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MAR 14 2023

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Shirley C. Robinson, Administrative Law Judge

Appellate Case No. 2019-000995

Amber Geohaghan

Appellant

v.

South Carolina Department of Employment and Workforce and
South Carolina Department of Social Services,

Respondents.

**APPELLANT'S REPLY IN OPPOSITION TO
RESPONDENT'S MOTION FOR FEES AND COSTS**

Respondent South Carolina Department of Employment and Workforce (DEW) seeks an award of attorney's fees and costs against Appellant in the amount of \$2,563.75 pursuant to Rule 222, SCACR. While Rule 222 provides for the award of specified fees and costs under certain circumstances, such an award is not available as of right. Rather, it is within this Court's discretion whether to grant such an award. *Austin v. Stokes-Craven Holding Corp.*, 406 S.C. 187, 199, 750 S.E.2d 78, 84 (2013). DEW cites only the Rule and this Court's February 1, 2023 opinion affirming the decision of the Administrative Law Court in support of its motion and otherwise offers no reasoning to indicate why this Court should exercise its discretion in DEW's

favor. For that reason, and those that follow, Appellant asks that this Court deny Respondent's motion for attorney's fees and costs or, in the alternative, deny Respondent's request for attorney's fees and award Respondent only its out-of-pocket costs.

First, this appeal sought clarification of state law that both DEW and this Court agreed was lacking. At issue in this case were both the meaning of "good cause" as that term is used in S.C. Code Ann. § 41-35-120 and the standard of review to be applied to decisions by DEW and the Administrative Law Court regarding whether an employee had good cause to resign. *See e.g.* Br. of Appellant, p. 1. In its briefing, DEW acknowledged the importance of this issue and the lack of clarity surrounding it when it noted that "a published opinion from this Court formally adopting the generally accepted definition of 'good cause' would be extremely helpful to both the bar and the bench in avoiding similar confusion in the future." Br. of DEW, p. 14, fn. 3. Further, though it ultimately affirmed the Administrative Law Court, this Court agreed with Appellant's argument that existing case law did not adequately define good cause for purposes of her case. *Geohaghan v. SCDEW*, Op. No. 5967 (S.C.Ct.App. filed February 1, 2023), p. 12.

Second, the instant appeal brought an important question to this Court and was not undertaken solely for Appellant's benefit. Appellant is represented in this appeal by the South Carolina Appleseed Legal Justice Center (SCALJC), a non-profit organization that advocates on behalf of low-income South Carolinians. SCALJC engages in litigation only when the case presents an opportunity to improve the lives of low-income South Carolina families. As noted above, this case presented an opportunity to clarify the law governing eligibility for unemployment benefits not only for Appellant, but for others similarly situated. Further, SCALJC provides its services *pro bono* and relies chiefly on grants and donations to fund its

litigation work. Granting DEW the award it seeks would divert these resources from SCALJC's mission and discourage future efforts by SCALJC, and others, to clarify state law even when such efforts are sorely needed.

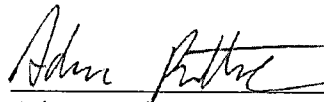
Finally, the disparity in resources between DEW and SCALJC counsels against granting DEW's motion. DEW is a State agency with a budget of nearly \$168 million for fiscal year 2023.¹ In contrast, SCALJC's total expenditures were less than \$1 million in 2020, the most recent year for which that information is publicly available.² The award DEW seeks would impose an outsized burden on SCALJC compared to any benefit that DEW might realize.

CONCLUSION

For the forgoing reasons, Appellant requests that DEW's motion for attorney's fees and costs be denied or, in the alternative, that any award be limited to out-of-pocket costs only.

Respectfully submitted,

March 14, 2023



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¹ 2022 S.C. Acts 239, General Appropriations Act, FY 22-23 (available at https://www.scstatehouse.gov/sess124_2021-2022/appropriations2022/tap1a.htm#s83)

² SCALJC's most recent publicly available IRS Form 990 is available at https://apps.irs.gov/pub/epostcard/cor/571035023_202012_990_2021052418176659.pdf.

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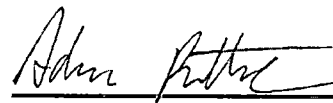
South Carolina Department of Employment and Workforce and
South Carolina Department of Social Services,

Respondents

PROOF OF SERVICE

I certify that on **March 14, 2023** I served APPELLANT'S REPLY IN OPPOSITION TO RESPONDENT'S MOTION FOR FEES AND COSTS on Respondents by electronic mail pursuant to *Methods of Electronic Filing and Service Under Rule 262 of the South Carolina Appellate Court Rules (As Amended May 6, 2022)*, Appellate Case No. 2020-000447. A copy of the service e-mail is attached.

March 14, 2023



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From: Adam Protheroe
Sent: Tuesday, March 14, 2023 11:09 AM
To: bcook@dew.sc.gov; gmatthews@richardsonplowden.com
Cc: legal@dew.sc.gov
Subject: Geohaghan v. SCDEW (2019-000995) - Appellant's Reply in Opposition to Respondent's Motion for Fees and Costs
Attachments: 2023 03 14 - Reply OPP Motion for Costs_FINAL.pdf

Please find attached and served upon you Appellant's Reply in Opposition to Respondent's Motion for Fees and Costs. This document is being served electronically pursuant to *Methods of Electronic Filing and Service Under Rule 262 of the South Carolina Appellate Court Rules (As Amended May 6, 2022)*, Appellate Case No. 2020-000447.

Please don't hesitate to contact me if you have any questions.

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