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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

WCC File No. 2409881

Court of Appeals Case No. 2025-001958

Neval Brunson, Employee, ... Appellant,

v.

Cutter Buyer, LLC, Employer,
and Property & Casualty Insurance Company of Hartford, Carrier ..... Respondents.

INITIAL BRIEF OF RESPONDENTS

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1. As a safety rule governs the employee's conduct within the sphere of employment rather than limiting the sphere of employment, was it legal error for the Appellate Panel to hold that Appellant's claim was barred because he "left the course and scope of his employment when he rode on the back of the woodchipper" not for any personal benefit but as a means of transportation between jobsites?

2. Even if a safety rule limits the sphere of employment, was it legal error for the Appellate Panel to find Appellant left the course and scope of his employment when no supervisor explicitly ordered Appellant and his coworkers not to ride on the truck or the chipper immediately before the accident and the safety rule had not been enforced until after the accident?

3. Whether the Appellate Panel erred as a matter of law in injecting fault into the Workers' Compensation system when it barred Appellant's claim by holding he rode "the machinery in the manner that directly resulted in his injuries" and when the accident occurred because no other means of transportation was made available and the direct and proximate cause of the accident was the chipper becoming unhitched from the bucket truck?

STATEMENT OF THE CASE

This is a workers' compensation appeal by Neval Brunson ("Appellant") from the Decision and Order of the South Carolina Workers' Compensation Commission Appellate Panel (the "Full Commission"), filed on September 5, 2025, which upheld the Decision and Order of the Commissioner Cynthia C. Dooley, ("Hearing Commissioner"), filed on March 25, 2025.

This claim arises from an alleged injury to Appellant's pelvis, hip, back, neck, bilateral legs, head, and teeth occurring on or about July 23, 2024. Respondents have denied this claim in its entirety. Respondents denied this claim primarily based upon the fact that Appellant's injury was a result of a safety violation against direct instruction from the employer, specifically his improper riding on a woodchipper between job locations.

Appellant was initially represented by J. Gabriel Coggiola, Esquire. This claim was initiated when Appellant's former counsel filed a Form 50 Hearing Request on September 16, 2024. This Form 50 was filed to request medical treatment for the Appellant's hip, neck, back bilateral legs, and head, and additional medical treatment for Appellant's pelvis. Respondents timely filed a Form 51 Employer's Answer to Request for Hearing on October 16, 2024, admitting that Appellant had sustained an injury to his back, pelvis, and coccyx. An amended Form 51 Employee's Notice of Request for Hearing was filed by Respondents on November 19, 2024, denying the claim in its entirety pending further investigation. A hearing was set on this matter on December 10, 2024, before the Hearing Commissioner. Appellant testified at the hearing and was subject to extensive cross-examination by the Respondents. On March 3, 2025, a Consent Order was filed with the South Carolina Workers' Compensation Commission ("Commission") indicating that former counsel for Appellant would be relieved as counsel, and Stephen B. Samuels would be substituted as counsel. The Hearing Commissioner issued her Decision and Order on

March 25, 2025, wherein she found as a fact that Appellant was "not entitled to benefits under the Act because he clearly violated express and specific order from his employer not to ride the machinery in the manner that directly resulted in his injuries." (Final Decision and Order dated March 25, 2025).

Appellant's counsel filed a Form 30 Request for Commission Review on April 2, 2025. A hearing was set in front of the Full Commission on July 14, 2025. The Full Commission upheld the determination from the Hearing Commissioner in a Final Decision and Order dated September 5, 2025.

This appeal followed.

STATEMENT OF FACTS

Appellant was hired to work for Cutter Buyer as a grounds person in June of 2024. (Hrg. Trans. p. 14, ll. 15-22). Cutter Buyer is doing business as Xylem Tree Experts in regard to this case. On June 23, 2024, the date of the accident, Appellant was in a neighborhood chipping brush when he made the decision to get on top of a wood chipping machine and ride it while it was being pulled behind a truck from one job site to a secondary job site down the road.

