RECEIVED
Sep 02 2025
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM
South Carolina Workers' Compensation Commission
Appellate Panel

Appellate Case No. 2024-000294

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

v.

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

APPELLANT'S MEMORANDUM ON APPEALABILITY

Andrew W. Creech
Elrod Pope Law Firm
212 E. Black Street
Rock Hill, SC 29732
(803) 324-7574
Acreech@elrodpope.com

Jordan C. Calloway
McGowan, Hood, Felder & Phillips, LLC
1539 Health Care Drive
Rock Hill, SC 29732
(803) 327-7800
jcalloway@mcgowanhood.com

Attorneys for Appellant

TABLE OF CONTENTS

Table of Authorities ………………………………………………………………. ii

Argument

1. The challenged order is a "final decision" because it fully disposed of Hector's claim for family member attendant care services……………….. 2

2. Delaying Hector's challenge to the Commission's attendant care services ruling would not provide him an adequate remedy………………………... 7

Conclusion………………………………………………………………………. 12

TABLE OF AUTHORITIES

South Carolina cases

Bone v. U.S. Food Service,
404 S.C. 67, 744 S.E.2d 552 (2013)……………………………………….. 3-5

Brown v. Southeastern Services, H.H.I., LLC,
446 S.C. 105, 917 S.E.2d 925 (Ct. App. 2025)…………………………….. 1-3, 6-8

Charlotte-Mecklenburg Hospital Authority v. South Carolina Department of Health & Environmental Control,
387 S.C. 265, 692 S.E.2d 894 (2010)……………………………………… 3-5

Ex parte South Carolina Property & Casualty Insurance,
411 S.C. 501, 768 S.E.2d 670 (Ct. App. 2015)…………………………….. 3

Good v. Hartford Accident & Indemnity Co.,
201 S.C. 32, 21 S.E.2d 209 (1942)…………………………………………. 3-5

Hilton v. Flakeboard America Ltd.,
418 S.C. 245, 791 S.E.2d 719 (2016)……………………………………… 8

Island Packet v. Kittrell,
365 S.C. 332, 617 S.E.2d 730 (2005)………………………………………. 8

Kirk v. Clark,
191 S.C. 205, 4 S.E.2d 13 (1939)………………………………………….. 8

Kirkpatrick v. Atkinson,
4 S.C. 126, 1873 WL 4821 (1873)………………………………………… 4

Lee v. Bondex, Inc.,
406 S.C. 97, 749 S.E.2d 155 (Ct. App. 2013)……………………………… 5

Lewis v. L.B. Dynasty,
411 S.C. 637, 770 S.E.2d 393 (2015)………………………………………. 11

NationsBank of North Carolina, N.A. v. Parsons,
324 S.C. 506, 477 S.E.2d 735 (Ct. App. 1996)…………………………….. 5

Peek v. Spartanburg Regional Healthcare System,
367 S.C. 450, 626 S.E.2d 34 (Ct. App. 2005)……………………………... 7, 9

Price v. Peachtree Electric Services, Inc.,
405 S.C. 455, 748 S.E.2d 229 (2013)……………………………………… 4

Rose v. JJS Trucking,
411 S.C. 366, 768 S.E.2d 412 (Ct. App. 2015)……………………………. 3, 4, 8

Russell v. Wal-Mart Stores, Inc.,
426 S.C. 281, 826 S.E.2d 863 (2019)……………………………………… 2, 8

Simpson v. Downs,
5 Rich. Eq. 421 (S.C. 1853)………………………………………………... 4

Other Jurisdictions

Adams v. Adams,
147 A.2d 568 (N.J. Super. App. Div. 1959)………………………………... 5

Beltran v. Meyers,
677 F.2d 1317 (9th Cir. 1982)……………………………………………… 10

Chalk v. U.S. District Court for the Central District of California,
840 F.2d 701 (9th Cir. 1988)……………………………………………….. 10

