

State of South Carolina
Workers' Compensation Commission

DECISION AND ORDER

The Honorable Aisha Taylor
SCWCC File Nos.: 1923627 & 2223041

Mary Davis,
Claimant,

v.

Ruiz Food Products, Inc,

Employer,

and

Safety National Casualty Corp.,

Carrier,

Defendants.

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JUN 25 2025

SC Court of Appeals

District 7

Hearing held in Hartsville, South Carolina,
on September 27, 2023

Per notice timely and properly served upon all Parties of Interest.

Appearances: Preston McDaniel, Esq., of McDaniel Law Firm, appeared on behalf of Claimant.

Walter H. Barefoot, Esq., of McAngus Goudelock & Courie, LLC, appeared on behalf of Defendants.

Purpose of Hearing: To determine issues as set forth on Forms 50 and 51.

Court Reporter: Kathryn Bostrom, Garber Reporting, 3200 Devine St., Suite 103, Columbia, SC 29205, 803-256-4500, info@garberreporting.com.

Filed: July 29, 2024



I. STATEMENT OF THE CASE

WCC File No. 1923627

On June 3, 2021, the parties presented for a hearing before the undersigned Commissioner. Ruiz Food Products, Inc. (Employer) and Safety National Casualty Corp. (Carrier) (hereinafter collectively known as "Defendants") admitted the injury to Mary Davis' (Claimant's) back, but denied she sustained any other injuries in an at-work accident on November 16, 2019. Claimant sought an evaluation and additional medical treatment for the alleged injuries to her left hip and left knee. The undersigned Commissioner determined:

Claimant is entitled to an evaluation for her left knee and left hip with Dr. Rodney K. Alan at McLeod Orthopedics in Florence, South Carolina. Defendants are to provide Claimant with written authorization for an appointment with Dr. Alan within fourteen (14) days of the date of this Order. An actual appointment date will be left to the discretion of Dr. Alan's office. AND IT IS SO ORDERED.

(Single Commissioner's Decision and Order filed on June 7, 2021, P. 4.)

Following Claimant's at-work accident on November 16, 2019, Dr. Rodney K. Alan placed her on light-duty work restrictions. Employer accommodated Claimant's work restrictions. Claimant remained on light-duty until Employer terminated her employment on February 20, 2023.

WCC File No. 2223041

On September 27, 2023, the parties once again presented for a hearing before the undersigned Commissioner. Claimant asserted that she sustained injuries or aggravated preexisting conditions after a co-worker assaulted her on November 4, 2022. Claimant further asserted Employer terminated her employment after she requested additional medical care for her subsequent injuries.

Claimant seeks temporary total disability (TTD) benefits from February 20, 2023, to the present and continuing. Claimant also seeks medical treatment for the injuries that she allegedly sustained on November 4, 2022.

Defendants denied Claimant's claim and asserted the substantial evidence does not support a finding that Claimant was assaulted or injured by a co-worker on November 4, 2022. Defendants further

asserted that Claimant's employment continued following her at-work accident on November 16, 2019, until Employer terminated her for cause on February 20, 2023.

Defendants seek a finding that Claimant is ineligible for TTD benefits. Defendants also seek a finding that Claimant is not entitled to medical treatment for her alleged November 4, 2022 injuries.

II. STIPULATIONS

1. The South Carolina Workers' Compensation Commission has jurisdiction over this claim.
2. Venue is proper.

III. APA SUBMISSIONS

Claimant's APAs – WCC File Nos. 1923627 & 2223041

TAB	DOCUMENT	DATE OF REPORTS	NO.
1	McLeod Orthopaedics Florence Rodney K. Alan, MD	3/28/22-2/27/23	1-9
2	McLeod Spine Center Rakesh P. Chokshi, MD Bruce Johnson, MD Laura Strickland, PA-C	3/23/22 – 03/22/23	10-28
3	McLeod Spine Center W.S. Edwards, Jr., MD	12/8/20	29-30
4	McLeod Occupational Health Stuart A. Sandler, DO	12/3/19-6/14/21	31-51
5	Email from Beverly Gilliam at McLeod Health	3/16/23	52
6	Employer Ruiz Foods Products Records: Email from Shanda Blackwell, Workers' Compensation Specialist, Ruiz Food Products; and Investigation Report, Team Member/Witness Statement of Mary Davis	11/16/22; 11/4/22	53-54
7	McDaniel Law Firm requests for authorization for medical care and Temporary Total (redacted)	2/17/23-4/11/23	55-66
8	Decision and Order of Commissioner Aisha Taylor	6/8/21	67-71
9	Dept. of Employment and Workforce Records and Appeal Tribunal Decision	3/2/23-4/12/23	72-74
10	Employer Rate of Pay Adjustment	3/27/22	75

