

IN THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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Mar 24 2021

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

SC Court of Appeals

J. Derham Cole, Circuit Court Judge

Case No. 2017-002585

Cole Towing and Recovery, LLC,

Appellant,

v.

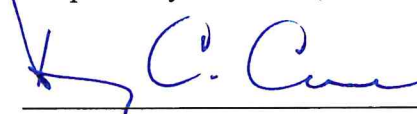
City of Spartanburg and Spartanburg
City Council,

Respondents.

MOTION FOR AWARD OF ATTORNEY'S FEES AND COSTS
ON BEHALF OF RESPONDENTS

The Respondents move the Court for an award by the Court of attorney's fees and costs in favor of the Respondents and against the Appellant Cole Towing and Recovery, LLC. This motion is made pursuant to Rule 222, SCACR, and Rule 240, SCACR, is made upon the grounds as allowed and expressed therein, and is supported by the Itemized Statement of Costs filed herewith.

Respectfully submitted,



Danny C. Crowe, SC Bar #1480
CROWE LAFAVE, LLC
P.O. Box 1149
Columbia, SC 29202
Phone: (803) 724-5728
danny@crowelafave.com
Attorney for Respondents

March 24, 2021

ITEMIZED STATEMENT OF COSTS

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The Court of Appeals is requested to tax the following attorney's fees and costs against
Appellant, Cole Towing and Recovery, LLC:

| COSTS TAXABLE UNDER RULE 222, SCACR | NO. OF PAGES | RATE | REQUESTED | ALLOWED (For Court Use Only) |
|---|------------------------|-------------------------------|------------|------------------------------|
| Cost of Printing or Copying Final Brief | 558 copies 18 bound | \$0.10/copy \$3.25/binding | \$122.02 | |
| Filing Fee Paid Under Rule 240, SCACR, for Motion for Extension | | | \$ 25.00 | |
| Cost of Court Reporter's Transcript | 27 pages | \$0.75 | \$20.25 | |
| Attorney's Fee Provided By Rule 222(b), SCACR | | | \$2,500.00 | |
| TOTAL | | | \$2,667.27 | |

I, Danny C. Crowe, do swear or affirm that the foregoing attorney's fees and costs are correct and were necessarily incurred in this action. An itemized list of attorney's fees and costs related to this appeal and billed to Respondent for the period December 2017 through June 2020

is attached. This shows the undersigned firm charged its client \$14,740.00 for time incurred during that period related to this appeal.


A copy of this Itemized Statement of Costs is being served by mail upon opposing counsel.



Danny C. Crowe, SC Bar #1480
CROWE LAFAVE, LLC
P.O. Box 1149
Columbia, SC 29202
Phone: (803) 724-5728
danny@crowelafave.com
Attorney for Respondents

March 24, 2021

Subscribed and Sworn to before me
this 24th day of March 2021.