As an employee of Xylem Tree Experts, Appellant was provided with a digital copy of the employee handbook. (Hrg. Trans. p. 15, ll. 3-4). The employee handbook explicitly states, "No one shall be permitted to ride on the running boards, fenders, or any part of a vehicle except the seats." (Def. APAs, p. 56). Appellant testified at the hearing with Commissioner Dooley that he had read the safety parts of the handbook provided to him. (Final Decision and Order dated March 25, 2025, p. 8 (quoting Hrg. Trans. p. 29, ll. 4-7)). He further testified that he read the part referenced above regarding employees being prohibited from riding on any part of a vehicle except for the seats. (Final Decision and Order dated March 25, 2025, P. 8 (quoting Hrg. Trans. p. 29, ll.

19-23)). Appellant indicated that he did not think that part of the handbook would include in the woodchipper. (Final Decision and Order dated March 25, 2025, P. 9 (quoting Hrg. Trans. p. 29, ll. 24-25)). Appellant also noted that his supervisor Bryan Norton never informed him that he could not ride on the woodchipper. (Final Decision and Order dated March 25, 2025, p. 9 (quoting Hrg. Trans. p. 32, ll. 1-6)).

Bryan Norton, a general foreman and supervisor for Xylem Tree Experts, testified at the Hearing with the Hearing Commissioner as well. (Hrg. Trans. p. 40, ll. 4-17). When asked what the safety rules are for pulling the woodchipper, Mr. Norton indicated that you are not supposed to ride on any equipment, and you are supposed to wear ear plugs, hard hats, and the right shoes. (Hrg. Trans. p. 44, ll. 20-23). Mr. Norton testified that the truck pulling the woodchipper that day between locations could not fit everyone inside, and the usual truck was being serviced. However, since they were in a neighborhood, they could walk. (Hrg. Trans. p. 45, ll. 4-9). He did clarify that there was an open seat inside of the truck at the time of the accident. (Hrg. Trans. p. 47, ll. 9-10). Mr. Norton went on to further testify that he has had meetings with his team several times about riding on woodchippers, and that Appellant's testimony regarding there never having been a meeting where he was told not to ride on a woodchipper was not true. (Final Decision and Order dated March 25, 2025, p. 9 (quoting Hrg. Trans. p. 49, ll. 2-8)).

Shane Preast, another supervisor for Xylem Tree Experts, also testified at the Hearing before the Hearing Commissioner. (Hrg. Trans. p. 70, ll. 4-7). He indicated that when an individual is hired on with the company, they have to watch some videos and then take a test, and the woodchipper is a part of the safety information received in those videos. (Hrg. Trans. p. 72, ll. 1-8).

On the date of injury, Appellant was transported by Medicare Air 2 to Prisma Health Richland, where he complained of back pain after a five-foot fall onto concrete where he landed on his back and hit his head with loss of consciousness. (Final Decision and Order dated March 25, 2025, p. 7-8). He was treated with Prisma Health until August 2, 2024, where he was diagnosed with a sacral fracture, back pain, occipital scalp laceration, and paresthesia of the right lower extremity. *Id.* The extent of Appellant's treatment then concludes with several visits with Dr. Ardalan Sayan with Mcleod Orthopaedics.

Mr. Norton went to visit Appellant in the hospital on the date of the accident in order to check on him. (Hrg. Trans. p. 53-54, ll. 22-25, 1-8). It was during this visit that Appellant admitted to Mr. Norton and Mr. Preast that he was aware he should not have been riding on the woodchipper, and that Mr. Norton had had meetings about that activity. (Final Decision and Order dated March 25, 2025, p. 9 (quoting Hrg. Trans. p. 54, ll. 22-25)). This testimony was corroborated by the testimony of Brandon Connor, a grounds man who worked for Xylem Tree Experts. (Hrg. Trans. p. 86, ll. 1-11). Mr. Connor indicated that employees were not permitted on the woodchipper, which he knew because of Mr. Norton's safety meetings. (Final Decision and Order dated March 25, 2025, p. 9 (quoting Hrg. Trans. p. 87, ll. 5-22)). He further testified that they had been told "multiple times," and he confirmed that Appellant had been present for these safety meetings. *Id.* Mr. Connor testified that he was sure Appellant was aware of this policy. (Hrg. Trans. p. 88, ll. 15-25). Mr. Norton had caught individuals riding on the woodchipper prior to the date in question, and he had stopped work to get people off of the machines. (Hrg. Trans. p. 90, ll. 13-18).

