

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM SOUTH CAROLINA  
WORKERS COMPENSATION COMMISSION

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SC Court of Appeals

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WCC Case No.: 1322039  
Case No.: 2016-000997

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Harry Reese, Appellant,

v.

South Carolina Department of Mental Health and SC State Accident Fund,  
Respondents.

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INITIAL BRIEF OF APPELLANT

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## STATEMENT OF THE CASE

On September 5, 2013, the Appellant requested Employee Assistance Program (EAP) from Ms. Vicki Brown, Columbia Area Mental Health Center Director of Human Resources due to “ongoing crippling employment issues that are consistently affecting my work performance and my personal life”. Ms. Brown, by the Respondent’s policy should have submitted the injury report immediately after the Appellant notified her of the injury; however, she did not. On September 6, 2013, Ms. Brown provided the Appellant the contact information for EAP services with Mr. Don Helms, pgs. 446-447. On September 9, 2013, the Appellant had his first appointment with Mr. Helms who, after hearing the Appellant’s experiences, concluded that the Appellant’s mental breakdown was due to work-related stress. The Appellant consistently followed up with Mr. Helms regarding the referral to Scott Psychiatric Center, and Mr. Helms consistently informed the Appellant that he was unable to provide the Appellant with a referral for behavioral health services until he had received the Appellant’s medical records from Appellant’s primary care provider - Dr. Gary Bell. Because it was taking so long to receive the referral; moreover, the Appellant’s mental status was rapidly deteriorating, the Appellant called Dr. Bell’s office and was provided with an emergency appointment. After evaluating the Appellant, Dr. Bell immediately assigned a diagnosis, referred the Appellant to Palmetto Health Behavioral Care Day Treatment (PHBCDT) of which he escorted to the Appellant to another room had had the Appellant scheduled the appointment with PHBCDT during the Appellant’s visit to the medical practice, and Dr. Bell, during this visit, prescribed the Appellant psychotropic medications to aid in stabilizing the Appellant; pg. 532

On September 27, 2013, after an evaluation, the Appellant was admitted into the PHBCDT’s program with an assigned Global Assessment of Functioning (GAF) score of 40; pg. 532.

*The Global Assessment of Functioning (GAF)* is a numeric scale (1 through 100) used by mental health clinicians and physicians to rate subjectively the social, occupational, and psychological functioning of adults, e.g., how well or adaptively one is meeting various problems-in-living. The scale is presented and described in the DSM-IV-TR on page 34. The score is often given as a range.

31 – 40: Some impairment in reality testing or communication (e.g., speech is at times illogical, obscure, or irrelevant) or major impairment in several areas, such as work or school, family relations, judgment, thinking, or mood (e.g., depressed adult avoids friends, neglects family, and is unable to work; child frequently beats up younger children, is defiant at home, and is failing at school). Please reference pgs. 532-533.

On October 8, 2013, Mr. Chuck Roundy, the Appellant’s Palmetto Health Behavioral Care Day Treatment (PHBCDT) Patient Advocate/Therapist, presented the Appellant with the completed Family Medical Leave form of which Dr. Thornton McKinley, the Appellant’s PHBCDT attending

Psychiatrist and prescriber of psychotropic medications, after his evaluation of the Appellant attached his signature agreeing with Mr. Roundy's conclusion - "As a result of significant and ongoing job related stress this patient meets the criteria for depression and this has exacerbated medical conditions" (Please reference 542-544). Dr. McKinley and Mr. Roundy did not conclude any additional factors that contributed or attributed to the mental/mental injury sustained by the Appellant - only the significant and ongoing job related stress. Upon receiving the FMLA form signed by Dr. McKinley, the Appellant presented to the FMLA form to the Respondent in a timely manner. Upon receiving the signed FMLA, which is medical evidence of the work-related injury, the Respondent once again did not submit the injury report as required by policy even though the Respondent acknowledged the injury and honored the FMLA leave request (pgs. 459-460).

After inquiring of Worker's Compensation benefits that should have been applied for upon the Appellant notifying the Respondent of the injury; moreover, receiving medical evidence (FMLA form) of the causation of the injury, Ms. Brown provided the Appellant with guidance stating that the Appellant should contact Ms. Sharon Brown in the Respondent's State Human Resource office located in the Respondent's administration building. Immediately upon receiving guidance from Ms. S. Brown and receiving the Worker's Compensation and Election Forms that she provided, the Appellant immediately submitted the Worker's Compensation and Election Forms to the Appellant's immediate supervisor - Mr. Harold Edwards. On January 14<sup>th</sup>, January 31<sup>st</sup>, and February 18<sup>th</sup> 2014, the Appellant consistently followed up with Mr. Edwards, via email, inquiring as to whether or not he had completed and submitted the forms of which these emails were carbon copied to Ms. V. Brown who was acutely aware that Mr. Edwards had not completed the forms and the Respondent's Human Resource Director did not offer any assistance or guidance; therefore, the forms did not get completed and submitted as advised by Ms. S. Brown and required by the Respondent's policy.

The Appellant was reinjured on April 23, 2014 via Ms. Marin's bullying and attack against the Appellant which was due to the Respondent's gross negligence within refusing and failing to appropriately supervise Ms. Marin; moreover, ceasing her ongoing reckless, illegal and unethical assaults and attacks against the Appellant since 2010 which in the 2014 situation, for something that the Appellant had absolutely no control over - Ms. Nia Behling, Director of Richland Count Probate Court inquiring as to the reason that a patient who was court order for mental health treatment was closed prior to receiving authorization from the court. The Appellant's injury was exacerbated by the Respondent forewarning the Appellant that the housing provider and the Appellant were under a DSS/SLED investigation (please see Appellant's Brief, Sections J & K) which would have crippled the Appellant's ability to secure employment opportunities and could have caused the Appellant's family and the Appellant to become homeless due to the Appellant's inability to secure employment in the Social Work field and meet his monthly financial obligations. The Respondent exacerbated the Appellant's injury by informing the Appellant and the housing provider were under a DSS/SLED investigation of which the Appellant didn't discovered until December 8, 2014 by Ms. Angela Roberts, Respondent's Public Safety Department that Dr. McNeil's claim was false. The Appellant was also informed by Office McClain, Respondent's Public Safety Officer, who works in the Respondent's Emergency Services, that Lt. Baker was a recent retiree from the Respondent's Public Safety Department; however, Dr. McNeil informed

the Appellant that Lt Baker was from SLED and that Lt. Baker would contact the Appellant; so that, the Appellant could provide his account of the alleged abuse verbalized by the patient. If the Respondent would have adhered to its' own policies and procedures, of which I submitted a copy to Dr. McNeil, this incident wouldn't have taken place which is detailed in my response to Commissioner Barden's Finding of Fact 12.

On December 17, 2014, a hearing date was scheduled; however, the Appellant requested additional time to continue his efforts in seeking and securing legal counsel of which the Appellant's efforts were unsuccessful. The Hearing was finally held on April 6, 2015. The Single Commissioner denied the Appellant's claim stating that the Appellant didn't meet burden of proof requirement under the SC Code 42-1-160. The Single Commissioner's order was file on July 24, 2015.

On August 4, 2015, Ms. Kim Falls, via email, informed the Appellant that the Appellant had until August 18, 2015 to submit the appeal. On August 17, 2015, the Appellant submitted Reese SCWCC Questions & Concerns as requested in a correspondence provided to the Appellant by the SCWCC staff along with supportive documentation; therefore, the Appellant thought he had met the required deadline. On August 19, 2015, the Appellant was informed that the deadline had passed and that the Appellant could file a motion to reinstate the appeal.

On August 19, 2015, the Appellant filed a Motion to Reinstate the Appeal which was granted on September 2, 2015. In a correspondence received by the SCWCC, the Appellant was advised that the Brief was due by November 11, 2015 via uploading on the brief via the SCWCC's website. The Appellant exhausted all efforts to upload the Brief; however, the Appellant efforts were unsuccessful.

Three months later, after submitting the Questions and Concerns document which the Appellant was under the impression was the Brief, the Appellant was informed by Ms. Eugenia Holloman that the Appellant was only able to address errors by the Single Commissioner in the Appeal not evidence or witnesses and that the Appellant only had 10 minutes to do so; therefore, the Appellant requested additional time to modify and submit Appeal to satisfy the requirements of the Appeal. Ms. Hollmon also informed the Appellant that he didn't need to upload the Appeal. She informed the Appellant that the website was for attorneys only which the Appellant was lead to believe via the correspondence that the Appellant received advising to do so.

