

The Supreme Court of South Carolina

Blue Ridge Electric Cooperative, Inc., Petitioner,

v.

Kathleen J. Gresham, Respondent.

Appellate Case No. 2015-001836

ORDER

Respondent has filed a motion for costs pursuant to Rules 54(d) and 68 of the South Carolina Rules of Civil Procedure and section 15-37-40 of the South Carolina Code (2005). We deny this motion as motions of this nature should be made to the circuit court rather than to this Court. *See Austin v. Stokes-Craven Holding Corp.*, 406 S.C. 187, 750 S.E.2d 78 (2013) (concluding that appellate costs and fees under the Dealers' Act could be pursued in circuit court); *Parker v. Shecut*, 359 S.C. 143, 597 S.E.2d 793 (2004) (recognizing, in a partition action, that whether Respondents were entitled to appellate attorney's fees pursuant to section 15-61-110 of the South Carolina Code was a determination for master-in-equity); *Taylor v. Medenica*, 332 S.C. 324, 504 S.E.2d 590 (1998) (holding that Respondents could seek additional appellate attorney's fees in circuit court under the Unfair Trade Practices Act); *Muller v. Myrtle Beach Golf & Yacht Club*, 313 S.C. 412, 438 S.E.2d 248 (1993) (finding Appellant could seek appellate costs and attorney's fees in circuit court under mechanic's lien statute); *McDowell v. S.C. Dep't of Soc. Servs.*, 304 S.C. 539, 405 S.E.2d 830 (1991) (concluding Appellant could seek, in circuit court, award of appellate attorney's fees under section 15-77-300 of the South Carolina Code).

Further, this motion was not made until after the remittitur was sent in this case, and the sending of the remittitur ended appellate jurisdiction. Consequently, the motion cannot be considered by this Court. *See Wise v. S.C. Dep't of Corr.*, 372 S.C. 173, 174, 642 S.E.2d 551, 551 (2007) ("When the remittitur has been properly

sent, the appellate court no longer has jurisdiction over the matter and no motion can be heard thereafter.").

Yet, one of the exceptions to the rule regarding post-remittitur motions is a motion for costs under Rule 242(j), SCACR because that rule allows the motion to be made within fifteen days of the issuance of the remittitur. Respondent's motion was timely and contains an itemized statement of costs required by that rule. However, because Rule 242(j) does not provide for the recovery of "paralegal services," we grant the requested costs less the amount of paralegal services for a total award of \$318.75 against Petitioner. The lower court or tribunal is directed to add this award of costs to the remittitur.



Columbia, South Carolina
February 8, 2017



FOR THE COURT
Justice John W. Kittredge, not participating C.J.

cc:
Larry C. Brandt, Esquire
Steven W. Hamm, Esquire
Jo Anne Wessinger Hill, Esquire
Kathleen Jennings Gresham
The Honorable Paul B. Wickensimer