

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA  
Workers' Compensation Commission

SCWCC File No. 1214593

Appellate Case No. 2014-000149

Leroy Radford, Employee, Claimant, ..... Respondent,

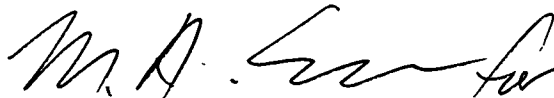
v.

Goodwill Industries of Lower SC, Employer, and  
PA Manufacturers Association Insurance Company,  
Carrier, Defendants, .....Appellants.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on Respondent by depositing a copy of the document in the United States mail, first class postage prepaid, on February 3, 2014, addressed to Mr. Leroy Radford, PO Box 2826, Shallotte, NC 28459, as well as the South Carolina Workers' Compensation Commission by depositing a copy of the document in the United States mail, first class postage prepaid, on February 3, 2014, addressed to Honorable Virginia Crocker, Judicial Director, South Carolina Workers' Compensation Commission, PO Box 1715, Columbia, SC 29202-1715.

February 3, 2014



Anne Veatch Noonan  
Willson, Jones, Carter & Baxley, PA  
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(843) 284-1097  
Attorney for Respondents

**RECEIVED**

FEB 06 2014

**SC Court of Appeals**

# WILLSON JONES CARTER & BAXLEY, P.A.

ATTORNEYS AT LAW

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February 3, 2014

The Honorable Jenny Abbott Kitchings  
South Carolina Court of Appeals  
1015 Sumter Street  
P.O. Box 11629  
Columbia, SC 29211

Re: Leroy Radford vs. Goodwill Industries of Lower SC  
WCC File No.: 1214593 DOI: 7/4/2012  
Carrier: PA Manufacturers Assn. Ins. Co. - Claim No.: W000560909  
WJC&B File No.: 0135.00306  
Appellate Case No.: 2014-000149

Dear Judge Kitchings:

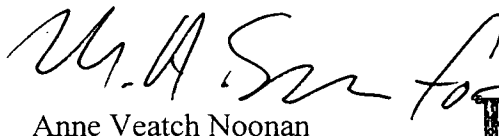
Enclosed for filing please find a Notice of Appeal in the above referenced case. By copy of this letter, I am serving the same on Claimant *pro se*, Mr. Leroy Radford. Also enclosed are the following:

1. Proof of Service of Notice of Appeal on the Respondent and the South Carolina Workers' Compensation Commission;
2. A copy of the Order which is to be challenged on appeal;

A filing fee of One Hundred Dollars (\$100.00) was submitted in a previous correspondence dated January 21, 2014.

With kindest regards,

WILLSON JONES CARTER & BAXLEY, P.A.

  
Anne Veatch Noonan

**RECEIVED**

AVN/lmb  
Enclosures  
cc (w/enclosure): Mr. Leroy Radford, Claimant *pro se*  
Ms. May Oo (via e-mail)  
Ms. Virginia Crocker

FEB 06 2014

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
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APPEAL FROM THE SOUTH CAROLINA  
Workers' Compensation Commission

SCWCC File No. 1214593

Leroy Radford, Employee, Claimant, ..... Respondent,

v.

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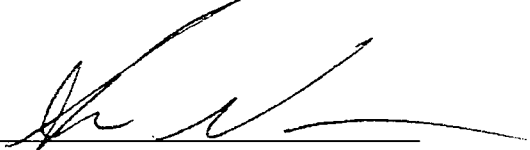
NOTICE OF APPEAL

Appellants, Goodwill Industries of Lower SC, Employer, and PA Manufacturers Association Insurance Company, Carrier, appeal the order of the Appellate Panel of the South Carolina Workers' Compensation dated January 10, 2013, on the following grounds:

- I. THE APPELLATE PANEL ERRED IN FINDING THAT CLAIMANT'S NECK PROBLEMS ARE CAUSALLY RELATED TO HIS INJURY BY ACCIDENT ON JULY 4, 2012 UNDER § 42-1-160.
- II. THE APPELLATE PANEL ERRED IN FAILING TO REQUIRE CLAIMANT TO PROVIDE MEDICAL OPINION EVIDENCE THAT THE PRE-EXISTING DEGENERATIVE CONDITION IN CLAIMANT'S CERVICAL SPINE WAS AGGRAVATED BY THE WORK ACCIDENT ON JULY 4, 2012 UNDER §42-9-35.
- III. THE APPELLATE PANEL ERRED IN FINDING THAT CLAIMANT IS ENTITLED TO MEDICAL TREATMENT FOR THE CERVICAL SPINE UNDER § 42-15-60.

