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THE STATE OF SOUTH CAROLINA
In The Supreme Court

S.C. Supreme Court

APPEAL FROM THE
WORKERS' COMPENSATION COMMISSION

Appellate Case No. 2014-000329

Carolyn M. Nicholson, Claimant, Petitioner,

vs.

S.C. Dep't of Social Services, Employer, and
State Accident Fund, Carrier, Defendants, Respondent.

BRIEF OF PETITIONER

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STATEMENT OF ISSUES ON APPEAL

- I. Did the Court of Appeals err in overturning the decision of the Workers' Compensation Commission in ruling Nicholson's fall did not arise out of her employment?
- II. Did the Court of Appeals err in introducing fault into the no-fault workers' compensation system?

STATEMENT OF THE CASE

Carolyn Nicholson fell when her shoe stuck on the carpet as she was walking to a meeting while working for the South Carolina Department of Social Services. The Department of Social Services (“DSS”) and its insurance carrier, State Accident Fund, admit Nicholson fell at work but deny that the fall constitutes a compensable injury by accident under the Workers’ Compensation Act.

By order dated April 26, 2011, the single Commissioner determined Nicholson fell when her shoe scuffed the carpet as she was walking to a meeting with a stack of files in her hands; however, he found that the claim was not compensable. (R. pp. 17-26) The Appellate Panel of the Full Commission reversed and found the claim compensable. (R. pp. 1-16)

DSS appealed to the Court of Appeals. In a split decision, the Court reversed the Commission and found Nicholson’s injuries did not arise out of her employment since “the carpet on which [she] tripped and fell was not a hazard, a special condition, or peculiar to her employment.” (Appendix, pp. 54-67)

Nicholson petitioned the Court of Appeals for rehearing and suggested a rehearing *en banc*. (Appendix, pp. 68-86) However, again in split decisions, the Court of Appeals denied both the petition for rehearing and the suggestion for rehearing *en banc*. (Appendix, pp. 91-94)

As this case involves a question of exceptional importance due to the Court of Appeals’ decision introducing fault into the no-fault system fundamental to workers’ compensation, Nicholson petitioned this Court to review the case. Nicholson also petitioned the Court to consolidate the case with another case currently pending before the Court involving

substantially similar issues, Judy Marie Barnes v. Charter 1 Realty, Appellate Case No. 2012-212389. This Court granted the petition for a writ of certiorari and denied the motion to consolidate but ordered that the case would be heard on the same day as Barnes.

STATEMENT OF FACTS

Nicholson was employed by DSS for about 20 years and worked in the child protective services area as a supervisor of investigations. (R. p. 49, lines 4-23) On February 26, 2009 she was preparing for an in-house audit of her files. She left her office carrying a stack of files for the meeting and was walking down the hall when “the friction from my foot caught me and I fell, files and all, [onto] my left side.” (R. p. 51, line 4-p. 52, line 13) She stated that her leg did not give way, that she is in good health, and had not any previous problems with her legs giving way. (R. p. 52, lines 14-19) Nicholson was asked specifically what she thought caused her to fall, and she answered as follows:

Q. So, what is it that you think caused you to fall?

A. Friction from the carpet.

Q. Did your foot get stuck?

A. Yes, from the friction. As I went to walk, the friction from the carpet just grabbed me and I fell.

(R. p. 52, lines 20-24)

The medical records show that Nicholson reported to Exigent–Wade Hampton on that same day complaining of pain in her left side, left shoulder, neck, and leg after “she tripped on the carpet, fell and landed on her left side.” (R. pp. 85-86) Nicholson reported to her primary care physician, Dr. Stanley Coleman, for continued care, and Dr. Coleman noted that she was complaining of left arm and shoulder pain after falling at work. (R. pp. 102-103)

After an MRI, Nicholson was referred to neurosurgeon Dr. Philip Hodge. Dr. Hodge noted that she was complaining of continued neck and left arm pain after she “[t]ripped and fell on floor” at work. (R. p. 104) After evaluation, Dr. Hodge diagnosed cervical radiculopathy related to the fall and referred Nicholson for pain management treatment. (R. pp. 104-107) Dr. John Haasis saw Nicholson thereafter and noted she complained of neck, left shoulder, and left upper extremity pain after “she fell at work.” (R. p. 108)

ARGUMENTS

In Brown v. Greenwood Mills, Inc., the standard of review in workers' compensation cases was explained at length.

