

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM SOUTH CAROLINA WORKERS'  
COMPENSATION COMMISSION

Appellant Panel of the Full Commission

Case No. Unknown  
WCC Number: 1106833

RECEIVED  
OCT 31 2014  
SC Court of Appeals

Timothy McMahan, Employee..... Appellant/Respondent,

v.

SC Department of Education/Transportation, Employer,

and

State Accident Fund, Carrier, ..... Appellants/Respondents.

NOTICE OF APPEAL


The Defendants, SC Department of Education/Transportation and State Accident Fund, appeal the Order of Appellant Panel of the South Carolina Workers' Compensation Commission dated September 30, 2014. Appellants received written notice of entry for this order on September 30, 2014.

Pursuant to S.C. Code Ann. §42-17-60, the grounds for appeal are as follows:

1. The Appellant Panel correctly denied permanent disability benefits in this matter, correctly finding that the Claimant/Decedent was not at maximum medical improvement at the time of his death, and therefore not entitled to a determination of permanent disability under the Workers' Compensation Act. However, out of an abundance of caution, Defendants are appealing the Appellant Panel's failure to include in their findings of fact and conclusions of law that the South Carolina Workers'

Compensation Act does not allow for the posthumous adjudication of Claimant's permanent disability, and that disability must be determined prior to Claimant's death for benefits to be awarded to any beneficiaries. Defendants assert that the Workers' Compensation Act does not allow for adjudication of permanent disability benefits in this matter even if Claimant were found to be at maximum medical improvement prior to his death, as such adjudication must be made prior to Claimant's death.

October 29, 2014



---

George T. Miars  
Willson, Jones, Carter & Baxley, P.A.  
421 Wando Park Blvd, Suite 100  
Mt. Pleasant, SC 29464  
(843) 284-1091  
gtmiars@wjlaw.net  
Attorney for Appellants/Respondents

Other Counsel of Record:  
Kevin B. Smith  
Hoffman Law Firm  
7080 Rivers Avenue  
North Charleston, SC 29406  
(843) 769-7077  
ksmith@hoffmanlaw.net  
Attorney for Respondent/Appellant

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM SOUTH CAROLINA WORKERS'  
COMPENSATION COMMISSION

Appellant Panel of the Full Commission

Case No. Unknown  
WCC Number: 1106833

RECEIVED  
OCT 31 2014  
SC Court of Appeals

Timothy McMahan, Employee..... Appellant/Respondent.  
v.

SC Department of Education/Transportation, Employer,  
and

State Accident Fund, Carrier, ..... Appellants/Respondents.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal and copy of the Appellate Panel Decision and Order of the South Carolina Workers' Compensation Commission dated September 30, 2014, on Respondent by depositing a copy of the document in the United States mail, first class postage prepaid, on October 29, 2014, to Timothy McMahan's counsel of record Kevin B. Smith, Esquire, 7087 Rivers Avenue, North Charleston, SC 29406, and to the South Carolina Workers' Compensation Commission, P.O. Box 1715, Columbia, SC, 29202-1715.

October 29, 2014



George T. Miars Jr.  
Willson, Jones, Carter & Baxley, P.A.  
421 Wando Park Blvd, Suite 100  
Mt. Pleasant, SC 29464  
(843) 284-1091  
Attorney for Appellants/Respondents

# WILLSON JONES CARTER & BAXLEY, P.A.

ATTORNEYS AT LAW

GREENVILLE    CHARLESTON    COLUMBIA    CHARLOTTE    RALEIGH    ATLANTA

George T. Miars, Jr.  
Direct (843) 284-1091  
Fax (843) 284-1081  
gtmiars@wjlaw.net

421 Wando Park Boulevard, Suite 100  
Mount Pleasant, SC 29464  
www.wjclaw.net

October 29, 2014

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

RECEIVED

OCT 31 2014

SC Court of Appeals

Re: Timothy McMahan vs. S.C. Dept. of Education  
WCC File No.: 1106833 DOI: 6/15/2011  
Carrier: State Accident Fund - Claim No.: 2011-001842  
WJC&B File No.: 0385.00902

Dear Ms. Kitchings:

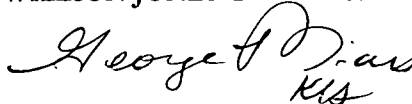
Please find enclosed the following documents for filing regarding the above-referenced matter:

- (1) Proof of Service of the Notice of Appeal on the respondents;
- (2) A copy of the Order which is to be challenged on appeal;
- (3) A filing fee of \$150.00; and
- (4) Self-addressed, stamped envelope.

Upon filing the original, please return a clocked-in copy to me in the enclosed self-addressed, stamped envelope. By copy of this letter to the SC Workers Compensation Commission and to Kevin B. Smith, Attorney for the Claimant (Appellant/Respondent), I am serving upon the Commission and the Respondents a copy of this Notice of Appeal.

With kindest regards,

WILLSON JONES CARTER & BAXLEY, P.A.



George T. Miars, Jr.

GTM/gtm  
Enclosures

cc: S.C. Workers' Compensation Commission  
Kevin B. Smith, Esquire  
Mr. Will Hawthorne  
Ms. Vera Jackson