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Nov 21 2023

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION
APPELLATE PANEL

WCC FILE NO. 1823614

James Freshley, Claimant/Appellant,

vs.

Conbraco Industries, Employer, and
Great American Alliance Insurance Company, Carrier Defendants/Respondents.

MOTION TO REINSTATE APPEAL

STEPHEN J. WUKELA
WUKELA LAW FIRM
ATTORNEY FOR CLAIMANT/APPELLANT
PO BOX 13057
FLORENCE SC 29504
843-669-5634

Appellant, James Freshley, moves this Honorable Court, pursuant to Rule 240 of the South Carolina Appellate Rules, for an Order requesting the Court reinstate Appellant's Appeal for failure to file Proof of Service of the Final Brief on the following grounds:

1. Appellant filed his Final Brief, Certificate of Counsel and Proof of Service of the Final Brief on October 27, 2023; along with the Record on Appeal, Certificate of Counsel, Certificate of Compliance, and Proof of Service; indicating the Respondents were served with the Record on Appeal on October 27, 2023.

This filing and service were accomplished via a total of five (5) emails to ctappfilings@sccourts.org, with a copy to opposing counsel, dated October 27, 2023; a copy of which is attached here as Exhibit 1.

2. On October 30, 2023, Appellant received an email from the Court of Appeals; indicating that the Proof of Service of the Appellant's Final Brief had not been filed. Thereafter, on October 30, 2023, Appellant emailed the Clerk advising that the Proof of Service was emailed at the same time as the Final Brief on October 27, 2023; email attached as Exhibit 2.

3. Today, November 21, 2023, Counsel for Appellant received an Order from the Court of Appeals ordering this matter dismissed for failure to file the Proof of Service of the Appellant's Final Brief.

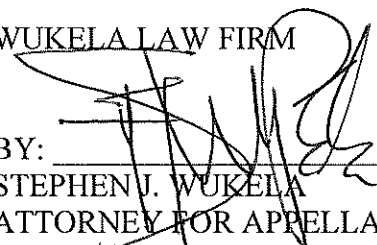
4. Appellant attaches, as Exhibit 3, for filing, Proof of Service for the Appellant's Final Brief.

5. Appellant respectfully requests this Honorable Court reconsider the November 21, 2023 decision, accept, for filing Proof of Service of the Appellant's Final Brief, and reinstate the Appeal.

6. Appellant believes that no harm would be caused to the Respondents by the granting of this Motion arising from inadvertent error or mistake, and would further result in justice and fairness to the parties.

Respectfully submitted,

WUKELA LAW FIRM

BY: 
STEPHEN J. WUKELA
ATTORNEY FOR APPELLANT
PO BOX 13057
FLORENCE SC 29504
843-669-5634

Florence, South Carolina

November 21, 2023

EXHIBIT 1

Jeannie Bailey

From: Jeannie Bailey
Sent: Friday, October 27, 2023 4:25 PM
To: ctappfilings@sccourts.org
Cc: David A. Wilson
Subject: James Freshley v. Conbraco Appellate Case No. 2023-000185
Attachments: Freshley Ltr Clerk Filing Final and ROA.pdf; Freshley Final Brief.pdf

Ms. Kitchings:

With regard to the above, please see attached correspondence enclosing Certificates and Proof of Service, along with Appellant's Final Brief.

The Record on Appeal is being delivered to the Court of Appeals today. The Record consists of four (4) volumes and will be forwarded by email in additional emails.

Thank you,

Jeannie P. Bailey, CP, SCCP
Paralegal for Stephen J. Wukela
Wukela Law Firm
PO Box 13057
Florence, SC 29504
jbailey@wukelalaw.com
843-669-5634

<https://paralegal.sbar.org/certification.html>



WUKELA LAW FIRM

Steve Wukela, Jr.
Benjamin D. Moore
Christi B. McDaniel
Stephen J. Wukela
Patrick J. McLaughlin
Pheobe A. Clark
Frank C. Swaggard

403 Second Loop Road
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Florence, SC 29504-3057

(843) 669-5634
FAX (843) 669-5150

October 27, 2023

via email and hand-delivery - ctappfilings@sccourts.org

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
1220 Senate Street
Columbia South Carolina 29211

Re: James Freshley, Claimant/Appellant vs.
Conbraco Industries, Employer, and Great American
Alliance Insurance Company, Defendants/Appellants
Appellant Case No. 2023-000185

Dear Ms. Kitchings:

As your records reflect, I represent the Claimant/Appellant in the above Appeal.

