

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SPARTANBURG COUNTY

Court of Common Pleas

R. Keith Kelly, Circuit Court Judge

RECEIVED

AUG 25 2016

SC Court of Appeals

Case No. 2014-CP-42-01622

Appellate Case No. 2015-000366

Spartanburg Buddhist Center of South Carolina, Inc.,

Respondent,

v.

Ron Ork and Luke Dong,

Appellants.

Ron Ork and Luke Dong,

Third Party Plaintiffs,

v.

Chivin Sun, Robert Pek, Sakhan Sok, Sambo Khieav,
Sophay Pres, and Tommy Ong,

Third Party Defendants.

RETURN TO MOTION FOR COSTS

Respondent hereby files this Return to Appellants' August 16, 2016 Motion for Costs ("Motion") in this matter. Appellants are not entitled to have \$3,500.00 in attorney's fees taxed against Respondent as a cost of the appeal.

This Court's July 13, 2016 Order reversed the Contempt Order, which required Appellants to pay to Respondent \$3,500.00 in attorney's fees. Further, the Court's July 13, 2016 Order expressly reversed the award of attorney's fees to Respondent.

In its Motion for Costs, Appellants seek to have that \$3,500.00 in attorney's fees returned to them as a cost of the appeal. This request is improper and should be denied. South Carolina Rule of Appellate Procedure 222 provides that costs of an appeal include only

(1) the filing fee paid under Rule 203(d); (2) the cost of the court reporter's transcript; (3) premiums paid for costs of supersedeas bonds or other bonds obtained to preserve rights pending appeal; (4) the cost of printing the Record on Appeal under Rule 209; and (5) the cost of printing the party's final brief(s) under Rule 210,

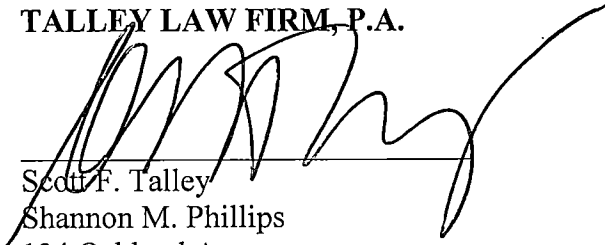
plus the usual \$1,000.00 attorney's fee. S.C.A.C.R. 222.

Appellants have argued that the \$3,500.00 taxed against them in the Contempt Order, which has been reversed, should now be taxed against Respondents as a cost of the appeal. However, it is clear that that is not a cost of filing the appeal. Instead, Appellants seem to be seeking a revision of the Court's Order such that the Court orders the return of the funds. This request is not proper in a motion for costs. Appellants have cited no authority supporting their allegation that this amount is a cost of the appeal.

Accordingly, Respondent respectfully requests the Appellants' Motion for Costs be denied in part.

Dated this the 23rd day of August, 2016.

TALLEY LAW FIRM, P.A.



Scott F. Talley
Shannon M. Phillips
134 Oakland Avenue
Spartanburg, South Carolina 29302
864-595-2966
Attorneys for Plaintiff

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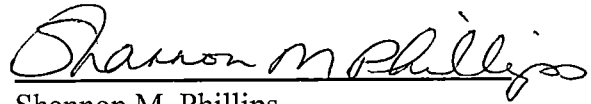
Third Party Defendants.

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Return to Motion for Costs in this action was served upon Defendants, by and through their attorneys, Thomas Belenchia and Camden Shealy, by first class mail sending copies of the same with sufficient postage affixed thereto, and addressed as follows:

Thomas Belenchia
Camden Shealy
P.O. Box 3421
Spartanburg, SC 29304

TALLEY LAW FIRM, P.A.

A handwritten signature in cursive script that reads "Shannon M. Phillips". The signature is written in black ink and is positioned above a horizontal line.

Shannon M. Phillips

August 23, 2016



TALLEY Law Firm, P.A.

Scott F. Talley
Shannon M. Phillips
Wendy N. Griffith

August 23, 2016

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VIA U.S. MAIL

The Honorable Jenny A. Kitchings
Clerk, South Carolina Court of Appeals
P. O. Box 11629
Columbia, SC 29211

RE: Spartanburg Buddhist Center of South Carolina, Inc., Respondent, v. Ork and
Dong, Appellants,
Case No. 2015-000366

Dear Ms. Kitchings:

Enclosed please find the original and (6) copies of Respondent's Return to Motion for
Costs and Certificate of Service in the above-referenced matter.

By copy of this letter to Thomas Belenchia and Camden Shealy, attorneys for Appellants,
I am serving them with a copy of same.

If you have any questions or concerns, please let me know.

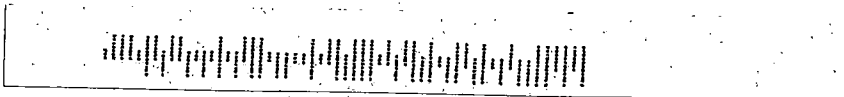
With kind regards, I remain

Yours very truly,
TALLEY LAW FIRM, P.A.

Shannon M. Phillips

Enclosures

Copy to: Thomas Belenchia
Camden Shealy
A Business Law Firm
P.O. Box 3421
Spartanburg, SC 29304



TALLEY Law Firm, P.A.

134 Oakland Avenue
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