THE STATE OF SOUTH CAROLINA
In the Court of Appeals

71758

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Kristi Lea Harrington, Circuit Court Judge

RECEIVED
MAR 31 2014
SC Court of Appeals

Case No. 2008-CP-10-0049

Mark F. Teseniar & Nan M. Teseniar, on behalf of themselves and others similarly situated, and Twelve Oaks At Fenwick Property Owners Association, Inc., (from December 16, 2008 to present).....Respondents,

v.

Professional Plastering & Stucco, Inc., Defendant.

-and-

National Fire & Marine Insurance Company, Inc. .....Appellant.

MOTION FOR COSTS ON APPEAL

The above-named Respondents hereby move this Honorable Court for an Order taxing the fees and costs set forth herein pursuant to Rule 222, SCACR, against the above listed Appellant. In support of this motion, the Respondent states as follows:

1. The above captioned case was called to trial before the Honorable Kristi Harrington, Circuit Judge, in the Ninth Judicial Circuit. The above-listed Appellant was not a party to the action before the trial court and never sought to intervene in the case.

2. While observing the trial, Appellant made a "motion" before the trial court related to the case, which motion was summarily denied because Appellant was not a party.

3. Appellant appealed the denial of its "motion". Upon motion by the Respondents, the Court of Appeals dismissed Appellant's appeal by Order dated April 5, 2012. Appellant's Petition for Rehearing En Banc also was denied by this Court. The South Carolina Supreme Court denied Appellant's Petition for a Writ of Certiorari on March 19, 2014.

4. Rule 222, SCACR, permits the taxation of certain costs and fees against a party who unsuccessfully seeks a Writ of Certiorari. Accordingly, Petitioner requests this Court to Order the Appellant to be taxed with Petitioner's costs as outlined below, in the amount permitted under the Supreme Court Order dated July 24, 1997.

COSTS TAXABLE UNDER RULE 222, SACR	NO. OF PAGES	RATE	REQUESTED	ALLOWED (For Court Use Only)
Cost of Printing or Copying Final Brief		N/A		
Cost of Printing or Copying Final Reply Brief		N/A		
Cost of Printing or Copying Record on Appeal		N/A		
Filing Fee Paid Under Rule 203(d) SCACR		N/A		
Cost of Court Reporter's Transcript		N/A		
Attorney's Fee Provided By Rule 222(b), SCACR		Limited to $1,000.00 by Rule	$1,000.00	
Other (specify and explain): **Filing fee - Motion to Dismiss**		$25.00	$25.00	
		TOTAL	**$1,025.00**	

I, Michael A. Timbes, do swear or affirm that the foregoing costs are correct and were necessarily incurred in this action. A copy of this Statement of Costs was served upon opposing counsel in the manner set forth in the Affidavit of Service attached hereto and filed simultaneously herewith.

By: _____
MICHAEL A. TIMBES

SUBSCRIBED and SWORN to before me this
26 day of March, 2014.

_____ (SEAL)
Notary Public for South Carolina
My Commission expires: 11/16/2020

Respectfully submitted,

THURMOND KIRCHNER TIMBES & YELVERTON, P.A.
Michael A. Timbes
Jesse A. Kirchner
15 Middle Atlantic Wharf, Suite 101
Charleston, South Carolina 29401
Phone: (843) 937.8000
Facsimile: (843) 937.4200
mtimbes@tktylawfirm.com
jkirchner@tktylawfirm.com

Justin O'Toole Lucey, Esquir
Post Office Box 806
Mt. Pleasant, SC 29465

W. Jefferson Leath, Jr., Esquire
Post Office Box 59
Charleston, SC 29402

Phillip Ward Segui, Jr., Esquire
864 Lowcountry Blvd., Suite A
Charleston, SC 29464

John T. Chakeris, Esquire
Post Office Box 397
Charleston, SC 29402
Attorneys for Respondents

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Kristi Lea Harrington, Circuit Court Judge

RECEIVED
MAR 31 2014
SC Court of Appeals

Case No. 2008-CP-10-0049

Mark F. Teseniar & Nan M. Teseniar, on behalf of themselves and others similarly situated, and Twelve Oaks At Fenwick Property Owners Association, Inc., (from December 16, 2008 to present).....Respondents,

v.

