

MOTION FOR ATTORNEY FEES AND COSTS

TO: _____, ATTORNEY FOR THE DEFENDANTS

PLEASE TAKE NOTICE that the Plaintiff, by and through its undersigned attorney, will move before the Master-in-Equity of Charleston County at his office in the Charleston County Courthouse, North Charleston, South Carolina, at such time and place as is convenient to the Court and counsel for an Order Awarding Attorney's Fees and Costs, as provided for in the Master's Decree of this Court, dated _____.

This Motion is based on the pleadings in this matter, the Affidavits filed herewith, and the file in this matter, the arguments of counsel, and on such laws and facts as are appropriate and applicable.

The ground for this Motion is that the above captioned matter is one to enforce restrictions and covenants/foreclose on a mortgage on certain real property located in the County of Charleston, State of South Carolina, and that the Covenants applicable to this matter, and the Master's Decree, provide for recovery of attorney's fees and costs by the Plaintiff against the Defendant.

Attorney for the Plaintiff

I hereby certify that communication with opposing counsel concerning matters raised in this motion would serve no useful purpose.

Affidavit of Attorney

PERSONALLY APPEARED before me, _____, Esquire, who being duly sworn deposes and says:

1. I am an attorney for the Plaintiff in the above referenced matter.
2. This case is an action to enforce restrictions in real property covenants on property located in _____, Charleston County, South Carolina. After a hearing before the Honorable Roger M. Young, Master-in-Equity for Charleston County, a Master's Decree. awarding Judgment in favor of the Plaintiffs against the Defendants was issued, providing, in part, that an attorney's fee and cost hearing would be set at a later date.
3. That Decree specifically ordered that the Plaintiff shall have a judgment against the Defendant for its reasonable attorney's fees and costs in this matter.
4. That Exhibit "A" to this Affidavit, which is a listing of my firm's billing in this matter, as well as the costs incurred with all available invoices and raw billing, and reflects the attorney's fees actually incurred through the date of this Affidavit. These fees total \$_____ in connection with this action. The hourly rate charged was \$_____ per hour. The Affidavit further reflects that costs incurred through the date

of this Affidavit amount to \$_____. The total of attorney's fees and costs actually incurred are \$_____.

5. Under *Dede v. Strickland*, 414 S.E.2d. 134 (S.C. 1992), the Supreme Court has set forth the factors to be considered in an award of attorney's fees in real property actions. These factors include nature, extent, and difficulty of the legal services rendered, the time and labor necessarily devoted to the case, the professional standing of counsel, the contingency of compensation, the customary fees charged in the locality for similar services, and the beneficial result obtained. These factors, as applied in this case, are as follows:

a. Nature, Extent, and Difficulty of the Legal Services Rendered. As stated earlier, this is an action to enforce restrictions in real property covenants. The case involved difficult issues of real property law. A contested hearing was held by the Master, who asked for an order to be prepared by Plaintiff's counsel. Defendant, through his counsel, raised numerous issues by Motions or otherwise at the hearing, all of which were resolved against him. Accordingly, the factual and legal issues presented were complex and detailed in nature, the extent of the work performed was necessary to adequately prepare and try these matters, and the matters decided were of legal and factual difficulty.

b) Time and Labor Necessarily Devoted to the Case. As stated above, this case involved difficult issues of both legal and factual natures. Approximately _____ hours were devoted to the case by my firm. This is reflected through the facts stated earlier, as well as from the listing of services performed in Exhibit "A". Accordingly, the time and labor devoted to this case were necessary to properly prepare and try this case.

c) Professional Standing of Counsel. I am a licensed member of the Bar of the State of South Carolina, as well as the United States Court of Appeals for the Fourth Circuit, and United States District Court for the District of South Carolina. I completed law school approximately _____ years ago. For approximately the last _____ years, I have been employed with the firm of _____ in Charleston, South Carolina. I am a member of the Charleston County Bar Association, the American Bar Association, The Real Estate Section of the Charleston County Bar, the Litigation Section of the South Carolina Bar, the Litigation Section of the American Bar Association and other professional organizations. Approximately 70% of my practice consists of real property litigation, including construction cases, mechanic's lien cases, foreclosure cases, community association lien and collection cases, land title questions, and other land related litigation. In the last six years, I have filed and pursued hundreds of real property cases. Accordingly, I submit that I have a high professional standing in general and in this area of practice.

d) Contingency of Compensation. Compensation in this case is based on the hourly rate of \$_____ per hour.

e) Customary Fee Charged on the Locality for Similar Services. I am aware from discussions with clients, other attorneys in the Charleston area, and from my general familiarity with the legal profession that the fees charged for services similar to those in this case are, in the Charleston area, from \$_____

to \$_____ per hour. As stated earlier, my hourly rate is within this range in this case. Accordingly, this hourly rate is the fee customarily charged in this locality for similar services.

f) Beneficial Results Obtained. This attorney obtained beneficial results for the Plaintiff in this action by securing a Judgment enforcing Defendant's compliance with the restrictions on the property. Accordingly, it is submitted that beneficial results were obtained by this firm on the Plaintiffs' behalf.

6. After due consideration of the nature, extent, and difficulty of the legal services rendered, the time and labor necessarily devoted to the case, the professional standing of counsel, the contingency of compensation, the customary fee charged in the locality for similar services, and the beneficial result obtained, I respectfully submit that an award of attorney's fees and costs to the full extent set forth in this Affidavit is appropriate; therefore, Plaintiffs are entitled to recover \$_____ in attorney's fees.

7. The costs in this matter, which are documented in Exhibit "A", total \$_____. These costs include filing fees, reference fees, service costs, and other miscellaneous costs. The costs are reasonable and necessary to pursue this action and are not, I believe, excessive given the nature, extent and difficulty of the legal services in this case, the time and labor devoted to this case, and the beneficial result obtained. Also, all costs may be recovered under the Master's Decree.

8. Accordingly, the total attorney's fees and costs sought in this case and allowable under the Master's Decree total \$_____.

SWORN to before me this _____

day of _____, 1996

Notary Public for South Carolina

My Commission Expires: _____