

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM DARLINGTON COUNTY
Court of Common Pleas

J. Michael Baxley, Circuit Court Judge

71024

CASE NO. 2010-CP-16-0332

(Appeal Tracking Number 2011185767)
(1st Appeal)

Pee Dee Health Care, P.A..... Appellant

v.

Estate of Hugh S. Thompson..... Respondent

MOTION FOR COSTS UNDER RULE 222, SCACR

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SC Court of Appeals

Respondent moves, pursuant to Rule 222, SCACR, for an award of costs and attorney's fees incurred in defending this appeal. Rule 222(a) provides that, unless otherwise ordered or agreed upon by the parties, costs shall be taxed against the Appellant when the lower court's judgment is affirmed. Rule 222(b), SCACR, entitles the prevailing party on appeal to recover costs actually incurred in responding to an appeal including an attorney's fee award of One Thousand and 00/100 (\$1,000.00) Dollars. *Respondents would note that they presently have pending in this Court a motion for sanctions in this matter and as a part of that motion,*

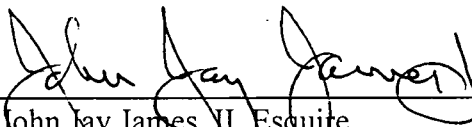
Respondents seek an award of their actual attorney's fees and not simply the fixed fee allowed by Ruel 222(b); this motion is not an effort to duplicate that request for fees, but is filed as an alternative with regard to such fees and as a primary route to the recovery of other costs. Accord Austin v. Stokes-Craven Holding Corp., 750 S.E.2d 78; 2013 S.C. Lexis 279 (Supreme Court 2013). Accordingly, Respondents ask the Court to award them One Thousand Ninety Four and 20/100 (\$1,094.20) Dollars in costs and attorney's fees under Rule 222(b), SCACR – but without prejudice to their motion for sanctions and fee request therein – any award made hereunder can certainly be offset against any award made there – or vice versa. In support of our motion, we have attached an Itemized Statement of Costs, pursuant to Rule 222(b), SCACR.

Respectfully submitted:

Florence, South Carolina

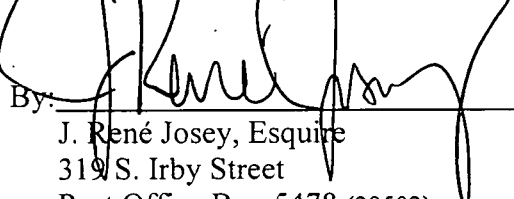
January 16th, 2014

PAULLING AND JAMES, LLP

By: 

John Jay James, II, Esquire
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Darlington, SC 29540
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843-393-6089 (Fax)
Email: pjlaw507@bellsouth.net

TURNER, PADGET, GRAHAM & LANEY, P. A.

By: 

J. René Josey, Esquire
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Florence, South Carolina 29501
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Email: rjosey@turnerpadget.com

ATTORNEYS FOR RESPONDENT

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

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Court of Common Pleas**

J. Michael Baxley, Circuit Court Judge

CASE NO. 2010-CP-16-0332

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**FORM 17
ITEMIZED STATEMENT OF COSTS**

The Supreme Court is requested to tax the following costs against the Respondents:

COSTS TAXABLE UNDER RULE 222, SCACR	NO. OF PAGES (includes covers)	RATE	REQUESTED	ALLOWED (For Court Use Only)
Cost of Printing Final Brief (Submitted August 22, 2011)	221 (17x13)	20 cents	\$44.20	
Cost of Filing Fees Motion for Costs Motion to Dismiss 3 rd Appeal as Untimely, Appeals 1 & 2 as Moot (filed and paid in all 3 appeals) (Submitted in This Appeal on December 7, 2011)			\$25.00 \$25.00 (Although Motion Denied, Ultimate Opinion Supportive)	
Court Report: Transcript of Hearing			None	
Attorneys' fee under under Rule 222(b), SCACR			\$1,000.00	
TOTAL			\$1,094.20	


We, John Jay James, II, and J. René Josey, do swear or affirm that the foregoing costs are correct and were necessarily incurred in this action. A copy of this statement was mailed to and served upon opposing counsel.