Cox v. Worker's Compensation Board of Indiana,
675 N.E.2d 1053 (Ind. 1996)……………………………………………….. 11

Doe v. Georgia Department of Corrections,
730 F. Supp. 3d 1327 (N.D. Ga. 2024)…………………………………….. 10

Freeman v. White Way Sign & Maintenance Co.,
403 N.E.2d 495 (Ill. App. 1st Dist. 1980)………………………………….. 6

Guthrie v. Blakely,
125 N.E.2d 437 (Ind. 1955)………………………………………………… 5

Harris v. Bd. of Supervisors,
366 F.3d 754 (9th Cir. 2004)……………………………………………….. 10

Mountain Valley Pipeline, LLC v. 6.56 Acres of Land,
915 F.3d 197 (4th Cir. 2019)……………………………………………….. 9

M.R. v. Dreyfus,
697 F.3d 706 (9th Cir. 2012)………………………………………………... 10

N.C. State Highway Commission v. Nuckles,
155 S.E.2d 772 (N.C. 1967)………………………………………………… 5

Planned Parenthood South Atlantic v. Baker,
941 F.3d 687 (4th Cir. 2019)………………………………………………… 10

Rhoads v. Savannah River Nuclear Solutions, LLC,
574 F. Supp. 3d 322 (D.S.C. 2021)……………………………………….. 9

Rice v. Burnley,
596 N.E.2d 105 (Ill. App. 1st Div. 1992)…………………………………. 6

Schal Bovis, Inc. v. Casualty Insurance Co.,
732 N.E.2d 1082 (Ill. App. 1st Div. 1999)………………………………… 6

Seaney v. Ayres,
151 N.E.2d 295 (Ind. 1958)…………………………………………………... 5

Stuller, Inc. v. Steak N Shake Enterprises,
695 F.3d 676 (7th Cir. 2012)………………………………………………. 9

Statutes

S.C. Code Ann. § 1-23-380………………………………………………………. 2, 3, 7-9, 12

S.C. Code Ann. § 1-23-390……………………………………………………… 3

S.C. Code Ann. § 42-15-60……………………………………………………… 1, 5, 6

Court Rule

Rule 201(a), SCACR……………………………………………………………… 3

Secondary Sources

2 Am. Jur. *Appeal and Error*, § 22 (1936)………………………………………….. 4, 5

4 Am. Jur. 2d Appeal and Error § 53 (1962)………………………………………… 5

4 C.J.S., *Appeal and Error*, § 94, p. 251 (1957)…………………………………….. 5

PROCEDURAL HISTORY

Appellant Hector Lopez-Vasquez noticed this appeal on March 4, 2024, challenging the order of Workers' Compensation Commissioner T. Scott Beck filed on May 23, 2023 (R. pp. 1-28), that was affirmed by the Commission's appellate panel on February 5, 2024. (R. pp. 29-52). These rulings held that the South Carolina Workers' Compensation Law did not require Respondent Ox Paper Tube & Core Carolina, LLC ("Employer") to pay for attendant care services provided by anyone other than a certified nursing professional. The parties' final briefs to this Court were filed in December 2024-January 2025, and Employer has never argued an immediate appeal is improper in this case. The appeal was placed on the preliminary list for the September and October oral argument sessions. On August 22, 2025, the Court notified the parties of its concern that, based on a recent ruling, the orders in question might not be appealable. Ltr. from Ct. App. Clerk, dated Aug. 22, 2025 (citing Brown v. Se. Servs., H.H.I., LLC, 446 S.C. 105, 917 S.E.2d 925 (Ct. App. 2025)).[1] The letter ordered the parties to submit a memorandum addressing the appealability issue.