The Full Commission determined that Appellant "knew and admitted he was expressly prohibited from riding on the woodchipper and chose to do so anyway on the date of the accident." (Final Decision and Order dated March 25, 2025, p. 9). Based upon the testimony heard and the

evidence presented, it was established that Appellant was not entitled to benefits under the Workers' Compensation Act. (Final Decision and Order dated March 25, 2025, p. 9).

STANDARD OF REVIEW

"The South Carolina Administrative Procedures Act (APA) gives judicial review of decisions by the Commission." *Hartzell v. Palmetto Collision, LLC*, 415 S.C. 617, 622, 785 S.E.2d 194, 197 (2016). It is well established that "the Commission is the ultimate fact finder" in workers' compensation cases, and its findings "must be affirmed if they are supported by substantial evidence." *Holmes v. Nat'l Serv. Indus.*, 395 S.C. 305, 308, 717 S.E.2d 751, 752 (2011); see also *Muir v. CR Bard, Inc.*, 336 S.C. 266, 282, 519 S.E.2d 583 (Ct. App. 1999) ("The findings of the Commission are presumed correct and will be set aside only if unsupported by substantial evidence"); *Jordan v. Kelly Co.*, 381 S.C. 483, 674 S.E.2d 166 (2009); *Pierre v. Seaside Farms, Inc.*, 386 S.C. 534, 540, 689 S.E.2d 615, 618 (2010). Substantial evidence is evidence which, when viewed as a whole, "would allow reasonable minds to reach the conclusion the agency reached." *Pierre*, 386 S.C. at 540, 684 S.E.2d at 618. This standard does not permit substitution of judicial judgment for agency judgment; a finding "upon which reasonable men might differ will not be set aside." *Lark v. Bi-Lo, Inc.*, 276 S.C. 130, 136, 276 S.E.2d 304, 307 (1981).

ARGUMENT

I. THE APPELLATE PANEL DID NOT COMMIT LEGAL ERROR BY HOLDING APPELLANT'S CLAIM WAS BARRED BY HIM LEAVING THE COURSE AND SCOPE OF HIS EMPLOYMENT AS APPELLANT WAS INSTRUCTED NOT TO RIDE ON THE WOODCHIPPER.

Appellant's actions of climbing on the woodchipper against the clearly outlined rules in the Employee Handbook and against the instructions of his employer brought him outside of the scope of his employment and barred his claim from being compensable. Beginning with issue two as raised leads to a more succinct analysis for the Court and establishes the crux of the argument

on which Respondents base their denial. Appellant was informed not to use the woodchipper as a means of transportation but disregarded these instructions.

The South Carolina Supreme Court has directly addressed and decided the issue of employees disregarding direct instruction and its impact on compensability. In *Black v. Springfield*, the Court held that a claim was not compensable when the Appellant's injury was "brought about through his own act which were not only wholly without the scope of his employment but had been expressly forbidden by his employers." 217 S.C. 413, 422, 60 S.E.2d 854, 858 (1950). In *Black*, a police chief was riding on the back of a firetruck on its way to a fire when he fell off, resulting in his death. *Id.* at 415, 60 S.E.2d at 855. While responding to a fire may be within the scope of a police officer's duties, the Court found more than sufficient testimony was present that the Appellant was "acting completely without the course of his employment and against the explicit instructions of the Mayor and Town Counsel of the Town of Springfield." *Id.* at 422, 60 S.E.2d at 858. It did not matter that he was technically doing something that could be construed as part of his job. Instead, because his supervisors had directly told him not to ride on the back of the fire truck, and yet he did so anyway, the injury suffered, in that case his death, was not compensable because the forbidden behavior directly led to the accident.

The Appellant relies heavily on the fact that in *Black*, the police chief was told "less than five minutes" before not to ride on the truck. *Id.* at 421, 60 S.E.2d at 858. However, that completely ignores the rest of the case, which is "replete with testimony" that he had been instructed multiple times prior to the accident that he was not to ride on the firetruck, not just minutes prior to the incident in question. *Id.* at 420-422, 60 S.E.2d at 857-858. The fact that he had been instructed immediately before is not the deciding factor in the case, but instead it is the

record as a whole that demonstrates explicit instructions expressly forbidding the behavior were provided and clearly ignored. This distinction is why *Black* is applicable here.

