

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE APPELLATE PANEL OF THE SOUTH
CAROLINA WORKERS' COMPENSATION COMMISSION

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AUG 04 2016

W.C.C. File No.: 1202545

SC Court of Appeals

Scott Ledford, Employee, ... Appellant,

v.

Department of Public Safety, Employer, and
State Accident Fund, Carrier, ... Respondents.

REPLY OF APPELLANT IN SUPPORT OF MOTION TO INCLUDE
ADDITIONAL MATTER IN THE RECORD ON APPEAL

As required by Rule 209, SCACR, the Appellant designated matter to be included in the Record on Appeal at time he filed his Initial Brief. As permitted by Rule 212, SCACR, the Appellant moved to supplement the Record on Appeal to respond to matters raised in the Respondent's Initial Brief.

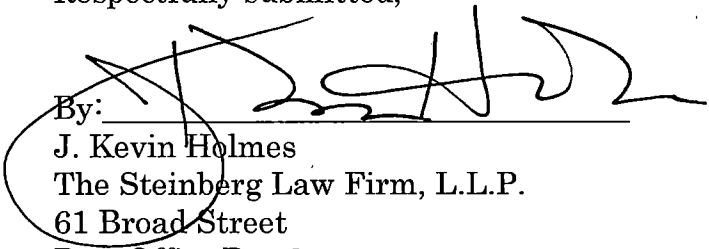
The additional matter sought to be included in the Record on Appeal are an e-mail sent by Respondent's counsel confirming a pre-hearing settlement offer of \$47,500.00 and the un-redacted Motion for Recusal showing that offer was reduced to \$10,000.00 as a result of the Hearing Commissioner's threat to refer the Appellant for criminal prosecution unless he settled his case for whatever minimal amount would be offered. This evidence is highly relevant to show the immediate prejudicial effect the Commissioner's threat had.

Contrary to the argument of the Respondent, the un-redacted Motion for Recusal was "presented" for filing to the Commission. As stated by Respondent's counsel, however, it was intercepted by the Commission's counsel to preserve Commissioner Barden's "impartiality." Commissioner Barden's "impartiality" is no longer in jeopardy of being effected by the truth of what happened as a result of her threat. Contrary to Respondent's counsel suggestion her own e-mail suddenly appeared for the first time in Appellant's Initial Reply Brief, it was written by her and mailed to Appellant's attorney. It is noted the Respondent does not deny the accuracy of the additional matter sought to be included in the Record on Appeal.

What Commissioner Barden did was not a "professional courtesy" as portrayed by Respondent's counsel, nor was it an attempt by Commissioner Barden to encourage a settlement as she might suggest. It was an improper threat that had an immediate devastating effect prejudicing the Appellant's case and sabotaging any chance of a settlement.

For the foregoing reasons, the Appellant respectfully requests this Court grant the Appellant's Motion to Include Additional Matter in the Record on Appeal.

Respectfully submitted,

By: 

J. Kevin Holmes
The Steinberg Law Firm, L.L.P.
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(843)720-2800
Attorneys for the Appellant

Charleston, South Carolina

August 2, 2016.

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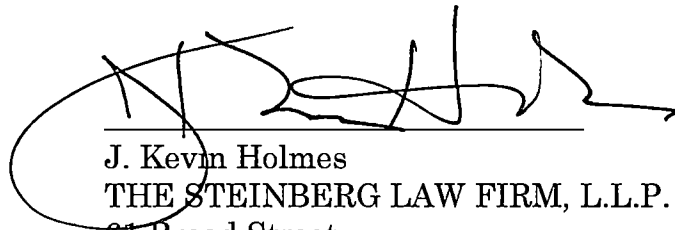
—vs.—

Department of Public Safety, Employer,
and State Accident fund, Carrier, ... Respondents.

PROOF OF SERVICE

I certify that I have served the Appellant's Reply in Support of Motion to Include Additional Matter in the Record on on opposing counsel by depositing a copy of it in the United States Mail, postage prepaid on August 2, 2016, addressed to Sarah S. Alphin, Esquire, Willson, Jones, Carter & Baxley, PA, 4500 Fort Jackson Blvd., Columbia, SC 29209.

August 2, 2016.



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The Honorable Jenny Abbot Kitchings
Clerk of Court, SC Court of Appeals
P.O. Box 11629
Columbia, SC 29211

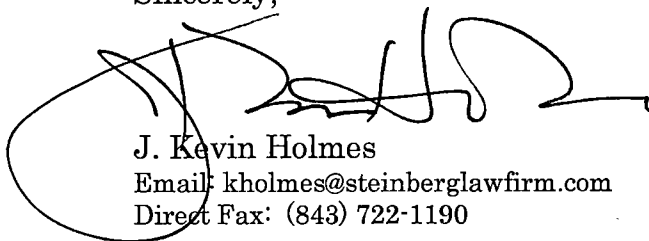
SC Court of Appeals

Re: Scott Ledford v. Department of Public Safety
Appellate Case No. 2016-000601

Dear Ms. Kitchings:

Enclosed for filing please find the original and six copies of the Appellant's Reply in Support of Motion to Include Additional Matter in the Record on Appeal and the Proof of Service on opposing counsel.

Sincerely,



J. Kevin Holmes
Email: kholmes@steinberglawfirm.com
Direct Fax: (843) 722-1190

JKH/jkh
Enclosures
cc: Sarah S. Alphin, Esquire



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