THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SUMTER COUNTY
Court of Common Pleas

The Honorable W. Jeffrey Young

Appellate Case No.: 2014-002212

Arrowpoint Capital Corporation/Arrowood Indemnity Co.,.....Appellant,

v.

South Carolina Second Injury Fund,.....Respondent.

[In Re: Joe Mathis, Employee/Claimant,

v.

Yuasa Exide, Incorporated, Employer)

FINAL BRIEF OF RESPONDENT

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ATTORNEY FOR RESPONDENT

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TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes and Regulations

Other Authority

ISSUES OF APPEAL

1. Under S.C. Code Ann. § 42-9-400(a), did substantial evidence support the Commission's finding that Claimant did not have any condition prior to his lead exposure and therefore, Carrier was not entitled to reimbursement?

2. Under S. C. Code Ann. § 42-9-400(d), did substantial evidence support the Commission's finding that Claimant's exposure to lead was not the first and subsequent injuries?

3. Under S.C. Code Ann. § 42-9-400, did substantial evidence in the record support the Commission's finding that the Carrier did not incur a substantial increase in liability?

4. Under S.C. Code Ann. § 42-9-400, did substantial evidence in the record support the Commission's finding that Claimant did not have a permanent preexisting impairment that was permanent and serious enough to constitute a hindrance or obstacle to employment.

STATEMENT OF THE CASE

This is a claim for partial reimbursement from the South Carolina Second Injury Fund ("the Fund") by Yuasa Exide Incorporated, Employer, and Arrowpoint Capital Corporation, Carrier (collectively "Carrier"), pursuant to S.C. Code Ann. § 42-9-400. Carrier alleged that they incurred substantially greater liability for compensation and medical benefits when employee, Joe Mathis' ("Claimant") alleged preexisting heavy metal poisoning and brain damage were either aggravated by or combined with his November 30, 1998 work related injury to his brain, kidneys, liver, and to his musculoskeletal, cognitive, pulmonary, neuropathic and cardiovascular systems. Carrier further alleged that Claimant's preexisting conditions were a hindrance or obstacle to employment. The Fund denied that Carrier met any of the requirements for reimbursement, specifically asserting that Claimant's heavy metal exposure and brain damage were not preexisting conditions. The Fund further denied that if heavy metal poisoning and brain damage preexisted, they were not permanent and serious enough to constitute a hindrance or obstacle to Claimant's employment and did not substantially increase Carrier's liability for medical costs and permanent disability as contemplated by S.C. Code Ann. § 42-9-400.

The Hearing Commissioner denied Carrier's reimbursement request pursuant to S.C. Code Ann. § 42-9-400 and the Full Commission, En Banc, affirmed. The Circuit Court affirmed and Carrier appealed to this Court.

STANDARD OF REVIEW

The standard of review for decisions of the Workers' Compensation Commission is established in the Administrative Procedures Act. S.C. Second Injury Fund v. Liberty Mut. Ins. Co. 353 S.C. 117, 576 S.E.2d 199 (S.C. Ct. App. 2003). A reviewing court must not disturb the Workers' Compensation Commission's findings if those findings are supported by substantial evidence in the record. Pearson v. JPS Converter & Indus. Corp. 327 S.C. 393, 489 S.E.2d 219 (S.C. Ct. App. 1997). The fact that reasonable minds may differ or that there is the possibility of drawing inconsistent conclusions does not prevent an agency's findings from being supported by substantial evidence. Grant v. South Carolina Coastal Council 319 S.C. 348, 461 S.E. 2d 388 (1995).

HISTORY OF THE CLAIM

Claimant worked for Yuasa Exide, Incorporated for twenty-three (23) years until he was terminated in 1998. After being terminated from Yuasa Exide, Incorporated, now known as EnerSys, Claimant worked in various other capacities. R.pp.173, 223-227. In 2009, eleven (11) years after Claimant was terminated from Yuasa Exide, Incorporated, Dr. Barry Weissglass, an expert but not a treating physician, determined that Claimant's health conditions (which included non-cardiac chest pain, aching right arm, and right thumb; intermittent shortness of breath, reduced memory function, depression and sleep difficulties) were aggravated by his employment at Yuasa Exide, Incorporated. R.pp.180-191.

