

**THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS**

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APPEAL FROM THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

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Appellate Case No. 2013-001322  
WCC File No. 1112328

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RECEIVED  
JUL 11 2013  
SC Court of Appeals

Samuel A. Rose, Claimant,.....Claimant,

v.

JJS Trucking, LLC, Uninsured Employer,  
Chris Thompson Services, LLC, Upstream Contractor,  
Bridgefield Casualty Insurance Company, Carrier,  
And South Carolina Workers' Compensation  
Uninsured Employers' Fund .....Defendants,

Chris Thompson Services, LLC, Upstream Contractor,  
and Bridgefield Casualty Insurance Co., Carrier, are the ..... Appellants,

The South Carolina Workers' Compensation Uninsured  
Employers' Fund is..... Respondent.

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**RESPONDENT'S MEMORANDUM  
APPEALABILITY**

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This Memorandum is prepared in response to Court request on the subject of appealability and in support of a Motion to Dismiss for lack of appealability.

## **BACKGROUND**

This matter is a workers' compensation case. Samuel Rose alleged that he sustained an injury by accident in the course and scope of employment with JJS Trucking, LLC, an uninsured employer. Chris Thompson Services, LLC was his upstream Contractor who was insured by Bridgefield Casualty Insurance Company ("Bridgefield"). Because the immediate employer had no workers' compensation insurance the South Carolina Workers' Compensation Uninsured Employers' Fund ("Fund") was added as a party to the action.

Pursuant to S.C. Code Ann. §42-1-415, "Bridgefield" petitioned the Commission to transfer liability to the "Fund".

A hearing was held before the Single Commissioner who found the matter to be compensable, ordered temporary benefits and continued medical treatment. The Single Commissioner further held that "Bridgefield's" Petition to Transfer Liability to the "Fund" was pre-mature as the carrier had not "paid all benefits due" as required by S.C. Code Ann. §42-1-415.

"Bridgefield" appealed this matter to the Full Commission who affirmed the findings of the Single Commissioner. It is from this order that "Bridgefield" appeals.

## **ARGUMENT**

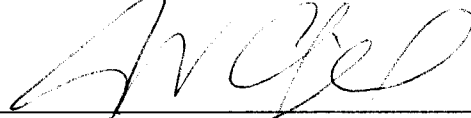
It is the "Fund's" position that this matter is not immediately appealable to this Court as there has been no final judgment. (S.C. Code Ann. §1-23-390) The order appealed from must finally determine an issue on the merits.

The Administrative Procedures Act (APA) governs the standard of review in a workers' compensation decision. (Lark v. Bi-Lo, Inc., 276 S.C. 130, 132, 276 S.E.2d 304, 305 (1981) Specifically, S.C. Code Ann. §1-23-610 limits review to final decisions. More specifically, "a

final judgment disposes of the whole subject matter of the action or terminates the particular proceeding or action, leaving nothing to be done but to enforce by execution what has been determined.” *Charlotte-Mecklenburg Hospital Authority v. South Carolina Dept. of Health and Environmental Control* 387 S.C. 265,267, 698 S.E.2d 894, 895 (2010). In this matter, the ALC had decided some questions of law, but it had also remanded some issues. Therefore, no final determination had been made. Here, the Single Commissioner made some findings of fact and conclusions of law, but the case remained open to provide benefits until such time as the claimant had reached maximum medical improvement. Therefore, this order was not a “final” decision.

In the case at bar the limited issue on appeal is whether or not the carrier could transfer liability. Because the Commission held that the petition was pre-mature the issue as to whether or not the carrier could transfer liability was not decided with finality – only the timing of the request.

COFIELD LAW FIRM



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Employers' Fund*

Lexington, South Carolina  
October 1, 2014

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Chris Thompson Services, LLC, Upstream Contractor,  
Bridgefield Casualty Insurance Company, Carrier,  
And South Carolina Workers' Compensation  
Uninsured Employers' Fund .....Defendants,

Chris Thompson Services, LLC, Upstream Contractor,  
and Bridgefield Casualty Insurance Co., Carrier, are the ..... Appellants,

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The South Carolina Workers' Compensation Uninsured  
Employers' Fund is..... Respondent.

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**PROOF OF DELIVERY**

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I, Ami M. Meetze, an employee of Cofield Law Firm, do hereby state that I have on this 2<sup>nd</sup> day of October, 2014 served a copy of the within and foregoing **RESPONDENT'S MEMORANDUM APPEALABILITY and RESPONDENT'S MOTION TO DISMISS FOR LACK OF APPEALABILITY**, by depositing same in United States Mail, First Class Postage Prepaid and addressed as follows:

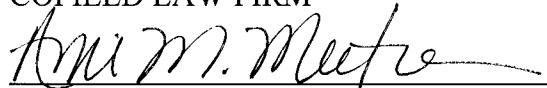
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Lexington, South Carolina  
October 2, 2014



C. Thomas Cofield III (1933 - 1994)

**VIA HAND DELIVERY**

Jenny Abbott Kitchings, Clerk of Court  
South Carolina Court of Appeals  
1015 Sumter Street  
Columbia, South Carolina 29201

October 2, 2014

Thomas C. Cofield  
Amy V. Cofield  
Huntley S. Crouch  
David S. Hipp  
Lauren C. Brearley  
Attorneys At Law

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**SC Court of Appeals**

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**SC Court of Appeals**

**Re: Samuel A. Rose v. JJS Trucking, LLC, SCUEF and Chris Thompson  
Services, LLC and Bridgefield Casualty Insurance Company  
WCC File No.: 1112328  
Appellate Case No.: 2013-001322  
Our File No.: 42.04**

Dear Ms. Kitchings:

Please find enclosed herewith the original and six (6) copies of the following documents for filing in the above-referenced matter:

1. Respondents Memorandum of Appealability;
2. Respondent's Motion to Dismiss for Lack of Appealability; and
3. Certificate of Service of same.

Please also find enclosed herewith our firms check in the amount of \$25.00 for the filing fee associated in filing the Motion to Dismiss.

By carbon copy of this letter I am hereby serving all parties with a copy of the above-referenced documents.

Thank you in advance for your attention to this matter. If you have any questions or concerns regarding the enclosure, please do not hesitate contacting me at the number below.

Very truly yours,

Ami M. Meetze,  
Paralegal to Amy V. Cofield

AVC/amm  
Enclosure

- cc: Kirsten L. Barr, Esq. (with copy of enclosures)  
Joseph Brooks Fisher, Esq. (with copy of enclosures)  
Benjamin William Akery, Esq. (with copy of enclosures)  
John Eric Kaufmann, Esq. (with copy of enclosures)

PERSONAL INJURY • WORKERS' COMPENSATION • FAMILY LAW  
REAL ESTATE • WILLS/TRUSTS/PROBATE • SOCIAL SECURITY

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