ARGUMENT

Since the day Hector Lopez-Vasquez suffered brain damage in an on-the-job accident, he has been unable to fully care for his daily needs. His partner, Julianna Roldan-Dimas, immediately stepped up to provide these attendant care services in a way no nurse or home health aide ever could. She has Hector's full trust to perform even the most personal of tasks, she speaks his native language, and she is exactly what Hector's doctor says he needs. The Commission and its appellate panel interpreted the governing statute (S.C. Code Ann. § 42-15-60) to state Employer need not

[1] A cert petition was filed in Brown on July 28, 2025, and remains under consideration by the South Carolina Supreme Court.

compensate Ms. Roldan-Dimas for these services. This appeal flows from the parties' dispute over that interpretation, but there should be little doubt the Commission's decision on the matter is final. The Commission framed its ruling not as a matter of alterable facts but of immutable statutory interpretation (R. p. 24 ¶ 13; R. p. 39 ¶ 13), and addressing this matter was the sole purpose of the proceeding now under appeal. (R. p. 4 ¶ 2). Additionally, it is little solace and no adequate remedy to offer Hector a later appeal because, practically speaking, what is at stake here is not just whether Hector will get paid later, it is whether he will have access to the care he needs now.

1. The challenged order is a "final decision" because it fully disposed of Hector's claim for family member attendant care services.

This appeal requires the Court to determine what exactly renders a workers' compensation order a "final decision." The foundational cases on which South Carolina courts' modern understanding of finality is built extends that designation not just to the very last act in the case but also to earlier rulings fully disposing of a distinct portion of the matter. The order Hector challenges fits comfortably within that group because the availability of compensation for attendant care services is a distinct branch of his legal action fully terminated by the Commission's reading of the governing statute.

Presenting a viable appellate issue to this Court works different for workers' compensation actions than for cases initiated in circuit court. The adjudication of a workers' compensation matter is governed by South Carolina's Administrative Procedures Act, which has its own provision identifying appealable orders. Russell v. Wal-Mart Stores, Inc., 426 S.C. 281, 286, 826 S.E.2d 863, 865 (2019). The Commission's ruling generally must rise to the level of a "final decision." S.C. Code Ann. § 1-23-380. That term has no statutory definition, but there is a rich body of precedent addressing more generally the concept of finality.

Since it is referenced in the Court's letter, the analysis can begin with Brown, a case that was not decided on finality but provided as dicta a summary of the historical view on the characteristics of a "final" order. 446 S.C. at 111, 917 S.E.2d at 928 (noting parties conceded order in question was not final).[2] Surveying four precedents, Brown suggested "final decision" is limited to an order that "marks the end of the road for the case." Id. However, precedent does not define finality in quite so narrow terms. In fact, all of the appellate court opinions in this area derive their understanding of finality from a common source which defines finality to include more than just the last act in a case.

Brown's summary focuses most heavily on the South Carolina Supreme Court's description of a "final judgment" as a ruling that "disposes of the whole subject matter of the action" and "leaves nothing to be done" but execution of the stated judgment. 446 S.C. at 110, 917 S.E.2d at 928 (quoting Charlotte-Mecklenburg Hosp. Auth. v. S.C. Dep't of Health & Env't Control, 387 S.C. 265, 267, 692 S.E.2d 894, 895 (2010)). As Brown notes, the Charlotte-Mecklenburg description was a portion of the definition of "final judgment" stated in the Supreme Court's decades-old ruling in Good v. Hartford Accident & Indemnity Co., 201 S.C. 32, 21 S.E.2d 209 (1942). Brown then cited two of this Court's precedents, both of which were offered for the notion that final judgment equals an order that resolves an entire action. 446 S.C. at 111, 917 S.E.2d at 928 (citing Ex parte S.C. Prop. & Cas. Ins. Guar. Ass'n, 411 S.C. 501, 504, 768 S.E.2d 670, 672 (Ct. App. 2015) and Rose v. JJS Trucking, 411 S.C. 366, 368 S.E.2d 768 S.E.2d 412, 413

[2] Brown seems to equate a "final decision" with a "final judgment." 446 S.C. at 105, 917 S.E.2d at 928. However, the APA distinguishes the two. Compare S.C. Code Ann. § 1-23-380 with § 1-23-390. Rule 201(a), SCACR, likewise lists "final judgment" and "decision" as distinct categories of appealable orders. This case can be resolved without deciding whether "final decision" should carry a broader meaning, but the textual distinction underscores why categorical statutory rulings such as the one at issue here should be treated as "final decisions" under Section 1-23-380.