The Supreme Court took up the issue again, more recently, in *Pratt v. Morris Roofing, Inc.*, where the Court held that substantial evidence demonstrated that the Appellant "left the scope of his employment by violating the specific order not to drive the company vehicle home." 357 S.C. 619, 623, 594 S.E.2d 272, 274 (2004). The Court stated that when an employer "limits the scope of employment by specific prohibitions," an employee leaves the course and scope of their employment when they violate those prohibitions. *Id.* In that case, the injured worker was hurt in a single car accident while driving a company truck home from work, despite the employer specifically telling him not to do so. *Id.* at 621-22, 594 S.E.2d at 273. Because of the prohibition, the Supreme Court upheld the full commission's decision that the claim was not compensable. *Id.* at 623, 594 S.E.2d at 274.

Again, the Appellant relies heavily on the idea that in *Pratt*, there was contemporaneous instruction not to disobey a direct order immediately preceding the accident. However, that analysis is erroneous. In *Pratt*, the testimony on the record states that the petitioner called the owner "the day before the accident" and acknowledged he had *already* been instructed not to take the vehicle home. *Id.* at 621-622, 594 S.E.2d at 273. The record in *Pratt* simply does not say what Appellant purports it to say, and it also does not align with the timing argument made pursuant to *Black*. Instead, *Pratt* speaks to the argument that direct instructions do not have to be conveyed contemporaneously or within some immediate time before the accident, as argued by Appellant. Instead, like *Black, Pratt* also supports the argument that directly communicated instructions that are blatantly ignored are sufficient to remove the employee from the course and scope of their employment.

Finally, the Court of Appeals has also weighed in on this topic. In *Wright v. Bi-Lo*, the Court found the facts demonstrated there were "'clear and explicit' orders repeatedly communicated," which were subsequently "violated by [Wright] in the events leading to his death." 314 S.C. 152, 157, 442 S.E.2d 186, 189 (Ct. App. 1994). Because the employer told the employee not to violate the rule of not chasing shoplifters every time the employer learned of a violation, the Court concluded the employee engaging in the "specifically forbidden act of pursuing a fleeing shoplifter cannot be within the scope of his employment." *Id.* The Courts in all three of these cases made particular care to point out how the common thread that each injured worker violated a rule that had been expressly communicated to him.

Yet again, Appellant erroneously relies on the idea that the reason that the claim in *Wright* was found not compensable was because of the contemporaneous instruction at the time of the accident. However, Appellant again leaves out the rest of the story. As detailed above, the Appellant in *Wright* was not only told the day of his death not to pursue the shoplifter, but also, "on the Tuesday," and "on the Friday" before. *Id.* at 153-154, 442 S.E.2d 187-188. As was the case in *Black* and *Pratt*, the court in *Wright* never required there to be a contemporaneous or immediately before instruction not to do something, but instead required consistent and direct communication of the rules and expectation of the job.

Indeed, all three of these cases are analogous and apply directly to the facts at hand. The Appellant testified he read the employer's manual, including the safety parts involving seat belts and transportation. (Hrg. Trans. p. 28-29, ll. 24-25, 1-7 and Def. Ex. E, p. 56.). He testified he was aware the manual instructed him to "always wear seatbelts while operating or riding in a company vehicle," and that he should not be allowed to "ride on the running boards, fenders, or any parts of the vehicles except the seats." (Hrg. Trans. p. 29-30, ll. 19-23, 1-6, and Def. Ex. E, p.

56). However, the Appellant stated, inexplicably, that he did not think those rules would apply to the woodchipper, and testified that his supervisor, Mr. Norton, had "never told" him that he could not ride on the woodchipper. (Hrg. Trans. p. 30-32, ll. 22-24).

