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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA WORKERS'
COMPENSATION COMMISSION

Appellate Case Number 2021-000633

Rachel J. Turner, Employee, Appellant-Respondent,

v.

Medustrial Healthcare Staffing Service and Condustrual, Inc.; Guarantee Insurance Company;
Countrywide Staffing Solutions Group, Inc.; South Carolina Department of Corrections; State
Accident Fund; and South Carolina Uninsured Employer's Fund, Respondents

of which Condustrual, Inc. f/k/a Medustrial Healthcare Staffing Service, Employer, is the
Respondent-Appellant.

**APPELLANT-RESPONDENT CONDUSTRUAL, INC.'S RETURN TO APPELLANT-
RESPONDENT RACHEL J. TURNER'S MOTION FOR COSTS AND ATTORNEYS
FEES**

Pursuant to Rule 222 and Rule 240, SCACR, Appellant-Respondent Condustrual, Inc.,
("Condustrual") by and through its undersigned counsel, hereby submits this Return to Appellant-
Respondent Rachel J. Turner's Motion for Costs and Attorney's Fees. Condustrual opposes the
relief requested based on the following:

1. In Unpublished Opinion No. 2024-UP-110, this Court affirmed in part and reversed in part
the decision of the South Carolina Workers' Compensation Commission.
2. Rule 222(a) SCACR provides:

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 a judgment is reversed, costs shall

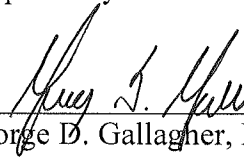
be taxed against the respondent unless the court orders otherwise. When an appeal is affirmed or reversed in part or is vacated, costs shall be allowed only as ordered by the appellate court. (emphasis added)

3. In summary, Condustrial prevailed on two issues which Appellant-Respondent Turner (“Turner”) appealed, therefore, any costs and attorney fees incurred by Turner were offset by those same costs incurred by Condustrial, thus rendering any award of costs to Turner inequitable. In sum, the outcome of the cross-appeals between Turner and Condustrial was, for lack of a better term, a “wash.” Therefore, no attorney fee and cost should be taxed to Condustrial.
4. In the alternative, if the Court is inclined to award Turner fees costs based on the single issue on which she prevailed on appeal, then those costs should be assessed *pro rata* and allocated against all of the named Respondents rather than taxed solely against Condustrial. All Respondents briefed and joined Condustrial in opposition to the arguments Turner raised on appeal, including the average weekly wage issue she prevailed on, as well as those she did not prevail on- the Commission’s denial of her prayer for running temporary total disability benefits (TTD) and the denial of her Motion to Admit newly discovered evidence. In sum, all Respondents were equal stakeholders as to the merits issues Turner raised on appeal and it is only appropriate that all Respondents share in any fees/costs taxed in this matter.
5. Finally, Turner’s Itemized Statement of Costs indicates that she incurred \$5,211.76 in printing or copying the Record on Appeal. This amount appears excessive on its face, even for a voluminous record. Condustrial requests that the Court order a full accounting, including, but not limited to, invoices and other information substantiating the amount of costs requested.

WHEREFORE Condustrial respectfully requests that this Court take the following action:

- a) Deny Turner's Motion for Costs and Attorney's Fees in its entirety; OR
- b) Allocate any costs and fees awarded among all of the named Respondents; AND
- c) Require Turner to provide a full accounting of the costs she incurred in printing or copying the Record on Appeal substantiating same.

Respectfully submitted,



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Columbia, South Carolina
January 2, 2025

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THE STATE OF SOUTH CAROLINA
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APPEAL FROM THE SOUTH CAROLINA WORKERS'
COMPENSATION COMMISSION

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Rachel J. Turner, Employee, Petitioner,

v.

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of which Condustrual, Inc. f/k/a Medustrial Healthcare Staffing Service, Employer, is the Respondent.

PROOF OF SERVICE

I certify that I have served the Appellant-Respondent Condustrual, Inc's Return to Appellant-Respondent Rachel Turner's Motion for Costs and Attorney's Fees by electronic mail on January 2, 2025, addressed to all attorneys of record at the addresses below:

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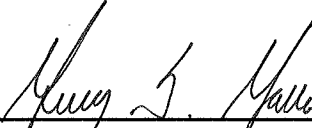
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January 2, 2025


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January 2, 2025

VIA EMAIL - ctappfilings@sccourts.org
The Honorable Jenny Abbott Kitchings
Clerk of the South Carolina Court of Appeals
1231 Gervais Street
Columbia, SC 29201

RE: *Rachel Turner v. Condustrial 8400-0101*
Case No. 2021-000633

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Dear Ms. Kitchings:

Enclosed for filing, please find our Return to Appellant-Respondent Rachel J. Turner's Motion for Costs and Attorney's Fees in the above-referenced matter.

By copy of this letter I am serving all parties with a copy of same as indicated by our Proof for Service.

Sincerely,



George D. Gallagher
GDG/rco
Enclosure

cc: The Hon. Amy Bracy
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Erin Farthing, Esq.
Gregory M. Alford, Esq.
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