

**RECEIVED**

APR 10 2014

**S.C. Supreme Court**

THE STATE OF SOUTH CAROLINA  
In the Supreme Court

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APPEAL FROM THE ADMINISTRATIVE LAW COURT

Carolyn C. Matthews, Administrative Law Judge

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Appellate Case No. 2011-194346

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City of Myrtle Beach, .....Respondent,

v.

Tourism Expenditure Review Committee, .....Appellant.

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**MOTION FOR COSTS**

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Pursuant to Rule 222, SCACR, Appellant, Tourism Expenditure Review Committee, moves this Court for an order taxing costs against Respondent, City of Myrtle Beach. In support of its motion, Appellant would respectfully show unto the Court as follows:

1. On June 20, 2011, Appellant filed a notice of appeal in the court of appeals from the decision of the administrative law court in the above-referenced matter. The parties subsequently submitted their briefs and a record on appeal to the court of appeals.

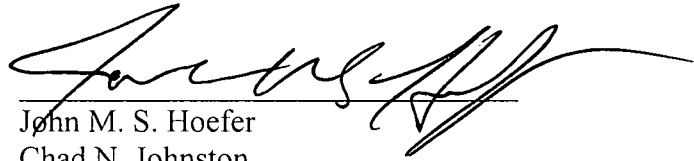
2. On March 20, 2012, this Court certified the appeal for review pursuant to Rule 204(b), SCACR.
3. The Court heard oral argument in the appeal on January 8, 2013.
4. On February 5, 2014, the Court issued its Opinion No. 27536 reversing the administrative law court.
5. On February 14, 2014, Respondent filed a petition for rehearing, which was denied by this Court by order filed April 4, 2014.
6. This Court issued its remittitur to the administrative law court on April 4, 2014.
7. Pursuant to Rule 240(c), SCACR, Appellant submits the attached memorandum, and the Itemized Statement of Costs totaling \$3,474.00 incorporated therein by reference as an exhibit, in support of the within motion.

WHEREFORE, Appellant respectfully requests that the costs and attorney's fee shown in its Itemized Statement of Costs be taxed against Respondent, that such costs and attorney's fee become part of the judgment in this matter and be added to the remittitur as provided in Rule 222(e), SCACR, and that it be granted any further relief that the Court deems just and proper.

[Signature page to follow]

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Respectfully submitted,



John M. S. Hoefler

Chad N. Johnston

**Willoughby & Hoefler, P.A.**

Post Office Box 8416

Columbia, South Carolina 29202-8416

803-252-3300

Attorneys for Respondent Tourism Expenditure  
Review Committee

Columbia, South Carolina

April 10, 2014

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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**S.C. Supreme Court**

APPEAL FROM ADMINISTRATIVE LAW COURT  
Carolyn C. Matthews, Administrative Law Judge

Case No. 10-ALJ-30-0421-CC

City of Myrtle Beach, ..... Respondent,

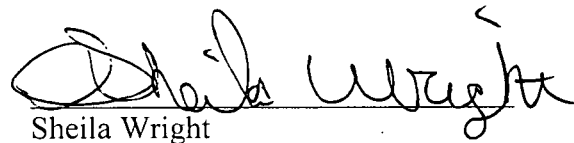
v.

Tourism Expenditure Review Committee, ..... Appellant.

**PROOF OF SERVICE**

This is to certify that I have caused to be served this day one (1) copy of (1) **Motion for Costs**, (2) **Itemized Statement of Costs** and (3) **Memorandum in Support of Motion for Costs** by placing same in the care and custody of the United States Postal Service with first class postage affixed thereto and addressed as follows:

Michael W. Battle  
**Battle, Vaught, PA**  
Post Office Box 530  
Conway, South Carolina 29528

  
Sheila Wright

This 10<sup>th</sup> day of April, 2014.  
Columbia, South Carolina

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City of Myrtle Beach, ..... Respondent,

v.

Tourism Expenditure Review Committee, ..... Appellant.

**MEMORANDUM IN SUPPORT  
OF MOTION FOR COSTS**

Pursuant to Rule 222, SCACR, Appellant Tourism Expenditure Review Committee (“TERC”) hereby moves for an order taxing costs against respondent City of Myrtle Beach (“COMB”). In support of its motion, TERC submits the within memorandum in accordance with Rules 222(d) and 240, SCACR and the attached itemized sworn statement of costs in accordance with Rule 222(d), SCACR.

