

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Alison Renee Lee, Circuit Court Judge

Appellate Case No. 2020-00719
Case No. 2015-CP-40-0619

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

v.

State Fiscal Accountability Authority, South Carolina
Insurance Reserve Fund, Andrew J. Bland, Richard T. Burkholder,
Leemon E. Carner, Priscilla Bland, Jerry Speissegger, Jr., Respondents.

**REPLY MEMORANDUM IN SUPPORT OF
MOTION FOR COSTS ON APPEAL**

The Respondents State Fiscal Accountability Authority and South Carolina Insurance Reserve Fund (“IRF”), as the prevailing parties, filed a motion pursuant to Rule 222(d), SCACR, for an award of costs on appeal in the amount of \$2,705.44. The Appellant Nancy Morris opposes the award of costs on appeal for invalid and frankly frivolous reasons.

First, the Appellant claims that this appeal was brought against “an insurance carrier that denied coverage.” That is entirely inaccurate. As the record demonstrates, the IRF issued a Tort Liability Insurance Policy to its named insured Berkeley County, Policy Number T130080011, with includes liability limits of \$600,000. (R. 93-99). Additionally, the policy provided

coverage for “[a]ll expenses incurred by the Fund, all costs taxed against the insured in any suit defended by the Fund, and all interest on the entire amount of any judgement [sic] therein.” (R. 95). Following the Fourth Circuit appeal in the underlying case, the IRF tendered the sum of \$992,013.63 to the Appellant in partial satisfaction of the judgments against the five correctional officers. This partial satisfaction also included the awards of attorneys’ fees, costs, and post-judgment interest for a total of \$392,013.63. The partial satisfaction also included the full \$600,000 liability policy limit. (Supp. R. 676-678). The IRF separately tendered an additional \$25,768.75 in satisfaction of attorneys’ fees associated with the appeal. (Supp. R. 675). Thus, the IRF paid its full limits, and the Appellant’s representation to the contrary is simply false. Moreover, even if it were true, that is still not a valid basis for denying costs on appeal to a prevailing party.

The Appellant also argues that this appeal should be treated as “similar to an appeal from a criminal matter.” That is illogical and frankly frivolous.

In sum, there are quite simply consequences to filing an appeal – there is no absolute right to an appeal without liability for costs. Here, the Appellant chose to appeal. That resulted in costs incurred by the Respondents. The Appellant then lost on appeal (as she did in the trial court). She cannot now dispute that the Respondents are prevailing parties and, as such, are entitled under our appellate rules and practice to an award of costs. For these reasons, the Court is respectfully requested to grant the Respondents’ motion for costs on appeal.

Respectfully submitted,

LINDEMANN LAW FIRM, P.A.

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*Counsel for Respondents State Fiscal
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Insurance Reserve Fund*

December 9, 2024

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Dec 09 2024

SC Court of Appeals

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CERTIFICATE OF SERVICE

Pursuant to Section (d)(1) of the Supreme Court’s Order Methods of Electronic Filing and Service Under Rule 262 of the South Carolina Appellate Court Rules (As Amended April 24, 2024), the undersigned employee of Lindemann Law Firm, P.A., counsel for the Respondents State Fiscal Accountability Authority and South Carolina Insurance Reserve Fund, does hereby certify that service of the **Reply Memorandum in Support of Motion for Costs on Appeal** was made upon all counsel of record by email only this the 9th day of December 2024, as follows:

Thomas J. Rode, Esquire
Thurmond Kirchner & Timbes, P.A.
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s/ Andrew F. Lindemann



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December 9, 2024

RECEIVED
Dec 09 2024
SC Court of Appeals

Hand Delivered

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
Email: ctappfilings@sccourts.org

RE: Nancy Morris, as Personal Representative of the Estate of David Allan Woods v. State Fiscal Accountability Authority, South Carolina Insurance Reserve Fund, Andrew J. Bland, Richard T. Burkholder, Leemon E. Carner, Priscilla Bland, Jerry Speissegger, Jr.
SCCA Appellate Case Number: 2020-000719
Civil Action Number: 2015-CP-40-0619
Claim Number: B5578
Our File Number: 104.9622

Dear Ms. Kitchings:

Pursuant to Section (b)(2) the Supreme Court's Order Methods of Electronic Filing and Service Under Rule 262 of the South Carolina Appellate Court Rules (as amended April 26, 2024), please find enclosed for filing the **Reply Memorandum in Support of Motion for Costs on Appeal** with regard to the above referenced appeal. By copy of this letter, I am serving copies on all counsel of record by email only pursuant to Section (d)(1) of the same Supreme Court Order.

Thank you for your assistance.

Sincerely,

LINDEMANN LAW FIRM, P.A.

Andrew F. Lindemann

AFL/jmb
Enclosure

cc: Thomas J. Rode, Esquire (w/ Enclosure, Via Email Only)
Harold C. Staley, Esquire (w/ Enclosure, Via Email Only)
Andrew W. Creech, Esquire (w/ Enclosure, Via Email Only)
Garrett B. Johnson, Esquire (w/ Enclosure, Via Email Only)