

Aug. 25. 2025

[Initial] Brief of Appellant # 2025-001198

The State of South Carolina  
In The Court of Appeal

Appeal From Rich land County

May 16, 2025 - Court of Common Pleas on March 10, 2025  
Commission Panel. The Honorable T. Scott Beck;  
The Honorable Gene McCaskill; and The Honorable Melody L.  
James. / Single Commissioner The Honorable Mike Campbell  
Case no. 2025-001198 September 9, 2024

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Don's Car Crushing Respondent  
Employer

AUG 29 2025

SC Court of Appeals

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SC Court of Appeals

and

Business First Insurance company

Carrier, Representative of respondent

Nicolas Lee Haigler, Esquire P.O. Box 114419

Robinson Gray Stepp & Laffitte, LLC. Columbia S.C. 29211

803-929-1400

Appellant.

Fax 803-929-0300

AMOS MACK

Pro se

1256 Tony Bay Rd

Holly Hill S.C. 29059

803-619-2321

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Table of Authorities #2025-001178

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Sligh v. Newberry Electric Cooperative, Inc.  
88 S.E. 2d 675 (S.C. 1957)

Wise v. Wise  
266 S.E. 112  
S.C. Ct. App 2011

Crane v. Roberts Discount Tire Rack  
2020 S.C. Sup. Ct. 2020

Statutes

S.C. Code Ann 42-1-160

S.C. Code Ann 42-15-20

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## State Ment of cases

12 A: In South Carolina, an employer is required by law to file a Form 12 A (Employer First Report of Injury or illness) after work accident. This Form is consider an admission against interest by the employer. As an admission, it constitutes prima facie evidence of the fact stated within it. For example, that an injury occurred on a certain date and arose out of the employment. Prima facie means that, on its face, the evidence is sufficient to establish a fact unless it is rebutted by other evidence.

The First Injury Report 12 A, is substantial evidence in support of a finding that a claim is compensable.

The Commission decision is not supported by substantial evidence, because a reasonable mind could not reach this conclusion after properly considering the employer's own ~~admission~~ admission against interest is an error of law that prejudiced the claimant and require reversal, because of this legal error, the Commission's ultimate decision is not supported by substantial evidence on the record as a whole. My South Carolina Claimant's <sup>Record</sup> ~~Record~~ of Worker Compensation should have contain a letter dated November 8, 2022. From Claim Adjuster Andrea Torres, \*Phone 800-863-2181 Ext. 54272. Say, A worker compensation claim has been

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10-14-2022, Case # 0521-22-1536-000-286908

Filed on your behalf for the above captioned date of accident. We regret to inform you that portion of your claim has been denied as result of our investigation.

### Benefits denied

The employer/Carrier is denying indemnity in whole. Compensable medical benefits are being provided. The Commissioner erred by failing to apply the doctrine of estoppel to these facts. The Commissioner erred as a matter of law by failing to find the carrier admitted the compensability of the injury, when it agreed to provide medical benefits. S.C. Code Ann. § 1-23-380(5)(d). The Commissioner's failure to consider the legal effect of competent evidence is such an error. The carrier went beyond the Form 12A by voluntarily initiating payment of medical benefits and sending a letter promising to the claimant medical care. This act constitutes a separate, powerful admission that the claimant's claim was accepted as compensable. An insurer cannot voluntarily accept a claim, induce the claimant to rely on that acceptance, and then arbitrarily withdraw it without consequence. Such conduct implicates principles of waiver and estoppel. By accepting the claim, the carrier waived its right to later contest compensability on the same facts.

The Hearing Commissioner erred as a matter of law by failing to give these admissions their proper legal weight. Instead the Commissioner permitted the Carrier to contradict its own formal and informal admissions without providing any new evidence or justification for doing so. This legal error tainted the entire fact-finding process and that led to an incorrect result. The hearing Commissioner erred as a matter of law by failing to properly consider the carrier's admissions on record. The hearing Commissioner Decision must be reversed due to procedural errors that violated the claimant's due process right. The procedural defect in this case are not merely a matter of record, as recognized by the Full Commission itself. The Full Commission discovered upon review that the decision and order of the undersigned, dated September 9, 2024, contain a scrivener's error, error. The APA submissions and exhibits listed in the decision and order do not accurately reflect the APA submission and exhibits that were admitted into the record and considered by undersigned. Therefore this matter was remanded by the Appellate Panel to the undersigned by the Full Commission order dated January 13, 2025 for the limited purpose

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## Statement of the Issues on Appeal

I. Whether the hearing Commissioner committed Reversible error and violated the Claimant Due Process Right by preparing a defective record for Appeal

II Whether the hearing Commission erred as a matter of law in failing to give proper evidentiary weight to the employer's First Report of injury or illness (Form 12A) which served as admission that the claimant's injury arose out of and in the course of his employment

III Whether the hearing Commission finding that the claimant failed to prove a causal connection between his injury and his employment is clearly erroneous and unsupported by the substantial evidence of record.

