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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In the Supreme Court

IN THE COURT'S ORIGINAL JURISDICTION

Case No. 2026-000713

(Associated Trial Court) Case No. 2021-CP-25-00392
Honorable R. Keith Kelly, presiding

Renee S. Beach, Phillip Beach, Robin Beach, Savannah Tuten, and Seth Tuten, …….
Plaintiffs,

Gregory M. Parker, Gregory M. Parker, Inc. d/b/a Parker's Corporation, Blake Greco, Jason D'Cruz, Vicky Ward, Max Fratoddi, Henry Rosado, and Private Investigation Services Group, LLC, …….
Defendants.

Of Whom,

Gregg Roman and Gravitas Synergy Solutions, LLC, ……..…….....
Petitioners,

v.

PNC Financial Services Group, INC d/b/a PNC Bank, Renee S. Beach, Phillip Beach, Robin Beach, Savannah Tuten, and Seth Tuten ……..
Respondents.

PETITIONERS' MOTION FOR ATTORNEYS' FEES AND COSTS

Please take Notice that Petitioners Gregg Roman and Gravitas Synergy Solutions, LLC move this Court pursuant to Rules 222, 240, and 245 of the SCACR, and Rules 26(c), 37(a)(4), and 45(c)(1) of the SCRCP, for an Order awarding reasonable attorneys' fees and costs in the amount of $31,078.56 incurred in connection with Petitioners' successful challenge to the Subpoena Duces Tecum served on PNC Bank. In support, Petitioners show as follows:

BACKGROUND

1. On March 20, 2026, this Court accepted the above-captioned matter in its original jurisdiction pursuant to Rule 245, SCACR.
2. On May 2, 2025, Plaintiffs served a Subpoena Duces Tecum upon PNC Financial Services Group, Inc, d/b/a PNC Bank seeking "Any and all financial account records and statements (including but not limited to: account opening documents, signature cards, power of attorney documents, monthly statements, front and back copies of all cancelled checks, deposit tickets, checks in deposit, withdrawal tickets, cashier's checks, courtesy checks, wire transfers, online or internet transfers, alerts on the account or account holder(s), suspicious activity reports, account closure documents, etc.) related to any and all PNC Financial Services Group, INC d/b/a PNC Bank accounts in the name of Gregg Roman and/or Gregg E. Roman (DOB: 05/xx/1985; SSN ending in - 8267) and/or for Gravitas Synergy Solutions, LLC for the time period of February 24, 2019, to present including any account that has been closed or deactivated during said time period."
3. Prior to seeking judicial intervention at the original jurisdiction, the Petitioners filed a Motion to Quash on May 15, 2025, in the Court of Common Pleas.

4. Consequently, on February 5, 2026, the Motion to Quash is denied. The Motion to Reconsider is filed on February 11, 2026, and ultimately denied on March 16, 2026, leading to the filing in the original jurisdiction.

5. By Order dated November 4, 2026, this Court issued a common law writ of certiorari and reversed the circuit court's order denying Petitioners' motion to quash the subpoena, finding that the subpoena was "overly broad." Slip Opinion at 2. The Court found that Plaintiffs "cannot show how all of Petitioner's financial records for over six years are relevant to the underlying action," that the request "is not limited to transactions involving Defendants," and that production "would certainly reveal personal and professional information that is in no way relevant to the underlying action." Slip Opinion at 4.

LEGAL STANDARD AND ARGUMENT

6. Under Rule 245(d), SCACR, discovery and motion practice in an original jurisdiction action are governed by the South Carolina Rule of Civil Procedure unless otherwise ordered by this court.

7. Rule 45(c)(1), SCRCP, imposes on the party or "attorney responsible for the issuance and service of a subpoena [to] take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena," and the rule "requires the court to 'enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.'" *Taylor v. Taylor*, 434 S.C. 307, 324–325, 863 S.E.2d 335, 344 (Ct. App. 2021). South Carolina courts "have interpreted 'undue burden' as requesting materials irrelevant to the matter before the court." *Id.*

8. That standard is satisfied here as a matter of this Court's own findings. This Court held that Plaintiffs could not show how over six years of Petitioners' financial records were relevant, that the request was not limited to transactions involving Defendants, and that "the subpoena could be significantly narrowed to request only information relevant to the underlying action." Slip Opinion at 4. A subpoena demanding records the Court has found irrelevant, when a narrower request was readily available, is precisely the failure to "take reasonable steps to avoid imposing undue burden or expense" that Rule 45(c)(1) directs the court to sanction. *Taylor v. Taylor*, 434 S.C. 307, 324–325, 863 S.E.2d 335, 344 (Ct. App. 2021).