(Ct. App. 2015)). These cases also eventually trace back to Good. Ex parte S.C. Property takes its finality discussion from Charlotte-Mecklenburg and Bone v. U.S. Food Service, 404 S.C. 67, 73, 744 S.E.2d 552, 556 (2013), another case that reaches back to Good. Ex parte S.C. Prop., 411 S.C. at 504, 768 S.E.2d at 672; Bone, 404 S.C. at 75, 744 S.E.2d at 557 (quoting Good). Rose similarly derives its "final judgment" discussion from Bone and Charlotte-Mecklenburg—i.e. the Supreme Court precedents that look back to Good. 411 S.C. at 368, 768 S.E.2d at 413.[3] Thus, it seems whenever South Carolina's appellate courts discuss finality, all roads lead back to Good.

As the foundational ruling on finality, Good provided this robust definition of "final judgment":

> A judgment, order, or decree, to be final for purposes of an appeal or error, must dispose of the cause, ***or a distinct branch thereof***, as to all the parties, reserving no further questions or directions for future determination. It must finally dispose of the whole subject-matter or be a termination of the particular proceedings or action, leaving nothing to be done but to enforce by execution what has been determined . . .

201 S.C. 32, 21 S.E.2d 209 (quoting 2 Am. Jur. 860 § 22) (emphasis added). Good does not confine "final judgment" to a case's last filing or even to an order addressing every one of the case's disputes. The order must always be dispositive but it need only address a "distinct branch" of the case.

Good's "distinct branch" language is neither a passing reference nor a relic of history. The South Carolina Supreme Court has been using this conception of finality since the antebellum era. Simpson v. Downs, 5 Rich. Eq. 421 (S.C. 1853) (finding appeal is proper "[w]here there is a final decree as to any one of the parties, or any distinct branch of litigation, so that nothing remains to be adjudged as to that part, or that branch of the litigation"); see also Kirkpatrick v. Atkinson, 4

[3] Rose also cites Price v. Peachtree Electric Services, Inc., 405 S.C. 455, 457, 748 S.E.2d 229, 230 (2013), but Price traces its reasoning back to Bone.

S.C. 126, 1873 WL 4821, at * 5 (1873) (citing Simpson and concluding appeal would be proper "[i]f there was a final decree as to the distinct branch of litigation now before the Court"). And, while portions of the Good definition have sometimes been omitted, it remains part of our courts' understanding of finality in modern times. NationsBank of N.C., N.A. v. Parsons, 324 S.C. 506, 513, 477 S.E.2d 735, 738 (Ct. App. 1996) (quoting the Good definition in full). In fact, even after Charlotte-Mecklenburg and Bone, this Court has heard an appeal of a workers' compensation orders addressing some but not all of the remedies a claimant seeks. Lee v. Bondex, Inc., 406 S.C. 97, 749 S.E.2d 155 (Ct. App. 2013) (ruling on merits of temporary total disability benefits for claimant's left-sided injuries even though Commission held in abeyance any ruling on injuries on the claimant's right side).[4]

Accordingly, the order Hector challenges here is "final" so long as it disposed of a "distinct branch" of the case he brought before the Commission. The Commission's order is dispositive in nature. Commissioner Beck definitively ruled section 42-15-60 does not permit payments for family attendant care services and, as a result, Employer had no duty to pay for Ms. Roldan-Dimas to assist Hector. (R. p. 23 ¶ 8; R. p. 38 ¶ 8). The order also shows this ruling left no lingering factual or legal questions on this part of Hector's workers' compensation case. Through this ruling, Commissioner Beck had met in full the only purpose for the hearing over which he had presided. (R. p. 4 ¶ 2).

