

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
APPELLATE PANEL
Commissioner McCaskill, Chair

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NOV 07 2013

SC Court of Appeals

70313

S.C.W.C.C. Case No.: 1212495

John Stevenson, Employer,.....Respondent.

v.

Marathon Abrasive, Inc., Employer, and Praetorian Insurance Company,
Carrier.....Appellants.

NOTICE OF APPEAL

Marathon Abrasive, Inc. and Praetorian Insurance Company appeal the Order of the Appellate Panel of the Worker's Compensation Commission dated October 8, 2013. Appellants received written notice of entry of this order on October 8, 2013.

November 7, 2013



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Attorneys for Appellants

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Rock Hill, SC 29731
Attorney for the Respondent

GROUND FOR APPEAL

1. Did the Appellate Panel of the full Commission err as a matter of law in finding that Claimant provided sufficient notice under §42-15-20 by notifying the Defense Counsel representing the Employer on a separate workers compensation claim, such error being that Defense Counsel did not have authority and was not retained to receive notice of new claims on behalf of Employer? (Finding of Fact No. 3; Conclusion of Law No. 6)
2. Did the Appellate Panel of the full Commission err as a matter of law in finding that Defense counsel was an agent of the employer for purposes of notice under §42-15-20, such error being that Defense Counsel's scope of representation of Employer did not extend beyond the confines of the prior claim and accepting notice of new claims would violate the scope of representation and Rules of Professional Conduct? (Finding of Fact No. 3; Conclusion of Law No. 6)
3. Did the Appellate Panel of the full Commission err in finding as an issue of fact, and/or concluding as a matter of law that the Claimant sustained an injury by accident due to repetitive trauma, the error being that such findings and/or conclusions were unsupported by the evidence and clearly erroneous in light of the relevant and probative evidence in the record? (Finding of Fact No's. 1, 2; Conclusion of Law No's. 4, 5)
4. Did the Appellate Panel of the full Commission err in finding as an issue of fact, and/or concluding as a matter of law that, if the Claimant failed to provide proper notice under §42-15-20, such failure was excused by the reasonable excuse provision; the error being that the issue of reasonable excuse was not preserved for Appellate Review? (Finding of Fact No. 4; Conclusion of Law No. 6)
5. Did the Appellate Panel of the full Commission err in finding as an issue of fact, and/or concluding as a matter of law that, if the Claimant failed to provide proper notice under §42-15-20, such failure was excused by the reasonable excuse provision; the error being that this finding was improper and Defendants were not provided adequate opportunity to respond with evidence of prejudice which ensued from the untimely notice where the issue of reasonable excuse was not before the Appellate Panel? (Finding of Fact No. 4; Conclusion of Law No. 6)
6. Did the Appellate Panel of the full Commission err in finding as an issue of fact, and/or concluding as a matter of law that, if the Claimant failed to provide proper notice under §42-15-20, such failure was excused by the reasonable excuse provision; the error being that the Commission's finding of lack of prejudice was conclusory with no evidentiary support and that the Employer was prejudiced by Claimant's failure to timely report an alleged injury? (Finding of Fact No. 4; Conclusion of Law No. 6)

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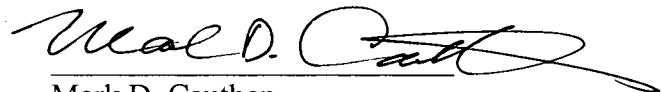
PROOF OF SERVICE

I certify that I have served the **Notice of Appeal** on the attorney of record for **John Stevenson** as well as the South Carolina Workers' Compensation Commission by depositing a copy of it in the United States Mail, postage prepaid, on **November 7, 2013**, addressed as follows:

Andrew W. Creech, Esquire
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Rock Hill, SC 29731
Attorney for the Respondent

South Carolina Workers' Compensation Commission
Attn: Judicial Director Virginia Crocker
P.O. Box 1715
Columbia, SC 29202-1715

November 7, 2013



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Richard E. Marsh, III
Meghan H. Hall

November 7, 2013

Via Hand Delivery

The Honorable Tanya A. Gee
Clerk, South Carolina Court of Appeals
1015 Sumter Street
Columbia, SC 29201

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SC Court of Appeals

RE: WCC File No. 1212495
John Stevenson v. Marathon Abrasive Inc., Employer & Praetorian Insurance
Company, Carrier

Dear Ms. Gee:

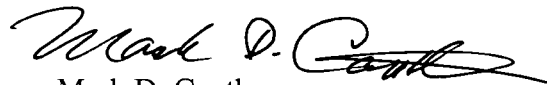
Please be advised this firm represents Marathon Abrasive Inc., Employer and Praetorian Insurance Company, Carrier in the above entitled workers' compensation appeal. Enclosed for filing is the original and one copy of a Notice of Appeal in the above case. Also enclosed are the following:

- (1) Grounds for Appeal;
- (2) A copy of the Order issued by the Appellate Panel of the South Carolina Workers' Compensation Commission dated October 8, 2013 which is to be challenged on appeal;
- (3) Proof of Service of the Notice of Appeal on the Respondents and on the South Carolina Workers' Compensation Commission;
- (4) A check in the amount of \$100.00 for the filing fee.

I would appreciate your returning a clocked copy of the Notice of Appeal to our courier.

I am by copy of this letter serving the Respondents and the South Carolina Workers' Compensation Commission with the Notice of Appeal.

Very truly yours,


Mark D. Cauthen

Cc: Andrew W. Creech, Esquire
South Carolina Workers' Compensation Commission
Paula Dyches