

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE WORKERS' COMPENSATION COMMISSION

Case No.: 2016-000509

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AUG 12 2016

Appellant
SC Court of Appeals

Susie Henley, Employee,

v.

Otis Spunkmeyer, Employer, and Trumbull Insurance Company
c/o The Hartford, Carrier,

Respondents.

MOTION OF JEANNETTE PADGETT, JOEL PADGETT, AND MAURICE PADGETT TO
PARTICIPATE IN APPELLATE CASE

Jeannette Padgett, Joel Padgett, and Maurice Padgett ("the Padgetts") hereby move before the Court to allow them to resubmit their timely filed initial brief and participate going forward because the Padgetts were the prevailing party before the Workers' Compensation Commission.

This case arises from an admitted death case of Susie Henley, the Padgetts' mother. The Padgetts; George Williams, Ms. Henley's first husband; and David Henley, Ms. Henley's purported second husband, all filed claims for the workers' compensation death benefits. The commission also appointed a guardian ad litem to represent Ms. Henley's grandchildren's interests in the case. Mr. Henley and Williams each claimed they were entitled to the death benefits as Ms. Henley's surviving spouse, and Mr. Henley also argued that he was dependent on Ms. Henley at the time of her death. See S.C. Code Ann. § 42-9-290 (1985). (Order pp. 2-3.) The Padgetts countered that neither Mr. Henley nor Williams qualified as the surviving spouse,

and Ms. Henley did not leave any dependents, so they were entitled to the death benefits as her non-dependent adult children. See § 42-9-140(a). (Order p. 3.)

The case was captioned before the commission as “Susie Henley (Employee, Claimant) vs. Otis Spunkmeyer, Inc. (Employer) and Trumbull Insurance Company c/o The Hartford (Carrier, Defendants).” The Employer only sought for the commission to determine it had conducted a good-faith discovery of beneficiaries and paid the funeral expenses, and to determine the proper beneficiaries. (Order p. 2.) The single commissioner held a hearing Apr. 14, 2015, and issued an order Aug. 7, 2015, that found the Padgetts were the proper beneficiaries. (Order pp. 6-7.) The appellate panel held a review hearing Nov. 17, 2015, and issued an order affirming the single commissioner’s order dated Feb. 8, 2016. (Order p. 23.)

Mr. Henley then timely served a notice of appeal in the case on counsel for the Padgetts and the Employer. The notice of appeal listed the caption used before the commission and also listed Mr. Henley as Appellant and the Padgetts as Respondents. (Notice of Appeal.) This appellate designation complied with the court rules by listing Henley as the appealing party and the Padgetts as the respondent. Rule 202, SCACR.

Every subsequent document Mr. Henley filed with the Court, he also served on counsel for the Padgetts. Mr. Henley and the Padgetts each timely filed and served initial briefs and designations of matter. The Court, however, returned the Padgetts’ initial brief July 26 because the Padgetts were not listed as parties with the Court. The Employer did not file an initial brief or designation of matter.

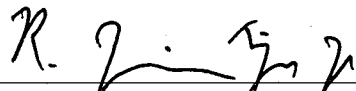
The actual dispute in this case is between Mr. Henley and the Padgetts as to who is the proper beneficiary. The Employer does not have a stake in the instant appeal because it is not affected by the Court’s determination of the proper beneficiary because it will have to pay the

death claim regardless of the outcome. It would be unfair to allow Mr. Henley to participate in the appeal without the Padgetts because they are the only opposing party with an actual interest in the case.

For the aforementioned reasons, the Court should allow the Padgetts to resubmit their initial brief and participate in this case going forward. The Court should also amend the caption as it finds necessary to properly reflect the adverse parties so that it reads "David Henley, Appellant v. Jeannette Padgett, Joel Padgett, and Maurice Padgett, Respondents."

The undersigned counsel submits to the Court that he has spoken with counsel for Mr. Henley and the Employer. The Employer consents to this motion, and Mr. Henley does not oppose this motion.

Respectfully submitted,



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Greenwood, SC 29646
(864) 223-0770

Attorney for Jeannette Padgett, Joel Padgett,
and Maurice Padgett

Greenwood, South Carolina

August 8, 2016

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE WORKERS' COMPENSATION COMMISSION

Appellate Case No. 2016-000509

Susie Henley, Employee,

Appellant,

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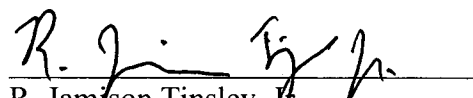
Otis Spunkmeyer, Employer and Trumbull Insurance Company
c/o The Hartford, Carrier,

Respondents

PROOF OF SERVICE

I certify that I have served the original and six (6) copies of Motion Of Jeannette Padgett, Joel Padgett, and Maurice Padgett To Participate In Appellate Case on South Carolina Court of Appeals and have served counsel for the above-named Appellant and Respondents by depositing a copy of it in the United States Mail, postage pre-paid, on August 9, 2016, addressed to South Carolina Court of Appeals at Post Office Box 11629 Columbia, South Carolina 29211, Helen F. Hiser, Esquire, at Post Office Box 650007, Mount Pleasant, South Carolina 29465, and Joyce Farr Cheeks, Esquire, at Post Office Box 881, Columbia, South Carolina 29201.

August 9, 2016


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SC Court of Appeals

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SC Court of Appeals

August 9, 2016

Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

re: Appellate Case No.: 2016-000509

Dear Court of Appeals:

Enclosed please find the original and six (6) copies of Motion Of Jeannette Padgett, Joel Padgett, and Maurice Padgett To Participate In Appellate Case in the above-referenced case along with Proof of Service for filing. Also enclosed is check # 2033 in the amount of twenty five dollars (\$25.00) for the filing fee.

Please contact me should you have questions or concerns.

Yours truly,



R. Jamison Tinsley, Jr.

RJTJr/cct

Enclosures as indicated

Cc: Helen Hiser, Esquire
Joyce Farr Cheeks, Esquire

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