---

[4] South Carolina is in good company as its neighbor and several other jurisdictions define "final judgment" to include the disposition of a "distinct branch" within a larger case. N.C. State Hwy. Comm'n v. Nuckles, 155 S.E.2d 772, 783 (N.C. 1967) (citing 4 Am. Jur. 2d Appeal and Error § 53 (1962) ("'[A] decision which disposes not of the whole but merely of a separate and distinct branch of the subject matter in litigation' is final in nature and is immediately appealable"); see also Adams v. Adams, 147 A.2d 568 (N.J. Super. App. Div. 1959) (citing 4 C.J.S., *Appeal and Error*, § 94, p. 251 (1957) and 2 Am. Jur. *Appeal and Error*, § 22, p. 860 (1936); Seaney v. Ayres, 151 N.E.2d 295 (Ind. 1958) (citing Guthrie v. Blakely, 125 N.E.2d 437 (Ind. 1955)).

The attendant care dispute also represents a "distinct branch" of the case. South Carolina courts have not specifically defined that term, but other courts have explained how distinctive a component of the case must be for a ruling on it to be considered a final judgment. A portion of the dispute represents its own distinct "branch" of the case "when the bases for recovery of the counts which are dismissed are different from those which are left standing." Rice v. Burnley, 596 N.E.2d 105, 107 (Ill. App. 1st Div. 1992); Schal Bovis, Inc. v. Casualty Ins. Co., 732 N.E.2d 1082, 1089 (Ill. App. 1st Div. 1999) (citing Rice). In other words, a dismissed claim is its own separate "branch" if it "arise[s] from different statutes or common law doctrines" than other relief sought in the same case. Rice, 596 N.E.2d at 107; see also Freeman v. White Way Sign & Maintenance Co., 403 N.E.2d 495 (Ill. App. 1st Dist. 1980) (finding order dismissing only a portion of a suit was immediately appealable because "the bases of recovery for separate counts are different" and "[t]he dismissed count quite clearly consisted of a cause of action distinct from the statutory basis for recovery" in the suit's other claims). Here, Hector's claim for family attendant care services has a statutory source (section 42-15-60(A)) distinct from any claim for compensation for permanent injuries determined after he reaches maximum medical improvement. (S.C. Code Ann. § 42-15-60(C)).

That makes this case different in kind from Brown. The order there awarded temporary disability payments and medical care while leaving open whether the claimant had reached maximum medical improvement and what permanent disability benefits might ultimately be owed. Brown, 446 S.C. at 109-11, 917 S.E.2d at 927-28. That sort of interim award is not a distinct branch but rather part of the continuum of compensability and benefit questions that remain to be decided at the end of a workers' compensation case. By contrast, the Commission's ruling here conclusively foreclosed a separate statutory entitlement: whether section 42-15-60 permits

compensation for family attendant care services. That issue was the sole matter presented at the hearing (R. p. 4 ¶ 2), the Commission's decision on it rested entirely on statutory interpretation (R. p. 24 ¶ 13; R. p. 39 ¶ 13), and the ruling left nothing further for the agency to decide on that claim. In short, Brown involved an interim step in a still-developing benefits calculation, while this appeal challenges a categorical statutory ruling that fully disposed of a discrete branch of Hector's case.

In sum, the Commission's order denying Hector's claim for compensation for Ms. Roldan-Dimas's attendant care services is properly before the Court. South Carolina law does not limit the key phrase "final decision" to a lower court's last act and instead recognizes the right to immediate appeal of an unfavorable order on a distinct branch of a case. The attendant care services claim here has a distinct statutory source from the other benefits Hector may seek and was definitively and decisively decided against him. He is entitled to consideration of the merits of his challenge to that order now rather than having to wait for the entire case to end.