Professional Plastering & Stucco, Inc., Defendant.

-and-

National Fire & Marine Insurance Company, Inc. .....Appellant.

AFFIDAVIT OF SERVICE

The undersigned herewith certifies that she, on this date, did mail and serve via regular U.S. Mail one (1) copy of the foregoing "Motion for Costs on Appeal" with proper postage affixed thereto, to the following counsel of record:

John L. McCants
Ellis Lawhorne & Sims, P.A.
Post Office Box 2285
Columbia, SC 29202

Everett A. Kendall, II, Esquire
Sweeny, Wingate & Barrow, P.A.
Post Office Box 12129
Columbia, SC 29211

Jonathan J. Anderson, Esquire
Anderson Reynolds & Stephens, LLC
37 ½ Broad St.
Charleston, SC 29401

This 26 day of March, 2014

THURMOND KIRCHNER TIMBES & YELVERTON, P.A.

BY: _____

Moira W. Kerrigan
Paralegal to Michael A. Timbes

THURMOND KIRCHNER TIMBES & YELVERTON, P.A.
ATTORNEYS & COUNSELORS AT LAW

15 MIDDLE ATLANTIC WHARF, SUITE 101
CHARLESTON, SOUTH CAROLINA 29401

Paul R. Thurmond
Jesse A. Kirchner
Michael A. Timbes *
Matthew E. Yelverton **
Christopher P. Deters
David L. Barnes, Jr.
Thomas J. Rode
Christopher C. Romeo

* Also admitted in Georgia
** Also admitted in North Carolina

David L. Savage
Of Counsel

Phone: 843-937-8000
Fax: 843-937-4200
www.tktylawfirm.com

RECEIVED
MAR 31 2014
SC Court of Appeals

March 26, 2014

VIA U.S. MAIL
The Honorable Jenny Abbott Kitchings
Clerk for South Carolina Court of Appeals
1015 Sumter Street
Columbia, SC 29201

Re: Supreme Court Appellate Case No. 2013-000023
Court of Appeals Appellate Case No. 2011-193671
Lower Court Case No.: 2008-CP-10-0049
Mark F. Teseniar v. Professional Plastering & Stucco, Inc., et al.

Dear Ms. Kitchings:

This firm represents the Respondents Mark F. Teseniar & Nan M. Teseniar, on behalf of themselves and others similarly situated, and Twelve Oaks at Fenwick Property Owners Association, Inc. in connection with the above appeal. Enclosed please find the original and seven (7) copies of the Respondents' Motion for Costs as well as this firm's check in the amount of $25.00 in satisfaction of the filing fee. Kindly file this Motion with the Court and return the file-stamped copy to my office in the self-addressed, stamped envelope. Your assistance with this matter is greatly appreciated.

With best regards, I am

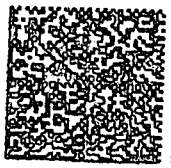
Sincerely,

THURMOND KIRCHNER TIMBES & YELVERTON, P.A.

Michael A. Timbes
mtimbes@tktylawfirm.com

/mwk
cc: John L. McCants, Esquire

Kirby D. Shealy, III, Esquire
Phillip W. Segui, Jr., Esquire
John T. Chakeris, Esquire
Jesse A. Kirchner, Esquire
Justin O. Lucey, Esquire
W. Jefferson Leath, Jr., Esquire
Everett A. Kendall, II, Esquire
Christy E. Mahon, Esquire
Jonathan J. Anderson, Esquire
Kirby D. Shealy, III, Esquire



UNITED STATES POSTAGE
PITNEY BOWES
02 1P $ 002.87⁰
0000808325 MAR 26 2014
MAILED FROM ZIP CODE 29401

First Class Mail

THURMOND KIRCHNER TIMBES & YELVERTON, P.A.
ATTORNEYS & COUNSELORS AT LAW

15 MIDDLE ATLANTIC WHARF, SUITE 101
CHARLESTON, SOUTH CAROLINA 29401

TO:

The Honorable Jenny Abbott Kitchings
Clerk for South Carolina Court of Appeals
1015 Sumter Street
Columbia, SC 29201