



LINDEMANN

Law Firm, P.A.

Telephone (803) 881-8920

Facsimile (803) 862-1181

5 Calendar Court, Suite 202 (29206)

Post Office Box 6923

Columbia, South Carolina 29260

RECEIVED

May 29 2024

S.C. SUPREME COURT

ANDREW F. LINDEMANN*

Direct Dial: (803) 881-8921

Email: andrew@ldlawsc.com

**Also Admitted in North Carolina*

May 29, 2024

Via Email Only

The Honorable Patricia A. Howard

Clerk of Court

South Carolina Supreme Court

Email: supctfilings@sccourts.org

RE: John M. Burgess v. Katherine Hunter
Appellate Case Number: 2022-000661
Civil Action Number: 2017-CP-39-0428
Claim Number: 21379503
Our File Number: 307.20053

Dear Ms. Howard:

Pursuant to Section (b)(2) the Supreme Court's Order Methods of Electronic Filing and Service Under Rule 262 of the South Carolina Appellate Court Rules (as amended April 26, 2024), please find enclosed for filing the **Motion for Costs on Appeal, Memorandum in Support of Motion for Costs on Appeal**, and the **Statement of Costs on Appeal** with regard to the above referenced appeal. By copy of this letter, I am serving copies on all counsel of record by email only pursuant to Section (d)(1) of the same Supreme Court Order.

My firm's \$50.00 check for the filing fee will be mailed to the Court via U.S. Mail. If you have any questions, please advise. Thank you for your assistance.

Sincerely,

LINDEMANN LAW FIRM, P.A.

Andrew F. Lindemann

AFL/jmb
Enclosures

cc: Stephen N. Garcia, Esquire (*w/ Enclosures, Via Email Only*)

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM PICKENS COUNTY
Edward W. Miller, Circuit Court Judge

Appellate Case No. 2022-000661
Case No. 2017-CP-39-0428

John M. Burgess,..... Petitioner,

v.

Katherine C. Hunter, Respondent.

MOTION FOR COSTS ON APPEAL

The Respondent Katherine C. Hunter, moves this Court, pursuant to Rule 222(d) and Rule 242(j), SCACR, to tax costs on appeal in the amount of \$5,760.51 against the Petitioner John M. Burgess.

This motion is based on the grounds as set forth in the supporting memorandum filed herewith.

The requested costs on appeal are set forth in the Statement of Costs on Appeal which is filed herewith.

LINDEMANN LAW FIRM, P.A.

BY: s/ Andrew F. Lindemann
ANDREW F. LINDEMANN #13030
5 Calendar Court, Suite 202
Post Office Box 6923
Columbia, South Carolina 29260
(803) 881-8920

*Counsel for Respondent
Katherine C. Hunter*

May 29, 2024

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM PICKENS COUNTY
Edward W. Miller, Circuit Court Judge

Appellate Case No. 2022-000661
Case No. 2017-CP-39-0428

John M. Burgess,..... Petitioner,

v.

Katherine C. Hunter,..... Respondent.

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

By Opinion No. 2024-MO-010 filed April 24, 2024, the South Carolina Supreme Court affirmed in result. As a result, the decision of the South Carolina Court of Appeals was affirmed which decision in turn affirmed the trial court's rulings.

Rule 222(a), SCACR, provides 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." Rule 222(a),

SCACR. Similarly, Rule 242(j)(1), SCACR, provides that “[u]nless otherwise ordered by the Supreme Court or agreed to by the parties, costs shall be assessed against the appellant if the decision of the Supreme Court has the effect of affirming the judgment of the lower court or tribunal which was reviewed by the Court of Appeals.” Rule 242(j)(1), SCACR.

The Respondent Katherine C. Hunter, therefore, qualifies as the prevailing party in this appeal. As the prevailing party, the Respondent is entitled to an award of costs on appeal in accordance with Rule 222(b), SCACR, and Rule 242(j), SCACR, which includes the costs of printing the Final Brief of Respondent in the Court of Appeals, the costs of printing the Final Brief of Respondent in the Supreme Court, as well as a copy of the trial transcript. The Respondent is also entitled to attorneys’ fees in the amount of \$5,000.00, which is an amount set by order of the Supreme Court, pursuant to Rule 222(b), SCACR, and Rule 242(j)(2), SCACR.¹

The filing of this motion is timely. The Remittitur was filed on May 14, 2024. This motion is filed within fifteen days of the issuance of the Remittitur, as required by Rule 222(d) and Rule 242(j)(4), SCACR.

