

**THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT**

APPEAL FROM AIKEN COUNTY
IN THE COURT OF COMMON PLEAS
THE HONORABLE DOYET A. EARLY, III
CIRCUIT COURT JUDGE

Court of Appeals Opinion No. 5527
CASE NO. 2016-000106

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JUL 19 2018

SC Court of Appeals

Harold Raynor a/k/a Harold
Reynor and Michael Caldwell,

Respondents,

v.

Charles C. Byers, John T. Bakhaus,
Kurt Kasler and Kenneth Smith,

Defendants,

of whom

Charles C. Byers, John T. Bakhaus and Kenneth Smith are the Petitioners,

RETURN TO MOTION FOR COSTS

Spencer Andrew Syrett SC BAR 05459
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Attorney for the Petitioners

Charles C. Byers, John T. Bakhaus and
Kenneth Smith

Kevin Nicklaus Molony SC BAR 80679
212 Newberry St. NW
Aiken, SC 29801
803-648-0706
Attorney for Respondents

Thomas J. Rode SC BAR 77480
Thurmond Kirchner & Timbes, P.A.
15 Middle Atlantic Wharf
Charleston, SC 29401
Attorney for the Respondents

The Petitioners oppose the award of attorney fees and costs but, if costs or attorney fees are awarded, the Petitioners oppose the award of the amount of costs and attorney fees sought.

Rule 222(e), SCRAP provides in part as follows:

Costs on appeal shall be taxed only in the appellate court. If costs are taxed, they shall become part of the judgment of the appellate court and shall be added to the remittitur. If a petition for a writ of certiorari is sought under Rule 242, the Court of Appeals shall tax costs only in those cases in which the petition for a writ of certiorari is denied.

The Supreme Court denied the Petition writ of certiorari on June 27, 2018. The Motion for costs is not filed in the proper court.

Rule 222(d), SCRAP, provides as follows:

A party desiring costs to be taxed shall, within fifteen (15) days of the issuance of the remittitur, serve and file a motion requesting that costs be assessed under this Rule.

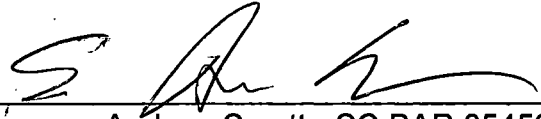
The remittitur was issued by the Court of Appeals on June 29, 2018. The motion for costs was not served until July 18, 2018. The last date for filing the motion would be July 16, 2018. The Circuit Court Rule (Rule 6(e), SCRCP) that allows an additional five days for service by mail does not apply in the Court of Appeals nor in the Supreme Court. The Petition was served and filed late.

Order 2018-01-17-02 provides as follows:

The attorney's fee under Rule 222(b) of the South Carolina Appellate Court Rules is hereby increased to \$2,500. This increased fee shall apply to any appeal where a decision is filed on or after the date of this order which gives rise to the right to seek costs under Rule 222.

The Order was issued on January 17, 2018. The Decision in this case was filed on December 20, 2017. The attorneys fees allowed prior to the Order was \$1,000.00. If the Respondents are entitled to an award of fees, which the Petitioners deny, the amount to

be awarded is \$1,000.00.



Spencer Andrew Syrett SC BAR 05459
Attorney for the Petitioners

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July 19, 2018

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**THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT**

APPEAL FROM AIKEN COUNTY
IN THE COURT OF COMMON PLEAS
THE HONORABLE DOYET A. EARLY, III
CIRCUIT COURT JUDGE

Court of Appeals Opinion No. 5377
CASE NO. 2016-000106

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SC Court of Appeals

Harold Raynor a/k/a Harold
Reynor and Michael Caldwell,

Respondents,

v.

Charles C. Byers, John T. Bakhaus,
Kurt Kasler and Kenneth Smith,

Defendants,

of whom

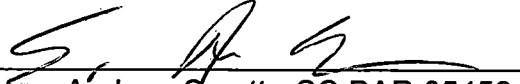
Charles C. Byers, John T. Bakhaus and Kenneth Smith are Petitioners,

Petitioners.

PROOF OF SERVICE

I certify that I have served the Return to Motion for Costs and Attorney Fees on the Respondents, Harold Raynor a/k/a Harold Reynor and Michael Caldwell, by depositing a copy of it in the United States Mail, postage prepaid, on July 19, 2018, addressed to the attorney of record:

Thomas J. Rode
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