

MALANE S. PIKE

Attorney at Law

Post Office Box 729 White Rock, South Carolina 29177 (803) 622-1493

April 15, 2015

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

RECEIVED
APR 20 2015
SC Court of Appeals

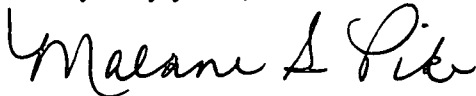
Re: Hugh Allen Palmer v. Richland County Assessor
Case No 2015-000514

Dear Ms. Kitchings:

Enclosed for filing is a corrected page 5 of Respondent's Reply to Return to Motion to Dismiss in the above referenced matter along with 6 copies of same. This is being filed in order to properly reflect the date of Judge McLeod's letter as March 6, 2015. The year of his letter was incorrectly stated as 2013 in our original filing (see line 4 of page 5).

Also enclosed is Proof of Service of this correction on the Appellant.

Very truly yours,



Malane S. Pike
S.C. Bar No. 4469
Post Office Box 729
White Rock, SC 29177
(803) 622-1493
Attorney for Respondent

Enclosures

cc: Matthew J. Myers

Workers' Compensation Appellate Panel did not toll the time period to appeal.) Why, then, should the cancellation of this hearing be deemed a denial of the motion thus allowing the Appellant a new window of appeal? Judge McLeod's letter dated March 6, 2015 to counsel makes clear that he chose not to act on Appellant's Motion to Alter or Amend or Rehear pursuant to Rule 29, RPALC and the decision became final by operation of the Rules of Procedure for the ALC. (Motion to Dismiss, p. 49). This is the event from which the Appellant had the right to appeal and from which the time has now lapsed. If the Appellant was unsure of the status of its Motion for Rehearing, it should have contacted Judge McLeod approximately 30 days after the Assessor's response to its motion in order to determine what actions it needed to take to protect its rights. The requirement of service of the notice of appeal is jurisdictional, i.e. if a party misses the deadline, the appellate court lacks jurisdiction to consider the appeal and has no authority or discretion to rescue the delinquent party by extending or ignoring the deadline for service of the notice. USAA Property and Casualty Insurance Company v. Clegg, 377 S.C. 643, 651, 661 S.E. 2d 791, 795 (2008) citing Elam v. S.C. Department of Transportation, 361 S.C. 9, 14-15, 602 S.E.2d 772, 775 (2004).

- C. **The Appellant's characterization of Rhame v. Charleston County School District, 399 S.C. 477, 732 S.E.2d 202 (Ct. App. 2012) and Home Medical Systems, Inc., v. South Carolina Department of Revenue, 382 S.C. 556, 677 S.E. 2d 582 (2009) is inaccurate.**

The Appellant correctly observes that the Rhame case is governed by a different statutory structure than the case at hand. The Appellant is also correct in its assertion that there had been previous cases indicating that Motions for Reconsideration were not applicable in matters before the Worker's Comp Appellate Panel. However, the issue of

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT

John D. McLeod, Administrative Law Judge

Case No. 13-ALJ-17-0554-CC

RECEIVED

APR 20 2015

SC Court of Appeals

Appellate Case No. 2015-000514

Hugh Allen Palmer.....Appellant,

v.

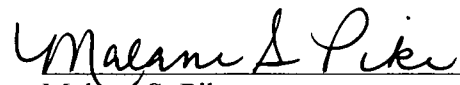
Richland County Assessor,.....Respondent.

PROOF OF SERVICE

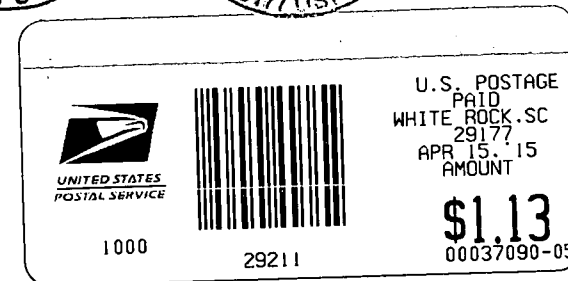
I, Malane S. Pike, hereby certify that I have mailed, postage prepaid, by first class mail, a copy of the Respondent's correction to page 5 of the Respondent's Reply To Return to Motion to Dismiss in the above referenced matter to the following:

Matthew J. Myers, Esquire
Sweeny Wingate & Barrow P.A.
Post Office Box 12129
Columbia, SC 29211

this 15th day of April, 2015


Malane S. Pike
Attorney for Respondent

Malane S. Pike
Attorney at Law
Post Office Box 729
White Rock, SC 29177



RECEIVED

APR 20 2016

SC Court of Appeals

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