

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

Benjamin H. Culbertson, Circuit Court Judge

Civil Action No. 2015-CP-10-3220

Appellate Case No. 2016-002469

**RECEIVED**  
SEP 19 2019  
SC Court of Appeals

Shane Gould,

Respondent.

v.

Worldwide Apparel LLC, f/k/a  
MusclePharm Sportswear, LLC and  
Drew Ciccarelli

Appellants.

RESPONDENT'S RETURN TO APPELLANT'S MOTION FOR COSTS

Respondent-Plaintiff opposes Appellants' Motion for Costs. Under Rule 222, costs are to be awarded unless the Court otherwise orders. This case presents a circumstance under which the Court should order that costs not be awarded in this appeal, for the following reasons.

This case involves a claim that Appellant has not paid all wages that were due and owing to employee Respondent under the Wage Payment Act, which is intended to be a *remedial* Act. As pointed out in the appeal brief, Appellants *admitted* – *they do not deny* - that there were *unpaid wages* dating back to the Fall of 2014. Because there were some wages admittedly owed, by testimony of Defendants, it appears a genuine issue that remains may be “how much?” *Those*

*unpaid wages from the year 2014, in whatever the final amount determined by the court below, non-jury, remain unpaid to this date.*

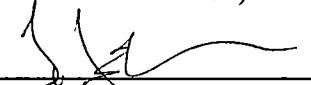
This case arose on appeal of the lower Court order granting summary judgment on all claims in favor of Respondent. Respondent did not choose to file the appeal. Although the court below decided that the evidence was overwhelming in favor of Respondent, the unpaid employee, on all claims. The Court on appeal disagreed and remanded the case for trial because the Court on appeal discerned one or more genuine issues of material fact to be decided at the non-jury trial.

Respondent submits that the remedial character of the Wage Payment Act would be seriously undermined, and an injustice would be visited on the wronged employee, by an award of costs under these factual circumstances.

For the foregoing reasons, this Court should Order that costs and associated fees shall not be awarded in this case due to the circumstances at hand, and deny the Motion for Costs.

**SCHMIDT & COPELAND, LLC**

By: \_\_\_\_\_

  
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ATTORNEYS FOR RESPONDENT

September 19, 2019

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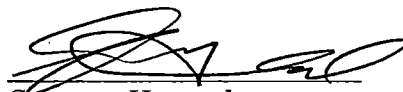
Appellants.

PROOF OF SERVICE

I hereby certify that I have served the and the RESPONDENT'S RETURN TO APPELLANT'S MOTION FOR COSTS on Appellants by depositing copies of the same this day in the U.S. Mail, postage prepaid, addressed as follows:

Desa Ballard  
Harvey M. Watson, III  
BALLARD & WATSON  
Post Office Box 6338  
West Columbia, South Carolina 29171

W. Stephen Harris  
Theodore Huge  
HARRIS & HUGE, LLC  
180 Spring Street  
Charleston, South Carolina 29403



*Suzanna Howard*  
*Paralegal to Schmidt & Copeland, LLC*

September 19, 2019



Attorneys and Counselors at Law

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September 19, 2019

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SEP 19 2019

SC Court of Appeals

The Honorable Jenny Abbott Kitchings  
Clerk of Court  
1220 Senate Street  
Columbia, SC 29201

Re: **Shane Gould v. Worldwide Apparel LLC, f/k/a MusclePharm Sportswear LLC  
and Drew Ciccarelli; Appellate Case No. 2016-002469**

Dear Ms. Kitchings:

Please find enclosed, via hand-delivery, for filing in the above-referenced matter, the original and three copies of Respondent's Return to Appellants' Motion for Costs, and the **Proof of Service**.

By copy of this letter and Proof of Service, I am hereby serving copies of the same on Appellants' attorneys of record.

Thank you for your assistance in this matter.

Sincerely,

Suzanna Howard

Enclosures

cc: Via U.S. Mail with Enclosures:  
Desa Ballard  
Harvey M. Watson, III  
W. Stephen Harris  
Theodore Huger