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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

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SC Court of Appeals

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WCC File No. 1311681

Anthony Shelley, Appellant,

vs.

RockTenn, Employer, and New Hampshire
Insurance Company, Carrier Respondents.

NOTICE OF APPEAL

Appellant, Anthony Shelley, herein appeals the Order of the Appellate Panel of the South Carolina Workers' Compensation Commission dated October 31, 2014, on the following grounds:

1. **THE APPELLATE PANEL ERRED AS A MATTER OF FACT AND CONCLUSION OF LAW IN FAILING TO FIND THAT THE CLAIMANT SUFFERED AN INJURY BY ACCIDENT OUT OF AND IN THE COURSE AND SCOPE OF HIS EMPLOYMENT.**
2. **THE APPELLATE PANEL ERRED AS A MATTER OF FACT AND CONCLUSION OF LAW IN FINDING THAT "DISOBEYING A DIRECT ORDER AND INSTRUCTION OF HIS SUPERVISOR TOOK THE CLAIMANT OUTSIDE THE COURSE AND SCOPE OF HIS EMPLOYMENT."**
3. **THE APPELLATE PANEL ERRED AS A MATTER OF FACT AND CONCLUSION OF LAW IN FAILING TO FIND**

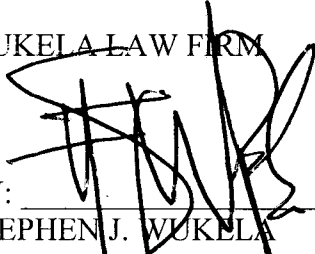
THAT THE CLAIMANT WAS STRUCK IN THE FACE BY A MALLET BY ALBERT MCNEIL.

4. THE APPELLATE PANEL ERRED AS A MATTER OF FACT AND CONCLUSION OF LAW IN FINDING THAT THE CLAIMANT WAS BARRED FROM RECOVERING WORKERS' COMPENSATION BENEFITS ON THE GROUNDS THAT HE WAS AN AGGRESSOR OF THE INCIDENT IN QUESTION.
5. THE APPELLATE PANEL ERRED AS A MATTER OF FACT AND CONCLUSION OF LAW IN ADMITTING THE STATEMENT GIVEN BY TRUCK DRIVER, ALBERT MCNEIL, ALONG WITH OTHER RECITATIONS OF MR. MCNEIL'S HEARSAY STATEMENTS DURING THE COURSE OF TESTIMONY.
6. THE APPELLATE PANEL ERRED AS A MATTER OF FACT AND CONCLUSION OF LAW IN FINDING THAT THE CLAIMANT'S CASE FAILS BASED ON THE TESTIMONY OF MR. BAXLEY THAT THE INCIDENT WOULD HAVE NEVER OCCURRED IF THE CLAIMANT HAD FOLLOWED THE ORDER AND SIMPLY LEFT THE PREMISES.
7. THE APPELLATE PANEL ERRED AS A MATTER OF FACT AND CONCLUSION OF LAW IN FAILING TO FIND THAT THE CLAIMANT IS ENTITLED TO COMPENSATION PURSUANT TO §42-9-10 AND §42-9-30 AND MEDICAL PURSUANT TO §42-15-60.

Appellant was served with written notice of entry of this Order on October 31, 2014.

November 13th, 2014

WUKELA LAW FIRM

BY: 
STEPHEN J. WUKELA
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Other Counsel of Record:
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ANTHONY SHELLEY, Appellant,

vs.

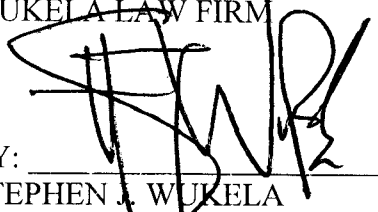
ROCKTENN, Employer, and
NEW HAMPSHIRE INSURANCE COMPANY, Carrier, Respondents.

CERTIFICATE OF SERVICE

I certify that I have served the Notice of Appeal on Respondents, by depositing a copy of it in the United States Mail, postage prepaid, on November 13th, 2014, addressed to their attorney of record, Grady L. Beard, at his office at PO Box 11449, Columbia, SC 29211.

November 13th, 2014

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November 13, 2014

Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
PO Box 11629
Columbia SC 29211

Re: Anthony Shelley v. RockTenn
WCC File No. 1311681

Dear Ms. Kitchings:

Enclosed please find for filing a Notice of Appeal in the above case. Also enclosed are the following:

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 One Hundred (\$100.00) Dollars.

By copy of this letter, I am serving the South Carolina Workers' Compensation Commission with a copy of the Appeal.

With kind regards, I am

Yours truly,

WUKELA LAW FIRM

STEPHEN J. WUKELA

SJW:jpb

Enclosures

cc: Grady L. Beard, Esquire

Honorable Amy Bracy
SC Workers' Compensation Commission

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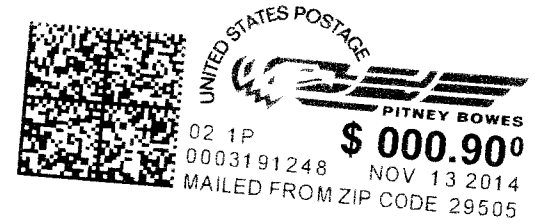
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