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SC Court of Appeals

STATE OF SOUTH CAROLINA)
COUNTY OF JASPER)

) FOURTEENTH JUDICIAL CIRCUIT
) IN THE COURT OF COMMON PLEAS
) C/A No.: 2013-CP-27-0327

RANDY HORTON,
Plaintiff,

v.

JASPER COUNTY SCHOOL)
DISTRICT,)
Defendant.)

**ORDER GRANTING
SUMMARY JUDGMENT
AND AWARD OF COSTS
AND ATTORNEYS FEES**

NOW COMES BEFORE THE COURT Plaintiff's Motion for Summary Judgment in this Declaratory Judgment action. A full hearing was conducted on March 31, 2014. Present at that hearing on behalf of the Plaintiff were J. Ashley Twombly and Jennifer Campbell of Twenge & Twombly Law Firm, LLC. Present on behalf of Defendant Jasper County School District were Kenneth Childs and Dwayne Mazyck of Childs & Halligan, P.A.

The instant issue derives from a Declaratory Judgment action alleging that Plaintiff, a member of the Board of Trustees for Defendant Jasper County School District, is entitled to review of documents relating to his responsibility as a Board member and that the Defendant violated the South Carolina Freedom of Information Act (FOIA) by failing to respond to Plaintiff's FOIA request first made on June 7, 2012. The documents requested include credit card statements for School Board issued credit cards for specific School Board members and a list of bonus checks given to non-certified staff by Jasper County School District employee Vashti K. Washington.

Defendant Jasper County School District is a public body subject to Plaintiff's FOIA request 1977 S.C. Op. Atty. Gen. 173; 1983 S.C. Op. Atty. Gen. 23; 1996 WL 452818

(S.C.A.G.). As such, Defendant Jasper County School District is required to give the requesting

TRUE COPY
MARGARET BOSTICK
CLERK OF COURT
JASPER COUNTY, SC
BY: *M. Smith*
DATE: 9/5/14

party a written notification of the determination as to the availability of the request public records within 15 business days. S.C. Code Ann. § 30-4-30(c). Plaintiff did not receive any documents or explanation of the availability of the requested documents and filed the instant suit on June 20, 2013, 13 months after the initial FOIA request. Defendant requested a time extension and did not answer until August 22, 2013. In its answer, Defendant denied Plaintiff's entitlement to any of the requested documents.

The instant motion was filed on October 11, 2013, and heard in part on January 31, 2013, at which time the undersigned requested additional briefs and scheduled this matter for a full hearing. Between the filing of the instant motion and its initial hearing date, Defendant provided Plaintiff with some, but not all, of the requested documents.

During the March 31, 2014, hearing before me, the Court ordered Defendant to produce the entirety of requested documents to the Plaintiff's satisfaction. These documents continued to be produced until July 8, 2014, at which time Plaintiff's counsel notified this Court via email correspondence that all documents had been received. Plaintiff submits an affidavit of costs and attorney's fees which is the subject of this Order. Upon review and consideration of submissions to this Court and oral argument, the Court finds that the Plaintiff is entitled to costs and attorney's fees.

The six factors to be considered when determining an award of attorney's fees are (1) the nature, extent, and difficulty of the case; (2) the time necessarily devoted to the case; (3) professional standing of counsel; (4) contingency of compensation; (5) beneficial results obtained; and (6) customary legal fees for similar services. *Burton v. York County Sheriff's Department*, 358 S.C. 339, 358, 594 S.E.2d 888, 898 (Ct. App. 2004). Jennifer I. Campbell's affidavit regarding legal fees and costs submitted July 9, 2014, portrays commensurate time,

nature, extent and difficulty expended by both Jennifer I. Campbell and J. Ashley Twombly in procuring the FOIA requested documents and litigation related thereto. Legal fees claimed relate to counsel's preparation of pleadings, briefing the court regarding jurisdiction over this issue, standing and the merits of the case. Document review was conducted over the course of several months. Once production was complete, individual documents totaled over two thousand pages over the course of seven different submissions. Counsel has a combined twenty-five years of experience in litigation. Ultimately, my ruling produces beneficial results for their client.

CONCLUSION

For the reasons stated herein, this Court finds that Plaintiff is entitled to summary judgment in this declaratory judgment action. Because the Defendant's response to this June 7, 2012, FOIA request was not complete to Plaintiff's satisfaction until July 2014, and because Plaintiff requested documents to which he was entitled under FOIA in furtherance of his responsibilities as a board member, I find that an award of costs and attorney's fees is appropriate under the circumstances and hereby award attorneys' fees at a rate of \$100 an hour for a total of 135.3 hours documented by J. Ashley Twombly, Esq. and Jennifer Campbell, Esq. for their work in compelling the document production at issue. I also find that Plaintiff's \$1096.56 in costs incurred pursuing the production of this FOIA request is an appropriate award.

THEREFORE, IT IS ORDERED ADJUDGED AND DECREED that Plaintiff's Motion for Summary Judgment is hereby **GRANTED**, and that Plaintiff be awarded \$13,530 in attorney's fees and \$1096.56 in costs, for a total of \$14,626.56.

AND IT IS SO ORDERED.

C. Mullen

Carmen T. Mullen
Fourteenth Judicial Circuit

September 5, 2014

Ridgeland, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. ~~2013 CP 07 0527~~
2013CP2700827

RANDY HORTON

JASPER COUNTY SCHOOL DISTRICT

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: CARMEN MULLEN	Attorney for : <input type="checkbox"/> Plaintiff	<input checked="" type="checkbox"/> Defendant
	or <input type="checkbox"/> Self-Represented Litigant	

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court: Plaintiff's Motion to Reconsider Pursuant to Rules 52 and 59, SCRPC, is hereby respectfully denied without a hearing.

ORDER INFORMATION

This order ends; does not end the case.
Additional Information for the Clerk :

INFORMATION FOR THE PUBLIC INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

C. Mullen _____ 2142 _____ 9-25-14
 Circuit Court Judge Judge Code Date

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