

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM  
South Carolina Workers' Compensation Commission  
Appellate Panel

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Appellate Case No. 2024-000294

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Hector Lopez-Vasquez,..... Claimant/Appellant,

vs.

Ox Paper Tube & Core Carolina, LLC, Employer,  
and Berkshire Hathaway Homestate Insurance Company, Carrier, ..... Respondents.

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**MEMORADUM OF RESPONDENTS**

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*Attorneys for Respondents*

By letter dated August 22, 2025, the South Carolina Court of Appeals requested the parties' memoranda addressing whether the order Appellant Hector Lopez-Vasquez ("Claimant") challenges is immediately appealable in light of *Brown v. Southeastern Services, H.H.I., LLC*, Op. No. 6111 (S.C. Ct. App. filed May 21, 2025) (Howard Adv. Sh. No. 19 at 68). For the following reasons, Respondents Ox Paper Tube & Core Carolina, LLC ("Employer") and Berkshire Hathaway Homestate Insurance Company ("Carrier") contend that the Decision and Order of the Appellate Panel of the South Carolina Workers' Compensation Commission is not immediately appealable. Thus, this appeal is not ripe for this Court's review.

In *Brown*, this Court analyzed the scope of its review of workers' compensation cases under the Administrative Procedures Act and section 1-23-380 of the South Carolina Code (Supp. 2024). Specifically, the Court reiterated that only two types of orders are immediately appealable: "a final decision . . . [or] the type of interlocutory order that has to be reviewed immediately to ensure adequate appellate review . . ." *Brown*, at 73. The Appellate Panel's Decision and Order is neither.

First, the parties' Final Briefs agree that Claimant has not been declared totally and permanently disabled. As in *Brown*, "Claimant has not reached maximum medical improvement, and the commission has not ruled on whether Claimant is entitled to an award for any permanent disability. Other disputes may well arise as this case proceeds toward a final decision." *Id.* at 71. Thus, this appeal is indistinguishable from *Brown* in that the Appellate Panel's Decision and Order is not a "final order."

Similarly, the Appellate Panel's Decision and Order does not need to be "reviewed immediately to ensure adequate appellate review . . ." *Id.* at 73. Although it is an

intermediate or interlocutory order, *Brown* emphasizes this “exception to the final judgment rule is a narrow exception that is to be narrowly applied.” *Id.* at 71. This Court rejected the appellant’s argument in *Brown* that its appeal fell within the exception for two reasons, and both apply with equal force to Claimant’s appeal. First, the Court expressed the overriding concern, especially in workers’ compensation cases, that a broad interpretation of the exception would swallow the rule. “Allowing temporary awards to be immediately appealable would encourage, rather than discourage, prolonged litigation and piecemeal appeals.” *Id.* at 72.

Secondly, any argument Appellant may offer about not having an adequate remedy is not supported by the facts and record. Claimant filed this appeal because he wants his significant other, who has no medical education, training or background, to provide the attendant care recommended by his authorized treating physician. Respondents contend the Appellate Panel correctly ruled that Respondents have the statutory right to control medical care and that attendant care should be provided by a licensed professional.

However, what is important on the adequate remedy issue is what is **not** in dispute. The parties agree that Respondents are required to provide the attendant care recommended by his authorized treating physician and that Respondents in fact offered that care through the services of a medical professional, but Claimant declined Respondents’ offer. (R. pp. 30, 54). Claimant’s stated reason is that he wants his significant other to provide those services. Thus, from April 2022 to the present, Claimant has admittedly refused to accept the recommended care Respondents have offered to provide, instead opting for his significant other to provide any assistance he needs. The relief Claimant seeks in this appeal is “payment for the care she is providing.” (R. p. 54). Claimant has had, and continues to

have, an adequate remedy in terms of what Respondents have offered him at their expense, yet he has refused to accept the same. If Claimant prevails on appeal after final judgment, he will presumably be reimbursed the expenses he seeks. As in *Brown*, “[n]othing suggests this case was prime for an unreasonably lengthy delay.” *Brown*, at 72. And Claimant’s case likewise may have already proceeded to a final judgment had he not filed this appeal. Although this system, as *Brown* recognized, may not be perfect, a delay until final judgment is entered is warranted because Claimant has an existing remedy (attendant care he has been offered by Respondents, but refused) and finding the exception applies “would just be another way of turning the final judgment rule completely on its head.” *Id.* at 73.

Accordingly, Respondents respectfully submit that Claimant’s appeal should be dismissed pursuant to this Court’s opinion in *Brown*.

s/ Curtis L. Ott  
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September 2, 2025

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**SC Court of Appeals**

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**PROOF OF SERVICE**

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Pursuant to Rule 262(c)(3), SCACR and Section (d)(1) of the South Carolina's Supreme Court's August 25, 2021 order (Order No. 2021-08-25-02), undersigned counsel hereby certifies that a true copy of the Memorandum of Respondents has been served upon all counsel of record, at the primary e-mail addresses listed in the Attorney Information System (AIS), this 2<sup>nd</sup> day of September, 2025:

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**Subject:** 2024-000294 - Hector Lopez-Vasquez, Claimant, Appellant, v. Ox Paper Tube & Core Carolina, LLC, Employer, and Berkshire Hathaway Homestate Insurance, Carrier, Respondents  
**Date:** Tuesday, September 2, 2025 4:47:19 PM  
**Attachments:** [2024-000294 Proof of Service - Memorandum of Respondents.pdf](#)  
[2024-000294 Memorandum of Respondents.pdf](#)

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Good Afternoon,

Please find served upon you, the Memorandum of Respondents in response to the Court's letter dated August 22, 2025 in this matter. The Memorandum will be submitted to the Court of Appeals of South Carolina momentarily and will include a copy of this email with the Proof of Service attached here as well.

Thank you,  
Susan



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