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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.

PETITIONER’S REPLY TO RESPONDENT’S RETURN TO
MOTION FOR ATTORNEYS’ FEES AND COSTS

Petitioner hereby makes this reply to the Respondent’s return to the Petitioner’s motion for an order taxing costs and attorneys’ fees. The Respondent’s argument against the motion is incorrect, as the following notes:

1. This Court reversed the decision of the Court of Appeals and has remanded the case for trial. Period. This Court did not affirm in part. Just because this court did not agree with each and every argument that Petitioner made does not mean that the Court affirmed part of the Court of Appeals’ decision. This Court reversed that decision and undid the circuit court’s order that the Court of Appeals had mostly

affirmed. Between the Court of Appeals' reversal as to the abuse of process counterclaim and this Court's reversal of the rest, none of the circuit court's judgment that was appealed remains. That is a total reversal. Petitioner is, accordingly, entitled to the taxation of costs, including attorneys' fees, pursuant to Rules 222 and 242(j), SCACR.

2. The Respondent knew very well that the record did not support the judgment that had been rendered, since the Respondent continuously argued that the judgment was supported by facts that could not have been established by the record.
3. Respondent now argues that it thought its alleged web links were "unobjected to[.]" The Respondent ought to know better than to make such an argument. Even having lost the case at the Supreme Court, the Respondent continues to misrepresent the record.
4. First, since there was no trial, the web pages subject of the alleged links were never offered into evidence, and Petitioner accordingly never had an opportunity to object to them.
5. Second, it is not as though Petitioner's answer and counterclaim admitted the truth of what was in the web links that Respondent alleged. (Appx. pp. 324-25.) The first numbered paragraph in Petitioner's answer and counterclaim noted that all the allegations of the Respondent's complaint were denied except to the extent they were admitted in the answer and counterclaim. (Appx. p. 324.) Petitioner's answer and counterclaim did not admit that what was

stated on the alleged internet sites was true, and the answer and counterclaim further stated that, at most, the Respondent's allegations were mischaracterizing the events stated on the web pages even if they were proven to have occurred. (Appx. p. 325.)

6. Respondent also argues that Petitioner should not be awarded fees because Petitioner could later receive a fee award under the South Carolina Freedom of Information Act, S.C. Code Ann. §§ 30-4-10, *et seq.* (hereinafter "FOIA"). No such exception to Rule 242(j)(2), SCACR, exists.
7. Throughout the course of this case on appeal, the Respondent has contended that the circuit court's judgment on the pleadings was supported by evidence that the Respondent knew very well was never put before the court.
8. Just as or more egregious, though, is that the Respondent defended the propriety of a sweepingly broad, patently absurd injunction that for over five years restricted Petitioner's speech and ability to investigate potential government corruption – defended it, that is, right up until it had to look the justices of this Court in the eye. What is extraordinary is not the Respondent's concession; rather, it is that the Respondent, a part of state government, refused for so long to agree that this admittedly incorrect injunction that muzzled a citizen of this state ought to be removed, thus keeping Petitioner's important rights to engage in speech and corruption investigation activity

restricted – all for no reason the Respondent could ever defend with a straight face.

9. The Respondent ought to be taught a lesson about its abusive and dishonest litigation tactics. The Respondent, as part of state government, ought to be reminded that Petitioner is a member of the public to whom it owes its obligations.
10. Granting the instant motion in full would serve as a potent reminder.
11. 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 sought in his motion.

Respectfully submitted,

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