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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

RECEIVED

AUG 28 2015

SC Court of Appeals

WCC File No. 1315636

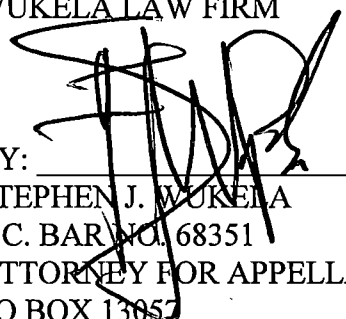
Kathey L. Staton, Employee, Appellant/Claimant,

vs.

Mohawk Industries, Inc., Employer,
and Liberty Mutual, Carrier, Respondents/Defendants.

**MOTION TO FILE TRANSCRIPT REQUEST
OUT OF TIME**

WUKELA LAW FIRM



BY: _____
STEPHEN J. WUKELA
S.C. BAR NO. 68351
ATTORNEY FOR APPELLANT
PO BOX 13057
FLORENCE SC 29504
843-669-5634

OTHER COUNSEL OF RECORD:

J. Brandon Hylton, Esquire
Attorney at Law
PO Box 7489
Florence SC 29502

Appellant, Kathey L. Staton, moves this Court, pursuant to Rule 224 of the South Carolina Appellate Rules, for an Order permitting the filing and service of a letter dated August 4, 2015 to the Workers' Compensation Commission's court reporter requesting the transcript of proceedings out of time on the following grounds:

1. Appellant requested the Transcript of Record from the Court Reporter by letter dated August 4, 2015, (copy attached as Exhibit A), and received the transcript by email on August 21, 2015, (copy attached as Exhibit B). The August 4, 2015 letter to the court reporter, was copied to defense counsel, the South Carolina Court of Appeals and the South Carolina Court Administration, by first class mail posted on August 4, 2015. (Exhibit C, Affidavit of Paralegal, Jeannie P. Bailey).

2. On August 24, 2015, counsel received a letter dated August 20, 2015 from the South Carolina Court of Appeals advising that the Court had not received a copy of the transcript request; therefore, through inadvertence and error of the United States Post Office, the copy of the letter dated August 4, 2015 never reached the South Carolina Court of Appeals.

3. On August 25, 2015, Appellant posted, for a second time, a copy of the August 4, 2015 transcript request, first class mail to the South Carolina Court of Appeals notifying the Court of the transcript request.

4. Appellant respectfully requests this Honorable Court permit the late filing and service of the letter to the court reporter dated August 4, 2015 requesting the transcript of proceedings held at the South Carolina Workers' Compensation Commission, on the grounds that counsel for Appellant wrote the court reporter requesting the transcript, copied the South Carolina court of Appeals with that letter, and received the transcript from the court reporter by email on August 21, 2015.

5. Counsel for Appellant consulted with Counsel for Respondents regarding this Motion but received no response from Respondents/counsel's clients by the time of filing.

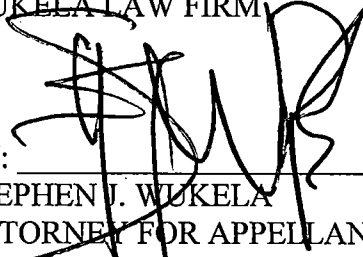
6. Appellant believes that no harm would be caused to the Respondents by the granting of this Motion arising from the facts set out above and would further result in justness and fairness to the parties.

Respectfully submitted,

Florence, South Carolina

August 25, 2015

WUKELA LAW FIRM

BY: 
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August 4, 2015

Ms. Gigi Davis
Palmetto Court Reporting
321 Mac Circle
Lexington SC 29073

Re: Kathey L. Staton v. Mohawk Industries, Inc.
WCC File No. 1315636

Dear Ms. Davis:

On May 18, 2015, a hearing was held before the Appellate Panel in Columbia, South Carolina, regarding the above-entitled claim. It is my understanding that you were the court reporter for that hearing. I would appreciate your providing me with a copy of the entire Transcript of that hearing.