In that regard, I enclose for filing the Record on Appeal, Certificate of Counsel, Certificate of Compliance, and Proof of Service. By copy of this correspondence, and via email, I am serving counsel for Defendants/Appellants with the same. In addition, the bound copy of the Record on Appeal is being hand-delivered to the Court of Appeals today.

In addition, I enclose for filing Claimant/Appellant's Final Brief, Certificate of Counsel and Proof of Service. Also, by copy of this correspondence, and via email, I am serving counsel for Defendants/Appellants with the same.

With kind regards, I am

Yours truly,

WUKELA LAW FIRM

STEPHEN J. WUKELA

SJW:jpb

Enclosures

cc: David A. Wilson, Esquire
Attorney at Law
dwilson@greenvillesclaw.com

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION
APPELLATE PANEL

WCC File No. 1823614

James Freshley, Claimant Appellant,

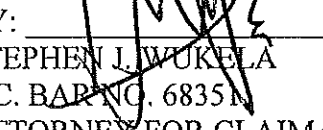
vs.

Conbraco Industries, Inc., Employer, and Great American
Alliance Insurance Company, Carrier, Respondents.

CERTIFICATE OF COUNSEL

The undersigned certifies that the Record on Appeal complies with the Supreme Court Order of April 15, 2014, in that there are no personal data identifiers included in the Appellant's Record on Appeal, or they have been redacted where necessary.

WUKELA LAW FIRM

BY: 
STEPHEN J. WUKELA
S.C. BAR NO. 6835M
ATTORNEY FOR CLAIMANT/APPELLANT
PO BOX 13057
FLORENCE SC 29504
843-669-5634

October 27th, 2023

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION
APPELLATE PANEL

WCC FILE NO. 1823614

James Freshley, Claimant Appellant,

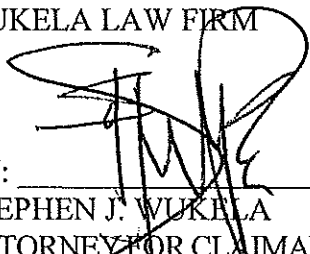
vs.

Conbraco Industries, Employer, and Great American
Alliance Insurance Company, Carrier Respondents.

CERTIFICATE OF COMPLIANCE

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

WUKELA LAW FIRM

BY: 
STEPHEN J. WUKELA
ATTORNEY FOR CLAIMANT/APPELLANT
PO BOX 13057
FLORENCE SC 29504
843-669-5634

October 27th, 2023

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

WCC File No. 1823614

James Freshley, Claimant, Appellant,

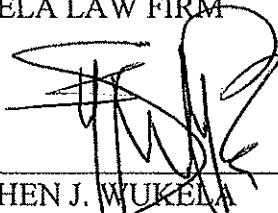
vs.

Conbraco Industries, Inc., Employer, and Great American
Alliance Insurance Company, Carrier, Respondents.

PROOF OF SERVICE

I certify that I have served the Record on Appeal on Respondents, by electronic service on October 27, 2023, addressed to their attorney of record, David A. Wilson, Esquire, at dwilson@greenvillelawsc.com.

WUKELA LAW FIRM

BY: 
STEPHEN J. WUKELA
ATTORNEY FOR CLAIMANT/APPELLANT
PO BOX 13057
FLORENCE SC 29504
843-669-5634

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION
APPELLATE PANEL

WCC File No. 1823614

James Freshley, Claimant Appellant,

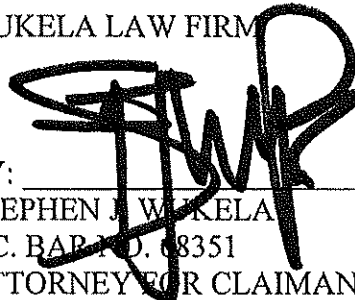
vs.

Conbraco Industries, Inc., Employer, and Great American
Alliance Insurance Company, Carrier, Respondents.

