

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF RICHLAND )  
 )  
 Leroy Bolden, )  
 )  
 Claimant/Appellant, )  
 )  
 vs. )  
 )  
 Sun City Hilton Head Comm. Assoc., )  
 )  
 Employer, )  
 )  
 and )  
 )  
 Liberty Mutual Insurance Company, )  
 )  
 Carrier/Respondents. )  
 )

IN THE COURT OF COMMON PLEAS  
 CIVIL ACTION NO.: 07-CP-40-984  
 784

ORDER

**RECEIVED**  
 JAN 17 2017  
 SC Court of Appeals

RICHLAND COUNTY  
 FILED  
 2016 DEC 15 AM 11:30  
 JENNIFER W. HARRIS  
 C.M. & A.G.

Pursuant to a Petition for Judicial Review filed February 2, 2007, Appellant, Leroy Bolden, sought relief from the South Carolina Workers' Compensation Commission's (Commission's) January 3, 2007 Order, maintaining this ruling violated the Honorable Perry M. Buckner, III's April 7, 2005 remand instructions in several respects. In conjunction with this appeal, Mr. Bolden submitted a July 11, 2007 "Memorandum in Support of Petition for Judicial Review", which: (a) analyzed the legal errors contained in the January 3, 2007 Order; (b) identified other portions of the appellate record, particularly a February 23, 2007 e-mail generated following his perfection of this appeal, that were similarly inconsistent with not only Judge Buckner's rulings, but also S.C. Code Ann. Section 1-23-320 (1976, as amended); and (c) prayed for alternative modes of relief, including "a *de novo* hearing before the single commissioner."

By Order dated January 20, 2009, this Court vacated the January 3, 2007 Order, while remanding this matter to the Commission for the purposes of:

(a) conducting a de novo evidentiary hearing before the single commissioner; (b) allowing consideration of the current record, as well as any additional evidence submitted by the respective parties, by the single commissioner; (c) entry of an Order by the single commissioner, which contains not only detailed factual findings, but also a thorough explanation of the rationale underlying any rulings; and (d) an Appellate Panel review, which complies with . [regulations referenced within the body of the Order], as well as all governing legal authorities, in the event of an appeal by either party.

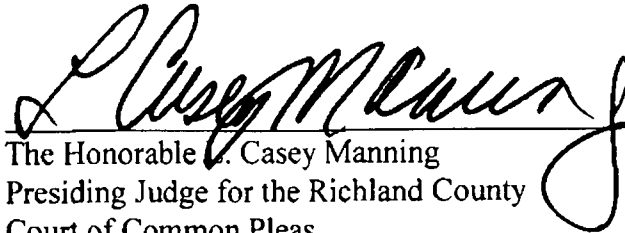
Subsequently, per Motion dated February 4, 2009, Respondents, Sun City Hilton Head Community Association and Liberty Mutual Insurance Company, requested the Court to amend its prior Order in accordance with the provisions of S.C.R.C.P. Rule 59 (e). Essentially, Respondents contend the Court's remand instructions: (a) exceed the scope of relief previously sought by Mr. Bolden; and (b) do not indicate "whether or not any *de novo* hearing should be limited with regard to the presentation of testimony or other evidence."


As previously noted, following entry of the January 3, 2007 Order, Mr. Bolden appropriately challenged the Commission's failure to afford him additional oral argument in accordance with Judge Buckner's ruling, which compelled compliance with all "applicable Commission Regulations", including those provisions governing oral argument. Additionally, upon discovering evidence confirming the Commission's attempted utilization of a "unlawful procedure" within the meaning of S.C. Code Ann. Section 1-23-380 (A) (5) (c) (1976, as amended), notwithstanding the divestiture of jurisdiction produced by the February 2, 2007 appeal, Mr. Bolden: (a) timely raised this issue to the Court; (b) sufficiently analyzed the invalidity of this procedure; and (c) amended his prayer for relief. (See, July 11, 2007 Claimant's/Appellant's Memorandum in Support of Petition for Judicial Review). I consequently conclude this Court's January 20, 2009 remand instructions are consistent with Mr. Bolden's alternative requests for relief.

Further inspection of this Court's Order reveals authorization for the single commissioner to consider "the current record, as well as any additional evidence submitted by the respective parties. . . ." In this regard, I conclude: (a) the current circumstances, especially the length of time which has transpired since the May 8, 2002 evidentiary hearing and the issues (including credibility) which must be addressed, warrant a *de novo* hearing before the single commissioner; and (b) this Court's January 20, 2009 Order adequately establishes the parameters relative to the introduction of evidence.

**ACCORDINGLY, IT IS HEREBY ORDERED** that: (a) Respondents' Motion to Alter/Amend is denied; and (b) this Court's January 20, 2009 ruling is wholly reaffirmed.

**IT IS SO ORDERED.**

  
The Honorable C. Casey Manning  
Presiding Judge for the Richland County  
Court of Common Pleas

, 2016

STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND  
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NUMBER: 2007CP4000784

Leroy Bolden

Sun City Hilton Head Comm Assoc

Liberty Mutual Insurance Company

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: _____	Attorney for : <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant or <input type="checkbox"/> Self-Represented Litigant
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**DISPOSITION TYPE (CHECK ONE)**

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):**  Rule 12(b), SCRPC;  Rule 41(a), SCRPC (Vol. Non-Suit);  Rule 43(k), SCRPC (Settled);  Other \_\_\_\_\_
- ACTION STRICKEN (CHECK REASON):**  Rule 40(j), SCRPC;  Bankruptcy;  Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;  Other \_\_\_\_\_
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**  Affirmed;  Reversed;  Remanded;  Other \_\_\_\_\_

FILED  
 2016 DEC 20 AM 10:13  
 RICHLAND COUNTY

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED:  See attached order (formal order to follow)  Statement of Judgment by the Court:

**ORDER INFORMATION**

This order  ends  does not end the case.  
Additional Information for the Clerk : \_\_\_\_\_

**INFORMATION FOR THE JUDGMENT INDEX**

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge \_\_\_\_\_ Judge Code \_\_\_\_\_ Date \_\_\_\_\_

**For Clerk of Court Office Use Only**

This judgment was entered on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ and a copy mailed first class or placed in the appropriate attorney's box on this 20 day of Dec, 2016 to attorneys of record or to parties (when appearing pro se) as follows:

Andrew Nathan Safran

Clarke W. McCants III

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter \_\_\_\_\_

*Jeanette W. McBride*

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JAN 17 2017