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THE STATE OF SOUTH CAROLINA  
In The Supreme Court

APPEAL FROM CIRCUIT COURT OF BERKELEY COUNTY

The Honorable Robert E. Watson, Master-in-Equity

South Carolina Court of Appeals

Opinion No. 2014-UP-248

Appellate Case No. 2013-0000394

Lower Case No. 2009-CP-08-3890

RECEIVED  
JAN 22 2015  
SC Court of Appeals

South Carolina Department of Transportation..... Petitioner,

v.

RI CS5, LLC ..... Respondent.

And

Worsley Operating Corporation, a North Carolina Corporation, Lessee, and Berkeley County  
Treasurer's Office, Lienholder..... Other Condemnees.

MOTION FOR COSTS BY  
RESPONDENT,  
RI CS5, LLC

Paul A. Dominick  
PDominick@nexsenpruet.com  
Jeffrey S. Tibbals  
JTibbals@nexsenpruet.com  
NEXSEN PRUET, LLC  
205 King Street, Suite 400 (29401)  
P.O. Box 486  
Charleston, South Carolina 29402  
Phone: 843.577.9440  
Facsimile: 843.720.1777

ATTORNEYS FOR RESPONDENT  
RI CS5, LLC

TO: THE HONORABLE JUSTICES OF THE COURT OF APPEALS FOR SOUTH CAROLINA:

COMES NOW the Respondent, RI CS5, LLC, pursuant to Rules 222(a)-(b), (d)-(e), 240(a), (c)-(d), and 242(j) of the *South Carolina Appellate Court Rules*, and respectfully requests this Court of Appeals to assess the following costs against the Petitioner, South Carolina Department of Transportation.

South Carolina Department of Transportation appealed this matter to the South Carolina Court of Appeals which issued its original decision on June 25, 2014,<sup>1</sup> affirming the trial court decision. South Carolina Department of Transportation petitioned for a rehearing and the Court of Appeals denied the Petitioner's request on August 25, 2014.<sup>2</sup> South Carolina Department of Transportation then filed a Petition for *Writ of Certiorari* which this Supreme Court denied on December 18, 2014<sup>3</sup>.

The Respondent, RI CS5, LLC, therefore, respectfully requests this Court of Appeals to assess appellate costs against the Petitioner, South Carolina Department of Transportation, in the following particulars:

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<sup>1</sup> South Carolina Department of Transportation v. RI CS5, LLC, 2014-UP-248.

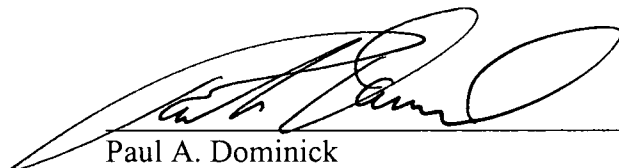
<sup>2</sup> South Carolina Department of Transportation v. RI CS5, LLC, 2013-000394.

<sup>3</sup> South Carolina Department of Transportation v. RI CS5, LLC, 2014-001908.

<b><u>COSTS TAXABLE UNDER RULE 222, SCACR</u></b>	<b><u>NO. OF PAGES</u></b>	<b><u>RATE</u></b>	<b><u>REQUESTED</u></b>	<b><u>ALLOWE D (For Court Use Only)</u></b>
Cost of Printing or Copying Final Brief	19 pages 18 copies	\$0.10/ page 342 pages	\$ 34.20	
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), <u>SCACR</u>	N/A			
Cost of Court Reporter's Transcript	N/A			
Attorney's Fee Provided By Rule 222(b), <u>SCACR</u>		\$1,000.00	\$1,000.00	
Other (specify and explain):	N/A			
<b><u>TOTAL FOR THE COURT OF APPEALS</u></b>			<b><u>\$1,034.20</u></b>	
<b><u>COSTS TAXABLE UNDER RULE 242(j), SCACR</u></b>	<b><u>NO. OF PAGES</u></b>	<b><u>RATE</u></b>	<b><u>REQUESTED</u></b>	<b><u>ALLOWE D (For Court Use Only)</u></b>
Cost of Printing or Copying Brief on <i>Certiorari</i>	20 pages 18 copies	\$0.10/ page 360 pages	\$36.00	
Cost of Printing or Copying Reply Brief on <i>Certiorari</i>				
Cost of Printing or Copying Appendix to Pet. for <i>Cert.</i>				
Filing fee paid under Rule 226(c), <u>SCACR</u>				
Attorney's fee provided by Rule 242(j)(2), <u>SCACR</u>		\$1,000.00	\$1,000.00	
Other (specify and explain):	N/A			

<b><u>TOTAL FOR THE SUPREME COURT</u></b>			<b><u>\$1,036.00</u></b>	
<b>GRAND TOTAL</b>			<b><u>\$2,070.20</u></b>	

I, **Paul A. Dominick**, do swear or affirm that the foregoing costs are correct and were necessarily incurred in this action by the Respondent, RI CS5, LLC, as indicated in the attached affidavit.<sup>4</sup>



Paul A. Dominick  
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ATTORNEYS FOR RESPONDENT  
RI CS5, LLC

January 22, 2015

Charleston, South Carolina

<sup>4</sup> See Affidavit of Paul A. Dominick Esquire sworn to on January 21, 2014 (the "Dominick Affidavit"). A copy of the Dominick Affidavit is attached hereto as Exhibit "A" and incorporated herein by reference.

