

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas
The Honorable Edgar W. Dickson, Circuit Court Judge

RECEIVED
DEC 29 2017
SC Court of Appeals

Case No. 2011-CP-38-00853
Appellate Case No. 2014-000459

Directory Assistants, Inc.,..... Appellant,

v.

Dennis Shay, d/b/a Marsch Chiropractic Center, Respondent.

Motion for Costs

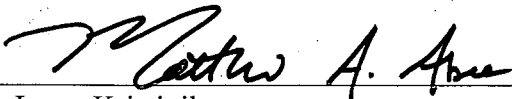
Directory Assistants, Inc. (“Appellant”), moves this Court for an order taxing all recoverable costs and fees against Dennis Shay, d/b/a Marsch Chiropractic Center (“Respondent”) as allowed by Rule 222(b), SCACR, in the above-captioned appeal.¹

Pursuant to Rule 222, SCACR, costs and fees shall be taxed against Respondent. This Court reversed the judgment of the circuit court in Unpublished Opinion No. 2017-UP-415, filed November 8, 2017. Accordingly, Appellant moves to have costs taxed against Respondent. *See* Rule 222(a), SCACR (“Unless otherwise ordered by the appellate court . . . costs *shall* be taxed against the Respondent when the appeal is dismissed or judgment on appeal is affirmed.”) (emphasis added).

¹ Appellant reserves the right to seek attorneys’ fees and costs incurred during the litigation of this matter upon remand to the Circuit Court—in addition to attorneys’ fees incurred during the appeal—as set forth in its agreement with Respondent. *See Austin v. Stokes-Craven Holding Corp.*, 406 S.C. 187, 199–200, 750 S.E.2d 78, 84–85 (2013) (explaining that award of fees and costs under Rule 222, SCACR, does not preempt an award by the Circuit Court of attorneys’ fees to which a party is otherwise entitled); *Taylor v. Medenica*, 332 S.C. 324, 326, 504 S.E.2d 590, 591 (1998) (awarding \$1,000 in attorneys’ fees as allowed by Rule 222, SCACR, and holding that party could seek additional attorneys’ fees in the circuit court).

This Court remitted this matter to the circuit court on December 14, 2017. Therefore, this Motion comes within the time period proscribed in Rule 222(d), SCACR. A sworn, itemized statement of fees and costs incurred by Respondent is attached to this Motion as required by Rule 222(d), SCACR.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By:  _____

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Attorneys for Directory Assistants, Inc.

Columbia, South Carolina
December 29, 2017

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Itemized Statement of Costs

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

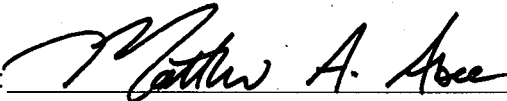
Costs And Fees Taxable Under Rule 222(B), SCACR	No. of Pages	Rate	Requested	Allowed (For Court Use Only)
Cost of Printing/Copying Final Briefs			\$0.00	
Cost of Printing/Copying Final Reply Brief			\$0.00	
Cost of Printing/Copying Record on Appeal			\$0.00	
Filing Fee Paid Under Rule 203(d)			\$100.00	
Cost of Court Reporter's Transcript			\$236.10	

Attorney's Fee Provided by Rule 222(b), SCACR			\$1,000.00	
Premiums Paid for Costs of Appeal Bond Obtained to Preserve Rights Pending Appeal			\$0.00	
Other (specify and explain)			\$0.00	
TOTAL			\$1,336.10	

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

NELSON MULLINS RILEY & SCARBOROUGH LLP

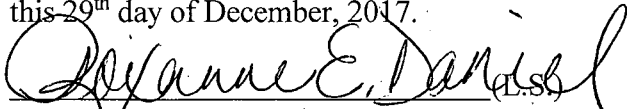
By:



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Attorneys for Directory Assistants, Inc.

SWORN to and subscribed before me
 this 29th day of December, 2017.



Notary Public for South Carolina

My Commission Expires: 2/11/2021

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v.

Dennis Shay, d/b/a Marsch Chiropractic Center, Respondents.

Proof of Service

I, the undersigned Administrative Assistant of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Directory Assistants, Inc., do hereby certify that I have served all counsel in this action with a copy of the document(s) specified below to the following address(es):

Pleadings:

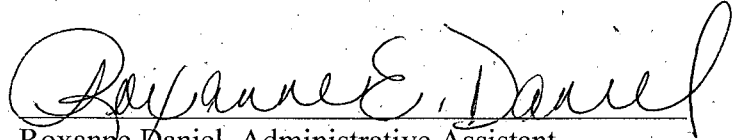
Motion for Costs
Itemized Statement of Costs

Counsel Served:

U.S. Mail
David A. Maxfield, Esquire
5217 N. Trehnolm Road, Suite B
Columbia, SC 29206

U.S. Mail

Blake A. Hewitt, Esquire
BLUESTEIN ATTORNEYS
Post Office Box 7965
Columbia, SC 29202

A handwritten signature in cursive script that reads "Roxanne E. Daniel". The signature is written in black ink and is positioned above a horizontal line.

Roxanne Daniel, Administrative Assistant

December 29, 2017

Matthew A. Abee
Admitted in SC and NC
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SC Court of Appeals

Hand Delivered

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
1220 Senate Street
Columbia SC 29201

RE: Directory Assistants, Inc. and Dennis Shay d/b/a Marsch Chiropractic Center
Civil Action No. 2011-CP-38-00853
Appellate Case No. 2014-000459
Our File No. 36358/01500

Dear Ms. Kitchings:

Enclosed please find an original and six copies of a Motion for Fees and Costs in the above-referenced matter. Please file the original and return a clocked-in copy to me via our courier. Should you have any questions, please do not hesitate to contact me:

By copy of this letter, I am hereby serving opposing parties.

Very truly yours,



Matthew A. Abee

MAA:mk
Enclosures

cc: David Maxfield, Esquire
Blake A. Hewitt, Esquire