To the contrary, Mr. Norton testified that employees were not permitted to ride the woodchipper, and that it had been discussed in "several" prior safety meetings that employees were "not supposed to ride on any equipment." (Hrg. Trans. p. 48, ll. 7-12). He further testified that he had had "quite a few" meetings with the Appellant's crew regarding the prohibition of riding on equipment, including the woodchipper specifically. (Hrg. Trans. p. 49, ll. 9-12). This testimony was corroborated by the driver of the vehicle that day, Mr. Connor, who testified that Mr. Norton had several meetings with the crew leading up to the day in question and told the crew "multiple times" not to ride on the chipper. (Hrg. Trans. p. 87, ll. 12-22). When Mr. Connor was asked whether the Appellant knew he could not ride on the chipper, he testified "yes, sir." (Hrg. Trans. p. 88, ll. 20-22).

Mr. Norton also testified regarding the Appellant's comments to him when Norton went to the hospital to check on him. Norton testified "[the Appellant] told us it was his fault. He knew -- he knew he shouldn't have been riding on the chipper. That I had had meetings about it." (Hrg. Trans. p. 54, ll. 18-24). This testimony was corroborated by Anthony Preast, another supervisor who visited the Appellant in the hospital with Mr. Norton. (Hrg. Trans. p. 75, ll. 8-19). Importantly, none of the corroborating testimony from Mr. Connor and Mr. Preast was disputed by the Appellant.

The facts at hand are like the ones found in *Black* and *Wright*. Like *Black*, the Appellant's injury from falling from the woodchipper was a result of his knowing and willful decision to ride on the equipment despite the company handbook and his supervisor explicitly and expressing

forbidding such behavior. Similarly, this is also like *Wright* and *Pratt* because there are clear and explicit orders from the employer not to ride on or use company equipment in the manner which the Appellant did at the time of his injury.

While testimony indicates that the Appellant admitted in the hospital that it was his "fault," this admission of fault is not the basis for finding the claim not compensable. Rather, it speaks to the fact that the Appellant did in fact know he had been forbidden to ride the woodchipper in the manner that directly led to his injuries. Ultimately, this claim is not compensable because the Appellant left the scope of his employment when he rode on the back of the woodchipper against the clear and explicit instructions of his employer, and he was injured because of the same.

In opposition, the Appellant relies on *Johnson v. Merchants Fertilizer Co.*, 198 S.C. 373, 17 S.E.2d 695 (1941). This reliance is misplaced. In *Johnson*, the worker was killed when sweeping in an unfamiliar area of his place of work. *Id.* at 377, 17 S.E.2d at 697. Further, there was no testimony or other evidence showing the employee was ever *specifically* forbidden from going in the area where he was killed, and instead he was only given general instructions. *Id.* This distinguishing fact is vitally important in this analysis.

In addition, in *Howell v. Kash & Karry*, the Supreme Court held that when an employee acts "outside an employee's regular duties," but done in "good faith to advance the employer's interest, whether or not the employee's own work is thereby furthered," the employee remains within the course of employment. 246 S.C. 298, 301, 214 S.E.2d 821, 822 (1975) (citing Larson's Workmen's Compensation Section 27.00).

Appellant's reliance on *Johnson* is misplaced, and further, the rule in *Howell* equally is inapplicable. The Court in *Johnson* found that not every violation of an order removes an injured worker from the protection of the Act. *Johnson*, at 378, 17 S.E.2d at 697. However, the Court in

Johnson considered the fact that the instructions were general as opposed specific and noted that general instructions are not enough for the employer to meet their burden of proving a violation of a positive order. *Id.* at 377-378, 17 S.E.2d at 697. That is clearly distinguishable from the facts at hand, where there were clear instructions in the handbook not to ride machinery in the manner in which the Appellant did moments before his injury – of which Appellant testified he had read despite claiming ignorance of the same. Further, there is unrefuted testimony that the Appellant's supervisor had several meetings with the Appellant's crew to instruct them not to ride on machinery. Despite these clear warnings and instructions, Appellant admittedly balked at the warnings and improperly rode the woodchipper against his employer's clear and specific instructions, thus making *Johnson* not applicable.

Further, unlike in *Howell*, the behavior exhibited by the Appellant was not in "good faith," because it came after directly violating explicit instructions. While the Appellant may argue his riding between job sites within the neighborhood was in furtherance of the employer's business, he had already been directed not to do so. His employer specifically instructed him not to ride on the woodchipper in the manner that directly led to his injuries, and therefore, the argument he was engaging in a good faith attempt to further his employer's business does not hold water. The Appellant could not have been acting in good faith when he violated explicit safety instructions communicated by his employer to keep himself safe from the very danger that ultimately occurred. In fact, knowingly violating explicit safety instructions is the opposite of acting in good faith.

