

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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APPEAL FROM THE OCONEE COUNTY
Court of Common Pleas

FEB 12 2015

The Honorable R. Lawton McIntosh

SC Court of Appeals

Case No. 2010-CP-37-319
Appellate Case No. 2013-001295

Randolph M. James, P.C., a North Carolina
Professional Corporation.....Appellant.

v.

Oconee County, a body politic and corporate, and a political subdivision of the
State of South Carolina.....Respondent.

MEMORANDUM IN SUPPORT OF MOTION FOR COSTS

Respondent Oconee County, a body politic and corporate, and a political subdivision of the State of South Carolina (“Respondent”), submits the following Memorandum in support of its Motion for Costs, filed herewith.

RELEVANT PROCEDURAL HISTORY

On April 5, 2013, the Circuit Court filed an Order dismissing Appellant’s action for failure to timely effect service on Oconee, and for failure to commence the action within the applicable limitations period. (R., pp. 4 – 20.) On May 13, 2013, the Circuit Court filed an Order denying Appellant’s Motion to Reconsider. (R., pp. 25 – 26.) On May 29, 2013, Appellant filed a Notice of Appeal related to the Circuit Court’s Orders. (R., pp. 182 – 183.) Following the filing of the Notice of Appeal, the parties briefed the matter and submitted a Record on Appeal.

On January 6, 2015, the Court of Appeals conducted oral argument in this case. On February 4, 2015, the Court of Appeals filed a per curiam opinion affirming the Circuit Court rulings in their entirety. The Court of Appeals February 4 Order did not make any reference to taxation of costs under the S.C. Appellate Court Rules.

LEGAL ARGUMENT AND CITATION OF AUTHORITY


Respondent has submitted herewith an Itemized Statement of Costs, which demonstrates that Respondent has incurred fees authorized to be taxed against the losing party in the amount of \$1,177.67. This Court's Order of February 4, 2015, affirms the trial court's ruling in its entirety, and this Court's Order did not issue any instructions regarding taxation of costs.

Rule 222(a), SCACR, states that "[u]nless otherwise ordered by the appellate court or agreed by the parties, costs shall be taxed against the appellant when . . . the judgment on appeal is affirmed." Rule 222(a), SCACR. The Court of Appeals has plainly affirmed the judgment appealed from the Circuit Court; therefore, Respondent is entitled to taxation of costs.

The costs claimed in Respondent's Itemized Statement of Costs are all explicitly authorized to be taxed against the losing party under Rule 222(b), SCACR. Specifically, Respondent only seeks to recover its costs for: (1) printing Respondent's final brief; (2) the cost of the Court Reporter's transcript; and (3) an attorney's fee in the amount of \$1,000, which is the amount set by the S.C. Supreme Court's Order of July 24, 1997.

Respondent's request for taxation of fees is reasonable, and it is in accordance with the plain language of Rule 222, SCACR. Accordingly, Respondent respectfully requests that this Court tax the requested fees and costs against Appellant.

February 9, 2015


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ATTORNEYS FOR RESPONDENT
*Oconee County, a body politic of the State of
South Carolina*

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R. Lawton McIntosh, Circuit Court Judge

Case No. 2013-001295

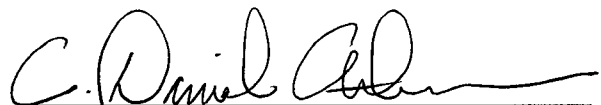
Randolph M. James, P.C.Appellant,

v.

Oconee County, South Carolina, a political
Subdivision of the State of South Carolina
d/b/a Oconee County Regional Airport (KCEU).....Respondent.

PROOF OF SERVICE

The undersigned counsel for Respondent Oconee County, a body politic of the State of South Carolina certifies that he has served Respondent's *Motion for Costs, Memorandum in Support of Motion for Costs, and Itemized Statement of Costs* on counsel for Appellant Randolph M. James, P.C., Tracy L. Eggleston, Cozen O'Connor, One Wells Fargo Center, Suite 2100, 301 South College Street, Charlotte, North Carolina 28202 by depositing a copy of same in the U.S. Mail, postage prepaid, on this 9th day of February, 2015.



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February 9, 2015

VIA U.S. MAIL

V. Claire Allen, Deputy Clerk
South Carolina Court of Appeals
PO Box 11629
Columbia, SC 29211

**Re: *Randolph M. James P.C. a North Carolina Professional Corporation, Appellant
v. Oconee County, South Carolina, a political Subdivision of the State of South
Carolina d/b/a Oconee County Regional Airport (KCEU), Respondent***
In the South Carolina Court of Appeals
Appellate Case No.: 2013-001295

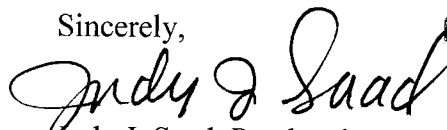
Dear Ms. Allen:

Please find enclosed an original and six (6) copies of Respondent's Motion for Costs, Memorandum in Support of Motion for Costs, and Itemized Statement of Costs, together with Proof of Service, in the above matter. Also enclosed is our firm check in the amount of \$25.00 for the costs of filing the Motion.

Please advise if you have any questions.

With kind regards,

Sincerely,



Judy J. Saad, Paralegal
jsaad@wilkeslaw.com

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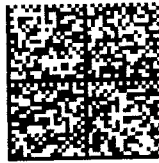
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Enclosures

cc: Tracy Lynn Eggleston, Esq.

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