On November 23, 2015, as granted, the Appellant submitted his claim via email as authorized by the SCWCC's staff. On December 4, 2015 and December 6, 2015, the Appellant emailed SCWCC and SAF revised Briefs. The transition of the November 23, 2015 brief via email was jumbled together and the Appellant made some clerical corrections and additions.

On December 14, 2015, the Full Commission Hearing was held. The Full Commission denied the Appellant affirming the Single Commissioner's order stating that the Appellant failed to prove that he suffered a compensable mental/mental claim under SC Code 42-1-160.

## **ARGUMENT 1**

**WHETHER APPELLANT WAS DENIED HIS CONSTITUTIONAL RIGHT TO PRESENT ALL EVIDENCE AND HAVE A FAIR HEARING.**

Both Commissioner Barden and the Defendant were perfectly aware of the Appellant's intent to review all the evidence previously submitted during the Appeal of which the Appellant replied in the hearing... "That's why I say, I know I need to prepare for an appeal (Worker's Comp Transcript pg. 95, Lines 6-8); Commissioner Barden's Question regarding Appeal" What do you mean you have to prepare for an appeal?" (Worker's Comp Transcript pg. 95, Line 11). Claimant's Response: "Because it's so much stuff in here that you're not hearing and they're not going to ask about". (Worker's Comp Transcript pg. 95, Lines 12-14) and "But what I mean by prepare for an appeal, I – I'll have to go back down here and list date by date and reference each page so it's be much easier to follow along" (Worker's Comp Transcript pg. 95, Lines 22-25). Commissioner Barden and the Defendant willfully neglected to inform the Appellant that the Appeals process was only designed to present errors by the Single Commissioner – this is total deception. The Appellant didn't find out until November 19, 2015 by Ms. Eugenia Hollmon, SCWCC's Judicial Docketing Director" that I only had a mere "10 minutes" to present "legal or procedural errors done at the first hearing so, nothing new is allowed"; not evidence related to the case and was ignored by Commissioner Barden.

The Defendant was acutely aware that the Appellant wanted to present witnesses and additional evidence to continue supporting the Appellant's case to the appeal via receiving the "Reese SCWCC Questions & Responses" document from Ms. Amy Bracy, SCWCC's Judicial Director that Ms. Bracy mailed to the Defendant on September 29, 2015.

Although SCWCC was acutely aware that I wanted to present witnesses and additional evidence to continue substantiating my case of which the SCWCC's staff received the "Reese SCWCC Questions & Responses" via email on August 17, 2015, the Appellant was notified by Ms. Hollmon on November 19, 2015 via email that the Appellant was unable to present witnesses to the hearing and only allowed to present "legal or procedural error done at the first hearing so, nothing new is allowed".

Ms. Hollmon argument was that the Appellant should have sought guidance from SWCC regarding the appeal process upon receiving the October 12, 2015; however, based on the fact that Commissioner Barden and Ms. Snyder leading me to believe that the Appellant could present all the evidence in the appeal, the Appellant was prepared to proceed with the evidence. Ms. Bracy was in receipt of the "Reese SCWCC Questions & Responses" which demonstrates the Appellant's intent in the appeal for 3 months and Ms. Bracy did not advise the Appellant of any protocol restrictions via email, telephone contact, written correspondence, etc.

## **ARGUMENT 2**

### **WHETHER THE WORKER'S COMPENSATION COMMISSIONER ERRED IN NOT REVIEWING THE POLICIES AND DIRECTIVES THAT GOVERNS THE SCDMH.**

The Single Commissioner accepted and entered the Defendant's Policies and Directives into evidence; however, there's no evidence that the single commissioner reviewed these items. Reviewing the Defendant's policies and procedures would have demonstrated that the Defendant allowed Ms. Marin to create and maintain a hostile working environment consistently falsely

accusing me of wrongdoings which were only intended to have me quit my employment with the Respondent; moreover, be terminated. The Defendant failed to protect me under a number of its' policies and directives; i.e., Workplace Violence, Harassment Free Workplace, Employee Disciplinary Stands, Employee Grievance and Appeal, Reporting of Adverse Incidents policy and procedures – to name a few; thereby, causing the mental/mental injury of which I sustained which is clinically documented by licensed professionals with years of expertise in their perspective fields.

**ARGUMENT 3**

**WHETHER THE WORKER'S COMPENSATION COMMISSIONER ALLOWED ITSELF AND THE DEFENDANT TO SUPERCEDE THE LAW IN THE COURT'S FINDINGS.**

The Respondent denied my claim because they deduced that the Appellant did not receive an injury to his body. The Appellant head is a part of his body, one of the most important part which controls every system in my body; therefore, the denying rational offered by the Respondent is untrue. The Appellant identified the part of the body that was injured on the Appellant's Form 50.

The Respondent also identified the reason for denying the Appellant claim because the Respondent claim for benefits must have been reported and filed in a timely manner. Failing to file for worker's compensation benefits is not a Conclusion of Law observed by Commissioner Barden. The Respondent was acutely aware that the Appellant notified my employer in a timely manner of the September 2013 injury via email correspondences provided to Ms. Page Snyder, SAF Attorney/Respondent, during the Appellant's October 22, 2014 Deposition; however, the Respondent failed and refused to file the injury report as required by the Respondent's policy.

The factor to the matter is, by the Respondent's policy of which the Respondent and Commissioner Barden – based on her experience with the SCWCC, were acutely aware that upon the Respondent's employees notifying the Respondent of a work-place injury, the Respondent is to complete and submit the injury report. Evidence presented demonstrated that the Appellant notified the Respondent in a timely manner upon sustaining the injury; however, the Respondent, when it concerns the Appellant, consistently refused to adhere to its' policies and directives that governs the Respondent much like they have historically done against the Appellant which was one of the factors that ultimately caused the Appellant's mental/mental injury.

90 Days Deadline to Report Injury from the date that I reported the injury and requested EAP services: November 13, 2013

Date	Evidence
September 5, 2013	Notice of Injury: Requested EAP services due to "crippling employment issues..."; pgs. 446-447; notified of injury before the November 13, 2013 deadline
September 6, 2013	Ms. Brown acknowledged injury and provided EAP contact information; pgs. 446-447

September 18, 2013	Emailed Mr. Edwards Leave slips reflecting the need for Sick Leave – Work Related Stress; pgs. 448-452
October 8, 2013	Submitted completed and signed FMLA form by Dr. McKinney which reflects the intensity, frequency, cause and the consequence of the injury; pgs. 542-544
October 9, 2013	The Defendant approved FMLA leave based on the medical documentation provided by Dr. McKinney; therefore, the Defendant should have immediately completed and submitted the First Report of Injury (ACORD) form and they elected not to do so
January 6, 2014	Submitted via email Dr. Upchurch's (therapist) completed FMLA form to Ms. V. Brown and inquired of Worker's Comp; received guidance from Ms. V. Brown on 1/8/14 to contact Ms. Sharon Brown. Followed guidance offered by Ms. S. Brown. Tab 10, pgs. 3-4 of which this correspondence was provided to Ms. Snyder during my Deposition of 10/22/14; please reference Deposition Tab 11, pg. 14, Lines 6-8; pg. 55, Lines 4-10; pg. 61, Lines 12-25; and pg. 62, Lines 1-8. After 7 weeks, My supervisor, Mr. Harold Edwards, did not complete the forms. In requesting, via email, that Mr. Edwards complete the Worker's Compensation forms, I was CC Ms. Vickie Brown who offered no guidance within ensuring that the supervisor completed the forms in a timely manner.
January 14, 2014, January 31, 2014, February 18, 2014	Via email: Followed up with supervisor as advised by Ms. S. Brown; however, the supervisor never completed the injury report
October 22, 2014	Informed Ms. Snyder that Dr. McKinney was my doctor while receiving mental health services at PHB, Deposition Tab 11, pg. 44, Line 25, pg. 45, Lines 1-7