The South Carolina Administrative Procedures Act (“APA”) establishes the standard for judicial review of decisions of the workers' compensation commission. A reviewing court may reverse or modify a decision of an agency if the findings, inferences, conclusions, or decisions of that agency are “clearly erroneous in view of the reliable, probative and substantial evidence on the whole record.” Under the scope of review established in the APA, this Court may not substitute its judgment for that of the appellate panel as to the weight of the evidence on questions of fact, but may reverse where the decision is affected by an error of law.

The substantial evidence rule of the APA governs the standard of review in a workers' compensation decision. Pursuant to the APA, this Court's review is limited to deciding whether the appellate panel's decision is unsupported by substantial evidence or is controlled by some error of law. Substantial evidence is not a mere scintilla of evidence, nor the evidence viewed blindly from one side of the case, but is evidence which, considering the record as a whole, would allow reasonable minds to reach the conclusion the administrative agency reached in order to justify its action.

The appellate panel is the ultimate fact finder in workers' compensation cases and is not bound by the single commissioner's findings of fact. The final determination of witness credibility and the weight to be accorded evidence is reserved to the appellate panel. The possibility of drawing two inconsistent conclusions from the evidence does not prevent an administrative agency's findings from being supported by substantial evidence. Where there are conflicts in the evidence over a factual issue, the findings of the appellate panel are conclusive.

The findings of an administrative agency are presumed correct and will be set aside only if unsupported by substantial evidence. It is not within our province to reverse findings of the appellate panel which are supported by substantial evidence.

Brown v. Greenwood Mills, Inc., 366 S.C. 379, 391-93, 622 S.E.2d 546, 553-54 (Ct. App. 2005)(citations omitted).

I. The Court of Appeals erred in ruling Nicholson’s fall did not arise out of her employment.

The Workers’ Compensation Act provides that “[i]n order to be entitled to workers’ compensation benefits, the employee must show he or she sustained ‘injury by accident arising out of and in the course of employment.’” Owings v. Anderson Co. Sheriff’s Dep’t, 315 S.C. 297, 299, 433 S.E.2d 869, 871 (1993); S.C. Code Ann. § 42-1-160 (2009). The dispute here centers on whether the injury arose out of employment.

The phrase ‘arising out of’ refers to the origin of the cause of the accident. ‘An injury arises out of employment when there is apparent to the rational mind, upon consideration of all the circumstances, a causal relationship between the conditions under which the work is to be performed and the resulting injury.’”

Clade v. Champion Lab., 330 S.C. 8, ___, 496 S.E.2d 856, 857 (1998).

The Court of Appeals focused on definitions of “arising out of” that exclude injuries from a hazard to which a worker “would be equally exposed apart from the employment” and require the source of the injury to be a risk “peculiar to the work and not common to the neighborhood.” These definitions appeared in South Carolina case law in 1944 when this

Court quoted at length from a 1913 decision by the Supreme Judicial Court of Massachusetts defining the “arising out of” requirement. See Eargle v. South Carolina Elec. & Gas Co., 205 S.C. 423, 32 S.E.2d 240 (1944), quoting In Re Employers’ Liability Assurance Corp., 102 N.E. 697 (Mass. 1913)(also known as McNicol’s Case).

It (the injury) arises “out of” the employment, when there is apparent to the rational mind upon consideration of all the circumstances, a causal connection between the conditions under which the work is required to be performed and the resulting injury. Under this test, if the injury can be seen to have followed as a natural incident of the work and to have been contemplated by a reasonable person familiar with the whole situation as a result of the exposure occasioned by the nature of the employment, then it arises “out of” the employment. But it excludes an injury which cannot fairly be traced to the employment as a contributing proximate cause and which comes from a hazard to which the workmen would have been equally exposed apart from the employment. The causative danger must be peculiar to the work and not common to the neighborhood. It must be incidental to the character of the business and not independent of the relation of master and servant. It need not have been foreseen or expected, but after the event it must appear to have had its origin in a risk connected with the employment, and to have flowed from that source as a rational consequence.

Eargle, 32 S.E.2d at 242-43. While the Eargle decision did not turn on this language from the Massachusetts court, it introduced the language into South Carolina's jurisprudence.

