

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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AUG 30 2016

SC Court of Appeals

APPEAL FROM
THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

Full Commission Decision

Case No. 1320141

Ignacio Rodriguez.....Respondent,

v.

Robert R. Pierson d/b/a Pierson Construction Co.,
and
ABC Care, Inc.,
and
Property and Casualty Insurance Co. of Hartford,
and the South Carolina Workers' Compensation Uninsured Employers Fund

Of whom Property and Casualty Insurance Co. of Hartford is the.....Appellant.

RESPONDENT'S RESPONSE TO APPELLANT'S REPLY

The Respondent, South Carolina Uninsured Employers Fund (UEF), wishes to bring to the attention of the Court an additional item which Respondent believes should be considered by the Court. While the Respondent, the UEF, continues to believe that the Court of Appeals is the improper forum for this Motion, particularly in light of Appellants' Response which asks the Court to undertake fact finding, there is clear case law against Appellant's position.

The UEF, however, wishes to bring it to the attention of the Court the case of Raby Construction Co., LLP v. Orr, 358, SC 10, 594, SE2d 478. The Raby case is clear that even if

the Court, or the Commission were to determine that the allegations raised by Appellant were correct, nonetheless, no relief would be available.

The Raby clearly defines the differences between intrinsic and extrinsic fraud. A Judgement or Order of the Court cannot be overturned for intrinsic fraud. Raby, at 358 SC 18-19. The classic examples of intrinsic fraud, for which relief is not available are perjury and forged or altered documents. Raby at 358 SC 19.

The Raby case is clear that even if the Appellant could prove the factual allegations asserted in its Motion and Response there would still be no relief available.

Further, the UEF continues to insist that the Court of Appeals is the improper forum for this Motion and Appellant's failure to raise any of these issues below is fatal to the Motion. It is therefore respectfully submitted that the Motion for Leave to Present Additional Evidence be denied and the case move forward on the merits of the appeal.

Respectfully Submitted,



David Hill Keller
TURNER PADGET GRAHAM & LANEY, PA
Post Office Box 1509
Greenville, SC 29602
Attorney for the UEF

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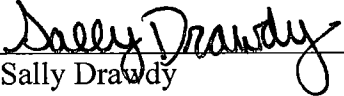
PROOF OF SERVICE

The undersigned hereby certifies that a true copy of Respondent, SCUEF'S Response to Appellant's Reply in the above referenced case has been served on all parties of record by mailing a copy of the same in the United States mail, postage prepaid this 23rd day of August, 2016, addressed as follows:

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REPLY TO:

David H. Keller

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August 23, 2016

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

RE: Ignacio Rodriguez v. Robert T. Pierson d/b/a Pierson Construction Co., and ABC Care Inc., and Property and Casualty Co. of Hartford and The South Carolina Uninsured Employers Fund
Appeal from the South Carolina Workers' Compensation Commission
Case No. 1320141
Appellate Case No. 2016-001497

Dear Ms. Kitchings:

Enclosed is an original and six copies of the Respondent, SCUEF's Response to Appellant's Reply in the above-referenced matter. Should you have any questions or concerns, please do not hesitate to contact me.

Yours truly,

TURNER PADGETT GRAHAM & LANEY P.A.



David H. Keller

DHK/sbd

cc: David M. Padgett
William H. Ehliens
Randall S. Hiller

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