

**COPY**

INDUSTRIAL STEEL CORPORATION

**FILED**

APPELLANT

v.

NOV 20 2007 CASE NO. 2007-CA-00648-SCT

STEEL SERVICE CORPORATION

OFFICE OF THE CLERK  
SUPREME COURT  
COURT OF APPEALS

APPELLEE

**APPELLEE'S REPLY IN SUPPORT OF MOTION  
FOR AWARD OF ATTORNEYS' FEES AND EXPENSES ON APPEAL**

Appellee, Steel Service Corporation ("Steel Service") submits this Reply in Support of its Motion for Award of Attorneys' Fees and Expenses on Appeal:

1. As an initial proposition, nowhere in its Brief before this Court or in the courts below did Appellant, Industrial Steel Corporation ("ISC"), ever contend that the hourly rate charged Steel Service for attorneys' fees was excessive and unreasonable (See, Appellant's Brief, at 25-32). As a result, ISC cannot now argue new and different reasons for denial of an award by this Court of attorneys' fees and expenses to Steel Service on appeal as the hourly rate charged now is the same rate charged before. See, e.g., Chantey Music Publishing, Inc. v. Malaco, Inc., 915 So. 2d 1052, 1060 (Miss. 2005).

2. In fact, ISC has never objected to the amount requested by Steel Service - only entitlement. Therefore, ISC is estopped to now contend that Steel Service's fees and expenses are unreasonable and excessive. Meena v. Wilburn, 603 So. 2d 866, 871 (Miss. 1992) (the appellant cannot "now question the reasonableness and

necessity of the bills since he failed to raise such issues at the trial level").

3. Moreover, ISC merely alleges that the amount is excessive and unreasonable and offers no counter-affidavit to support its contention that Steel Service has been charged an excessive rate and/or excessive time on this appeal. As a result, this Court should ignore ISC's new-found basis for challenging Steel Service's Motion for Award of Attorneys' Fees and Expenses on Appeal.

WHEREFORE, Appellee, Steel Service Corporation, requests that, upon this Court's affirmance, this Court award it attorneys' fees and expenses incurred on appeal in the total amount of \$11,283.30 as of October 9, 2007 and for all additional fees and expenses incurred hereafter.

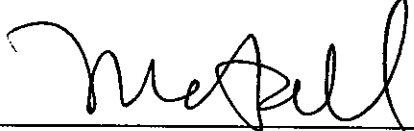
Respectfully submitted,

**STEEL SERVICE CORPORATION**

By its attorneys,

MOCKBEE HALL & DRAKE, P.A.

By:

  
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DAVID W. MOCKBEE, MS Bar # [REDACTED]  
MARY ELIZABETH HALL, MS Bar # [REDACTED]

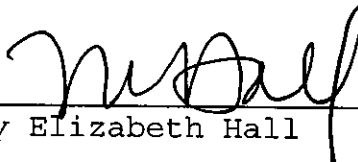
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CERTIFICATE OF SERVICE

I, Mary Elizabeth Hall, do hereby certified that I have this day mailed via United States Mail a true and correct copy of the above and foregoing Appellee's Reply in Support of Motion for Award of Attorneys' Fees and Expenses on Appeal to the following:

Christopher Solop, Esq.  
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Dated: November 19th, 2007.

  
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Mary Elizabeth Hall