Notary Public for South Carolina
My Commission Expires: 7/9/2025

Cole Towing and Recovery, LLC v. City of Spartanburg

| Date | By | Service Summary | Hours/Qty | Amount |
|----------|-----|---|-----------|-----------|
| 12/22/17 | DC | Receipt of notice of e-filing of Cole's notice of appeal, and arrange for forward. | 0.10 | \$ 22.50 |
| 12/29/17 | DC | Receipt by mail of Supreme Court order transferring appeal to Court of Appeals (no charge); e-mails with City Attorney McCabe (no charge). | N/C | \$ - |
| 01/04/18 | DC | Organize file for appeal | 0.80 | \$ 180.00 |
| 01/06/18 | DC | Receipt by mail of letter from Court of Appeals with case reference information (no charge). | N/C | \$ - |
| 01/13/18 | DC | Receipt by e-mail from court reporter of transcript of summary judgment hearing as requested for appeal and forward to assistant. | 0.10 | \$ 22.50 |
| 01/25/18 | DC | Receipt by mail of letter from Cole Attorney Wilkes to Court of Appeals with extension request. | 0.10 | \$ 22.50 |
| 01/29/18 | DC | Receipt by mail of Court of Appeals order granting extension for Cole's initial brief to 2/20, instructions to DB regarding diarying. | 0.10 | \$ 22.50 |
| 02/23/18 | DC | Receipt by mail of motion by Cole's new attorney for extension on initial brief of 30 days. | 0.10 | \$ 22.50 |
| 02/28/18 | DC | Receipt by mail of Order from Court of Appeals granting appellant extension to 3/22, and diary. | 0.10 | \$ 22.50 |
| 03/12/18 | DC | Receipt by mail of Cole's initial brief, quick review, diary response date. | 0.30 | \$ 67.50 |
| 03/13/18 | DC | Internal e-mail to MDL on Cole brief (no charge). | N/C | \$ - |
| 03/15/18 | MDL | Read and assess brief to determine issues for response and next course of action. | 1.20 | \$ 228.00 |
| 03/22/18 | MDL | Telephone conference with Opposing Counsel's office regarding extension and associated counsel. | 0.20 | \$ 38.00 |
| 03/22/18 | MDL | Exchange emails with Opposing Counsel regarding extension. | 0.20 | \$ 38.00 |
| 03/22/18 | MDL | Prepare Motion for extension. | 0.30 | \$ 57.00 |
| 03/22/18 | DC | Review MDL e-mails regarding extension for initial brief (no charge); review MDL e-mail to Flynn and City Manager on briefs (no charge); review e-mail from Flynn, discuss with MDL, e-mail to Flynn (.50). | 0.50 | \$ 112.50 |

| | | | | |
|--------------|--|------|----|--------|
| 03/29/18 DC | Receipt of order from Court of Appeals extending our time to file initial brief to 5/7 and receipt of filed copy of our motion and diary due date. | 0.10 | \$ | 22.50 |
| 04/30/18 DC | Review circuit court order and Cole brief in preparation for beginning draft of our brief. | 0.80 | \$ | 180.00 |
| 05/01/18 MDL | Prepare excerpts for appellate brief for cross motion and abandonment issues. | 0.60 | \$ | 114.00 |
| 05/01/18 DC | Retrieve King case and Shepardize (.70); e-mails with MDL regarding approach and topics for our brief (.30). | 1.00 | \$ | 225.00 |
| 05/01/18 MDL | Read and analyze hearing transcript and state court submissions in conjunction with Cole's Initial Brief to determine arguments abandoned on appeal and to identify additional arguments to brief on appeal. | 3.50 | \$ | 665.00 |
| 05/01/18 MDL | Evaluate case law cited by Plaintiff on brief to determine authority and relevancy. | 0.80 | \$ | 152.00 |
| 05/01/18 MDL | Research cross motions and issue abandonment for inclusion in appellate brief. | 1.20 | \$ | 228.00 |
| 05/01/18 MDL | Prepare outline comparison of appellate brief of Cole, hearing transcript and state court pleadings to support preparation of City's appellate brief. | 1.10 | \$ | 209.00 |
| 05/02/18 MDL | Evaluate additional case law regarding issue abandonment and contracts produced by Cole to begin formulating approach to brief. | 0.60 | \$ | 114.00 |
| 05/02/18 MDL | Conduct strategy session with DCC regarding appellate brief, issue abandonment, criminalization, two issue rule and other topics for briefing to develop issues. | 0.90 | \$ | 171.00 |
| 05/02/18 MDL | Begin preparation of brief on issue preservation and evaluate usefulness of two issue rule. | 2.5 | \$ | 475.00 |
| 05/02/18 DC | Work on issues for our Initial Brief (1.2); continued work on Brief issues (1.8). | 3.00 | \$ | 675.00 |
| 05/03/18 MDL | Begin preparation of draft of law of the case section of Respondent's brief. | 4.20 | \$ | 798.00 |
| 05/03/18 MDL | Evaluate appellant argument regarding conclusory affidavits to prepare draft of argument for brief. | 1.30 | \$ | 247.00 |
| 05/03/18 MDL | Prepare draft of affidavit challenge for brief. | 1.90 | \$ | 361.00 |
| 05/03/18 MDL | Evaluate strategy on statement of the case, cross motions and price controls with DCC for organization and arguments in brief. | 0.90 | \$ | 171.00 |