2. Delaying Hector's challenge to the Commission's attendant care services ruling would not provide him an adequate remedy.

The Commission has issued its final ruling on the compensability of family member attendant care services. Yet, even if the order containing that ruling is not deemed a "final decision," Hector's appeal is still proper because the Commission's erroneous order denies access to the care needed to minimize his suffering and maximize his chances of recovery. What will be lost if this appeal is dismissed cannot be regained or compensated for in a later proceeding.

Section 1-23-380 allows immediate appeal of both final decisions and more "preliminary, procedural, or intermediate" rulings "if review of the final agency decision would not provide an adequate remedy." The precise confines of this "inadequate remedy" exception to the "final decision" rule are difficult to identify in general terms. In fact, this Court has suggested each potential application of the exception merits a case-by-case analysis because determining whether

an injury is irreparable and whether a proposed alternative remedy is adequate should not be decided "by narrow and artificial rules." Peek v. Spartanburg Reg'l Healthcare Sys., 367 S.C. 450, 455, 626 S.E.2d 34, 36 (Ct. App. 2005) (quoting Kirk v. Clark, 191 S.C. 205, 211, 4 S.E.2d 13, 16 (1939)).

Still, Brown noted some general principles courts should consider on irreparable injuries and adequate alternative remedies. For one, there are instances where the Commission's intermediate order creates "unreasonable delay" in the case reaching finality such that the length and unreasonableness of the delay themselves render the prospect of later redress inadequate. Brown, 446 S.C. at 113, 917 S.E.2d at 929 (citing Russell, 426 S.C. at 287, 826 S.E.2d at 866 and Hilton v. Flakeboard Am. Ltd., 418 S.C. 245, 252, 791 S.E.2d 719, 723 (2016)). Second, it is rare that a delay in rectifying a mere financial loss will qualify for the inadequate remedy exception. Brown, 446 S.C. at 112, 917 S.E.2d at 929 (rejecting interpretation of exception that would allow immediate review of "every order addressing compensability and awarding temporary benefits or medical treatment"); see also Rose, 411 S.C. at 369, 768 S.E.2d 412 (Ct. App. 2015) (reaffirming that the inadequate remedy exception does not apply to cases where the only consequence of waiting until final judgment is to "delay the payment of money").

There is a third general principle Brown's facts did not require it to discuss but that is hugely important here. Section 1-23-380's irreparable injury exception should apply in instances where each day an interim erroneous order remains in effect imposes a continued, inalterable nonmonetary loss. Island Packet v. Kittrell, 365 S.C. 332, 617 S.E.2d 730 (2005). In Island Packet, a physician challenged a state medical board decision suspending the physician for substance abuse. Id. at 335, 617 S.E.2d at 731. The Supreme Court described a scenario where section 1-23-380 would have permitted an immediate appeal of the decision. The board posted its disciplinary

order on its website but took the order down a day later. Id. at 339, 617 S.E.2d at 733. Had the board not taken down the order, the physician would have a basis for an immediate appeal. Id. In that scenario, the physician suffers a loss that is continuous (i.e. sustained anew every day the order is available for public view), not strictly monetary in nature (i.e. harm to his reputation and professional standing), and that could not be erased later with a ruling requiring the order's removal.

This application of section 1-23-380's exception to the final decision requirement is consistent with how irreparable injury is defined in other contexts. When courts consider a temporary restraining order, injunction, or some other forms of equitable relief, an injury is irreparable if it cannot "remedied at a later time with money damages." Rhoads v. Savannah River Nuclear Solutions, LLC, 574 F. Supp. 3d 322, 335 (D.S.C. 2021); Mountain Valley Pipeline, LLC v. 6.56 Acres of Land, 915 F.3d 197, 216 (4th Cir. 2019) (quoting Stuller, Inc. v. Steak N Shake Enters., 695 F.3d 676, 680 (7th Cir. 2012) (defining "irreparable" to mean harm "cannot be fully rectified by the final judgment after trial"). In Peek, the physician plaintiff met this requirement by showing a hospital's decision to revoke her privileges effectively meant she could no longer practice her chosen specialty. 367 S.C. at 455, 626 S.E.2d at 37. As an anesthesiologist, the plaintiff could only work by entering facilities with operating rooms. She had an established patient base and relationship with surgeons who performed procedures using the hospital's facilities. Id. Thus, the South Carolina Supreme Court held the injury imposed by revoking privileges was irreparable because it denied the anesthesiologist not payment for money she was owed, but *access* to a space where she claimed a legal right to practice. Id.