Claimant's Exhibits – WCC File Nos. 1923627 & 2223041

TAB	DOCUMENT	DATE OF REPORTS	NO.
1	Deposition of Opal Jones	5/12/23	1-39
2	Deposition of Shanda Blackwell	5/12/23	1-28

Defendants' APAs (A.) - WCC File No. 1923627

TAB	DOCUMENT	DATE OF REPORTS	NO.
11	SCWCC Decision and Order	6/7/21	76-80
12	Medical Authorizations	6/14/21-8/8/22	81-85
13	Correspondence to Rodney Alan, MD	8/25/21	86-87
14	McLeod Orthopaedics – Florence	12/13/21-2/27/23	88-103
15	McLeod Spine Center	7/5/22-12/2/22	104-118
16	Cora Physical Therapy	3/24/22	119-141
17	W.S. (Bill) Edwards, Jr., MD	12/8/20	142-143
18	Correspondence to Robert DaSilva, M.D.	8/10/22	Removed
19	Correspondence from Claimant's Attorney	8/26/22	Removed
20	McLeod Regional Medical Center	11/16/2019	146-152
21	McLeod Seacoast Hospital	10/4/2022	Removed
22	Carolina Pines Regional Medical Center	11/22/14-11/26/14	156-163
23	CareSouth Carolina	1/29/18-10/23/19	164-184
24	Ruiz Foods (Employer)	10/24/19-2/20/23	185-194
25	SCDMV	5/6/20	195-196
26	Videos of Claimant at work	2/8/23-2/9/23	Submitted at Hearing

Defendants' APAs (B.) - WCC File No. 2223041

TAB	DOCUMENT	DATE OF REPORTS	NO.
11	McLeod Spine	11/14/22	76-78
12	McLeod Orthopaedics – Florence	2/27/23	79-82
13	CareSouth Carolina	3/2/23-4/3/23	83-98
14	Hometown Urgent Care	3/24/23	99-101
15	Employer	10/24/19-2/20/23	102-111
16	Videos of Claimant at Work	2/8/23-2/9/23	N/A

IV. EVIDENCE OF THE CASE

During the hearing:

1. Claimant objected to the admission of Defendants' APA (A.) Nos. 18 and 19, into the record. Defendants consented to the removal of these submissions. (Hr. Tr. P. 6.) Accordingly, Defendants' APA (A.) Nos 18 and 19, have not been admitted into the record.
2. Claimant objected to the admission of Defendants' APA (A.) No. 21 into the record. Defendants did not raise any objections to the removal of this submission. (Hr. Tr. P. 5.) Accordingly, Defendants' APA (A.) No. 21 has not been admitted into the record.
3. Claimant objected to the admission of Defendants' APA (A.) No. 24 (Claimant's disciplinary history with Employer). Claimant argued that this submission was unrelated to Employer's stated reason for terminating her employment. Defendants argued that the submission of this "business record" established that Claimant provided Employer cause on numerous occasions to terminate her employment; accordingly, had Employer wanted to fire Claimant for filing a workers' compensation claim, Employer had ample reason to do so before February 20, 2023. (Hr. Tr. PP. 6-7.) I overruled Claimant's objection as to the admission of Defendants' APA (A.) No. 24 as this submission is relevant to determining whether Employer's action to terminate Claimant was retaliatory in nature or for cause.
4. Defendants objected to the admission of Claimant's APA No. 9 (Dept. of Employment and Workforce's Appeal Tribunal Decision). Defendants argued that pursuant to Shelton v. Oscar Mayer Foods Corp., this submission was irrelevant as the doctrine of collateral estoppel had no bearing on this case. Shelton v. Oscar Mayer Foods Corp., 481 S.E.2d 706, 709. (1997). Claimant reiterated the holding of the Shelton court and requested the Commission give this submission the weight deemed appropriate for a finding Claimant was not terminated for cause. (Hr. Tr. PP.8.-9) In accordance with the South Carolina Supreme Court's holding in Shelton, the purposes of the Employment Security Commission (ESC) [presently, The Dept. of Employment and Workforce]

would be frustrated by the application of the doctrine of estoppel. Therefore, findings of fact made during an ESC hearing will not receive preclusive effect. *Id.* at 708-709. I overruled Defendants' objection as to the admission of Claimant's APA No. 9, but have afforded this submission the weight that I deemed appropriate.

