

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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MAR 05 2015

APPEAL FROM THE OCONEE COUNTY
Court of Common Pleas

SC Court of Appeals

The Honorable R. Lawton McIntosh

75261

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.

MOTION FOR COSTS

Pursuant to Rule 222, SCACR, and Rule 240, SCACR, Respondent Oconee County, a body politic and corporate, and a political subdivision of the State of South Carolina (“Respondent”), moves this Court for an Order taxing costs recoverable under Rule 222, SCACR, against Appellant Randolph M. James, P.C., a North Carolina Professional Corporation (“Appellant”).

Respondent seeks taxation of costs allowed under Rule 222(b), SCACR, because, on February 5, 2015, this Court filed an Order affirming the ruling of the Circuit Court. Pursuant to plain application of Rule 222, SCACR, Respondent is entitled to payment of taxable costs by Appellant. Provided herewith is an itemized statement of costs, demonstrating that Respondent is entitled to payment of taxable costs, including an

attorney's fee, in the amount of \$1,177.67. Accordingly, Respondent seeks an Order from this Court awarding Respondent taxable costs in the amount of \$1,177.67.

This Motion is based upon the filings, including this Court's Order filed February 4, 2015, a Memorandum of Authority, filed herewith, an Itemized Statement of Costs filed herewith, and South Carolina law.

February 27, 2015



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ATTORNEYS FOR RESPONDENT

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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 27, 2015



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Professional Corporation.....Appellant.

v.

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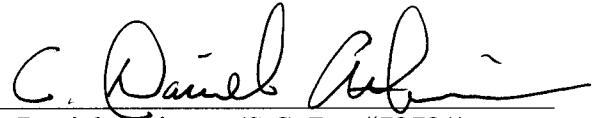
ITEMIZED STATEMENT OF COSTS

The Appellate Court is requested to tax the following costs against Appellant
Randolph M. James, P.C., a North Carolina Professional Corporation:

Costs Taxable Under Rule 222, SCACR	No. of Pages	Rate	Requested	Allowed (For Court Use Only)
Cost of Printing or Copying Final Brief	522 (reg. stock) 18 (binding strip) 18 (front cover) 18 (back cover)	.13 2.45 .21	\$112.67 (w/ FedEx discount applied)	
Cost of Court Reporter's Transcript	20	3.25	\$65.00	
Attorney's Fee Provided by Rule 222(b), SCACR			\$1,000.00	
		Total	\$1,177.67	

I, C. Daniel Atkinson, do swear that the foregoing costs are correct and were necessarily incurred in this action. A copy of this statement was served on opposing counsel.

February 27, 2015

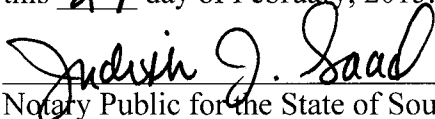


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ATTORNEY FOR RESPONDENT

Sworn to and subscribed before me
this 27 day of February, 2015.



Notary Public for the State of South Carolina
My Commission Expires: 4-21-24

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STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM OCONEE COUNTY
Court of Common Pleas
R. Lawton McIntosh, Circuit Court Judge

Case No. 2013-001295

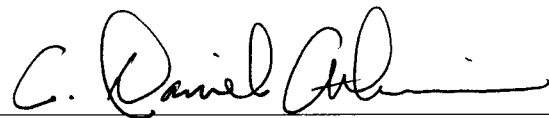
Randolph M. James, P.C.Appellant,

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 27th day of February, 2015.



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February 27, 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

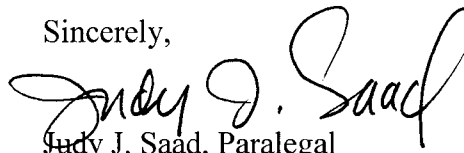
Dear Ms. Allen:

Please find enclosed an original and seven (7) 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 return a filed copy to me in the envelope provided.

Please advise if you have any questions.

With kind regards,

Sincerely,



Judy J. Saad, Paralegal
jsaad@wilkeslaw.com

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SC Court of Appeals

Enclosures

cc: Tracy Lynn Eggleston, Esq.

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