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**Jan 14 2025**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM THE WORKERS' COMPENSATION COMMISSION

The Honorable T. Scott Beck, Commissioner

Appellate Case No. 2024-001935

S.C. W.C.C. File No. 2118696

Serge Wandji, Claimant,.....Appellant,

v.

The Regional Medical Center, Employer,  
and Antum Risk, Carrier,..... Respondents.

**MOTION TO EXCLUDE CERTAIN MATTERS  
DESIGNATED BY THE APPELLANT FROM THE RECORD ON APPEAL**

The Respondents object to certain matters designated by the Appellant to be included in the Record on Appeal because they were not considered by the Workers' Compensation Commission, they are not relevant to the proceedings, and they were not part of the Record before the Commission. Rule 210, S.C.A.C.R., requires that the Record on Appeal "shall not ... include matter which was not presented to the lower court or tribunal." Therefore, the Respondents respectfully request that the Court of Appeals issue an Order limiting the Record on Appeal to that which was properly presented to, and admitted into evidence by, the Workers' Compensation Commission and otherwise prohibiting inclusion of the following matters designated by the Appellant:

“6. Claimant/Appellant’s Reply to Respondent’s Return

\*\*\*

9. Transcripts of the Deposition of Dr. Samies

\*\*\*

16. Settlement offer letter

\*\*\*

18. Defendant’s email exchange with labor’s [sic] attorneys.

\*\*\*

19. HIPAA related letter

\*\*\*

20. Claimant/Appellant APAs: from APA #1 (p.1) to APA #64 (p.156)”

Specifically, the Workers’ Compensation Commission issued an Order on December 23, 2024, striking in its entirety the “Claimant/Appellant’s Reply to Respondent’s Return” from the Record. (*See attached*, Exhibit 1, Order dated 12/23/24). Likewise, the “Transcripts of the Deposition of Dr. Samies” were never properly presented to, considered by, or entered into evidence before the Workers’ Compensation Commission and are not properly part of the Record on Appeal. (*See attached*, Exhibit 2, Order dated 5/31/23 p.1, pp.3--11). In addition, the “Settlement offer letter” (Claimant/Appellant’s APA p.66) was ruled inadmissible by the Workers’ Compensation Commission at the hearing on February 15, 2023 (*see attached*, Exhibit 3, 2/15/23 Hearing Transcript p.3, ll.16—22), and is otherwise not relevant to the issues before the Court of Appeals; therefore, it should be excluded from the Record on Appeal.

The “Defendant’s email exchange with labor’s [sic] attorneys” and the “HIPAA related letter” are not clearly identified with sufficient specificity to comply with Rule 209, S.C.A.C.R.. However, these documents were not presented to the Workers’ Compensation Commission, are

clearly not part of the Record before the Workers' Compensation Commission, and are not relevant to the Workers' Compensation Commission's decision to deny the Appellant's "Motion to Reopen Case" or the present appeal.

Therefore, the Respondents respectfully request an Order from the Court of Appeals prohibiting the inclusion of the above-reference matters from the Record on Appeal in accordance with Rule 209 and Rule 210, S.C.A.C.R.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "R. Howell", is written over a horizontal line.

Roy A. Howell, III, *S.C. Bar #11888*

Kirsten Leslie Barr, *SC Bar #15525*

Trask & Howell, L.L.C.

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Attorneys for Respondents

January 14, 2025

**Exhibit 1**

BEFORE THE  
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

WCC FILE NO. 2118696

Serge R. Wandji, )  
 )  
 Claimant, )  
 vs. )  
 )  
 The Regional Medical Center of )  
 Orangeburg, q )  
 )  
 Employer, ) **MOTION ORDER**  
 )  
 Palmetto Hospital Trust, )  
 )  
 Carrier, )  
 )  
 \_\_\_\_\_ )

A Motion regarding the following request has been received by  
Defendant attorney Rob A. Howell, III

Motion to Strike Claimant's Reply filed October 23, 2024.

