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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM THE WORKERS' COMPENSATION COMMISSION

Appellate Case No.: 2022-000271

Dale Brooks, Employee, Respondent,

v.

Benore Logistics Systems, Inc., Employer, and Great American Alliance Insurance
Company, Carrier, Petitioners.

RESPONDENT'S MOTION FOR ATTORNEY'S FEES AND COSTS

Respondent respectfully moves this Court to award appellate costs and attorney's fees pursuant to Rules 222 and 242 of the South Carolina Appellate Court Rules and *Re: Attorney's Fees Under Rules 222 and 242 of the South Carolina Appellate Court Rules*, Or. No. 2018-01-17-02 (S.C. Sup. Ct. January 17, 2018).

In support of this Motion, undersigned counsel submits:

1. In this workers' compensation repetitive trauma injury case, Petitioners denied benefits to Respondent. On September 7, 2017, a hearing was held before the Workers' Compensation Commission single commissioner. On December 27, 2017, the Commissioner issued an order finding Respondent proved a compensable injury, awarding benefits. Petitioners appealed to the Full Commission. After the parties served briefs, the Full Commission held oral argument. On October 26,

2018, the Full Commission issued its order reversing the single commissioner's order.

2. Representation before the Court of Appeals.

- A. On November 19, 2018, I served the notice of appeal to the Court of Appeals.
- B. On January 30, 2019, I served the initial brief and designation of matter to be included on in the record on appeal.
- C. On March 1, 2019, Petitioners served their initial brief and designation of matter to be included in the record on appeal.
- D. On March 11, 2019, I served the initial reply brief responding to Petitioners' initial brief.
- E. On April 4, 2019, I served the record on appeal.
- F. On April 11, 2019, I served the final brief and final reply brief.
- G. On November 1, 2021, the Court informed the parties by letter the case would be submitted without oral argument.
- H. The Court of Appeals reversed the Full Commission in Respondent's favor by its decision styled *Brooks v. Benore Logistics Sys., Inc.*, Op. No. 5891 (S.C.Ct.App. filed Jan. 19, 2022). See also *Brooks v. Benore Logistics Sys., Inc.*, 437 S.C. 376, 879 S.E.2d 1 (Ct. App. 2022).
- I. On February 3, 2022, Petitioners served a petition for rehearing. The Court of Appeals denied it by order dated February 7, 2022.

3. Representation before the Supreme Court.

- A. On March 8, 2022, Petitioners served their petition for writ of certiorari.
- B. On March 30, 2022, I served the return to the petition for writ of certiorari.
- C. On September 8, 2022, the Court granted certiorari.
- D. On October 7, 2022, Petitioners served their brief and appendix.
- E. On October 31, 2022, I served Respondent's brief.
- F. On November 10, 2022, Petitioners served their reply brief. The same day, the South Carolina Employer's Advocacy Association filed a motion for leave to file amicus brief and its amicus brief. The Court granted the motion December 16, 2022.
- G. On November 15, 2023, I argued the case at oral argument.
- H. The Court affirmed as modified the Court of Appeals by its decision styled *Brooks v. Benore Logistics Sys., Inc.*, Op. No. 28198 (S.C. Sup. Ct. filed April 10, 2024). Even with the modification, the decision rests solely in Respondent's favor, as evidenced by the outcome- determinative conclusion three lines before the beginning of section VI:

[A]s the court of appeals correctly determined, the record establishes as a matter of law that [Respondent] sustained a compensable work-related injury. The only issue left is the calculation of benefits.

Id. at p.16.

Undersigned counsel respectfully requests the Court to award appellate costs and attorney's fees, which are detailed in the attached itemized statement of costs, that undersigned necessarily incurred in this action.

Respectfully submitted:



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May 7, 2024