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**Apr 22 2026**

**SC Court of Appeals**

**THE STATE OF SOUTH CAROLINA**  
In the Court of Appeals

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**APPEAL FROM SOUTH CAROLINA**  
SC Workers' Compensation Commission  
Appellate Panel

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Appellate Case No. 2025-000026

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Evaristo Verdugo Morales, Claimant, .....Respondent-Appellant,

v.

Insulation by Cohen, LLC, Employer, and  
Builders Premier Insurance Co., Carrier, ...Appellants-Respondents.

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**RESPONDENT-APPELLANT'S MOTION  
TO SUPPLEMENT THE RECORD ON APPEAL**

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Attorneys for Respondent-Appellant

Pursuant to the Order of the Court and to ensure compliance, the Court graciously allowed the Respondent-Appellant to simply supplement the Record for those items which were designated in the Record on Appeal but were not incorporated into the Record on Appeal compiled by the Appellants-Respondents; and as to any other matters not designated to be part of the Record on Appeal to file a Motion to add those designations to the Record as part of the supplemental Record. The Appellants-Respondents have stated no objection to the Respondent-Appellant being allowed to supplement the Record and to ensure compliance with the Court's directions, this Motion is being filed.

Wherein, the Respondent-Appellant would respectfully submit and ask that the following designations be added to the Record on Appeal through a Supplemental Record which will be compiled and filed with the Court by the Respondent-Appellant in accordance with the Court's Rules:

1. By way of explanation of the Respondent-Appellant's Designation, this appeal involves cross-appeals from the original Award of the Hearing Commissioner filed March 22, 2022 and Order denying Reconsideration filed October 14, 2022; and the Appellate Panel Decision affirming that decision dated April 4, 2023 and the Administrative Order denying Reconsideration issued October 30, 2023, all of which were issued by the SC Workers' Compensation Commission (SCWCC) in the above-referenced matter. Thus, the cross-appeals were filed pursuant to SC Code

§1-23-380 and SC Code §42-17-60. While SC Code §1-23-380 only requires the filing and service of a Notice of Appeal within thirty (30) days of the date of a final decision, SC Code §42-17-60 adds the requirement that the Notice of Appeal must state, "the grounds of the appeal or the alleged errors of law". Since the Notice of Appeal is jurisdictional, it is for that reason in a workers' compensation case that a Notice of Appeal must specifically contain the grounds for appeal or the alleged errors of law. SC Code §1-23-380 further provides that in reference to an appeal from an agency under subsection (4) that the review must be conducted by the Court and the review, "must be confined to the record". On appeal, the Court may, "reverse or modify the decision" and the statute lists six (6) specific bases where that type decision may be entered; one of which under subsection (e) is that, "the decision is clearly erroneous in view of the reliable, probative, and substantial evidence on the whole Record." (emp. add.) Thus under law it is clear that the Court on appeal is required to review the "whole record" before the agency especially where one of these specific issues is raised on appeal.<sup>1</sup>

Two (2) of the arguments raised by the Respondent-Appellant on appeal pertain specifically to a review by the Court of the Record as a whole, including Argument IB wherein the Respondent-

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<sup>1</sup> Prior to 1977, the Court will find that when the Supreme Court found a lack of substantial evidence to support a decision, the Supreme Court would simply reverse the decision. The APA actually added in the statutory law five (5) more enumerated bases for reversal.

Appellant asks for a review by the Court of the reliable, probative and substantial evidence in the Record and argues that the Court should reverse the SCWCC decision because the Record establishes that the Claimant is entitled to an award for maximum benefits the remainder of 500 weeks of compensation under SC Code §42-9-30(21) ("for the loss of use of the back") for having lost 50% or more of the functional use of his back to do work requiring the use of his back.