**ARGUMENT**

In *City of Myrtle Beach v. Tourism Expenditure Review Committee*, Op. No. 27356 (S.C. Sup. Ct. filed February 5, 2014 (Shearouse Adv. Sh. No. 5 at 17) (“Opinion”), the Court reversed


*ANSB*

the Administrative Law Court (“ALC”) and reinstated TERC’s certification to the State Treasurer as non-compliant, certain of the COMB’s expenditures of accommodation tax funds to outside entities without fully complying with the South Carolina Accommodations Tax Act. On April 4, 2014, COMB’s petition for rehearing was denied by order of this Court and the remittitur was issued by the Clerk.

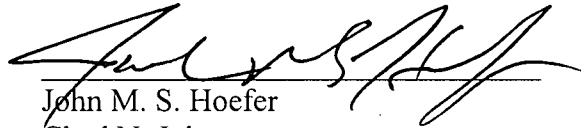
When a judgment is reversed, costs shall be taxed against the Respondent. Rule 222(a), SCACR. The party entitled to recover costs under this rule may, to the extent that the party actually incurred these costs, recover the following: (1) the filing fee; (2) the cost of the court reporter’s transcript; (3) premiums paid for costs of supersedeas bonds or other bonds obtained to preserve rights pending appeal; (4) the cost of printing the Record on Appeal; and (5) the cost of printing the party’s final brief(s). Rule 222(b), SCACR. In addition, the party shall be entitled to recover an attorneys’ fee in the amount of \$1,000. *Id.* Furthermore, additional costs may be allowed in the most extraordinary circumstances. *Id.*

Because the Court reversed the ALC’s ruling, costs should be taxed against the COMB. *See* Rule 222(a). During this appeal, TERC incurred the costs shown on the sworn Itemized Statement of Costs attached hereto and incorporated herein. Accordingly, the Court should tax the COMB in the amount of \$3,747.00.

[SIGNATURE PAGE FOLLOWS]

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Respectfully submitted,



John M. S. Hoefler  
Chad N. Johnston

**Willoughby & Hoefler, P.A.**

Post Office Box 8416

Columbia, South Carolina 29202-8416

803-252-3300

Attorneys for Respondent Tourism Expenditure  
Review Committee

Columbia, South Carolina  
April 10, 2014

THE STATE OF SOUTH CAROLINA  
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**S.C. Supreme Court**

Appellate Case No. 2011-194346

City of Myrtle Beach, ..... Respondent,

v.

Tourism Expenditure Review Committee, ..... Appellant.

**ITEMIZED STATEMENT OF COSTS**

The Supreme Court is requested to tax the following costs against Respondent City of Myrtle Beach:

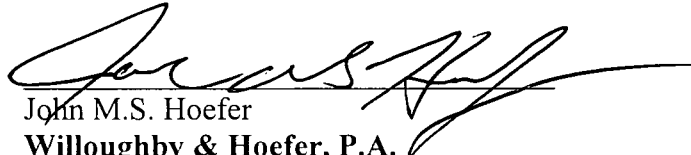
COSTS TAXABLE UNDER RULE 222, SCACR	NO. OF PAGES	RATE	REQUESTED	ALLOWED (For Court Use Only)
Cost of Printing or Copying Final Brief	561	\$0.20 per page	\$112.20	
Cost of Printing or Copying Final Reply Brief	221	\$0.20 per page	\$44.20	
Cost of Printing or Copying Record on Appeal	9,452	\$0.20 per page	\$1,890.40	
Filing Fee Paid Under Rule 203(d), SCACR	N/A	N/A	\$100.00	
Cost of Court Reporter's Transcript	N/A	N/A	\$600.30	
Attorney's Fee Provided By Rule 222(b), SCACR	N/A	N/A	\$1,000.00	

*msf*

Other (specify and explain): Filing fee incurred as a result of filing this motion for costs	N/A	N/A	N/A	
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**TOTAL COSTS REQUESTED TO BE TAXED: \$3,747.00**

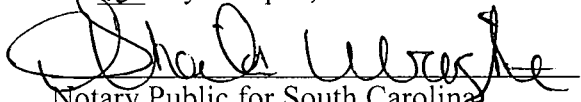
I, John M.S. Hoefler, do swear that the foregoing costs are correct and were necessarily incurred in this action. A copy of this statement was served upon opposing counsel.



John M.S. Hoefler  
**Willoughby & Hoefler, P.A.**  
 Post Office Box 8416  
 Columbia, South Carolina 29202-8416  
 803-252-3300

Attorney for Appellant Tourism Expenditure  
 Review Committee

Subscribed and sworn to before me  
 this 10<sup>th</sup> day of April, 2014.



Notary Public for South Carolina  
 My Commission Expires: \_\_\_\_\_

