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May 26 2021

S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In the Supreme Court

ON WRIT OF CERTIORARI TO THE COURT OF APPEALS

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

L. Casey Manning, Circuit Judge

Appellate Case No. 2020-000050

South Carolina Lottery Commission,.....Respondent,

v.

George S. Glassmeyer,.....Petitioner.

MOTION FOR ATTORNEYS' FEES AND COSTS

Petitioner hereby moves pursuant to Rules 222, 242(j), and 263(b), SCACR, for an order taxing costs and attorneys' fees. Petitioner also seeks an award of additional attorneys' fees beyond the cap for each level of appellate review, in light of the extraordinary circumstances of this case. The grounds for this motion are as follows:

1. Petitioner has prevailed in this case before the Supreme Court, which reversed the decision of the Court of Appeals and has remanded the case for trial.
2. Petitioner is, accordingly, entitled to the taxation of costs, including attorneys' fees, pursuant to Rules 222 and 242(j), SCACR.

3. The itemized statement of costs submitted with this motion is incorporated herein by reference as if here set forth verbatim.
4. In addition to the costs ordinarily allowed as a matter of course under those rules, Petitioner seeks, as is also permitted by those rules, an additional award of his attorneys' fees incurred in connection with the conduct of this case at the Court of Appeals level and the Supreme Court level of appellate review.
5. Those additional attorneys' fees are in the amount of \$50,162.50 and are further discussed in the affidavit of Petitioner's counsel that is submitted herewith and is incorporated herein by reference as if here set forth verbatim.
6. The extraordinary circumstances of this case warrant an award of additional attorneys' fees.
7. Those circumstances include the following:
 - a. Up until nearly the end of the appellate process, the Respondent contended that the injunction that had been issued against Petitioner was proper. The Respondent conceded during oral argument before the Supreme Court that the injunction was overly broad, as discussed in the Court's opinion. For over five years, this injunction restricted Petitioner's speech and ability to investigate potential government corruption.
 - b. In light of the numerous fundamental errors of the circuit court and the Court of Appeals, all of which the Respondent argued were not

errors or made no difference, it was necessary for Petitioner's counsel to research, brief, and argue five questions before this Court, significantly more than the typical case.

- c. The circuit court obviously erred procedurally in granting a motion for judgment on the pleadings by making factual findings without any factual record, the Respondent contended throughout the appellate process that such was no error. This was even though, as the Court's opinion points out, the Respondent based its whole contention that the correct decision was reached on the idea that such unproven facts exist.
- d. Had the Respondent been in the position of an appellant taking the positions that it did in this case, its appeal would have been frivolous and subject to sanctions under Rule 269, SCACR.
- e. This case was prompted by Petitioner making a request pursuant to the South Carolina Freedom of Information Act, which exists to serve the public good of making government information accessible to the public at a minimum of cost, expense, and delay. S.C. Code Ann. § 30-4-15. Far from acting in accordance with that purpose, the Respondent, a government public body, has used litigation as a club against a citizen whose FOIA requests it does not like. That is contrary to public policy and the public good. See id.
- f. The Respondent's bullying tactics and cave-at-the-last-minute approach on indefensible positions cry out for this Court's rebuke.

g. An order of this court requiring the Respondent to pay all of the attorneys' fees requested by this motion would serve as an effective and memorable rebuke.

8. The undersigned has served this document on opposing counsel by email to registered AIS email address on the date given below.

WHEREFORE Petitioner prays for an order for an order taxing costs and attorneys' fees as further described above.

Respectfully submitted,

/s/ Andrew S. Radeker
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