

THE STATE OF SOUTH CAROLINA
In the Supreme Court

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OCT 31 2013

Auto-Owners Insurance Company, Petitioner, **S.C. Supreme Court**

v.

Samuel W. Rhodes, Piedmont Promotions, Inc.,
Marion L. Eadon d/b/a C&B Fabrication, C&B
Fabrications, Inc., and Low Country Signs, Inc., Respondents,

Appellate Case No. 2009-143546

**Return to Respondents Samuel W. Rhodes' and Piedmont Promotions, Inc.'s
Motion for Costs on Appeal**

Petitioner Auto-Owners Insurance Company ("Petitioner"), by and through the undersigned counsel, hereby opposes Respondents Samuel W. Rhodes' and Piedmont Promotions, Inc.'s ("Respondents") Motion for Costs on Appeal filed pursuant to Rule 242(j), SCACR.

The Supreme Court granted Petitioner's Writ of Certiorari to review the decision of the Court of Appeals, 385 S.C. 83, 682 S.E.2d 857 (Ct. App. 2009). The Supreme Court filed Opinion No. 27316 on September 25, 2013. The Supreme Court affirmed in part and reversed in part the decision of the Court of Appeals.

Rule 242(j), SCACR governs an award of costs when a Writ of Certiorari has been granted by the Supreme Court. Rule 242(j)(1), SCACR states, in part, "[w]hen the decision of the Supreme Court has the effect of affirming or reversing in part or vacating

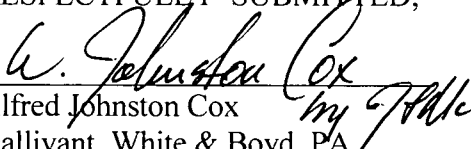
the judgment of the lower court or tribunal which was on appeal, costs shall be allowed only as ordered by the Supreme Court.”

Rule 242(j)(4), SCACR states, in part, “the motion shall comply with Rule 240.” Rule 240(c)(2), SCACR states that a motion shall include a memorandum with citation of authorities in support of the motion. Although Respondents cited Rules 222 and 242(j) in their Motion for Costs, Respondents did not include a memorandum setting forth the facts and the argument for why the Supreme Court should exercise its discretion in Respondents’ favor. Doing so is particularly important in this appeal because the Supreme Court affirmed and reversed the decision of the Court of Appeals. Petitioner should not otherwise be required to respond to a motion that does not set forth Respondents’ position or is not in compliance with the South Carolina Appellate Court Rules. Rule 240(g), SCACR states, “[f]ailure of the moving party to perform any act required by this Rule may be deemed an abandonment of the motion or petition.” Respondents’ Motion for Costs should be denied by the Supreme Court.

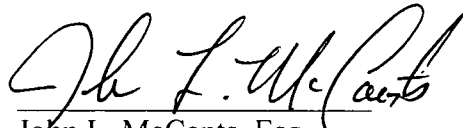
(Signatures on Next Page)

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Return to Respondents Samuel W. Rhodes' and Piedmont Promotions, Inc.'s
Motion for Costs on Appeal

RESPECTFULLY SUBMITTED,


Alfred Johnston Cox
Gallivant, White & Boyd, PA
PO Box 7368
1201 Main Street, Suite 1200
Columbia, SC 29201
Tele: (803) 779-1833
Fax: (803) 779-1767
jcox@gwblawfirm.com
Attorney for Petitioner Auto-Owners
Insurance Company, Inc.

-and-


John L. McCants, Esq.
Rogers Lewis Jackson Mann &
Quinn, LLC
P.O. Box 11803 (29211)
1330 Lady Street, Suite 400
Columbia, SC 29201
Tele: 803- 978-2834
Fax: 803-252-3653
jmccants@rogerslewis.com
Attorney for Petitioner Auto-Owners
Insurance Company, Inc.

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PROOF OF SERVICE

I certify that I have served a copy of Petitioner Auto-Owners Insurance Company's Return to Respondent Samuel W. Rhodes' and Piedmont Promotions, Inc.'s Motion for Costs on Appeal upon all parties by mailing same via U.S. First Class Mail, postage prepaid, on October 31, 2013 addressed to their attorneys of record.

Bert G. Utsey, III, Esquire
PETERS, MURDAUGH, PARKER,
ELTZROTH & DETRICK, P. A.
P. O. Box 1164
Walterboro, SC 29488

Creighton B. Coleman, Esquire
CREIGHTON B. COLEMAN, LLC
120 Washington Street
P. O. Box 1006
Winnsboro, SC 29180

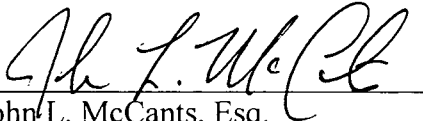
Matthew V. Creech
P.O. Box 2500
110 West Wilson Street
Ridgeland, SC 29936

Attorneys for Respondents Samuel W. Rhodes, Jr. and Piedmont Promotions, Inc.

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Alfred Johnston Cox, Esquire
GALLIVAN WHITE & BOYD, P.A.
P. O. Box 7368
Columbia, SC 29202
Attorney for Petitioner

William O. Sweeney, Esquire
William R. Calhoun, Jr., Esquire
SWEENEY, WINGATE & BARROW, P.A.
P. O. Box 12129
Columbia, SC 29211
Attorneys for Respondent Marion L. Eadon
d/b/a C&B Fabrication, C&B Fabrications, Inc.
and Low Country Signs, Inc.



John L. McCants, Esq.
Rogers Lewis Jackson Mann &
Quinn, LLC
P.O. Box 11803 (29211)
1330 Lady Street, Suite 400
Columbia, SC 29201
Tele: 803- 978-2834
Fax: 803-252-3653
jmccants@rogerslewis.com
Attorney for Petitioner Auto-Owners
Insurance Company, Inc.

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