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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Appellate Case No. 2017-001191

Doraine E. Martin, Respondent,

v.

SC Department of Corrections, and
State Accident Fund, Appellants.

MOTION FOR THE TAXING OF COSTS AND
ATTORNEY'S FEES AGAINST THE APPELLANTS

RECEIVED

AUG 14 2017

SC Court of Appeals

YOU WILL PLEASE TAKE NOTICE that pursuant to Rule 222 and Rule 224, SCACR, the Respondent hereby moves for the taxing of costs and attorneys' fees as allowed under the Rules. Said Motion is based upon the following:

1. That pursuant to the Remittitur dated August 4, 2017, and Order of the Court of Appeals dated and filed July 19, 2017 (attached hereto and incorporated herein by reference), the

Motion to Dismiss Appeal filed by the Respondents was granted by the Court.

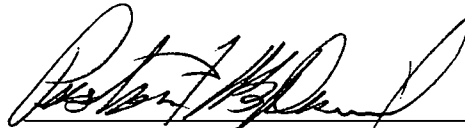
2. That Counsel for the Respondent spent more than five (5) hours researching applicable law, drafting the Motion, reviewing the Motion, finalizing the Motion and filing the Motion; and his staff spent over two (2) hours preparing the Motion. Counsel who has been in practice for over 41 years has his billing rate posted in his office lobby notifying the public as to his billing rate where attorney's fees are awarded pursuant to statute or Court Order. Respondent's Counsel's billing rate is \$375.00 per hour out of Court, and \$750.00 per hour in Court. Thus, the attorney's fees that could be requested far exceeds the attorney's fees awardable under Court Rule.

3. That South Carolina Appellate Court Rules, Rule 222, provides that where the Judgment on Appeal is affirmed, the Respondent is allowed to move for the taxing of costs and pursuant to the Rule, an Itemized Statement of Costs incurred by the Respondent is attached hereto and is incorporated herein by reference. Further, pursuant to the Rule, the Respondent is entitled to the taxing of an Attorney's Fee of One Thousand Dollars and Zero Cents (\$1,000.00).

WHEREFORE, based upon the decision of the Court and the Rules of the Court, the Respondent hereby moves for the taxing of the attorney fees and costs in this matter.

I SO MOVE.

Respectfully submitted,



Preston F. McDaniel, Esquire
SC Bar No. 3770
McDaniel Law Firm
1315 Elmwood Avenue
Columbia, SC 29201
(803) 771-7211
Attorney for Respondent

August 9, 2017

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Appellate Case No. 2017-001191

Doraine E. Martin, Respondent,

v.

SC Department of Corrections, and
State Accident Fund, Appellants.

ITEMIZED STATEMENT OF COSTS

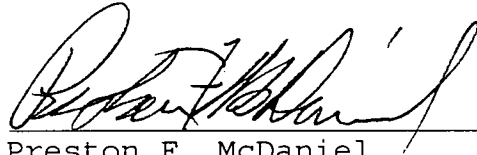
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The Appellate Court is requested to tax the following costs
against SC Department of Corrections and State Accident Fund,
the Appellants:

COSTS TAXABLE UNDER RULE 222, SCACR	NO. OF PAGES	RATE	REQUESTED	ALLOWED (For Court Use Only)
Cost of Printing or Copying Final Brief				
Cost of Printing or Copying Final Reply Brief				

Cost of Printing or Copying Record on Appeal				
Filing Fee Paid Under Rule 203(d), SCACR				
Cost of Court Reporter's Transcript				
Attorney's Fee Provided By Rule 222(b), SCACR		\$ 1,000.00	\$ 1,000.00	
Other (specify and explain):		\$25.00	\$25.00* *Filing Fee for Motion to Dismiss Appeal	
COSTS TAXABLE UNDER RULE 242(j), SCACR				
Cost of Printing or Copying Brief				
Cost of Printing or Copying Reply Brief				
Cost of Printing or Copying Appendix				
Filing fee paid under Rule 242(c), SCACR				
Attorney's fee provided by Rule 242(j)(2), SCACR				
Other (specify and explain):				
		TOTAL:	\$1,025.00	

I, Preston F. McDaniel, do swear or affirm that the foregoing costs are correct and were necessarily incurred in this action. A copy of this statement was (mailed to/served upon) opposing counsel.