The Respondent states that the Appellant claim didn't meet requirements of the law under Statue 42-1-160 "Injury" and "personal injury" and didn't identify any additional laws; therefore, the Commissioner should have heard the case based on the denial rational concluded the Respondent and no additional laws that's not reflected in the Single Commissioner's signed order (please reference SCWCC FULL COMMISSION BRIEF OF DEFENDANTS/APPELLANTS submitted by the Respondent – Argument pg. 5, 1<sup>st</sup> para and Commissioner Barden's Order, which was upheld by the Full Commission, Conclusions of Law, pg. 9, #4. Although the Commissioner in her Finding of Fact states that the Appellant didn't meet South Carolina Code 42-1-172: Repetitive Trauma Injury, the Respondent, in denying my claim, didn't identify this status as a deciding factor of denying the Appellant's case; therefore, the Commissioner should have held the Respondent to the Statue of which they concluded the Appellant of not meeting. In the Appellant Appeals, the Appellant demonstrated that the Appellant met South Carolina Code 42-1-172: Repetitive Trauma Injury; however, it seems that this was ignored by the Full Commission; in that, the Commissioners – The Honorable Gene McCaskill (Chairman), The Honorable Melody James, and The Honorable Michael Campbell, "Fully Affirmation the Single Commissioner's Decision and Order" and did not address any of the Appellant's claim reflected in the Appellant's brief. The Appellant did not based nor did he select Repetitive Trauma as his claim for worker's compensation on the

Appellant's Form 50; moreover, the Respondent selected "Injury" on its' Form 58 and no other grounds which include not Repetitive Trauma. Rather than addressing these issues Commissioner McCaskill states that the Appellant should understand that "She, Ms. Snyder, is fighting aggressively for her client". The Appellant contends that there's a big difference in fighting aggressively for your client versus engaging in illegal and unethical conduct (please reference Argument # 7, pages 23-26).

**Statue 42-1-160 "Injury" and "personal injury"**

(B) Stress, mental injuries, and mental illness arising out of and in the course of employment unaccompanied by physical injury and resulting in mental illness or injury are not considered a personal injury unless the employee establishes, by a preponderance of the evidence:

- (1) that the employee's employment conditions causing the stress, mental injury, or mental illness were extraordinary and unusual in comparison to the normal conditions of the particular employment; and
- (2) the medical causation between the stress, mental injury, or mental illness, and the stressful employment conditions by medical evidence.

The Appellant's array of historical documentation, medical evidence by licensed and qualified professionals, and testimony demonstrated that the ongoing illegal, reckless, malicious, intentional, etc., assaults and attacks that the Appellant consistently endured by the Respondent overwhelmingly met the requirements of Statue 42-1-160 "Injury" and "personal injury" and Stature 42-1-172 "Repetitive Trauma".

According to the SCWCC's Full Commission Brief of Defendants/Appellants submitted by the Respondent, the Respondent states that the actions that took place against the Appellant in 2010, that were illegal, unethical, malicious, reckless, intentional, etc., etc., etc. in nature, the Single Commissioner "are barred from adjudication by the Commissioner pursuant to S.C. Code 42-15-40"; yet the Commissioner use the forewarning that the Appellant received from co-workers advising the Appellant against accepting employment with Ms. Marin stating that Ms. Marin was "Crazy" (please also reference Commissioner Barden's Order Finding of Fact 12, pg. 7). Since the Commissioner used this statement of which was made in 2010 by fellow co-workers and benefiting the Respondent within denying the Appellant's claim, all the evidence during this period and beyond should be entered and accepted into evidence.

In addition to the "Crazy" statement regarding Ms. Marin, Commissioner Barden also used an incident in 2010 stating that..."Claimant admits to threatening clients by stating (jokingly, he contends) that he would throw water on those who did not pay attention" observation (which is false - please reference Appellant's Brief Objections to Commissioner Barden's Finding of Fact #15 pg. 40), to submit her decision to deny my claim. Again, Since the Commissioner used this statement of which was made in 2010 by fellow co-workers benefiting the Respondent within denying the Appellant's claim, all the evidence during this period and beyond should be entered and accepted into evidence.

The Appellant contends that his burden of proof was overwhelmingly met to justify awarding worker's compensation benefits under the South Carolina Code 42-1-172: Repetitive Trauma

Injury; however, the Commissioner and the Defendant superseded the law upon using Chuck Roundy's statement who was the Appellant's Patient Advocate/Therapist while receiving intensive outpatient psychiatric services, to deny the Appellant's benefits rather than the requirement of Statute 42-1-172 which was overwhelmingly substantiated by the medical documentation submitted into evidence as well as medical documentation disposed of by the Respondent: South Carolina Code 42-1-172: Repetitive Trauma Injury : "C. As used in this section, "medical evidence" means expert opinion or testimony stated to a reasonable degree of medical certainty, documents, records, or other material that is offered by a licensed and qualified physician".

The Commissioner states that the Appellant didn't meet his burden of proof under the Patient Advocate/Therapist - Chuck Roundy statement rather than that of a qualified licensed physician (please reference SCWCC FULL COMMISSION BRIEF OF DEFENDANTS/APPELLANTS submitted by SAF - Argument pg. 5, 2nd para).

#### **ARGUMENT 4**

#### **WHETHER THE WORKER'S COMPENSATION COMMISSIONER ERRED WHEN STATING THAT CONDITIONS THAT THE APPELLANT EXPERIENCED WEREN'T UNUSUAL AND EXTRAORDINARY.**

The conditions that the Appellant consistently experienced as historically documented and through testimony were systematic harassment, intimidation, defamation of character, slander, unfair treatment, retaliation, denied earned grievance rights to assist in combating the behaviors experienced of which the Appellant was consistently denied. The aforementioned illegal acts consistently placed patients in harms way; in that, the Respondent refuse to adhere to its policies and directives when the Appellant consistently requested assistance within ceasing the illegal acts against experienced by the Respondent. Rather than the Respondent providing relief, the Appellant received the following responses from the Respondent's Senior Managers:

- Dr. Robert Bank, CAMHC's Executive Director, could have put immediate stop to this reckless illegal and unethical behavior which was initiated in 2010 after an April's Fool act was committed by the Appellant by his co-workers under Ms. Marin's supervision; however, Dr. Bank elected not to which enable Ms. Marin to continue to maintain the hostile working environment that she created.
- Mr. John Magill, SC Department of Mental Health's State Director did not intervene and consistently ignored the Appellant's pleas for help even when two patients almost died via the gross negligence and retaliatory conduct by the mental health center and the State Director merely replied, through his administrative assistant, "I don't like to be in stuff like that"; pg. 773 & 901.
- Ms. Eleanor Odom, SC Department of Mental Health's State Human Resource Director, should have appropriately intervened; however, - she elected not to rather she merely deduced that the reason that the Appellant was submitting his 2010 formal complaint was because "My feelings were hurt"; pg. 619.

- Ms. V. Brown, CAMHC's Human Resource Director, did not appropriately intervene informing me that "Harry, I did what I was told to do" (pg. 900, 2<sup>nd</sup> para) which clearly demonstrates that efforts should have been employed to cease the illegal assaults and attacks that the Appellant consistently experienced.
- As Ms. Marin was always the aggressor, she was rewarded for her ongoing illegal attacks and assaults against the Appellant. Although she was demoted from her management position – Program Director over the Link Program, she was rewarded via being able to return to work the same week after she bullied me and disruptive the harmonious workplace environment – for an incident she initiated via not adhering to the Respondent's policies and directives and the direction of the Richland County Probate Court when closing a patient's case that's court ordered for mental health treatment; reassigned to one of the Respondent's Richland County program (Insights); and continued receiving the same pay with less responsibilities: a caseload, but with no managerial responsibilities – Ms. Kathy Hugg, Insights Program Director and Ms. Marin's supervisor.
- Ms. Marin placed patient's in harm's way via placing a patient in a placement that Dr. Bank advised against of which that she placed in the placement described as substandard by Dr. Bank (pgs. 716-716), overdosed on a control substance and the housing provider interfered within ensuring that the patient received medical treatment. The same patient also gave his controlled medications to another patient of which according to the Lexington County Hospital attending physician, the patient could have died if the housing provider that I was accused of having a dual relationship with, wasn't alert and attentive to the patient's need; thus, immediately obtaining medical treatment for the patient. (pg. 712)
- Ms. Marin falsified documentation accusing the Appellant neglecting to meet the needs of the patient which ultimately caused the patient to decompensate and cause harm to his parents. Please reference Claimant's APA L, pgs. 420-427. Ms. Marin should have been terminated for this matter for failure to perform her job duties which resulted in the patient decompensated, misleading the patient's father, falsely accusing the Appellant, falsifying documentation; etc., etc., etc., yet, she was rewarded via continued employment with the Respondent (pgs. 866-873).
- Ms. Marin informing a housing provider, who's not employed with the Respondent the same housing provider that refused a patient to receive essential medical attention after a drug overdose on a control substance (pg. 712), that the Appellant was "A crook and destroying patient lives (pg. 740).
- Melvin Malone, the patient's Case Manager (CM) misled a patient and the patient's family informing the family that the CM was going to relocate the patient to another housing provider; however, documenting something entirely different which reflects that he encouraged the patient to focus on his recover – falsifying medical documentation. There was no evidence in the patient's medical record that Mr. Malone documented that he informed the patient that he was going to relocate the patient to another housing provider. With that being said, the patient presented to the clinic accusing the Appellant of informing the housing provider that the CM was going to relocate the patient to an alternate