5. Defendants objected to the admission of Claimant's APA No. 6, P.53 (Internal email from Shanda Blackwell), and Shanda Blackwell's deposition, P. 18, as hearsay. (Hr. Tr. PP. 10-11.) I overruled Defendants' objection as to the admission of Claimant's APA No. 6, P. 53, and Shanda Blackwell's deposition, P. 18, but have afforded these submissions the weight that I deemed appropriate.
6. Defendants objected to the admission of Claimant's APA No. 7, PP. 55, 65-66 (Correspondence between the parties' legal counsel regarding the authorization of Claimant's benefits). Defendants argued that this submission is self-serving to Claimant and therefore inadmissible. Claimant argued that the submission of this "business record" established Claimant's multiple requests to Employer for medical treatment. (Hr. Tr. PP. 9-10.) I overruled Defendants' objection as to the admission of Claimant's APA No. 7, PP. 55, 65-66. This submission is admissible for the limited purpose of establishing Claimant's request for medical treatment.
7. Hearing testimony included that of the Claimant, Ms. Mary Dais, and the Employer's Representative, Mr. Jonathan Holder.
8. Deposition testimony included that of Ms. Opal Jones and Ms. Shanda Blackwell.

V. FINDINGS OF FACT

1. Per prior Order of this Commission, Claimant sustained compensable injuries to her left knee, left hip and low back. (Single Commissioner's Decision and Order filed on June 7, 2021.)
2. Claimant has been receiving authorized causally related medical treatment at the direction of Defendants.
3. Dr. Alan issued Claimant's light-duty work restrictions, which Employer was able to accommodate.

4. Employer initiated nine (9) disciplinary actions against Claimant from November 2, 2019, through November 7, 2022. These disciplinary actions ranged from verbal warnings to suspension for violating Employer's policy. (Defendants' APA (A.) No. 24, PP. 185-193.)
5. Claimant was ultimately terminated on February 20, 2023, after being observed throwing food away, which was against company policy. (Defendants' APA (A.) No. 24, p. 194.)
6. I find that but for Claimant's work-policy violation, her light-duty work restriction would have continued to be accommodated. Claimant's testimony that she and other employees always threw food away without discipline is unpersuasive.
7. In accordance with the South Carolina Supreme Court's holding in Pollack v. Southern Wine & Spirits of America, the greater weight of the evidence in the instant case supports a finding that Claimant was terminated for cause and, therefore, Claimant's inability to earn wages was not due or because of a work-related injury. Pollack v. Southern Wine & Spirits of America, 747 S.E.2d 430, 434 (2013). I find Claimant is not entitled to TTD benefits.
8. I find Defendants are continuing to provide medical treatment in compliance with the prior Order of the Commission and the Act. (Single Commissioner's Decision and Order filed on June 7, 2021.)
9. Claimant alleges a second injury by accident on November 4, 2022, after she was allegedly assaulted by a co-worker.
10. I find Claimant's testimony regarding her alleged assault is unreliable as to specific details surrounding the incident. Specifically, Claimant was a poor historian during her testimony, especially on cross examination. Claimant testified there was a "crowd" in the hallway where the incident occurred, but asserted she could not recall the name of one person who may have witnessed the alleged incident (Hr. Tr. P. 65.)
11. Claimant had authorized medical treatment for her November 16, 2019 injuries with Dr. Rakesh Chokshi on November 14, 2022. This appointment occurred a mere ten (10) day following the alleged work-related incident on November 4, 2022. Although Claimant testified she told Dr