Preston F. McDaniel
Attorney for the Respondent

Subscribed and sworn to before me
this 9th day of August, 2017


Notary Public for South Carolina

My Commission Expires: 4/26/20



COPY

The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

August 04, 2017

The Honorable Jana E. Shealy
1205 Pendleton Street
Columbia SC 29201

REMITTITUR

Re: Doraine Martin v. SCDC
Lower Court Case No. 2017ALJ300038IJ
Appellate Case No. 2017-001191

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

V. Claire Allen, Deputy

CLERK

Enclosure

cc: John Paul Simkovich, Esquire
Preston F. McDaniel, Esquire

The South Carolina Court of Appeals

COPY

Doraine E. Martin, Respondent,

v.

South Carolina Department of Corrections and State
Accident Fund, Appellants.

Appellate Case No. 2017-001191

ORDER

Appellants have filed an appeal from the Administrative Law Court's orders, which entertain Respondent's motion to enforce a subpoena and to compel the production of documents and deposition testimony in a case pending before the South Carolina Workers' Compensation Commission. Respondent has filed a motion to dismiss, arguing the underlying orders are not immediately appealable. Appellants did not file a return.

This court is compelled to dismiss this appeal because section 1-23-610(A)(1) of the South Carolina Code (Supp. 2016) provides that judicial review may only be sought from a *final* decision of the Administrative Law Court. *See Charlotte-Mecklenburg Hosp. Auth. v. S.C. Dep't of Health & Envtl. Control*, 387 S.C. 265, 266, 692 S.E.2d 894 (2010) (dismissing an appeal from an interlocutory order pursuant to § 1-23-610). It must be noted, however, that section 1-23-600(A) of the South Carolina Code (Supp. 2016) expressly excludes cases arising under the Workers' Compensation Commission from the oversight of the Administrative Law Court. Respondent's motion to dismiss is granted, and the remittitur will be sent as provided in Rule 221, SCACR.


FOR THE COURT

FILED

July 19, 2017

Columbia, South Carolina

cc:

John Paul Simkovich, Esquire

Preston F. McDaniel, Esquire

Jana E. Shealy

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Appellate Case No. 2017-001191

Doraine E. Martin, Respondent,

v.

SC Department of Corrections, and
State Accident Fund, Appellants.

PROOF OF SERVICE

I certify that I have served the MOTION FOR THE TAXING OF COSTS AND ATTORNEY'S FEES AGAINST THE APPELLANTS and ITEMIZED STATEMENT OF COSTS by depositing a copy of it in the United States Mail, postage prepaid, on August 9, 2017 addressed as follows to:

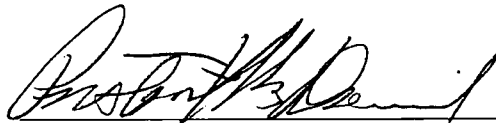
John Paul Simkovich, Esquire
Shannon Till Poteat, Attorney
Willson, Jones, Carter & Baxley, PA
3600 Forest Drive, Suite 204
Columbia, South Carolina 29204

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SC Court of Appeals

Respectfully submitted,



Preston F. McDaniel, Esquire
SC Bar No. 3770
McDANIEL LAW FIRM
1315 Elmwood Avenue
Columbia, South Carolina 29201
(803) 771-7211
Attorney for Respondent

August 9, 2017

④
McDANIEL LAW FIRM
ATTORNEYS AND COUNSELORS AT LAW
1315 ELMWOOD AVENUE
COLUMBIA, SOUTH CAROLINA 29201

Proudly representing injured workers
for over 30 years.

Preston F. McDaniel

Matthew Robertson

Telephone (803) 771-7211

Facsimile (803) 252-0709

August 9, 2017

Honorable Jenny Abbott Kitchings
Clerk, SC Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

**RE: Doraine E. Martin v. SCDC and State Accident Fund
Appellate Case No. 2017-001191**

Dear Ms. Kitchings:

Enclosed herewith for filing, please find the original and seven (7) copies of our **MOTION FOR THE TAXING OF COSTS AND ATTORNEY'S FEES AGAINST THE APPELLANTS** and **ITEMIZED STATEMENT OF COSTS**, along with the original Proof of Service of the same and required filing fee in the above-named matter. I would appreciate your returning a clocked-in copy to me in the enclosed self-address, stamped envelope.

By copy of this letter I am serving counsel for the Appellants with a copy of our Motion.

Sincerely yours,


Preston F. McDaniel

PFM/kth
Enclosures

cc: John Paul Simkovich, Esquire
Shannon T. Poteat, Attorney at Law

RECEIVED

AUG 14 2017

SC Court of Appeals