placement. According to the patient, he states that after the Appellant informed the housing provider of the CM's intent, the housing provider verbally assaulted him which the Appellant was accused by the Respondent of violating the patient's HIPPA rights and causing harm to the patient which eventually the Appellant was informed by Dr. McNeil that the Appellant and the housing provider were under a DSS/SLED investigation. The efforts of the Appellant to address this matter appropriately and by the Respondent's policies and directives were painfully unsuccessful. Mr. Malone could have immediately redirected the patient which would have prevented all the issues that happened in September 2013 by being truthful with the patient and involving Ms. Marin in a matter that he knew was untrue rather he allowed this nonsense to fester of which the Appellant suffered immensely via the mental/mental injury sustained.

- Mr. Malone also was a staff member, which is documented in Claimant's APA, contributed to another patient decompensating due to his limited to no involvement within engaging the patient in mental health treatment as required in the patient's court order. Because of Mr. Malone's actions or lack thereof, the patient discontinued his prescribed psychotropic medications and refused court ordered mental health treatment; thus becoming extremely delusional and psychotic. Once the Appellant documented his observations prior to the patient returning to the Connections program, the Appellant was accused of having a dual relationship with a housing provider which was a retaliatory method of attempting to have the Appellant's employment terminated with the Respondent.
- Mr. Malone's reckless conduct was rewarded by the Respondent; in that, the Respondent promoted Mr. Malone with managerial position of which he became the CAMHC's Link Program - Program Director, the position that Ms. Marin once held; whereas the Appellant, who consistently demonstrated professional and ethical conduct, continued experiencing ongoing illegal attacks and assault and was out of work for three weeks worrying about whether or not I was going to be terminated. Upon returning to work, Dr. Bank wanted to get rid of the Appellant by trying to force the Appellant into accepting reassignment in other counties even though Respondent's policies and directives states that the agency couldn't reassign the Appellant with a certain mile radius. The Appellant effectively performed his job duties and was consistently attacked, while other employees were rewarded for inappropriate behaviors which many were illegal in nature. Surely this is not normal and meets the unusual and extraordinary requirement of the law - Statue 42-1-160 (B).
- The illegal assaults and attacks that the Appellant continued experiencing, affected the Appellant's ability to perform his job duties causing patients to miss essential mental health treatment (reference Harold's EMPS evaluation) and the Respondent from receiving reimbursement for services rendered – extraordinary and unusual.
- If it wasn't for the fact that the Appellant secured legal representation (attorney Mr. Joseph Henry) within addressing the HIPPA violation, based on the Respondent's history, I'm sure I would have been terminated. Even with the Mr. Henry legally demonstrating to the Respondent that the Appellant did not commit a HIPPA violation or violate any of the Respondent's policies and directives, the Respondent upheld the disciplinary action. In

fact, Mr. Henry noted in his correspondence to the Respondent which wasn't referenced by Commissioner Barden, the Respondent did not and could not produce any provision of any policy and directives that they accused the Appellant of violating; yet, the disciplinary action that the Appellant falsely received was upheld. In addition, the Respondent's HIPPA Compliance Officer, Ms. Zenika Jarvis was unable to provide the Appellant with any policy or directive that the Appellant violated.

- Also Reference Argument 7 of this Brief (pgs. 16-23) regarding additional unusual and extraordinary conditions that the Appellant experienced in the workplace with no relief.

## **ARGUMENT 5**

### **WHETHER THE WORKER'S COMPENSATION COMMISSIONER ERRED WHEN THE DEFENDANT'S WITNESS SUPPORTED THE CLAIMANT'S CASE RATHER THAN THE DEFENDANT.**

The Respondent subpoenaed Harold Edwards to the Hearing to provide justification that the Appellant's working environment wasn't unusual and extraordinary; however, Mr. Edwards "his first-hand testimony was limited because the Respondent did not inform Mr. Edwards of the patient's September 2013 accusation and did not include Mr. Edwards in the investigative process even though he was the Appellant's immediate supervisor during the period that the Appellant sustained his workplace injury. Mr. Edwards also provided documentation that confirmed that the Appellant consistently adhered the Respondent's policies and directives when performing the Appellant's job duties. In addition, Mr. Edwards, as my supervisor as well as Ms. V. Brown cite, rejected the claim that that the Appellant worked long hours as claimed by Chuck Roundy cite. Historical documentation, testimony, medical evidence via several licensed qualified professionals, and the Respondent's witness, who did not support the Respondent's claim that the Appellant didn't suffer a workplace injury which according to the qualified professions was caused by "significant and ongoing job related stress this patient meets the criteria for depression and this has exacerbated medical conditions", the Appellant meets the requirements Statue 42-1-160 & 42-1-172 and a favorable decision should have been render on behalf of the Appellant; thereby, foregoing the need for the Appeal and now the Court of Appeal hearing.

## **ARGUMENT 6**

### **WHETHER THE SINGLE COMMISSIONER ERRED DETERMINED THAT THE CLAIMANT FAILED TO MEET HIS BURDEN OF PROOF**

The single commissioner erred in denying the Appellant's case stating that the Appellant failed to meet his burden of proof. Based on the law - Statue 42-1-160 (B) as indicated by the Respondent, the Appellant consistently met his burden of proof via an array of qualified professionals who concluded and documented in the Appellant's medical records that if it wasn't for the "significant and ongoing job related stress" which was illegal in nature, the Appellant wouldn't have sustained the workplace injury. Not one doctor; however, three doctors - Dr. Gary Bell, Dr. Thornton McKinney – attending psychiatrist while receiving behavioral health services via Palmetto Health and Dr. James Kirkland assigned a mental impairment which is clinically well-recognized by a

respected body of medical community and all three doctor's prescribed psychotropic medications designed for reaching a level of stabilization and sustaining life of which included a control substance; three therapists – Dr. Chuck Roundy – who completed the FMLA form which was reviewed and signed by the attending psychiatrist after his evaluation of the Appellant, Dr. Donna Upchurch, and Ms. Carol Anderson who recommended re-hospitalization due to the observed deteriorating condition of the Appellant of which the Respondent disposed of the medical evidence, and a number of supportive professionals that provided services at the Palmetto Health's Behavioral Health intensive out-patient program; and Mr. Don Helms who concluded that the Appellant's mental breakdown was caused by ongoing work-related stress and referred the Appellant to Scott Psychiatric Center (Dr. Kirkland and Ms. Anderson) the behavioral health provider that the Department of Vocational Rehabilitation (VR) and the Respondent uses. Although a provider for the VR and the Respondent, the licensed qualified physician of this provider – Dr. James Kirkland provided his clinical opinion stating "that Mr. Reese's anxiety and depression is directly caused by events that occurred at his job". Dr. Kirkland in his clinical opinion and medical observation of the Appellant concluded that no other contributing factors caused the depression and anxiety - only events at the job. All the attending licensed professionals concluded that the mental impairments were caused by the Respondent and no other contributing factors.