CERTIFICATE OF COUNSEL

The undersigned certifies that this Final Brief complies with Rule 211(b), SCACR.

WUKELA LAW FIRM



BY: _____
STEPHEN J. WUKELA
S.C. BAR NO. 08351
ATTORNEY FOR CLAIMANT/APPELLANT
PO BOX 13057
FLORENCE SC 29504
843-669-5634

October 27th, 2023

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

WCC File No. 1823614

James Freshley, Claimant, Appellant,

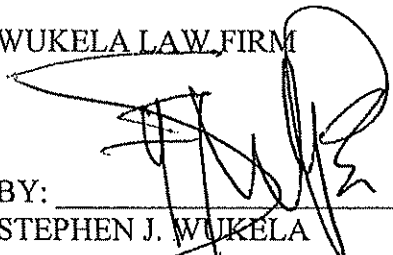
vs.

Conbraco Industries, Inc., Employer, and Great American
Alliance Insurance Company, Carrier, Respondents.

PROOF OF SERVICE

I certify that I have served the Final Brief of Claimant/Appellant on Respondents, by electronic service on October 27, 2023, addressed to their attorney of record, David A. Wilson, Esquire, at dwilson@greenvillelawsc.com.

WUKELA LAW FIRM

BY: 
STEPHEN J. WUKELA
ATTORNEY FOR CLAIMANT/APPELLANT
PO BOX 13057
FLORENCE SC 29504
843-669-5634

Jeannie Bailey

From: Jeannie Bailey
Sent: Friday, October 27, 2023 4:27 PM
To: ctappfilings@sccourts.org
Cc: David A. Wilson
Subject: James Freshley v. Conbraco Appellate Case No. 2023-000185
Attachments: Freshley Record Vol 1.pdf

Email 2 –
Attachment – Volume I of Record on Appeal.

Jeannie P. Bailey, CP, SCCP
Paralegal for Stephen J. Wukela
Wukela Law Firm
PO Box 13057
Florence, SC 29504
jbailey@wukelalaw.com
843-669-5634

<https://paralegal.sbar.org/certification.html>



Jeannie Bailey

From: Jeannie Bailey
Sent: Friday, October 27, 2023 4:29 PM
To: ctappfilings@sccourts.org
Cc: David A. Wilson
Subject: James Freshley v. Conbraco Appellate Case No. 2023-000185
Attachments: Freshley Record Vol II.pdf

Email 3 –

Attachment – Volume II of Record on Appeal.

Jeannie P. Bailey, CP, SCCP
Paralegal for Stephen J. Wukela
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Florence, SC 29504
jbailey@wukelalaw.com
843-669-5634

<https://paralegal.sccbar.org/certification.html>



Jeannie Bailey

From: Jeannie Bailey
Sent: Friday, October 27, 2023 4:33 PM
To: ctappfilings@sccourts.org
Cc: David A. Wilson
Subject: Freshley v. Conbraco Appellate Case No. 2023-000185
Attachments: Freshley Record Vol IV.pdf

Email 4 –

Attachment – Volume IV of Record on Appeal.

*Jeannie P. Bailey, CP, SCCP
Paralegal for Stephen J. Wukela
Wukela Law Firm
PO Box 13057
Florence, SC 29504
jbailey@wukelalaw.com
843-669-5634*

<https://paralegal.sccbar.org/certification.html>



Jeannie Bailey

From: Jeannie Bailey
Sent: Friday, October 27, 2023 4:37 PM
To: ctappfilings@sccourts.org
Subject: Freshley v. Conbraco Appellate Case No. 2023 - 000185
Attachments: Freshley Record Vol III.pdf

Email 5 –

Attachment – Volume III of Record on Appeal.
I apologize; the last one was out of order.

Jeannie P. Bailey, CP, SCCP
Paralegal for Stephen J. Wukela
Wukela Law Firm
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Florence, SC 29504
jbailey@wukelalaw.com
843-669-5634

<https://paralegal.sbar.org/certification.html>



EXHIBIT 2

Stephen Wukela

From: Jeannie Bailey
Sent: Monday, October 30, 2023 4:01 PM
To: Evans-Pryor, Khee'Asia; dwilson@greenvillesclaw.com; Stephen Wukela
Cc: paralegal@greenvillesclaw.com
Subject: RE: James Freshley v. Conbraco Industries- 2023-000185

Ms. Evans-Pryor:

In checking my "sent" email, the Proof of Service for the Final Brief was attached to my letter dated October 27, 2023. In the email, that attachment is found at page 6.