Respectfully submitted,

**WILLSON JONES CARTER & BAXLEY, P.A.**



---

Anne Veatch Noonan, Esquire, SC Bar No. 16604  
421 Wando Park Boulevard, Suite 100  
Mt. Pleasant, SC 29464  
Attorneys for Appellants

Date: January 21, 2014



## STATEMENT OF THE CASE

Leroy Radford (Claimant) suffered a work accident arising out of and in the course of his employment with Goodwill Industries of Lower SC (Employer) on July 4, 2012, when during the course of moving a television with a co-worker, the television was released by the co-worker, leaving Claimant attempting to hold it on his own before he fell. Claimant fell onto his right leg/hip/back. As a result of the work accident, Employer and its Carrier, PA Manufacturers Association Insurance Company (collectively "Defendants") admitted the accident and provided treatment to Claimant's thoracic spine only.

After the date of injury, Claimant was treated conservatively for multiple contusions, back pain, and thoracic pain.

On January 14, 2013, Claimant filed a Form 50 alleging injury to the upper back, neck and head, and requested a hearing. Defendants in their Form 51 dated February 1, 2013, admitted injury to Claimant's thoracic spine only. A hearing was held before Commissioner McCaskill in Conway, South Carolina, on March 26, 2013.

Claimant sought a determination of whether Claimant's alleged neck and head injuries were causally related to the July 4, 2012, accident and thereby compensable. Claimant further sought a determination of whether Claimant was entitled to additional medical treatment to his neck and head. Claimant argued that on the date of accident he also hit his head when he fell thereby causing injury to his neck. Claimant further argued that he reported neck pain to treating physicians the day after the accident, but that the doctor simply failed to note this complaint. Defendants argued that Claimant's cervical spine injury does not relate to the July 4, 2012, work accident, and is therefore not compensable, in that Defendants contended that Claimant did not complain of neck pain until more than two months after the accident. Defendants also insisted that an MRI of Claimant's cervical spine supports their defense of non-compensability because the MRI indicated degenerative changes only. Finally, Defendants argued that because Claimant's

neck injury is not compensable, he is not entitled to any benefits under the Act for the unrelated neck or head claim.

On May 13<sup>th</sup>, 2013, the single Commissioner issued his Decision and Order containing the following findings of fact and conclusions of law:<sup>1</sup>

#### *FINDINGS OF FACT*

1. *That Employee, Employer, and Carrier are subject to and bound by the terms and provisions of the South Carolina Workers' Compensation Act, as amended, with Leroy Radford as Employee-Claimant and Lower SC Goodwill Industries as Employer and PA Manufacturers Assn. Ins. Co. as Carrier, Defendants.*

2. *That the average weekly wage of Employee at the time of the above-described accident was \$140.62, and his compensation rate was \$93.75.*

3. *The Claimant suffered an injury to his back – specifically to his thoracic spine (there was an initial report of lumbar pain and knee pain as well) arising out of and within the course and scope of his employment on July 4, 2012.*

4. *The Defendants have provided medical care and treatment for his injury. That treatment focused on the thoracic spine.*

5. *The Claimant is now alleging an injury to his cervical spine/neck as well.*

6. *The Claimant does complain of pain in his neck, but does not do so until more than two months after his accident.*

7. *While he says he has had a "severe" neck pain since the day after his accident, I find it troubling that he treats for some weeks without reporting that "severe" neck pain.*

8. *An assertion by the Claimant that he told the medical professionals of his neck pain from the onset of treatment and they failed to listen is simply unbelievable.*

9. *An MRI on 10/02/12 shows that he does have "degenerative change" to the cervical spine.*

10. *The Claimant is 70 years-old.*

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<sup>1</sup> Pursuant to the Order of Commissioner James, dated May 2<sup>nd</sup>, 2013, Attorney Jill Wright was relieved as attorney of record for the Claimant. Claimant proceeded with his appeal pro se.

11. Dr. Merritt does say on October 9, 2012, that the Claimant has "Cervical degenerative joint disease with associated work-injury." He also says in that report, "MRI does reveal some moderate cervical DJD, particularly at the C6-C7 level. There is (sic) no fractures, pathological lesions, or other problems."

