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THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

DEC 19 2018

Diane Schafer Goodstein, Circuit Court Judge

SC Court of Appeals

Unpublished Opinion No. 2018-UP-221 (S.C. Ct. App. filed May 30, 2018)
Appellate Case. No. 2015-002466
C/A No: 2012-CP-07-03782

Rebecca Delaney, as Personal Representative of The Estate of Justin Miller, Petitioner,

v.

CasePro, Inc., Respondent,

RESPONDENT'S MOTION FOR COSTS AND FEES

Respondent CasePro, Inc. ("Respondent") hereby moves to recover costs and fees pursuant to Rules 222 and 242, SCACR. On November 28, 2018, this Court entered an Order denying Petitioner's Petition for Writ of Certiorari. This Order was filed with the Clerk of Court of Beaufort County on November 30, 2018. The Order does not address the recovery of costs or fees nor has Respondent and Petitioner agreed upon the recovery of such costs or fees. The South Carolina Court of Appeals remitted this matter to the Beaufort County Court of Common Pleas on December 3, 2018.


In the absence of an order or agreement, Rule 242(j)(1), SCACR, provides that 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. Rule 242(j)(2), SCACR, provides that a party may, to the extent it actually incurred these costs,

recover: (1) the filing fee paid under Rule 242(c); (2) the cost of printing the Appendix under Rule 242(e) and (i); and (3) the cost of printing the party's brief(s) under Rule 242(i). Pursuant to Rule 222(b), SCACR, a party may, to the extent it actually incurred these costs, recover: (1) the filing fee paid under Rule 203(d); (2) the cost of the court reporter's transcript; (3) premiums paid for costs of supersedeas bonds or other bonds obtained to preserve rights pending appeal; (4) the cost of printing the Record on Appeal under Rule 209; and (5) the cost of printing the party's final brief(s) under Rule 210. In addition to these costs, Rules 242 and 222, SCACR, provide for the recovery of attorney's fees in an amount which shall be set by order of this Court. This amount is currently set at \$2,500. See Order No. 2018-01-17-02.

Here, this Court denied Petitioner's Petition for Writ of Certiorari, which effectively affirmed the Circuit Court's decision as reviewed, and unanimously affirmed in an unpublished opinion, by the South Carolina Court of Appeals. This ruling permits the recovery of all costs identified above, as well as attorney's fees, not to exceed \$2,500, incurred by Respondent. Respondent hereby seeks the recovery of all costs so recoverable as well as attorney's fees. In accordance with Rule 222(d), SCACR, this Motion is accompanied by a sworn, itemized statement of costs and attorney's fees.

This the 18th day of December, 2018.

Respectfully submitted,



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Attorneys for Respondent

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Rebecca Delaney, as Personal Representative of
The Estate of Justin Nicholas Miller, Petitioner,

v.

CasePro, Inc., Respondent.


PROOF OF SERVICE

I certify that on the date indicated below, I served *Respondent's Motion for Costs and Fees* upon Petitioner, via electronic mail and by placing the same in the U.S. Mail, proper postage prepaid, addressed to counsel of record for Petitioner, as follows:

T. David Hoyle, Esq.
W. Christopher Swett, Esq.
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December 18, 2018.


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REPLY TO SC OFFICE

December 18, 2018

VIA FEDERAL EXPRESS

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

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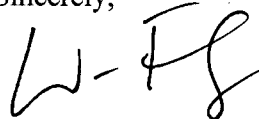
SC Court of Appeals

Re: Rebecca Delaney, as Personal Representative of the Estate Justin Nicholas Miller,
Petitioner v. CasePro, Inc., Respondent
Unpublished Opinion No. 2018-UP-221 (S.C. Ct. App. filed May 30, 2018)
Appellate Case No.: 2015-002466
Common Pleas Case No.: 2012-CP-07-03782
CCS File No.: 549-46690

Dear Ms. Kitchings:

Enclosed please find the original and seven (7) copies (all unbound) of *Respondent's Motion for Fees and Costs* and *Proof of Service*, together with the filing fee. Also enclosed is the original and seven (7) copies of *Itemized Statement of Costs and Fees*. Please provide me with a clocked copy of each in the enclosed, self-addressed, stamped envelope. By copy of this letter, I am serving the same upon all counsel of record. If you have any questions, please let me know.

Sincerely,



WILLIAM J. FARLEY, III

WJF:tjr
Enclosures

cc: T. David Hoyle, Esq.; W. Christopher Swett, Esq.; Temitope O. Leyimu, Esq.
Crystal Lynn Castlebery, Esq.

LEO

Express

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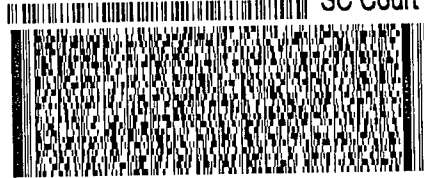
TO JENNY ABBOTT KITCHINGS, CLERK
SOUTH CAROLINA COURT OF APPEALS
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COLUMBIA SC 29201

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