The following disposition has been made:  GRANTED  Denied

  
\_\_\_\_\_  
T. Scott Beck, Commissioner

Order served via USPS:

Serge Wandji 579 Folly Road PO Box 12112 Charleston, SC 29422	Roy A Howell, III, Esquire Trask & Howell PO Box 2167 Mt. Pleasant, SC 29465
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CERTIFICATE OF SERVICE

This is to certify that the undersigned has on this date served a copy of this order in the above entitled action upon all parties to this case by sending an electronic copy hereof by electronic mail addressed to the attorneys for said parties; or if there is an unrepresented party(ies), by depositing a copy hereof, postage paid in the United States mail, first class, addressed to the unrepresented party(ies) and to the attorney(s) for the represented party(ies).

By Shawnee Radcliff on December 23, 2024



After an extensive pre-hearing conference, the Claimant was advised by the undersigned Commissioner of his right to counsel. At both the pre-hearing conference and on the record at the hearing, the Claimant expressed his understanding of the significance of proceeding without the advice or assistance of counsel. The Claimant was also given the opportunity to consult or to retain counsel and declined this opportunity. The Claimant stated that he desired to go forward with the hearing as scheduled by representing himself and waiving his right to legal counsel.

**II. STIPULATIONS**

1. The South Carolina Workers' Compensation Commission has jurisdiction over this claim.
2. The venue is proper.
3. Notice of the hearing was timely and properly served upon all parties in interest.
4. The Commission's file, save self-serving declarations and unstipulated medical records, shall become part of the record.

**III. APA SUBMISSIONS**

**By the Claimant:**

<u>APA #</u>	<u>DESCRIPTION</u>	<u>DATES</u>	<u>PAGES</u>
1.	Email from Kellie Evans with Claimant's COVID test result, that I took for School Purpose	08/16/2021	1
2.	Claimant's Negative COVID test result attached in APA #1	08/16/2021	2
3.	Claimant's Negative COVID test result received after he specifically requested a result with the heading and Doctor's signature on it, as required by his school	08/16/2021	3
4.	Group Text message to all staff from Unit Manager Teresa Noe, after COVID Outbreak on the unit (BHU)	08/25/2021	4

5.	Newly improvised COVID safety protocol from Unit manager after COVID outbreak on The unit via a Group text message to staff	08/25/2021	5
6.	Group text message from Unit program Director Mrs. Catherine confirming COVID outbreak and exposure	08/25/2021	6
7.	Facility produced Unit (BHU) COVID Tracing confirming outbreak and exposure on the unit	08/25/2021 – 09/06/2021	7-8
8.	Claimant's Positive COVID test result After being exposed at the workplace (TRMC)	08/27/2021	9
9.	Text message to Unit Manager informing her of positive COVID results	08/27/2021	10
10.	Invitation sent by Kelci Caruso (Employee Health) to fill out worker's compensation eSRO and response	08/27/2021 -08/28/2021	11
11.	Email from Kellie Evans (Employee Health) requesting Claimant to sent 'detailed email about exposure to COVID' at work	08/31/2021	12
12.	COVID exposure 'Incident report' sent to Kellie Evans, clearly indicating that Symptoms started on 8/26/2021	09/2/2021	13
13.	Email from Kellie Evan confirming Reception of "Incident report" on COVID Exposure	09/02/2021	14
14.	TRMC requesting claimant to report to work though he is being devastated by COVID at home	09/03/2021	15-18

