

# EXHIBIT D

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF ORANGEBURG )  
 )  
 The Carolina Appraisal Group, Inc. and The )  
 Carolina Appraisal Group-Residential, LLC, )  
 Plaintiffs, )  
 )  
 v. )  
 )  
 Wagener Insurance Agency and Realty, Inc.; )  
 Douglas Appraisal, LLC; and )  
 Robert D. Douglas, )  
 )  
 Defendants/Third-Party Plaintiffs, )  
 )  
 v. )  
 )  
 Harris Benjamin Davis, Jr., The Carolina )  
 Appraisal Group-Residential W-2, LLC, )  
 )  
 Third-Party Defendants. )  
 )

IN THE COURT OF COMMON PLEAS  
 FOR THE FIRST JUDICIAL CIRCUIT

C/A No.: 2020-CP-38-00545  
 Business Court: The Hon. Maite Murphy

**ORDER GRANTING PLAINTIFFS’  
 ATTORNEYS’ FEES AND COSTS  
 RELATED TO MOTION TO COMPEL**

**RECEIVED**  
**FEB 25 2021**  
**SC Court of Appeals**

Following careful consideration of the parties’ briefs and oral argument at a hearing held on November 19, 2020, this Court entered an order granting Plaintiff’s Motion to Compel, filed July 24, 2020. *See* Order Granting Motion to Compel, filed December 1, 2020. In the order, the Court held Wagener Insurance Agency and Realty, Inc., Douglas Appraisal, LLC, and Robert D. Douglas (collectively “Defendants”) violated Rules .26, 33, and 34, SCRPC, by failing to timely respond to Plaintiffs’ initial interrogatories and requests for production of documents, served on May 22, 2020.

In the order, the Court further held that due to Defendants’ unreasonable delay in responding to Plaintiffs’ discovery requests, Defendants’ unreasonable failure to respond to Plaintiffs’ requests for status updates, and Defendants’ continued failure to fully respond to the discovery requests to present, an award of Plaintiffs’ reasonable attorneys’ fees and costs incurred in connection with the Motion was appropriate pursuant to Rule 37, SCRPC. *See Wicker v. Dowling*, 2017-CP-10-02504, 2019 WL 6048616 (Ct. Comm. Pl. Mar. 8, 2019) (J. Kinlaw) (citing *Davis v. Parkview Apartments*, 409 S.C. 266, 281, 762

S.E.2d 535, 543 (2014)) (“In addition to the authority to grant a motion to compel, the trial court has discretion to determine whether to impose sanctions for discovery abuse.”). Rule 37 provides for various sanctions for a party’s “failure to make or cooperate in discovery,” including an award of “reasonable expenses incurred in obtaining the order, including attorney’s fees[.]” Rule 37(a)(4), SCRPC.

Pursuant to the Court’s instruction, on October 30, 2020, Plaintiffs filed an affidavit of attorneys’ fees and costs. In considering Plaintiffs’ request, the Court has reflected upon the following factors: (1) the nature, extent and difficulty of the legal services rendered; (2) the time and labor devoted to the case; (3) the professional standing of counsel; (4) contingency of compensation; (5) fees customarily charged in this locality for similar services; and (6) the beneficial results obtained. *Jackson v. Speed*, 326 S.C. 289, 486 S.E.2d 750 (1997). The Court finds that based on these factors, Plaintiffs’ requested attorneys’ fees and costs are reasonable and appropriate.

Defendants have not contested the rates charged by Plaintiffs’ counsel or the amount of time spent by Plaintiffs’ counsel in pursuing the Motion to Compel. The Court finds no basis in the record upon which to call those rates or the amount of time expended into question. *See Horton v. Jasper Cty. School Dist.*, 423 S.C. 325, 815 S.E.2d 442 (2018) (abuse of discretion in awarding fees based upon rates lower than those attested to by counsel in the absence of evidentiary basis for lower rates). Defendants have also not challenged Plaintiffs’ requested costs. Based on a review of the Affidavit of Attorneys’ Fees and Costs, the Court can find no reason to strike any entries from Plaintiffs’ request, as they all appear to be reasonably related to the Motion to Compel.

In view of the factors discussed above, the Court finds it is appropriate to award fees and costs to Plaintiffs in the amount of Nine Thousand, Nine Hundred Sixty-Three, and 24/100 Dollars (\$9,963.24).

For the reasons stated above, it is therefore **ORDERED** that judgment be entered against Defendants in the amount of Nine Thousand, Nine Hundred Sixty-Three, and 24/100 Dollars (\$9,963.24).

**IT IS SO ORDERED.**

\_\_\_\_\_  
Maite Murphy, Business Court Judge

December \_\_\_\_\_, 2020  
\_\_\_\_\_, South Carolina



Orangeburg Common Pleas

**Case Caption:** Carolina Appraisal Group, Inc. , plaintiff, et al VS Wagener Insurance Agency And Realty, Inc. , defendant, et al  
**Case Number:** 2020CP3800545  
**Type:** Order/Attorney Fees

So Ordered

s/ Maite Murphy 2166

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