Appellant also listed several other cases not already mentioned hereinabove that will be addressed in turn. First, *Grant v. Grant Textiles* is not applicable because it does not contemplate any violation of policy or specific instruction from his superiors. 372 S.C. 196, 641 S.E.2d 869 (2007). Like *Howell*, there is no good faith argument to be made for violating an explicitly and

repeatedly communicated safety instructions. Next, *Compton v. Iva* is not applicable because, as admitted by Appellant in his brief, the Town of Iva permitted its officers to operate outside the scope of their employment, having "having acquiesced in the custom and received benefits from the custom." 256 S.C. 35, 180 S.E.2d 645 (1971). Here, the exact opposite is true, and the Respondents specifically limited the Appellant's scope of employment through their specific instructions prohibiting the activity that led to the injury. Finally, in *Portee v. South Carolina State Hospital*, that case involved an employee who, having a sore throat, got a penicillin injection from another employee, which, after the needle jammed, suffered from anaphylactic shock that caused his death. 234 S.C. 50, 106 S.E.2d 670. The controlling issue in that case was not whether the deceased employee did something against policy or instructions, but whether the nurse who provided the shot knew of the prohibition of providing it. The facts are simply too different for any comparison to apply. The facts at hand do not demonstrate the injury occurred because some other employee violated company policy, but instead because the Appellant himself disregarded policy and specifically communicated instruction.

Simply put, these cases the Appellant puts forward as attempting to show precedent for compensability when acting outside the scope of the clear and explicit instructions given by the employer either do not apply to the case at hand, or do not even reach the conclusion the Appellant alleges they do. Instead, *Black*, *Pratt*, and *Wright* apply, and the decision of the Full Commission that the claim is not compensable because the Appellant left the course and scope of his employment when he ignored the explicit and express safety instructions provided to him, leading directly to his injury, should be upheld.

II. THE APPELLATE PANEL DID NOT COMMIT LEGAL ERROR BY FINDING APPELLANT LEFT THE COURSE AND SCOPE OF EMPLOYMENT BY USING THE WOODCHIPPER AS TRANSPORTATION

Appellant next contends that the claimant could not have left the course and scope of his employment, as he was using the woodchipper as a means of transportation between jobsites and not for any personal benefit. Regardless of the reasoning for his disregard of the rules, that does not change the above referenced analysis that Appellant did, in fact, disregard the rules that were explicitly outlined to him. In the formerly referenced cases of *Black* and *Wright*, these decisions do not hinge upon the existence of personal benefit. The basis for these decisions, once again, relies on the disregard of instruction.

On the date of Appellant's accident, the normal truck that was used by the workers was out of service, and the woodchipper was therefore being pulled by another truck. (Hrg. Trans. p. 44-45, ll. 23-25, 1-5). Respondents do not disagree that there was not enough room in the truck for the entire crew. However, Appellant's contention that the employees were "caught between a rock and a hard place" is entirely misguided and over dramatized. The workers were in a neighborhood, and it was established through testimony of Mr. Norton that they could have walked from one job site to the other. (Hrg. Trans. p. 46, ll. 10-13). Mr. Norton may not have been physically present at the location of the incident, but as the foreman of the crew, he was knowledgeable of the neighborhood and environment they were in. His testimony regarding the ability for the employees to walk from place to place is not based upon conjecture or assumptions, but the reasonable interpretation and observation of the location of this accident.

Appellant's argument regarding adequate transportation not being provided is irrelevant when considering the fact that Appellant had the understanding that he was not supposed to be riding on the equipment. By taking this approach, Appellant is essentially contending that he had no choice but to ride on top of the woodchipper. This is not only against instruction from his

employer, but it is nonsensical. It is also contradicted by the fact there was actually an additional seat available in the truck at the time of the accident. (Hrg. Trans. p. 47, ll. 9-10).

