

THE STATE OF SOUTH CAROLINA
In the Supreme Court

RECEIVED

SEP 16 2015

S.C. Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

J.C. Nicholson, Jr., Circuit Court Judge

Appellate Case No. 2013-002796
Trial Court Case No. 2011-CP-10-05774

Pavilion Development Corp. & Larry McNair,Appellants,

v.

Nexsen Pruet, LLC,Respondent,

v.

DC & Sons, LLC,Counterclaim Defendant.

MOTION FOR COSTS ON APPEAL PURSUANT TO RULE 222, SCACR

Pursuant to Rule 222 of the South Carolina Appellate Court Rules, Respondent Nexsen Pruet, LLC hereby moves this Court for an order awarding costs and attorney's fees to Respondent. Rule 222(a) provides that "[u]nless otherwise ordered by the appellate court or agreed upon by the parties, costs shall be taxed against the appellant[s] when the appeal is dismissed or judgment on appeal is affirmed." 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), SCACR. The current fee allowed by the Supreme Court is \$1,000.

On December 20 2013, Appellants Pavilion Development Corp. & Larry McNair

appealed the circuit court's decision granting Respondent's motion for summary judgment. Following the submission of briefs and a record to the South Carolina Court of Appeals, Appellants moved to certify this case to this Court on February 23, 2015. On March 12, 2015, this Court granted the motion to certify. On May 6, 2015, the Court heard oral argument. On August 12, 2015, the Court affirmed the circuit court's grant of summary judgment, but modified the dismissal to be without prejudice. On August 28, 2015, Appellants filed a "Motion for Order Allowing [Appellants] a Reasonable Time to Amend their Complaint After Remand." On September 3, 2015, this Court, construing the motion as a petition for rehearing, denied Appellants' motion as untimely. That same day, this Court issued the remittitur returning this the case to the circuit court.

Accordingly, pursuant to Rule 222(a), SCACR, Respondent hereby requests an Order requiring Appellants to pay the applicable attorney's fee in the amount of \$1,000.00 as set by the Supreme Court, and the allowable costs on appeal, which total \$120.09. Attached to this Motion as **Exhibit A** is a sworn, itemized statement of the recoverable costs incurred by Respondent.

SOWELL GRAY STEPP & LAFFITTE, LLC

By: _____



Elizabeth Van Doren Gray
Tina Cundari
Benjamin R. Gooding
1310 Gadsden Street
Columbia, South Carolina 29201
(803) 929-1400
egray@sowellgray.com
tcundari@sowellgray.com
bgooding@sowellgray.com

Attorneys for Respondent

Columbia, South Carolina
September 16, 2015

EXHIBIT A

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

J.C. Nicholson, Jr., Circuit Court Judge

Appellate Case No. 2013-002796
Trial Court Case No. 2011-CP-10-05774

Pavilion Development Corp. & Larry McNair, Appellants,

v.

Nexsen Pruet, LLC, Respondent,

v.

DC & Sons, LLC, Counterclaim Defendant.

ITEMIZED STATEMENT OF COSTS

The Appellate Court is requested to tax the following costs against Appellants

Pavilion Development Corp. & Larry McNair:

COSTS TAXABLE UNDER RULE 222, SCACR	NO. OF PAGES	RATE	REQUESTED	ALLOWED (For Court Use Only)
Cost of Printing or Copying Final Brief		Invoice attached.	\$120.09	
Cost of Printing or Copying Final Reply Brief				
Cost of Printing or Copying Record on Appeal				

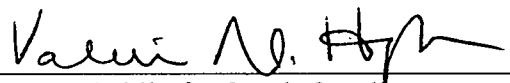
Filing Fee Paid Under Rule 203(d), SCACR				
Cost of Court Reporter's Transcript				
Attorney's Fee Provided By Rule 222(b), SCACR			\$1,000.00	
Other (specify and explain):				
		TOTAL	\$1,120.09	

I, Tina Cundari, 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 opposing counsel.



Tina Cundari
Attorney for Respondent

Subscribed and sworn to before me
this 16th day of SEPTEMBER, 2015



Notary Public for South Carolina
My Commission Expires: APRIL 30, 2017



Invoice

Date	Invoice #
11/10/2014	4093897

Bill To:
SOWELL GRAY 1310 GADSDEN STREET COLUMBIA, SC 29201

Ship To:
SOWELL GRAY 1310 GADSDEN STREET COLUMBIA, SC 29201

Job Number	Client Matter Number	Contact	Terms	Due Date	Due Time
C-786	5347.1509	MICHELLE L.	Net 30	12/10/2014	11/12
Description		Quantit	Rate	Amount	
16 COPY(IES) OF 37 8.5 x 11 ORIGINAL(S)		592	0.10	59.20T	
COIL BINDING		16	3.25	52.00T	

Remit Payment To:
 Nova Office Strategies, Inc.
 129 West Trade Street
 Suite 1420
 Charlotte, NC 28202-5314

Contact Us at
 Phone # 704.347.0055
 Fax # 704.347.3421
 www.novaoffice.net

Subtotal	\$111.20
Sales Tax (8.0%)	\$8.89
Total	\$120.09

Federal Tax ID# 56-2120639

RECEIVED

SEP 16 2015

S.C. Supreme Court

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

J.C. Nicholson, Jr., Circuit Court Judge

Appellate Case No. 2013-002796
Trial Court Case No. 2011-CP-10-05774

Pavilion Development Corp. & Larry McNair,Appellants,

v.

Nexsen Pruet, LLC,Respondent,

v.

DC & Sons, LLC,Counterclaim Defendant.

PROOF OF SERVICE

I certify that I have caused to be served the Motion for Costs on September 16,

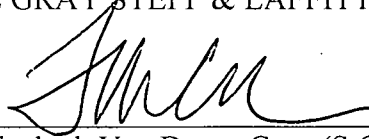
2015, by U.S. mail and electronic mail to:

Andrew Epting, Esq.
Michelle N. Endemann, Esq.
46A State Street
Charleston, SC 29401
ake@epting-law.com
mne@epting-law.com

George J. Kefalos, Esq.
Oana D. Johnson, Esq.
46A State Street
Charleston, SC 29401
george@kefaloslaw.com
oana@kefaloslaw.com

SOWELL GRAY STEPP & LAFFITTE, LLC

By: _____



Elizabeth Van Doren Gray (S.C. Bar No. 2434)

Tina Cundari (S.C. Bar No. 71951)

Benjamin R. Gooding (S.C. Bar No. 100620)

1310 Gadsden Street (29201)

Post Office Box 11449

Columbia, South Carolina 29211

(803) 929-1400

egray@sowellgray.com

tcundari@sowellgray.com

bgooding@sowellgray.com

Attorneys for Respondent

Columbia, South Carolina
September 16, 2015