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JUN 02 2014
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM South Carolina
Workers Compensation Commission

Full Commission Order Dated December 19, 2013 Affirming Commissioner Melody L. James
orders dated January 04, 2013 And September 30, 2013

Case No.: 2014-000186

John C. McDaniel.....Appellant,

v.

Snelling Staffing Services and United Wisconsin Insurance
Company c/o United HeartlandRespondents.

**APPELLANT'S RESPONSE TO RESPONDENTS'
MOTION TO STRIKE AND/OR
AMEND CLAIMANTS INITIAL BRIEF
AND DESIGNATION OF MATTER**

PLEASE TAKE NOTICE that the Appellant hereby replies to Respondents' Motion
to Strike and/or Amend Portions of Appellant's Initial Brief and Designation as follows:

As to Paragraphs 1 and 2: The recordings are communications with an
administrative agency in execution of its public functions. These recordings support the
claims of the Appellant that the SCWCC actively and aggressively suppressed
constitutional guarantees of Due Process and Equal Protection. The Appellant will supply
the Respondents with copies of the two recordings in question.

As to Paragraph 3: The "Amended Form 30" was ruled on so it must necessarily be
part of the record that can be reviewed.

It is the Appellants responsibility to place evidence into the Record on Appeal to sufficiently allow for judicial review.

For justification to exclude Appellant's "Amended Form 30" Respondents site Rule 210 (c), SCACR, "[t]he Record shall not...include matter which was not presented to the lower court or tribunal."

The SC Workers Compensation addressed the acceptance of Appellant's Amended Form 30 During the hearing as reflected in the full commission hearing transcript from October 14, 2013 p.5:15-19 where Commissioner Barden said, "We have that [amended form 30] in front of us, yes, sir."

Then on November 1, Appellant received drafting instructions that stated "the Form 30 was not timely served, so no documents outside the record were considered."

Then on Dec. 16, 2013 Appellant notified the commission of his objection to the form 30's exclusion, among various other defects. (Exhibit A) None of the defects were addressed and the commission signed a order on December 19, 2013.

Following the Decision and Order of the Commission the Appellant notified the court of the intent to seek review with the first topic in the "Statement of Issues on Appeal" was:

"I. DID THE COMMISSION ERR IN FAILING T ACCEPT THE APPELLANTS AMENDED FORM 30?"

When a document is presented to the lower court, the matter decided upon, the appellant has a right to judicial review of the decision.

Terry v. SC DEPT. OF HEALTH 377 S.C. 569, 660 SE 2d 291 (Ct. App. 2008) After an aggrieved party has exhausted all administrative remedies, the party is entitled to judicial review by the South Carolina Court of Appeals. *See* S.C.Code Ann. § 1-23-380(A) (Supp.2007). Judicial review is confined to the record and is governed by South Carolina Code section § 1-23-380(A)(5), which provides:

The court may not substitute its judgment for the judgment of the agency as to the weight of the evidence on questions of fact. The court may affirm the decision of the agency or remand the case for further proceedings. [However,] [t]he court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are: (a) in violation of constitutional or statutory provisions; (b) in excess of the statutory authority of the agency; (c) made upon unlawful procedure; (d) affected by other error of law; (e) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

A) Disallowing the Appellant his right of review would suppress his right to due process and equal protection under the South Carolina and United States Constitutions.

B) S.C. Code Ann. §1-23-320 prohibits an administrative agency from excluding relevant evidence.

C) The Original Form 30 and Review hearing was stayed by the SCWCC “appellate panel” to admit additional and newly discovered evidence pursuant to R. 67-707 (C)(2)(e) and remanded to the original commissioner for further proceedings. After the remand hearing Appellant retains the right of judicial review regarding rulings of law and findings of fact from both hearings.

D) Lack of exercise of discretion amounts to an abuse of discretion, and when the SCWCC denies an injured worker the RIGHT to introduce evidence it is in contradiction of *Watson v. Extra Mile Trucking*, 399 SC 455, 732 SE 2d 190 (Ct App. 2012) where the court clearly established that the commission in exercise of its authority was not bound by the strict rules of evidence and was given wide latitude to accept additional evidence.