Denial of access to a right or benefit is the paradigmatic example of irreparable injury, especially when applied to a sick person's loss of access to health care services. No amount of

later compensation can make up for the physical discomfort and foregone medical improvement an injured party suffers while waiting around for a case to end so that he can appeal an erroneous interim order. See Doe v. Ga. Dep't of Corr., 730 F. Supp. 3d 1327, 1349-50 (N.D. Ga. 2024) (citing Chalk v. U.S. Dist. Ct. Cent. Dist. of Cal., 840 F.2d 701, 710 (9th Cir. 1988) (ruling that the "emotional and psychological" injury from denial of needed medical care "cannot be adequately compensated for by a monetary award after trial")). The Fourth Circuit Court of Appeals has held irreparable harm arises from the "[d]enial of [a plaintiff's] statutory right to select a qualified provider" for health care services. Planned Parenthood S. Atl. v. Baker, 941 F.3d 687, 707 (4th Cir. 2019). This is so, the Court held, because what the plaintiff has really suffered in this scenario is "diminished access to high-quality health care suited to the individual plaintiff's needs." Id. Accordingly, a claim that the defendant's unlawful action denied a chronically ill person receipt of crucial in-home assistance with daily tasks easily qualifies as a showing of irreparable injury. M.R. v. Dreyfus, 697 F.3d 706, 729 (9th Cir. 2012); see also Harris v. Bd. of Supervisors, 366 F.3d 754, 766 (9th Cir. 2004) (pain, medical complications, and other negative outcomes for hospital patients due to delayed treatment are irreparable harm); Beltran v. Meyers, 677 F.2d 1317, 1322 (9th Cir. 1982) ("Plaintiffs have shown a risk of irreparable injury, since enforcement of [challenged] rule make deny them needed medical care").

Hector can show irreparable injury because the Commission's order effectively denies him access to the attendant care services his work-related accident requires. The accident caused a traumatic brain injury that, despite some improvement, still limits Hector's ability to carry out many personal care tasks. His treating physician (Dr. Sima Desai) testified that Ms. Roldan-Dimas "is the most appropriate caregiver" for Hector because she already performs all his activities of daily living and mobility assistance, and because the bond between loved ones is critical to

recovery for brain-injury patients (R. p. 18 ¶ 10; R. p. 19 ¶ 12). Dr. Desai did not make a referral for professional outside care because Ms. Roldan-Dimas was already meeting this need. (R. p. 20 ¶ 16).

The family members who own the home where Hector resides testified unequivocally that non-family caregivers will not be permitted to work there. Andrea Angeles-Roldan, who owns the house, will not allow outside caregivers in. (R. p. 13-15; R. p. 88). Andrea and her husband opposed strangers moving in because of fear for their daughters' safety, explaining Andrea was a survivor of childhood sexual abuse and therefore will not allow unknown men or women near her children (R. pp. 108-09). She added that even brief nurse visits "disrupted the normal family atmosphere." (R. pp. 109-10). On this record, Employer-paid nurses are not a realistic option.

