

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA WORKERS' COMPENSATION
COMMISSION
Gene McCaskill, Commissioner

Appellate Case No.: 2015-001546
W.C.C. 0919909

RECEIVED
APR 11 2017
SC Court of Appeals

Rudy Barreira Almazan, Employee

v.

Henson & Associates, Inc., Employer, and Auto Owners Insurance
Company, Carrier, Respondents,

And

S.C. Uninsured Employers Fund Appellant.

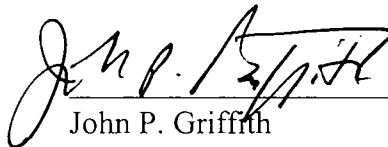
RETURN TO PETITION FOR REHEARING

The Employee respectfully requests that the Petition for Rehearing filed by the Appellant be granted. The Court of Appeals erred in concluding that S.C. Code Ann. 42-1-415 and S.C. Code Reg. 67-415 do not require documentation of workers compensation insurance that applies in South Carolina. In this case, the certificate of insurance was from a Texas employer and a Texas insurance producer. Relevant to the issue, though after the accident herein, the South Carolina

Workers Compensation Commission (Commission) amended its Regulation 67-415 (effective February 26, 2010) to require out of state employers to present an ACORD Form 25-S which states "South Carolina is a named state in Section 3A or 3C of the declaration page of the insured's policy." The Commission cannot create a regulation that conflicts with the intent of the statute. Brown v. S.C. Dep't of Health & Envtl. Control, 348 S.C. 507, 515, 560 S.E.2d 410, 415 (2002) and Richland Cty. Sch. Dist. Two v. S.C. Dep't of Educ., 335 S.C. 491, 498, 517 S.E.2d 444, 448 (Ct. App. 1999). Accordingly, the Court of Appeals decision in the case herein invalidates Regulation 67-415, as amended, by implication because both cannot be correct.

Finally, the issue of whether proof of insurance in South Carolina is required in a certificate of insurance is not made moot by the amendment of Regulation 67-415 as this Court's decision puts the validity of the amended regulation at issue. This matter needs clarification for certificates of insurance from out of state employers in the future and since February 26, 2010. The employee respectfully requests that the Court reconsider its decision and rehear the case.

Respectfully submitted,



John P. Griffith
Smith & Griffith, LLP
PO Box 2866
Anderson, SC 29622-2866
Telephone: 864-222-2293
Fax 864-222-2257
Email: john@griffithlawyer.com
Attorney for Employee

April 6, 2017
Anderson, South Carolina

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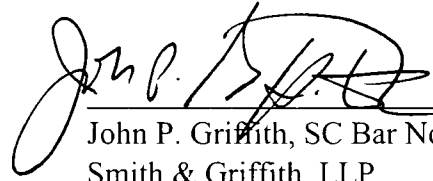
PROOF OF SERVICE

The undersigned hereby certified that the attorneys for the above-named Respondents and Appellant were served with the attached Return to Petition for Rehearing, this the 6th day of April 2017, by depositing the same in the United States mail, first class postage prepaid, addressed to the counsel of record, as follows:

Roy A. Howell, III, Esq.
Kirsten L. Barr, Esq.
Trask & Howell, L.L.C.
PO Box 2167
Mt. Pleasant, SC 29465

Amy V. Cofield, Esq.
809 South Lake Drive
Lexington, SC 29072

April 6, 2017

A handwritten signature in black ink, appearing to read "John P. Griffith", written over a horizontal line.

John P. Griffith, SC Bar No.: 6729
Smith & Griffith, LLP
PO Box 2866
Anderson, SC 29622-2866
Telephone: 864-222-2293
Fax 864-222-2257
Email: john@griffithlawyer.com
Attorney for Employee

SMITH & GRIFFITH, LLP

ATTORNEYS AT LAW

A PARTNERSHIP OF PROFESSIONAL CORPORATIONS

G.W. KING SMITH, P.C.

GRIFFITH LAW FIRM, P.A.

G.W. KING SMITH
JOHN P. GRIFFITH

1102 NORTH MAIN STREET
POST OFFICE BOX 2866
ANDERSON, SOUTH CAROLINA 29622

(864) 375-9310
(864) 222-2293
FAX (864) 222-2257

Email: john@griffithlawyer.com

April 6, 2017

Jenny Abbott Kitchings, Clerk
Clerk, South Carolina Court of Appeals
PO Box 11629
Columbia, SC 29211

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SC Court of Appeals

RE: Rudy Almazan v. Henson & Associates, Inc.
WCC File No.: 0919909
Carrier File No.: 36-2229-10
Date of Injury: 09/26/09
Appellate Case No.: 2015-001546

Dear Ms. Kitchings:

Enclosed herewith for filing, please find the original and six (6) copies of our Return to Petition for Rehearing and original Proof of Service of the same in the above named matter. By a copy of this letter, I am serving the other counsel of record with a copy of the same.

Very truly yours,
Smith & Griffith, LLP

John P. Griffith

John P. Griffith

JPG/rkl

Enclosures

cc: Roy A. Howell, Esq.
Amy V. Cofield, Esq.