

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE WORKERS' COMPENSATION COMMISSION
Appellate Panel

W C C. File No 1209379
Appellate Case No . 2014-002069

RECEIVED

MAY 04 2015

SC Court of Appeals

75879

Chris Chapman Claimant, Respondent,

v

Georgia-Pacific, Self-Insured Employer Defendant, Respondent

and

Dr Rakesh Chokshi Non-Party, Appellant

**MOTION FOR COSTS ON APPEAL
PURSUANT TO RULE 222, SCACR**

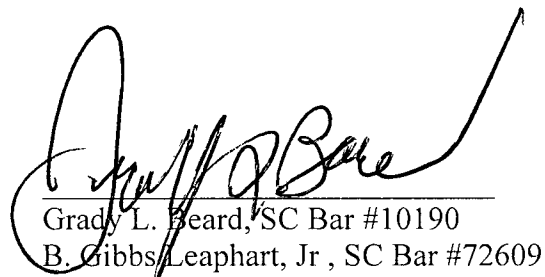
Pursuant to Rule 222 of the South Carolina Appellate Court Rules, Respondent Georgia-Pacific, LLC hereby moves to recover their costs and attorney's fees on appeal in light of their prevailing on their Motion to Dismiss Appellant's appeal Rule 222(a) provides that "costs shall be taxed against the appellant when the appeal is dismissed . " Rule 222(a), SCACR Additionally, Rule 222(b) provides the Respondent "shall be entitled to recover an attorney's fee in an amount which shall be set by order of the Supreme Court " Rule 222(b), SCAR The current fee allowed by the Supreme Court is \$1,000 00

Appellant filed an appeal from the decision of the Full Commission affirming the Hearing Commissioner's Order compelling Appellant to provide his deposition pursuant to the Commission's Fee schedule. Respondent subsequently moved to dismiss because

Dr Chokshi lacked standing to challenge it under *Ex parte Whetstone*, 289 S C. 580, 347 S E 2d 881(1986) Moreover, the case at bar had been resolved via full and final Clincher settlement at the time the South Carolina Workers' Compensation Commission Appellate Panel had issued its Order, accordingly there existed no justiciable controversy and the Commission lacked jurisdiction to hear this matter Finally, the Respondent argued the appeal was moot because Dr. Chokshi complied with the discovery Order rather than be held in contempt. Thus, the Respondent maintained the appeal should be dismissed

On April 3, 2015, the Court of Appeals dismissed the Appellant's appeal The basis for the dismissal was that which was argued by the Respondent - that Dr Chokshi waived his right to appeal the Order by complying with it and giving his deposition. The Court of Appeals issued the remittitur on April 21, 2015

Accordingly, pursuant to Rule 222(a), SCACR, Respondent hereby requests an Order requiring Appellant to pay the applicable attorney fee in the amount of \$1,000 00 as set by the Supreme Court, and the allowable costs on appeal, which total of \$111.60. Attached to this Motion as **Exhibit A** is a sworn, itemized statement of the recoverable costs incurred by Respondent



Grady L. Beard, SC Bar #10190
B. Gibbs Leaphart, Jr, SC Bar #72609
Sowell Gray Stepp & Laffitte, LLC
1310 Gadsden Street
Post Office Box 11449
Columbia, South Carolina 29211
(803) 929-1400

Attorneys for Respondent

May 4, 2015

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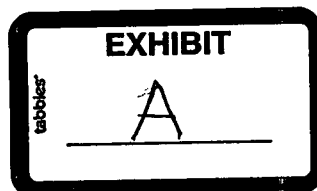
Georgia-Pacific, Self-Insured Employer... . . . Defendant, Respondent.

and

Dr. Rakesh Chokshi Non-Party, Appellant.

**AFFIDAVIT IN SUPPORT OF MOTION FOR COSTS ON APPEAL PURSUANT
TO RULE 222, SCACR**

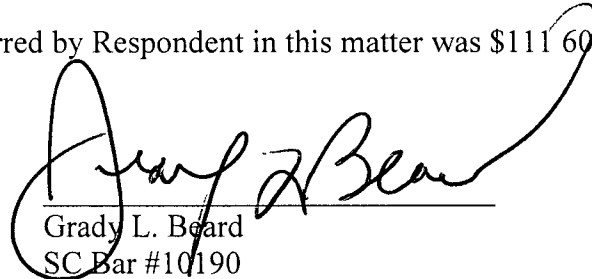
- 1 I am over the age of 21 and competent to testify to the matters set forth herein
- 2 I am an attorney at the law firm of Sowell Gray Stepp & Laffitte, LLC who represented the Respondent in this matter.
3. I have knowledge of the costs and expenses incurred in the appeal of this matter Those costs are as follows.