15.	Hospitalization 'Progress Notes' confirming Pneumonia due to COVID with acute Hypoxemic respiratory failure, and oxygen Treatment. Also, diagnosis of 'Acute stress Disorder'	09/06/2021	19
16.	Hospitalization's psychiatric consultation note confirming diagnoses of anxiety and depression, and recommending long recovery time	09/06/2021	20
17.	Hospitalization's psychiatric consultation Note confirming diagnoses of anxiety and Depression, and recommending long Recovery time	09/06/2021	21
18.	Medications List		22
19.	Email from Kelci Caruso after Claimant Came in to ask about his Workers' Compensation claim	10/01/2021	23
20.	Claimant's email to Mrs. Norris, HR Director, still requesting information about his Workers' compensation claim	11/07/2021	24
21.	Claimant's fifth email to the HR Director Pleading for any information about his workers' compensation, but still being ignored by everyone at TRMC	11/22/2021	25
22.	After more than three months of being ignored and neglected by the Defendant in regards to his Workers' Compensation claim, Claimant filed his first form 50 with the SC Workers' Compensation Commission	11/29/2021	26
23.	TRMC hired a lawyer in Charleston	01/07/2022	27-29

	(Mr. Howell) who responded to Claimant's Form 50		
24.	In the meantime, Claimant was focusing on his recovery, with his post-hospitalization and post discharge medical follow-ups with his PCP, with regular update to the Defendant	10/27/2021	30-31
25	Few other medical updates received by the Defendant, post hospitalization	9/22/21-1/14/2	32-36
26.	Medical Notice from PCP returning Claimant back to work with some few restrictions which was provided to the Defendant	01/17/2021	37
27.	Claimant's health condition at the time as well as his job requirements as defined by the Defendant was considered		38-39
28.	Claimant's former lawyer even wrote an Email to Mr. Howell (The Defendant's lawyer) specifically requesting when Claimant can return to work?	01/25/2022	40
29.	In the meantime, the 'Acute stress disorder' Diagnosis received while being hospitalized Has progressed into Post-Traumatic Stress Disorders (PTSD), and Claimant was referred By his PCP to a Clinical Psychologist in Columbia for therapy sessions	02/15/2022	41
30.	More PTSD therapy sessions' Notes	02/22/2021-03/08/2022	42-43
31	After actually driving to work (TRMC) to Resume employment (on 1/26/22) and was not allowed to, Claimant wrote an email to the entire TRMC leadership to plead for his job back	02/25/2022	44

32.	Even the Psychological Clinic in Columbia where Claimant was receiving therapy wrote a Medical Notice recommending his return to Work	03/11/2022	45
33.	The Defendant finally responded to Claimant's Multiple pleads to return to work, by a Termination letter in pure retaliation of filing a form 50 with the SC Workers' Compensation Commission	03/15/2022	46
34.	Following his unlawful employment Termination, Claimant had his former lawyer returned all the items the Defendant (TRMC) Requesting, including keys, ID card, parking tag, etc....	04/05/2022	47
35.	Pay stub showing clearly that Claimant worked On 8/22/21 and on 8/24/21 for 12 hours shift Each day		48

36.	Few checks I was required by TRMC to write, in Order to keep my Health Insurance active, after I Was medically removed from work, following my COVID-19 exposure at work and infection		49-53
37.	Few COVID – 19 related medical bills and co-payments I received and continue to receive, following my hospitalization		54-63
37a.	Few evidence of letter of harassment and stress from Debt collectors working for TRMC		64-65
38	TCCADA nursing job: Hiring date and benefits Enrollment		67
39	First pay stub with TCCADA		68

40.	Health threatening medical issues and safety issues both for the claimant and his new patient, related to long-COVID symptoms	06/03/2022	69-70
41.	Resignation letter for health and safety reasons	06/16/2022	71
42.	Acceptance Letter of resignation from TCCADA	06/16/2022	72 -73
43.	New COVID-19 related medical issues/diagnosis	07/14/2022	74-76
44.	Medical update: Long COVID-19 related Inflammation with muscle pain, lumbar pain, and Cervical pain	11/18/2022	77
45.	Latest Medical update: Long COVID related inflammation and generalized body pain, depression, and prediabetes	01/05/2023	78-82
46.	Extract from Claimant's deposition by Mr. Howell	01/07/2022	83
47.	List of employees at TRMC testing positive for COVID-19 during the month of August 2021, 'put manually together by the Defendant'	Mailed on 12/13/2022	84-86
48.	Mr. Howell's prepared Pre-Hearing Brief for the hearing previously scheduled for 12/06/2022	11/23/2022	87-88
49.	EDUCATION MATERIAL on COVID-19 prepared by the Defendant (TRMC)		89-90

