

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM SOUTH CAROLINA  
Workers' Compensation Commission

Appellate Case No. 2016-000665

RECEIVED

JUL 21 2017

SC Court of Appeals

Antonio Lazaro, Employee, ..... Appellant,

v.

Burriss Electrical, Employer, and  
South Carolina Guaranty Association,  
Carrier, ..... Respondents.

MOTION FOR SUBSTITUTION OF PARTY  
PURSUANT TO RULE 265, SCACR, DUE TO  
THE DEATH OF THE INJURED WORKER, ANTONIO LAZARO

TO: BRETT H. BAYNE, ESQUIRE, COUNSEL FOR THE RESPONDENTS:

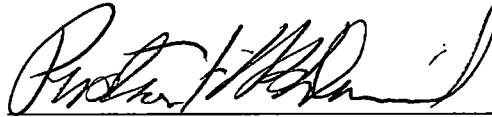
YOU WILL PLEASE TAKE NOTICE that pursuant to Rule 240 and Rule 265, SCACR, the Appellant hereby moves the Court to substitute Decidora Lazaro, who is the Guardian ad Litem, Guardian, and dependent of Antonio Lazaro, the injured worker who is now deceased. While Rule 265, SCACR, allows for the Court to enter an Order substituting a party upon its own initiative, pursuant to the direction of the Court this Motion is being filed.

7

The reasons for the substitution as set forth hereinabove are more specifically stated in the letter and the Affidavit attached hereto and incorporated herein by reference as to the basis for the request for substitution of party.

I SO MOVE.

Respectfully submitted,



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Preston F. McDaniel, Esquire  
SC Bar No.: 3770  
MCDANIEL LAW FIRM  
1315 Elmwood Avenue  
Columbia, South Carolina 29201  
(803) 771-7211  
Attorney for Appellant

July 19, 2017

**McDANIEL LAW FIRM**  
ATTORNEYS AND COUNSELORS AT LAW  
1315 ELMWOOD AVENUE  
COLUMBIA, SOUTH CAROLINA 29201

**COPY**

Proudly representing injured workers  
for over 30 years.

Preston F. McDaniel

Telephone (803) 771-7211

Matthew Robertson

Facsimile (803) 252-0709

June 16, 2017

Honorable Jenny Abbott Kitchings  
Clerk of Court  
SC Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211

**RE: SUBSTITUTION OF PARTY DUE TO DEATH OF ANTONIO LAZARO**  
**PURSUANT TO RULE 265(B), SCACR**

**Antonio Lazaro v. Burriss Electrical**  
**Appellate Case No.: 2016-000665**

Dear Ms. Kitchings:

Mr. Antonio Lazaro, the injured worker in the above-referenced matter, passed away on June 8, 2017. You will note from the pleadings that he was in a vegetative state for years and that his wife and dependent had already been appointed his Guardian ad Litem and Guardian, and the action in this matter was actually brought in her name as his Guardian ad Litem and dependent. Rule 265 provides that the Court upon its own initiative may order substitution of the proper party or upon Motion. I would request that the Court order substitution of Mrs. Lazaro as Guardian ad Litem, Guardian, and as the dependent of Antonio Lazaro, deceased employee.

If the Court requires me to file a Motion, please let me know and I will do so immediately. By copy of this letter, I am notifying and serving Counsel for the Respondents with a copy of this communication and request.

