

The South Carolina Court of Appeals

Danny Rose, Respondent,

v.

Robert Rose, Gloria Rose-Ruch, Mary Margaret Doll
Rose, and John Does 1-99, Defendants,

Of whom Robert Rose, Gloria Rose-Ruch, and Mary
Margaret Doll Rose are the Appellants.

Appellate Case No. 2023-001740

ORDER

On December 28, 2023, we dismissed this appeal because the underlying orders were interlocutory and not immediately appealable. On February 16, 2024, we denied Appellant's petition for rehearing. Appellant then filed a petition for writ of certiorari in the supreme court, and Respondent filed a return. On October 30, 2024, the supreme court denied the petition. On November 5, 2024, remittitur was sent. Respondent has now filed a motion for costs pursuant to Rule 222 of the South Carolina Appellate Court Rules seeking to recover \$2,500 in attorney's fees and \$100 in filing fees. Appellant did not file a return.

After careful consideration, we grant the motion in part. *See* Rule 222(a), SCACR ("Unless 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."). In light of the dismissal of the appeal occurring early in the appellate process, this court exercises its discretion to award \$1,500 in attorney's fees. *See* Rule 222(b), SCACR (permitting an appellate court to award attorney's fees); *Austin v. Stokes-Craven Holding Corp.*, 406 S.C. 187, 199, 750 S.E.2d 78, 84 (2013) (explaining that "it is within [the appellate c]ourt's discretion whether to award fees and costs under Rule 222"). However, we deny Respondent's request to recover the cost of filing fees because Rule 222(b) only allows for recovering the cost of the notice of appeal filing fee, which Respondent did not pay. *See* Rule 222(b), SCACR

(allowing the recovery of "the filing fee paid under Rule 203(d) [of the South Carolina Appellate Court Rules]"). The Greenville County Clerk of Court is directed to add this award of costs to the remittitur.



FOR THE COURT

Columbia, South Carolina

FILED
Dec 31 2024

cc:

John Martin Foster, Esquire

T. Hunt Reid, Esquire

William Thomas Young, III, Esquire

Brice Garrett