50.	TRMC Memo on COVID-19 Updates	08/06/2021	91-93
51.	Mr. David Sutherland Deposition	01/09/2023	94-123
52.	Defendant's letter with Claimant's evaluation Appointment	12/19/2022	124
53.	Dr. Lind's Evaluation Report/Opinion	01/12/2023	125-128
54.	Picture of Claimant's actual DAPS test Answer Sheet for Dr. Lind's evaluation	01/12/2023	129-130

55.	Defendant's letter to Dr. Lind with evaluation questions on the Claimant	12/13/2022	131
56.	FMLA paperwork	09/07/2021	132-139
57.	Claimant's response to Dr. Lind's MMI opinion	02/01/2023	140-143
58.	Dr. John H. Samies's 'expect' letter	12/05/2022	144
59.	Defendant's Three false Narratives	02/01/2023	145-147
60.	The Defendants' "Full Report"		148-149

61	Pain Clinic visit's doctor's notes	01/25/2023	150-152
62	\$25 Medical visit co-payment charges	01/25/2023	153
63.	Long COVID-19 Pain treatment Doctor's notes	02/06/2023	154-155
64.	\$250 Long COVID-19 Pain treatment charges	02/06/2023	156

**By the Defendants:**

<u>APA #</u>	<u>DESCRIPTION</u>	<u>DATES</u>	<u>PAGES</u>
1.	Regional Medical Center- Immunology-Serology	8/16/21 - 8/27/21	1 - 2
2.	COVID-19 Tracing	8/25/21 -9/23/21	3 - 6
3.	COVID-19 Questionnaire	8/27/21	7 -9
4.	Roper St. Francis Physician Partners – Dr. James Fayssoux	9/22/21 7/14/22	10 - 30
5.	Serge Wandji's Regional Medical Center - Application Form	2/8/2021	31 - 37
6.	The Regional Medical Center, COVID & Other Updates at RMC, Letter	8/6/21	38 - 40

7.	The Regional Medical Center -- Leave of Absence Letter	9/24/21	41
8.	U.S. Department of Labor Wage and Hour Division	9/24/21	42 - 49
9.	The Regional Medical Center, Letter	3/15/22	50
10.	Dr. James E. Fayssoux Report	11/18/22	51 - 56
11.	Dr. John H. Samies Letter	12/5/2022	57
12.	Dr. John H. Samies - Resume	Undated	58 - 60

13.	Dr. Nicholas A. Lind, Report	1/12/23	61 - 64
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14.	Dr. James Fayssoux, Report	1/12/23	65 - 75
15.	COVID 19 Questionnaire - Full Report	8/27/21	76 - 78

16.	W-2 Wage and Tax Statement 2021 - The Regional Medical Center	2021	79
17.	Payroll Records - The Regional Medical Center	3/20/21 - 3/5/22	80 - 104
18.	Tri-County Commission on Alcohol and Drug Abuse - Personnel Records	4/12/22 - 6/16/22	105 - 142
19.	W-2 Wage and Tax Statement 2022	2022	143
20.	Academic Transcript from the University Of South Carolina	1/26/23	144 - 146

21.	COVID-19 South Carolina Data	8/1/21 - 8/31/21	147
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22.	COVID-19 Orangeburg County Data	8/1/21 - 8/31/21	148
Exhibit 1	Magistrate's Order in <i>Serge R. Wandji v. Robe Wilkie, Secretary of Veterans Affairs</i>	11/9/20	1-32

