

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

W.C.C. File No. 1116275

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APR 02 2015

SC Court of Appeals

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

v.

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

MOTION TO STRIKE AND/OR AMEND
BRIEF OF APPELLANT

Pursuant to Rules 211 and 240, SCACR, Respondents Career Employment Professional d/b/a Snelling Staffing and United Wisconsin Insurance Co. move this Court to strike the Brief of Appellant. Rule 211(b) provides that the "final brief(s) shall be **identical** to the brief(s) previously served under Rule 208," except that references to the record below "shall be revised to indicate where the material appears in the Record on Appeal," and allowing for correction of "obvious typographical errors and misspellings which were contained in the initial brief. **No other changes may be made.**" Rule 211(b), SCACR (emphasis added).

The Brief of Appellant violates Rule 211(b) in at least seven respects.

1. At the bottom of p. 9 and carrying over to the top of p. 10, Appellant added the following sentence, which does not appear in the Initial Brief of Appellant: "Appellant objected to Respondents being charged to author the full commission decision and order."
2. The last paragraph before Argument No. 7, on p. 18, is missing the following phrase that appeared in the Initial Brief of Appellant: ", and the Commission should have

awarded at a minimum 100% loss of use of leg, and/or awarded under § 42-9-10 or § 42-9-20.”

3. Starting on p. 25, Appellant has reordered his discussion of the wages of Messrs. Atkins, Lampkin and Clark (which is the order they appeared in the Initial Brief of Appellant). In the Brief of Appellant, they are ordered Lampkin, Clark and Atkins.
4. At the end of various arguments on pp. 24-27, Appellant removed the phrase “, thus it warrants reversal,” which appeared in the Initial Brief of Appellant.
5. In argument No. 14, on p. 32, the phrases “and the record reflects no payment was made the week of” and “There was,” which appeared in the Initial Brief of Appellant, are missing.
6. Appellant changed the wording of the heading to Argument n. 16 on p. 33, leaving out the phrase “for overpayment of temporary total and/ or temporary partial disability benefits.”
7. On p. 34, in the last sentence of the argument, Appellant has substituted the words “stop payment” for “an application to terminate benefits.”

Appellant should be ordered to conform his final brief to comply with Rule 211, SCACR.

CONCLUSION

For the reasons stated herein, Respondents move this Court to strike the Brief of Appellant, dated March 23, 2015, and to order Appellant to comply with Rule 211, SCACR.

McANGUS GOUDELOCK & COURIE, L.L.C.

March 31, 2015



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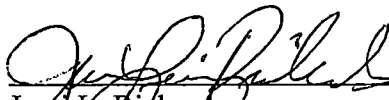
v.

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

PROOF OF SERVICE

I certify that on the 31st day of March, 2015, I served the Respondents' **Motion to Strike and/or Amend Brief of Appellant** on John McDaniel by depositing a copy of it in the United States Mail, postage prepaid, addressed as follows:

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March 31, 2015

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SC Court of Appeals

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 to Strike and/or Amend Brief of Appellant, 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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The Honorable Jenny Abbott Kitchings

South Carolina Court of Appeals

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