Further, Appellant expresses that the safety policies had been violated before and that there were no repercussions for the violations. Each of the individuals who were incorrectly riding on equipment on the date of the accident were written up for their actions on the day, specifically for incorrectly riding on the running boards and the woodchipper, and driving without a seat belt. (Hrg. Trans. p. 50-51, ll. 21-25, 1-21). Appellant contends that this must have been an occurrence that happened frequently. Mr. Norton testified that when disregard for the safety rules is seen or reported, then disciplinary actions follow. (Hrg. Trans. p. 50, ll. 16-20). It would be naïve to assume that an employer would have constant knowledge of each employee's actions at every moment of every day. While there may be violations that occur without the employer's knowledge, that does not in turn mean that the rules may then be disregarded permanently. The safety rules regarding riding on the woodchipper were relayed to Appellant and his crew not only in writing but also verbally through these safety meetings. These rules exist for a reason, and Appellant's argument does not negate the fact that he did disregard these instructions.

III. THE APPELLATE PANEL DID NOT INJECT FAULT INTO THE WORKERS' COMEPNSATION SYSTEM AND THEREFORE DID NOT ERR AS A MATTER OF LAW.

Respondents agree that the workers' compensation system is intended to be a no-fault system and contend that the Hearing Commissioner and Full Commission's decisions were not based upon injecting fault. Appellant contends that the Hearing Commissioner and the Full Commission erred in their decision by injecting fault into the workers' compensation system when they made the determination that Appellant's injuries were caused by his choice to "ride the machinery in the manner that directly caused his injuries." (Decision and Order dated September

5, 2025). This argument is misplaced and taken outside of the context of the course of employment argument. The full statement from the Conclusions of law from the Full Commissions Decision and Order is noted as "Appellant did not sustain a compensable injury because he left the course and scope of his employment when he clearly and knowingly violated express and specific orders from his employer not to ride the machinery in the manner which directly resulted in his injuries." (Decision and Order dated September 5, 2025). When reading Appellant's interpretation of the statement, it could be seen as injecting fault, but Appellant is ignoring the intended interpretation for the purposes of making his argument. Additionally, Appellant's argument regarding fault could apply to all of the cited case law relied on by both parties. Each of these cited cases would have the same issue, as they all to an extent appear on the surface to inject fault. However, when looking at the different analyses performed by the Courts, it becomes apparent that the argument has no merit. It is the direct violation of explicit orders which these cases base their findings on, not the matter of fault.

Further, Respondents contend that the argument of whether the machine was properly hitched to the machine was not properly preserved for appeal. In Appellant's third issue for appeal, he contends that the direct and proximate cause of this accident was the bucket truck becoming unhitched from the woodchipper. The matter is not addressed in the Decision and Orders from the Hearing Commissioner or Full Commission, and there is nothing in the Appellant's APA submissions that speak to how the machine should be hitched. There is also no expert testimony discussing the issue. Therefore, the issue has not been properly preserved for appeal. Even if it has, there is nothing on the record at all to support Appellant's contention. In fact, this argument actually serves to further the argument of the Respondents. Specifically, it is logical that one reason for the rule against riding on the woodchipper is to prevent injury if the equipment becomes

unhitched or it hits a bump. Therefore, Appellant's argument does nothing but support the employer's reasoning for the existence of the safety rules in the first place. The issue raised by the Appellant is the actual reason for the rule provided by the employer. Regardless, the Hearing Commissioner did not err in failing to consider the hitch, because it was not presented to her.

On the same point, the idea that the Appellant was thrown from, rather than fell from, the woodchipper is also irrelevant. Compensability of this claim does not hang on the mechanics of the accident. Instead, the relevant testimony and evidence on the record speaks to the controlling issue that Respondents recognized a serious safety risk in the improper use of company equipment – namely, the unsecured riding of company vehicles and machinery. It was so important that the evidence on the record overwhelmingly reflects that the Respondents had rules in the company handbook, as well as numerous safety meetings specifically instructing the Appellant not to ride on the woodchipper. The fact the injury occurred is proof that the Respondents' concerns were right – the improper use of equipment can lead to severe injury. There are endless hypothetical reasons for why such activity is dangerous, and one of them came true on the date of the accident.