I agree to pay the per page charge for the transcript as provided by Rule 607, SCACR.

Thank you for your cooperation in this matter.

Yours truly,

WUKELA LAW FIRM

STEPHEN J. WUKELA

SJW:jpb

cc: J. Brandon Hylton, Esquire

S.C. Court Administration

Clerk, S.C. Court of Appeals

EXHIBIT A

Stephen J. Wukela

From: PalmettoCrtRptng@aol.com
Sent: Friday, August 21, 2015 7:24 PM
To: stephen@wukelalaw.com
Subject: Kathy Staton v Mohawk Industries WCC#1315636
Attachments: K Staton v Mohawk Industries COPY.doc; Wukela INV.xls

Please find attached the transcript from the above mentioned Full Board hearing, which took place on May 18, 2015, in Columbia. The original transcript has been sent to the Workers' Comp Commission.

Due to an influx of orders, sending this transcript via email is the quickest way I know of getting it to you. Please let me know if you would rather have a hard copy and I will be happy to print and mail it to you.

Also, please find attached my invoice for this transcript, which is an Excel spreadsheet. Please let me know if you cannot open the invoice and I will be happy to convert it to a Word file or mail a hard copy to you.

Thank you,
Gigi Davis
Palmetto Court Reporting

CONFIDENTIAL & PRIVILEGED

The preceding email message, including any attachments, may be confidential and/or protected by the attorney-client or other applicable privileges. It is intended for the sole use of the individual or entity named above. If the reader of this transmission is not the intended recipient, please notify the sender immediately and destroy any copies, electronic, paper or otherwise, that you may have of this communication. Any unauthorized review, use, disclosure or distribution is strictly prohibited and may be unlawful.

EXHIBIT B

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

WCC File No. 1315636

Kathey L. Staton, Employee, Appellant/Claimant,

vs.

Mohawk Industries, Inc., Employer,
and Liberty Mutual, Carrier, Respondents/Defendants.

AFFIDAVIT

PERSONALLY APPEARED before me Jeannie P. Bailey who, after first being duly sworn,
deposes and states:

1. That Affiant is an employee of the Wukela Law Firm and Stephen J. Wukela.
2. That Affiant would state that on August 4, 2015, she did place in an envelope and post for mailing a letter addressed to the Clerk of the South Carolina Court of Appeals enclosing the Appellant's Notice of Appeal and Order, check and proof of service; that letter was copied to defense counsel and the Workers' Compensation Commission.
3. That Affiant further states that on the same date, August 4, 2015, she did place in an

EXHIBIT C

envelope and post for mailing a letter addressed to Ms. Gigi Davis at Palmetto Court Reporting requesting a copy of the May 18, 2015 hearing transcript of the proceedings before the Appellate Panel of the Workers' Compensation Commission; that letter was copied to defense counsel, the South Carolina Court Administration, and the South Carolina Court of Appeals, said copies placed by the undersigned in envelopes addressed to the South Carolina Court Administration and the South Carolina Court of Appeals and posted in the U.S. Mail on August 4, 2015.

4. That Affiant states that, in response to the Appellant's letter dated August 4, 2015 requesting the transcript of the proceedings before the South Carolina Workers' Compensation Commission, the hearing transcript was forwarded to Stephen J. Wukela by email from Gigi Davis of Palmetto Court Reporting on August 21, 2015.

AFFIANT SAITH NOTHING FURTHER.


JEANNIE P. BAILEY

SWORN to before me

this 25 day of

August, 2015.

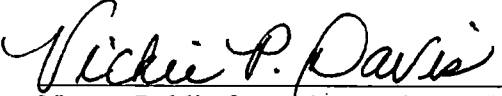
 (L.S.)
Notary Public for an-in South Carolina.
My commission expires: 5-30-15

EXHIBIT C

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

Appellate Panel Order

WCC File No. 1315636

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Kathey L. Staton, Employee, Appellant/Claimant,

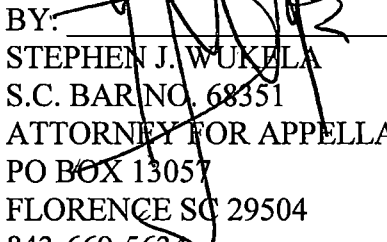
vs.

