES	3 SETS UN BOUND FILE 103-8743 HOLLYWOOD <i>Records on appeal unbound copy</i>	<i>1,208 Pg.</i>	152.00	152.00T

Subtotal	\$152.00
Sales Tax (7.0%)	\$10.64
Total	\$162.64
Payments/Credits	\$0.00
Balance Due	\$162.64

COPY PICKUP INC.
 COPYPICKUP@COPYPICKUP.COM
<http://www.copypickup.com>

803-799-2679
 Fax 803-252-2431

COPY PICKUP INC.
 1830 ROSEWOOD DRIVE
 COLUMBIA, SC 29205

Invoice

Date 7/9/2012
 Invoice # 4001

Bill To

DAVIDSON & LINDEMANN PA
 1611 DEVONSHIRE DRIVE
 COLUMBIA, SC 29204

Ship To

P.O. #
 Terms

Ship Date 7/9/2012
 Due Date 7/9/2012
 Other

Item	Description	Qty	Price	Amount
SALES	22 <u>RESPONDENTS BRIEF OF APPELLANT FILE</u> 103-8743		74.00	74.00T
SALES	22 <u>REPLY BRIEF OF APPELLANT</u>		71.00	71.00T
103.8743				
			Subtotal	\$145.00
			Sales Tax (7.0%)	\$10.15
			Total	\$155.15
			Payments/Credits	\$0.00
			Balance Due	\$155.15

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<http://www.copypickup.com>

803-799-2679
 Fax 803-252-2431

COPY PICKUP INC.
 1830 ROSEWOOD DRIVE
 COLUMBIA, SC 29205

Invoice

Date 7/9/2012
 Invoice # 4002

Bill To:
 DAVIDSON & LINDEMANN PA
 1611 DEVONSHIRE DRIVE
 COLUMBIA, SC 29204

Ship To:

P.O. #
 Terms

Ship Date 7/9/2012
 Due Date 7/9/2012
 Other

Item	Description	Qty	Price	Amount
SALES	103.8743 attn Jennifer 22 bound copies of appellant brief /// 18 bound supplemental records (1 unbound) Town of Hollywood <i>final appellant brief & Supp. ROA</i>		153.08	153.08
			Subtotal	\$153.08
			Sales Tax (7.0%)	\$10.72
			Total	\$163.80
			Payments/Credits	\$0.00
			Balance Due	\$163.80

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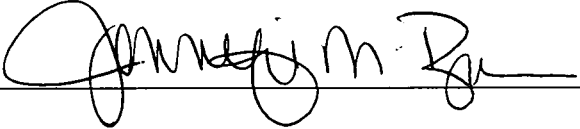
CERTIFICATE OF SERVICE

The undersigned employee of Davidson & Lindemann, P.A., attorneys for the Appellant-Respondent, Town of Hollywood, does hereby certify that service of the **Reply Memorandum in Support of Motion for Costs on Appeal** in the above-captioned matter was made upon all counsel of record by placing copies in the United States Mail, first class postage prepaid, at the below listed addresses clearly indicated on said envelopes this the 13th day of August 2013:

Thomas R. Goldstein, Esquire
Belk, Cobb, Infinger & Goldstein, P.A.
Post Office Box 71121
Charleston, South Carolina 29415-1121

Hugh W. Buyck, Esquire
Buyck & Sanders, LLC
Post Office Box 2424
Mount Pleasant, South Carolina 29464

Katie F. Monoc, Esquire
Pratt-Thomas Walker, P.A.
Post Office Drawer 22247
Charleston, South Carolina 29413



A handwritten signature in black ink, appearing to read "James M. Bu", is written over a horizontal line.