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

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APPEAL FROM CIRCUIT COURT OF BERKELEY COUNTY

The Honorable Robert E. Watson, Master-in-Equity

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South Carolina Court of Appeals

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AFFIDAVIT OF PAUL A.  
DOMINICK, ESQ.

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RI CS5, LLC





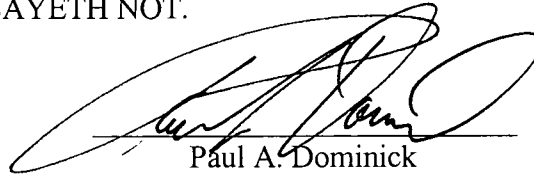
10. Through our in-house copy center, I had 18 copies of the Return Brief of the Respondent, RI CS5, LLC, prepared and forwarded to the Supreme Court and to all counsel of record.

11. The Return Brief of the Respondent, RI CS5, LLC, contained 18 pages for a total printing of 360 pages with a printing cost of \$36.00 at a per page cost of \$0.10.

12. The total printing costs for both briefs was \$70.20.

13. RI CS5, LLC, incurred well in excess of the applicable \$2,000.00 in recoverable attorneys' fees.

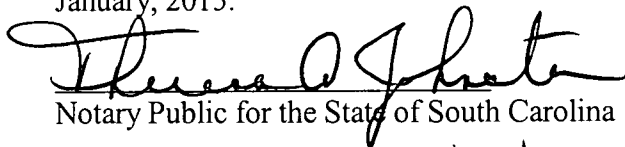
FURTHER DEPONENT SAYETH NOT.



Paul A. Dominick

Sworn before me on this 21st day of

January, 2015.



Theresa D. Jhota  
Notary Public for the State of South Carolina

My Commission Expires: 3/27/23

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

\_\_\_\_\_  
Appeal from the Circuit Court of Berkeley County, South Carolina

The Honorable Robert E. Watson, Circuit Court Judge

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South Carolina Court of Appeals

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\_\_\_\_\_  
**PROOF OF SERVICE OF  
MOTION FOR COSTS OF RESPONDENT RI CS5, LLC**  
\_\_\_\_\_

Paul A. Dominick  
PDominick@nexsenpruet.com  
Jeffrey S. Tibbals  
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ATTORNEYS FOR RESPONDENT  
RI CS5, LLC

I, Laura L. Thomason, hereby certify that on January 22, 2015, I served a copy of the Motion for Costs of Respondent RI CS5, LLC, on all participating counsel of record, via the United States Postal Service, postage pre-paid and addressed as follows:

John S. West, Esquire  
John S. West, LLC  
207 Carolina Avenue  
P.O. Box 1869  
Moncks Corner, SC 29461

Beacham O. Brooker, Jr., Esquire  
Assistant Chief Counsel  
South Carolina Department of Transportation  
P.O. Box 191  
Columbia, SC 29201-0191

  
Laura L. Thomason

Charleston, South Carolina

January 22, 2015

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NEXSEN | PRUET

Paul A. Dominick  
Member  
Admitted in SC

January 21, 2015

RECEIVED

JAN 22 2015

SC Court of Appeals

HAND DELIVERY

The Honorable Jenny Abbott Kitchings  
Clerk of Court  
South Carolina Court of Appeals  
P.O. Box 11629 (29211)  
1015 Sumter Street  
Columbia, South Carolina 29201

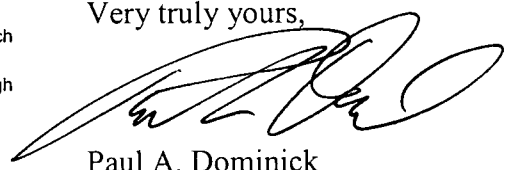
Re: South Carolina Department of Transportation v. RI CS5, LLC, et al.  
Appellate Case No. 2013-0000394  
Circuit Court Case No. 2009-CP-08-3890

- Charleston
- Charlotte
- Columbia
- Greensboro
- Greenville
- Hilton Head
- Myrtle Beach
- Raleigh

Dear Ms. Kitchings:

Enclosed for filing is an original and seven copies of Motion for Costs by Respondent, RI CS5, LLC. Also enclosed is our \$25 check to cover the filing fee. Please file the originals and return a file-stamped copy to me using the envelope provided. A copy of same has been served upon all counsel of record.

Very truly yours,



Paul A. Dominick

PAD/tj  
Encs.

cc: Beacham O. Booker, Jr., Esquire  
John S. West, Esquire