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SC Court of Appeals

**Proudly representing injured workers
for over 45 years.**

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July 1, 2025

VIA EMAIL ONLY: charrison@sccourts.org & ctappfilings@sccourts.org
Catherine S. Harrison
Chief Deputy Clerk
SC Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RE: Mary L. Davis v. Ruiz Food Products, Inc.
Appellate Case No.: 2025-001282

Dear Ms. Harrison:

I hope you are doing well. I tried to give you a call about the Deficiency Letter we received concerning the Notice of Appeal in the above-referenced matter.

First, the letter requests us to use Form 1 whereas this is an appeal from an administrative agency and I thought we were supposed to use Form 6. Please advise.

Next, I have attached a copy of SC Code §42-17-60 which requires that we must file the grounds for appeal and alleged errors of law in an appeal from a decision by the SC Workers' Compensation Commission. So, I looked back through our Notice of Appeal and I am going to assume that the reference to striking argument is the Court was concerned about my inclusion of my Motion for Reconsideration, which we attached as an Exhibit and from which we alleged as additional grounds contained in it. The Motion, of course, also contained argument so I am refileing the Notice of Appeal simply listing the grounds upon which we asked for reconsideration instead of attaching the Motion. I also reworded two of the additional grounds for review outside of the Form 30 that we submitted to the Full Commission because I thought those might be couched argumentatively instead of being grounds for review as an error of law.

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Next, we cannot discern how the Court changed the caption as it looks identical to us. So, could someone just give us a call to let me know what we are missing?

If there is anything else I need to do, I would appreciate a call where we can make sure we get it right.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Preston F. McDaniel". The signature is fluid and cursive, with a large initial "P" and "M".

Preston F. McDaniel

PFM/kth
Enclosures

cc: Khee'Asia Evans-Pryor, Appeals Specialist (Via email only)
Amy Bracy, Judicial Director, SCWCC (Via email only)
Gerald Malloy, Esquire (Via email only)
Walter H. Barefoot, Esquire (Via email only)

S.C. 515, 799 S.E.2d 304. Workers' Compensation ⇨ 1939.3; Workers' Compensation ⇨ 1939.6

Claimant's argument, that he was apprentice in non-profit organization to rehabilitate former substance abusers, ex-convicts, and homeless adults, and thus was entitled to workers' compensation coverage for his neck and spinal injuries, was not preserved for appeal, where claimant raised argument for first time in reply brief and it was not ruled upon by appellate panel of Workers' Compensation Commission. *Simmons v. SC STRONG* (S.C.App. 2013) 402 S.C. 166, 739 S.E.2d 631, rehearing denied, certiorari denied. Workers' Compensation ⇨ 1847

Worker's Compensation Commission's finding establishing a causal relationship between claimant's physical injuries and her psychological injuries was inadequate in claimant's action alleging injury as a result of exposure to herbicide, and required remand for a more specific finding of a causal connection. *Pack v. State Dept. of Transp.* (S.C.App. 2009) 381 S.C. 526, 673 S.E.2d 461. Workers' Compensation ⇨ 1529.1(2)

The Workers' Compensation Commission's failure to explain why it denied claimant's claim of brain injury in action where claimant claimed multiple exposures to herbicide, and the absence of any findings to support the Commission's denial, left the Appellate Court no way of evaluating the reasoning behind the Commission's decision, requiring remand to allow the Commission to make those factual findings. *Pack v. State Dept. of Transp.* (S.C.App. 2009) 381 S.C. 526, 673 S.E.2d 461. Workers' Compensation ⇨ 1740; Workers' Compensation ⇨ 1949

An order of the Workers' Compensation Commission reversing the issue of whether a claimant was required to elect pursuing a claim under § 42-9-20 or § 42-9-30 involved the merits of the case so as to be immediately appealable to the circuit court since the findings of fact and law by the hearing commissioner would become the law of the case, and due process requires that litigants receive notice of the issues to be met on trial, hearing, or appeal. *Green v. City of Columbia* (S.C.App. 1993) 311 S.C. 78, 427 S.E.2d 685.

An order of the full commission holding that an employee was not entitled to further workers' compensation benefits was insufficient for appellate review where the facts showed that the employee (1) injured his knee on the job, (2) had been told that he did not have cartilage damage by the employer's doctor, (3) agreed to a settlement for permanent disability based on this diagnosis, and (4) then found out from an independent doctor that he did have cartilage damage, but the commission failed to state the facts on which it relied to hold that the employee did not establish a change of condition or a mutual mistake; therefore, the order would be remanded for further factfinding. *Brayboy v. Clark Heating Co., Inc.* (S.C. 1991) 306 S.C. 56, 409 S.E.2d 767.

Although the exceptions to the single commissioner's findings set forth by an employee in appealing to the full commission, were in violation of Supreme Court Rule 4, § 6, the circuit court did not err in granting a review of the appeal where the issue sought to be raised by the exceptions was reasonably clear from the employee's arguments, the issue was ruled on by the single commissioner, and the issue could readily be determined and was meritorious. *Holston v. Allied Corp.* (S.C.App. 1989) 300 S.C. 174, 386 S.E.2d 793.

§ 42-17-60. Conclusiveness of award; appeals; payment of compensation during appeal; accrual of interest.

The award of the commission, as provided in Section 42-17-40, if not reviewed in due time, or an award of the commission upon the review, as provided in Section 42-17-50, is conclusive and binding as to all questions of fact. However, either party to the dispute, within thirty days from the date of the award or within thirty days after receipt of notice to be sent by registered mail of the award, but not after, whichever is the longest, may appeal from the decision of the commission to the court of appeals. Notice of appeal must state the grounds of the appeal or the alleged errors of law. In case of an appeal from the decision of the commission on questions of law, the appeal does not operate as a supersedeas and, after that time, the employer is required to make weekly payments of compensation and to provide medical treatment ordered by the commission involved in the appeal or certification until the questions at issue have been fully determined in accordance with the provisions of this title. Interest accrues on an unpaid portion of the award at the legal rate of interest as established in Section 34-31-20(B) during the pendency of an appeal.

HISTORY: 1962 Code § 72-356; 1952 Code § 72-356; 1942 Code § 7035-63; 1936 (39) 1231; 1988 Act No. 677, § 3, eff June 27, 1988; 1990 Act No. 439, § 1, eff April 24, 1990; 2007 Act No. 111, Pt I, § 30, eff July 1, 2007, applicable to injuries that occur on or after that date.

Cross References

Administrative hearings and proceedings, see § 1-23-600.

Workers' compensation awards are not subject to automatic stay upon service of a notice of appeal, see Rule 225, SCACR.

Research References

Encyclopedias

15 S.C. Jur. Appeal and Error § 54, Exceptions to the Automatic Stay.

16 S.C. Jur. Appeal and Error Appendix I, South Carolina Appellate Court Rules Parts I and II Only General Provisions of and Practice and Procedure in Appellate Courts.

Forms

3 South Carolina Litigation Forms and Analysis § 40:2, Stay of Proceedings Pending Appeal and Security.

Treatises and Practice Aids

3 Modern Workers Compensation § 312:2, Appeal.

3 Modern Workers Compensation § 313:15, Venue.

Law Review and Journal Commentaries

Judicial Review. 25 S.C. L. Rev. 513.

Notes of Decisions

In general 1

Amount of payments 6