01/26/15. Filing fee for Motion to Dismiss paid to SC Court of Appeals - \$25.00
01/26/15: Copy Expense - \$5 60
01/27/15: Full Commission Hearing Transcript (pro rata) - \$54 00
02/11/15: Copy Expense - \$8 40
02/11/15: Copy Expense - \$18 60

TOTAL \$111 60

4. The total cost incurred by Respondent in this matter was \$111 60



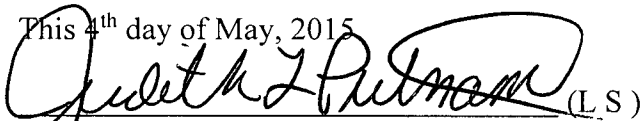
Grady L. Beard
SC Bar #10190
Sowell Gray Stepp & Laffitte, LLC
1310 Gadsden Street
Post Office Box 11449
Columbia, South Carolina 29211
(803) 929-1400

Attorney for Respondent

Columbia, South Carolina
May 4, 2015

SWORN TO AND SUBSCRIBED BEFORE ME

This 4th day of May, 2015



(L.S.)

Notary Public for the State of SC

My Commission Expires: 5/6/23

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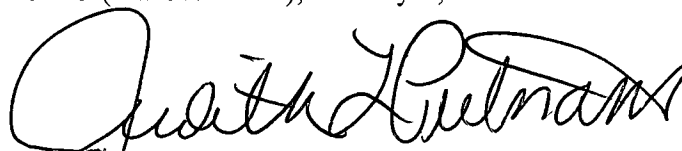
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and

Dr Rakesh Chokshi Non-Party, Appellant.

PROOF OF SERVICE

I certify that I have served a copy of the **Motion for Costs on Appeal Pursuant to Rule 222, SCACR**, on the following: Ms. Amy Bracy, Judicial Director, South Carolina Workers' Compensation Commission, 1333 Main Street, Suite 500, Columbia SC 29201 (via hand delivery), E Hood Temple, Esquire, Attorney at Law, Hatfield Temple, LLP, Post Office Box 1770, Florence SC 29503-1770 (via U.S. Mail), Carl E Pierce, II, Esquire, Pierce, Hems, Sloan & Wilson, LLC, Post Office Box 22437, Charleston SC 29413 (via U.S. Mail), and Benjamin C Smoot, II, Esquire, Pierce, Hems, Sloan & Wilson, LLC, Post Office Box 22437, Charleston SC 29413 (via U.S. Mail), on May 4, 2015.



Judith L. Putnam, Legal Assistant
Soyell Gray Stepp & Laffitte, LLC
1310 Gadsden Street
Post Office Box 11449
Columbia, South Carolina 29211
(803) 929-1400
Attorney for Respondent

Columbia, South Carolina
May 4, 2015

May 4, 2015

VIA HAND DELIVERY

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

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SC Court of Appeals

RE Chris W. Chapman v Georgia-Pacific, LLC
Appellate Case No.: 2014-002069
WCC File No 1209379
Date of Accident. 07/23/12
Claim No · 77004941767645
Our File No 1231/8240

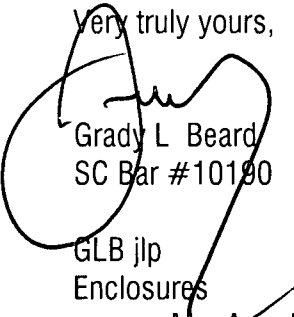
Dear Ms Kitchings.

Enclosed herewith are an original and one (1) copy of the Motion for Costs on Appeal in the above-referenced matter We would appreciate your filing the original and returning a clocked-in copy of same to us via our courier We are enclosing our Firm's check for the \$25 00 filing fee

By copy of this letter and aforementioned documents to all other counsel and the South Carolina Workers' Compensation Commission, we are serving them with a copy of the Motion for Costs on Appeal

With kindest personal regards, I remain

Very truly yours,


Grady L Beard
SC Bar #10190

GLB jlp
Enclosures

cc Ms Amy Bracy, Judicial Director, SCWCC (w/enclosures)(via hand delivery)
E Hood Temple, Esquire (w/enclosures)
Carl E Pierce, II, Esquire (w/enclosures)
Benjamin C Smoot, II, Esquire (w/enclosures)
Mr Harris Lazarus (w/enclosures)(via e-mail only)