

THE STATE OF SOUTH CAROLINA
In the Supreme Court

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APPEAL FROM SALUDA COUNTY
Court of Common Pleas

MAY 11 2017

The Hon. R. Lawton McIntosh, Circuit Court Judge **SC SUPREME COURT**

Case No. 13-CP-41-078

Appellate Case No. 2015-001159

Walter Smith,.....Respondent

v.

Norman K. Tiffany, Individually; Brown Trucking
Company; and Brown Integrated Logistics, Inc.,.....Appellants,

AND

Brown Trucking Company and Brown Integrated Logistics, Inc.,.....Appellants

v.

Corbett James Mizzell, III,.....Respondent.

RESPONDENT'S, CORBETT JAMES MIZZELL, III,
PETITION FOR COSTS UNDER RULE 222, SCACR

I. FACTUAL BACKGROUND

On June 17, 2013, the Appellants, Brown Trucking Company, and Brown Integrated Logistics, instituted a third party action against Respondent, Corbett James

Mizzell, III. By order entered May 15, 2015, the Honorable R. Lawton McIntosh, Circuit Court Judge, granted Mizzell's motion for summary judgment and dismissed the Brown Defendants' claims against him in their entirety. The Brown Defendants thereafter appealed that order (as well as a discovery order) by notice filed May 28, 2015. On October 9, 2015, this Court certified the appeal under Rule 204(b) of the South Carolina Rules of Appellate Procedure. Following briefing and oral arguments, this Court affirmed the trial court's order in its entirety by opinion issued April 26, 2017.

II. DISCUSSION

Rule 222(a) of the South Carolina Appellate Court Rules provides that "costs shall be taxed against the appellant when the appeal is dismissed or judgment on appeal is affirmed." Rule 222(b) provides that "the party [entitled to recover costs] shall be entitled to recover an attorney's fee in an amount which shall be set by order of the Supreme Court," which has been set at \$1,000.00.

On April 26, 2017, this Court affirmed the order and judgment of the circuit court in favor of the Respondents. A sworn, itemized statement of costs as required by Rule 222(d), SCACR, is attached hereto and incorporated herein. That statement reflects awardable costs of \$1,169.25.

III. CONCLUSION

WHEREFORE, the Respondent, Corbett James Mizzell, III, respectfully requests that this motion for costs be granted in the amount of \$1,169.25.

Respectfully submitted, this 8th day of May, 2017.



Robert T. King (#066237)
rking@kingandlove.com
KING, LOVE & HUPFER, LLC
PO Box 1764
Florence, SC 29503-1764
(843) 407-5525 - Tel
(843) 407-5782 - Fax
ATTORNEY FOR RESPONDENT
CORBETT JAMES MIZZELL, III

May 8, 2017

CERTIFICATE OF SERVICE

I, the undersigned, of the law office of King, Love & Hupfer, LLC, as attorneys for Corbett James Mizzell, III, do hereby certify that I have served the RESPONDENT'S, CORBETT JAMES MIZZELL, III, PETITION FOR COSTS UNDER RULE 222, SCACR this May 8, 2017, by depositing the same in a U.S. Postal Box in envelopes, sufficient postage prepaid, properly addressed to the following:

ALAN P SLOAN III ESQ
KRISTEN B FEHSENFELD ESQ
PIERCE HERNS SLOAN & WILSON LLC
PO BOX 22437
CHARLESTON SC 29401-2437

STEVEN T MOON ESQ
THOMAS McROY SHELLEY III ESQ
ROGERS TOWNSEND & THOMAS PC
PO BOX 100200
COLUMBIA SC 29210-0200

RALPH KENNEDY ESQ
KENNEDY LAW FIRM
PO BOX 2559
BATESBURG-LEESVILLE SC 29070-2559

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**RESPONDENT'S, CORBETT JAMES MIZZELL, III,
ITEMIZED STATEMENT OF COSTS**

The Appellate Court Clerk is requested to tax the following costs against:

Brown Trucking Company and Brown Integrated Logistics, Inc., Appellants

COSTS AND FEES TAXABLE UNDER RULE 222, SCACR	NO. OF PAGES	RATE	REQUESTED	ALLOWED (For Court use only)

Cost of Printing or Copying Initial Brief	29 (5 copies)	\$.25	\$36.25	
Cost of Printing or Copying Final Brief	28 (19 copies)	\$.25	\$133.00	
Cost of Printing or Copying Initial Reply Brief	0	0	0	
Cost of Printing or Copying Final Reply Brief	0	0	0	
Cost of Printing or Copying Record on Appeal	0	0	0	
Filing Fee Paid Under Rule 203(d), SCACR	0	0	0	
Cost of Court Reporter's Transcript		0	0	
Attorney's Fee Provided By Rule 222(b), SCACR		set by 222(b)	\$1,000.00	
Other (specify and explain)		0	0	
		TOTAL	\$1,169.25	

I, Robert T. King, do swear of affirm that the foregoing costs are correct and were necessarily incurred in this action. A copy of this statement was mailed to opposing counsel.



ROBERT T. KING
Attorney for Corbett James Mizzell, III

Subscribed and sworn to before me
this 8th day of May, 2017



Wendy R Lee
Notary Public for South Carolina
My Commission Expires: 11/05/2018