The Appellant's burden of proof was substantially proven as required by Statue 42-1-160 via medical evidence. Below is a synopsis of the medical evidence which is referenced in Claimant's APA A-D & Appellant's Brief pgs. 21-23:

No Pre-existing Conditions – something that I can never say again

1. Defendant referred me to EAP services twice (Claimant APA A; pg. 2 & Claimant's APA M, pg. 456), pgs.
2. SC Vocational Rehabilitation Department: Mr. Don Helms/Counselor – referred to Scott's Psychiatry Services twice (Claimant APA A; Pg. 10 – HIPPA incident & 17 – Blocked on Copier room incident: Finding of Fact #12); also review emails - Voc Rehab/EAP paid for additional counseling sessions. Claimant's APA A, pgs. 25-26
3. Dr. Gary Bell (Claimant APA D; Pg. 82 & 87): Assigned initial diagnosis, prescribed psychotropic medications, and referred to Palmetto Health Behavioral Care Partial Hospitalization program while visited in his office – Chief Complaint: Depression, Anxiety, and Stress.
  - Celexa 10 mg - used to treat depression Claimant's APA D, pg. 82
  - Xanax .5mg - used to treat anxiety and panic disorders Claimant's APA D, pg. 82
4. Palmetto Health Behavioral Care Partial Hospitalization – initial assessment (Claimant APA D; pgs. 87-91) Please note Global Assessment of Functioning (GAF) numeric value assigned. GAF Supporting Document – note date the document was printed.
5. Palmetto Health Behavioral Care Partial Hospitalization - engaged in group treatment via several therapist (Claimant APA D; pg. 88: Treatment Team Interventions; Claimant APA D; pg. 89: Patient Symptoms/Functioning Treatment Barriers)
6. Palmetto Health Behavioral Care Partial Hospitalization Ms. Rachel Bush, Registered Nurse, Claimant APA D, pgs. 87-91; Claimant APA D; pgs. 88 & 90: Patient Stressors
7. Palmetto Health Behavioral Care Partial Hospitalization - Dr. Thornton McKinney provided psychiatry services and prescribed psychotropic medications

- Celexa 20 mg – used to treat depression an increase of 10 mg from Dr. Bell’s prescription Claimant’s APA D, pg. 82 & Claimant APA D; pg. 83
  - Trazodone 50 mg – for sleeping Claimant APA D; pg. 83
8. Palmetto Health Behavioral Care Partial Hospitalization – Dr. Chuck Roundy(therapist) referred me to Dr. Donna Upchurch (Claimant APA D; pg. 100) for additional counseling and completed the FMLA form of which Dr. Thornton McKinney reviewed and concurred with Dr. Roundy’s assessment and signed (Claimant APA D, pgs. 92-94; Claimant APA D, pgs. 89 & 90 ELOS/Discharging Planning). Dr. McKinney Correspondence – never responded – also Reese SCWCC Questions & Concerns emailed on 8/17/15 (Exhibit 5 which was only after I was unsuccessful in ensuring that my questions of PHB were answer and Dr. Roundy was made available at the hearing to provide clarity of his documentation.
  9. (Location) Dr. Sarah Schumaker APA D, pg. 97 which to include Symptoms, Assessment, & Plan.
  10. Palmetto Health Behavioral Care Partial Hospitalization - Dr. Nicholas Depace, Conducted Psychological Testing – Claimant’s APA D, pg. 89 – “Consults”
  11. Dr. Donna Upchurch – provided additional counseling via referral from Palmetto Health Behavioral Care Partial Hospitalization via the Palmetto Health Behavioral Care Partial Hospitalization staff of which, my advocate Dr. Chuck Roundy (therapist) – Transcript pg. 85, Lines 13-25, pg. 86-87 is a member of and was my main point of contact person while I received inpatient treatment via the behavioral healthcare provider (Claimant APA C; pg. 54 # 4). Dr. Roundy as noted in his uncommon statement was my “Advocate” while receiving treatment at Palmetto Health Baptist - not my doctor.
  12. Scott Psychiatric Institute – Ms. Carol Anderson, LISW, provides counseling via EAP referral from Mr. Don Helms, SC Vocational Rehabilitation Counselor and requested intervention from the psychiatrist to aid in reaching a level of stabilization, and considered re-hospitalization for sustaining life, and reaching a level of maximum medical benefit - Exhibit 4 of which the Defendant disposed of medical evidence to aid in denying my case and Claimant APA; pg. 17.
  13. Scott Psychiatric Institute - Dr. James Kirkland (Claimant APA B; pgs. 43-51): prescribed psychotropic medications to aid in preventing re-hospitalization
    - **Lamictal (Lamotrigine) 100 mg** - used to help prevent the extreme mood swings initially prescribed 25 mgs on 8/11/14 - Claimant APA B; pg. 49; increased dosage to 100 mg on 9/2/14 - Claimant APA B; pg. 49
    - **Lexapro (Escitalopram) 20 mg** - used to treat depression and anxiety; initially prescribed 10 mg 8/11/14 - Claimant APA B; pg. 49; increased dosage on 9/2/14 to 20 mg - Claimant APA B; pg. 49
    - **Ambien (Zolpidem) 10 mg** - used to treat sleep problems (insomnia) in adults added on 8/26/14 Claimant APA B; pg. 49
    - **Seroquel (Quetiapine Fumarate) 25 mg** - an anti-psychotic drug used to treat certain mental/mood conditions added on 9/2/14 - Claimant APA B; pg. 49
    - **Wellbutrin XL (Buprion) 300 mg** - used to treat depression added medication - initially prescribed 150 mg on 10/30/14 - Claimant’s APA B, pg. 50; increased dosage on 11/25/14 to 300 mg - Claimant’s APA B, pg. 50
  14. Dr. Kirkland’s Opinion Claimant’s APA B, pg. 31

15. Dr. Bell now prescribes the following psychotropic medications (90 day supply) - Exhibit 16 (Updated Medication List), pgs. 10-13
  - **Wellbutrin XL (Buprion) 300 mg** - used to treat depression
  - **Ambien (Zolpidem) 10 mg** - used to treat sleep problems (insomnia) in adults
  - **Seroquel (Quetiapine Furmarate) 25 mg** - an anti-psychotic drug used to treat certain mental/mood conditions
  - **Lexapro (Escitalopram) 20 mg** - used to treat depression and anxiety
16. Carol Anderson, LISW (formerly of Scott's Psychiatry Institute); Palmetto Center for Change - continues to provide counseling

## ARGUMENT 7

### WHETHER THE WORKER'S COMPENSATION COMMISSIONER AND THE DEFENDANT ENGAGED IN ILLEGAL AND UNETHICAL CONDUCT.

Through ongoing documentation and evidence which has never been disputed by the Respondent, the Appellant proved that the ongoing illegal assaults and attacks committed against the Appellant by the Respondent which was intentional, reckless and malicious resulted in significant and ongoing work-related stress that ultimately caused the mental injury and illness sustained by the Appellant. Because the Appellant successfully proved his claim, the Respondent resulted to not only unethical conduct, but illegal conduct as well – perjury (misrepresenting the facts and conspiring to deceive the Commission) and falsifying a legal document merely to deny the Appellant's claim. The Respondent's illegal and unethical acts engaged in to deny the Appellant's claim includes the following:

#### **Civil Rights Violation – Violation of Due Process**

Signed and effectuated a falsified legal document even though the first section of the Appellant's evidence clearly defined Mr. Edwards' role during the period that the Appellant required hospitalization, Mr. Edwards described his role in the hearing, the Respondent requested Mr. Edwards attendance in the hearing based on his role and clearly Ms. Snyder vetting Mr. Edwards before the hearing; moreover, several documents within the Appellant's APA evidence displayed the role of Mr. Edwards during this period many which on agency stationery, email correspondences, signature on FMLA form, workplace accommodation correspondence under the American with Disabilities Act (ADA), etc.

The Appellant been completely victimized by the Respondent since 2010 via their refusal to adhere to their own policies and procedures that governs the agency and now I'm being victimized by the Commission via not examining the Respondent's policies and procedures that will clearly demonstrate that I performed my job duties as required and that Respondent's ongoing abuse of power and systematic illegal and unethical acts against the Appellant which ultimately lead to the Appellant sustaining a mental/mental injury. Commissioner Barden can not deem that the Appellant's work environment wasn't extraordinary and unusual if Commissioner did not review the Respondent's policies and directives that governs the agency and protects all parties from harm which to include staff and patients. An array of evidence that has been presented from the deposition to medial/clinical assessments and opinion to email and written correspondences all confirmed that the ongoing stress that I experienced was 100% work-related which ultimately lead

to my mental injury and illness – not any of CAMHC’s clients, factors outside of the work environment, etc.

The two most significant pieces of evidence to that confirms the illegal acts against the Appellant by the Respondent – the Appellant’s 618 page APA and the Respondent’s policies and procedures, the Commissioner distorted the facts and did not examine the policies and procedures which was clearly designed to unjustly deny the Appellant’s claim.

I proved that I didn’t have a pre-existing condition and that my injury arise from my employment with the Defendant via the Defendant’s ongoing unfair treatment and illegal, discriminatory, reckless and malicious behavior.