12. The PT notes in this case do not reflect complaints as to neck pain.

13. The initial medical report on July 4, 2012, reflects complaints of pain in the lumbar and thoracic regions of the back as well as knee pain.

14. The Claimant suffers from degenerative joint disease and may well have accompanying pain from that condition.

15. When the evidence is considered as a whole and based on the greater weight of the evidence, the Claimant simply has not met his burden to causally relate his neck condition and accompanying pain to this accident.

16. Medical treatment to the cervical spine and neck as causally related to his accident of July 4, 2012, is denied.

17. Medical treatment to the head as causally related to his accident of July 4, 2012, is denied.

18. All other issues are held in abeyance.

#### RULINGS OF LAW

Accordingly, as provided in § 42-17-40, SC Code Ann. (1976), as amended, it is the determination of this Commission that:

1. Under § 42-1-130, Claimant was a covered employee at the time in question; and under § 42-1-140, Defendant/Employer was a covered employer under the Act.

2. Under § 42-1-160, Claimant suffered an injury to his back only. Specifically to his thoracic spine, as a result of his work injury on July 4, 2012.

3. Under § 42-1-160, Claimant did not sustain an injury to his neck, specifically his cervical spine, or head, by accident arising out of and in the course and scope of his employment on July 4, 2012.

4. Under § 42-15-60, Claimant is not entitled to medical treatment provided by Defendants for his neck or head.

## ORDER AND AWARD

*IT IS ORDERED that as a result of Claimant's accidental injury occurring on July 4, 2012, Claimant sustained a compensable injury to his back for which Defendants have been providing causally related medical treatment.*

*IT IS FURTHER ORDERED that Claimant did not sustain a compensable injury to his neck or head as a result of the July 4, 2012, accident. Therefore, Defendants are not obligated to provide medical treatment for Claimant's neck or head.*

*No hearing costs are assessed in this instance.*

## ISSUES ON APPEAL

Claimant filed a Form 30 Request for Commission Review of the Decision and Order of Commissioner McCaskill, contending that he also injured his neck.

## FULL COMMISSION FINDINGS OF FACT

Following a Hearing before the appellate panel of the Workers' Compensation Commission, the Full Commission makes the following findings of fact:

1. The Appellate Panel affirms the decision of the Hearing Commissioner that Claimant injured his back, but reverses the finding that Claimant's neck was not injured. The Panel finds compelling the video capturing the accident itself, and further finds that Claimant complained of neck problems one month after date of the accident at the very latest.

2. Videotape of the Claimant's accident was submitted into evidence and reviewed by the Appellate Panel at regular speed and in slow motion. The Panel finds as a fact that the videotape depicts the following:

As Claimant loses his grip of the television and then his balance, he initially lands on his right leg/hip but then forcefully rolls onto his shoulder and spine. As Claimant continues to roll to the ground, his head and torso go out of view, but Claimant's feet fly up in the air. The fact that Claimant's feet fly up in the air renders his testimony -- that his neck and head hit the ground -- very credible. Claimant then comes back up to a sitting position.

3. The Appellate Panel reverses Finding of Fact number 15, and finds that the problems with Claimant's neck are causally related to his injury by accident on July 4<sup>th</sup>, 2012.
4. The Appellate Panel reverses Finding of Fact number 16, and finds that Claimant is entitled to medical treatment for the cervical spine.
5. As Claimant only requested a finding of compensability with regard to his neck during oral argument, we affirm the single Commissioner's finding that the head is not a compensable body part.
6. What further bolsters Claimant's credibility is the fact that although Claimant's knee was clearly injured, Claimant readily admitted to providers that his knee injury had resolved.
7. Claimant is to receive an evaluation and appropriate treatment for his neck with a specialist until he reaches maximum medical improvement.

#### FULL COMMISSION RULINGS OF LAW

Following a Hearing before the above-mentioned appellate panel of the Workers' Compensation Commission, the Full Commission makes the following Rulings of Law:

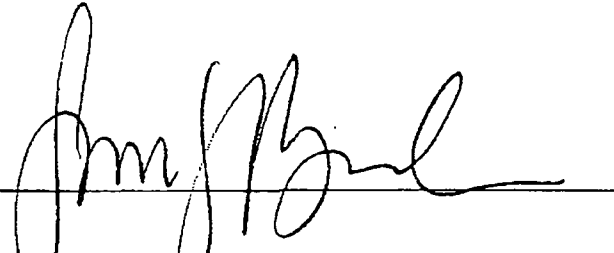
1. Claimant sustained a compensable injury by accident to his neck arising out of and in the course of his employment on July 4<sup>th</sup>, 2012, pursuant to § 42-1-160.

