

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)
James Mikell "Mike" Burns, Garry R. Smith)
And Dwight A. Loftis,)
Plaintiffs,)
v.)
Greenville County Council and Greenville)
County,)
Defendants.)

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

C. A. No.: 2017-CP-23-01914

**PLAINTIFFS' MOTION FOR
ATTORNEY'S FEES AND COSTS**

Plaintiffs, by their undersigned attorney, moves the Court pursuant to SCRCP 54, S.C. Code Ann. § 15-77-300 and § 15-37-10 for costs and attorney's fees incurred in this case from the Defendants. This motion incorporates a memorandum of law, and an affidavit of counsel supports it.

In any civil action brought by ...any party who is contesting state action, ...the court may allow the prevailing party to recover reasonable attorney's fees to be taxed as court costs against the appropriate agency if:

- (1) The court finds that the agency acted without substantial justification in pressing its claim against the party; and
- (2) The court find that there are no special circumstances that would make the award of attorney's fees unjust.

S.C. Code Ann. § 15-77-300.

Thus, the citizen must prove three elements to claim attorney's fees: (1) the citizen must be the prevailing party; (2) the government entity must have acted without substantial justification; and (3) no special circumstances would have made the award of attorney's fees unjust. *Heath v. County of Aiken*, 302 S.C. 178, 394 S.E.2d 709 (1990); *Richland County v. Kaiser*, 351 S.C. 89, 567 S.E.2d 260 (Cl. App. 2002); *Tennis v. Dept. of Social Services*, 355 S.C. 551, 585 S.E.2d 312 (S.C. App. 2003).

Fee Dispute With Lawyer Motion Manual

David Baud



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