

RECEIVED

FEB 10 2015

THE STATE OF SOUTH CAROLINA
In the Supreme Court

S.C. SUPREME COURT ON WRIT OF CERTIORARI TO THE COURT OF APPEALS

Appellate Case No. 2012-212389
Opinion No. 27479 (Filed January 14, 2015)

Judy Marie Barnes, Employee,

Petitioner,

v.

Charter 1 Realty, Employer, and Technology
Insurance Co., Am Trust South, Carrier,

Respondents.

RETURN TO RESPONDENT'S PETITION FOR REHEARING

The Respondents, Charter 1 Realty and Technology Insurance Co., filed a Petition for Rehearing pursuant to Rule 221, SCACR, on January 29, 2015. The Court issued its Opinion on January 14, 2015 finding the material facts were not in dispute and Barnes' injuries were compensable as a matter of law. The Respondents contend the Court overlooked or misapprehended the applicable standard or review, the burden of proof, existing precedent defining an idiopathic fall, precedent interpreting the "arising out of" the employment requirement for compensability, and, indeed, the very Legislative intent and purpose of the Workers' Compensation Act. The arguments the Respondents seek to raise were all already briefed and argued by the parties and considered by the Court before it issued its decision. It is clear from the decision the Court understood the issues and the

standard of review. When the facts are undisputed, the question of compensability is a matter of law. Jordan v. Dixie Chevrolet, 218 S.C. 73, 77, 61 S.E.2d 654, 656 (1950); Douglas v. Spartan Mills, Spartex Div., 245 S.C. 265, 266, 140 S.E.2d 173 (1965). The Court applied the same definition of the “arising out of” the employment it has applied for the past two decades, “[f]or an injury to arise out of employment, there must be a causal connection between the conditions under which the work is required to be performed and the resulting injury.” Owings v. Anderson County Sheriff’s Dep’t, 315 S.C. 297, 299, 433 S.E.2d 869, 871 (1989). Applying this definition to the undisputed facts, the Court ruled, because Barnes was performing a work task when she tripped and fell, that “fact alone clearly established a causal connection between her employment and the injuries she sustained.” The Court declined to adopt a more restrictive definition again urged by the Respondents in its Petition for Rehearing that would require some fault or risk of injury peculiar to the workplace. The Court rejected this more restrictive definition advanced by the Respondents because it is contrary to the Legislative intent and purpose of the Workers’ Compensation Act to do away with fault based liability and substitute in its place a no-fault system that provides swift and limited compensation for workplace injuries to benefit injured workers, employers, and society. The Respondents’ more restrictive definition would interject fault back into the workers’ compensation system and undermine the purpose of the Act. Barnes respectfully requests that the Respondent’s Petition for Rehearing be denied.

THE STEINBERG LAW FIRM, L.L.P.
Post Office Box 9

61 Broad Street
Charleston, South Carolina 29402
(843) 720-2800

By: _____

J. Kevin Holmes

David T. Pearlman

Michael J. Jordan

Attorneys for the Petitioner

Charleston, South Carolina

6th day of February, 2015.

THE STATE OF SOUTH CAROLINA
In the Supreme Court

ON WRIT OF CERTIORARI TO THE COURT OF APPEALS

Appellate Case No. 2012-212389
Opinion No. 27479 (Filed January 14, 2015)

Judy Marie Barnes, Employee,

Petitioner,

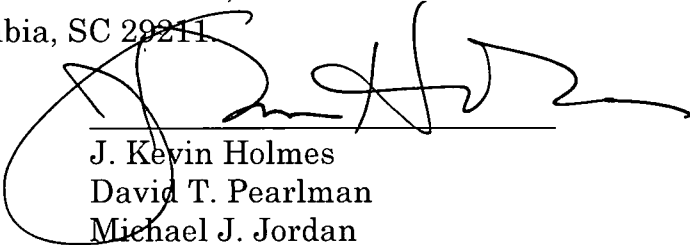
v.

Charter 1 Realty, Employer, and Technology
Insurance Co., Am Trust South, Carrier,

Respondents.

PROOF OF SERVICE

I certify that I have served the Return to the Respondents' Petition for Rehearing on the Respondents by depositing a copy of it in the United States Mail, postage prepaid, on February 6, 2015, addressed to their attorney of record, Natalie B. Fisher, Esquire, Fisher Law Firm, L.L.C., at Post Office Box 2482, Mt. Pleasant, South Carolina 29465 as well as Daniel E. Shearouse, Clerk of the South Carolina Supreme Court, P.O. Box 11330, Columbia, SC 29211.



J. Kevin Holmes

David T. Pearlman

Michael J. Jordan

THE STEINBERG LAW FIRM LLP

P.O. Box 9

Charleston, South Carolina 29402

(843) 720-2800

Attorneys for Petitioner