However, some years after the In Re Employers’ Liability Assurance Corp. decision, the Massachusetts court itself abandoned this language. In Caswell’s Case, the court held that “[a]n injury arises out of the employment if it arises out of the nature, conditions, obligation or incidents of the employment; in other words, out of the employment looked at in any of its aspects.” Caswell's Case, 26 N.E.2d 328, 330 (Mass. 1940):

Unquestionably, the injury was received in the course of his employment. The only other requirement is that the injury be one “arising out of” his employment. **It need not arise out of the nature of the employment. An injury arises out of the employment if it arises out of the nature, conditions, obligations or incidents of the employment; in other words, out of the employment looked at in any of its aspects.** Thom or Simpson v. Sinclair, [1907] A.C. 127, 142, 143. An employee who, in the course of his employment, is hurt by contact with something directly connected with his employment, receives a personal injury arising out of his employment, even though the force that caused the contact was not related to his employment. Thom or Simpson v. Sinclair, [1917] A.C. 127, 134-136. Lord Atkin, in Brooker v. Thomas Borthwick & Sons (Australasia), Ltd. [1933] A.C. 669, 677, stated the principle thus: “If a workman is injured by some natural force such as lightning, the heat of the sun, or extreme cold, which in itself has no kind of connection with employment, he cannot recover unless he can sufficiently associate such injury with his employment. This he can do if he can show that the employment exposed him in a special degree to suffering such an injury. **But if he is injured by contact physically with some part of the place where he works, then, apart from questions of his own misconduct, he at once associates the accident with his employment and nothing further need be considered. So that if the roof or walls fall upon him, or he slips upon the premises, there is no need to make further inquiry as to why the accident happened.**”

Id. (emphasis added)

This Court embraced this change by quoting approvingly from Caswell's Case in its decision in Jordan v. Dixie Chevrolet, 218 S.C. 73, 61 S.E.2d 654 (1950). The Court noted that this was “the more modern” view and that Caswell's Case

is a landmark in Massachusetts law as it avoided the paralyzing effect of the earlier decision in McNicol's Case requiring ‘peculiar’ exposure, and ‘denial of compensation for common risks.’ . . . ‘Under such a broad definition, as well as under

narrower rules, it is not necessary that the injury be one which ought to have been foreseen or expected. Even unusual or extraordinary consequences of the employment may well be compensable. The risk insured is not only the foreseeable one, but the risk which, after the event, can be seen to have its origin the nature, conditions, obligations, or incidents of the employment.’

Jordan, 61 S.E.2d at 657. It is apparent from Jordan that the purpose in moving away from the more restrictive definition of “arising out of” was that workers’ compensation laws were intended to be free of the fault-based determinations of tort law and that the “peculiarity” requirement of In Re Employers’ Liability Assurance Corp. improperly required this search for fault. See Jordan, 61 S.E.2d 657-660.

The reason for the shift in definitions is that the “peculiar to the work and not common to the neighborhood” language sounds reasonable but proves unworkable and restrictive. Under the Court of Appeals’ reasoning, a happenstance injury—a scuffed trip-and-fall—on a level floor is not compensable because level floors are common outside the workplace. By the same reasoning, a fall down stairs will not be compensable; stairs exist outside of the workplace and are common to the neighborhood. Similarly, a chef or restaurant worker who accidentally cuts herself while working will not be compensated because knives exist outside the workplace and are common to the neighborhood. The possibilities are endless, and such outcomes are contrary to the purpose of the Workers’ Compensation Act, as the courts noted in Caswell’s Case and Jordan. It does not matter that the injury is not the employer’s fault. What matters is that the injury has a reasonable and rational connection to the employee’s work. That connection exists here. Ms. Nicholson was injured while she was trying to do her work.

While the case on which the Court of Appeals relies in its underlying decision, Douglas v. Spartan Mills, 245 S.C. 265, 140 S.E.2d 173 (1965), refers to In Re Employers' Liability Assurance Corp. and does not mention the change in the law found in Caswell's Case or Jordan, neither the language quoted in Jordan nor the broadening of the "arising out of" requirement found therein has been reversed or expressly disfavored by any subsequent South Carolina decision. And, as noted in Jordan, it is this broader definition that fits within the stated purposes of our Workers' Compensation Act.

Under this broader language of Caswell's Case and Jordan, the injury in the present case is compensable, as the fall occurred well within the conditions, obligations or incidents of the employment. Walking across the carpet and scuffing her shoe on the carpet were natural incidents of the work and a result of the exposure occasioned by the employment. As in Jordan, it is not necessary that the more remote cause of the injury, the carpet, be peculiar to the work under South Carolina law following Jordan. The focus should not be on whether something caused the fall but rather on whether the fall was connected to employment. The risk here clearly had its origin the nature, conditions, obligations, or incidents of the employment. The employment brought Nicholson in contact with the risk.

