

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

Paula Louis Nichols, Respondent,

v.

Paul Richard Hartigan and SCDSS, Defendants,

Of whom Paul Richard Hartigan is a Respondent and
SCDSS is the Appellant.

In the interest of minor children under the age of
eighteen.

Appellate Case No. 2021-000865

Appeal From Spartanburg County
Kimaka Nichols-Graham, Family Court Judge

Unpublished Opinion No. 2023-UP-147
Submitted February 1, 2023 – Filed April 5, 2023
Withdrawn, Substituted, and Refiled August 23, 2023

REVERSED

Robert C. Rhoden, III, of the South Carolina Department
of Social Services, of Spartanburg, for Appellant.

Kenneth Philip Shabel, of Kennedy & Brannon, P.A., of
Spartanburg, for Respondent.

Andrea Moore, of Spartanburg, as Guardian ad Litem.

Paul Richard Hartigan, of Woodruff, pro se.

PER CURIAM: The South Carolina Department of Social Services (DSS) appeals a family court order directing DSS to pay attorney's fees to Paula Louis Nichols (Nichols) in her divorce action. We reverse.

We hold DSS's inclusion in Nichols's divorce action was a continuation of the initial abuse and neglect action brought by DSS because DSS was only named a party to the divorce proceedings due to its failure to schedule a review hearing in the abuse and neglect action. *See Stoney v. Stoney*, 422 S.C. 593, 596, 813 S.E.2d 486, 487 (2018) ("[T]he proper standard of review in family court matters is de novo . . ."); *S.C. Dep't of Soc. Servs. v. Polite*, 391 S.C. 275, 279, 705 S.E.2d 78, 80 (Ct. App. 2011) ("On appeal from the family court, the appellate court has jurisdiction to find facts in accordance with its own view of the preponderance of the evidence."). Accordingly, we hold the family court erred in awarding attorney's fees to Nichols because section 15-77-300(C) of the South Carolina Code (Supp. 2022) prevents the award of such fees in abuse and neglect actions. *See* § 15-77-300(C) (stating attorney's fees are not recoverable against the State in child abuse and neglect actions).

REVERSED.¹

KONDUROS and VINSON, JJ., and LOCKEMY, A.J., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.