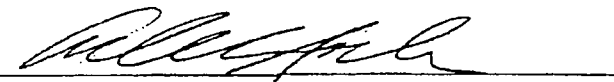
2. The Appellate Panel reverses Ruling of Law number 2, and finds that under § 42-1-160, Claimant suffered an injury to his back and neck as a result of his injury on July 4<sup>th</sup>, 2012.
3. The Appellate Panel reverses Ruling of Law number 3 and finds that under § 42-1-160, Claimant suffered an injury to his cervical spine. The Panel affirms the finding that Claimant did not sustain an injury by accident to his head.
4. The Appellate Panel reverses Ruling of Law number 4, and finds Claimant is entitled to medical treatment provided by Defendants for his neck under § 42-15-60. The Panel affirms the finding that Claimant is not entitled to medical treatment for his head.

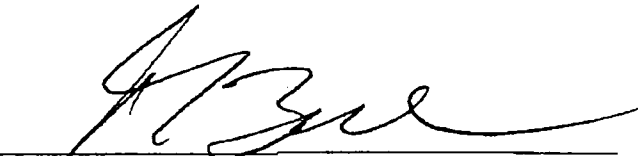
#### **ORDER**

**IT IS THEREFORE ORDERED** that the Decision and Order of the Single Commissioner is Affirmed in Part and Reversed in Part. It is Ordered that the portions of the Decision and Order finding Claimant did not sustain a compensable injury by accident arising out of and in the course of his employment with Defendants to his neck are hereby Reversed. It is Ordered that Claimant sustained an injury by accident arising out of and in the course of his employment to his neck on July 4<sup>th</sup>, 2012 and is entitled to causally related medical treatment until he reaches maximum medical improvement. All other portions of the Decision and Order of the Single Commissioner are hereby Affirmed.

AFFIRMED IN PART AND REVERSED IN PART.

  
Commissioner Susan S. Barden

  
Commissioner Andrea C. Roche

  
Commissioner T. Scott Beck

Columbia, South Carolina

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served this order in the above entitled action upon all parties to this cause by depositing a copy hereof, postage paid, in the United State mail addressed to the attorney or attorneys for said parties.

This 10 day of January, 2007  
By Valencia D Deller

Administrative Assistant to the Commissioner

**WILLSON JONES CARTER & BAXLEY, P.A.**

Payee South Carolina Workers' Compensation Commission

Check: 00089874

January 17, 2014

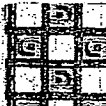
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01/17/2014 Filing Fee - Appeal to Court of Appeals #1214593 Leroy Radford vs. Goodwill Industries of Lower SC

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<b>WILLSON JONES CARTER &amp; BAXLEY, P.A.</b> 872 S. PLEASANTBURG DRIVE GREENVILLE, SC 29607 PH. (864) 527-3279		<b>SOUTHERN FIRST BANK, N.A.</b> 67-801-532		00089874-89874
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PAY TO THE ORDER OF South Carolina Workers' Compensation Commission P.O Box 1715 Columbia SC 29202-1715		Jan 17, 2014	\$100.00	
				<i>Michelle Carter</i> AUTHORIZED SIGNATURE

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**WILLSON JONES CARTER & BAXLEY, P.A.**

Payee South Carolina Workers' Compensation Commission

Check: 00089874

January 17, 2014

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01/17/2014 Filing Fee - Appeal to Court of Appeals #1214593 Leroy Radford vs. Goodwill Industries of Lower SC

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**WILSON JONES CARTER & BAXLEY, P.A.**  
ATTORNEYS AT LAW  
421 WANDO PARK BOULEVARD, SUITE 100  
MOUNT PLEASANT, SC 29464

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**SC Court of Appeals**

THE HONORABLE JENNY ABBOTT KITCHINGS  
THE SOUTH CAROLINA COURT OF APPEALS  
P.O. BOX 11629  
COLUMBIA, SC 29211

2921131629 8012