9. This case is unlike *Taylor v. Taylor*, where the Court of Appeals reversed a Rule 45 sanction because the subpoenaed information "was relevant at the time the subpoenas were issued" and the finding of undue burden rested only on counsel's arguments. *Id. at* 323–324. Here, irrelevance and overbreadth were adjudicated by this Court on the record, and Petitioners' particularized harm, that disclosure "could reveal sources Roman has paid for sensitive information and lead to physical harm to Roman and/or his sources," was found plausible. Slip Opinion at 3.

10. Independently, Petitioners moved in the alternative for a protective order. Slip Opinion at 3. Rule 26(c) authorizes orders protecting a person from "annoyance, embarrassment, oppression, or undue burden by expense," and provides that "[t]he provisions of Rule 37(a)(4) apply to the award of expenses incurred in relation to the motion." SCRCP 26. Under Rule 37(a)(4), when such a motion prevails the court "shall, after opportunity for hearing," require the party whose conduct necessitated the motion, or its counsel, to pay "the reasonable expenses incurred in obtaining the order, including attorney's fees, unless

the court finds that the opposition to the motion was substantially justified or that other circumstances make an award of expenses unjust." SCRCP 37. South Carolina courts treat this award as mandatory absent those exceptions. *See Ball v. Canadian Am. Exp. Co.*, 314 S.C. 272, 277, 442 S.E.2d 620, 623 (Ct. App. 1994). Plaintiffs' opposition was not substantially justified: they sought every transaction for over six years without limiting the request to the Defendants whose conduct is at issue. Slip Opinion at 4.

11. This Court has also emphasized that judges "must use their authority to make sure that abusive deposition tactics and other forms of discovery abuse do not succeed," and that the available remedies include "an award of reasonable expenses, including attorney fees." *In re Anonymous Member of S.C. Bar*, 346 S.C. 177, 193–194, 552 S.E.2d 10, 18 (2001)) Although the right to seek tailored discovery or protection is not itself sanctionable (*Innovative Waste Mgmt., Inc. v. Crest Energy Partners GP, LLC*, 445 S.C. 19, 30, 911 S.E.2d 406, 411–412 (2025)), the subpoena here was not a reasonable request that merely needed tailoring; it was an unlimited demand for a non-party journalist's entire financial life, which the circuit court twice refused to narrow.

12. Finally, Rule 222, SCACR, provides that "[w]hen a judgment is reversed, costs shall be taxed against the respondent unless the court orders otherwise," and that the prevailing party "shall be entitled to recover an attorney's fee in an amount which shall be set by order of the Supreme Court." SCACR 222. Whether to award fees and costs under Rule 222 rests in this Court's discretion (*Austin v. Stokes-Craven Holding Corp.*, 406 S.C. 187, 199–200, 750 S.E.2d 78, 84 (2013); and this Court has granted actual attorney's fees where it found them reasonable and the movant "prevailed entirely." *Sub-Zero Freezer Co. v. R.J. Clarkson Co.*, 308 S.C. 188, 192, 417 S.E.2d 569, 571–572 (1992)).

Additionally, costs on appeal may be taxed only in the appellate court, (Belton v. State, 313 S.C. 549, 554–555, 443 S.E.2d 554, 557 (1994)) so this Court is the proper forum. This motion is filed in compliance with Rule 240, SCACR, and is accompanied by the sworn, itemized statements Rule 222(d) requires. *See* SCACR 222; SCACR 240.

13. This Court's original-jurisdiction precedent confirms that its review of a discovery order on a common law writ of certiorari is the appropriate setting in which to remedy discovery abuse. This Court has repeatedly issued the writ to correct discovery orders that would otherwise escape review, including where "[a]llowing the interviews will moot any claim petitioners could raise on appeal" (*Hollman v. Woolfson*, 384 S.C. 571, 577, 683 S.E.2d 495, 498 (2009)), where a party abused discovery through requests not remotely relevant to the issues (Slip Opinion at 3), and where the party seeking trade-secret discovery failed to show relevance and necessity. *Laffitte v. Bridgestone Corp.*, 381 S.C. 460, 474–476, 674 S.E.2d 154, 162–163 (2009). In this very matter, the Court found exceptional circumstances because Petitioners "have no other adequate remedy." (Memorandum Opinion at 3) Because Petitioners, as non-parties, could protect their records only by invoking this Court's original jurisdiction, the expenses of this proceeding were necessitated entirely by Plaintiffs' overbroad subpoena.