- Chokshi about the alleged November 4, 2022 incident, her testimony is not supported by the medical evidence.
12. Again, Claimant had authorized medical treatment for her November 16, 2019 injuries with Dr. Alan on February 27, 2023. This appointment occurred over three (3) months following the alleged work-related incident on November 4, 2022. Although Claimant testified she told Dr Alan about the alleged November 4, 2022 incident, her testimony is not supported by the medical evidence.
 13. I find the first mention of any pain in Claimant's wrist which could be attributable to the alleged November 14, 2022 incident is the medical record from March 24, 2023, over four (4) months after the alleged incident. However, even this record indicates Claimant "denies any injury". (Defendants' APA (B.) No. 14, p. 100.)
 14. I find Claimant never filed a police report regarding the alleged assault. (Hr. Tr. P.69.)
 15. I find Claimant's testimony to be unreliable and exaggerating when she testified that all of the pain was "always a ten" out of ten. (10/10), including pain to her low back, neck, left knee and left hip. Further, Claimant admitted she had not once reported to the emergency room due to pain. (Hr. Tr. PP 67-68.)
 16. I give greater weight to the testimony of the Employer's Representative, Mr. Jonathan Holder, who testified he reviewed all of the security camera footage from Claimant's alleged date of injury on November 4, 2022, and did not see anything related to Claimant's assault allegation. (Hr. Tr. PP. 75-76.)
 17. Employer's Representative, Ms. Opal Jones, testified during her deposition that she also reviewed security camera footage from Claimant's alleged date of injury on November 4, 2022, and did not see anything related to Claimant's assault allegation. (Opal Jones Depo. P. 21.)
 18. I also give greater weight, over that of Claimant's, to the testimony of Mr. Holder in regard to multiple policy violations that could have led to Claimant's termination, but did not. (Hr. Tr. PP.

- 70-74.) I find Claimant's assertion that she was fired because of her workers' compensation claim, and thus owed temporary benefits, is not supported by the greater weight of the evidence.
19. Claimant is entitled to continued authorized causally related medical treatment for the injuries she sustained to her left knee, left hip and low back in an at-work accident on November 16, 2019.
 20. All requests for benefits related to her November 4, 2022 alleged assault are denied.

VI. CONCLUSIONS OF LAW

1. Pursuant to S.C. Code Ann. § 42-1-130, Claimant was a covered employee under the Act on November 16, 2019 and November 4, 2022.
2. Pursuant to S.C. Code Ann. § 42-1-140, Employer is a covered employer under the Act.
3. Pursuant to S.C. Code Ann. § 42-1-160, Claimant sustained injuries to her low back, left knee and left hip in an at-work accident on November 16, 2019.
4. Pursuant to S.C. Code Ann. § 42-15-60, Claimant is entitled to continued authorized causally related medical treatment for the injuries she sustained to her left knee, left hip and low back in an at-work accident on November 16, 2019.
5. Pursuant to S.C. Code Ann. § 42-1-160, Claimant did not sustain injuries in an at-work incident on November 4, 2022.
6. Pursuant to S.C. Code Ann. § 42-9-35, Claimant did not aggravate preexisting conditions in an at-work incident on November 4, 2022.
7. Pursuant to S.C. Code Ann. § 42-15-60, Claimant is not entitled to additional causally related medical treatment for her November 4, 2022 alleged injuries.
8. Pursuant to S.C. Code Ann. § 42-9-190, Employer accommodated Claimant's light-duty work restrictions following her at-work accident on November 16, 2019, until her termination on February 20, 2023.
9. Pursuant to Pollack v. Southern Wine & Spirits of America, Claimant was terminated by Employer for cause. Id. at 434.

10. Pursuant to Shelton v. Oscar Mayer Foods Corp., the findings of fact made during Claimant's Department of Employment and Workforce hearing have no preclusive effect on the Commission's adjudication of this case. Id.

11. Pursuant to S.C. Code Ann. § 42-9-10, Claimant is not entitled to TTD benefits from her date of termination on February 20, 2023, to the present and continuing.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law:

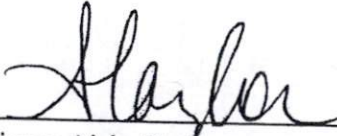
IT IS HEREBY ORDERED that Claimant is entitled to continued authorized causally related medical treatment for the injuries she sustained to her left knee, left hip and low back in an at-work accident on November 16, 2019.

