

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas for the Ninth Circuit

S.C. Supreme Court

J.C. Nicholson, Jr. Circuit Court Judge

Case No.: 2011-CP-10-5774
Appellate Case No.: 2013-002796

Pavilion Development Corp. & Larry McNair,
Appellants,

v.

Nexsen Pruet, LLC, Defendant

v.

DC & Sons, LLC, Counterclaim Defendant,

Of Whom Nexsen Pruet, LLC is the Respondent.

APPELLANTS' OPPOSITION TO RESPONDENT'S MOTION FOR COSTS

Pursuant to Rule 222(a) of the South Carolina Appellate Court Rules, Respondent, Nexsen Pruet, LLC, is not entitled to an award of costs as the South Carolina Supreme Court affirmed in part the lower Court but modified the relief granted by the lower Court. This Court should deny the costs requested by Respondents.

The lower Court dismissed Appellants' case with prejudice. The South Carolina Supreme Court failed to affirm and held the dismissal was without prejudice. A review of the parties' briefs establishes that one of the most substantial issues on appeal was if the assignment was void what relief should be granted. The lower Court on the record dismissed with prejudice. As a result of

the parties' briefing, this Court held that the lower Court erred in dismissing the case with prejudice and ordered the case returned to the lower Court to consider this issue.

Costs should be denied.

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Attorneys for Appellants

Charleston, South Carolina

September 28, 2015

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PROOF OF SERVICE

I certify that I have served the Appellants' Opposition to Respondent's Motion for Cost on Respondents by depositing a copy in the United States Mail, Postage prepaid, on September 28, 2015, addressed to Respondent's attorneys of record as follows:

Elizabeth Van Doren Gray, Esquire
Tina M. Cundari, Esquire
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