Mohawk Industries, Inc., Employer,
and Liberty Mutual, Carrier, Respondents/Defendants.

PROOF OF SERVICE

I certify that I have served the Appellant's Motion to File Transcript Request Out of Time, by depositing a copy of it in the United States Mail, postage prepaid, on August 25, 2015, addressed to their attorney of record, J. Brandon Hylton, Esquire, at his office at McAngus, Goudelock & Currie, LLC, PO Box 7489, Florence, SC, 29502.

WUKELA LAW FIRM

BY: 
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August 24, 2015

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

RECEIVED

AUG 28 2015

SC Court of Appeals

Re: Kathey L. Staton v. Mohawk Industries, Inc.
WCC File No. 1315636

Dear Ms. Kitchings:

With regard to the above, please be advised that Appellant received the Transcript of the hearing before the Workers' Compensation Appellate Panel on August 21, 2015.

With kind regards, I am

Yours truly,

WUKELA LAW FIRM

STEPHEN J. WUKELA

SJW:jpb

Enclosures

cc: J. Brandon Hylton, Esquire

Honorable Amy Bracy
SC Workers' Compensation Commission

WUKELA LAW FIRM

Steve Wukela, Jr.
Benjamin D. Moore
Christi B. McDaniel
Stephen J. Wukela
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August 25, 2015

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AUG 28 2015

SC Court of Appeals

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

Re: Kathey L. Staton v. Mohawk Industries, Inc.
WCC File No. 1315636

Dear Ms. Kitchings:

As you are aware, my office represents Kathey Staton in the above-referenced appeal. By letter dated August 4, 2015, I filed a Notice of Appeal. By separate letter dated August 4, 2015, (enclosed), I wrote the court reporter requesting the transcript and copied the S.C. Court of Appeals, defense counsel, and the S.C. Court Administration. Indeed, by email dated August 21, 2015, I received the transcript from the court reporter. Please find enclosed a copy of a separate letter notifying the Court that I received the transcript.

However, in the mail yesterday, I received the Court of Appeals' letter dated August 20, 2015 indicating that the Court has apparently not received my letter of August 4 and has no record of my requesting the transcript. Furthermore, the Court directed me to file a Motion to file my request out of time, and indicated that my appeal would be dismissed if I did not do so.

Please be advised that I did send the Court a copy of my transcript request on August 4, 2015 and I received the transcript by email on August 21, 2015. I copied that letter to defense counsel, the Court of Appeals and the Court Administration. I can only assume that it was not delivered by error or inadvertence by the U.S. Post Office. Admittedly, this turn of events is no surprise, as in recent months my office has had great difficulty in having mail delivered in a timely fashion by the Post Office. Indeed, by copy of this letter I am advising Darryl Martin, District Manager of the U.S. Post Office in Columbia, SC, of that difficulty.

In any event, in spite of the fact that I did file my transcript request by posting it to the Court on August 4, 2015, please find enclosed my Motion to File the Transcript Request Out of Time pursuant to your direction, along with my office check in the amount of \$25.00, representing the filing fee.

Honorable Jenny Abbott Kitchings
Page 2
August 25, 2015

By copy of this letter, I am notifying defense counsel, the South Carolina Court Administration, Mr. Darryl Martin of the U.S. Post Office, and Congressman Tom Rice of this communication.

