

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Perry H. Gravely, Circuit Court Judge

Circuit Court Case No. 2019-CP-23-02476

Appellate Case No. 2020-001051

Thomas C. Skelton..... Appellant,

v.

First Baptist Church of Travelers Rest, South Carolina, a non-profit Corporation Respondent.

RETURN TO RESPONDENTS’ MOTION FOR COSTS

Rule 222(d), SCACR requires a party desiring costs to file its request within fifteen (15) days of issuance of the remittitur. The Rule clearly states “shall” and not “may”. The South Carolina Court of Appeals issued the Remittitur on December 12, 2024. Respondent’s Motion for Costs was therefore due on or before December 27, 2024; it was not filed until January 6, 2025. The Rule requires the Motion to be denied.

Alternatively only, the Motion should be denied as to those costs that are not recoverable under the Appellate Court Rules. Appellate Rule 222(b) provides for the costs that may be recovered by Respondent in this matter. First, Respondent requests reimbursement for a filing fee

under Rule 203(d), SCACR; however, it did not pay a filing fee under Rule 203 as it was not the appellant.

Next, Respondent seeks to recover costs for a motion fee, which is not included in the recoverable costs under Rule 222(b). Respondent does not specify the motion for which it is seeking reimbursement. The Court of Appeals notified Respondent on November 16, 2020 that filing fees for motions for extension were waived due to the COVID-19 pandemic and that its check for \$50 was being returned. Respondent also filed a motion on January 18, 2024 requesting to be allowed late filing of its Return to Appellant’s Petition for Certiorari. Respondent should not be reimbursed by Appellant for its own late filing.

Finally, Respondent requests reimbursement for deposition costs which are also not included under Rule 222(b). Additional costs are generally not allowed “except in the most extraordinary of circumstances.” Rule 222(b). Respondent has not demonstrated “the most extraordinary of circumstances”. Costs incurred in the underlying case are not relevant to the issue of costs on appeal. Only two depositions were taken in the underlying case, and both were of a short duration. The appeal proceeded in the standard manner.

Appellant respectfully requests that the above costs be denied.

s/Bradford N. Martin
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January 7, 2025

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PROOF OF SERVICE

I certify that on January 7, 2025, I have electronically served Appellant’s Return to Respondents’ Motion for Costs via AIS email to attorney of record, O.W. Bannister, Esq.: owbannister@bannisterwyatt.com, and by depositing a copy in the U.S. Mail, postage prepaid, to attorney of record, O. W. Bannister, Esq., Bannister, Wyatt & Stalvey, LLC, Post Office Box 10007, Greenville, South Carolina 29603.

January 7, 2025

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