

The South Carolina Court of Appeals

Chris Chapman, Claimant, Respondent,

v.

Georgia-Pacific, Self-Insured Employer, Respondent,

Rakesh Chokshi, M. D., Appellant.

Appellate Case No. 2014-002069

ORDER

Dr. Rakesh Chokshi has appealed the South Carolina Workers' Compensation Commission's order affirming the single commissioner's order compelling Chokshi to provide his deposition pursuant to the Commission's fee schedule. Respondent Georgia-Pacific has filed a motion to dismiss this appeal, and Chokshi has filed a return.

Because Chokshi has complied with the order compelling his deposition, he has waived his right to appeal. *See Ex parte Whetstone*, 289 S.C. 580, 580, 347 S.E.2d 881, 881-82 (1986) ("We now hold that an order directing a non-party to submit to discovery is not immediately appealable. Instead of appealing immediately, a non-party has two alternatives. *He may either comply with the discovery order and waive any right to challenge it on appeal*, or refuse to comply with the order and appeal after he is held in contempt for his failure to comply." (emphasis added)).¹

¹ Chokshi argues *Ex Parte Whetstone* is not controlling in this case because it relies on section 14-3-330 of the South Carolina Code (1976) in holding that discovery orders are not immediately appealable, and section 14-3-330 does not govern appealability in workers' compensation cases. Although Chokshi is correct that the Administrative Procedures Act governs appealability in workers' compensation cases, we need not address whether the underlying order was immediately appealable because Chokshi has waived his right to ever appeal.


John Cannon Jr C.J.
FOR THE COURT

Columbia, South Carolina

cc:

E. Hood Temple, Esquire

Grady Larry Beard, Esquire

Carl Everette Pierce, II, Esquire

Benjamin Catlett Smoot, II, Esquire

FILED

4/3/15