**Exhibit 3**

Page 3

WANDJI SERGE V. REGIONAL MEDICAL CENTER 2/16/2023

1 THE COURT: All right. Today's date is  
2 February 16, 2023. This is workers' compensation file  
3 No. 2118696. Claimant in this matter is --

4 Is it Serge? Serge?

5 MR. WANDJI: Yes, sir.

6 THE COURT: Serge or Serge?

7 MR. WANDJI: Serge.

8 THE COURT: Serge Wandji. Mr. Wandji is  
9 unrepresented today. The employer is Regional Medical  
10 Center of Orangeburg. Carrier is Palmetto Hospital  
11 Trust. They are both represented today by Attorney Roy  
12 Howell. Date of accident in this matter is alleged to  
13 be August 27, 2021. Average weekly wage is \$1,735.47.  
14 Compensation rate is \$903.40. We are here today on  
15 Claimant's Form 50.

16 Prior to the call of the case, Defense  
17 Counsel objected to Claimant APA submission page 66.  
18 That objection has been sustained, and for the record  
19 not viewed by me. It involved settlement negotiations.  
20 That report has been returned to Mr. Wandji. Other  
21 than that, I've received submissions from both the  
22 Defendant and the Claimant in this matter.

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Jan 14 2025

SC Court of Appeals

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM THE WORKERS' COMPENSATION COMMISSION

The Honorable T. Scott Beck, Commissioner

Appellate Case No. 2024-001935

S.C. W.C.C. File No. 2118696

Serge Wandji, Claimant,.....Appellant,

v.

The Regional Medical Center, Employer,  
and Antum Risk, Carrier,..... Respondents.

**PROOF OF SERVICE**

The undersigned hereby certifies that she served the above-named Appellant, Serge Wandji, with a copy of the attached MOTION TO EXCLUDE CERTAIN MATTERS DESIGNATED BY THE APPELLANT FROM THE RECORD ON APPEAL, this 14<sup>th</sup> day of January 2025, by emailing and depositing a copy of the same in the United States Mail, first class postage prepaid, addressed to his attorney of record, as follows:

Serge Wandji  
579 Folly Road, P.O. Box 12112  
Charleston, SC 29422  
sergewandji@gmail.com

January 14, 2025

Roy A. Howell, III, S.C. Bar #11888  
Kirsten Leslie Barr, SC Bar #15525  
Trask & Howell, L.L.C.  
P.O. Box 2167  
Mt. Pleasant, SC 29465  
(843) 881-4228  
Attorneys for Respondents

TRASK  
HOWELL  
WORKERS' COMPENSATION DEFENSE

*Reply to*  
Roy A. Howell, III  
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January 14, 2025

*Via Regular Mail and Email-ctappfilings@sccourts.org*

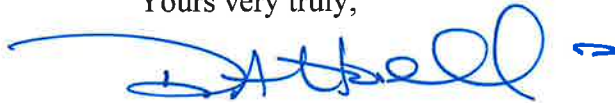
The Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
P. O. Box 11629  
Columbia, SC 29211

Re: Serge Wandji v. The Regional Medical Center  
W.C.C. File No.: 2118696  
**Appellate Case No. 2024-001935**  
Carrier File No.: WC2021098080  
Date of Accident: August 27, 2021

Dear Ms. Kitchings:

Enclosed for filing, please find a Motion to Exclude Certain Matters Designated by the Appellant from the Record on Appeal, along with our Proof of Service serving the Appellant and the appropriate \$50.00 filing fee. As always, thank you for your time and consideration of this matter.

Yours very truly,



Roy A. Howell, III

RAHIII/mbm/les

Enc.

cc: Sandra Axson, Antum Risk (w/enc.) (email/upload)  
Tiffany Kirby, MUSC Health-Orangeburg (w/enc.) (email only)  
Mr. Serge Wandji (w/enc.) (email and regular mail)