A subsequent decision of the Court of Appeals appears to recognize this principle and is at odds with that court's decision in this case. On June 11, 2014, the Court of Appeals issued a decision in Shatto v. McLeod Reg. Med. Ctr., Op. No.5239 (S.C.Ct.App. filed June 11, 2014). Shatto was a nurse anesthetist who fell on the operating room floor when her "foot became caught on something" while walking around the patient's bed. She guessed that her foot caught on either the I.V. pole or cords from the bed or pump. The Commission determined that she sustained a compensable injury, but the employer appealed arguing that

her fall was not compensable and was idiopathic in nature. The Court of Appeals disagreed finding that “[a]lthough Shatto did not directly and unequivocally testify to what specifically caused her to fall, there is ample circumstantial evidence in the record that Shatto's fall was *the result of conditions of her employment.*” *Id.*, at p. 5 (emphasis added). As in the present case, the Court of Appeals determined that the fall was not idiopathic since Shatto had a non-internal explanation for her trip and fall. The Court went on to find that “[b]ecause Shatto presented satisfactory evidence that ‘the origin of the risk was connected with [her] employment,’ we hold her injury flowed as a natural consequence of her work at the hospital and thus arose out of and in the course of her employment with McLeod.” *Id.*, at p. 5 (quoting Douglas v. Spartan Mills, 245 S.C. 265, 269, 140 S.E.2d 173, 175 (1965)). See also Bentley v. Spartanburg Cnty., 398 S.C. 418, 430, 730 S.E.2d 296, 303 n.8 (2012)(“the hypothetical that the dissent employs [sheriff's deputy tripping, falling, and injuring leg while drawing his gun on a suspect] involves a physical injury that would be compensable because it is not constrained by § 42-1-160...”).

There is no meaningful difference between Shatto and the present case. Like Shatto, Nicholson was walking while performing her job when she tripped because she came into contact with her place of employment. Both ladies' jobs brought them in contact with the risk that caused their falls and injuries. Even though power cords are just as common outside the workplace as carpeted floors, the Shatto court did not and did not need to consider that as the injury had a reasonable and rational connection to the employee's work. The evidence shows and the Commission found the same reasonable connection in the present case. As it did in Shatto, the Court of Appeals should have affirmed the Commission's determination that Nicholson's injury is compensable.

II. The Court of Appeals erred in introducing fault into the no-fault system fundamental to workers' compensation.

The Court of Appeals' decision in this case introduces fault and premises liability concepts into a system where fault has no place. The express purpose of workers' compensation is the absence of such fault-based determinations. It is vitally important to distinguish a "causal connection" to employment from the concept of causation as developed and applied in tort law.

Professor Larson in his treatise, Workers' Compensation Law, § 3.06 (2005), discusses this important distinction at length. Larson reminds us that, "[i]t is instantly apparent that 'arising out of the employment' does not mean exactly the same thing as 'legally caused by the employment.'" Id. He distinguishes the phrases by noting, "proximate cause or legal cause is out of place in compensation law, because, as developed in tort law, it is a concept that is itself thoroughly suffused with the idea of fault; that is, it is a theory of causation designed to bring about a just result when starting from an act containing some element of fault." Id.

"One of the purposes of the Workmen's Compensation Act is to protect and partially compensate employees who are injured while engaged in the regular course of their employment irrespective of mishap, independent of the injury itself, and/or negligence on the part of either the employee or employer." Layton v. Hammond-Brown-Jennings Co., 190 S.C. 425, 3 S.E.2d 492, 496 (1939). "The American concept of workmen's compensation is founded upon recognition of the advisability, from the standpoint of society as well as of employer and employee, of discarding the common law idea of tort liability in the employer-employee relationship and of substituting therefor the principle of liability on the part of the employer, regardless of fault" Case v. Hermitage Cotton Mills, 236 S.C. 515, 115 S.E.2d

57, 65 (1960). Negligence and contributory negligence are of no consequence in workers' compensation cases. Jordan, *supra*. at 656; Allsep v. Daniel Const. Co., 216 S.C. 268, 57 S.E.2d 427 (1950).

The right to compensation benefits depends on one simple test: Was there a work-connected injury? Negligence, and, for the most part, fault, are not in issue and cannot affect the result. **Let the employer's conduct be flawless in its perfection, and let the employee's be abysmal in its clumsiness, rashness and ineptitude; if the accident arises out of and in the course of the employment, the employee receives an award. Reverse the positions, with a careless and stupid employer and a wholly innocent employee and the same award issues.** Thus, the test is not the relation of an individual's personal quality (fault) to an event, but the relationship of an event to an employment. **The essence of applying the test is not a matter of assessing blame, but of marking out boundaries.**

Larson, Workers' Compensation Law, § 1.03 (2005).

