

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appellate Case Number: 2013-000417

RECEIVED

Appeal from Richland County Common Pleas Court
Hon. Alison Renee Lee
Docket Number: 2008-CP-40-1839

OCT 15 2015

S.C. SUPREME COURT

Latoya Brown.....Petitioner,

vs.

Dick Smith Nissan, Inc. and Old Republic
Surety CompanyRespondents.

MOTION FOR COSTS AND ATTORNEY'S FEES

In support of the motion of Latoya Brown for Attorney fees and costs on appeal, she would show:

1.

That on August 5, 2015, this Court affirmed the award of damages, attorney's fees and costs rendered by Honorable Allison R. Lee.

2.

The action was brought under the Dealers Act S.C. Code Ann 56-15-10 to 56-15-600 (Supp. 2014) which allows a successful plaintiff attorney fees and costs.

3.

The law firm of Johnson, Toal & Battiste, P.A. advanced costs in this matter of One Thousand Six Hundred Eighty-Three and eighty-four hundredths (\$1,683.84) dollars. (See Exhibit I) The order affirmed includes an award of three hundred eighty-four and thirty-eight hundredths (\$384.38) dollars. Movant is informed and believes that she is entitled to an award of costs on appeal of one thousand two hundred ninety-nine and forty-six hundredths (\$1,299.46) dollars.

Movant is informed and believes she is entitled to attorney fees for the appeal. Movants counsel has been in the practice of law since 1968 and has extensive trial and appellate experience in the courts of South Carolina. He has been a stockholder in the law firm of Johnson, Toal & Battiste, P.A. since 1970. Although counsel is now almost fully retired, his lowest hourly rate at the time this case commenced was two hundred fifty dollars per hour. That was the rate approved for compensation by Judge Lee. Counsel has spent 64.9 hours in handling the appeals in this court and the Court of Appeals litigating this matter. (Exhibit II) Accordingly, movant requests that she be granted attorney fees in the amount of sixteen thousand six hundred twenty-five (\$16,625.00) dollars for this appeal.

WHEREFORE, Movant prays for costs of \$1,299.46 and attorney's fees of \$16,625.00 for this appeal.

JOHNSON, TOAL & BATTISTE, P.A.

By: _____

William T. Toal
Attorney for Plaintiff
1615 Barnwell Street
Post Office Box 1431
Columbia, South Carolina 29202
(803) 252-9700

SWORN TO AND SUBSCRIBED BEFORE ME

This 12th day of October, 2015

Delisa Y. McClurkin
Notary Public for South Carolina

My Commission Expires: 9/25/2019

02/26/2015 WTT

JOHNSON, TOAL & BATTISTE, P.A.
Attorneys at Law
1615 Barnwell Street

Columbia, South Carolina 29201

Phone: (803) 252-9700 Fax: (803) 252-9102

Latoya Patrice Brown
104 Barger Circle
Irmo SC 29063

* indicates work-in-process

Client #: 34211

File #: 07-351

As of Date: 02/26/2015

Last Billed / /

RE: Latoya P. Brown -vs- Dick Smith Motors
Civil/Contingency 1/3

COSTS ADVANCED		
DATE	DESCRIPTION	AMOUNT
* 12/11/2007	SCDMV - Bond information - Brown # 50839	12.00
* 03/07/2008	Richland County Clerk of Court - Filing fee - Latoya Brown #51449	150.00
* 03/18/2008	Director of Insurance - Process Service - Latoya Brown #51502	10.00
* 10/21/2009	Carol M. Thume, RPR - Transcript - Latoya Brown #54844	205.50
* 09/01/2010	Richland County Clerk of Court - Filing fee - Motion - Latoya P Brown #56556	25.00
* 03/10/2011	Jo Rice - Transcript - Latoya P. Brown #57523	15.00
* 05/19/2011	Carol M Thueme, RPR - Transcript - Latoya P. Brown #57883	112.15
* 12/09/2011	FedEx Office - Costs Advanced - Final Brief - Latoya P. Brown #59201	83.01
* 01/11/2013	SC Court of Appeals - Filing fee - Petition - Latoya Patrice Brown #61290	25.00
* 03/07/2013	Melisa McClurkin - Reimbursement for payment to The Supreme Court of SC on behalf of Latoya P. Brown for Case Initiation Fee #61531	100.00
* 03/22/2013	FedEx Office - Costs Advanced - Appendix - Latoya P. Brown #61652	35.32
* 03/22/2013	FedEx Office - Costs Advanced - Additional copies of petition for Certiorari - Latoya P. Brown #61652	17.12

EXHIBIT I

* indicates work-in-process

* 08/28/2014	FedEx Office - Costs Advanced Appendix - Latoya Patrice Brown #64296	84.80
* 08/28/2014	FedEx Office - Costs Advanced - Brief of Petitioner - Latoya Patrice Brown #64296	186.97
* 08/28/2014	FedEx Office - Costs Advanced - Briefs & Record - Latoya Patricia Brown #64296	516.24
* 10/24/2014	FedEx Office - Costs Advanced - Reply Brief - Latoya Patrice Brown #64501	33.96
* 10/24/2014	FedEx Office - Costs Advanced - Reply Brief - Latoya Patrice Brown #64501	63.50
TOTAL COSTS ADVANCED:		\$1,675.57

EXPENSES ADVANCED

DATE	DESCRIPTION	AMOUNT
* 03/18/2008	Postage (Copies to client)	0.58
* 03/18/2008	Postage (Serve Director of Ins.)	0.92
* 03/18/2008	Postage (Certified mail to Dick Smith)	5.38
* 10/27/2010	Postage (Judge Lee re: Motion hearing)	1.39
TOTAL EXPENSES ADVANCED:		\$8.27
PREVIOUS BALANCE:		0.00
CURRENT CHARGES:		1,683.84
LESS PAYMENTS:		0.00
TOTAL AMOUNT DUE:		\$1,683.84

*****PAYMENT DUE UPON RECEIPT OF INVOICE*****

Billing Inquiries:(803)-252-9700 or (866)216-9700

Most Credit Cards Accepted

Thank You for Your Patronage!

