

(S)

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE FULL COMMISSION
Of the South Carolina Workers' Compensation Commission

T. Scott Beck, Workers' Compensation Commissioner

WCC File No.: 1211338
Appellate Case No.: 2015-000693

RECEIVED

SEP 30 2015
SC Court of Appeals

Keith Case,

Employee, Appellant,

v.

J. Crawford Logging, Inc.

Employer,

And

Palmetto Timber Fund SIF

Carrier,
Respondents

FINAL REPLY BRIEF OF APPELLANT

HODGE & LANGLEY LAW FIRM, PC
Charles J. Hodge
P.O. Box 2765
Spartanburg, SC 29304
(864) 585-3873
Attorney for the Appellant

Dated: 9/25, 2015
Spartanburg, South Carolina

(A) **TABLE OF CONTENTS AND CASES**

Argument	2
Conclusion	2
<u>Liberty Mutual Insurance Company v. S.C. Second Injury Fund, 636 S.C. 612, 619, 611 S.E. 2d 297, 300 (Ct. App. 2005).</u>	2

(B) **ARGUMENT**

THE SINGLE COMMISSIONER/FULL COMMISSION APPEARS TO HAVE REVIEWED THE EVIDENCE BLINDLY FROM ONLY ONE SIDE OF THE CASE.

Respondents are correct in pointing out the applicable law in the case.

Specifically “substantial evidence is not a mere scintilla of evidence, nor the evidence viewed blindly from one side of the case...” Liberty Mutual Insurance Company v. S.C. Second Injury Fund, 636 S.C. 612, 619, 611 S.E. 2d 297, 300 (Ct. App. 2005).

A reading of Respondent’s position would imply Mr. Case’s cervical spine injury should be denied because he did not complain of neck pain. The following exchange took place between Appellant’s Counsel and Dr. Charles Kanos, the neurosurgeon:

Question: Doctor, if a person has a cord injury in the cervical spine, do they necessary have pain or symptoms that are associated with, like, a disc type thing?

Answer: I don’t quite understand the question.

Question: In other words - -

Answer: If a person has a cord injury. I got that part

Question: Cord injury.

Answer: Yea, cord injury. What do you - -

Question: Does it necessarily mean that the person has pain?

Answer: No.

Question: In fact, neuropathic pain, or excuse me. An injury to the cord can result in kind of these wild reflexes that the person not have the pain that’s typically associated with a neck injury?

Answer: That’s possible, yes. That’s possible.

Question: So, the cervical MRI is going to tell you the story. If he's got a cord injury or if he's got some kind of significant disc injury ---

Answer: That's right. I don't know if he's going to have a cord injury.

Question: Okay.

Answer: What I want to do is explain his hyperflexia that I saw on July 1, 2013. (R. p. 73, lines 3-25, p. 74, line 1).

It is important to remember this deposition testimony was taken before the claimant's cervical MRI. That MRI showed loss of disc height and signal and a posterior disc-osteophyte complex effacing the anterior thecal sac and impinging the cord creating stenosis at C4-5. At C5-6 it was also noted to be moderate loss of disc height and signal. There was also a 1-2mm posterior disc-osteophyte complex effacing the anterior thecal sac and impinging upon the cord (R. pp.247-248).

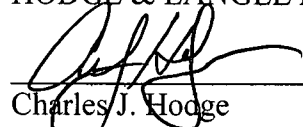
The law requires that evidence be viewed as a whole and not viewed blindly from only one side of the case (Liberty Mutual, supra). The respondents seem to be arguing the appellant should have diagnosed himself. Of course this is not the law in our state.

(C) CONCLUSION

The evidence when viewed as a whole supports a finding of compensability for Mr. Case's neck injury. The decision of the Full Commission should be reversed with findings of compensability for Mr. Case's cervical spine condition relating to his injury on August 27, 2012.

Respectfully Submitted by:

HODGE & LANGLEY LAW FIRM, PC



Charles J. Hodge
Attorney for the Appellant
P.O. Box 2765
Spartanburg, SC 29304
(864) 585-3873

Dated: 9/25, 2015
Spartanburg, South Carolina

PROOF OF SERVICE OF FINAL REPLY BRIEF

RECEIVED

SEP 30 2015

SC Court of Appeals

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM THE FULL COMMISSION OF THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

T. Scott Beck, Workers' Compensation Commissioner

WCC File No.: 1211338

Appellate Case No.: 2015-000693

Keith Case,

Employee, Appellant,

vs.

J. Crawford Logging, Inc.,

Employer,

and

Palmetto Timber Fund,

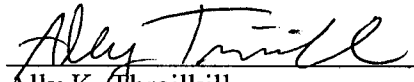
Carrier,
Respondents

PROOF OF SERVICE

I certify that I have served the Final Reply Brief of the Appellant on J. Crawford Logging, Inc., by depositing a copy of it in the United States Mail, postage prepaid, on September ²⁹~~28~~, 2015, addressed to his attorney of record, John W. Rabb, Jr., Post Office Box 1481, Columbia, South Carolina 29202 and the South Carolina Workers' Compensation Commission, PO Box 1715, Columbia, South Carolina 29202.

²⁹
September ~~28~~, 2015

Hodge & Langley Law Firm, PC



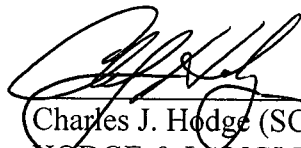
Ally K. Thraikill
Paralegal to Charles J. Hodge
229 Magnolia Street
PO Box 2765 (29304)
Spartanburg, SC 29306
(864)585-3873
Attorney for Appellant

(S)

CERTIFICATE OF COUNSEL

The undersigned certifies that this Final Reply Brief complies with *SCACR* Rule

211(b).



Charles J. Hodge (SC Bar No. 02537)
HODGE & LANGLEY LAW FIRM, PC
229 Magnolia Street
P.O. Box 2765 (29304)
Spartanburg, SC 29306
(864) 585-3873
(864) 585-6485
Attorney for the Appellant

October 8, 2015

RECEIVED
OCT 13 2015
SC Court of Appeals