Here, the Court has introduced fault into the equation by erroneously requiring some fault or hazard in the flooring in order to find a trip or fall on a level floor compensable. To the contrary, as often stated in workers' compensation law, it is the unexpected result of work activity that is the compensable injury. Pee v. AVM, Inc., 352 S.C. 167, 573 S.E.2d 785 (2002). This Court in Pee specifically stated:

Under § 42-1-160, a claimant is entitled to benefits for an "injury by accident arising out of and in the course of employment." In Layton v. Hammond-Brown-Jennings Co., 190 S.C. 425, 3 S.E.2d 492 (1939), we interpreted for the first time the meaning of "injury by accident" under the newly enacted Workman's Compensation Act. We noted that two lines of cases had evolved in other jurisdictions: some jurisdictions, including North Carolina upon which our Act is modeled, held there must be some unusual or unlooked-for

mishap resulting in injury to constitute an accident; other jurisdictions held no mishap was required for an accident so long as there was an unexpected injury occurring while the employee was performing his usual duties in his customary manner. **We chose the latter definition, focusing on the unexpected nature of the *injury* rather than requiring that the event causing the injury be unexpected.** This definition of accident as an unexpected injury has been reiterated in a long line of cases. See, e.g., Colvin v. E.I. DuPont De Nemours Co., 227 S.C. 465, 88 S.E.2d 581 (1955) (injury by accident is an injury occurring unexpectedly without the prior occurrence of any external event of an accidental nature); Hiers v. Brunson Const. Co., 221 S.C. 212, 70 S.E.2d 211 (1952) (injury by accident is an injury that is accidental in that it is unforeseen and unexpected).³

3 In Hiers, we noted the policy reason for adopting such a definition: **If [the injury] results from the conditions under which the work is carried on, there is no reason why it should not be held compensable.** In such case, it is one of the casualties of business; and it is the purpose of the compensation statutes to place the burden of casualties upon the business and not upon the unfortunate employee. [Hiers,] 70 S.E.2d at 221.

As we more recently stated, “in determining whether something constitutes an injury by accident the focus is not on some specific event, but rather on the injury itself.” Stokes v. First Nat'l Bank, 306 S.C. 46, 50, 410 S.E.2d 248, 250 (1991). Further, an injury is unexpected, bringing it within the category of accident, if the *worker* did not intend it or expect it would result from what he was doing. Colvin, 227 S.C. at 468-69, 88 S.E.2d at 582 (emphasis added). Therefore, if an injury is unexpected from the worker's point of view, it qualifies as an injury by accident.

Pee v. AVM, Inc., 352 S.C. 167, 170-71, 573 S.E.2d 785, 787 (2002). Stated succinctly, “no slip, fall or other fortuitous event or accident in the cause of the injury is required; the unexpected result or industrial injury is itself the compensable accident.” Sigmon v. Dayco Corp., 316 S.C. 260, 262, 449 S.E.2d 497, 498 (1994). See also Sturkie v. Ballenger Corp.,

268 S.C. 536, 235 S.E.2d 120 (1977); Creech v. Ducane Co., 320 S.C. 559, 467 S.E.2d 114 (Ct. App. 1996); Clade v. Champion Lab., 330 S.C. 8, 496 S.E.2d 856 (1998); Pee v. AVM, Inc., 344 S.C. 162, 543 S.E.2d 232 (Ct. App. 2001). In these cases and Jordan, the law is clear: so long as there is apparent to the rational mind, upon consideration of all the circumstances, a causal relationship between the conditions under which the work is to be performed and the resulting injury, the injury arises out of the employment. The focus should not be on the cause of the fall but on the connection of the fall to the employment. See also Shatto v. McLeod Reg. Med. Ctr., Op. No.5239 (S.C.Ct.App. filed June 11, 2014).

