

THE STATE OF SOUTH CAROLINA  
In the Supreme Court

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APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

Roger M. Young, Circuit Court Judge

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Appellate Case No. 2012-213171  
Lower Case No. 2009-CP-10-02846

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RECEIVED

MAY 15 2015

S.C. Supreme Court

Errol Washington as Personal Representative of the  
Estate of Danny Washington, ..... Petitioner,

v.

Alice R. Stewart, Leroy Stewart, Alvin E. Burch, Sr., a/k/a Alvin E. Birch,  
Rudell S. Burch, Sterling Lending Group, Inc., a South Carolina  
Corporation, Regent Bank, and Wachovia Bank, N.A., ..... Defendants,

Of Whom Alice R. Stewart, Leroy Stewart, Alvin E. Burch, a/k/a  
Alvin E. Birch, Rudell S. Burch and Wachovia Bank, N.A., are the ..... Respondents.

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MOTION OF RESPONDENT WACHOVIA BANK, N.A.  
FOR COSTS AND FEES ON APPEAL

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Respondent, Wachovia Bank, N.A., by and through its counsel, pursuant to Rules 222 and 242 of the South Carolina Appellate Court Rules, hereby makes this motion for costs and fees on appeal. This motion is supported by the attached Affidavit of Attorney Trudy H. Robertson and the Itemized Statement of Costs and Fees.

On January 5, 2011, the Circuit Court filed its Order of December 24, 2010, granting summary judgment in favor of Wachovia Bank, with judgment entered on January 13, 2011. Petitioner thereafter filed a Motion to Alter or Amend the judgment, which was denied by

the Circuit Court. Then, on February 16, 2011, Petitioner filed a Notice of Appeal of the Order with the Court of Appeals. The matter was briefed, and the Court of Appeals heard oral arguments in this case on June 5, 2012. On July 11, 2012, in a *per curiam* unpublished opinion, with all judges concurring, the Court of Appeals affirmed the Circuit Court's grant of summary judgment in favor of Wachovia Bank.

On October 15, 2012, Petitioner filed a Petition for a Writ of Certiorari with the Supreme Court. On November 14, 2012, Respondent filed a Return to the Petition for Writ of Certiorari. The Petition which was granted on September 14, 2014. The matter was briefed before the Supreme Court, and the Supreme Court heard oral arguments in this case on April 21, 2015.

On May 6, 2015, the unpublished Opinion Dismissing the Writ of Certiorari as Improvidently Granted was filed. Additionally on May 6, 2015, the Clerk of the Supreme Court sent the Remittitur to the Charleston County Circuit Court. Therefore, pursuant to Rules 222(b) and Rule 242(j), SCACR, the Respondent now seeks reimbursement for the following costs:

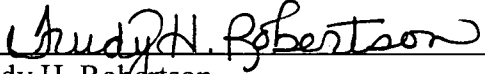
1. the cost of printing the party's final brief under Rule 211, SCACR;
2. the cost of printing the party's final brief under Rule 242(i), SCACR; and
3. the attorneys' fee awards under Rules 222(b) and 242(j), SCACR.

In support of this motion, counsel for the Respondent has submitted an affidavit and itemized statement of costs, thereby swearing to these exact costs incurred on appeal. Furthermore, the Respondent seeks reimbursement for attorneys' fees in the amount of \$2,000.00 under Rules 222(b) and Rule 242(j), SCACR, as stated in the affidavit and itemized statement of costs as well.

Wherefore, in consideration of the above, Respondent seeks reimbursement for the total costs of \$156.78 which were incurred during this appeal, attorneys' fees in the amount allowed of \$2,000.00, and any such further relief the Court deems appropriate.

This the 13<sup>th</sup> day of May, 2015.

Respectfully submitted,

  
\_\_\_\_\_  
Trudy H. Robertson  
Robert E. Sumner, IV  
Moore & Van Allen, PLLC  
78 Wentworth Street  
Charleston, SC 29401  
(843) 579-7000  
Attorneys for Respondent  
Wachovia Bank, N.A.

