

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM CHARLESTON COUNTY  
9<sup>th</sup> Judicial Circuit Court of Common Pleas

R. Markley Dennis, Circuit Court Judge

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Case No. 2015-000049

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Jack Powell,

Appellant,

v.

Carolina Center for Occupational Health,

Respondent.

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**RESPONDENT'S RETURN TO APPELLANT'S  
SECOND MOTION TO REINSTATE**

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The Respondent, Carolina Center for Occupational Health, pursuant to Rule 240, SCACR, files this Return in response to Appellant's Motion to Reinstate dated February 24, 2016. Respondent previously filed a Return to Appellant's Motion to Reinstate dated February 9, 2016. Respondent hereby incorporates its Return filed with the Court on February 16, 2016.

Both of Appellant's motions seek to vacate the Dismissal that was filed by the South Carolina Court of Appeals which was filed on October 12, 2015. Appellant's motion should be denied because the motion was filed outside the time permitted under the South Carolina Appellate Court Rules. Accordingly, Appellant's Motion to Reinstate should be dismissed.

"A pro se litigant who knowingly elects to represent himself assumes full responsibility

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for complying with substantive and procedural requirements of the law.” State v. Burton, 356 S.C. 259, 265, n. 5, 589 S.E.2d 6, 9 n. 5 (2003). The clerk shall dismiss the appeal of a party who fails to comply with the Rules, and the case “shall not be reinstated except by leave of the court, upon good cause shown, after notice to all parties.” Camp v. Camp, 378 S.C. 237, 240, 662 S.E.2d 458, 459 (Ct. App. 2008) rev’d, 386 S.C. 571, 689 S.E.2d 634 (2010)(citing former Rule 231, SCACR); Rule 260, SCACR. “The clerk shall remit the case to the lower court or administrative tribunal in accordance with Rule 221 unless a motion to reinstate the appeal has been actually received by the court within fifteen (15) days of filing of the order of dismissal (the day of filing being excluded).” Rule 26, SCACR.

Appellant has failed to comply with the Appellate Court Rules, and admits the same in his motion, as well as admits receiving notice of these deficiencies by the Court. Appellant states in his motion that “Appellant agrees that he has made simple mistakes and Appellant is glad he was reminded of his responsibilities.” Appellant’s Motion, p. 6. Appellant failed to comply with the Appellate Court Rules and failed to correct the deficiencies identified by the clerk’s office. As a result, the Court filed an Order on October 12, 2015, dismissing the appeal for failing to comply with the Appellate Court Rules.

Pursuant to Rule 260, SCACR, “[t]he clerk shall remit the case to the lower court or administrative tribunal in accordance with Rule 221 unless a motion to reinstate the appeal has been actually received by the court within fifteen days (15) of filing the order of dismissal (the day of filing being excluded).”

Pursuant to the Appellate Court Rules, Appellant was required to file his motion to reinstate by October 31, 2015. Appellant’s second Motion to Reinstate is dated February

24, 2016. Appellant prepared his second motion 134 days after filing of the Order dismissing the appeal, and well beyond the fifteen day deadline under the Appellate Court Rules.

Appellant has failed to comply with the Appellate Court Rules throughout this appeal, and again failed to comply by filing both Motions to Reinstate outside the time permitted.

WHEREFORE, Respondent requests that the Court issue an order denying Appellant's Motion to Reinstate, and for such other and further relief as the court deems just and appropriate.

March 3, 2016.



Morgan S. Templeton, Esq.  
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-AND-

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**Attorneys for Respondent, Carolina  
Center for Occupational Health**

Other Counsel of Record:  
Jack Powell, Pro se  
1402 8-A Camp Road  
Charleston, South Carolina 29412

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**PROOF OF SERVICE**

The undersigned hereby certifies that on this 3<sup>rd</sup> day of March, she mailed a copy of **Respondent Carolina Center for Occupational Health's Return to Appellant's Second Motion to Reinstate** by placing a copy in a postpaid envelope for collection and processing for mailing. On the same day correspondence is placed for collection and mailing, it is deposited with the United States Postal Service in the ordinary course of business and addressed to the following, which is the last known address, in Charleston, South Carolina:

**ADDRESSEE(S)**

Jack Powell  
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*Pro Se*

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AMY R. EVERSOLE

*Paralegal to Peden Brown McLeod, Jr.*



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March 3, 2016

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SC Court of Appeals

V. Claire Allen, Deputy Clerk  
South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, SC 29211

Re: *Jack Powell vs. Carolina Center for Occupational Health, et al*  
Appellate Case No.: 2015-000049  
Insured: Carolina Center for Occupational Health, LLC  
Claim No.: 72-444-2014

Dear Ms. Allen:

Enclosed please find an original and copy of Respondent's Return to Appellant's Second Motion to Reinstate. Please return a file-stamped copy of the notice to this office in the enclosed, self-addressed, stamped envelope.

If you have any questions, please feel free to contact me.

Sincerely,

WALL TEMPLETON & HALDRUP, P.A.

*P.B. McLeod / are*

Peden Brown McLeod, Jr.

PBM,jf.:are  
Enclosures

cc: Mr. Jack Powell (w/ enc.)  
G. Wade Cooper, Esq. (w/ enc.)

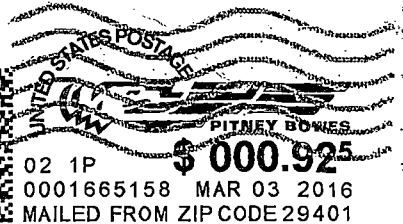
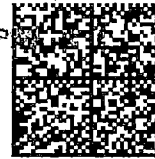


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CHARLESTON SC 294

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V. Claire Allen, Deputy Clerk  
South Carolina Court of Appeals  
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