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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM
THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

Full Commission Decision

Appellate Case No. 2016-001497

Ignacio RodriguezEmployee, Claimant, Respondent,

v.

Robert T. Pierson d/b/a Robert T. Pierson Constr. Co., Employer, and
ABC Care, Inc., Employers, Respondents,

and

South Carolina Uninsured Employers' Fund, Property & Casualty
Insurance Co. of Hartford, Carriers, Defendants

Of which Property and Casualty Insurance Co. of Hartford., is theAppellant.

APPELLANT'S REPLY TO RESPONDENT'S RESPONSE TO APPELLANT'S MOTION
FOR LEAVE TO PRESENT ADDITIONAL EVIDENCE

NOW COMES Appellant, Property and Casualty Insurance Co of Hartford, by and through
their undersigned attorney, and files this Reply Brief to Respondent's Response to Appellant's
Motion for Leave to Present Additional Evidence.

First, Appellant's Motion for Leave to Present Additional Evidence is separate from the
appeal in the above referenced claim. Despite Respondent's misplaced contentions, this issue is
critical to Appellant's defense of this claim. Quite clearly, the Hearing Commissioner heavily

relied on falsified Owner Builder Disclosure Statement when finding workers' compensation coverage; particularly, regarding her finding that "all construction permits and *all governmental documents* related to this job confirm that the owner, operator and builder of the house located at Lake Keowee was ABC Care, Inc." (Decision and Order Finding of Fact #10) (emphasis added). However, the original Owner Builder Disclosure Statement contained no reference to ABC Care, Inc.

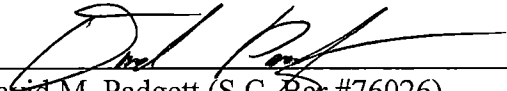
Second, and in regards to Appellant's due diligence, Appellant did not expect a falsified document to be submitted as evidence at the Hearing. However, based on an extremely focused and careful review of Respondent's Administrative Procedure Act submissions, in preparation for the Full Commission Appellate Hearing, Appellant noticed the falsified document. At that time, Appellant raised this issue in their Brief to the Full Commission. However, the Appellate Panel refused to allow the evidence to be admitted as evidence, and the Appellate Panel refused to hear Appellant's argument. (Full Comm'n Hr. Tr. p. 4, ll. 14-24, p. 5, ll. 1-12, 16-25, p.6, ll. 1-13). As a result, Appellant timely filed a motion for leave to present additional evidence, pursuant to S.C. Code Ann. § 1-23-380(5)(e) (Supp. 2012) and applicable case law, following the Appellate Panel hearing.

Third, Appellant argues that denying this motion would violated public policy and will result in substantial injustice. Again, it is very clear that the Hearing Commission heavily relied on the falsified Owner Builder Disclosure Statement in finding that "all construction permits and all governmental documents related to this job confirm that the owner, operator and builder of the house located at Lake Keowee was ABC Care, Inc." It goes against public policy to allow Respondent to benefit from this falsified disclosure statement.

[Signature block on following page]

August 18, 2016

Respectfully Submitted,



David M. Padgett (S.C. Bar #76026)

Holder Padgett Littlejohn + Prickett, LLC

1204 A. East Washington Street

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Attorney for Appellant

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v.

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ABC Care, Inc., Employers, Respondents,
and

South Carolina Uninsured Employers' Fund, Property & Casualty Insurance Co. of
Hartford, Carriers, Defendants

Of which Property & Casualty Insurance Co. of Hartford is the Appellant.

PROOF OF SERVICE

The undersigned hereby certifies that the Appellant's Reply to Respondent's Response to Appellant's Motion For Leave to Present Additional Evidence in the above referenced case has been served on all parties of record by mailing a copy of same in the United States mail, postage prepaid this _18th day of August, 2016, addressed as follows:

William H. Ehlies, Esquire
310 Mills Avenue., Suite. 201
Greenville, South Carolina 29605
Attorney for Respondent

Randall S. Hiller, Esquire
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Greenville, South Carolina 29609
Attorney for Robert T. Pierson, d/b/a Pierson Construction and ABC Care, Inc.

David H. Keller, Esquire
Turner Padgett
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Attorney for South Carolina Workers' Compensation Uninsured Employers Fund

South Carolina Workers' Compensation Commission
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Mary Pate, Paralegal
Holder, Padgett, Littlejohn + Prickett, LLC

August 18, 2016

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SC Court of Appeals

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

**RE: *Ignacio Javier Rodriguez, employee, claimant, Respondent, v.
Robert T. Pierson, d/b/a Robert Pierson Construction Co., Employer, and ABC Care,
Inc., Employers, Respondents, and South Carolina Uninsured Employers' Fund,
Property & Casualty Insurance Co. of Hartford, Carriers, Defendants of which Property
& Casualty Insurance Co. of Hartford is the Appellant.
Appellate Case No. 2016-001497***

Dear Clerk:

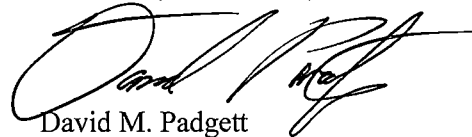
Enclosed is the original and six (6) copies Appellant's Reply to Respondent's Response to Appellant's Motion for Leave to Present Additional Evidence.

By copy of this letter, we are serving one copy of each upon all counsel of record.

Thank you for your assistance in this matter and please do not hesitate to contact our office if you have any questions.

Very truly yours,

HOLDER, PADGETT, LITTLEJOHN + PRICKETT, LLC




David M. Padgett

DMP:mp

Enclosures

cc: William H. Ehlies Esq.
Randall S. Hiller, Esq.
David H. Keller, Esq.
South Carolina Workers' Compensation Commission
Client



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