REASONABLENESS OF FEES AND COSTS

14. In support of this Motion, Petitioners submit the attached Affidavit of Taylor Smith, Esq. (Exhibit A), and Petitioner's out-of-state counsel Scott Sholder, Esq. (Exhibit B), along with itemized billing records (within each exhibit), detailing the legal services rendered, the time expended, and the hourly rates charged.

15. Under South Carolina law, when determining a reasonable attorney's fee, the Court considers six factors: (1) the nature, extent, and difficulty of the case; (2) the time necessarily devoted to the case; (3) the professional standing of counsel; (4) the contingency of compensation; (5) the beneficial results obtained; and (6) the customary legal fees for similar services. *Jackson v. Speed*, 326 S.C. 289, 307–308, 486 S.E.2d 750, 759–760 (1997). This Court continues to apply these factors in determining reasonable attorneys' fees. *Maybank v. BB&T Corp.*, 416 S.C. 541, 580–581, 787 S.E.2d 498, 518–519 (2016)) More recently, this Court reaffirmed that "a court should consider all six factors in making its decision," that "none of these six factors is controlling," and that specific findings of fact should be made on the record for each factor. *Horton v. Jasper Cnty. Sch. Dist.*, 423 S.C. 325, 330, 815 S.E.2d 442, 444–445 (2018). A fee award must rest on record evidence, and an unexplained reduction from uncontradicted fee affidavits is an abuse of discretion. *Horton* at S.C. 330–332.

16. The same six-factor analysis governs fees awarded as a sanction. In *Bauknight v. Pope*, this Court upheld a fee award imposed as a sanction for frivolous filings where the court reviewed the movant's fee affidavit and analyzed the six factors, limiting the award to fees incurred in defending against the sanctioned conduct, including the related petition to this Court. (*Bauknight as Tr. of James Brown 2000 Irrevocable Tr. v. Pope*, 445 S.C. 408, 420–421, 914 S.E.2d 848, 855 (2025). Consistent with *Bauknight*, Petitioners seek only those fees and costs incurred in challenging the overbroad PNC subpoena, in the circuit court and in this Court. *Bauknight* at S.C. 408, 420–421, S.E.2d 848, 855 (2025).

17. Because an award must be supported by evidence in the record for each factor, (*Blumberg v. Nealco, Inc.*, 310 S.C. 492, 493–494, 427 S.E.2d 659, 660–661 (1993)) Petitioners'

affidavits and itemized billing records are submitted so that the Court may make findings on each of the six factors. *TCC of Charleston, Inc. v. Concord & Cumberland*, LLC, 446 S.C. 202, 229–231, 918 S.E.2d 699, 713–715 (Ct. App. 2025).

18. As demonstrated in Exhibits A and B, Mr. Smith's hourly rate of $350/ hour and Mr. Sholder's of $830/hour are customary and reasonable in the South Carolina (and New York (respectively)) legal community for complex appellate and original jurisdiction litigation, the 96.8 hours expended were strictly limited to addressing the improper subpoena, and Petitioners achieved complete success on the merits. This Court reversed the circuit court's order. Slip Opinion at 5.

RELIEF REQUESTED

WHEREFORE, Petitioners respectfully request that this Court enter an Order:

a. Grant Petitioners' Motion for Attorneys' Fees and Costs;

b. Ordering Plaintiffs to pay Petitioners the sum of $31,078.56 in reasonable attorneys' fees and costs pursuant to Rules 26(c), 37(a)(4), and 45(c)(1), SCRCP, *Taylor v. Taylor*, 434 S.C. 307, 324–325, 863 S.E.2d 335, 344 (Ct. App. 2021) and Rule 222, SCACR, (SCACR 222) within 30 days of the date of the Order; and

c. Granting such other and further relief as the Court deems just and proper.

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Respectfully submitted,

/s/ Taylor Smith
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