**Ignoring the issues and facts:** No evidence of the Commissioner reviewing the Respondent’s policies and procedures which demonstrated that the Appellant performed his job duties as required and the ongoing illegal, malicious and reckless behaviour of the Respondent resulted in the Appellant’s mental injury and illness. In addition, no evidence displayed in Commissioner Barden’s order that she reviewed the Small Binder admitted into evidence that would have oriented her to the symptoms related to my mental health illness.

**Suborning Perjury and Perjury:** Commissioner Barden was acutely aware that Mr. Edwards was the Appellant’s supervisor at the time that the Appellant required hospitalization via testimony and documentation; however, the Commisiioner signed and effectuated a falsified order.

**Automatically Rule against Certain Classes of People:** Due to the Appellant’s inability to secure legal counsel, the Commissioner did not provide a fair hearing and the ruling appears to be already render before the case was even heard via ignoring issues and facts, not allowing the Appellant to present all the facts, not reviewing all evidence that continues to substantiate my case; i.e., signing and effectuated a fraudulent order with deceptive information and false information presented by the Respondent which the Commissioner knew was deceptive and false upon reviewing the Appellant’s APA (618 page document); and deceiving the Appellant leading to believe the Appellant was able to present factual information in the Appellant’s 618 page document entered and accepted into evidence.

**Denied Constitutional Rights to fundamental fairness, justice, and liberty denying me the right to present all the evidence.**

Both Commissioner Barden and the Respondent was perfectly aware that the Appellant was unable to present additional evidence that’s reflected in the 618 page APA during the appeal when the Appellant informed the Commissioner that “That’s why I say, I know I need to prepare for an appeal (Worker’s Comp Transcript pg. 95, Lines 6-8); Commissioner Barden’s Question regarding Appeal” What do you mean you have to prepare for an appeal?” (Worker’s Comp Transcript pg. 95, Line 11). Appellant’s Response: “Because it’s so much stuff in here that you’re not hearing and they’re not going to ask about”. (Worker’s Comp Transcript pg. 95, Lines 12-14) and “”But what I mean by prepare for an appeal, I – I’ll have to go back down here and list date by date and reference each page so it’s be much easier to follow along” (Worker’s Comp Transcript pg. 95, Lines 22-25); yet both Commissioner Barden and the Respondent allowed the Appellant to think that he could. The Appellant didn’t find out until November 19, 2015 by Ms. Eugenia Hollmon,

SCWCC's Judicial Docketing Director" that the Appellant only had a mere "10 minutes" to present "legal or procedural errors done at the first hearing so, nothing new is allowed"; not evidence related to the case and that was ignored by Commissioner Barden.

The Respondent was acutely aware that the Appellant wanted to present witnesses to the appeal via receiving the "Reese SCWCC Questions & Responses" document from Ms. Amy Bracy, SCWCC Judicial Director that she mailed to the Respondent on September 29, 2015.

Although SCWCC was acutely aware that the Appellant wanted to present witnesses and additional evidence to continue substantiating my case of which the SCWCC's staff received the "Reese SCWCC Questions & Responses" via email on August 17, 2015, the Appellant was notified by Ms. Hollmon on November 19, 2015 via email that the Appellant was unable to present witnesses to the hearing and only allowed to present "legal or procedural error done at the first hearing so, nothing new is allowed".

Ms. Hollmon argument was that I should have sought guidance from SWCC regarding the appeal process upon receiving the October 12, 2015 correspondence; however, based on the fact that Commissioner Barden and Ms. Snyder leading the Appellant to believe that he could present all the evidence in the appeal, it didn't cross the Appellant's mind to inquire of the SCWCC regarding the appeals process; moreover, Ms. Bracy was in receipt of the "Reese SCWCC Questions & Responses" which demonstrates my intent in the appeal for 3 months and she did not advise me of otherwise.

**Commissioner Refusing to Disqualify Herself:** Commissioner is appointed by the Governor, confirmed by the Senate to perform the job duties of a State agency – Worker's Comp Commission, presiding over a case against a State agency – there was no impartiality via observed illegal misconduct via ignoring issues and facts, signing and effectuating a fraudulent order; not hearing all the facts, etc.

**Subrogation of Deception, Perjury and Deception:** After hearing the testimony and reviewing the Respondent's 618-page document and becoming acutely aware of factual information, the Commissioner allowed the Respondent to input false and deceptive information into the order of which she effectuated.

*Deception, Perjury, & Fraud #1:* "Mr. Edwards was not Claimant's supervisor at the time of his alleged injuries, and his first hand testimony was limited". (Signed Order – Evidence of the Case, pg. 4). Commissioner Barden was acutely aware that Mr. Edwards was my supervisor at the time that I alleged my injury via testimony and an array of documentation in the Appellant's 618 page APA; yet, she signed the order allowing this fraudulent information.

The Commissioner allowed the Respondent to include fraudulent statements in her signed order which changed the narrative of the hearing and misrepresented the situation regarding the staff not communicating with my supervisor at the time which was Mr. Harold Edwards as he testified in the hearing, during his deposition with the Respondent; moreover, throughout the evidence that was presented. This fraudulent deceptive statement by the Respondent makes it appear that the Appellant committed perjury in the hearing destroying the Appellant's creditability which allowed

the Commission to rely upon the Respondent's fraudulent statements even although both the Respondent's and Appellant's evidence confirms that Mr. Edwards was the Appellant's supervisor during this period. In fact, the Respondent reckless behavior not only affected me; however, it also declares that their own witness committed perjury during his deposition and while under oath stating that he was my supervisor during the hearing. Is this a violation of Due Process? Perjury is a criminal offense punishable by jail time – interfering with both the Appellant's and Mr. Edwards' liberty.

The egregious and illegal conduct continues to demonstrate that the Defendant continues to victimize me because I'm financially unable to secure legal presentation. The Defendant & SAF committed perjury and should face legal repercussions. This type of reckless and malicious behavior should not be acceptable by the Commission; however, the Commission allowed it which again illegal changed the narrative of the situation through deception and perjury. Moreover, this misconduct is a violation of South Carolina 407 Rules of Professional Conduct

*Deception, Perjury, & Fraud #2:* Egregiously accusing the allege mistreatment claims from clients as one of the contributing factors that resulted in my mental injury.

The Defendant misrepresented the facts upon questioning Mr. Edwards regarding allegations presented by clients: SCWCC Hearing Transcript p.70.

There's nothing that I've documented or verbalized to anyone involved; i.e., service providers, co-workers, management, SAF, etc., etc., etc. that the client's false claims against me attributed to the work-related stress which ultimately lead to my mental injury and illness. In fact, during my deposition with SAF, I informed Ms. Snyder on the process of which I handle false claims against me alleged by clients "Attack the behavior and not the client": Reese SCWCC Deposition pg. 47; lines 11 - 24.

Although it's clearly documented and has been verbalized by myself that my mental injury and illness was the direct results of significant ongoing work-related stress "caused" by management's ongoing illegal, intentional, grossly negligent, reckless, and malicious conduct of which my ongoing efforts to resolve and cease management's behavior were consistently ignore, it is clearly defined in my Leave Slips – Claimant's Section A; pgs. 4-8 of which all of the Sick Leave forms were signed by my supervisor - Mr. Harold Edwards.

\*An array of misconceptions are responded to in the Claimant's response to Commissioner Barden's signed order included in this brief.

#### **RULE 3.4: FAIRNESS TO OPPOSING PARTY AND COUNSEL**

A lawyer shall not:

- (a) unlawfully obstruct another party's access to evidence or unlawfully alter, destroy or conceal a document or other material having potential evidentiary value. A lawyer shall not counsel or assist another person to do any such act;
- (b) falsify evidence, counsel or assist a witness to testify falsely, or offer an inducement to a witness that is prohibited by law;
- (c) knowingly disobey an obligation under the rules of a tribunal, except for an open refusal based on an assertion that no valid obligation exists;

- (d) in pretrial procedure, make a frivolous discovery request or fail to make a reasonably diligent effort to comply with a legally proper discovery request by an opposing party;
- (e) in trial, allude to any matter that the lawyer does not reasonably believe is relevant or that will not be supported by admissible evidence, assert personal knowledge of facts in issue except when testifying as a witness, or state a personal opinion as to the justness of a cause, the credibility of a witness, the culpability of a civil litigant or the guilt or innocence of an accused; or
- (f) request a person other than a client to refrain from voluntarily giving relevant information to another party unless:
  - (1) the person is a relative or an employee or other agent of a client; and
  - (2) the lawyer reasonably believes that the person's interests will not be adversely affected by refraining from giving such information.