IT IS FURTHER ORDERED that Claimant is not entitled to medical treatment for her alleged November 4, 2022 injuries.

12. **IT IS FURTHER ORDERED** that Claimant is not entitled to TTD benefits from her date of termination on February 20, 2023, to the present and continuing.

No penalties or hearing costs are assessed.

AND SO IT IS ORDERED.



Commissioner Aisha Taylor

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).

July 29, 2024

By: Renee Smith, Administrative Assistant to Commissioner Taylor

Order Served via Email 7-29-24:

Walter H. Barefoot walt.barefoot@mgclaw.com

Preston F. McDaniel preston@pfmcdlaw.com

STATE OF SOUTH CAROLINA
BEFORE THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

WCC FILE NOS. 1923627 and 2223041

MARY L. DAVIS,)
)
Claimant,)
)
v.)
)
RUIZ FOOD PRODUCTS, INC.,)
)
Employer, and)
)
SAFETY NATIONAL INS. CO. C/O)
SEDGEWICK,)
)
Carrier,)
Defendants.)

CORRECTED ORDER

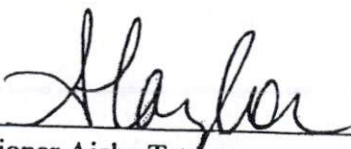
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JUN 25 2025
SC Court of Appeals

On July 31, 2024, Claimant filed a Motion to Reconsider the Decision and Order dated July 29, 2024. The Commission received the Motion on August 6, 2024. Defendants filed a Response to the Motion on August 6, 2024. The Commission received Defendants' Response on August 13, 2024.

After careful consideration of the Claimant's Motion for Reconsideration pursuant to R. 67-215(B), I am unable to discover that any material fact or principle of law has been either overlooked or misapprehended and hence, there is no basis for granting Claimant's Motion. Accordingly, the Motion for Reconsideration is denied.

AND IT IS SO ORDERED.

October 3, 2024



Commissioner Aisha Taylor



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).

October 3, 2024

By: Renee Smith, Administrative Assistant to Commissioner Taylor

Order Served via Email 10-3-24:

Walter H. Barefoot walt.barefoot@mgclaw.com

Preston F. McDaniel preston@pfmcdlaw.com

CERTIFICATE OF SERVICE

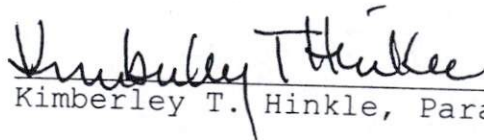
WCC File Nos.: 1923627 & 2223041

I hereby certify that I have on this day, October 17,
2024, served the following in the matter of MARY L. DAVIS
v. RUIZ FOOD PRODUCTS, INC. with a copy of the FORM 30 -
REQUEST FOR COMMISSION REVIEW by depositing the same in the
United States Mail, with adequate postage thereon,
addressed as follows:

Walter H. Barefoot, Esquire
McAngus Goudelock & Courie
Post Office Box 12519
Columbia, South Carolina 29211

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JUN 25 2025
SC Court of Appeals



Kimberley T. Hinkle, Paralegal

SWORN TO BEFORE ME this
17th day of October, 2024.



Notary Public for South Carolina (L.S.)

My Commission Expires: 10/25/28

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

Daniel E. Peagler

Telephone (803) 771-7211

Facsimile (803) 252-0709

April 16, 2025

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

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JUN 25 2025
SC Court of Appeals

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

Dear Ms. Bracy:

First, please find attached our Motion for Reconsideration by the Full Commission Panel along with the required \$50.00 filing fee.

Next, I would appreciate it if the Judicial Department could please forward me a copy of the Vote Sheets.

Next, since the Commission did not assign this Order to be written by one of the parties' attorneys, I would appreciate it if you could advise me as to which Commissioner on the Panel drafted the Order for the Panel.

I appreciate your assistance and look forward to hearing from you and to reconsideration by the Panel. As always, I appreciate all the courtesies and kindnesses shown to me by you, your office, and the Commission. Happy Easter.

Sincerely yours,



Preston F. McDaniel

PFM/kth
Enclosures

cc: Gerald Malloy, Esquire
Walter H. Barefoot, Esquire