In 2009, eleven (11) years after Claimant was terminated from Yuasa Exide, Incorporated, Vocational Evaluator L. Randolph Waid, Ph.D., concluded that Claimant

was "functioning in the borderline range of intellectual abilities", "compromised with regard to his capacity of effectively sustain his concentration" but "without history of highly compromising medical problems." R.p.186. While Dr. Waid's evaluation determined that Claimant was incapable of full time gainful employment, Claimant was actually working as a painter at the time of Dr. Waid's evaluation. R.p.188.

Claimant pursued this claim as a result of alleged exposure to lead at Employer's battery manufacturing plant in Sumter, South Carolina. The underlying case was not adjudicated by any tribunal, including the Commission. Instead, the underlying case was settled by Carrier and Claimant by the payment of a lump sum of money on a doubtful and disputed basis, meaning that Carrier accepted no liability for the payment of benefits, but agreed to pay a lump sum to Claimant in order to avoid litigation. As a result of the money paid pursuant to the doubtful and disputed settlement, Carrier alleged that it incurred substantially greater liability for compensation and medical benefits (neither of which it actually paid) when Claimant's alleged preexisting heavy metal poisoning combined with or aggravated the very conditions that it caused.

The Fund asserts that Carrier cannot prove any entitlement to reimbursement because the evidence does not support that Claimant suffered any preexisting condition that combined with or was aggravated by a subsequent injury to substantially increase medical and/or indemnity costs; that the alleged preexisting conditions were neither a hindrance nor obstacle to Claimant's employment; and that pursuant to the statute, Carrier has not paid any medical costs or indemnity on this claim, which is prerequisite to reimbursement. S.C. Code Ann. § 42-9-400. The Carrier asserts it is entitled to reimbursement from the Fund because the lead to which it exposed Claimant caused and

then subsequently aggravated certain medical conditions in Claimant. As a result of the continued exposure, Carrier seeks to be absolved from all financial responsibility to the Claimant simply because it continued to employ Claimant after exposing him to lead.

ARGUMENT

I. THIS CLAIM DOES NOT MEET THE REQUIREMENTS OF REIMBURSEMENT PURSUANT TO S.C. CODE ANN. § 42-9-400.

This reimbursement case was all brought before the Commission on the eve of the sunset of the Fund. There has been no adjudication of any facts or issues in this underlying case. This case was settled on doubtful and disputed basis. R.pp.25-35. According to the settlement agreement, this settlement applies to Yuasa-Exide, Incorporated and all of its predecessors. R.p.26.

The Fund began as encouragement for employers to hire and retain employees with disabilities. The Fund was never intended to operate as a safety net for employers, such as Yuasa-Exide, Incorporated, who place their workforce in hazardous working conditions as a part of their business and due to the nature of its business. In Am. Motorists Ins. Co. v. S.C. Second Injury Fund, 300 S.C. 17, 386 S.E.2d 276 (S.C. Ct. App. 1989), the Court of Appeals addressed the purpose and scope of the Fund:

> The Second Injury Fund was created in 1972. See Section 42-9-400, Code of Laws of South Carolina (1976). One of the purposes in establishing the Second Injury Fund was to encourage employers to hire handicapped persons by providing reimbursement to the employer or insurer for compensation paid as a result of a second injury. The Fund was designed to compensate handicapped workers fully for subsequent injuries without penalizing employers for hiring them in the first place. The Second Injury Fund granted a new remedy or right of reimbursement to the insurer; and the Legislature could properly impose such reasonable terms and conditions upon the exercise of such right as it

> deemed appropriate. The right of a claimant to secure reimbursement under the statute depends upon complete compliance with the requirements imposed for recovery. The success and future of the Second Injury Fund depend upon proper and careful application of these statutory requirements.

300 S.C. 17, 21–22, 386 S.E.2d 276, 278 (S.C. Ct. App. 1989) (emphasis added) (internal citations omitted).

The Court of Appeals later wrote that the Fund is intended to "encourage the employment of disabled or handicapped persons without penalizing an employer with greater liability if the employee is injured because of his preexisting condition." Liberty Mut. Ins. Co. v. S.C. Second Injury Fund, 318 S.C. 516, 518, 458 S.E.2d 550, 551 (1995). In this case, Carrier wants reimbursement from the Fund for conditions caused by the exposure to lead that was its very business. If reimbursement is granted, Carrier would realize little or no liability, although it was wholly responsible for the alleged conditions and maladies suffered by Claimant.

For a Carrier to be entitled to reimbursement from the Second Injury Fund, it must prove that a claimant's preexisting condition was aggravated by or combined with a subsequent injury to cause increased disability or medical costs. S.C. Code Ann. § 42-9-400.