Under Argument II, Respondent-Appellant asks for a review by the Court and a reversal of the SCWCC decision based on a review of the reliable, probative and substantial evidence in the Record as a whole which establishes that under SC Code §42-9-10(A) the claimant is entitled to an award for total disability based on a total loss of earning capacity as defined in the Act (SC Code §42-1-120), and by our Appellate Courts. Based on the statutory law and the Appellate requirements under our statutory law, it was and is the opinion of the Respondent-Appellant that those two (2) issues specifically require a review by the Court of the reliable, probative and substantial evidence in the Record as a whole before Commissioner Beck at the hearing which resulted in the decisions by the Hearing Commissioner and the Appellate Panel, which lead to these appeals. The Respondent-Appellant verily believes that his position and the requirements of the law and the lack of need to specify only parts of the Record versus the Appellants-Respondents' Designation of Matter to be included in the Record

which simply tried to limit the volume of the Record lead to the failure of inclusion of certain designated matters into the Record on Appeal and the necessity of this Supplemental Record and Motion.

2. That this matter arises out of an admitted injury that occurred on October 10, 2019, and resulted in multiple hearings and proceedings before the Commission beginning with the scheduled hearing on April 7, 2020, multiple rescheduling's, and another hearing held April 26, 2021; and multiple proceedings and hearings and then a final hearing held by Commissioner T. Scott Beck on February 29, 2024. Thus the hearing process alone spanned a period of four (4) years. As the Court will note from the Statements of the Case from both parties, there were actually multiple Prehearing Briefs (PHB) and Administrative Procedures Act (APA) Submissions submitted at that final hearing. Those multiple supplemental submissions simply added additional APA Submissions or rephrased the issues for hearing which in part also resulted in the misunderstanding as to the Designation by the Respondent-Appellant of what was to be included in the Record on Appeal. The Respondent-Appellant filed a Prehearing Brief with APA Submissions then filed an Amended Prehearing Brief with APA Submissions, and then filed a 2<sup>nd</sup> Amended Prehearing Brief and APA Submissions on February 9, 2024. The only difference in the Respondent-Appellant's Prehearing Briefs and APA Submissions was rewording of the issues which would be highlighted in the Amended Prehearing

Briefs as to any change in the issues and the addition of additional APA submissions. In an effort to not be repetitive and to limit the length and volume of the Record on Appeal but not limit the Record itself that was before the Hearing Commissioner, the Respondent-Appellant requested that only the Respondent-Appellant's 2<sup>nd</sup> Amended Prehearing Brief and APA Submissions dated February 9, 2024 be made a part of the Record on Appeal. Unfortunately, when the Appellants-Respondents requested the records from the Respondent-Appellant to be included in the Record, only those added or Amended APA Submissions that were added on February 9, 2024 were provided to the Appellants-Respondents; not the entire APA Submissions.

Therefore, the Respondent-Appellant will file as a part of the Supplemental Record the Claimant's 2<sup>nd</sup> Amended Prehearing Brief and all of the APA Submissions submitted with it including pp. 1-124, which includes pp. 19a-c, 103a-e, and pp. 110a-e, so all of that will be in one place in the Record for the Court to review.

3. That the Respondent-Appellant designated that the deposition transcript of Dr. Douglas Stofko, MD, taken and dated February 13, 2024, be made a part of the Record. That deposition transcript included fourteen (14) total exhibits, eleven (11) by the Claimant and three (3) by the Defendants. The Respondent-Appellant intended that the entire deposition transcript, meaning the transcript and the exhibits, which are necessary to a reading of the deposition, would be included in the Record.

However, in his Designation of Matter the Respondent-Appellant only listed to be included Dr. Stofko's deposition. The Appellants-Respondents did not include the exhibits as part of the Record on Appeal when they compiled the Record. The Respondent-Appellant will submit the entire group of deposition exhibits as part of the Record both because the Respondent-Appellant intended that those exhibits be made a part of the Record so that the Court may properly understand the testimony given at the deposition by Dr. Stofko, and because under law it is necessary for a review of the substantial evidence before the Commissioner in reference to what substantial evidence there is or is not in the Record to either affirm or to reverse the decision of the Commission based on substantial evidence or a lack of substantial evidence. Further, Exhibit #7 is specifically argued within Respondent-Appellant's Brief.