In lay terms, the Amended Form 30 clearly and concisely states errors of law and fact alleged by the appellant that were not ruled on by the Commission, to allow this document to be excluded from the review process would severely prejudice the appellants right to review.

As to Paragraph 4 and 5: Upon information and belief these records are dated as proposed. I will clarify when the SC Worker Compensation Commission complies with my records request for the forms that were filed on my behalf by my former counsel.

As to Paragraph 6: Appellant agrees.

As to Paragraph 7: Appellant clarifies a date of October 12, 2013.

As to Paragraph 8: Appellant clarifies record dated and received March 26, 2013.

As to Paragraph 10: Appellant clarifies date of service of May 15, 2013 by Virginia Crocker.

As to Paragraph 12: Appellant clarifies date filed of May 09, 2013.

As to Paragraph 13: Appellant clarifies date filed of May 14, 2013

As to Paragraphs 9, 11, 14, 15: Appellant agrees.

As to Paragraphs 16 and 17: I have attached copies of the letters as requested.

As to Paragraph 18: the appellant would clarify that the notation should have read "(ROA___Form 14-b Dated September 6, 2012.)"

As to Paragraph 19: Appellant further clarifies: (ROA___Exhibit/APA submission to Claimant's Motion for Additional Evidence and Notice of Additional APA Submissions filed May 09, 2013 APA p.# 127)

As to Paragraph 20: Appellant further clarifies: (ROA___Exhibit/APA submission to Claimant's Motion for Additional Evidence and Notice of Additional APA Submissions filed May 09, 2013 APA p.# 166-195)

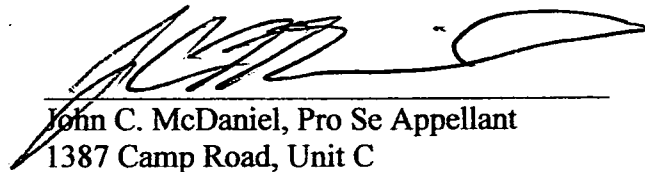
As to Paragraph 21: See "Exhibit C" letter Dated October 4, and Filed 10/10/13 which included APA p.# 340-351

As to Paragraph 22: Appellant further clarifies (ROA____Wages of like employees APA exhibit 9 p. 120-122)

As to Paragraph 23: Appellant further clarifies (ROA____RCC report Dated 2/27/12 attached to and referenced in paragraph 9 in Claimants Motion for penalties Filed June 14, 2013)

Appellant admits the oversight of failing to address the Columbia office of MG&C and will address all further correspondence to that office.

WHEREFORE, based on all of the above, the Appellant respectfully requests that the Respondents' Motion be denied or that the Appellant be given the opportunity to Amend both his initial brief and designation of matter.



John C. McDaniel, Pro Se Appellant
1387 Camp Road, Unit C
Charleston, SC 29412
843-425-3000
Jmcdaniel1982@gmail.com

May 31, 2014

John McDaniel v. Career Employment Professionals d/b/a Snelling (Claim No.: 041100021048)

john mcdaniel <jmcdaniel1982@gmail.com>

Mon, Dec 16, 2013 at 7:09 PM

To: "Hollmon, Eugenia" <EHollmon@wcc.sc.gov>, "Cannon, Gary" <gcannon@wcc.sc.gov>

Cc: Allison Nussbaum <allison.nussbaum@mgclaw.com>, "WCC Appeals," <wccappeals@wcc.sc.gov>, "Crocker, Virginia" <vcrocker@wcc.sc.gov>, "Heather M. Sherrill" <heather.sherrill@mgclaw.com>

Good Evening and Happy Holidays to All,

I am in receipt of defendants proposed order, please let this serve as notice of the following :

Attached please find my proposed Findings of Fact to be ruled upon by the SC Workers Compensation Full Commission Panel, specifically Commissioners Bearden, McCaskill and Roche, for my claim and a synopsis of evidence for the Proposed Order previously submitted by the Defendants and Objected to by the Claimant (Me).

