

IN THE STATE OF SOUTH CAROLINA  
In the Supreme Court

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**Jun 14 2021**

APPEAL FROM ANDERSON COUNTY  
Court of Common Pleas

S.C. SUPREME COURT

J. Cordell Maddox, Jr., Circuit Court Judge

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Appellate Case No. 2019-001596

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Nationwide Mutual Fire Insurance Company..... Respondent.

v.

Sharmin Christine Walls, Randi Harper, Wendy Timms in her  
capacity as Personal Representative of the Estate of Christopher  
Adam Timms, Deborah Timms, .....Defendants.

Of Whom,

Sharmin Christine Walls and Randi Harper are the .....Petitioners.

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**RESPONDENT'S RETURN TO PETITIONERS' MOTIONS FOR COSTS**

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Respondent Nationwide Mutual Fire Insurance Company ("Nationwide") hereby submits this Return to Petitioners Sharmin Christine Walls' and Randi Harper's separate motions for costs. Nationwide opposes Petitioners' Motions for Costs on the ground that they have sought more attorney's fees and costs than allowed by Rules 222 and 242 of the South Carolina Appellate Court Rules.

In Petitioner Walls' Motion for Costs, she sought \$2,500 in attorney's fees for the appeal to the Court of Appeals and \$2,500 in attorney's fees for the Petition for Writ of Certiorari before this Court. In Petitioner Harper's Motion for Costs, he sought \$2,500 in attorney's fees for the appeal to the Court of Appeals and \$2,500 in attorney's fees for the Petition for Writ of Certiorari

before this Court. Therefore, Petitioners have sought a total of \$5,000 in attorney's fees for the appeal and \$5,000 in attorney's fees for the Petition – \$10,000 total for attorney's fees.

Rule 222 of the South Carolina Appellate Court Rules governs the costs that may be taxed for appeals. With respect to attorney's fees, the Rule states: "[T]he party shall be entitled to recover an attorney's fee in an amount which shall be set by order of the Supreme Court." Rule 222(b), SCACR.<sup>1</sup> Rule 242 of the South Carolina Appellate Court Rules governs the costs that may be taxed for petitions for writs of certiorari. With respect to attorney's fees, the Rule states: "The party may also recover an additional attorney's fee in an amount which shall be set by order of the Supreme Court." Rule 242(j)(2), SCACR.<sup>2</sup> Both Rules refer to a Supreme Court Order dated January 17, 2018, which is entitled "Attorney's Fees Under Rules 222 and 242 of the South Carolina Appellate Court Rules." Under that Order, the maximum amount of attorney's fees allowed under Rule 222(b) is \$2,500 and the maximum amount of attorney's fees allowed under Rule 242(j)(2) is \$2,500. Therefore, Petitioners cannot recover \$5,000 in attorney's fees for their appeal and \$5,000 in attorney's fees for their Petition but are limited to \$2,500 for the appeal and \$2,500 for the Petition – i.e. a total of \$5,000 for attorney's fees to be split between them. *See Hoefer Fam. Ltd. P'ship v. Cty. of Charleston*, 360 S.C. 403, 404, 602 S.E.2d 47 (2004) (stating that seven (7) appellants were entitled to "a reasonable attorney's fee" – singular– under Rule 222); *Taylor v. Medenica*, 332 S.C. 324, 326, 504 S.E.2d 590, 591 (1998) (stating that under Rule 222 two (2) respondents were entitled to single attorney's fee amount set by Supreme Court's order – i.e. \$1,000 total, not \$1,000 each).

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<sup>1</sup> The Court of Appeals ruled in favor of Nationwide and against Petitioners. However, Petitioners still seek an award of costs for their appeal before the South Carolina Court of Appeals.

<sup>2</sup> Moreover, both Rules use the singular "the party" when referring to who is entitled to recover costs. Rules 222(b) and 242(j)(2), SCACR.

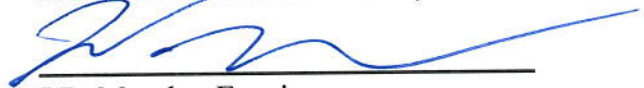
In addition to the Rules not allowing for such double award of attorney's fees, Petitioners acted as one for purposes of the appeal and Petition. Petitioners jointly filed a single brief in the Court of Appeals. They also jointly filed a single Petition for Writ of Certiorari and a single brief before this Court. Moreover, one attorney represented them jointly for oral arguments. Therefore, their counsel jointly did the work of one counsel, and they should jointly be entitled to only one attorney's fee limit.

Furthermore, Petitioner Walls' Motion seeks costs for two motions for extensions and costs for a petition for rehearing, neither of which are allowed by Rules 222 and 242 of the Appellate Court Rules. *See* Rules 222(b) and 242(j)(2), SCACR. Rules 222 and 242(j)(2) both specifically state: "The allowance of additional costs will generally not be allowed except in the most extraordinary [of] circumstances." Rules 222(b) and 242(j)(2), SCACR. Petitioner Walls' Motion does not set forth any extraordinary circumstances.

### **CONCLUSION**

For the reasons set forth above, Nationwide respectfully requests that Petitioners' Motions for \$5,000 each in attorney's fees – \$10,000 total – be denied, and Petitioners be awarded jointly no more than \$5,000 for attorney's fees. Nationwide also respectfully requests that Petitioner Walls' Motion be denied as to the costs for two motions for extensions and costs for a petition for rehearing listed in her Motion.

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