

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM JASPER COUNTY
Court of Common Pleas

The Honorable Carmen T. Mullen, Fourteenth Judicial Circuit
Case No.: 2013-CP-27-327

Appellate Case No.: 2014-002612

Randy Horton.....Appellant

-vs-

Jasper County School District.....Respondent

APPELLANT'S INITIAL REPLY BRIEF

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SC Court of Appeals

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REPLY ARGUMENTS

I. The trial court's reduction of fees to \$100 per hour is not reasonable, is not supported by any evidence (competent or otherwise), and is not supported by any adequate findings.

Respondent argues that the trial court's reduction of attorney's fees from counsel's standard hourly rates to \$100 per hour is "supported by [] competent evidence," is "supported by adequate findings," and is otherwise reasonable. (Resp. Brief p. 2). Respondent fails to cite, reference or otherwise direct the Court to any evidence in the record to support these arguments. There is no evidence in the record to support a fee based on \$100 per hour, and there is no evidence in the record to support Respondent's argument that a \$100 per hour fee is reasonable. The only evidence submitted to the Court was offered by Appellant, and that evidence supports the fee requested by Appellant.

In addition, the trial court did not make any findings of fact that the fee requested, or the hourly rates used, were unreasonable or otherwise improper. The trial court's order and the record is completely devoid of any findings of fact or other rationale to support the fee reduction. In fact, the only findings by the trial court were that Appellant's counsel did a good job, worked efficiently and succeeded in providing beneficial results to plaintiff. (Order p. 2-3).

Finally, Respondent argues that "the award of attorney's fees is the basis of reasonableness, not the reasonableness of the hourly rate charged by the attorneys." (Resp. Brief p. 3). In other words, Respondent contends that the decision of whether or not to award a fee must be reasonable, but not the amount awarded. Appellant would respectfully submit that this is not the law in South Carolina, and Respondent has offered no authority to support the same.

II. Appellant was denied access to the records.

Respondent argues that Appellant was not denied access to the requested records. This is not true, as Respondent denied that Appellant was entitled to access to the records at issue in its Answer. (Answer ¶ 12, (admitting that as of the date the Complaint was filed, Appellant had not received any documents in response to his requests), ¶ 17 (denying any violation of FOIA)).

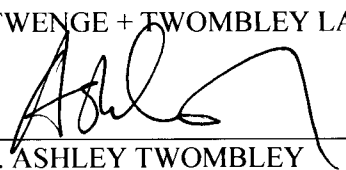
Moreover, the trial Court concluded in its order that “Plaintiff did not receive any documents” and that “Defendant denied Plaintiff’s entitlement to any of the requested documents.” Order at 2. Respondent did not appeal this ruling.

CONCLUSION

For the reasons contained herein and in Appellant’s Brief, the Order of the trial court should be reversed.

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February 11, 2015

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AFFIDAVIT OF SERVICE

The undersigned, Andrea Smith, hereby avers that she is a Paralegal with TWENGE + TWOMBLEY LAW FIRM, Attorneys for Appellant, and that on the 11th day of February 2015, a true and accurate copy of the attached Initial Reply Brief of Appellant was placed in an envelope with first class postage thereon prepaid through the United States Postal Service and mailed to the following:

Dwayne T. Mayzck, Esquire
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BY:



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February 11, 2015

Via U.S. Mail

The Honorable Jenny Abbott Kitchings
Clerk of Court
S.C. Court of Appeals
P.O. Box 11629
Columbia, SC 29211

**RE: Randy Horton v. Jasper County School District
Appellate Case No.: 2014-002612**

Dear Ms. Kitchings:

Please find enclosed an original and one (1) copy of Appellant's Initial Reply Brief and Certificate of Service in the referenced matter. I would appreciate it if you would file the original and return a clocked copy of each to me in the enclosed self-addressed, stamped envelope.

By copy of this letter, I am serving the same upon counsel for Respondent, Dwayne T. Mayzck, Esquire.

Thank you for your consideration in this matter. If you have any questions, please do not hesitate to contact me.

With kindest regards, I remain,

Cordially,



J. Ashley Twombley

cc: Dwayne T. Mayzck, Esquire
Mr. Randy Horton

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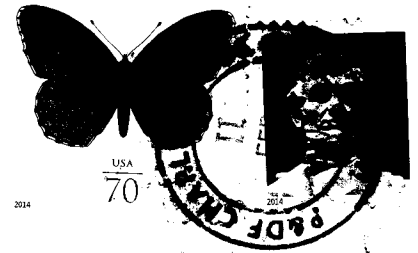
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