The section provides in pertinent part:

> § 42-9-400. Manner in which employer or insurance carrier shall be reimbursed from Second Injury Fund when disability results from preexisting impairment and subsequent injury.
> (a) If an employee who has a permanent physical impairment from any cause or origin incurs a subsequent disability from injury by accident arising out of and in the course of his employment, resulting in compensation and

> medical payments liability or either, for disability that is substantially greater, by reason of the combined effects of the preexisting impairment and subsequent injury or by reason of the aggravation of the preexisting impairment, than that which would have resulted from the subsequent injury alone, the employer or his insurance carrier shall in the first instance pay all awards of compensation and medical benefits provided by this Title; but such employer or his insurance carrier shall be reimbursed from the Second Injury Fund as created by Section 42-7-310 for compensation and medical benefits in the following manner . . . .

S.C. Code Ann. § 42-9-400 (Supp. 2006)

Thus, Carrier "shall in the first instance pay all awards of compensation and medical benefits" before it can assert a colorable claim for reimbursement.

A. CARRIER HAS NOT MADE THE REQUISITE PAYMENT OF COMPENSATION AND MEDICAL BENEFITS PURSUANT TO S.C. CODE ANN. § 42-9-400(a).

S.C. Code Ann. § 42-9-400 allows for Second Injury Fund reimbursement of "awards of compensation and medical benefits" under certain circumstances. That section subsequently sets forth the manner and operation by which medical and weekly indemnity benefit payments are to be reimbursed in qualified cases. An "award" is "[a] final judgment or decisions, esp. one by an arbitrator or by a jury assessing damages." BLACK'S LAW DICTIONARY 132 (7th ed. 1999). S.C. Code Ann. § 42-9-5 requires that "[a]n award made pursuant to this Title must be based upon specific and written detailed findings of fact substantiating the award." Under S.C. Code Ann. § 42-17-40, an award is made by the Commission as a result of a dispute between parties. An award is not a "Settlement Agreement and Release and Order."

Further, according to the Settlement Agreement, Carrier denies "Claimant's allegations that he has suffered permanent disability because of the aforesaid alleged injuries; is entitled to payment for past medical treatment; payment of present and future medical payment; payment of temporary total disability compensation benefits; and payment of medications, counseling and therapy." R.p.26. In the Settlement Agreement, Carrier also denies "Claimant sustained compensable injuries as a consequence of his employment duties either by accident, repetitive trauma, or exposure to lead, known and unknown chemical and toxins." R.p.27. The Employer and Carrier deny the very contentions for which they now seek reimbursement pursuant to S.C. Code § 42-9-400. It is noteworthy that the reimbursement statute allows Carrier to receive reimbursement for those medical costs and compensation payments that are substantially greater "than that which would have resulted from the subsequent injury alone." S.C. Code Ann. § 42-9-400(a) (Supp. 2011). Here, Carrier did not pay any medical costs or compensation to Claimant.

The Fund presumes that the Settlement Agreement filed on behalf of Carrier and its predecessors were done so in good faith. Thus, there is no basis upon which to allow reimbursement from the Fund. There has been no award, and if these cases are to remain denied by Carrier, and if no medical or compensation benefits have been paid to Claimant, there is not an award for compensable injuries upon which reimbursement can rest.

While the Fund recognizes that there are occasions that a "doubtful and disputed" settlement agreement may benefit the parties to an underlying claim, the Fund is a state agency and a creature of statute. The Fund was created by the Legislature for specific

reasons and not one of those reasons is to allow employers and carriers avoid their statutory responsibilities. Because there is no statutory authority to grant reimbursement on denied claims where no medical or weekly benefits are paid, this claims should be denied.

B. CLAIMANT DID NOT HAVE A PREEXISTING CONDITION THAT WAS PERMANENT AND SERIOUS ENOUGH TO CONSTITUTE A HINDRANCE OR OBSTACLE TO EMPLOYMENT.

Carrier alleged preexisting lead exposure and brain damage. Under the statutory reimbursement scheme certain preexisting conditions are presumed to be permanent and serious enough to constitute a hindrance or obstacle to employment. Heavy metal poisoning and brain damage are two (2) of thirty-three (33) enumerated conditions that are presumed to be permanent and serious enough to constitute a hindrance or obstacle to employment. S.C. Code § 42-9-400(d) (22) and (27) (Supp. 2011). However, as previously noted herein, Carrier has not established that the conditions preexisted.

