

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

72045

APPEAL FROM COMMISSION PANEL OF THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

RECEIVED

APR 29 2014

WCC NO. 0800718

SC Court of Appeals

Denica PowellAppellant

vs.

Petsmart, Inc. and Phoenix Insurance Co.Respondents

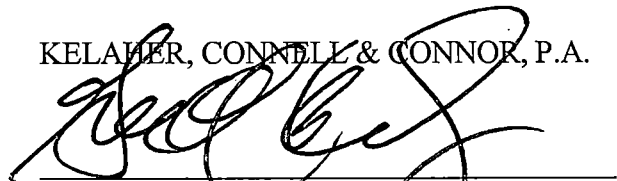
NOTICE OF APPEAL

The Appellant, Denica Powell, appeals the Decision and Order of the Commission Panel of the South Carolina Workers' Compensation Commission dated April 1, 2014 and received by Appellant on April 1, 2014. The grounds for appeal are as follows:

1. The Order of the Commission may not vacate the single Commissioner's decision without reasons given by the Commission.
2. A remand by the Commission is not appropriate without a specific reason for the remand.
3. A hearing *de novo* cannot be ordered without specific reasons given by the Commission.
4. The Commission has no authority to order a *de novo* hearing without specific reasons and thus the findings of fact and law have become the law of the case and this Court should affirm the findings of the single Commissioner. *Hamm v. Mullins Lumber Co.*, 193 S.C. 66, 7 S.E.2d 712 (1940).
5. The Commission in vacating the single Commissioner's opinion without a reason used an unlawful procedure and/or was affected by an error of law.

6. The Commission decision to vacate the Order of the single Commissioner was clearly erroneous since no reason was given for the remand. Accordingly, the single Commissioner rulings should be affirmed as a matter of law.
7. A Commission Order without specific findings does not comply with the requirements of the Workers Compensation Act and are per se, thus this Court should affirm the decision of the single Commissioner as a matter of law.
8. In order to vacate the opinion of the single Commissioner, the full Commission must give clear, cogent reasons and include findings of fact and conclusions of law.

KELAHER, CONNELL & CONNOR, P.A.



Gene M. Connell, Jr. (S.C. Bar No. 1358)

The Courtyard, Suite 209

1500 U. S. Highway 17 North

Post Office Drawer 14547

Surfside Beach, South Carolina 29587-4547

(843) 238-5648 (phone)

(843) 238-5050 (facsimile)

gconnell@classactlaw.net

Attorney for Appellant

April 28, 2014
Surfside Beach, South Carolina

Other Counsel of Record:

F. Reid Warder, Jr., Esquire

Warder Law Firm, LLC

PO Box 31057

Charleston, SC 29417

(843) 556-4400

reid@warderlawfirm.com

Attorney for Respondents

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APPEAL FROM COMMISSION PANEL OF THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

WCC NO. 0800718

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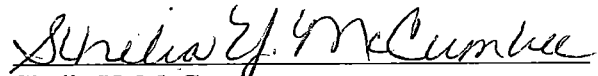
PROOF OF SERVICE

PERSONALLY appeared before me, Shelia Y. McCumbee, who being duly sworn, deposes and says that she is an employee of Kelaher, Connell & Connor, P.C., and that she has served a **Notice of Appeal** on the Respondents, through counsel of record, and on the South Carolina Workers' Compensation Commission, by depositing a copy of same in the United States Mail, postage prepaid, to:

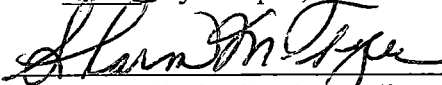
F. Reid Warder, Jr., Esquire
Warder Law Firm, LLC
PO Box 31057
Charleston, SC 29417

Virginia L. Crocker
Judicial Director
S. C. Workers' Compensation Commission
Post Office Box 1715
Columbia, SC 29202-1715

DATE OF MAILING: April 28, 2014


Shelia Y. McCumbee

SWORN AND SUBSCRIBED before me,
this 28th day of April, 2014


Notary Public for South Carolina
My Commission Expires: 2-25-19

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KELAHER, CONNELL & CONNOR, P.C.

ATTORNEYS AT LAW

SUITE 209

THE COURTYARD

1500 U.S. HIGHWAY 17 NORTH

P.O. DRAWER 14547

SURFSIDE BEACH, SOUTH CAROLINA 29587

EDWARD T. KELAHER*
GENE M. CONNELL, JR.
L. SIDNEY CONNOR, IV
LISA POE DAVIS

* OF COUNSEL

AREA CODE 843
238-5648
FAX: 238-5050

April 28, 2014

The Honorable Jenny Abbot Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

Re: Denica Powell v. Petsmart, Inc. and The Phoenix Insurance Company.
W.C.C. File No. 0800718
Our File No. 2010-0158C

Dear Ms. Kitchings:

Enclosed for filing is a Notice of Appeal in the above-captioned case. Also enclosed are the following:

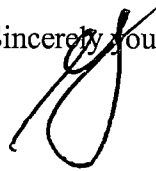
1. Proof of Service of the Notice of Appeal on the Respondents.
2. Copy of the Order which is to be challenged on Appeal.
2. Our check for the \$100.00 filing fee.

Please return a clocked copy to us in the self-addressed, stamped envelope provided.

By copy of this letter, I hereby serve the Respondent, through counsel of record, with the Notice of Appeal.

Thank you for your kind assistance in this matter.

Sincerely yours,



Gene M. Connell, Jr.

GMC,Jr.:sm
Enclosures
cc w/enc.:

F. Reid Warder, Esquire
S. C. Workers' Compensation Commission

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KELAHER, CONNELL & CONNOR, P.C.

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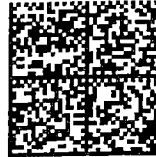
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The Honorable Jenny Abbot Kitchings
Clerk, South Carolina Court of Appeals
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