The Court of Appeals should never even have considered the “level floor” jurisprudence in Bagwell v. Ernest Burwell, Inc., 227 S.C. 444, 88 S.E.2d 611 (1955). The present case does not in any way involve an “idiopathic” injury, and for that reason, the “level floor” line of reasoning is irrelevant. It is clear from the holding in Bagwell that there must first be an “idiopathic” fall before the question of whether the floor or some object struck on the way down contributed to the effects of the fall. In other words, if there is no evidence of “a nonoccupational heart attack, epileptic fit, or fainting spell” or some other personal medical problem causing the fall, there is no reason to raise the question of whether the floor or some object struck on the way down contributed to the effects of the fall. Here, the evidence shows that there was no medical condition that caused the fall in question. Nicholson testified that she is in good health and that her leg did not give way. The medical records do not suggest any personal medical reason. Therefore, because there is no suggestion of a personal medical reason for the fall, this claim does not meet the definition of an “idiopathic” fall and there is no reason to consider whether the floor played any role in the injury.

Nicholson was undertaking her work activities at the time she tripped and fell. Her activities at the time of her trip and fall were incidental to and consistent with her employment and arose from an aspect of her job, specifically the requirement that she attend her meeting. When all the circumstances here are considered, the causal relationship between the work Nicholson was performing and her injury is abundantly apparent. Her injury arose out of her employment. Fault – whether on Nicholson’s part, the employers part, or even in the flooring – is not relevant.

The Court of Appeals recognized this in Shatto. The court noted that though Shatto had not been able to specifically identify the cause of her fall, the fall was compensable because it was a result of the conditions of her employment. The origin of the risk was connected to her employment in that the cords – or whatever Shatto tripped over – were a part of her place of employment. The same is true in the present case. The carpet that caused Nicholson to trip and fall was a part of her place of employment and her employment brought her into contact with the carpet. The Court of Appeals should have made the same decision here as it made in Shatto, rather than going on a search for something wrong with the floor.

The illogical result of the Court of Appeals’ decision in this case is perhaps best illustrated by the comparison with our appellate court decisions regarding the personal comfort doctrine. This doctrine has been consistently used to supply the “arising out of” requirement to bring such activities as eating, drinking, seeking relief from discomfort, and even smoking within the purview of workers’ compensation. See e.g. Mack v. Post Exchange, 207 S.C. 258, 35 S.E.2d 838 (1945); Osteen v. Greenville Co. School Dist., 333 S.C. 43, 508 S.E.2d 21 (1998). Under the Court’s opinion in this case, we are left with the unjustifiable result that had Nicholson been on her way to the bathroom at the time of her injury, compensation would have

been allowed under the personal comfort doctrine; but since she was engaged in actual productive work activity, compensation is denied.

The Court of Appeals' decision reversing the Workers' Compensation Commission's ruling is contrary to previous decisions of this Court and the intent of the Workers' Compensation Act. This Court should overturn the Court of Appeals' decision.

CONCLUSION

The Court of Appeals' decision reversing the Workers' Compensation Commission's ruling overlooks or misapprehends settled law concerning the "arising out of" employment requirement and erroneously introduces fault into the no-fault workers' compensation system. The Court of Appeals' decision is contrary to previous decisions of this Court. This is a matter of exceptional importance as the Court of Appeals' published decision will be used by the members of the Workers' Compensation Commission, workers' compensation defense attorneys, and workers' compensation insurance adjusters to deny benefits for any and all falls at work and demand proof of some fault on the part of the employer or in the employer's premises. Further, it is not difficult to see how this decision could be used to argue for a showing of fault in a wide number of situations beyond falls where the injury could arguably have occurred in some setting outside the place of employment. The importance of this issue to the workers' compensation bar cannot be overstated due to the significant change in the law it represents.

The Court of Appeals' decision should be reversed by this Court, and the Commission's determination should be reinstated. The record shows that the Commission committed no factual or legal error in finding as fact and ruling as a matter of law that Nicholson sustained compensable injury by accident arising out of and in the course of her employment when she tripped, fell, and sustained injuries while walking across the carpet at her place of employment to attend a meeting to discuss her files. Such a trip and fall is clearly compensable under our Worker's Compensation Act.

Respectfully submitted,



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THE STATE OF SOUTH CAROLINA
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JUN 30 2014

S.C. SUPREME COURT

APPEAL FROM THE
WORKERS' COMPENSATION COMMISSION

Appellate Case No. 2014-000329

Carolyn M. Nicholson, Claimant, Petitioner,

vs.

S.C. Dep't of Social Services, Employer, and
State Accident Fund, Carrier, Defendants, Respondent.

CERTIFICATE OF SERVICE

This is to certify that the undersigned did cause the **BRIEF OF PETITIONER** to be served upon the Respondents by mailing a copy of same to their attorney of record at the address shown below by U.S. Mail, proper postage prepaid, on the 27th day of June, 2014.

L. Brenn Watson, Esq.
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