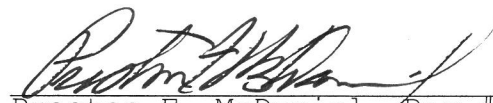
4. That finally the Respondent-Appellant makes several references to pages from the Appellants-Respondents' 3<sup>rd</sup> Amended Prehearing Brief in his arguments presented to the Court. Appellants-Respondents in their Designation of Matter did not designate their entire Prehearing Brief and APA Submissions, but instead only listed certain limited records to be made a part of the Record. Respondent-Appellant had in his arguments specifically refers to Appellants-Respondents' 3<sup>rd</sup> Amended Prehearing Brief dated February 28, 2024, p. 24; pp. 49-51; and pp. 63-64. While the Respondent-Appellant believes that under the arguments being presented to the Court that the entire

Appellants-Respondents' 3<sup>rd</sup> Amended Prehearing Brief and their entire Amended APA Submissions should be made a part of the Record, the Respondent-Appellant will add only those pages referred to in his Brief. However, based on his opinion as to the law and upon request of the Court or Appellants-Respondents and with the concurrence of the Appellants-Respondents, the Respondent-Appellant will add to the Supplemental Record the entire Appellants-Respondents 3<sup>rd</sup> Amended Prehearing Brief and APA Submissions so that those items will all be together in one place so that the Court may easily review those as part of its review in this matter.

Wherefore, the Respondent-Appellant after Reply being filed by the Appellants-Respondents, will pursuant to the Court's Order file a Supplemental Record to the Record on Appeal as set forth herein above.

WE SO MOVE.

Respectfully submitted,



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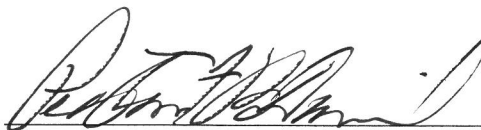
**PROOF OF SERVICE**

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I certify that I have served the **RESPONDENT-APPELLANT'S**  
**MOTION TO SUPPLEMENT THE RECORD ON APPEAL** on April 22, 2026 via  
email only addressed as follows:

Stephen L. Brown, Esquire ([sbrown@ycrlaw.com](mailto:sbrown@ycrlaw.com))  
Robert P. Gruber, Esquire ([rgruber@ycrlaw.com](mailto:rgruber@ycrlaw.com))  
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Respectfully submitted,



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April 22, 2026

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Proudly representing injured workers  
for over 45 years.

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April 22, 2026

**VIA EMAIL: [ctappfilings@sccourts.org](mailto:ctappfilings@sccourts.org)**  
**AND US MAIL**

Honorable Jenny Abbott Kitchings  
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Columbia, South Carolina 29211

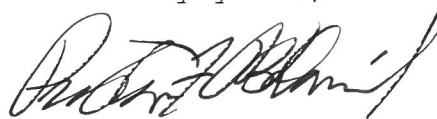
**RE: Evaristo Verdugo Morales v. Insulation by Cohen's, LLC**  
**Appellate Case No. 2025-000026**

Dear Ms. Kitchings:

Please find attached the **RESPONDENT-APPELLANT'S MOTION TO SUPPLEMENT THE RECORD ON APPEAL** in the above-referenced matter for filing with the Court, along with the required filing fee. I would appreciate you returning a clocked-in copy to me via email. Please note: the filing fee for this Motion is being placed in today's mail.

By copy of this letter with enclosures, I am hereby serving Counsel of Record with a copy of same.

Sincerely yours,



Preston F. McDaniel

PFM/kth  
Enclosure

cc: Don C. Gibson, Esquire (via email only)  
Stephen L. Brown, Esquire (via email only)  
Robert P. Gruber, Esquire (via email only)  
Russell G. Hines, Esquire (via email only)  
Graydon V. Olive, IV, Esquire (via email only)