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Apr 22 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.

**REPLY TO RETURN TO MOTION TO EXCLUDE
DEPOSITION OF DR. SAMIES FROM THE RECORD ON APPEAL**

The Regional Medical Center and Antrum Risk filed a renewed Motion to exclude the deposition of Dr. Samies from the Record on Appeal on the basis the Respondents were not given notice of this deposition, this deposition was not received into evidence before the Workers' Compensation Commission, and this deposition was not even taken by the Appellant until more than six months after his workers' compensation claim finally concluded with an unappealed Decision and Order on March 8, 2024. Furthermore, the Appellant's Motion to reopen his workers' compensation claim filed October 4, 2024, was properly denied by the Workers' Compensation Commission. Not only was the Motion to reopen unsupported by

statute, regulation, or case law, it was premised upon the demonstrably false allegation that the Appellant did not “discover” the professional relationship between Dr. Samies and the Regional Medical Center until September 2024. In fact, the Appellant raised arguments regarding this relationship, *in writing*, to Hearing Commissioner Beck in May 2023 and to the Commission’s Appellate Panel in August 2023. His workers’ compensation claim was ultimately denied because the Appellant failed to meet his burden of proving that his alleged injuries (a COVID-19 infection and related symptoms) were caused by any alleged accident arising out of and in the course of his employment on or about August 27, 2022, as required by S.C. Code Ann. § 42-1-160.

By his Return dated April 17, 2025, the Appellant argues that the Court of Appeals must consider matters outside of the record, including the deposition of Dr. Samie’s, and that the Appellant is entitled to review of the unappealed findings of the Commission based on the holding of “*Fox v. Newberry Elec. Coop.*, 377 S.C. 593, 606, 661 S.E.2d 147, 154 (2008),” which the Appellant “quotes” for the proposition that “appellate review must ensure ‘*meaningful judicial scrutiny.*’” (emphasis Appellant’s Return). However, no case entitled “*Fox v. Newberry Elec. Coop.*” exists in the South Carolina or Southeastern Reporters¹ and the Respondents cannot identify any reported South Carolina case containing the quote “*meaningful judicial scrutiny.*” The actual pages in the reporters cited by the Appellant in this instance belong to a South

¹ There does exist a case entitled *Fox v. Newberry Cnty. Mem'l Hosp.*, 319 S.C. 278, 280, 461 S.E.2d 392, 394 (1995), however it holds that the “duty to determine facts is placed solely on the Commission and the court reviewing the decision of the Commission has no authority to determine factual issues” and does not otherwise support the Appellant’s arguments.

Carolina criminal case and two cases from the Court of Appeals of Georgia, one of which has been vacated.

This is not the only time the Appellant has materially misrepresented the law to the Court. Not only are twelve out thirteen cases cited in his Initial Brief and nine out of ten cases cited of his Reply Brief either grossly misattributed or altogether fake, but also his most recent Return to Motion contains four other quotations manufactured out of whole cloth² and he even purports to quote a fifth case that simply does not exist³. As explained in Mata v. Avianca, Inc., 678 F. Supp.3d 443, 448-449 (S.D.N.Y. 2023),

“[m]any harms flow from the submission of fake opinions. The opposing party wastes time and money in exposing the deception. The Court’s time is taken from other important endeavors ... There is potential harm to the reputation of judges and courts whose names are falsely invoked as the authors of the bogus opinions and the reputation of a party attributed with fictional conduct. It promotes cynicism about the legal profession and the American judicial system. And a

² The Appellant falsely attributes the following quotations to these actual cases: Goodson v. Am. Bankers Ins. Co. of Florida, 295 S.C. 400, 404, 368 S.E. 2d 687, 689 (Ct. App. 1988) (litigation should not be hindered by “delay or obstructive tactics contrary to the orderly process of justice”); Harkins v. Greenville County, 340 S.C. 606, 610, 533 S.E.2d 886, 888 (2000); Harris v. State, 377 S.C. 66, 72, 659 S.E.2d 140, 143 (2008) (South Carolina law allows reconsideration or inclusion of newly discovered evidence where the facts “could not have been discovered with due diligence prior to the hearing.”); and State v. Beckham, 334 S.C. 302, 308, 513 S.E.2d 606, 609 (1999) (stating that relitigation of decided issues is “procedurally improper and contrary to principles of judicial economy”).