| | | | |
|--------------|---|-------|-------------|
| 05/03/18 DC | Conference with MDL regarding brief (.30 reduced to no charge); Shepardize cases cited in Cole's brief (.50); continued work on brief preparation (1.3). | 1.80 | \$ 405.00 |
| 05/04/18 MDL | Initial draft of cross motions section, statement of the case, statement of facts and standard of review for appellate brief. | 5.30 | \$ 1,007.00 |
| 05/04/18 DC | Continued research, preparation and drafting of Brief. | 4.40 | \$ 990.00 |
| 05/05/18 DC | Continued work on brief. | 4.00 | \$ 900.00 |
| 05/06/18 DC | Continued work on brief. | 14.00 | \$ 3,150.00 |
| 05/07/18 MDL | Read and evaluation of final Respondent's brief and discussion with DCC regarding content, edits, additions and anticipated Reply. | 1.30 | \$ 247.00 |
| 05/07/18 DC | Continued work on brief, preparation of designation of Record, and proof brief in final form, arrange for filing and service (6.7); e-mail forwarding filed briefs to Flynn and City Manager (.30). | 7.00 | \$ 1,575.00 |
| 05/20/18 DC | Receipt by mail of Cole attorney letter to Clerk of Court of Appeals requesting extension of 10 days for initial reply brief. | 0.10 | \$ 22.50 |
| 05/25/18 DC | Receipt by mail of Court of Appeals order granting Cole request for extension on initial reply brief to 5/29 and diary. | 0.10 | \$ 22.50 |
| 05/31/18 DC | Receipt and review of Cole's Initial Reply Brief. | 0.10 | \$ 22.50 |
| 06/05/18 DC | Letter from Court of Appeals regarding filing for originals/copies of briefs (.10); arrange diary for Cole's ROA due date (no charge). | 0.10 | \$ 22.50 |
| 07/01/18 DC | Receipt by mail of Record on Appeal for appeal case. | 0.20 | \$ 45.00 |
| 07/06/18 DC | Consider possible motion on appeal record and review DB workup of designations versus printed record. | 0.30 | \$ 37.50 |
| 07/10/18 DC | Review cites to ROA in appeal brief. | 0.80 | \$ 180.00 |
| 07/17/18 DC | Proof final brief with new ROA cites. | 1.60 | \$ 360.00 |
| 07/23/18 DC | Receipt by mail of Cole's bound main brief and reply brief and quick review for form. | 0.20 | \$ 45.00 |
| 02/20/20 DC | Letter from Court of Appeals regarding possible argument period and request for conflicts information. | 0.10 | \$ 22.50 |

| | | | | |
|-------------|--|-------|----|-----------|
| 02/21/20 DC | Review and sign letter to Court of Appeals on availability for requested period (no charge). | N/C | \$ | - |
| 02/27/20 DC | Receipt of Attorney Childs letter to Court of Appeals regarding his conflict for 6/1 week (no charge). | N/C | \$ | - |
| 06/01/20 DC | Letter by e-mail from Court of Appeals advising it will consider appeal without oral argument. | 0.10 | \$ | 22.50 |
| | | 70.00 | \$ | 14,740.00 |

DCC = Danny Crowe 42 hours @ \$225/hour = \$9,450.00

MDL = Mary LaFave 28 hours @ \$190/hour = \$5,320.00

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PROOF OF SERVICE

I, Denise M. Brockwell, paralegal for Crowe LaFave, LLC, do hereby certify that I have served the Motion for Award of Attorney's Fees and Costs on Behalf of Respondent, along with the accompanying Itemized Statement of Costs, on Appellant, Cole Towing and Recovery, LLC, by placing a copy of it in the United States Mail, postage prepaid, on March 24, 2021, addressed to its attorneys, Robert C. Childs, III, Esquire, 2100 Poinsett Highway, Suite D, Greenville, South Carolina 29609, and J. Falkner Wilkes, Esquire, 114 Whitsett Street, Greenville, South Carolina 29601.

March 24, 2021


Denise M. Brockwell, Paralegal