Respectfully submitted:

Florence, South Carolina

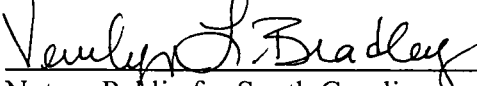
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PAULLING AND JAMES, LLP

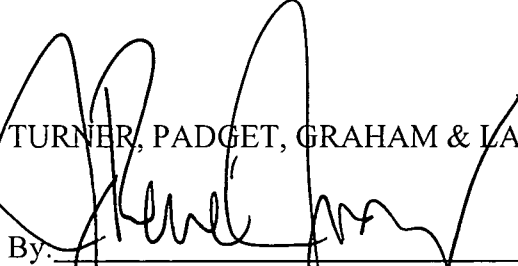
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SWORN to before me this
16th day of January, 2014

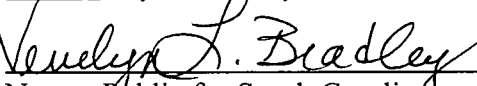


Notary Public for South Carolina
My Commission Expires: 10/5/2019
(Seal)

TURNER, PADGET, GRAHAM & LANEY, P. A.
By: 

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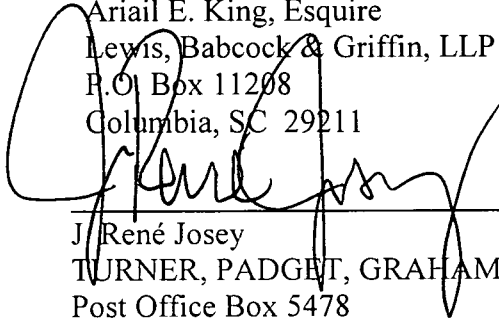
Estate of Hugh S. Thompson..... Respondent

PROOF OF SERVICE

I certify that I have served a copy of the Motion for Costs and Itemized Statements of Costs by depositing copies of the same in the United States mail, postage prepaid, on January 16th, 2014, to all counsel of record at the following addresses:

Tony R. Megna, Esquire
Benjamin R. Matthews, Esquire
Matthews & Megna
3400 West Avenue
Columbia, SC 29203

James M. Griffin, Esquire
Ariail E. King, Esquire
Lewis, Babcock & Griffin, LLP
P.O. Box 11208
Columbia, SC 29211



J. René Josey
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TURNER PADGET GRAHAM & LANEY P.A.

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COLUMBIA
FLORENCE
GREENVILLE
MYRTLE BEACH

J. RENÉ JOSEY

REPLY TO: FLORENCE OFFICE
E-MAIL: RJOSEY@TURNERPADGET.COM
WRITER'S DIRECT DIAL: (843) 656-4451
WRITER'S DIRECT FAX: (843) 413-5818

January 16, 2014

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

Re: *Pee Dee Health Care, P.A. v. Estate of Hugh S. Thompson*
Case No.: 2010-CP-16-0332
Tracking No.: 2011-185767 (1st appeal)
Tracking No.: 2011-197671 (2nd appeal)
Tracking No. 2011-203391 (3rd appeal)
TPGL File No.: 10667.101

Dear Ms. Kitchings:

On behalf of the Respondent in the above-referenced matters, I am writing to make your Court aware of Respondent's filing today of a parallel motion for sanctions in the circuit court. (A motion for sanctions is already pending in this court). In that parallel motion filed with the trial court, the Respondent is not seeking the attorney's fees requested as a sanction in the motion pending in your Court. Although we do not plan to submit a copy of our circuit court motion to your Court, we will be happy to provide a copy of the same if requested. By copy of this letter to all counsel of record for the appellant, I am making them aware of this communication with the court.

Sincerely,

TURNER, PADGET, GRAHAM & LANEY, P.A.

J. René Josey

JRJ:vlb

Cc: Jay James, II, Esq.
Tony R. Megna, Esq. & Benjamin R. Matthews, Esq.
James M. Griffin, Esq. & Ariail E. King, Esq.

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SC Court of Appeals

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REPLY TO: FLORENCE OFFICE

E-MAIL: RJOSEY@TURNERPADGET.COM

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J. RENÉ JOSEY

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TPGL File No.: 10667.101

Dear Ms. Kitchings:

Enclosed you will find the originals and six copies of following documents for filing with your Court – separately for each of the three separately briefed and prepared appeals listed above:

- 1) a copy of my Motion for Costs ,
- 2) and Proof of Service.

I have enclosed one extra copy of these documents in each of the three appeals so that a filed copy can be returned for my records in the self-addressed stamped envelope provided. Finally, I have enclosed our firm's check in consolidated payment of the separate filing fees for each of these three motions.

As indicated in the body of each motion, these motions are made in addition to the motion for sanctions pending in these matters. Thank you for your assistance in this matter.

Sincerely,

TURNER, PADGET, GRAHAM & LANEY, P.A.

J. René Josey

JRJ:vlb

Enclosures

Cc: Jay James, II, Esq. (w/enclosures via email only)
Tony R. Megna, Esq. & Benjamin R. Matthews, Esq. (w/enclosures)
James M. Griffin, Esq. & Ariail E. King, Esq. (w/enclosures)

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TURNER PADGET

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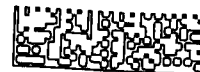
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