

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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DEC 08 2014

APPEAL FROM THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

SC Court of Appeals

74403

W.C.C. File No. 1116275

John McDaniel, Employee,..... Appellant,

v.

Career Employment Professional
d/b/a Snelling Staffing, Employer, and
United Wisconsin Insurance Co., Carrier, Respondents.

**MOTION FOR CORRECTION AND/OR AMENDMENT
OF RECORD ON APPEAL**

Pursuant to Rule 210, SCACR, Respondents move this Court to order that the following corrections be made to the Record on Appeal ("ROA"):

1. Certain pages have handwritten notes that should be removed. For example, pp. 143, 251, 252, 255 contain handwritten notes. Respondents have not identified all of the pages containing handwritten notes as it is Appellant's responsibility to correct all such errors.
2. Pages are missing from the transcript of the hearing before the Hearing Commissioner held November 28, 2012. Both Appellant and Respondents designated the full transcript of this hearing. For example, page 7 of that transcript is missing (pages 241 and 242 of the ROA skip from page 6 of the transcript to page 8). Page 30 of that transcript is also missing (pages 263 and 264 of the ROA skip from page 29 of the

transcript to page 31). Respondents reference both pages 7 and 30 of this transcript in their Brief.

3. The transcript of the deposition of Daniel J. Cobb is in a condensed version, in violation of Rule 267(c), SCACR. Not only is the type size a violation of Rule 267(c), the fact that this transcript is in a condensed version makes citing to pages and lines extremely confusing, since four pages of transcript appear on each page of the ROA.

4. The following items, designated by Respondents and cited in their Brief, do not appear in the ROA:

- a. Judicial Conference Decision and Order, dated April 15, 2013;
- b. Judicial Conference Decision and Order concerning Motion for Additional Evidence Dated May 6, 2013, filed June 17, 2013;
- c. Judicial Conference Decision and Order concerning Motion for Additional Evidence Dated May 10, 2013, filed June 17, 2013;
- d. Notice of Appellate Hearing, dated March 29, 2013;
- e. Request for Proposed Order, dated Aug. 6, 2013;
- f. Claimant's Notice of Additional Evidence to be Introduced into the Record, APA pp. 210-278, dated May 17, 2013;
- g. Email correspondence between Keith Roberts, Tamara Morris, John McDaniel and Allison Nussbaum, "Re: John McDaniel Charleston Order Instructions from Commissioner James for Keith to prepare Order," dated Sept. 10, 2013;¹
- h. Email correspondence between John McDaniel, Eugenia Hollmon, Gary Cannon, Valerie Deller, Virginia Crocker, and Allison Nussbaum, "Re: receipt of order 'scwcc # 1116275'", dated Oct. 4, 2013;² and,
- i. Email correspondence between Virginia Crocker, John McDaniel, and Allison Nussbaum, "Re: receipt of order 'scwcc # 1116275'", dated Oct. 4, 2013.³

¹ Although Appellant included a September 10, 2013 email, it is not the one referenced in Respondents' Brief and designated for inclusion in the ROA. As there were multiple emails on many days, for clarity, Respondents are attaching hereto the email they designated as Attachment A.

² As there were multiple emails on many days, for clarity, Respondents are attaching hereto the email they designated as Attachment B.

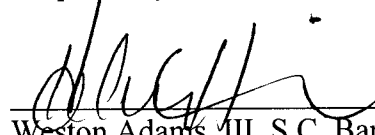
The above-listed items need to be included in the ROA.

Respondents request this Court to order Appellant to correct and/or amend the ROA as outlined above. Respondents further request this Court to order that the Final Briefs in this appeal will not be due until the Record on Appeal has been properly corrected and/or amended.

This motion conforms with Rule 240, SCACR.

December 4, 2014

Respectfully submitted,



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(803) 779-2300

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735 Johnnie Dodds Blvd., Suite 200
P.O. Box 650007
Mount Pleasant, South Carolina 29465
(843) 576-2900

Attorneys for Respondents

³ As there were multiple emails on many days, for clarity, Respondents are attaching hereto the email they designated as Attachment B.

Attachment A

From: Roberts, Keith [<mailto:keroberts@wcc.sc.gov>]

Sent: Tuesday, September 10, 2013 4:20 PM

To: Morris, Tamara

Cc: jmcdaniel1982@gmail.com; Allison Nussbaum

Subject: RE: John McDaniel Charleston Order Instructions from Commissioner James for Keith to prepare ORder.

Tamara,

Attached please find the proposed Decision and Order of the Single Commissioner in WCC File No. 1116275 McDaniel v. Career Employment Professional. Please review and let me know if Commissioner James has any questions or requires any changes.

Claimant pro se has requested ten days in which to comment on the proposed Order before the Decision and Order is filed. By copy of this email to John McDaniel, Claimant pro se, and Allison Nussbaum, Attorney for Defendants, I am providing them with a copy of the proposed Decision and Order and offering them an opportunity to submit any questions or comments to me for consideration by Commissioner James. The parties should be reminded that the purpose of any comments or questions should be limited to ensuring that the directives of Commissioner James are accurately reflected in the proposed Decision and Order and that this is not an opportunity to re-litigate the merits of the issues decided by Commissioner James. Commissioner James has the final decision regarding the contents of the Decision and Order.

Thank you!

From: Morris, Tamara

Sent: Monday, August 05, 2013 3:41 PM

To: Roberts, Keith

Subject: John McDaniel Charleston Order Instructions from Commissioner James for Keith to prepare ORder.