The Hearing Commissioner and Full Commission did not improperly inject fault-based analysis into the claim. Unlike Appellant's attempts to distract from the controlling issue with irrelevant posture, Respondents' position, as supported by the Full Commission's Decision and Order, is based on a foundation of legal precedent. The fact that testimony is present that shows the Appellant accepted fault for the accident does not in and of itself make the claim non-compensable. Instead, it speaks to the fact that *he knew* his behavior had been forbidden by his employer, and that behavior of improperly riding on the woodchipper directly led to his accident and injuries. While Appellant in his appeal attempts to distract this Panel with ancillary fact-based arguments, Respondents rely on the above-referenced case law.

The claim is not compensable because the Appellant violated a direct and express order of his employer, therefore taking himself outside the course and scope of his employment pursuant to *Black*, *Pratt* and *Wright*. While the Appellant's personal behavior is his responsibility alone, that "fault" is not where the basis for the denial of the claim's compensability lies.

CONCLUSION

For the reasons set forth, the Full Commission's Decision and Order dated September 5, 2025, should be affirmed in its entirety. The Full Commission properly determined that Appellant's decision to ride the woodchipper against the outlined safety guidelines removed him from the scope of employment, thus resulting in an injury that is not compensable under the Act. Therefore, the Full Commission's Decision and Order should be upheld.

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April 3, 2026

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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

WCC File No. 2409881

Court of Appeals Case No. 2025-001958

Neval Brunson, Employee, ... Appellant,

v.

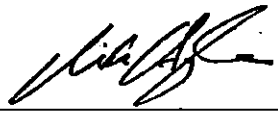
Cutter Buyer, LLC, Employer,
and Property & Casualty Insurance Company of Hartford, Carrier, ... Respondents.

RESPONDENT'S DESIGNATION OF MATTER

Respondents Cutter Buyer, LLC and Property & Casualty Insurance Company of Hartford designate the following matters to be included in the Record on Appeal:

1. Transcript of the July 14, 2025, Hearing before the South Carolina Workers' Compensation Appellate Panel.

Respectfully submitted,



Nicolas L. Haigler, Esquire
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ATTORNEY FOR RESPONDENTS

April 3, 2026
Columbia, South Carolina

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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SOUTH CAROLINA
Workers' Compensation Commission

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v.

Cutter Buyer, LLC, Employer

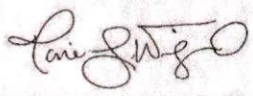
and Property & Casualty Insurance Company of Hartford, Carrier ..... Respondents.

PROOF OF SERVICE

I certify that I, Toni Wingard, legal assistant for Robinson, Gray, Stepp & Laffitte, LLC, have caused the **Respondents' Initial Brief and Designation of Matter to be included in the Record on Appeal** to be served on the parties below addressed as follows:

The Honorable Jenny Abbott Kitchings
Clerk of the SC Court of Appeals
P.O. Box 11629
Columbia, South Carolina 29211
Via email: ctappfilings@sccourts.org

Stephen B. Samuels
Attorney for Appellant
Samuels Reynolds Law Firm
1320 Richland Street
Columbia, SC 29201
Via email: stephen@samuelsreynolds.com



Toni L. Wingard
Legal Assistant to Nicolas L. Haigler, Esquire

April 3, 2026

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Litigation + Business

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April 3, 2026

Via email: ctappfilings@sccourts.org
The Honorable Jenny Abbott Kitchings
Clerk of the South Carolina Court of Appeals
P.O. Box 11629
Columbia, South Carolina 29211

RE: Neval Brunson v. Cutter Buyer, LLC
Appellate Case No.: 2025-001958

Dear Ms. Kitchings:

Enclosed for filing please find the **Initial Brief of Respondents, Designation of Matter to be included in the Record on Appeal, and Proof of Service** regarding the above referenced matter. Should you have any questions, pleas do not hesitate to contact my office.

With a copy of this letter, we are hereby serving a copy of these documents on counsel for the Appellant.

Very truly yours,

Nicolas L. Haigler, Esquire

Enclosure(s) as stated

cc: Stephen B. Samuels, Esquire (via email)
Danielle Bruehl (via email)
Debbie Smith (via email)
Scott Konikoff (via email)
Sara Babcock (via email)