Furthermore, Yuasa Exide, Incorporated was filled with employees that were exposed to lead, and it employed them all for many, many years. If the lead exposure was a hindrance or obstacle to employment, Claimant would not have been able to work as he did over the course of twenty-three (23) years. Carrier cannot prove that the lead exposure or brain damage preexisted and constituted a hindrance or obstacle to Claimant's employment.

In efforts to establish that Claimant had a preexisting condition that was permanent and serious enough to constitute a hindrance or obstacle to employment, Carrier relies heavily on the Claimant's blood levels and the OSHA regulations regarding permissible

exposure to lead. R.p.362. However, the prevailing statute is S.C. Code Ann. § 42-9-400 and this Court is not required to give deference to OSHA regulations. See S.C. Code Ann. § 42-9-400.

Carrier also asserts, in error, that there is "an irrebuttable presumption" that certain conditions are permanent and serious enough to constitute a hindrance to employment. Section 42-9-400(d) states in relevant part that "[w]hen an employer establishes his prior knowledge of the permanent impairment, then there shall be a presumption that the condition is permanent and that a hindrance or obstacle to employment or reemployment exists." S.C. Code Ann. § 42-9-400(d). The statute does not state that the presumption is irrebuttable. The presumption that a listed condition is a hindrance or obstacle to employment is a rebuttable presumption, which may be overcome by evidence rebutting it. BLACK'S LAW DICTIONARY 558 (3rd pocket ed. 2006). More importantly, the statute also requires that one (1) of the thirty-three (33) listed conditions preexist in order to implicate a presumption. S.C. Code Ann. § 42-9-400(d). While heavy metal poisoning and brain damage are listed conditions entitled to a presumption, Carrier has not established that those conditions preexisted, which is a prerequisite to reimbursement.

1. Claimant did not have preexisting brain damage.

Carrier alleges that Claimant had brain damage prior to his occupational exposure. This allegation is not supported by the evidence in the record. Claimant's Initial Occupational History form, which was completed in approximately 1984, indicated that he had been exposed to lead but had not sustained any work injuries. R.pp.192-193. Claimant's 1986 examination revealed he was healthy. R.p.195. Claimant's physical examinations from 1986 through 1995 revealed elevated cholesterol but he was noted to

be "otherwise healthy." R.pp.195-198. On August 12, 2009, Claimant testified via deposition. R.pp.214-262. Claimant testified in his deposition that he worked for Yuasa Exide for approximately twenty-three (23) years, from 1975 to 1998. R.p.224. He noted that his most recent physical examination was normal and that in the last twenty-five (25) years he had only visited a doctor for a pinched nerve in his back that required physical therapy, which he underwent after he stopped working for Yuasa Exide. R.pp.230-234.

While the vocational assessment indicated that Claimant was severely deficient in academic achievement and functionally illiterate, the records also revealed that Claimant was a high school graduate with no history of failure of grades and had never been "diagnosed with a learning disability or with need for placement in specialized educational classes." R.pp.176 and 181.

Further, The South Carolina Supreme Court has indicated that "brain damage" contemplates a condition that is both permanent and severe. Sparks v. Palmetto Hardwood, 401 S.C. 619, 738 S.E.2d 831 (2013). See also, Crisp v. SouthCo., 401 S.C. 627, 738 S.E.2d 835 (2013). While Carrier has not alleged "physical" brain damage, the Fund believes that the same analysis applies. Here, there is no evidence that Claimant's alleged brain damage is either permanent or severe.

2. Claimant's lead exposure is not his first and subsequent injuries.

In this case, Carrier asserts that the lead exposure is Claimant's first and second injuries. R.p.147-158. More specifically, Carrier's position is that the lead caused the Claimant's conditions, and, subsequent to the development of his maladies, he was further exposed to lead. Carrier alleges that Claimant's continued or subsequent exposure resulted in additional or worsening maladies. Thus, Carrier argues that it is

entitled to reimbursement for payment of a lump sum settlement that neither represents indemnity nor medical payments. However, by statute, the Fund only reimburses for disability benefits and medical payments. S.C. Code Ann. § 42-9-400.

In this case, the only evidence presented is subsequent to the initial exposure to lead. In this case, the exposure to lead was coincidental to the beginning of work. Since Carrier must prove that the exposure to lead is the alleged preexisting condition, Carrier is necessarily required to show evidence of the condition prior to the initial exposure. See S.C. Code Ann. § 42-9-400.

