

The South Carolina Court of Appeals

Dr. Scott F. Duncan, M.D., Appellant,

v.

OrthoSC, LLC, a South Carolina limited liability company; Dr. Gene M. Massey, M.D.; and HCA Healthcare, Inc., a Delaware corporation, Defendants,

Of which OrthoSC, LLC, a South Carolina limited liability company, and Dr. Gene M. Massey, M.D. are the Respondents.

Appellate Case No. 2023-001587

ORDER

On January 2, 2024, this appeal was dismissed as interlocutory. After we denied the petition for a rehearing *en banc*, Appellant filed and was granted a petition for a writ of certiorari. On April 23, 2025, the South Carolina Supreme Court vacated the order granting certiorari and denied the petition for a writ of certiorari as moot. The case was remitted on July 29, 2025. Respondent has now filed a motion for costs pursuant to Rule 222 of the South Carolina Appellate Court Rules seeking to recover \$2,500.00 in attorney's fees. After careful consideration, we grant the motion in part. *See* Rule 222(a), SCACR ("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."). In light of the dismissal of the appeal occurring early in the appellate process, this court exercises its discretion to award \$1,500 in attorney's fees. *See* Rule 222(b), SCACR (permitting an appellate court to award an attorney's fee); *Austin v. Stokes-Craven Holding Corp.*, 406 S.C. 187, 199, 750 S.E.2d 78, 84 (2013) (explaining that "it is within [the appellate court's] discretion whether to award fees and costs under Rule 222"). The Horry County Clerk of Court is directed to add this award of costs to the remittitur.

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FOR THE COURT

Columbia, South Carolina

FILED
Sep 08 2025

cc:

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Mary Harriet Moore, Esquire
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