EXHIBIT I

JOHNSON, TOAL & BATTISTE, P.A.
Post Office Box 1431
Columbia, South Carolina 29202
(803) 252-9700

Date: August 10, 2015 **Page: 1**
Client's Name: Latoya P. Brown..... Appellate Case Number: 2013-000417
Re: Latoya P. Brown vs. Dick Smith, et al.
File Number: 2008-CP-40-1839

STATEMENT

	Time Spent	Rate	Atty. Fees
Attorney	64.9	\$250.00	\$16,225.00
TOTAL			\$

Date	Description	Time Spent	Rate	Atty. Fees
09/22/11	Received & red Initial Brief of Appellant and Designation of Record	1.1	\$	\$
	Telephone call to client about what the appeal means	.1		
09/27/11	Reviewed file for Designation of Record. Reviewed Order and documents, outlined Appellant's argument	2.7	\$	\$
10/04/11	Research and 1st draft of Respondent's Initial Brief	6.3		
10/17/11	2 nd draft, revisions and editing	1.6		
10/19/11	Final revisions of brief; filing of Initial Brief, copies to client and opposing counsel	1.4		
10/27/11	Received and read Initial Reply Brief of Appellant; sent copy to client	.8		
12/09/11	Arranged for Final Brief to be copied and filed	.3		
03/15/12	Letter from Court of Appeals re: probable hearing date	.1		
03/19/12	Received letter from opposing counsel re: dates	.1		
03/21/12	Consulted calendar and informed court of conflicts	.2		
06/07/12	Letter from Court of Appeals re: hearing date	.1		
06/11/12	Received letter from opposing counsel re: hearing date	.1		
06/12/12	Letter to court re: hearing date	.1		
07/18/12	Letter to client re: hearing date	.1		
07/18/12	Acknowledgment to Court	.1		
09/03/12	Preparation for oral argument	2.0		
09/04/12	Preparation for oral argument	5.0		
09/08/12	Wrote out argument	1.4		
09/11/12	Reviewed entire record	1.2		
09/12/12	Preparation for oral argument and court appearance	3.6		
01/02/13	Reviewed opinion of Court of Appeals; copy client w/ltr	.5		
01/08/13	Draft of Petition for Rehearing	2.7		
01/11/13	Edited and revised Petition; filed and served	1.9		

EXHIBIT II

JOHNSON, TOAL & BATTISTE, P.A.
Post Office Box 1431
Columbia, South Carolina 29202
(803) 252-9700

Date: August 10, 2015 **Page: 2**
Client's Name: Latoya P. Brown..... Appellate Case Number: 2013-000417
Re: Latoya P. Brown vs. Dick Smith, et al.
File Number: 2008-CP-40-1839

02/04/13	Reviewed denial of Petition for Rehearing; notified client	.1		
02/22/13	Review of record, research and draft of Petition for Certiorari, arranged for copies of record	3.5		
02/26/13	Second draft of Petition	1.1		
02/28/13	Revisions editing and filing Petition	.8		
07/11/14	Reviewed grant of Petition; phone call to client	.2		
07/25/14	Reviewed record, outlined brief, reviewed statutory regulations and case law	3.9		
07/27/14	Wrote part of Brief of Petition	1.4		
08/05/14	Revised and finished Brief of Petition	5.1		
08/07/14	Edited, filed and served Brief	2.0		
09/08/14	Reviewed Brief of Respondent, read & copied client	1.4		
09/12/14	Drafted Reply Brief	.9		
09/15/14	Reviewed, printed and filed Reply Brief	.3		
01/29/15	Reread Record and all Briefs	2.8		
01/30/15	Outlined arguments, made outline for oral presentation	3.3		
02/02/15	Preparation for oral argument	3.7		
02/03/15	Preparation for oral argument and court appearance	2.9		
	TOTAL	64.9		\$16,225.00

TOTAL COMBINED HOURS	
64.9 Hours @ \$250.00	\$16,225.00
Costs	\$ 1,299.46
TOTAL	\$17,524.46

EXHIBIT II

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appellate Case Number: 2013-000417

Appeal from Richland County Common Pleas Court
Hon. Alison Renee Lee
Docket Number: 2008-CP-40-1839

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OCT 15 2015

Latoya Brown.....Petitioner,

vs.

S.C. SUPREME COURT


Dick Smith Nissan, Inc. and Old Republic
Surety CompanyRespondents.

CERTIFICATE OF SERVICE BY MAIL

I, Melisa Y. McClurkin, employee of Johnson, Toal & Battiste, P.A., Attorneys for the
Petitioner, in the above-captioned case, hereby certify that I have served the **Motion for Costs and
Attorney's Fees** on J. Gregory Studemeyer, Counsel for Respondents, by mailing one copy of the same
on October 13, 2015, at the following address:

J. Gregory Studemeyer, Esquire
1804 Bull Street
P. O. Box 12201
Columbia, SC 29211-2201

JOHNSON, TOAL & BATTISTE, P.A.

BY: 
Melisa Y. McClurkin

Columbia, South Carolina
October 13, 2015