

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Craig D. Brown, Circuit Court Judge

Case No. 2017-CP-10-05246
Appellate Case No. 2019-001360

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DEC 19 2019
SC Court of Appeals

Gary Keisler, Individually and as Class Representative,
John Does (1-50) and Jane Does (1-50), Respondents,

v.

Wheelock Street Real Estate Fund, LP and Wheelock Street Capital, LLC Appellants.

MOTION FOR TAXATION OF COSTS

Respondents Gary Keisler, individually and as class representative, John Does (1-50) and Jane Does (1-50), through their undersigned counsel, hereby respectfully move for taxation of costs against Appellants Wheelock Street Real Estate Fund, LP and Wheelock Street Capital, LLC. This Motion is made pursuant to Rule 240 and Rule 222 of the South Carolina Appellate Court Rules.

The grounds for this Motion are: 1) Appellants filed and served a Notice of Appeal for this matter on July 25, 2019, 2) On August 20, 2019, this Court, noting the apparent interlocutory nature of the orders under appeal, requested that each party draft a memorandum addressing the issue of appealability, 3) The parties expended time and resources drafting their respective memorandums as to appealability, 4) On November 14, 2019, after considering the memorandums filed by the parties,

this Court dismissed the appeal on the grounds that the order under appeal was not immediately appealable, 5) The remittur for this case was subsequently issued less than fifteen (15) days ago, on December 4, 2019, and 6) Pursuant to Rule 222 (a) and (b) SCACR , “costs **shall** be taxed against the appellant when the appeal is dismissed” and “the party entitled to recover costs under the rule [...] **shall** be entitled to recover an attorney’s fee in an amount which shall be set by order of the Supreme Court.” [emphasis added]. By order dated January 17, 2018, the amount of attorney’s fee was set by the Supreme Court at \$2,500.00.

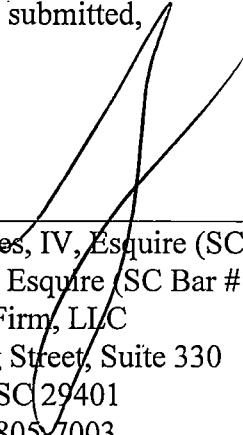
Pursuant to Rule 222(d), a sworn, itemized statement of costs, requesting taxation of costs in the amount of \$2,5000.00, is attached hereto.

CONCLUSION

For the forgoing reasons, the above-named Respondents respectfully request that this Court grant their Motion for Taxation of Costs and order Appellants to pay \$2,500.00 in Attorney’s Fees as set forth by Rule 222, SCACR and the January 17, 2018 Order by the Supreme Court.

[Signature Page to Follow]

Respectfully submitted,



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ATTORNEYS FOR RESPONDENTS

December 16, 2019
Charleston, South Carolina

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Craig D. Brown, Circuit Court Judge

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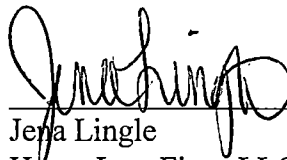
v.

Wheelock Street Real Estate Fund, LP and Wheelock Street Capital, LLC Appellants.

PROOF OF SERVICE

I, Jena Lingle, Paralegal at Hayes Law Firm, LLC certify that I have served Respondent's *Motion for Taxation of Costs* and *Itemized Statement of Costs* on Appellants, on December 16, 2019 by U.S. First Class Mail to their attorneys of record as shown: Brian C. Duffy, Stephen Jenkins Bell, DUFFY & YOUNG, LLC, 96 Broad Street, Charleston, SC 29401.

Respectfully submitted



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December 16, 2019
Charleston, South Carolina

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December 16, 2019

VIA UNITED STATES FIRST CLASS MAIL

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

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SC Court of Appeals

RE: Gary Keisler, Individually and as Class Representative, John Does(1-50) and Jane Does(1-50), Respondents, v. Wheelock Street Real Estate Fund, LP and Wheelock Street Capital, LLC, Appellants; Appellate Case No. 2019-001360

Dear Ms. Kitchings:

Enclosed for filing, please find the following:

- (1) One (1) original and six (6) copies of Respondent Gary Keisler, et al.'s *Motion for Taxation of Costs and Itemized Statement of Costs*
- (2) Proof of Service
- (3) A check for the filing fee of \$50.00.

Thank you very much for your time and attention to this matter. Please do not hesitate to contact me with any questions or concerns.

Sincerely,



John C. Hayes, IV
Attorney for Respondents

cc: Brian C. Duffy, Esq.
Stephen Jenkins Bell, Esq.
DUFFY & YOUNG, LLC
96 Broad Street
Charleston, SC 29401.
Attorneys for Appellants

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Charleston, SC 29401



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