

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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72981

APPEAL FROM RICHLAND COUNTY  
APPELLATE PANEL, WORKERS' COMPENSATION COMMISSION

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W.C.C. File No. 0726308

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Shannon Cook ..... Respondent,

v.

Spartanburg Steel Products, Inc. .... Appellant.

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**MOTION TO DISMISS**

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**RECEIVED**

JUL 24 2014

**SC Court of Appeals**

This motion is filed pursuant to Rule 240, SCACR.

This is an appeal in a workers' compensation case. The court should dismiss this appeal because the order of the Workers' Compensation Commission is not a "final order."

**Argument**

The Administrative Procedures Act generally limits a party's right to appeal an administrative case until after there has been a "final" decision. See S.C. Code Ann. § 1-23-380. This term is a term of art; it describes an order that disposes of all of the issues in a case and leaves nothing to be done but to enforce by execution what has been determined. See *Bone v. U.S. Food Service*, 404 S.C. 67, 83, 744 S.E.2d 552, 561 (2013).

There is much more to be done in the present workers' compensation case. The commission's decision specifically notes this; it describes that issues like an award of

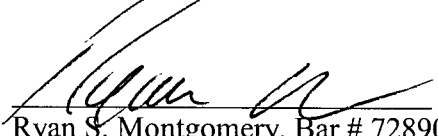
temporary benefits and an award of permanent benefits are being held in abeyance for future proceedings. See Attachment 1, p.10 ¶21. The decision *does* find that the claimant has experienced a “change of condition,” but the decision also acknowledges that it is an intermediate order and not a final order. It instructs that “[a]ll other issues not addressed herein are hereby held in abeyance pending a final order of the Commission[.]” *Id.* at 11 ¶4.

#### CONCLUSION

This appeal should be dismissed. The dismissal should be without prejudice and with leave to re-file once the commission has entered a final decision.

July 21, 2014

Respectfully submitted,



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Attorney for Respondent

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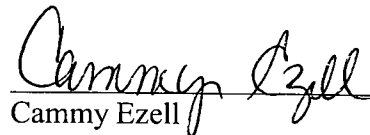
**PROOF OF SERVICE**

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The undersigned hereby certifies that on the date indicated below she served counsel for the Appellant with a copy of the *Motion to Dismiss* by mailing copies of the same by United States Mail with first class postage prepaid to the following address:

Bradford B. Easterling, Esquire  
McAngus Goudelock & Courie, LLC  
P.O. Box 2980  
Greenville, SC 29602

July 21, 2014

  
Cammy Ezell



# RYAN MONTGOMERY

ATTORNEY AT LAW, LLC

July 21, 2014

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

Re: Shannon W. Cook vs. Spartanburg Steel Product  
Case Tracking No. : 2014-001372  
WCC File No.: 0726308

Dear Ms. Kitchings:

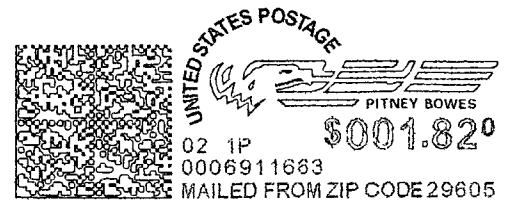
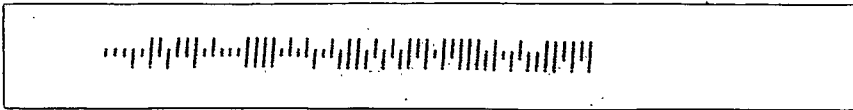
Please find enclosed for filing the original and seven (7) copies of a *Motion to Dismiss* in connection to the above-referenced case. I have also enclosed a proof of service of this document on counsel for the Appellant and a check for \$25.00 to cover the cost of filing this motion.

I am enclosing a return envelope for your convenience in returning the additional filed copy to our office. Thank you for your attention to this matter. If you need any additional information, please do not hesitate to contact me.

Yours very truly,

Cammy Ezell  
Paralegal to Ryan S. Montgomery

Enclosure



**RYAN MONTGOMERY**

ATTORNEY AT LAW, LLC

**108 MILLS AVENUE**

**GREENVILLE • SOUTH CAROLINA 29605**

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**SC Court of Appeals**

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