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of settling the record by identifying the APA Submission and Exhibits that were Consider by undersigned in reaching the decision All other issues are held in abeyance and remain Pending before the full Commission.

### Standard of Review

The standard of review in a Worker Compensation Case is governed by the South Carolina Administrative Procedures Act (APA), S.C. Code Ann 1-23-380. The appellate Courts review is limited to deciding whether the Hearing Commissioner's decision is supported by substantial evidence or is affected by an error of law, *Shorpe v. S.C. Dept of Trans* 375 S.C. 356, S.E.2d 948 (2007). Substantial evidence is not a mere scintilla of evidence, but evidence which, considering the record as a whole would allow reasonable minds to reach the conclusion the administrative agency reached. While the court may not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact, it may reverse or modify decisions that are clearly erroneous in view of the reliable, probative and substantial evidence on the whole record or are affected by other error of law. S.C. Code Ann 1-23-380

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## Argument

The decision of the hearing Commissioner is predicated on reversible errors of law and is not supported by the evidence of record.

The Commissioner erred by (I) Violating the Claimant's due process right by relying on material outside the original record, (II) Failing to recognize that the Carrier was bound by its admission and (III) reaching a conclusion that is contrary to the substantial evidence.

1. The hearing Commissioner committed reversible error and violated the Claimant due process right by preparing a defective record for appeal.

The ~~procedural~~ procedural integrity of this case was compromised by defect in the official record - a fact established by the full Commissioner itself. In its order of September 9, 2024, the appellate panel formally found it necessary to correct the 'scrivener's' area only in the APA Submission. While the order characterizes the defect as 'scrivener's', the legal impact is profound.

An accurate and complete record is the bedrock of appellate review and fundamental requirement of due process and the South-Carolina Administrative Procedures Act, S.C. Code Ann 1-23-350. By the Commission's own admission the record it initially reviewed was flawed. A decision resting upon so deficient that it require formal correction mid appeal cannot satisfy the basic requirement of a fair hearing. The fact that the Full Commissioner had to intervene prove the was material. This procedural failure, identified and corrected, by the Commission is a clear error of law that undermines the validity of the entire appellate process and requires of the underlying decision.

11. The Hearing Commissioner erred as a matter of law by failing to properly consider Carrier's admission of Record.

The carrier made multiple, unequivocal admissions that the Claimant's injury was compensable. First, the filing of the Form 12A the employer injury ~~was~~ reported of constitutes an admission against interest. South Carolina Courts have long held that a Form 12-A is a, admissible as evidence of the fact stated therein while not conclusive, it is strong evidence that

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The injury arose out of and in the course of employment.

Second, the carrier went beyond the Form 12A by voluntarily initiating payment of medical benefits and sending a letter promising to cover the claimant's medical care. This act constitutes a separate, powerful admission that the claimant was accepted as compensable. An arbitrary withdrawal without consequence. Such conduct implicates principles of waiver and estoppel. By accepting the claim, the carrier waived its right to later contest compensability on the same facts. The hearing commissioner erred as a matter of law by failing to give these admissions their proper legal weight. Instead, the commissioner permitted the carrier to contradict its own formal and informal admissions without providing any new evidence or justification.

III

Commissioner Decision is Not Supported  
By Substantial Evidence

### Conclusion

The hearing commissioner committed reversible errors of law that resulted in substantial prejudice to the claimant.

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The Commissioner erred as matter of law by failing to give proper evidentiary weight to the employer's Form 12A and the carrier's subsequent action, which served as binding admission are, that the injury is compensable. For the foregoing reason, the Claimant respectfully request that this Court reverse the Order of Hearing Commissioner and remand with instruction to award benefits.

Respectfully  
Submitted  
Amos Nash  
Aug 25 - 2025