

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM CHEROKEE COUNTY

Court of Common Pleas  
Grace Gilchrist Knie, Circuit Court Judge

Appellate Case No. 2019-001325  
Circuit Court Case No. 2018-CP-11-00838

RECEIVED

JAN 24 2020

SC Court of Appeals

Charles E. Deal, Jr., ..... Appellant,

v.

Angela Godfrey, ..... Respondent.

**RETURN TO REQUEST FOR COSTS**

Appellant Charles E. Deal, Jr., by his undersigned attorney, submits this Return to the Respondent's request for costs, and asks that it be DENIED.

**I. RESPONDENT DID NOT FILE A MOTION UNDER RULE 222.**

Respondent filed a request for costs, which is only an itemized statement of costs, rather than the Motion that Rule 222 requires. This Court should deny Respondent's request for cost, based upon failure to comply with the Rules.

Rule 222, SCACR allows for costs on appeal. Rule 222(d) requires:

**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 motion shall comply with Rule 240.** If costs are being sought under (b) above, **the motion shall be accompanied by** a sworn, itemized statement of costs incurred in the form prescribed in the Appendix to these rules.

*Id.*, (emphasis added).

Respondent filed an itemized statement of costs, but she did not “serve and file a motion requesting costs be assessed under this Rule.” Respondent failed to file any motion and failed to mention Rule 222. The statement of costs was not “accompany[ied] by” a motion. Accordingly, Respondent failed to comply with Rule 222.

## II. THE STATEMENT OF COSTS DID NOT COMPLY WITH RULE 240.

Second, Respondent’s request for costs did not comply with Rule 240, as Rule 222(d) requires. Rule 240 requires:

**(c) Form and Content of Motions and Petitions.** All motions or petitions filed in an appellate court shall be in writing, shall state the grounds thereof, and shall comply with the requirements of Rule 267. The pages of the motion or petition and all supporting documents shall be consecutively numbered. Each motion or petition shall include the following:

- (1) A certificate or affidavit of service reflecting the date of service upon all parties. The original certificate or affidavit of service must be filed with the original motion or petition.
- (2) A memorandum with citation of authorities in support of the motion.

*Id.*, (emphasis added).

The request for costs, received by the Appellant did not “state the grounds thereof,” and did not “comply with the requirements of Rule 267.” The pages were not “consecutively numbered.” The request for costs did not include a “memorandum with citations of authorities in support of the motion.” *Id.* Accordingly, the request for costs did not comply with Rule 240.

## III. THE REQUEST FOR COSTS DID NOT COMPLY WITH RULE 267.

Finally, the request for costs did not comply with Rule 267. Rule 267(a) requires:

**(a) Captions.** All documents filed in the appellate court shall be headed by a caption. Except as provided below for appeals from administrative tribunals, the caption shall contain the name of the appellate court where the document is to be filed (i.e., Supreme Court or Court of Appeals); if the matter involves review of a lower court decision, the name of the county and judge from which the appeal

**is taken including the title of the judge** (e.g., Circuit Court Judge, Family Court Judge, Master-in-Equity, Probate Judge, Special Referee, Special Circuit Court Judge); the title of the case (the party commencing the action in the lower court shall always appear first in the title regardless of whom is appellant or petitioner); the title of the document (e.g., RECORD ON APPEAL; APPENDIX; BRIEF OF APPELLANT; PETITION FOR WRIT OF CERTIORARI; MOTION TO DISMISS); **and the name, address and phone number of the counsel submitting the document**, or in the case of a Record on Appeal or Appendix, the names, addresses and phone numbers of all counsel in the case. **The caption should be substantially in the form shown by this example:**

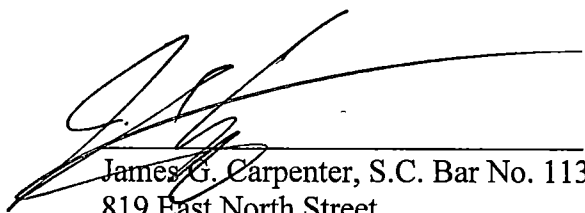
*Id.*, (emphasis added).

The request for costs did not comply with Rule 267(a). The caption did not include “the name of the county and judge from which the appeal is taken including the title of the judge.” *Id.* It did not include “the name, address and phone number of the counsel submitting the document.” Finally, it was not “substantially in the form shown by [the Rule’s] example.” Accordingly, the request for costs did not comply with Rule 267.

### CONCLUSION

Respondent failed to file a Motion for Costs as required by Rule 222, failed to comply with Rule 240, and failed to comply with Rule 267. Accordingly, Respondent’s request for costs should be DENIED.

Respectfully submitted,  
**THE CARPENTER LAW FIRM, PC**

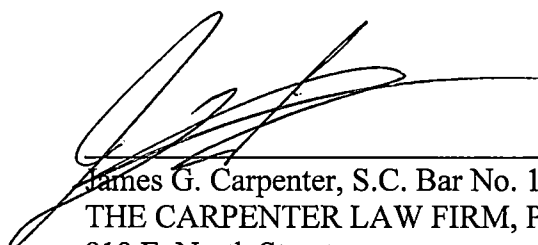
  
James G. Carpenter, S.C. Bar No. 1136  
819 East North Street  
Greenville, SC 29601  
(864) 235-1269  
Attorney for the Appellant

January 21, 2020

**Certificate of Service**

The undersigned attorney hereby certifies that he served a copy of the foregoing Return to the Respondent's request for costs on counsel for Respondent by US Mail, postage prepaid on Tuesday, January 21, 2020 addressed as follows:

Mr. William G. Rhoden  
221 E. Floyd Baker Blvd.  
Gaffney, SC 29340



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WHEN IT'S WORTH FIGHTING FOR

JAMES G. CARPENTER  
james.carpenter@carpenterlawfirm.net  
SERVING S.C. AND N.C.

January 21, 2020

The Honorable Jenny Abbott Kitchings  
Clerk of SC Court of Appeals  
PO Box 11629  
Columbia, SC 29211

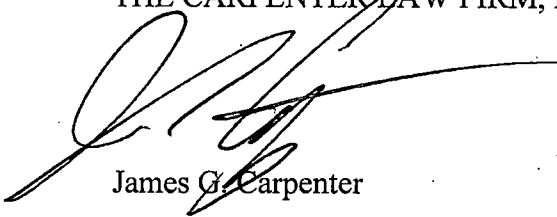
Re: *Deal v. Godfrey*, Appellate Case Number 2019-001325

Dear Ms. Kitchings:

I enclose an original and seven copies of Appellant's Return to Motion for Costs. Please stamp and return the extra one to me.

If you need anything else, please telephone me.

Sincerely yours,  
THE CARPENTER LAW FIRM, PC



James G. Carpenter

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JAN 24 2020

SC Court of Appeals

Enclosures  
CC w/enclosures: William Rhoden



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SC Court of Appeals

The Honorable Jerry Adam Kitchens  
Clerk of SC Court of Appeals  
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