Carrier has submitted questionnaires and medical reports from Dr. Eugene Shippen, Dr. Edward L. Baker, Jr., and Dr. J. Routt Reigart. Dr. Shippen's and Dr. Baker's questionnaires list all of the conditions allegedly suffered by Claimant as "pre-existing conditions," regardless of when the symptoms for those conditions appeared, (most of which appeared several years subsequent to Claimant's employment with Yuasa Exide, Incorporated). While Dr. Shippen and Dr. Baker are experts, neither were treating physicians.

Dr. Reigart completed a Brief Health Evaluation of the Claimant. R.p.189. Dr. Reigart assigned impairment ratings to Claimant and noted that the Claimant's condition is attributable to his occupation. R.p.189. Thus, Dr. Reigart directly relates the conditions to employment and not to any preexisting condition. Further, Dr. Reigart does not address any SIF criteria, and he does not address the possible effect any preexisting medical condition may have had on Carrier's subsequent liability for compensation and medical benefits or whether the preexisting conditions, if any, constituted hindrances or obstacles to employment. Lastly, Dr. Reigart is also not a treating physician.

Carrier's experts do not support Carrier's position that exposure to lead and its malignant effects on the body become preexisting conditions to continuing exposure to the same substance and continuing malignant effects. Drs. Baker, Reigart and Hu write that

> [l]ead poisoning is a chronic illness. It has long been recognized that much of the toxicity of lead poisoning is not reversible by medical therapy. Prevention of exposure is the main aim in lead poisoning management[,] as treatment has little effect on reversing toxicity or preventing toxicity later in life related to lead mobilization from bone. Since lead remains in bone lead stores for many decades, it is considered a chronic illness requiring long term management and observation.

R.pp.293-294.

As a chronic illness, lead poisoning is the illness itself. As a chronic illness, lead poisoning does not stand apart from the maladies it causes. As their experts note, the Claimants' "[c]onditions [were] caused by lead exposure in the workplace." R.p.294. As the doctors write, "Chronic lead poisoning is manifested by a range of damage to various systems of the body." Id. They go on to say, "We also conclude that lead, once absorbed into the body, was distributed to various parts of the body, including the brain, the kidneys and bone, and caused damage to the body of Exide workers." R.p.298. Thus, the manifestations of lead poisoning do not preexist the chronic illness, and the chronic illness is not separate and apart from the conditions to which it leads. They are one and the same. During the short life of the Second Injury Fund, it existed to encourage the hiring of disabled persons. Am. Motorists Ins. Co. v. S.C. Second Injury Fund, 300 S.C. 17, 386 S.E.2d 278 (S.C. Ct. App. 1989). The Second Injury Fund was not created to

encourage long term exposure to toxins in the workplace so that employers can go without liability.

Additionally, the finding that Claimant's lead exposure was not Claimant's first and subsequent (or second) injury is supported by the plain meaning of the statutory reimbursement scheme. According to the Supreme Court, "a court must abide by the plain meaning of the words of a statute. When interpreting the plain meaning of a statute, courts should not resort to subtle or forced construction to limit or expand the statute's operation." State v. Jacobs, 393 S.C. 584, 587, 713 S.E.2d 621, 622 (2011) (internal citations omitted). Further, "[w]here the statute's language is plain and unambiguous, and conveys a clear and definite meaning, the rules of statutory interpretation are not needed and the court has no right to impose another meaning." Hodges v. Rainey, 341 S.C. 79, 85, 533 S.E. 2d 578, 581 (2000).

The Commission determined that Claimant's exposure to lead during his twenty-three (23) years of employment constitutes a single occupational exposure based on the plain meaning of the statute. Section 42-9-400(a) references "subsequent disability," "preexisting impairment," and "subsequent injury." The injury for which reimbursement is sought is an occupational disease, which is a chronic illness as previously discussed herein. Since this case involves a chronic illness, the plain meaning of the statute requires that the preexisting condition predate the chronic illness. In this case, the evidence indicates the contrary, as Claimant's neuropsychological evaluation revealed that his neurocognitive deficits were related to his lead exposure. R.pp.180-186.

Since Carrier has no evidence of actual preexisting conditions prior to his exposure to lead with Employer or its predecessors, this claim for Second Injury Fund reimbursement should be denied.

