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**Jan 24 2022**

**S.C. SUPREME COURT**

THE STATE OF SOUTH CAROLINA

In the Supreme Court

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Shirley C. Robinson, Administrative Law Judge

Appellate Case No. 2020-000448

Pickens County, .....Respondent,

v.

South Carolina Department of Health and Environmental Control and  
MRR Pickens, LLC..... Petitioners.

**PETITIONERS’ JOINT RETURN IN OPPOSITION TO  
RESPONDENT’S MOTION FOR COSTS**

**INTRODUCTION**

Petitioners South Carolina Department of Health and Environmental Control and MRR Pickens, LLC (collectively “Petitioners”), respectfully submit this return in opposition to Respondent’s *Motion for Costs* in the above-captioned matter. Petitioners’ opposition to the Motion is supported by the outcome of the certiorari proceedings before this Honorable Court. If costs are allowed, Petitioners request a reduction of the amount of costs to those specified in SCACR Rule 222(b) and request that no additional costs be awarded under SCACR Rule 242(j) because no extraordinary circumstances have been set forth by Respondent and no such circumstances exist in this matter.

## ARGUMENT

SCACR 242(j) outlines three situations where costs will be awarded after a writ of certiorari has been granted: (1) costs against the appellant if the decision of the Supreme Court has the effect of affirming the judgment of the lower court or tribunal, (2) costs against the respondent before the Court of Appeals if the decision of the lower court or tribunal is reversed, and (3) as ordered by this Honorable Court where its decision has the effect of affirming or reversing in part or vacating the judgment of the lower court or tribunal which was on appeal. No provision that specifically provides for costs to the appellant at the Court of Appeals or the Respondent before this Honorable Court where the judgment of the lower court or tribunal is reversed. The Petitioners recognize that this Honorable Court reversed the decision of the Administrative Law Court (ALC) and remanded the matter for further proceedings consistent with its opinion, but the Respondent has moved for costs in this matter as if it prevailed entirely. What has been omitted from Respondent's motion is the fact that this Honorable Court vacated portions of the Court of Appeals' opinion at the urging of Petitioners. Because neither party prevailed entirely in this matter, neither party should be entitled to an award of costs.

Even if this Court finds that costs should be awarded to Respondent, Petitioners request a reduction of the amount of costs to those specified in SCACR Rule 222(b) with no additional costs being awarded under SCACR Rule 242(j). Without argument or justification, Respondent demands two attorney's fee awards. Pursuant to SCACR Rule 242(j)(2), an additional attorney's fee may be recovered, but the allowance of additional costs is limited to the most extraordinary of circumstances. The Respondent has presented no facts to justify an additional attorney's fee. Conversely, the primary relief granted by this Court, *i.e.*, vacating the court of appeals' findings of fact and remanding this case to the Administrative Law Court, was both expressly sought by Petitioners.

## CONCLUSION

Pursuant to the forgoing, Petitioners respectfully request that Respondent's *Motion for Costs* be denied in its entirety. Alternatively, Petitioners request the amount of costs awarded be limited to those specified in SCACR Rule 222(b).

Respectfully submitted,

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