**RULE 4.1: TRUTHFULNESS IN STATEMENTS TO OTHERS**

In the course of representing a client a lawyer shall not knowingly:

- (a) make a false statement of material fact or law to a third person; or
- (b) fail to disclose a material fact when disclosure is necessary to avoid assisting a criminal or fraudulent act by a client, unless disclosure is prohibited by Rule 1.6.

<http://www.sccourts.org/courtReg/index.cfm>

I've consistently demonstrated via testimony and years of documentation that if the Defendant would have adhere to the Agency's policies and procedures that governs the agency rather than the Defendant's personal biases, discretions and vendettas none of the following that resulted in my mental injury and illnesses wouldn't have taken place:

**I. Civil Rights Violations: Systematic Discrimination – age, gender, and race, Bullying, Harassment, Retaliation, Slander, Defamation of Character which commenced immediately after I provided Ms. Marin my April 9, 2010 notarized letter which was included in the Claimant's APA evidence which was a clear demonstration of the first display of ongoing retaliation that I continued to suffer from at the hands of the Defendant.**

- Systematic Breach of Policies
- Consistently Denied Grievance Rights
- Failure to Ensure a Safe & Healthy Environment (Ms. Marin close proximity; continue to make false claims against me; failure to follow policy which lead to client decompensated and she attack me)
- Falsely accusing me of a HIPPA Violation - Discuss Referral Process; Edwards' incident
- Falsifying Documentation
- Falsely accusing me of Sexual Harassment – 365+ days later
- Falsely accusing me of a Dual Relationship after I documented a CAMHC employee negligent to a client and committing perjury in court.
- Unwarranted Reprimands even after exonerated of any wrongdoings
- Consistent Unfair Treatment
- Interference of Investigations
- Providing a false employee appraisal

- American Disability Act Violation: Failure to provide appropriate workplace accommodations
- Jeopardizing Livelihood, Employment and Future Employment
- Public Humiliation
- Unfair allocation of resources to ensure a safe and healthy working environment – Dr. Bank’s use of PSO
- Denied advancement opportunities Link (advertised), Connections and New Horizon
- Interference with performing job duties and advocating on client’s behalf which ultimately paced clients lives in jeopardy
- Additional Undue Stress – false claim that Lt Baker was a SLED officer
- Falsely accusing me of sexual harassment of a female employee at Independence House after I was working at New Horizons for 365 days
- Dr. Bank’s Interference of an investigation which was confirmed by Ms. Vicki Brown stating...”Harry, I just did what I was told to do”. If Ms. Brown would have not been hindered and prevented from investigated the manner, an appropriate resolution would have reached. Rather Dr. Bank engage in force behavior with submitting a letter forbidding staff to discuss the matter to return to a harmonious environment that Ms. Marin distracted.
- Refusing staff to discuss the April Fool’s incident and interfering and preventing the Human Resource Officer from thoroughly investigating the matter – intimidation.
- Denied Grievance Rights Three Times
- Harold Edwards –receives the “You Made A difference” award for intervening with a client in another CAMHC’s programs yet he is awarded while I accused on a HIPPA violation for doing the exact thing – helping a client in another program of which his Case Manager caused the client to decompensate via deceiving the client. The client of which Mr. Edwards intervene with, he elicited my help and I was able to contact his wife to prevent a deadly incident of which the client was threatening to kill his wife and even though my efforts were documented not only myself, but Mr. Edwards of which he noted in his documentation of my interventions upon eliciting my help, my agency didn’t acknowledge me at all.
- Client BJ Incident: Falsifying documentation accusing me of failing to perform my job duties which ultimately lead to a client decompensating and assaulting his parents via disrespectful and aggressive behaviors of which the client garnished a knife against his parents. Even after the management discuss the matter, Ms. Marin falsified the document in EMR identifying me as a negligent worker via not ensuring that the client received essential mental health services in a timely manner that would have prevented him from decompensating. Ms. Marin falsified the document in the client’s record, because she was perfectly aware, by history, that upper management wasn’t going to do anything to her.
- Client BJ incident: Ms. Marin encouraged the father to report the negligent behavior that she accused me of to the agency’s Patient Advocate – Dr. Arnold when such negligent verbalized by an individual which could have been deadly, should have been reported to PSO, and ultimately to DSS and SLED. To protect the agency and Ms. Marin, the agency ignored its’ policies and allowed and encouraged Ms. Marin’s ongoing attacks against me.
- 2012: Falsely accusing me of a dual relationship with a housing provider and once exonerated by the agency’s internal investigation, I continued to suffer from this false accusation; in that, Dr. McNeil inquired of the relationship of which she had no knowledge of the 2012 report since she wasn’t my supervisor during the period the false accusation

was presented which continues to demonstrate evidence of slander, harassment, intimidation, defamation of character, etc.

- Accused of HIPPA violation and despite demonstrating, even with an attorney present, that I followed the agency's policies and procedures within performing my job duties, I was reprimanded for insubordination. There was no HIPPA violation; therefore, there can't be insubordination especially when the Defendant's policies and directives requires the documentation of clinical interactions.
- Accused me of assaulting a client and after I was cleared of any wrongdoings via the individuals that Ms. Marin elicited to investigate the manner and I was reprimanded for Insubordination and re-assigned to another facility.
- Refusal to provide and ensure a safe and healthy working environment via relocating Ms. Marin within close proximity, the same clinic, of which she begun her assaults against me and management did absolutely nothing to stop her attacks
- SC Dept. of Mental Health Director, Mr. John Magill, consistently ignored my efforts to cease the agency's illegal, malicious, and reckless attacks against me even when shared via email with the Director that the agency's conduct resulted in a client overdosing on a control substance and another client could have denied if it wasn't for the quick response of the housing provider. Rather than Mr. Magill employing appropriate interventions, he merely instructed his administrative assistive to inform me that..."He doesn't like to be involved in stuff like that". Dr. Bank used his position in the department to distort the facts; therefore, Mr. Magill refused meetings with me. Although he was deceived by Dr. Bank, the concerns presented warranted his attention especially since the agency was engaging in illegal behaviors; moreover, the agency place the lives of client's in jeopardy.
- Client CS: Due to the agency's ongoing grossly negligent behavior and assaults against me, this client has digressed to the most intensive Case Management program that the Center offers moving from the LINK, to Connections, and now to Impact of which I have been assigned as his Case Manager. This client has been re-hospitalized (psychiatrically – three times this year alone and chemically), due to the negligent behavior of the mental health staff which resulted in the client's decompensation and agitation.
- Public Humiliation – HIPPA refresher, seeking assistance from others outside the agency, receiving mental health treatment, etc.
- Dr. Bank use every resource at his disposal to ensure that he was protected; however, refused to protect me under the policies and procedures that governs the agency. Calling Public Safety officer to be on stand-by during the Proposed Suspension meeting. Unfortunately for Dr. Bank and fortunately for me, the PSO went to the wrong building.
- Defendant and SAF: Conspiring with another to pervert the course of justice, Perjury, Unethical Conduct, and Civil Rights Violation
- The Respondent committed provable acts of perjury and deception in an attempt to have my worker's compensation benefits denied which proved effective via the Commissioner denying my claim.
- The Respondent intentional disposal of evidence to influence the Commissioner and obstruct and prevent a favourable decision on my behalf based on the overwhelming amount of evidence that has consistently supported my claim.
- subornation of perjury as committed by my employer's attorney

- The Respondent disposed of medical evidence that clearly demonstrated that my mental injury and mental illness was directly related to “Significant and ongoing work-related stress” and no other social factors.
- Misrepresentation of the Facts & Fraud
- Appellant filing an Equal Employment Opportunity Commission (EEOC) claim which is in the investigative process

The above bullets are all unusual and extraordinary especially when I’m being consistently attacked and assaulted by “one” individual that’s in a management position and Senior Management refused to intervene to combat these illegal, reckless, malicious, intentional, etc., etc., etc. behaviors as mandated by the Defendant’s policies and directives which there’s no evidence that both the Single Commissioner and the Full Commission Appellate Panel reviewed.

