

STATE OF SOUTH CAROLINA

COUNTY OF ANDERSON

John E. Harbin,

Plaintiff,

vs.

April Blair and Tracy Dunn,

Defendants.

) IN THE COURT OF COMMON PLEAS

) FOR THE TENTH JUDICIAL CIRCUIT

) ORDER GRANTING DEFENDANT
) BLAIR'S MOTION FOR COSTS AND
) ENFORCING JUDGMENT PURSUANT
) TO RULE 68, SCRPC**RECEIVED**

APR 06 2017

C.A. No.: 2014-CP-04-2908

SC Court of Appeals

This matter comes before the Court on a Motion for Costs and Enforcing Judgment filed by defendant April Blair (hereinafter "Defendant") with the Anderson County Clerk of Court's Office on December 2, 2016. A hearing was convened into that motion on February 2, 2017 at the Anderson County Courthouse. Present at that time were counsel for the plaintiff, Donald L. Smith of Donald Smith Law Firm, and counsel for defendant April Blair, Robert D. Corney of Gallivan, White & Boyd, P.A. After careful consideration of the motion filed along with the accompanying exhibits, the record before this Court, the arguments presented at the motion hearing, and a review of the relevant Rules and law, this Court hereby grants Defendant's Motion for Costs and Enforcing Judgment as further set forth herein.

AWARD OF COSTS PURSUANT TO RULE 68, SCRPC

Pursuant to S.C. Code § 15-35-400(B) and Rule 68, SCRPC, if an offer of judgment is not accepted and the offeror obtains a verdict or determination at least as favorable as the rejected offer, the offeror shall be allowed to recover a number of different costs and expenses from the offeree incurred after the expiration of the offer. In this instance, Defendant served Plaintiff with a valid offer of judgment pursuant to Rule 68, SCRPC, on June 8, 2016 in the amount of Forty-Five Thousand (\$45,000.00) Dollars. The offer was not accepted by Plaintiff

within twenty (20) days of the date of service and was, therefore, rejected. A copy of the rejected offer of judgment was filed with the Anderson County Clerk of Court's Office on or about July 5, 2016. The case proceeded to jury trial before this Court at the Anderson County Courthouse from November 28 – 30, 2016, at the conclusion of which the jury returned a verdict in favor of Defendant. Therefore Defendant, the offerer, obtained a verdict at the trial of the case "at least as favorable as the rejected offer." Accordingly, Defendant is entitled to recover costs and expenses as further outlined in S.C. Code § 15-35-400, Rule 68, SCRPC, and the applicable common law from the plaintiff.

This Court has had the opportunity to review the affidavit and accompanying exhibits attached to Defendant's Motion for Costs, and finds the costs/expenses set forth therein to be reasonable, necessarily incurred by Defendant during the continued defense of this case as a result of Plaintiff's rejection of the offer of judgment, and proper for recovery by Defendant under the applicable statutes, Rules and common law. Accordingly, this Court hereby grants Defendant's Motion for Costs, finding Defendant is entitled to recover attorney fees and costs from Plaintiff that Defendant incurred from the date of the offer of judgment in the amount of \$4,290.46.

ACCORDINGLY, IT IS ORDERED THAT:

1. Defendant April Blair's Motion for Costs and Enforcing Judgment is hereby **GRANTED**; and
2. Defendant April Blair is entitled to a judgment against the Plaintiff in the amount of Four Thousand Two Hundred Ninety and 46/100 (\$4,290.46) Dollars for costs and expenses incurred pursuant to Rule 68, SCRCP.

WHEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that a judgment on behalf of the Defendant April Blair in the amount of \$4,290.46 shall be entered by the Clerk of Court against the Plaintiff.

IT IS SO ORDERED.

Walhalla, South Carolina

[Judicial signature page to follow]



Anderson Common Pleas

Case Caption: John E Harbin VS April Black , defendant, et al
Case Number: 2014CP0402908
Type: Order/Other

s/R. Scott Sprouse, Judge #2752

Tenth Judicial Circuit