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Sep 13 2023

S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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APPEAL FROM THE WORKERS' COMPENSATION COMMISSION

Gene McCaskill, Commissioner  
Avery B. Wilkerson, Jr., Commissioner  
R. Michael Campbell, II, Commissioner

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APPELLATE CASE NO. 2022-000003

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Vickie Rummage, Employee.....Petitioner,

v.

BGF Industries, Employer, and Great American Alliance  
Insurance Co., Carrier.....Respondents.

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**RESPONDENTS' REPLY  
TO  
PETITIONER'S RETURN TO RESPONDENTS' MOTION FOR COSTS AND  
ATTORNEY FEES ON APPEAL**

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Pursuant to Rules 222, 240, and 242, SCACR, Respondents BGF Industries and Great American Alliance Insurance Company reiterate their Motion for Costs on Appeal. The Petitioner Vickie Rummage (hereinafter "Claimant") lost at every stage of this case. The Single Commissioner found that Claimant failed to prove a compensable aggravation of her pre-existing psychological condition and denied her claim for workers' compensation benefits. The Full Commission affirmed the Single Commissioner. The Court of Appeals also affirmed the denial of benefits. The Supreme Court initially granted the petition for a writ of certiorari but, after oral arguments, dismissed the writ as improvidently granted.

As set forth more fully in the Brief of Respondents as well as the various orders from the lower tribunals, Claimant was “not remotely credible” in her testimony. Furthermore, as found by the Court of Appeals, Claimant failed to preserve the bulk of her issues for appellate review. Instead of complying with the Administrative Procedures Act and basic issue preservation rules, Claimant attempted to change her theory of the case at every stage of the appellate process. She repeatedly failed in her attempts to convince any tribunal that her case was compensable.

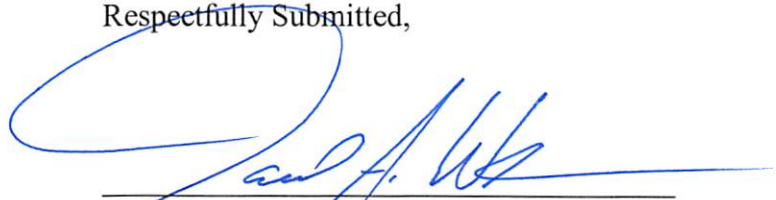
Rules 222 and 242, SCACR, provide that costs “shall” be assessed against the appellant if the decision of the Court of Appeals and the Supreme Court has effect of affirming the judgment of the lower court or tribunal. The appellate court’s discretion in assessing costs is only triggered when an appeal is affirmed or reversed in part or is vacated. Rules 222(a) and 242(j), SCACR.

In her Return, Claimant fails to argue any valid reasons for this Court to deny Respondents’ Motion for Costs on Appeal. Contrary to the assertions of the Claimant in her Return, Claimant did not appropriately use the appellate process, nor did she achieve any relief or “validation” as a result of her various appeals. In fact, based upon the credibility findings adverse to Claimant and Claimant’s failure to preserve most of her issues for appellate review, Respondents contend that Claimant *abused* the appellate process by continuing to pursue this appeal.

Based on the foregoing, Respondents BGF Industries, Employer, and Great American Alliance Insurance Company, Carrier, respectfully request an order awarding them costs in the amount of Five Thousand, Six Hundred Eighty-Eight and 59/100 (\$5,688.59) Dollars as set forth in the Motion for Costs on Appeal dated August 21, 2023.

**[Signature Page to Follow]**

Respectfully Submitted,



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Greenville, South Carolina  
September 13, 2023