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Oct 25 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM DORCHESTER COUNTY
Court of Common Pleas

The Honorable

Appellate Case No.

Molly M. Morphew, Appellant,

v.

Stephen Dudek and Doreen Cross, Respondents.

RESPONDENTS NOTICE OF MOTION AND MOTION FOR COSTS ON APPEAL

SMITH | CLOSSER, P.A

Zachary J. Closser (SC Bar No.: 74005)
7455 Cross County Road, Suite 1
P.O. Box 40578
Charleston, SC 29423-0578
843-760-0220
843-552-2678

YOU WILL PLEASE TAKE NOTICE that the Respondents, Stephen Dudek and Doreen Cross, by and through the undersigned attorney, will move before the Court of Appeals of South Carolina on the tenth (10th) day of the date of this Motion, or as soon thereafter, for an Order granting Respondents motion for costs on appeal under South Carolina Appellate Court Rule 222(b), Costs on Appeal, and award the Respondents attorney's fees to defend the Appellant's appeal.

This Motion for Costs on Appeal is based upon the Order from the Court of Appeals dismissing the appeal. Pursuant to Rule 222(a), S.C.A.C.R., "unless otherwise ordered by the appellate court or agreed by the parties, costs shall be taxed against the appellant when the appeal is dismissed or judgment on appeal is affirmed. When an appeal is affirmed or reversed in part or is vacated, costs shall be allowed only as ordered by the appellate court." In addition, Rule 222(b), S.C.A.C.R., provides that a party entitled to recover costs under Rule 222 shall be entitled to recover attorney's fees in an amount set by the Supreme Court.

On July 11, 2024, the Court ordered that Appellant must serve and file her final brief and record of appeal with all designated matter from the parties within thirty (30) days. If the Appellant failed to comply with the order, the appeal shall be dismissed. In response to the Court's Order, the Appellant sent a motion requesting clarification and for the Court to amend its order. However, the Court denied the Appellant's motion and dismissed the appeal as the Appellant failed to comply with the court. The Court dismissed the appeal on September 25, 2024. On October 11, 2024, the Court issued its remittitur.

As provided by Rule 222, S.C.A.C.R., the appeal has been dismissed and the Respondents are entitled to costs on appeal. The Respondents have incurred attorney's fees to defend the Appellant's appeal. The Respondents are entitled to Two Thousand Five Hundred and 00/100

(\$2,500.00) Dollars as provided for in the Supreme Court order dated January 17, 2018 for the amount of attorney's fees. Additionally, the costs of attorney's fees shall be taxed against the Appellant for the appeal being dismissed by the Court.

Therefore, this Court should grant the Respondents' Motion for Costs on Appeal for attorney's fees in the amount of \$2,500.00 and tax the attorney's fees as provided by Rule 222, S.C.A.C.R.

SMITH | CLOSSER, PA

s/Zachary J. Closser

Zachary J. Closser—SC Bar No. 74005
Emily N. Hansbarger—SC Bar No. 105405
7455 Cross County Road, Ste 1 (29418)
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Attorneys for the Respondents

October 25, 2024

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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM DORCHESTER COUNTY
Court of Common Pleas

The Honorable Diane S. Goodstein, First Judicial Circuit

Appellate Case No. 2023-000879

Molly M. Morphew, Appellant,

v.

Stephen Dudek and Doreen Cross, Respondents.

CERTIFICATE OF SERVICE

I certify that, on the date indicated below, I served the Respondents' Notice of Motion and Motion for Costs on Appeal and Certificate of Service by United States Mail, postage prepaid, and email on the following:

Molly M. Morphew
285 Wooden Horse Run,
Ridgeland, SC 29936
Appellant

SMITH | CLOSSER, PA

s/Emily N. Hansbarger

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October 25, 2024

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October 25, 2024

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, SC 29211

RE: Molly M. Morphew, Appellant v. Stephen Dudek, et al., Respondents
Appellate Case No. 2023-000879
S/C File No. 19-106

Dear Ms. Kitchings:

Attached for filing please find the Respondents' Notice of Motion and Motion for Costs on Appeal and Certificate of Service in the above referenced matter.

If you have any questions concerning this matter, please do not hesitate to contact me.

Sincerely,

s/Emily N. Hansbarger

Emily N. Hansbarger

Enclosures

cc: Molly M. Morphew
Stephen Dudek
Doreen Cross