Although I am confident that this email will be discarded by the SCWCC and that my proposed finding of fact will not be ruled upon as required by Title 1 of SC Code of LAW by the SCWCC. I am again submitting findings of fact, after a hearing in front of an Administrative Agency (SC WCC), in an effort to seek resolution and actuality of this claim.

I further would request and have previously requested, clarification and findings of facts on multiple administrative rulings on Claimant's motions (specifically the Claimant's Motion for Additional Evidence & APA Submissions, Motions for Additional Evidence & Testimony and Motion for Penalties to be Enforced) filed prior to the Full Commission Hearing, so that these decisions may be reviewable in a court for error of law.

I object to the Proposed Order submitted by the Defendants on multiple grounds. Please see below.

I object to the Proposed Order submitted by the Defendants, which is not consistent with the original order signed by Commissioner Melody James on January 4th, 2013.

I object to the Proposed Order drafted and submitted by the Defendants on the ground that there is MATERIAL MISREPRESENTATION OF NUMERICAL DATA in the Proposed Order that is inconsistent with the record on file and the orders dated November 28, 2012 and July 8, 2013.

I object to the Defendants Summary of Evidence which is void of the entirety of the APA's submitted from the first hearing and remand hearing.

I object to the sufficiency of notice of the remand hearing.

I object to the sufficiency of notice of the full commission hearing.

I object to the exclusion of the amended form 30 dated October 9, 2013.

I object to being told at the hearing that the form 30 had been accepted only to have it excluded at a later date.

6

Exhibit A

I object to the statement that the Amended form 30 was not timely served.

I object to the Full Commission Hearing proceeding without an opportunity to submit briefs on the issues to be raised.

I object to the issuance of the appeal hearing notice (October 1, 2013) prior to reception of the remand hearing order by Claimant (received October 4th, 2013).

I object to defendants' request for an extension being granted to draft the proposed order.

I object to having my inquiries not addressed by the SCWCC.

I object to the defendants non adherence to the proposed decision directive to include " Amended Form 30 was not timely served. So, no documents outside the record were considered." was changed to say "In reaching this Decision, the appellate panel did not consider any documents outside the record because the claimants's Amended form 30 was not timely served; therefore, any records submitted with the amended form 30 were not considered by the panel."

I object to the Defendant's summarizing the deposition testimony of Dan Cobb and ask that any reference to Dan Cobb's testimony be directly quoted.

I further request that the Defendants do not summarize my testimony in their "Summary of Evidence" as a summarization of testimony depends on an individual's interpretation. I would request that any reference to my testimony be directly quoted, as only I can speak directly to the intent of my statements.

I object to the statement by defendants that claimant was "ultimately referred to a wound facility" no wound care or treatment was EVER provided for by the defendants.

I object to the allegation by defendants that claimant has "alleged malunited fracture." As the record indicates that claimant has malunited fractures.

Sincerely,

John C. McDaniel

[Quoted text hidden]

 **proposed-findings.docx**
25K

John C. McDaniel

1387 Camp Road, Unit C, Charleston SC 29412
Phone Number: 843-425-3000
Email: jmcDaniel1982@gmail.com

October 7, 2013

Via US Mail

Virginia Crocker, Judicial Director
S.C. Workers Compensation Commission
Post Office Box 1715
Columbia, SC 29292-1715

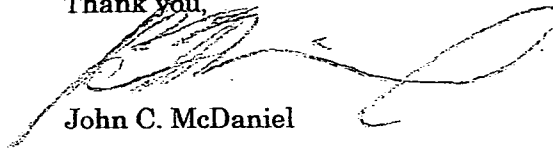
RE: John C. McDaniel v. Career Employment Professional d/b/a Snelling Staffing
DOI: 11/21/2011
WCC File: 1116275

Dear Ms. Crocker,

Enclosed please find the originals and copies of three affidavits for the above referenced claim. Please file the originals and return the filed stamped copies in the self-addressed stamped envelope.

If you have any questions, please do not hesitate to call. Thank you in advance for your assistance in this matter.

