

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

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Table of Contents Fee Dispute With Lawyer Motion Manual

1. Understanding the eBook Fee Dispute With Lawyer Motion Manual
 - The Rise of Digital Reading Fee Dispute With Lawyer Motion Manual
 - Advantages of eBooks Over Traditional Books
2. Identifying Fee Dispute With Lawyer Motion Manual
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an Fee Dispute With Lawyer Motion Manual
 - User-Friendly Interface
4. Exploring eBook Recommendations from Fee Dispute With Lawyer Motion Manual
 - Personalized Recommendations
 - Fee Dispute With Lawyer Motion Manual User Reviews and Ratings
 - Fee Dispute With Lawyer Motion Manual and Bestseller Lists
5. Accessing Fee Dispute With Lawyer Motion Manual Free and Paid eBooks
 - Fee Dispute With Lawyer Motion Manual Public Domain eBooks
 - Fee Dispute With Lawyer Motion Manual eBook Subscription Services
 - Fee Dispute With Lawyer Motion Manual Budget-Friendly Options
6. Navigating Fee Dispute With Lawyer Motion Manual eBook Formats

- ePub, PDF, MOBI, and More
- Fee Dispute With Lawyer Motion Manual Compatibility with Devices
- Fee Dispute With Lawyer Motion Manual Enhanced eBook Features
- 7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of Fee Dispute With Lawyer Motion Manual
 - Highlighting and Note-Taking Fee Dispute With Lawyer Motion Manual
 - Interactive Elements Fee Dispute With Lawyer Motion Manual
- 8. Staying Engaged with Fee Dispute With Lawyer Motion Manual
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers Fee Dispute With Lawyer Motion Manual
- 9. Balancing eBooks and Physical Books Fee Dispute With Lawyer Motion Manual
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection Fee Dispute With Lawyer Motion Manual
- 10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
- 11. Cultivating a Reading Routine Fee Dispute With Lawyer Motion Manual
 - Setting Reading Goals Fee Dispute With Lawyer Motion Manual
 - Carving Out Dedicated Reading Time
- 12. Sourcing Reliable Information of Fee Dispute With Lawyer Motion Manual
 - Fact-Checking eBook Content of Fee Dispute With Lawyer Motion Manual
 - Distinguishing Credible Sources
- 13. Promoting Lifelong Learning
 - Utilizing eBooks for Skill Development
 - Exploring Educational eBooks
- 14. Embracing eBook Trends
 - Integration of Multimedia Elements
 - Interactive and Gamified eBooks

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