## **ARGUMENT 8**

### **WHETHER THE WORKER’S COMPENSATION COMMISSIONER ERRED WHEN NOT CONSIDERING THE FACTS STATED BY THE ATTORNIES FINDINGS AFTER DISCUSSING THE ISSUES WHICH WAS SUBMITTED INTO EVIDENCE**

The Commissioner, in her Order, states that the Appellant was notified of my right to counsel; yet...”Instead represented himself”. It was not the Appellant’s choice or decision to represent himself in this or another other legal procedure. The Appellant applied an array of efforts to seek and secure legal counsel due to the enormity of this case and the number of years involved; unfortunately, the Appellant’s efforts were unsuccessful. With that being said, there’s no evidence in Commissioner Barden’s Order that she reviewed Attorney George Sink’s correspondence regarding my efforts to secure his legal counsel (please reference Claimant’s APA S, pg. 618). Mr. Sink correspondence didn’t state that the Appellant didn’t have a case, he just merely stated... “Please be advised that after careful review of your case as discussed, we have determined that it would cost more money to represent you in this matter than you are likely to recover”.

There’s no evidence in Commissioner Barden’s Order that she reviewed Mr. Joseph Henry’s correspondence. In attorney Joseph Henry’s November 8, 2013 correspondence – Appellant’s APA H, pgs. 312-313 and pgs. 316-317, Mr. Henry, after attending the meeting with the Respondent was able to observe and discuss the ongoing unfair treatment that the Appellant consistently experienced by the Respondent and also witness no evidence that the Appellant violated any of the Respondent’s policies and directives within the Appellant performing his job duties stating “to this date, the agency has not cited any specific provision of any agency policy alleged violated” of which this assessment was also confirmed by the Respondent’s witness – Mr. Harold Edwards during the Hearing. Based on the aforementioned, Mr. Henry requested that the proposed disciplinary action be withdrawn; however, the Respondent rejected and reprimanded the Appellant for insubordination.

## **ARGUMENT 9**

### **WHETHER THE FULL COMMISSION ERRED IN UPHOLDING THE SINGLE COMMISSIONERS ORDER AND NOT ADDRESSING THE ILLEGAL AND**

## **UNETHICAL ACTS OF THE RESPONDENT AND THE SOUTH CAROLINA WORKER'S COMPENSATION COMMISSION**

Based on the "Fully Affirmation" correspondence received and the mere fact that the Full Commission didn't inquire of the egregious illegal and unethical acts that the Appellant endured by the Respondent and Commissioner Barden, the Commissioners did not review by Appellant's Brief which also included the Appellant's objections to Commissioner Barden's Finding of Facts; therefore, the Full Commissioner's decision was based on a fraudulent Order. Because I'm only limited to a certain number of pages in this brief, I'm respectfully requesting that the Court reviews the Appellant's brief and array of supportive documentation that consistently and overwhelmingly supports a favorable decision on behalf of the Appellant.

### **ARGUMENT 10**

#### **WHETHER THE APPELLANT WAS DENIED HIS CONSTITUTIONAL RIGHT TO PRESENT ALL THE FACTS AND A FAIR HEARING**

After the deceptive conduct by Commissioner Barden, the Respondent and the SCWCC staff, the Appellant was not able to have all the evidence heard in the Full Commission Hearing. However, the Appellant was able to prove his claim under Statue 42-1-160 and Statue 42-1-172 which wasn't claimed by the Appellant based medical evidence which consist of three licensed and qualified doctors, three therapist, and a host of other professional providers and years of supportive and historical documentation; therefore, based on Statue 42-1-160 "Injury" and "personal injury" and Statue 42-1-172 "Repetitive Trauma", the Single Commissioner's ruling should have been reverse; thereby, having no need for an Appeal or Court of Appeals Hearing that the Appellant has no clue of regarding court cases because the Appellant is not a skilled attorney or paralegal, unable to secure an attorney, and have no earthly idea of where to locate legal cases. Nonetheless, I have presented the facts as historically and medically documented that the injury that I sustained was due to ongoing work-related stress and my failed efforts, to no fault of my own, to have the illegal, reckless, malicious, intentional, etc. etc., etc. assaults and attacks that the Appellant consistently experienced ceased. In fact, the tremendous relief that I'm experiencing at this time is due to my resignation from the Agency.

### **CONCLUSION**

All of the evidence supports a finding that the Respondent unwillingness to appropriately supervise Ms. Marin in combating her ongoing illegal, reckless, intentional, malicious, intimidating, etc. etc. etc., assaults and attacks against the Appellant which created and maintained a hostile working environment ultimately caused the Appellant's mental/mental injury with no relief, assistance, etc., etc., etc. by the Respondent. The evidence also proves that appropriate interventions by the Respondent via the use of their policies and procedures could have combated the attacks against the Appellant since 2010; however, the Respondent elected not to intervene based on their personal biases and relationship with one another.

The Respondent, Commissioner Barden, and SCWCC staff electing to engage in illegal, unethical, unfair, and deceptive conduct that ultimately lead to an unjust decision after the Appellant clearly

met the requirements of the law – Statue 42-1-160 and Statue 42-1-172 demonstrating that the Appellant’s work conditions were truly unusual and extraordinary to the degree that two patients almost lost their lives merely because the Respondent wouldn’t appropriately supervise Ms. Marin; however, consigned her illegal, intentional malicious, intimidating, bullying, etc., etc., etc. conduct via by refusing to intervene as required by the Respondent’s policies and directives that governs the Respondent; moreover, protects the Respondent and its’ employees from the type pf conduct that the Appellant consistently experienced which makes the Respondent libel. The Respondent refusal to appropriately supervise Ms. Marin and protect the Appellant under its’ policies and directives contributed to the Appellant’s mental/mental injury, which his medically and clinically documented; moreover, the Respondent historic refusal to appropriately intervene could have caused me irreparable and insurmountable consequences via hindering my ability to secure employment in the human and social service field if the Appellant had undergone a DSS/SLED investigation maliciously informed by Dr. McNeil which would have affected the Appellant’s ability to meet my financial responsibilities and could have cause the Appellant and his family to become homeless.

Several licensed qualified service providers, which to include three doctors that has diagnosed the Appellant with mental impairments that are clinically well-recognized by a respected body of medical community, has concluded that the Appellant sustained a mental/mental injury due to the significant and ongoing job related stress directly caused by events that occurred at his job and no licensed qualified professional which included the three doctors, three therapist, and a host of additional medical and psychiatric service providers attributed the Appellant’s significant and ongoing stress to no additional factor other than job-related stress. The Appellant employed efforts under the Appellant’s earned grievance rights to aid in ceasing the ongoing illegal assaults against the Appellant; however, the Respondent consistently denied the Appellant’s his earned grievance rights; moreover, rights to a fair and impartial investigation, affording the Appellant with equal opportunities consistently afforded to Ms. Marin to openly discuss the illegal and unethical attacks and assaults experienced by the Appellant via the Respondent, and denied the Appellant from discussing the illegal and unethical assaults and attacks consistently experienced by the Appellant via the Respondent with the Respondent’s board – unusual and extraordinary.

The Respondent’s own witness testimony supported the Appellant rather than the Respondent. I’ve demonstrated that the workplace environment was so unusual and extraordinary; in that, to ensure that I suffer as Ms. Marin informed me in 2010, the patients were placed in harms way to the point that two patients almost lost their lives; yet, for some strange reason Commissioner Barden declares this life-threatening workplace environment normal working conditions.

## **RELIEF SOUGHT**

The Appellant is requesting the following relief:

1. The immediate reversal of Commissioner Barden’s fraudulent and unjust order and award me compensatory damages
2. Since the Appellant is no longer employed by the Respondent, the Appellant is requesting to be compensated for the annual and sick leave time

3. The Respondent to pay all existing and future medical/psychiatric services expenses and medication co-pays relating to this matter
4. The Respondent to reimburse the insurance company for psychiatric and medical services received
5. The Respondent to reimburse taxpayers for co-pays that were paid by the SC Department of Vocational Rehabilitation under the Respondent's Employee Assistance Program
6. Reimbursement of the Appellant's attorney fees
7. Reimbursement of treatment and medication co-pays and fees
8. Reimbursement of SWCC fees
9. Reimbursement of Court of Appeals fees
10. Pay the cost of increase in future life insurance premiums due to the mental illness diagnosis that's currently reflected on my medical profile and wasn't present when I purchase the Life Insurance policy via Primerica, Inc. on September 24, 1997 – additional evidence of no preexisting mental illness.
11. Reimbursement of all copying and postage fees

2/24/, 2017

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