

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.: 2014-001083

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Old Republic Insurance Company, Appellant,

v.

SC Second Injury Fund, Respondent.

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**REPLY TO MOTION TO STRIKE APPELLANT'S FINAL BRIEF**

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Attorney for Appellants

Other Counsel of Record:

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Attorney for Respondents

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OCT 27 2014

**SC Court of Appeals**

The Appellant, by and through its undersigned counsel, hereby files this Reply Motion to Strike Appellant's Final Brief, as it does not violate 211(B) SCACR.

Respondent argues Appellant's Statement of Issue on Appeal in the Initial Brief, (p.1, Issue #2) is as follows:

2. Whether the Full Commission is correct in finding, as the Hearing Commissioner found, the Appellants properly provided notice to the Fund of the November 29, 2007 accident on December 31, 2007?

Respondent argues Appellant's Statement of Issue on Appeal in the Final Brief, (p.1, Issue #2) is as follows:

2. Whether the Full Commission is correct in finding, as the Hearing Commissioner found, the Appellants properly provided notice to the Fund of the November 29, 2007, accident, within the period of seventy-eight (78) weeks of payment of compensation, on December 27, 2007, in accordance with S.C.Code Ann. S 42-9-400(2010)?

Appellant argues the language was inadvertently excluded due to a clerical error and does not change the content, context, or intent of the issues. It only aids the reader.

Respondent argues Appellant's Initial Brief, (p.14) indicates the following:

**IT IS THEREFORE, ORDERED** that the Order of the Single Commissioner filed on September 6, 2013, is hereby REVERSED by a Majority of the Appellate Panel, and this Order shall constitute the Decision of the Full Commission. (Item No. 32)

Respondent then argues this entire sentence was eliminated. This is accurate. It was a typographical error leaving the provision in the Initial Brief. It does not change the subject matter, argument, context, or prejudice the Claimant's counsel in any fashion.

Respondent argues Appellant's Initial Brief, (p.15) indicates the following:

The Full Commission then prepared its own Findings of Fact and Conclusions of Law it states as follows:

The Appellant agrees. The sentence has been expanded for the sake of the reader for clarity purposes. Although, the Respondent is entirely inaccurate in stating that the added portion is factually incorrect. The Fund clearly did propose two (2) decision and orders to the Commission that were rejected, and the Commission then chose to prepare its own Finding of Fact and Conclusions of Law.

The Respondent then argues in the Appellant's Initial Brief (p.27-28), Section #3 states the following:

It further held that an employer may not submit anything into evidence at a hearing that was not already submitted to the Fund prior to June 30, 2011, if a *prima facie* case was not established and provided to the Fund prior to June 30, 2011, despite the fact the Fund clearly chose to deny the claim prior to June 30, 2011. (Item No. 34)

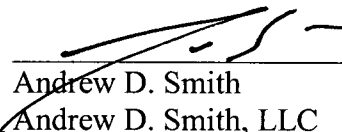
Appellant agrees that the Final Sentence has been deleted. It was a typographical error and should remain deleted.

Respondent also argues that Appellant's Final Brief was peppered with bold print and underlined emphasis, although it fails to indicate where in the Final Brief of the Appellant, are said emphasis. There has not been any prejudicial error, nor were there any factually incorrect or irrelevant statements added to the Appellant's Final Brief. The Appellant is admittedly clueless

as to why Respondent would argue the Appellants assertions are “factually incorrect, irrelevant, and provided in a thinly veiled attempt to malign Respondent’s counsel.”

If the Honorable Court finds that the Appellant’s corrections are more than typographical errors or misspellings as contemplated by the Rule, it would be happy to make the said revisions and/or request that the Honorable Court simply exclude the minor corrections from consideration on appeal.

Respectfully submitted,



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Attorney for Appellants

Dated October 22, 2014  
Charleston, South Carolina

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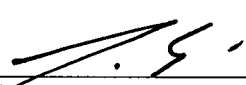
**PROOF OF SERVICE**

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I certify that I have served the REPLY TO MOTION TO STRIKE APPELLANT'S FINAL BRIEF on Respondents by depositing a copy in the U.S. Mail postage prepaid, on October 22, 2014, addressed to their attorney of record as follows:

Ms. Latonya D. Edwards  
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Ms. Amy Bracy  
Judicial Director  
S. C. Workers' Compensation Commission  
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October 22, 2014

The Honorable Jenny Abbott Kitchings  
South Carolina Court of Appeals  
1015 Sumter Street  
P.O. Box 11629  
Columbia, SC 29211

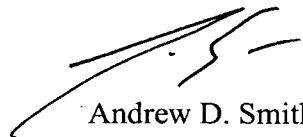
RE: Old Republic Insurance Company v. SC Second Injury Fund  
Appellate Case No.: 2014-001083

Dear Ms. Kitchings:

Enclosed herein please find the Reply To Motion To Strike Appellant's Final Brief (original and six copies) and Proof of Service by Mail, for filing in the above-referenced matter.

By copy of this letter, I am also serving the Respondent's attorney with copies of the same. Should you have any questions or concerns, please do not hesitate to contact me.

Very truly yours,



Andrew D. Smith

ADS/sjd

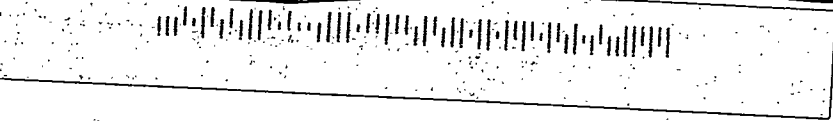
Enclosures

Cc: Amy Bracy, Judicial Director, S. C. Workers' Compensation Commission  
Ms. Latonya Edwards, Esquire

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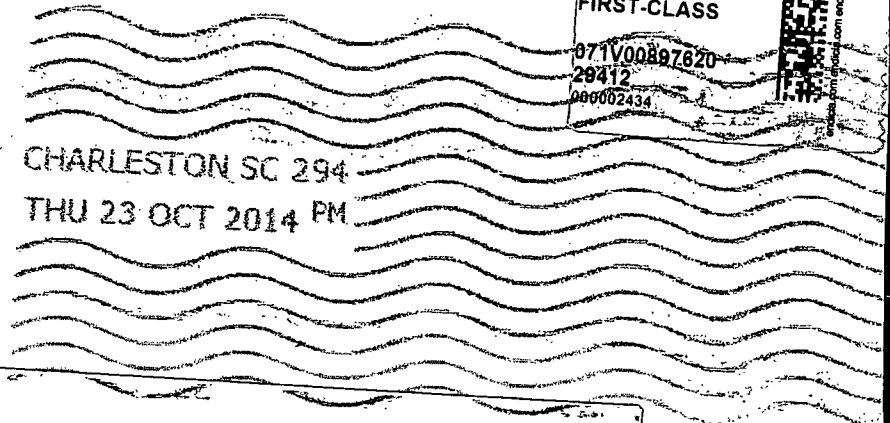
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