

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION
SINGLE COMMISSIONER & APPELLATE PANEL

69304

WCC File No. 0901428
WCC File No. 0905998

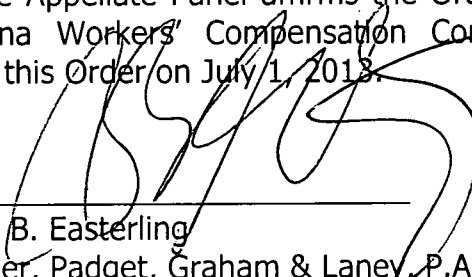


Katherine Haines.....Claimant/Respondent,
vs.
Dollar Tree Stores, Inc..... Employer,
and
ARCH Insurance Company.....Carrier,
Defendants/Appellants

NOTICE OF APPEAL

The Defendants/Appellants, Dollar Tree Stores, Inc., and ARCH Insurance Company appeal the Order of the Single Commissioner, dated October 22, 2012 and the Order of the Appellate Panel of the South Carolina Workers' Compensation Commission dated July 1, 2013, in which the Appellate Panel affirms the Order of the Single Commissioner of the South Carolina Workers' Compensation Commission. Appellants received written notice of entry of this Order on July 1, 2013.

July 30, 2013



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ATTORNEYS FOR APPELLANTS
(864) 552-4600

Other Counsel of Record:
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ATTORNEY FOR RESPONDENT

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AUG 02 2013

SC COURT OF APPEALS

Katherine Haines.....Claimant/Respondent,
vs.
Dollar Tree Stores, Inc..... Employer,
and
ARCH Insurance Company.....Carrier,
Defendants/Appellants

GROUNDS FOR APPEAL

The Single Commissioner and Appellate Panel of the South Carolina Workers' Compensation Commission erred in adopting the functional limitations and restriction shown in the FCE when the reliable probative and substantial evidence of the case does not support such a finding.

The Single Commissioner and Appellate Panel of the South Carolina Workers' Compensation Commission erred in finding as a fact that claimant is unable to return to her previous employment or any employment when the reliable probative and substantial evidence of the case does not support such a finding.

The Single Commissioner and Appellate Panel of the South Carolina Workers' Compensation Commission erred in finding as a fact that the conclusions of The Directions Group (defendants vocational expert) are at odds with the overwhelming weight of the evidence when the reliable probative and substantial evidence of the case does not support such a finding.

The Single Commissioner and Appellate Panel of the South Carolina Workers' Compensation Commission erred in finding as a fact that claimant's vocational expert points out the shortcoming of the Directions Group Report and erred in adopting his findings when the reliable probative and substantial evidence of the case does not support such a finding.

The Single Commissioner and Appellate Panel of the South Carolina Workers' Compensation Commission erred in finding as a fact that the medical evidence makes it clear that the injury caused injury to the cervical spine resulting in radicular pain, injuring the back and affecting the arms and legs when the reliable probative and substantial evidence of the case does not support such a finding.

The Single Commissioner and Appellate Panel of the South Carolina Workers' Compensation Commission erred in finding as a fact that nothing in the surveillance videos shows the claimant functioning in a way that would change this Commissioner's decision on permanency when the reliable probative and substantial evidence of the case does not support such a finding.

The Single Commissioner and Appellate Panel of the South Carolina Workers' Compensation Commission erred in finding as a fact claimant is capable of handling the financial implications of any award this Commissioner may make when the reliable probative and substantial evidence of the case does not support such a finding.

The Single Commissioner and Appellate Panel of the South Carolina Workers' Compensation Commission erred in concluding as a matter of law that claimant is permanently and totally disabled under § 42-9-30(21) in that she has experienced 50% loss of use or disability to her back and that the defendants presented no testimony to rebut total and permanent disability when the reliable, probative and substantial evidence of the case does not support such a conclusion.

The Single Commissioner and Appellate Panel of the South Carolina Workers' Compensation Commission erred in concluding as a matter of law that claimant permanently and totally disabled under § 42-9-10 in that she suffered injury to five body parts (back and bilateral arms and legs) and her incapacity to work is total when the reliable, probative and substantial evidence of the case does not support such a conclusion.

The Single Commissioner and Appellate Panel of the South Carolina Workers' Compensation Commission erred in concluding as a matter of law that claimant is in need of additional medical treatment which would tend to lessen his disability when the reliable, probative and substantial evidence of the case does not support such a conclusion.

The Single Commissioner and Appellate Panel of the South Carolina Workers' Compensation Commission erred in ordering defendants to pay claimant the balance of 500 weeks of compensation in a *lump sum* when the reliable, probative and substantial evidence of the case does not support an award of permanent and total disability.

July 30, 2013



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July 30, 2013

Brad B. Easterling
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The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, SC 29211

RE: Claimant: Katherine L. Haines
 Employer: Dollar Tree Stores, Inc.
 Carrier: ARCH Insurance Company
 Claim No.: YYC13328C & YYC07510C
 WCC File No.: 0905998 & 0901428
 Our File No.: 02920.00651
 D/A: 6/3/2009

Dear Ms. Kitchings:

Enclosed for filing is a notice of appeal in the above case. Also, enclosed are the following:

1. Proof of service of the notice of appeal on the respondent;
2. A copy of the orders which are to be challenged on appeal; and
3. A filing fee of \$100.00

By copy of this letter, we are notifying the South Carolina Workers' Compensation Commission of this appeal. Please further be advised that pursuant to Rule 207(a)(1), the transcript has been requested and received by counsel on July 29, 2013.

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SC Court of Appeals

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TURNER PADGET

Ms. Jenny Abbott Kitchings

Re: Katherine L. Haines

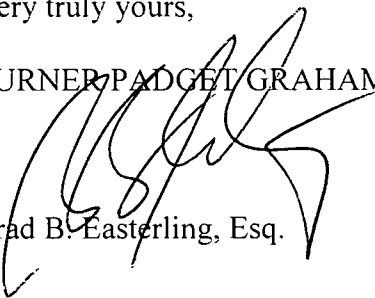
July 30, 2013

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With kind regards, I remain

Very truly yours,

TURNER PADGET GRAHAM & LANEY P.A.


Brad B. Easterling, Esq.

BBE/rhd

Enclosures

cc: Joseph T. McElveen, Jr.
Virginia Crocker
Tina Lee, (*via email*)
Paul Diedrich, (*via email*)
C. Body Taylor, (*via email*)

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