C. THE CAROLINAS RECYCLYING DECISION WARRANTS AFFIRMATION OF THIS CASE.

Carrier cites Carolinas Recycling Grp. v. S.C. Second Injury Fund to support the assertion that the Commission's decision is not supported by substantial evidence. 398 S.C. 480, 73 S.E.2d 324 (Ct. App. 2012). In Carolinas Recycling, the South Carolina Court of Appeals reversed the decision of the Commission because the Appellate Panel "relied exclusively upon an evaluation by a non-treating physician who only met with the Claimant on one occasion." 398 S.C. 480, 485, 730 S.E.2d 324, 327 (Ct.App. 2012). In this case, none of the experts who provided medical opinions were treating physicians on any occasion. Consistent with the Carolinas Recycling decision, the Commission and the Circuit Court refused to rely on physicians who did not provide any treatment to Claimant.

Moreover, the Commission determines the weight of the evidence. In Anderson et al. v. Campbell Tile Co., the South Carolina Supreme Court held that opinions of medical experts may constitute substantial evidence sufficient to support a judgment. 202 S.C. 54, 24 S.E.2d 104 (1943). Anderson does not require that the opinions of medical experts are the only evidence that may constitute substantial evidence nor does it exclude other sufficiently compelling evidence that would support a judgment. Anderson also held that the Commission determines the weight given to the opinion of medical experts. Id. While Carrier submitted medical certificates supporting the elements of

reimbursement, the Commission is not required to give medical questionnaires conclusive effect to the exclusion of other more compelling evidence. Ballenger v. S. Worsted Corp., 209 S.C. 463, 467, 40 S.E.2d 681, 682-83 (1946). The Commission's decision to place little weight on the opinions of physicians that did not actually treat Claimant and place more weight on the totality of the other medical evidence was well within their discretion. The Commission's decision was supported by the substantial evidence in the record.

D. BURNETTE V. CITY OF GREENVILLE IS EASILY DISTINGUISHED FROM THIS CASE.

In Burnette v. City of Greenville, this Court reversed and remanded a case to the South Carolina Workers' Compensation Commission so that it could enter findings of fact concerning Claimant's lumbar injury and disability ratings. 401 S.C. 417, 737 S.E.2d 200 (2012). In Burnette, Claimant was a police officer who sustained two (2) separate back injuries. This Court concluded that Commission's decision, which was affirmed by the Circuit Court, was based on the medical opinion of a Single Commissioner rather than a medical provider. Id. Burnette is easily distinguished from this case. Burnette presents issues of compensability, or (statute) rather than issues of reimbursement or S.C. Code § 42-9-400. Issues of compensability are between a claimant and the employer or carrier while issues of reimbursement are solely between the carrier and the Fund. S.C. Code § 42-9-400. Moreover, the decisions below were not based on a Commissioner's interpretation of medical evidence but rather, the medical evidence provided by the Carrier's compensated experts.

It is well settled that an agency's interpretation of its own statutes will be given great deference unless compelling reasons require otherwise. CFRE, LLC v. Greenville Cnty. Assessor, 395 S.C. 67, 77, 716 S.E.2d 877, 882 (2011). In this case, there are no compelling reasons that require this Court not to give deference to the Commission's interpretation of the applicable statute.

CONCLUSION

For the reasons cited herein, the South Carolina Second Injury Fund requests that this Honorable Court affirm the decision below as supported by substantial evidence in the record.

Respectfully submitted,

By: _____

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CERTIFICATE OF COUNSEL

The undersigned hereby certifies that this Final Brief complies with Rule 211(b), SCACR.

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PROOF OF SERVICE

The undersigned employee of Dilligard Edwards, LLC, Attorney for the Respondent, does hereby certify that service of the **Final Brief of Respondent** and **Certificate of Counsel** to South Carolina Court of Appeals in the above-captioned matter was made upon counsel of record for Appellants, Arrowpoint Capital Corporation/Arrowood Indemnity Co., and the South Carolina Workers' Compensation Commission, by placing same in the United States mail, first class postage prepaid, at the below listed addresses clearly indicated on said envelope on this 23rd day of June, 2015, as follows:

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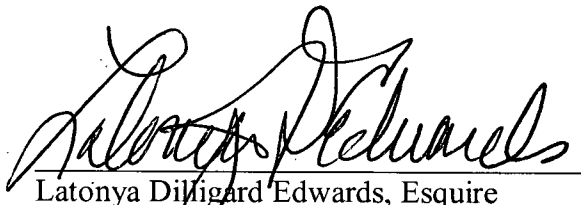

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