If I am in error, I apologize and will get that to you right away.

Jeannie P. Bailey, CP, SCCP
Paralegal for Stephen J. Wukela
Wukela Law Firm
PO Box 13057
Florence, SC 29504
jbailey@wukelalaw.com
843-669-5634

<https://paralegal.sbar.org/certification.html>



From: Evans-Pryor, Khee'Asia <kpryor@sccourts.org>
Sent: Monday, October 30, 2023 2:24 PM
To: dwilson@greenvillesclaw.com; Stephen Wukela <Stephen@wukelalaw.com>
Cc: paralegal@greenvillesclaw.com; Jeannie Bailey <jbailey@wukelalaw.com>
Subject: James Freshley v. Conbraco Industries- 2023-000185

Dear Counsel,

Attached please find correspondence from the Court of Appeals. Please do not respond to this email. Send all correspondence to ctappfilings@sccourts.org. Any parties not included in this email will receive the attached correspondence via US Mail.

EXHIBIT 3

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

WCC File No. 1823614

James Freshley, Claimant, Appellant,

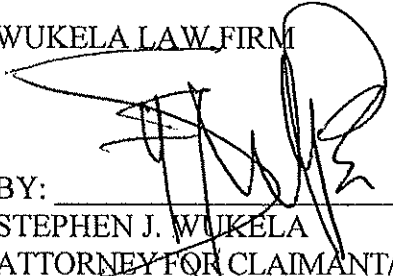
vs.

Conbraco Industries, Inc., Employer, and Great American
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PROOF OF SERVICE

I certify that I have served the Final Brief of Claimant/Appellant on Respondents, by electronic service on October 27, 2023, addressed to their attorney of record, David A. Wilson, Esquire, at dwilson@greenvillelawsc.com.

WUKELA LAW FIRM

BY: 
STEPHEN J. WUKELA
ATTORNEY FOR CLAIMANT/APPELLANT
PO BOX 13057
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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

WCC File No. 1823614

James R. Freshley, Claimant, Appellant,

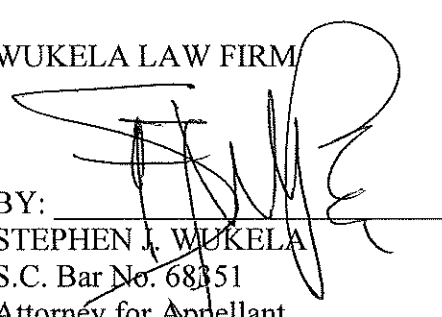
vs.

Conbraco Industries, Employer, and Great American Alliance
Insurance Company, Carrier, Respondents.

PROOF OF SERVICE

I certify that I have served the Appellant's Motion to Reinstate Appeal on Respondents, by emailing a copy of the same on November 21, 2023, to their attorney of record, David A. Wilson. at his email address, dwilson@greenvillesclaw.com.

WUKELA LAW FIRM

BY: 
STEPHEN J. WUKELA
S.C. Bar No. 68351
Attorney for Appellant
PO Box 13057
Florence SC 29504
843-669-5634
stephen@wukelalaw.com

November 21st, 2023

WUKELA LAW FIRM

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November 21, 2023

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Nov 21 2023

SC Court of Appeals

ctappfilings@sccourts.org
The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

Re: James Freshley, Claimant/Appellant vs.
Conbraco Industries, Employer, and Great American
Alliance Insurance Company, Defendants/Appellants
Appellant Case No. 2023-000185

Dear Ms. Kitchings:

As your records reflect, I represent the Claimant/Appellant in the above Appeal.

In that regard, I have enclosed for filing Appellant's Motion to Reinstate Appeal, along with my office check in the amount of Fifty and 00/100 (\$50.00) Dollars.

Thank you for your consideration in this regard.

With kind regards, I am

Yours truly,

WUKELA LAW FIRM

STEPHEN J. WUKELA

SJW:jpb
Enclosures

cc: David A. Wilson, Esquire