

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

RECEIVED

APPEAL FROM JASPER COUNTY

AUG 15 2016

Brooks P. Goldsmith, Circuit Court Judge

SC Court of Appeals

Lower Case No. 2009-CP27-331

Appellate Case No. 2015-2133

PHILLIP FLEXON,
M.D.,

Respondent

v.

PHC-JASPER, INC., d/b/a
Coastal Carolina Medical Center,
Coastal Carolina Medical Center, Inc.,
Lifepoint Hospitals, Inc., and
Tenet Healthsystems,

Defendants

Of whom
Lifepoint Hospital, Inc., is,

Appellant

**RESPONDENT'S MOTION FOR
COSTS ON APPEAL**

William B. Harvey, III
S.C. Bar Number 2792
HARVEY & BATTEY, P.A.
Post Office Drawer 1107
Beaufort, South Carolina 29901-1107
Telephone 843-524-3109
Telefax 843-524-6973
Email: bharvey@harveyandbattey.com
Attorney for Respondent
Phillip Flexon, M.D.

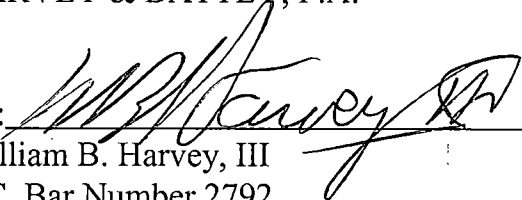
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Respondent hereby moves pursuant to Rule 222, SCACR, for the taxation of costs on appeal against the Appellant. The grounds for this motion are that the Respondent is entitled to the taxation of his costs on appeal against the Appellant, as the following shows:

1. Rule 222, SCACR, provides for the taxation of costs on appeal against an Appellant when an appeal is dismissed or judgment on appeal is affirmed. In this case, the judgment of the lower court was affirmed by the Court of Appeals on July 29, 2015, and the Appellant's Petition for Writ of Certiorari was denied on August 4, 2016.
2. This motion is timely. "A party desiring costs to be taxed shall, within fifteen (15) days of the issuance of the remittitur, serve and file a motion requesting that costs be assessed under this Rule." Rule 222(d), SCACR. The Remittitur was issued on August 8, 2016, less than 15 days before the service and filing of this motion.
3. The Respondent has actually incurred taxable costs in the amount of \$25.00, as is shown on the attached itemized statement of costs. Additionally, Respondent has incurred attorney's fees in this matter on appeal and asks that the Court award his \$2,000.00 in attorney's fees (\$1,000 for the Court of Appeals decision which was affirmed, and \$1,000 for the Petition for Writ of Certiorari which was denied) as part of his costs.
4. The Respondent is entitled to an Order taxing costs against the Appellant.

WHEREFORE, Respondent prays for an Order taxing costs in the amount of \$2,025.00 or, in the alternative, in the amount deemed appropriate by the Court, against the Appellant in this appeal.

Respectfully submitted,
HARVEY & BATTEY, P.A.

By: 
William B. Harvey, III

S.C. Bar Number 2792

Post Office Drawer 1107

Beaufort, South Carolina 29901-1107

Telephone 843-524-3109

Telefax 843-524-6973

Attorney for Respondent

Phillip Flexon, M.D.

Beaufort, South Carolina

Dated: August 12, 2016

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Case No. 2009-CP27-331

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Coastal Carolina Medical Center, Inc.,
Lifepoint Hospitals, Inc., and
Tenet Healthsystems, Defendants

Of whom
Lifepoint Hospital, Inc., is, Appellant

ITEMIZED STATEMENT OF COSTS

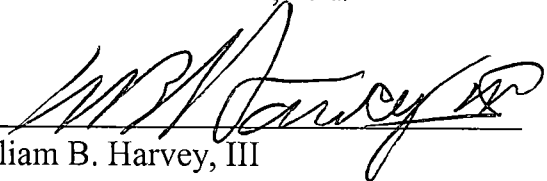
The Appellate Court is requested to tax the following costs against

Lifepoint Hospital, Inc.

Date	Costs taxable under Rule 222, SCACR	Requested	Allowed
08/10/16	Respondent's Motion for Costs on Appeal	\$25.00	
Total		\$25.00	

I, William B. Harvey, III, do swear or affirm that the foregoing costs are correct and were necessarily incurred in this action. A copy of this statement was served by mail on counsel for the Appellant along with Respondent's motion for costs.

Respectfully submitted,
HARVEY & BATTEY, P.A.

By: 
William B. Harvey, III
S.C. Bar Number 2792
Post Office Drawer 1107
Beaufort, South Carolina 29901-1107
Telephone 843-524-3109
Telefax 843-524-6973
Attorney for Respondent
Phillip Flexon, M.D.

Beaufort, South Carolina

Dated: August 12, 2016

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Tenet Healthsystems, Defendants

Of whom
Lifepoint Hospital, Inc., is, Appellant

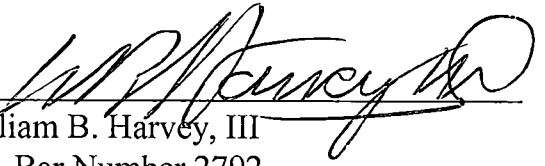
PROOF OF SERVICE

I certify that I have served *Respondent's Motion for Costs on Appeal* upon the parties below by depositing a copy of it in the United States Mail, postage prepaid, on August ____, 2016, addressed as follows:

Trudy H. Robertson, Esquire
Joseph T. Belton, Esquire
Moore & Van Allen, PLLC
Post Office Box 22828
Charleston, SC 29413-2828

James D. Myrick, Esquire
Dana W. Lang, Esquire
Womble Carlyle Sandridge & Rice, LLP
P.O. Box 999
Charleston, SC 29402

Respectfully submitted,
HARVEY & BATTEY, P.A.

By: 

William B. Harvey, III
S.C. Bar Number 2792
Post Office Drawer 1107
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Telephone 843-524-3109
Telefax 843-524-6973
Attorney for Respondent
Phillip Flexon, M.D.

Beaufort, South Carolina

Dated: August 12, 2016

August 12, 2016

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SC Court of Appeals

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

Re: ***Phillip Flexon v. PHC-Jasper, Inc., d/b/a Coastal Carolina Medical Center, et al.***
Civil Action Number 2009-CP-27-331
Court of Appeals Reference Number 2015-002133
Our File Number 23697

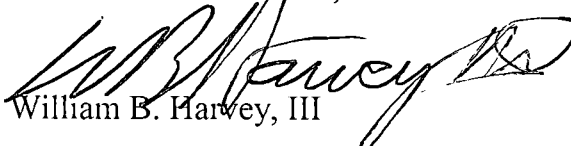
Dear Ms. Kitchings:

Please find enclosed for filing an original and six (6) copies of *Respondent's motion for Costs on Appeal, Itemized Statement of Costs* and a *Proof of Service* relative to the above-referenced matter. I would appreciate you filing the original and returning a stamped copy to me in the self-addressed stamped envelope provided. Also, enclosed is the firm's check in the amount of \$25.00 for the filing fee.

By copy of this letter with enclosures, I am serving Appellant's counsel with the same.

With kind personal regards, I am

Yours very truly,
HARVEY & BATTEY, P.A.


William B. Harvey, III

WBHIII/ln
Enclosures

cc: James Myrick
Trudy Robertson
Dr. Phillip Flexon



HB | HARVEY & BATTEY
ATTORNEYS AT LAW

1001 Craven Street • P.O. Drawer 1107
Beaufort, SC 29901-1107

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
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