

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM SOUTH CAROLINA  
Workers' Compensation Commission

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Appellate Case No. 2024-001975

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**RECEIVED**

**Oct 20 2025**

**SC Court of Appeals**

Troy Hinson, Claimant, .....Appellant,

v.

Merrill Gardens, LLC, Employer, and  
Church Mutual Insurance Company, Carrier, .....Respondents.

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**RETURN TO PETITION FOR REHEARING**

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*Attorneys for Respondents Merrill Gardens,  
LLC and Church Mutual Insurance Company*

Pursuant to the Court’s direction as stated in its October 13, 2025 letter, Respondents Merrill Gardens, LLC and Church Mutual Insurance Company (collectively “Respondents”) provide the following Return to the Petition for Rehearing filed by Appellant, Troy Hinson (“Appellant”). Respondents respectfully request that the Court deny the Petition for Rehearing.

### ARGUMENT

Appellant repeatedly expressed befuddlement, in light of this Court’s September 24, 2025 dismissal of his appeal, as to how and when he could appeal the unanimous decisions of the single commissioner and the full commission that he is not entitled to temporary total disability (“TTD”) benefits after he was terminated for cause by Merrill Gardens, LLC. Yet, he repeatedly answers his own questions. As Appellant acknowledges multiple times, until there is a final determination on his alleged permanent disability, an appeal, including an appeal of the denial of his TTD benefits, is interlocutory. Thus, the objections Appellant raises to this Court’s dismissal of his appeal are illusory at best.

Appellant argues that his failure to appeal a denial of TTD benefits would render his lack of entitlement to TTD benefits the “law of the case.” However, the law of the case doctrine would not be applicable, as the denial of Appellant’s temporary total disability benefits would not become law of the case unless this Court affirmed the denial by the Commission. *See Lifschultz Fast Freight, Inc. v. Hanysworth, Marion, McKay & Guerard*, 334 S.C. 244, 245, 513 S.E.2d 96, 96-97 (1999) (emphasis added) (the doctrine of the law of the case “applies only to subsequent proceedings in the same litigation **following an appellate decision.**”); *Ross v. Med. Univ. of S.C.*, 328 S.C. 51, 62, 492 S.E.2d 62, 68 (1997) (emphasis added) (“[t]he doctrine of the law of the case prohibits issues [that] **have been decided in an prior appeal** from being relitigated in the trial court in the same case.”). Put simply, the law of the case doctrine would

not preclude Appellant from appealing, at the appropriate time, the determination by the South Carolina Workers' Compensation Commission (the "Commission") that he was not entitled to TTD benefits.

Appellant also argues he would have no ability to appeal a denial of TTD benefits if he were satisfied with a determination as to his permanent disability. This argument ignores the fundamentals of appellate practice. At the conclusion of the matter – once Appellant receives a determination of his permanent disability – there would be a final decision and he could appeal any prior order about which he disagreed. In fact, whether or not he was satisfied with the final determination by the Commission would be irrelevant. Appellant would be required to specify each and every order by the Commission he was appealing. *See* SCAR 203(d). Put simply, Appellant would not have to be dissatisfied with the ultimate determination by the Commission to appeal one of its earlier decisions.

Appellant further argues that it is not fair to make an employee wait to appeal. Appellant acknowledges this Court's determination that an award concerning temporary benefits is not immediately appealable. *See Brown v. Se. Servs., HHI, LLC*, 917 S.E.2d 925 (Ct. App. 2025) (“[b]ecause the commission's order is neither a final decision nor is it the type of interlocutory order that has to be reviewed immediately to ensure adequate appellate review, we dismiss this case as not immediately appealable.”). However, Appellant argues that because *Brown* dealt with a decision adverse to the employer or insurance carrier, it should not apply to him as an employee. There is no basis in South Carolina appellate jurisprudence that lays out one set of rules for employers and insurers and another for the employee.

In fact, Appellant's argument that it is uniquely unfair to an employee rings hollow. Even if he were correct that an employer or insurance carrier could financially weather an

adverse decision on an award concerning TTD benefits better than an employee, as he notes, a successful appeal on such an adverse ruling would leave an employer or insurance carrier with only the remedy of trying to recoup money from the employee, who, in Appellant's telling, has nothing from which an employer could recover. Whereas, an employee who, at the proper time, successfully appeals an adverse award on TTD benefits would be more likely to recover from the employer or insurance carrier. Put simply, any unfairness is mutual and irrelevant. As Appellant notes, it is not a perfect system, but there is no basis to make one set of appellate rules for employers and another for employees.

Appellant also suggests his financial condition means he has no adequate remedy and his interlocutory appeal should be immediately considered. This argument ignores that South Carolina Courts have made it clear, immediate appeals of interlocutory orders are rare. *See Hilton v. Flakeboard Am. Ltd.*, 418 S.C. 245, 252, 791 S.E.2d 719, 723 (2016) *quoting State v. Lytchfiled*, 230 S.C. 405, 409, 95 S.E.2d 857, 859 (1957) (“circumstances...that will permit the immediate appeal of an interlocutory administrative decision under section 1-23-380(A) ‘are about as rare as the proverbial hens’ teeth.”). If adverse financial impacts were sufficient to allow an interlocutory appeal to be immediately considered, virtually all interlocutory appeals would be immediately appealable. One side or the other could always state that allowing the case to proceed to a final determination would be financially detrimental.

Additionally, Appellant argues workers compensation law is unique and cannot be evaluated like civil litigation cases because workers compensation cases involve multiple hearings and decisions.<sup>1</sup> Respectfully, many civil litigation cases involve multiple hearings and multiple decisions. Regardless, Appellant asserts it would be “an absurd result” if the losing

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<sup>1</sup> Appellant also argues the impact of this Court's decision on family law cases. It goes without saying that this case is not a family law case and such arguments are irrelevant.

party were not able to appeal to this Court whether an accident was work-related, followed by appeals to this Court over adverse decisions concerning medical treatment, followed by appeals to this Court over adverse decisions concerning temporary compensation, followed by the final appeal over a determination of permanent disability. *See* Petition for Rehearing at p 6. Again, respectfully, Appellant has it backwards. The absurdity exists when those issues are constantly and repeatedly appealed to this Court as opposed to being addressed once when there is a final decision. *See Brown*, 917 S.E.2d at 925 (if the order addressing an award of temporary benefits were immediately appealable, “every order addressing compensability and awarding temporary benefits or medical treatment would be immediately appealable. Review of intermediate orders would cease to be a rare exception.”).

Finally, Appellant argues he will be forced to try his case as any settlement would foreclose his ability to appeal the denial of his total temporary disability benefits. As an initial point, Appellant’s argument is incorrect. The parties to a settlement could certainly agree that an employee’s right to appeal a TTD benefit award was preserved. Regardless, even if the argument were factually correct, almost all claimants or litigants who are faced with an unappealable interlocutory order face the same problem. Most of the time those claimants or litigants must reach a final decision before they can appeal. Thus, they are faced with the choice of trying their case or reaching finality in some other fashion. In essence, Appellant argues that all orders, interlocutory or otherwise, should be immediately appealable, which has no support in South Carolina law.

### **CONCLUSION**

This Court was correct in denying Appellant’s appeal as not immediately appealable.

October 20, 2025

Respectfully submitted,

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**PROOF OF SERVICE**

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I certify that I have served the **Return to Petition for Rehearing** on Appellant by depositing a copy of it in the United States Mail, postage prepaid, on the \_\_\_ day of October 2025 addressed to their attorney of record,

Stephen B. Samuels  
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October 20, 2025

Respectfully submitted,

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