Sincerely yours,



Preston F. McDaniel

PFM/kth/rmt

cc: Brett H. Bayne, Esquire  
John E. Duncan, Esquire



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AFFIDAVIT OF  
PRESTON F. MCDANIEL

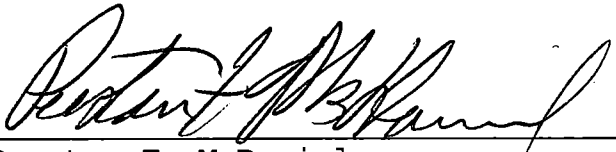
I, Preston F. McDaniel, having been duly and properly  
sworn, do depose and state:

1. That I am Co-Counsel for Antonio Lazaro, now deceased,  
and his Guardian ad Litem, Guardian, and dependent, Mrs.  
Decidora Lazaro, who has taken all actions on behalf of Mr.  
Lazaro in this workers' compensation claim and specifically in  
reference to the filing of the request for a partial lump sum  
and adjustment of the compensation rate, which is the current  
subject of the appeal pending before this Honorable Court. The

letter initially requesting the substitution of Mrs. Lazaro subsequent to the death of her husband, Antonio Lazaro, as the Appellant is part of the business records maintained by me and to my knowledge, is part of the Records of the Court which sets forth the basis for the request for the substitution of a party.

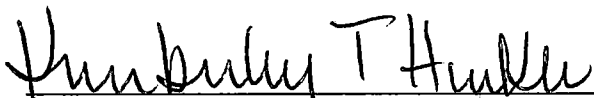
The Court will find pursuant to a review of the Court's Record and the Record on Appeal that the Record had been finalized and the appeal was being scheduled for oral argument in September/October as of June 7, 2017. The Court will find based on a review of the Record on Appeal that Mrs. Lazaro has always been the Claimant or responding party in her capacity as Guardian ad Litem, Guardian and as dependent for and of Antonio Lazaro. (R., p. 21; p. 54).

FURTHER THE AFFIANT SAYETH NOT.

  
\_\_\_\_\_  
Preston F. McDaniel

SWORN TO BEFORE ME on this the

19th day of July, 2017.

  
\_\_\_\_\_  
Notary Public for South Carolina (L.S.)

My Commission Expires: 4/26/20

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Workers' Compensation Commission  
Appellate Panel

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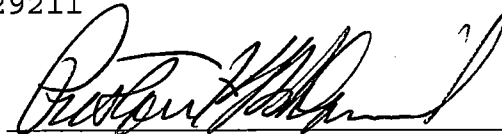
Burriss Electrical, Employer, and  
South Carolina Guaranty Association,  
Carrier, ..... Respondents.

PROOF OF SERVICE

I certify that I have served the MOTION FOR SUBSTITUTION OF PARTY PURSUANT TO RULE 265, SCACR, DUE TO THE DEATH OF THE INJURED WORKER, ANTONIO LAZARO by depositing a copy of it in the United States Mail, postage prepaid, on July 19, 2017 addressed to:

Brett H. Bayne, Esquire  
McAngus, Goudelock & Courie  
Post Office Box 12519  
Columbia, SC 29211

Dated: July 19, 2017



Preston F. McDaniel  
MCDANIEL LAW FIRM  
1315 Elmwood Avenue  
Columbia, South Carolina 29201  
(803) 771-7211

Attorney for Appellant

**McDANIEL LAW FIRM**  
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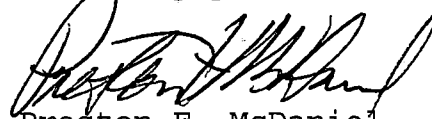
**RE: Antonio Lazaro v. Burriss Electrical Inc.**  
**Appellate Case No.: 2016-000665**

Dear Ms. Kitchings:

Please find enclosed the original and seven (7) copies of a **MOTION FOR SUBSTITUTION OF PARTY PURSUANT TO RULE 265, SCACR, DUE TO THE DEATH OF THE INJURED WORKER, ANTONIO LAZARO and AFFIDAVIT OF PRESTON F. MCDANIEL** regarding the above matter, as well as the required filing fee.

By copy of this letter I am notifying and serving Counsel for the Respondents with a copy of the Motion. As always, I appreciate all the courtesies and kindnesses shown to me by the Court.

Sincerely yours,



Preston F. McDaniel

PFM/kth  
Enclosures

cc: Brett H. Bayne, Esquire

McDaniel Law Firm  
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Columbia, SC 29201

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