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**SC SUPREME COURT**

**ITEMIZED STATEMENT OF COSTS**

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

Appellate Case No. 2012-213171  
Lower Case No. 2009-CP-10-02846

Errol Washington as Personal Representative	)
of the Estate of Danny Washington,	)
	)
Petitioner,	)
	)
v.	)
	)
Alice R. Stewart, Leroy Stewart, Alvin E.	)
Burch, Sr. a/k/a Alvin E. Birch, Rudell S.	)
Burch, Sterling Landing Ground, Inc., a	)
South Carolina Corporation, Regent Bank,	)
And Wachovia Bank, N.A.,	)
	)
Defendants.	)
	)
Of Whom Alice R. Stewart, Leroy Stewart,	)
Alvin E. Burch, a/k/a Alvin E. Birch, Rudell	)
S. Burch and Wachovia Bank, N.A. are the	)
Respondents.	)
_____	)

The Appellate Court is requested to tax the following costs against:  
Petitioner Errol Washington, as Personal Representative of the Estate of Danny  
Washington.

COSTS TAXABLE UNDER RULE 222, SCACR	NO. OF PAGES	RATE	REQUESTED	ALLOWED (For Court Use Only)
Cost of Printing or Copying Final Brief	612	.13	\$79.56	
Attorney's Fee Provided By Rule 222(b), SCACR			\$1,000.00	

COSTS TAXABLE UNDER RULE 242(j), SCACR				
Cost of Printing or Copying Brief	594	.13	\$77.22	
Attorney's fee provided by Rule 242(j)(2), SCACR			\$1,000.00	
		TOTAL	\$2,156.78	

I, Trudy H. Robertson, do swear or affirm that the foregoing costs are correct and were necessarily incurred in this action. A copy of this statement was (mailed to/served upon) opposing counsel.

Trudy H. Robertson  
(Signature)  
Attorney for Respondent Wachovia Bank, N.A.

Subscribed and sworn to before me this 13<sup>th</sup> day of May, 2015.

Heather Mann

Notary Public for South Carolina

My Commission Expires: \_\_\_\_\_  
My Commission Expires 11/25/2019

(Seal)

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100 SUPREME COURT

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AFFIDAVIT IN SUPPORT OF MOTION  
FOR COSTS AND FEES ON APPEAL

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PERSONALLY appeared before me, Trudy H. Robertson, who, being duly sworn,  
on oath, deposes and says that:

1. I am over eighteen (18) years old. I am competent to give this Affidavit, and  
it is based upon my own personal knowledge.

2. I am familiar with the costs and fees incurred by Respondent, Wachovia  
Bank, N.A, in the appeal process in this matter before both the Court of Appeals and the  
Supreme Court.

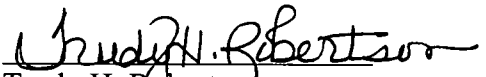
3. Pursuant to Rules 222(b) and 242(j), SCACR, the Respondent seeks reimbursement for the following costs:

- a. the cost of printing the party's final brief under Rule 211: \$79.56;  
and
- c. The cost of printing the party's final brief under Rule 242(i): \$77.22.

4. The aforesaid costs in the total amount of \$156.78 are more fully exhibited by the Court's Itemized Statement of Costs and Fees.

5. Respondent seeks recovery of the attorney fee awards provided for in Rules 222(b) and 242(j), SCACR, in the amount set for by order of the Supreme Court in the amount of \$2,000.00.

Further, the Affiant sayeth naught.

  
Trudy H. Robertson  
Moore & Van Allen PLLC  
Its Member

SWORN to before me this 13<sup>th</sup>  
day of May, 2015

  
Notary Public of South Carolina

My commission expires: My Commission Expires 11/25/2019

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Alvin E. Birch, Rudell S. Burch and Wachovia Bank, N.A., are the ..... Respondents.

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PROOF OF SERVICE

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I certify that I have served the *Motion of Respondent Wachovia Bank, N.A. for Costs and Fees on Appeal, Itemized Statement of Costs and Fees, and an Affidavit in Support of Motion for Costs and Fees on Appeal* by depositing a copy of it in the United States Mail, postage prepaid, on May 13, 2015, addressed to attorneys for the Petitioner, Edward P. Guerard, Jr., 1106 Port Harbor Court, Mt. Pleasant, SC 29464 and T. Alexander Beard, Beard Law Offices, 1000 Johnnie Dodds Blvd., Suite 103-321, Mt. Pleasant, SC 29464.

Respectfully submitted,

A handwritten signature in cursive script that reads "Trudy H. Robertson". The signature is written in black ink and is positioned above a solid horizontal line.

Trudy H. Robertson  
Robert E. Sumner, IV  
Moore & Van Allen, PLLC  
78 Wentworth Street  
Charleston, SC 29401  
(843) 579-7000

Attorneys for Respondent  
Wachovia Bank, N.A.