Importance: High

Attachment B

From: Crocker, Virginia <vcrocker@wcc.sc.gov>
Sent: Friday, October 04, 2013 11:56 AM
To: Morris, Tamara; Hollmon, Eugenia; john mcdaniel
Cc: WCC Appeals;; Cannon, Gary; Allison Nussbaum; Deller, Valerie
Subject: RE: receipt of order "scwcc # 1116275"

Everyone

It is difficult to understand how someone who was not served an order would be able to call and tell us about it. In order for him to know there was an order, he would have had to be served.

The hearing on October 14th is the hearing on his original appeal from the order served in January of this year. His appeal time for the September order is still running and he has been so advised by our staff.

Ginger

Virginia L. Crocker
Judicial Director
803.737.5739 Voice
803.239.7935 Cell

From: Morris, Tamara
Sent: Friday, October 04, 2013 11:27 AM
To: Hollmon, Eugenia; john mcdaniel
Cc: WCC Appeals;; Crocker, Virginia; Cannon, Gary; Allison Nussbaum; Deller, Valerie
Subject: RE: receipt of order "scwcc # 1116275"

Mr. McDaniel,

The Order was sent out by Certified Mail on September 30, 2013, we serve all Orders to un-represented Claimants by Certified Mail to make sure they receive it and can respond within the 14 days to Appeal. Thank you, Tamara Morris

From: Hollmon, Eugenia
Sent: Friday, October 04, 2013 10:52 AM
To: john mcdaniel
Cc: WCC Appeals;; Crocker, Virginia; Cannon, Gary; Allison Nussbaum; Deller, Valerie; Morris, Tamara
Subject: RE: receipt of order "scwcc # 1116275"

I am forwarding you concerns about service to Tamara Morris, Comm. James' assistant. Until otherwise informed, the hearing will proceed as scheduled on October 14th.

Thank you.
Genia Hollmon

From: john mcdaniel [<mailto:jmcdaniel1982@gmail.com>]
Sent: Friday, October 04, 2013 10:44 AM
To: Hollmon, Eugenia

Cc: WCC Appeals,; Crocker, Virginia; Cannon, Gary; Allison Nussbaum; Deller, Valerie
Subject: RE: receipt of order "scwcc # 1116275

Ms. Hollmon,

Please let me know how this was served. I just returned from my honeymoon in Florida which lasted from 9-29 till 10-3. How was i served? I have not recieved the order. I HAVE NOT RECIEVED ANY ORDER. Please provide me with a scanned copy of the addressee only signed receipt for the certified mail through which service of the order would be proper. I would like to say that this is not in the best interest of the injured worker, which you are supposed to protect, to procede with an appeal without ever providing the order.

Further, I would just point out that I will appeal additional violations of law, violations of procedure, errors of fact, errors of law and utter abuse of discretion, from both the first and second orders, once I recieve the order. I will clarify once again, I DO NOT HAVE THE SIGNED ORDER.

Will this move forward on the 14th?

John McDaniel

On Oct 4, 2013 9:12 AM, "Hollmon, Eugenia" <EHollmon@wcc.sc.gov> wrote:

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John McDaniel, Employee, Appellant,

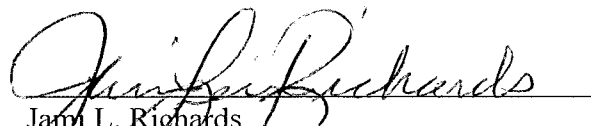
v.

Career Employment Professional
d/b/a Snelling Staffing, Employer, and
United Wisconsin Insurance Co., Carrier, Respondents.

PROOF OF SERVICE

I certify that on the 4th day of December, 2014, I served the Respondents' **Motion for Correction and/or Amendment of Record on Appeal** on John McDaniel by depositing a copy of it in the United States Mail, postage prepaid, addressed as follows:

John C. McDaniel, *Pro Se*
1387 Camp Road, Unit C
Charleston, SC 29412



Jami L. Richards
Legal Assistant to Helen F. Hiser
McAngus, Goudelock & Courie LLC
735 Johnnie Dodds Blvd., Suite 200
P.O. Box 650007
Mount Pleasant, South Carolina 29465
(843) 576-2900

*Attorneys for Respondents Career Employment
Professional d/b/a Snelling Staffing and United
Wisconsin Insurance Co.*



Reply To

HELEN F. HISER
Direct Dial: (843) 576-2930
helen.hiser@mgclaw.com

December 4, 2014

Via U.S. Mail

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

RE: John McDaniel v. Career Employment Professionals d/b/a Snelling Staffing
Services and United Wisconsin Insurance Company c/o United Heartland
Date of Accident: November 21, 2011
WCC File No.: 1116275
Our File No.: 20638.12027
Claim No.: 041100021048
Appellate Tracking No.: 2014-000186

Dear Ms. Kitchings:

Enclosed please find the original and seven (7) copies of Respondents' Motion for Correction and/or Amendment of Record on Appeal, and the original and one copy of the Proof of Service in the above-referenced matter. Please file the originals and return a clocked-in copy in the self-addressed, stamped envelope. Also enclosed is our firm's check in the amount of \$25 for filing the motion.

If you have any questions, please do not hesitate to contact me.

Yours truly,
McAngus Goudelock & Courie, LLC



Helen F. Hiser

Enclosures

cc: John C. McDaniel, *pro se*

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SC Court of Appeals

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12027/HFH/jlr
Honorable Jenny Abbott Kitchings
Carolina Court of Appeals
Box 11629
Columbia, South Carolina 29211

