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May 02 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Marvin H. Dukes III, Master-in-Equity

Appellate Case No. 2020-001446
Trial Court Case No. 2020-CP-07-00155

South Carolina CVS Pharmacy, L.L.C.,.....Appellant,

v.

KPP Hilton Head, LLC,.....Respondent.

APPELLANT’S MOTION FOR COSTS

YOU WILL PLEASE TAKE NOTICE that Appellant South Carolina CVS Pharmacy, L.L.C. (“CVS”) hereby move the Court, pursuant to Rule 222, SCACR, to tax Respondent KPP Hilton Head, LLC (“KPP”) for the recoverable fees and costs incurred by CVS in this appeal. This Motion is made on the following grounds:

1. The Master-in-Equity (“Master”) entered an order granting summary judgment in favor of (“KPP”) and denying CVS’s request for summary judgment on August 27, 2020.
2. The Master entered an order denying CVS’s Motion for Reconsideration on October 20, 2020.
3. Appellant filed a Notice of Appeal of those orders on October 29, 2020.
4. On July 26, 2023, the Court of Appeals entered an order reversing the Master’s orders.
5. KPP filed a Petition for Rehearing with the Court of Appeals on August 9, 2023.
6. The Court of Appeals issued an order denying the Petition for Rehearing on August 18, 2023.

7. Respondent filed a Petition for Writ of Certiorari with the Supreme Court on September 18, 2023.
8. The Supreme Court entered an order denying the Petition for Writ of Certiorari on April 16, 2024.
9. The Court of Appeals issued the remittitur on April 17, 2024.

Pursuant to Rule 222, SCACR, CVS requests the Court issue an order assessing costs and fees against KPP because the decision of the Master was reversed by the Court of Appeals and the Supreme Court denied KPP's Petition for a Writ of Certiorari. CVS submits the attached Itemized Statement of Costs in further support of this Motion.

s/Walter H. Cartin

Walter H. Cartin (SC Bar #78405)
Katon E. Dawson, Jr. (SC Bar #101167)
J. Evan Phillips (SC Bar #103679)
Parker Poe Adams & Bernstein LLP
Post Office Box 1509 (29202)
1221 Main Street, Suite 1100
Columbia, SC 29201
Telephone: (803) 255-8000
waltcartin@parkerpoe.com
katondawson@parkerpoe.com
evanphillips@parkerpoe.com

*Attorneys for Appellant
South Carolina CVS Pharmacy, L.L.C.*

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PROOF OF SERVICE

The undersigned hereby certifies that on May 2, 2024, the **Appellant’s Motion for Costs** and **Appellant’s Itemized Statement of Costs** was served on all counsel of record via email containing the above-referenced documents to counsels’ individual AIS email addresses as follows:

P. Benjamin Zuckerman (SC Bar #7019)
Berger Singerman, LLP
350 Las Olas Blvd., S. 1000
Fort Lauderdale, FL 33301
Telephone: (954) 525-9900
bzuckerman@bergersingerman.com

Thomas A. Pendarvis (SC Bar #064918)
Pendarvis Law Offices, P.C.
710 Boundary St., Suite A-1
Beaufort, SC 29901
Telephone: (843) 524-9500
Thomas@Pendarvislaw.com

*Attorneys for Respondent
KPP Hilton Head, LLC*

[Signature Page Follows]

s/Walter H. Cartin

Walter H. Cartin (SC Bar #78405)
Katon E. Dawson, Jr. (SC Bar #101167)
J. Evan Phillips (SC Bar #103679)
Parker Poe Adams & Bernstein LLP
Post Office Box 1509 (29202)
1221 Main Street, Suite 1100
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evanphillips@parkerpoe.com

Attorneys for Appellant
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J. Evan Phillips
Associate
t: 803.253.6845
f: 803.255.8017
evanphillips@parkerpoe.com

May 2, 2024

VIA E-MAIL [ctappfilings@sccourts.org]

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
1220 Senate Street
Columbia, SC 29201

Re: South Carolina CVS Pharmacy, L.L.C. vs. KPP Hilton Head, LLC
Trial Court Case No. 2020-CP-07-00155
Appellate Case No. 2020-001446

Dear Mrs. Kitchings:

Enclosed please Appellant South Carolina CVS Pharmacy, L.L.C.'s Motion for Costs, Itemized Statement of Costs, and Proof of Service. By copy of this correspondence, we are serving all counsel of record with a copy of the attached documents. Should you have any questions regarding this matter, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink that reads 'J. Evan Phillips'.

J. Evan Phillips

Enclosures

cc: P. Benjamin Zuckerman (bzuckerman@bergersingerman.com) (via E-mail only)
Thomas A. Pendarvis (thomas@pendarvislaw.com) (via E-mail only)