With kind regards, I am

Yours truly,

WUKELA LAW FIRM



STEPHEN J. WUKELA

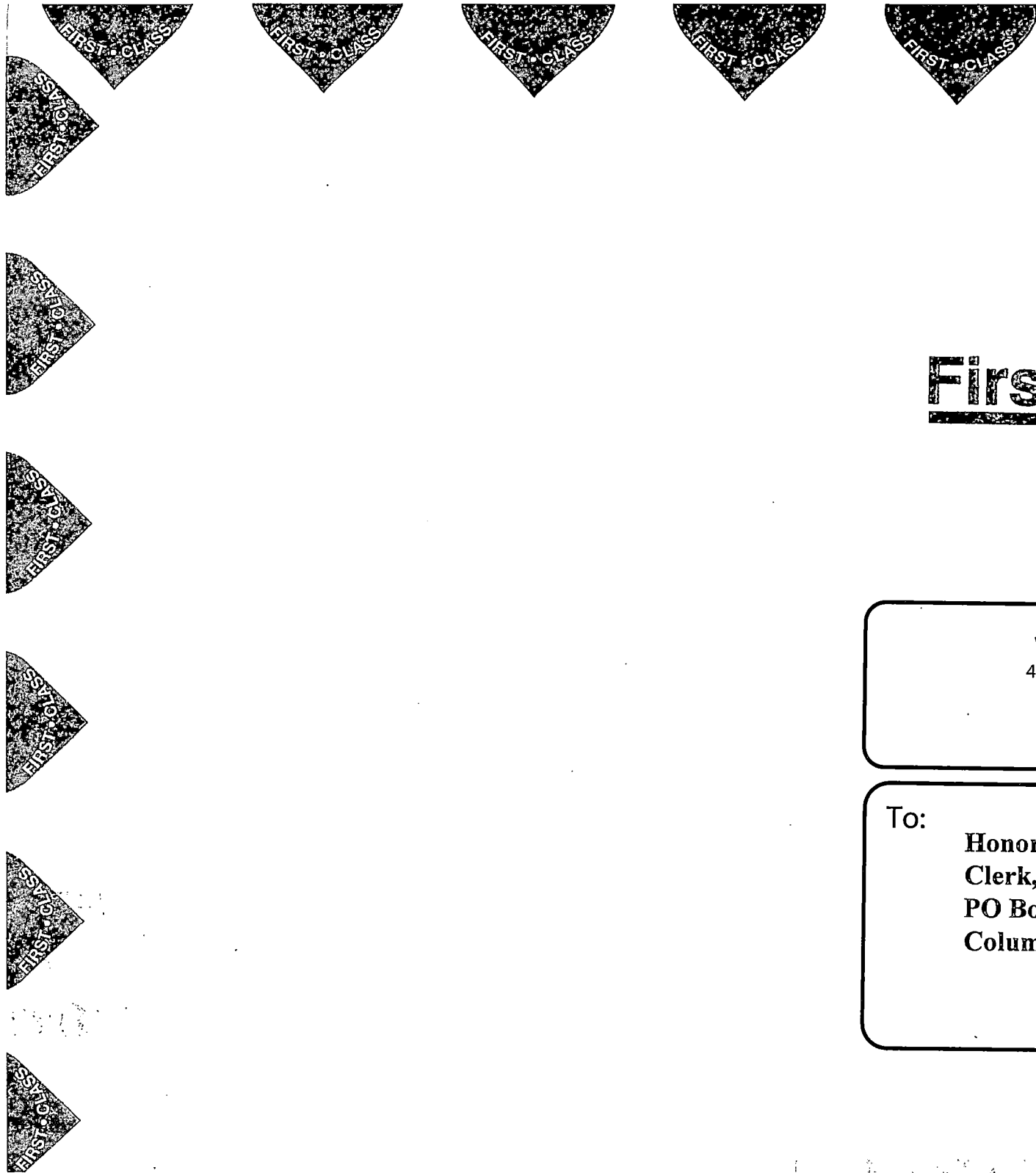
SJW:jpb

Enclosures

cc: J. Brandon Hylton, Esquire

Mr. Darryl Martin, District Manager
U.S. Post Office

U.S. Congressman Tom Rice



First Class Mail

RECEIVED
AUG 28 2015
SC Court of Appeals

WUKELA LAW FIRM
403 SECOND LOOP ROAD
P.O. BOX 13057
FLORENCE, SC 29504

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