

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

R. Scott Sprouse, Circuit Court Judge

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Case No. 2014-CP-04-00373

JAN 23 2020

Appellate Case No.: 2016-002302

SC Court of Appeals

NHC HealthCare Mauldin,
LLC,

Respondent,

v.

Wade Thompson and Sheila
Thompson,

Defendants.

Of Whom Wade Thompson is
the

Appellant.

RESPONDENT'S RETURN TO APPELLANT'S MOTION FOR COSTS

Appellant has filed a motion for costs pursuant to Rule 222, South Carolina Appellate Court Rules and requested an award of \$5,176.49.

Respondent opposes this request on the following grounds.

First, the plain language of Rule 222, South Carolina Appellate Court Rules shows that an award of fees and costs in this action is not proper. Subsection (b) of the Rule states that a party may recover costs "to the extent the

party actually incurred these costs.” (emphasis added).

The party seeking to recover costs in this case is the Appellant, Wade Thompson. Mr. Thompson is represented by attorneys from South Carolina Legal Services, who, according to their website “provides free legal assistance in a wide variety of civil (non-criminal) legal matters to eligible low income residents of South Carolina. SCLS is a non-profit corporation, funded by grants from the federally funded Legal Services Corporation, the South Carolina Bar Foundation, local United Ways, state court filing fees, and other federal, state and local funding.”

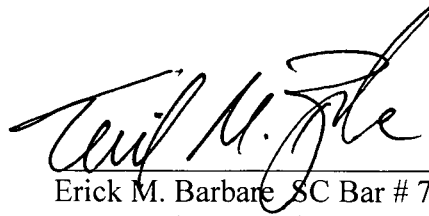
Accordingly, Appellant has made no showing that he actually incurred any of the costs or attorney’s fees sought in his motion. Rather, it should be presumed that he incurred no costs or fees and awarding him same would amount to a windfall.

Additionally, Respondent urges the Court to exercise its discretion to deny costs to the Appellant in this action due to the posture in which this case presented itself. Respondent was awarded relief by the trial court, the Trial Court, which heard the witnesses and observed their demeanor on the stand, found in favor of the Respondent, in what was primarily an equitable action. Respondent did not appeal the trial court’s adverse rulings against Respondent and only responded to the Appellant’s issues that he raised on appeal. Taxing the costs against Respondent in this case would essentially punish Respondent for simply responding to an appeal of the trial court’s ruling by the Appellant.

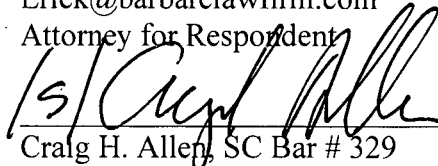
For these reasons, Respondent submits that Appellant’s motion for costs

should be denied.

Date: 1/20/2020
Greenville, South Carolina



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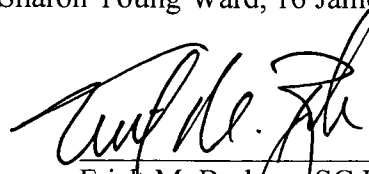
JAN 23 2020

SC Court of Appeals

PROOF OF SERVICE

I certify that I have served the Respondent's Return to Appellant's Motion for Costs on Wade Thompson by depositing a copy of it in the United States Mail, postage prepaid, on January 20, 2020, addressed to his attorneys of record, Susan Ingles, 701 South Main Street, Greenville, South Carolina 29601 and Sharon Young Ward, 16 Jamestown Road, Charleston, South Carolina, 29407.

January 20, 2020



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RONALD F. BARBARE

ERICK M. BARBARE

January 20, 2020

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

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SC Court of Appeals

RE: NHC HealthCare Mauldin, LLC, Respondent, v. Wade Thompson and
Sheila Thompson, Defendants Of Whom Wade Thompson is the
Appellant.
Appellate Case No.: 2016-002302

Dear Ms. Kitchings:

Enclosed for filing is the original and six (6) copies of the Respondent's
Return to Appellant's Motion for Costs and the proof of service of same in the
above-referenced appeal.

Sincerely,




Erick M. Barbare
Attorney for Respondent

cc: Susan Ingles, Esquire
Attorney for Appellant

The Barbare Law Firm
120 Renaissance Circle, Suite 6
Mauldin SC 29662

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