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Aug 21 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas
The Honorable Perry H. Gravely, Circuit Court Judge

Appellate Case No. 2020-001150

Josh Hawkins,.....Appellant,

v.

American Airlines, The Qantas Group d/b/a Qantas Airlines, Expedia, and Travel Guard
Insurance

Of Which American Airlines and Expedia are,.....Respondents.

**RESPONDENT AMERICAN AIRLINES, INC.’S
REPLY IN SUPPORT OF ITS MOTION FOR COSTS**

Respondent American Airlines, Inc. (“American”), by and through the undersigned counsel, hereby files its Reply in support of its Motion for Costs. Appellant suggests in his Return that American is only entitled to recover its attorneys’ fees to the extent that it “actually incurred these costs,” but this suggestion is misleading. The plain text of Rule 222(b), SCACR, makes it clear that American’s entitlement to fees is fixed, not based on the fees it actually incurred: “In addition, the party shall be entitled to recover an attorney’s fee in an amount

which shall be set by order of the Supreme Court. . . . By order dated January 17, 2018, the amount of attorney’s fee was set at \$2,500.”

And Rule 222(b)’s direction that American “shall be entitled” to recover the specified attorneys’ fees makes it clear that the requested fee recovery is mandatory, not discretionary. Thus, Appellant’s invocation of the “spirit of fairness” and citation of a grab-bag of cases that do not involve Rule 222 in any manner¹ do not support his argument against an award of fees.

Finally, Appellant does not provide any support for his argument that the federal Airline Deregulation Act somehow prevents American from relying on Rule 222 in this appeal. Appellant commenced this appeal, so he cannot complain that American is simply seeking relief under an appellate rule that applies to all parties.

WHEREFORE, Respondent American Airlines, Inc. requests that its Motion for Costs be granted.

Respectfully submitted,

Dated: August 21, 2024

s/John L. McCants
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-and-

¹ *Ex parte Dibble*, 279 S.C. 592, 593, 310 S.E.2d 440, 441 (Ct. App. 1983), *Broome v. Truluck*, 270 S.C. 227, 228, 241 S.E.2d 739, 739 (1978), *Thompson v. S.C. Commission on Alcohol & Drug Abuse*, 267 S.C. 463, 466, 229 S.E.2d 718, 719 (1976), and *State Farm Mut. Auto. Ins. Co. v. Campbell*, 538 U.S. 408, 123 S. Ct. 1513, 1514, 155 L. Ed. 2d 585 (2003).

*Appellate Case No. 2020-001150
Reply in Support of Motion for Costs on Behalf of
Respondent American Airlines, Inc.*

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RESPONDENT AMERICAN AIRLINES, INC.’S PROOF OF SERVICE

I certify that I have served Respondent American Airlines, Inc.’s Reply in Support of Its Motion for Costs and this Proof of Service electronically to the Court of Appeals and to the following attorneys of record to their electronic addresses, listed as follows, on August 21, 2024:

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August 21, 2024

Via Email: ctappfilings@sccourts.org
The Honorable Jenny Abbott Kitchings
S.C. Court of Appeals Clerk of Court
Post Office Box 11629
Columbia, SC 29211-1629

Re: Josh Hawkins v. American Airlines, Inc., et al. Appellate Case No.: 2020-001150

Dear Ms. Kitchings:

Enclosed please find for filing is Respondent American Airlines, Inc.'s Reply in Support of Its Motion for Costs Pursuant to Rule 222(a), SCACR and Rule 222(b), SCACR

By copy of this letter, sent via email, I am serving counsel of record.

Sincerely,

s/John L. McCants

John L. McCants

cc. Kenneth S. Nankin, Esq.

Cc: counsel of record

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