

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

105073

APPEAL FROM SOUTH CAROLINA
SC Workers' Compensation Commission
Appellate Panel

RECEIVED

JUN 25 2025

SCWCC File Nos. 1923627 & 2223041

SC Court of Appeals

Mary L. Davis, Claimant, Appellant,

v.

+

Ruiz Food Products, Inc., Employer, and
Safety National Casualty Corporation, Carrier, Respondents.

NOTICE OF APPEAL

Appellant, Mary L. Davis, appeals the Appellate Panel Decision and Order of the SC Workers' Compensation Commission filed April 15, 2025, and served via email on April 15, 2025, and also the Appellate Panel Motion Order denying Appellant's Motion for Reconsideration served via email on May 27, 2025. A copy of both Orders are attached hereto.

Pursuant to SC Code §42-17-60, the grounds of the appeal

which involve specific, fundamental and egregious errors of law are presented to the Court as set out hereinafter.

1. That the Appellant appeals for all the reasons, bases, and grounds as set forth in the SCWCC Form 30 - Request for Commission Review and its attachments as presented to the Full Commission which is attached hereto and incorporated herein by reference, along with its attached Exhibits as Exhibit "A".

2. That the Appellant appeals for all the reasons, bases, and grounds as set forth in the Appellant's Motion for Reconsideration of the Full Commission Panel Decision filed April 16, 2025, which Appellate Panel decision filed on April 15, 2025 affirmed with amendments the Hearing Commissioner's Decision. The Motion is attached hereto and incorporated herein by reference as Exhibit "B".

3. That the Commission erred as a matter of law by applying an expansive application of the Supreme Court's decision in Pollack v. Southern Wine & Spirits of America, 405 S.C. 9, 747 S.E.2d 430 (2013). Whereas as an exception to coverage under the Workers' Compensation Act, the exception of, "termination for cause" being a basis for denying a worker temporary compensation benefits that doctrine should be strictly construed. Foran v. Murphy USA, 420 S.C. 377, 803 S.E.2d 311 (SC

App. 2017), (citing Barnes v. Charter One Realty, 411 S.C. 391, 768 S.E.2d 651 (2015), Nicholson v. SC Dept. of Social Services, 411 S.C. 381, 769 S.E.2d 1 (2015), and James v. Anne's, Inc., 390 S.C. 188, 701 S.E.2d 730 (2010).


Appealability: also in Pollack, the Supreme Court addressed the direct appealability of a denial of temporary compensation benefits while under medical treatment and in light duty status, and specifically held in reference to the failure to award compensation benefits and the Respondents' argument that the Order was not immediately appealable in the words of the Supreme Court under footnote 3, 747 S.E.2d 430 at p. 434:

"Respondent contends the Commission's Order is not immediately appealable. We disagree and summarily reject this contention pursuant to Rule 220(b)(1), SCACR."

4. That as a matter of law under the Supreme Court's two decisions in Russell v. Walmart Stores, Inc., 445 S.C. 387, 914 S.E.2d 838 (2025) and 426 S.C. 281, 826 S.E.2d 863 (2019), and in Hilton v. Flakeboard America, Ltd., 418 S.C. 245, 791 S.E.2d 719 (2016), and because of the unreasonable and unconscionable delay in the Hearing Commissioner rendering even Notes for a decision or decision neither of which contained Findings of Fact and Conclusions of Law on all of the essential issues before her for decision, and her unexplained failure to perform her statutory

duty, constituted an abuse of discretion and denied claimant's entitlement to sure and sure benefits under the Act, and both parties' entitlement years ago to a prompt determination of either her entitlement to benefits or a denial of benefits. As the Supreme Court held in Russell and Hilton this Court should take direct jurisdiction and as a matter of law due to unreasonable delay and failure of the Commissioner to perform her statutory duty, end the Appellant's odyssey, and issue a decision as promptly as possible on the claimant's entitlement to temporary total disability benefits which would achieve a delayed but affirmative commitment by the Court to the objectives of the Workers' Compensation Act which include "to provide sure, prompt and reasonable income and medical benefits", "**regardless of fault**" to work-related accident victims and their dependents and "to relieve public and private charities of the financial demands incident to uncompensated occupational accidents".

Respectfully submitted,



Preston F. McDaniel, #3770
McDANIEL LAW FIRM
1315 Elmwood Avenue
Columbia, SC 29201
(803) 771-7211
preston@pfmcdlaw.com

and

Gerald Malloy, #12033
MALLOY LAW FIRM
Post Office Box 1200
Hartsville, SC 29551
(843) 339-3000
gmalloy@bellsouth.net

Attorneys for Claimant/Appellant

June 25, 2025

Other Counsel of Record:

Walter H. Barefoot, Esquire
MCANGUS GOUDELOCK & COURIE
Post Office Box 12519
Columbia, SC 29211
(843) 519-1800
walt.barefoot@mgclaw.com

Attorney for Respondents

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PROOF OF SERVICE

I certify that I have served the **NOTICE OF APPEAL** by depositing a copy of it in the United States Mail, postage prepaid, on June 25, 2025 addressed as follows:

Ms. Amy Bracy, Judicial Director
SC Workers' Compensation Commission
Post Office Box 1715
Columbia, South Carolina 29202

Walter H. Barefoot, Esquire
MCANGUS GOUDELOCK & COURIE
Post Office Box 12519
Columbia, SC 29211

Respectfully submitted,



Preston F. McDaniel, Bar #3770
McDANIEL LAW FIRM
1315 Elmwood Avenue
Columbia, SC 29201
(803) 771-7211
preston@pfmcdlaw.com

and

Gerald Malloy, #12033
MALLOY LAW FIRM
Post Office Box 1200
Hartsville, SC 29551
(843) 339-3000
gmalloy@bellsouth.net

Attorneys for Claimant/Appellant

June 25, 2025

McDANIEL LAW FIRM
ATTORNEYS AND COUNSELORS AT LAW
1315 ELMWOOD AVENUE
COLUMBIA, SOUTH CAROLINA 29201

Proudly representing injured workers
for over 45 years.

Preston F. McDaniel

Telephone (803) 771-7211

Daniel E. Peagler

Facsimile (803) 252-0709

June 25, 2025

VIA HAND DELIVERY

Honorable Jenny Abbott Kitchings
Clerk of Court
SC Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

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SC Court of Appeals

RE: Mary L. Davis v. Ruiz Food Products, Inc.
SCWCC File Nos.: 1923627 & 2223041

Dear Ms. Kitchings:

Enclosed for filing with the Court is our Notice of Appeal in the above referenced matter. Also, enclosed are the following:

1. Proof of Service of the Notice of Appeal on the Respondents;
2. a copy of the Orders which are to be challenged on appeal; and
3. the required filing fee of \$250.00.

We would appreciate your returning to us a clocked-copy via electronic mail. I hope this is sufficient for filing with the Court but should you need any additional information, please let us know.

Sincerely yours,



Preston F. McDaniel

PFM/kth
Enclosures

cc: Amy Bracy, Judicial Director, SCWCC
Gerald Malloy, Esquire
Walter H. Barefoot, Esquire