Thank you,



John C. McDaniel

John C. McDaniel

1387 Camp Road, Unit C, Charleston SC 29412
Phone Number: 843-425-3000
Email: jmcDaniel1982@gmail.com

October 4, 2013

Via US Mail

Virginia Crocker, Judicial Director
S.C. Workers Compensation Commission
Post Office Box 1715
Columbia, SC 29292-1715

RE: John C. McDaniel v. Career Employment Professional d/b/a Snelling Staffing
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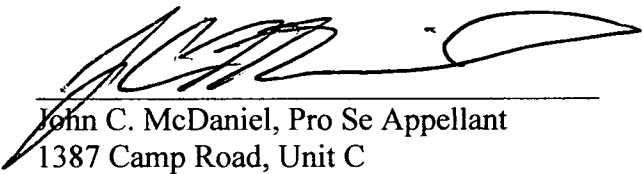
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CM

John McDaniel v. Career Employment Professionals d/b/a Snelling (Claim No.: 041100021048)

john mcdaniel <jmcdaniel1982@gmail.com>

Mon, Dec 16, 2013 at 7:09 PM

To: "Hollmon, Eugenia" <EHollmon@wcc.sc.gov>, "Cannon, Gary" <gcannon@wcc.sc.gov>

Cc: Allison Nussbaum <allison.nussbaum@mgclaw.com>, "WCC Appeals," <wccappeals@wcc.sc.gov>, "Crocker, Virginia" <vcrocker@wcc.sc.gov>, "Heather M. Sherrill" <heather.sherrill@mgclaw.com>

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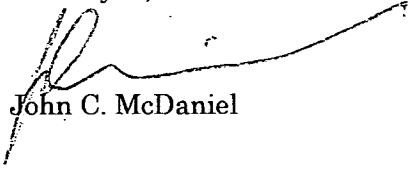
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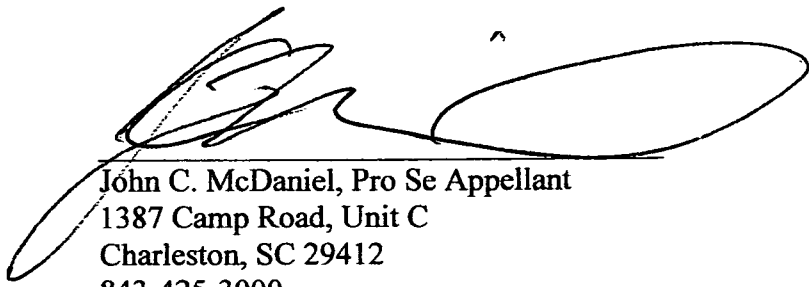
Snelling Staffing Services and United Wisconsin Insurance
Company c/o United HeartlandRespondents.

PROOF OF SERVICE

I certify that I have served Appellant's Reply to Respondents' Motion by depositing a
copy in the U.S. Mail, postage paid on March 31, 2014 addressed to the below:

R. Mark Davis
Alison Nussbaum
Helen F. Hiser
McAngus Goudelock & Courie, LLC
735 Johnnie Dodds Blvd., Suite 200
Mt. Pleasant, SC 29465

Weston Adams, III
PO Box 12519
Columbia, SC 29211-2519



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JOHN C. MCDANIEL

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March 31, 2014

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

RE: John C. McDaniel v. Career Employment Professional d/b/a Snelling Staffing
DOI: 11/21/2011
WCC File: 1116275
Appellant Case No: 2014-000186

Dear Ms. Kitchings,

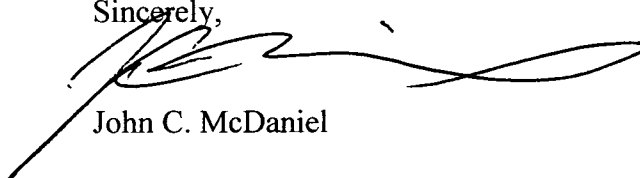
Enclosed for filing, please find

1. Original and Seven Copies of Appellant's Reply to Respondents' Motion
2. Original and One Copy of Appellant's Proof of Service

At your earliest conveniences please file the originals and return the file-stamped copies in the enclosed, self-addressed, stamped envelope.

Please call me if you have any questions about the enclosed. Thank you in advance for your consideration on this matter.

Sincerely,



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