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

**APPEAL FROM CHARLESTON COUNTY
South Carolina Workers' Compensation Commission**

Derrick L. Williams, Hearing Commissioner

**File No. 1100764
Ct. App. Tracking # 2012207088**

Willie Lee Simmons, Employee Claimant/Appellant,

v.

**South Carolina Strong, Employer and Hartford Underwriters Ins. Co.,
Carrier Defendants/Respondents.**

**MOTION TO SUPPLEMENT/CORRECT
APPELLANT'S FINAL BRIEF**

Appellant just became aware that page 9 of his Appellant's Final Brief is missing page 9. Appellant respectfully requests permission to supplement/correct that omission with page 9 (attached).

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October 18, 2012

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SC Court of Appeals

requirements of the Davis-Bacon Act. The question was not whether the participants were employees for Worker's Compensation purposes.

SC STRONG and the Commissioner relied on a California case. (Case no. SFO 0351419) which found the privilege of enrolling in [California's version of STRONG] rather than being confined in State prison does not amount to an employment relationship in California. Aside from differing statutes and cases in California, the argument made in that case is not the argument being made here. Instead, the argument here is that the program is an apprenticeship and is, under South Carolina law, specifically covered by Worker's Compensation laws.

Finally, SC STRONG requires a minimum two-year commitment before entry in the program is allowed. (R.220 - Acceptance Letter) During those years, "residents earn at least a GED (in collaboration with Trident Literacy) and three marketable skills at no cost to them" according to its website. A definition of apprentice is "One bound by legal agreement to work for another for a specific amount of time in return for instruction in a trade, art, or business." Accordingly, SC STRONG's program is an apprenticeship program and specifically subject to South Carolina's Worker's Compensation laws.

II. The Commissioner erred in failing to liberally construe the law and facts in favor of coverage.

The question whether a claimant is an employee is a jurisdictional issue. Wilkinson ex rel. Wilkinson v. Palmetto State Transp. Co., 382 S.C. 295, 676 S.E.2d 700 (2009); Vines v. Champion Bldg. Prods., 315 S.C. 13, 431 S.E.2d 585 (1993). Where the disputed issue concerns jurisdiction, this Court may take its own view of the preponderance of the facts

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PROOF OF SERVICE

I certify that a copy of Appellant's Motion to Supplement/Correct Appellant's Final Brief (and the missing page 9) were served this day on Respondents by depositing a copy in the United States Postal Service, first class to Respondents' attorney of record: Kathryn R. Fieher, One Wesley Drive, Charleston, SC 29407.

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