³ “*S.C. Department of Revenue v. Blue Moon of NM, LLC*, 389 S.C. 1, 698 S.E.2d 461, 466 (2010).”

future litigant may be tempted to defy a judicial ruling by disingenuously claiming doubt about its authenticity.”

The Respondents respectfully contend that the Appellant’s conduct in this case has exemplified the harms elucidated in Mata, *supra*, and request that the Court impose sanctions, including dismissal of the appeal, as other courts facing similar issues with “fake” citations have suggested.⁴ See Seyedkhashayar Mojtabavi v. Antony Blinken, et al. Additional Party Names: Merrick B. Garland, Nat’l Visa Ctr., United States Dep’t of State, No. SA CV 24-1359 PA (ASX), 2024 WL 5316832, at *5 (C.D. Cal. Oct. 22, 2024) (explaining that “to the extent that Plaintiff has used a text-generative artificial intelligence tool (*e.g.*, ChatGPT) that has generated fake case citations,” this conduct “may result in the imposition of sanctions, including but not limited to dismissal of this action”).

By their Motion, the Respondents seek clarification from the Court of Appeals as to whether the Appellant can properly include the deposition of Dr. Samies in the Record on Appeal (as the Appellant argues in his Reply Brief and in his Return to Motion), despite the Court’s February 26, 2025, Order, which appeared clear in its intent to exclude the deposition of Dr. Samies from the Record on Appeal by striking matter #9, which was identified as the “Transcript of the Deposition of Dr. Samies.” If the deposition of Dr. Samies is not properly included the Record on Appeal, then the Appellant’s direct references to and arguments about

⁴ *Pro se* litigants, like the Appellant, “are subject to the same procedural requirements as other litigants.” See Muñoz v. United States, 28 F.4th 973, 978 (9th Cir. 2022); see also Cohen v. Cohen, 438 S.C. 9, 19, 881 S.E.2d 650, 655 (Ct. App. 2022) (holding that “the court will not hold a layman to any lesser standard than is applied to an attorney”) (internal citations omitted); McCall v. A-T-O, Inc., 276 S.C. 143, 146, 276 S.E.2d 529, 530 (1981) (stating that the S.C. Supreme Court “has never held a layman to a lesser standard than attorneys”).

Dr. Samies's alleged testimony are improper, and the Respondents respectfully contend that they should be stricken from the Appellant's Briefs, or, in the alternative, that any arguments regarding the substance of Dr. Samies's testimony should not be considered by the Court. *See* Rule 210(h), SCACR (stating that "the appellate court will not consider any fact which does not appear in the Record on Appeal"), *see also Sanders v. Salley*, 283 S.C. 458, 460, 322 S.E.2d 829, 830 (Ct. App. 1984) (stating that "[t]his Court does not sit as a trial court to receive evidence on disputed issues of fact; our function is to review the judgment of the circuit court for reversible error based on the issues and evidence presented to that court"). If the Court should modify its February 26, 2025, Order so as to permit the inclusion of Dr. Samies's deposition transcript in the Record on Appeal, the Respondents respectfully request leave to file a Sur-reply addressing the testimony of Dr. Samies. The Respondents further respectfully request such other and further relief as the Court deems just and proper, including but not limited to sanctions under Rule 269 and/or dismissal under Rule 260(a), S.C.A.C.R.

Respectfully submitted,

April 22, 2025



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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 the Respondents served the above-named Appellant, Serge Wandji, with a copy of the attached Reply to Return to Motion to Exclude Deposition of Dr. Samies from the Record on Appeal this 22nd day of April 2025, by emailing and depositing a copy of the same in the United States Mail, first class postage prepaid, addressed as follows:

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

April 22, 2025

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Reply to
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Via Mail/Email-ctappfilings@sccourts.org

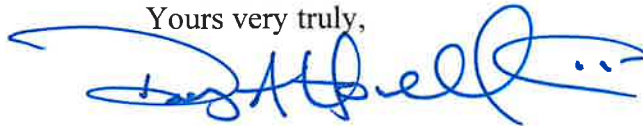
The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
P. O. Box 11629
Columbia, SC 29211

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 herewith for filing, please find our Reply to Return to Motion to Exclude Deposition of Dr. Samies from the Record on Appeal, with accompanying Proof of Service, in the above-referenced matter. By copy of this letter, I am serving the Appellant, Serge Wandji, with a copy of these documents via email and regular mail. If you should have any questions, please do not hesitate to contact me.

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)
Serge Wandji (w/enc.) (email/mail)
Roy A. Howell, III

