

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

70420

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APPEAL FROM  
THE WORKERS' COMPENSATION COMMISSION

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SCWCC Case No. 0716408

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 Mitzi A. Watson, ..... Appellant,

vs.

U.S. Food Service and Indemnity Ins.  
Co. of N.A. .... Respondents.

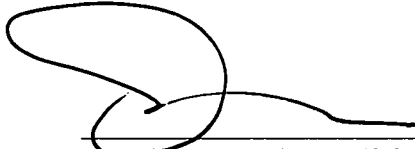
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**NOTICE OF APPEAL**

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Pursuant to S.C. Code Ann. § 42-17-60, Mitzi Watson appeals the Order of the S.C. Workers' Compensation Commission, filed October 13, 2013. Appellant received written notice of the entry of the original Order on October 13, 2013.

November 13, 2013



Donald E. Kamb, Jr. (SC Bar #16633)  
Kathryn Williams (SC Bar #6140)  
Kathryn Williams, P.A.  
P.O. Box 10693  
Greenville, S.C. 29603  
(864) 235-6254  
Attorney for Appellant

Other Counsel of Record:

Brad B. Easterling, Esq.  
Turner Padgett Graham & Laney, P.A.  
P.O. Box 1509  
Greenville, SC 29602  
(864) 552-4619  
Attorney for Respondent

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**SC Court of Appeals**

As S.C. Code Ann. § 42-17-60 provides that the “[n]otice of appeal must state the grounds of the appeal or the alleged errors of law,” the following is provided as an attachment to the Notice of Appeal:

1. The Commission erred in failing to make sufficient findings of fact and conclusions of law concerning its Order finding the appeal to the Full Commission to be interlocutory; the error being that the Commission’s findings and conclusions are insufficient to enable a reviewing court to determine whether its decisions are supported by the evidence and/or the applicable law.
2. The Commission erred in summarily finding the single Commissioner’s Order to be interlocutory and dismissing the appeal to the Full Commission Panel; the error being that there is no evidence that the single Commissioner’s Order is interlocutory.
3. The Commission erred in summarily finding the single Commissioner’s Order to be interlocutory and dismissing the appeal to the Full Commission Panel; the error being that the single Commissioner’s Order is not interlocutory as the underlying case has been finally resolved by the Commission, the current dispute has only to do with whether defendants can force claimant to attend an independent medical exam when the Commission has made a final determination of permanent total disability and an authorized treating physician has been designated to provide lifetime medical care, and there is no further action or determination of any type pending before the Commission.
4. The single Commissioner erred in granting defendants’ motion to compel claimant to attend an IME appointment with Dr. Behr in this matter; the error being that the Commissioner’s decision is directly contrary to established case law, specifically Risinger v. Knight Textiles, 577 S.E.2d 222 (S.C. Ct.App. 2002).
5. The single Commissioner erred in granting defendants’ motion to compel claimant to attend an IME appointment with Dr. Behr in this matter; the error being that the IME statute, § 42-15-80, is no longer available to defendants to require claimant to submit to such an evaluation where, as here, the Commission has made a final determination of permanent total disability and an authorized treating physician has been designated to provide lifetime medical care, as defendants’ role is now to simply pay for the medical treatment recommended by the designated treating physician.
6. The single Commissioner erred in failing to find that the IME statute, § 42-15-80, is no longer available to defendants to require claimant to submit to such an evaluation; the error being that such finding is consistent with and mandated by established case law, specifically Risinger v. Knight Textiles, 577 S.E.2d 222 (S.C. Ct.App. 2002).
7. The single Commissioner erred in failing to find defendants are improperly trying to dictate medical treatment in this matter by trying to force claimant to an IME with another pain management physician rather than simply paying for the medical treatment recommended by the designated treating physician as required by established case law, specifically Risinger v. Knight Textiles, 577 S.E.2d 222 (S.C. Ct.App. 2002).

8. The single Commissioner erred in failing to make findings of fact and conclusions of law in support of her decision and in failing to specifically address the effect of Risinger v. Knight Textiles; the error being that the Workers' Compensation Act and the Administrative Procedures Act require such findings and conclusions so that an appellate body can determine whether the decision is supported by substantial evidence or affected by error of law.

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**PROOF OF SERVICE**

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I certify that I have served the Notice of Appeal on Respondents and the S.C. Workers' Compensation Commission by mailing copies by U.S. Mail, postage prepaid, on 11/13/13, addressed as shown below.

Ms. Virginia L. Crocker  
Judicial Director  
S.C. Workers' Compensation Comm'n  
P.O. Box 1715  
Columbia, SC 29202-1715

Brad B. Easterling, Esq.  
Turner Padgett Graham & Laney, P.A.  
P.O. Box 1509  
Greenville, SC 29602



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**SC Court of Appeals**

**KATHRYN WILLIAMS, P.A.**

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November 13, 2013

The Honorable Jenny Abbott Kitchings  
Clerk of Court  
South Carolina Court of Appeals  
P.O. Box 11629  
Columbia, SC 29211

Re: **Mitzi A. Watson v. U.S. Food Service, et al.**  
WCC File No.: 0716408

Dear Ms. Kitchings:

Enclosed herein please find the following items for filing in the above-referenced matter:

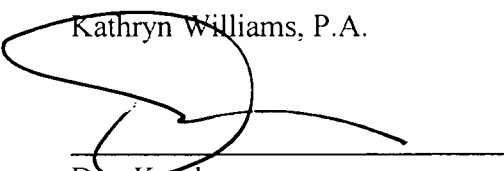
1. Notice of Appeal.
2. Certificate of Service by Mail.
3. Copy of the Order of the Workers' Compensation Commission, dated October 14, 2013, and a copy of the Order of the Workers' Compensation Commission dated August 29, 2013.
4. Filing fee in the amount of \$100.00.

By copy of this letter, we are also serving defendants' attorney and the Workers' Compensation Commission with copies of the Notice of Appeal.

Kindest regards,

Yours truly,

Kathryn Williams, P.A.

  
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Don Kamb

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**SC Court of Appeals**

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Enclosures

cc: Brad B. Easterling, Esq.  
S.C. Workers' Compensation Comm'n, Judicial Department

**KATHRYN WILLIAMS, P.A.**

ATTORNEYS AT LAW

P.O. BOX 10693  
619 N. MAIN STREET  
GREENVILLE, SC 29603

The Honorable Jenny Abbott Kitchings  
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