



# The South Carolina Court of Appeals

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November 29, 2016

The Honorable Amy Bracy  
Workers' Compensation Commission  
Post Office Box 1715  
Columbia SC 29202

## REMITTITUR

Re: Jerry Sims v. Edwin Pate Vinyl Siding  
Lower Court Case No. 1306446  
Appellate Case No. 2015-001838

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

*V. Claire Allen, Deputy*

CLERK

Enclosure

cc: Stephen J. Wukela, Esquire  
Lisa C. Glover, Esquire

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE  
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING  
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA  
In The Court of Appeals**

Jerry Sims, Employee-Claimant, Appellant,

v.

Edwin Pate Vinyl Siding, Employer, and Uninsured  
Employers' Fund, Carrier, Respondents.

Appellate Case No. 2015-001838

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Appeal From The Workers' Compensation Commission

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Unpublished Opinion No. 2016-UP-469  
Submitted October 1, 2016 – Filed November 9, 2016

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**AFFIRMED**

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Stephen J. Wukela, of the Wukela Law Office, of  
Florence, for Appellant.

Lisa C. Glover, of the State Accident Fund, of Columbia,  
for Respondent Uninsured Employers Fund.

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**PER CURIAM:** Affirmed pursuant to Rule 220(b), SCACR, and the following  
authorities: S.C. Code Ann. § 42-1-360(2) (2015) (stating an employer is subject to  
the South Carolina Workers' Compensation Act only if it employs four or more  
employees in the same business within the state); *Edens v. Bellini*, 359 S.C. 433,

440, 597 S.E.2d 863, 867 (Ct. App. 2004) ("Where [an] issue involves jurisdiction, the appellate court can take its own view of the preponderance of the evidence."); *id.* ("As a result, this [c]ourt has the power and duty to review the entire record and decide the jurisdictional facts in accord with the preponderance of the evidence."); *Hernandez-Zuniga v. Tickle*, 374 S.C. 235, 244, 647 S.E.2d 691, 696 (Ct. App. 2007) ("The appellant bears the burden of showing that the [Appellate Panel]'s decision is against the preponderance of evidence."); *Harding v. Plumley*, 329 S.C. 580, 587, 496 S.E.2d 29, 33 (Ct. App. 1998) ("While the company may have on occasion employed some additional laborers and statutory employees, the record does not support a conclusion that it employed the 'same number of persons throughout the period with some constancy.'" (quoting *Patterson v. L.M. Parker & Co.*, 162 S.E.2d 571, 575 (N.C. 1968))).

**AFFIRMED.**<sup>1</sup>

**HUFF and SHORT, JJ., and MOORE, A.J., concur.**

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<sup>1</sup> We decide this case without oral argument pursuant to Rule 215, SCACR.