Employer may argue Hector could still receive Employer's preferred care if he found another place to live, but that is not a viable alternative. Hector cannot work because of his brain injury and lives with extended family precisely because of his limited means (R. p. 80). To suggest he uproot himself, secure housing he cannot afford, and abandon the only family support network that has helped him emerge from depression (R. pp. 107-08) is to effectively deny care. As Dr. Desai emphasized, family caregiving is central to his rehabilitation. South Carolina's Workers' Compensation Law intends to provide injured employees access to medically necessary treatment, not a theoretical choice that exists only if the employee incurs financial ruin and family separation. It does not serve the workers' compensation system's core objectives to interpret the appealability statute in a manner that worsens an injured employee's prospects for physical recovery. Lewis v. L.B. Dynasty, 411 S.C. 637, 641, 770 S.E.2d 393, 395 (2015) (holding that the South Carolina Workers' Compensation Law should be construed liberally to "further the beneficent purpose" underlying its provisions); see also Cox v. Worker's Comp. Bd. of Ind., 675 N.E.2d 1053, 1058

(Ind. 1996) (finding non-final workers' compensation order immediately appealable because "[t]he lack of access to medical treatment may slow or even prevent the employee's ability to achieve full recovery and return to work").

In sum, what the Commission's erroneous ruling costs Hector is not just payment for the care he needs but, for all practical purposes, *access* to that care in the first place. Hector's current condition and future prospects continue to worsen and no amount of money awarded later can recapture the emotional, mental, and physical progress he is losing without the attendant care services he needs. Under these circumstances, delaying resolution of this appellate issue is not an adequate remedy, and this court has jurisdiction under section 1-23-380 to consider Hector's appeal on the merits.

CONCLUSION

Based on the arguments above, Hector respectfully requests the Court find the Commission's order and appellate board ruling are immediately appealable. Those rulings finally resolve a distinct branch of this case by ruling as a matter of law the attendant care statute cannot cover the services Ms. Roldan-Dimas provides. Alternatively, the challenged ruling qualifies for section 1-23-380's irreparable injury exception because denying Hector access to the best available attendant care services will make his physical condition less ideal and his future prospects less bright every day until the Commission's erroneous order is corrected. Accordingly, the Court should find the order is immediately appealable and continue on to the merits of the appeal.

Respectfully submitted,

/s/ Jordan C. Calloway

Andrew W. Creech
Elrod Pope Law Firm
212 E. Black Street
Rock Hill, SC 29732
(803) 324-7574
Acreech@elrodpope.com

Jordan C. Calloway
McGowan, Hood, Felder & Phillips, LLC
1539 Health Care Drive
Rock Hill, SC 29732
(803) 327-7800
jcalloway@mcgowanhood.com

Attorneys for Appellant

Rock Hill, SC
September 2, 2025

RECEIVED
Sep 02 2025
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM
South Carolina Workers' Compensation Commission
Appellate Panel

Appellate Case No. 2024-000294

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

v.

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

CERTIFICATE OF SERVICE

The undersigned hereby certifies that, on September 2, 2025, he served Respondents' counsel with the Appellant's Memorandum on Appealability at the email address listed below 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):

aedmonds@gwblawfirm.com
cott@gwblawfirm.com

/s/ Jordan C. Calloway
Attorney for Appellant

Outlook

H. Lopez-Vasquez v. Ox Paper Tube & Core Carolina LLC et al. (Appellate Case No. 2024-000294)

From Jordan Calloway <jordan@mcgowanhood.com>
Date Tue 9/2/2025 5:20 PM
To Curtis Ott <cott@gwblawfirm.com>; Amity Edmonds <aedmonds@gwblawfirm.com>
Cc Andrew Creech <acreech@elrodpope.com>

1 attachment (165 KB)
H. Lopez-Vasquez--Supp Mem on Appealability FINAL PDF.pdf;

Counsel:

I am attaching Appellant's Memorandum on Appealability that will be filed today with the Court of Appeals. Please consider this email as service for the memorandum.

Thanks,

Jordan Calloway
McGowan, Hood, Felder & Phillips, LLC
1539 Health Care Drive
Rock Hill, SC 29732
(803) 327-7800