

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas

Alison Renee Lee, Circuit Court Judge

Common Pleas Court Case No. 2015-CP-40-00619  
Appellate Case No. 2020-000719

Nancy Morris, as Personal Representative of the Estate of David Allan Woods.....Appellant

vs.

State Fiscal Accountability Authority, at al.....Respondent

APPELLANT’S RETURN TO RESPONDENT’S MOTION FOR COSTS ON APPEAL

COMES NOW Appellant in return to Respondent’s Motion for Costs. Pursuant to Rule 222(a), SCACR, this Court has the authority and the discretion to deny an application for costs. This Court should deny the motion for the following reasons.

1. The instant appeal was taken for the benefit of, and in furtherance of the best interests of seeking full recovery of a judgment on behalf of the Estate of David Woods against, *inter alia*, an insurance carrier that denied coverage. To allow costs in such a case would have a chilling effect on the ability and willingness to pursue an appeal of a reasonably suspect coverage decision from the trial court.

2. The instant appeal was taken in an action against, *inter alia*, a division of the State of South Carolina similar to an appeal from a criminal matter, in which costs are not allowed.

3. Finally, and to the extent that the Court is inclined to grant costs, such costs should only be awarded against the Estate of David Woods, and not against Nancy Morris individually. The instant appeal was brought for the benefit of the Estate of David Woods. Considering the conflicting orders from the circuit court finding in favor of the Estate, only to change its ruling in response to a motion to reconsider, the appeal was reasonable and not frivolous. Respondent's motion seemingly requests costs be taxed against Nancy Morris individually. However, Respondent provides no support for taxation of costs against Morris individually, as opposed to the taxation of costs against the Estate. Therefore, to the extent the Court is inclined to award costs, such award should be taxed against the Estate of David Woods, not Morris individually. *See generally*, S.C. Code Ann. § 62-3-712 (providing that a personal representative will not be personally liable unless their exercise of power was unreasonable, improper, or in violation of a fiduciary duty); *and see*, S.C. Code Ann. § 62-3-808 (limiting and insulating personal representatives from individual liability).

**THEREFORE**, this Court should deny Respondent's motion for taxation of costs, or if the Court decides to grant the request for costs, such costs should be taxed against the Estate of David Woods, **not** Morris individually as Respondent seems to request.

Respectfully submitted,

THURMOND KIRCHNER & TIMBES, P.A.



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**Dec 02 2024**

**SC Court of Appeals**

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**PROOF OF SERVICE**

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I hereby certify that the enclosed was served on all other parties to this matter by email and offering to depositing a copy of same in the U.S. Mail on this day and properly posted for delivery to the following addresses:

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THURMOND KIRCHNER & TIMBES, P.A.

*Kaitlyn Nobles*

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Kaitlyn Nobles  
Paralegal to Thomas J. Rode

December 2, 2024