

THE STATE OF SOUTH CAROLINA
In the Supreme Court

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APR 18 2017

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

S.C. SUPREME COURT

Hon. Mikell Scarborough, Master-In-Equity

Appellate Case No.: 2013-001477

Roosevelt Simmons.....Petitioner

v.

Berkeley Electric Cooperative, Inc.
& St. John’s Water Company, Inc.,.....Respondents

BERKELEY ELECTRIC COOPERATIVE, INC.’S MOTION FOR COSTS

ARGUMENTS AND AUTHORITIES

Pursuant to SCACR Rules 222 (a) and (b) and Rule 242 (j), Respondent Berkeley Electric Cooperative, Inc., hereby requests that the Court tax costs against Petitioner Roosevelt Simmons as set forth in the accompanying sworn statement.


As set forth in Rule 222 (a) “Unless otherwise ordered by the Appellate Court or agreed by the parties, costs shall be taxed against the appellant when the appeal is dismissed or judgment on appeal is affirmed.” The judgment of the trial court in

favor of Respondent was affirmed, and there is no order that costs not otherwise authorized be awarded.

Further, as set forth in Rule 242 (j)(1) "Unless otherwise ordered by the Supreme Court or agreed to by the parties, costs shall be assessed against the appellant if the decision of the Supreme Court has the effect of affirming the judgment of the lower court or tribunal which was reviewed by the Court of Appeals." The judgment of the trial court and the Court of Appeals in favor of Respondent Berkeley Electric Cooperative, Inc., was affirmed, and there is no order that costs not otherwise authorized be awarded.

CONCLUSION

Based on the foregoing, Respondent Berkeley Electric Cooperative, Inc., respectfully request that the Court award costs as set forth in the sworn statement of Jary J. Hulst.



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SWORN STATEMENT IN SUPPORT OF RESPONDENT'S MOTION FOR
COSTS

The Supreme Court is requested to tax the following costs against Petitioner Roosevelt
Simmons.


COSTS AT COURT OF APPEALS LEVEL

COSTS TAXABLE UNDER RULE 222, SCACR	NO. OF BRIEFS	RATE PER BRIEF	REQUESTED	ALLOWED (For Court Use Only)
Cost of Printing or Copying Final Brief-Court of Appeals	19	\$7.12	\$146.12	
Attorney's Fee Provided by Rule 222 (b), SCACR			\$1,000.00	
		Total	\$1,146.12	

COSTS AT SUPREME COURT LEVEL

COSTS TAXABLE UNDER RULE 242, SCACR	NO. OF BRIEFS	RATE PER BRIEF	REQUESTED	ALLOWED (For Court Use Only)
Cost of Printing or Copying Final Brief- Supreme Court	20	\$10.85	\$217.00	
Attorney's Fee Provided by Rule 242 (j)(1), SCACR			\$1,000.00	
		Total	\$1,217.00	

I, J. Jay Hulst, do swear or affirm that the foregoing costs totaling \$2,363.12 are correct and were necessarily incurred in this action. A copy of this statement was mailed to opposing counsel.



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PROOF OF SERVICE

I certify that I have served Respondent's Motion for Costs and Sworn Statement in Support of Respondent's Motion for Costs on Petitioner Roosevelt Simmons, by depositing a copy of said pleadings for delivery via a postage paid, Fed Ex overnight envelope, on April 17, 2017, addressed to his attorney of record Edward A. Bertele, 1812 Pierce Street, Charleston, SC 29492.


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