

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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**SC Court of Appeals**

APPEAL FROM THE SOUTH CAROLINA  
WORKERS' COMPENSATION COMMISSION

ORDER OF THE APPELLATE PANEL

WCC No.: 1107137

Rare Earth Sciences, Inc., Employer, and Liberty Mutual Insurance Company,  
Carrier ..... Appellants,

v.

David Tunstall, Employee, ..... Respondent.

**NOTICE OF APPEAL**

Rare Earth Sciences, Inc., and Liberty Mutual Insurance Company appeal the Decision and Order of the South Carolina Workers' Compensation Commission dated June 4, 2013. As grounds for this appeal, Appellants raise the following issues:

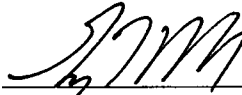
1. Did the Worker's Compensation Commission err in finding that claimant sustained a compensable injury by accident, when the claimant's accident did not arise out of his employment?
2. Did the Workers' Compensation Commission err in finding the claimant sustained a compensable injury by accident where the injury was the sole result of a non-work related random act of violence by a third person?
3. Did the Workers' Compensation Commission err in finding a causal connection between the assault and claimant's employment, where no evidence supports such finding?
4. Did the Workers' Compensation Commission err in failing to issue a finding that claimant's assault and resulting injuries were the result of a random act of violence,

and did not arise out of his employment?

5. Did the Workers' Compensation Commission err in ordering Rare Earth Sciences, Inc. and Liberty Mutual Insurance Company to pay disability benefits and provide medical treatment to the claimant, when the claimant did not sustain a compensable injury by accident?
6. Did the Workers' Compensation Commission err in ordering Rare Earth Sciences, Inc. and Liberty Mutual Insurance Company to pay disability benefits and provide medical treatment to the claimant, when the issue of claimant's entitlement to such benefits and medical treatment was not raised by claimant, nor at issue in the proceeding?
7. And for such other and further grounds as set forth in Appellants' brief on appeal.

Respectfully submitted,

**WILLSON JONES CARTER & BAXLEY, P.A.**



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George T. Miars Jr.  
421 Wando Park Boulevard, Suite 100  
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(843) 284-1091  
Attorney for Appellants

July 3, 2013

Other Counsel of Record:

Mark D. Ball, Esquire  
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PO Box 457  
Hampton, South Carolina 29924-0457

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APPEAL FROM THE SOUTH CAROLINA  
WORKERS' COMPENSATION COMMISSION

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Carrier ..... Appellants,

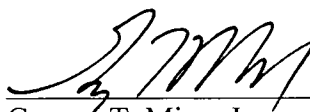
v.

David Tunstall, Employee, ..... Respondent.

**PROOF OF SERVICE**

I, George T. Miars Jr., certify that I have served the NOTICE OF APPEAL and PROOF OF SERVICE on the Respondent by depositing a copy of the document in the United States Mail, first class postage prepaid, on July 3, 2013, to Respondents' counsel of record: Mark Ball, Esquire, PO Box 457, Hampton, South Carolina 29924-0457; and to the South Carolina Workers' Compensation Commission at P.O. Box 1715, Columbia, South Carolina 29202.

July 3, 2012



George T. Miars Jr.  
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421 Wando Park Boulevard, Suite 100  
Mt. Pleasant, SC 29464  
Attorneys for Appellants

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**SC Court of Appeals**

# WILLSON JONES CARTER & BAXLEY, P.A.

ATTORNEYS AT LAW

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July 3, 2013

The Honorable Jenny Abbott Kitchings  
Clerk of Court  
South Carolina Court of Appeals  
P.O. Box 11629  
Columbia, SC 29211

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**SC Court of Appeals**

Re: David Tunstall vs. Rare Earth Sciences, Inc.  
WCC File No.: 1107137 DOI: 6/10/2011  
Carrier: Liberty Mutual Insurance - Claim No.: WC550-A12787  
WJC&B File No.: 0010.03697

Dear Ms. Kitchings:

Enclosed for filing with the South Carolina Court of Appeals, please find the following:

1. An original and one copy of the Notice of Appeal;
2. Proof of Service of the Notice of Appeal;
3. A copy of the Order, which is to be challenged on appeal;
4. \$100.00 Filing Fee.

By copy of this letter to the parties' of record, as shown on the Proof of Service, I hereby serve a copy of the Notice of Appeal and Proof of Service.

Please return one clocked copy of the enclosed documents to my office in the enclosed self-addressed envelope.

With kindest regards,

WILLSON JONES CARTER & BAXLEY, P.A.



George T. Miars, Jr.

Enclosures

cc (w/enclosure): Virginia Crocker, Judicial Director, SCWCC  
Mark D. Ball, Esquire  
Ms. Laurel Hendricks (via e-mail)

len

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MOUNT PLEASANT, SC 29464

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**SC Court of Appeals**

THE HONORABLE JENNY ABBOTT KITCHINGS  
THE SOUTH CAROLINA COURT OF APPEALS  
P.O. BOX 11629  
COLUMBIA, SC 29211