As a result, the Respondent Katherine C. Hunter moves this Court, pursuant to Rule 222(d) and Rule 242(j), SCACR, for an award of costs on appeal in the

¹ This amount includes attorney’s fees of \$2,500 allowed for the appeal in the Court of Appeals and an additional \$2,500 allowed for the appeal in the Supreme Court.

amount of \$5,760.51. The requested costs on appeal are set forth in the Statement of Costs on Appeal, which is also filed herewith.

Respectfully submitted,

LINDEMANN LAW FIRM, P.A.

BY: s/ Andrew F. Lindemann
ANDREW F. LINDEMANN #13030
5 Calendar Court, Suite 202
Post Office Box 6923
Columbia, South Carolina 29260
(803) 881-8920

*Counsel for Respondent
Katherine C. Hunter*

May 29, 2024

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM PICKENS COUNTY
Edward W. Miller, Circuit Court Judge

Appellate Case No. 2022-000661
Case No. 2017-CP-39-0428

John M. Burgess,..... Petitioner,

v.

Katherine C. Hunter,..... Respondent.

STATEMENT OF COSTS ON APPEAL

The Clerk of the South Carolina Supreme Court is requested to tax the following costs against the Petitioner John M. Burgess:

COSTS AND FEES TAXABLE UNDER RULE 222(d), SCACR	NO. OF PAGES	RATE	REQUESTED	ALLOWED (For Court use only)
Cost of Printing Court of Appeals Final Brief of Respondent:	34 pages	\$.27	\$ 102.60	
Cost of Printing Supreme Court Final Brief of Respondent:	33 pages	\$.18	\$ 63.91	
Attorney's Fee Provided By Rule 222(b), SCACR:			\$2,500.00	
Attorney's Fee Provided By Rule 242(j)(2), SCACR:			\$2,500.00	
Other (specify and explain): Trial Transcript			\$ 594.00	
TOTAL			\$5,760.51	

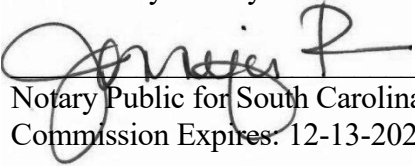
I, Andrew F. Lindemann, do swear that the foregoing costs are correct and were necessarily incurred in this action. A copy of this statement was served upon counsel for the Appellants by email only pursuant to Section (d)(1) of the Supreme Court's Order RE: Methods of Electronic Filing and Service Under Rule 262 of the South Carolina Appellate Court Rules (As Amended April 24, 2024).



ANDREW F. LINDEMANN

Counsel for Respondent

Sworn to and subscribed before me this
the 29th day of May 2024.



(SEAL)
Notary Public for South Carolina
Commission Expires: 12-13-2029

Approved: _____
CLERK

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM PICKENS COUNTY
Edward W. Miller, Circuit Court Judge

Appellate Case No. 2022-000661
Case No. 2017-CP-39-0428

John M. Burgess,..... Petitioner,

v.

Katherine C. Hunter, Respondent.

CERTIFICATE OF SERVICE

Pursuant to Section (d)(1) of the Supreme Court’s Order RE: Methods of Electronic Filing and Service Under Rule 262 of the South Carolina Appellate Court Rules (As Amended April 24, 2024), the undersigned employee of Lindemann Law Firm, P.A., counsel for the Appellant, does hereby certify that service of **Motion for Costs on Appeal, Memorandum in Support of Motion for Costs on Appeal**, and the **Statement of Costs on Appeal** in the above-captioned matter was made upon all counsel of record by email only this the 29th day of May, 2024 as follows:

Stephen N. Garcia, Esquire
Garcia Law, LLC
Email: stephen@scgarcialaw.com

s/ Andrew F. Lindemann
