

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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AUG 28 2017

SC Court of Appeals

APPEAL FROM SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

W.C.C. File No: 1502120

Reginald D. Evans, Employee, Claimant.....Appellant,

v.

Exel Inc. Employer and New Hampshire Insurance Company Carrier.....Respondents,

OBJECTION TO MOTION TO DISMISS
APPEAL

Pursuant to Rule 12, 210, 240 of SCACR, Appellant hereby objects to Motion to dismiss. Appellant served a Record on Appeal on Respondent on August 8, 2017. South Carolina Supreme Court has ruled that insufficient Record on Appeal is not ground for dismissal. RULE 209 DESIGNATION OF MATTER TO BE INCLUDED IN THE RECORD ON APPEAL which states:

b) Content. The Designation must clearly identify what the party desires to have included in the Record on Appeal, and the Designation may only propose to include portions of the transcript, pleadings, orders, exhibits, or other materials which may be properly included in the Record on Appeal [See Rule 210(c)]. A party shall not include any matter in his Designation which is not relevant to the appeal.

The Key phrase is “what the party desires to have included in the Record on Appeal.” The key word is desire.

The other Key phase is “the Designation may only propose to include portions of the transcript, pleadings, orders, exhibits, or other materials which may be properly included in the Record on Appeal [See Rule 210(c)]. The key words, “is propose to include”. In *Woodson v. DLI Property* No. 27344 the S.C. Supreme Court Ruled that:

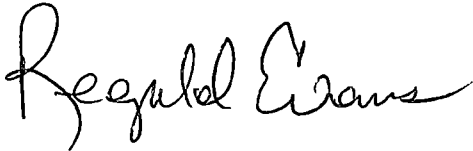
‘Further, a decision on a motion for summary judgment is based on depositions, interrogatories, affidavits, other evidentiary material provided by the parties. See Rule 56(c), SCRCF; see also *Quail Hill, L.L.C. v. Cnty. of Richland*, 387 S.C. 223, 234, 692 S.E.2d 499, 505 (2010) (stating appellate courts apply the same standard as the trial court under Rule 56(c), SCRCF). Here, Petitioners provided the requisite evidentiary material to the court of appeals. Therefore, we find the court of appeals did have a sufficient record before it to permit meaningful appellate review and make a decision on the merits. See *Quail Hill*, 387 S.C. at 234, 692 S.E.2d at 505; *Hamilton v. Greyhound Lines E.*, 281 S.C. 442, 444, 316 S.E.2d 368, 369 (1984) (stating the appealing party has the burden of providing a sufficient record such that the appellate court can make an intelligent review).

The Appellant believes court of appeals have a sufficient record before it to permit meaningful appellate review and make a decision on the merits. The issue before court is:

1. Did the Commissioner erred in not awarding disfigurement when the Appellant has a Kilod visible when wearing short pants?
2. Did the Commissioner erred in not awarding attorney fees? Because claims were not settled but by an Order of the Commission.
3. Did the Commissioner erred in it formula of multiplying 35% of weeks rather than 35% pay time 192 weeks?
4. Did the Commissioner erred in not awarding 35% for 500 weeks when Appellant was given a permanent disability rating?

WHEREFORE the Appellant request this Court to review issue based on the Record on Appeal
and the Appellant final brief on the above issues.

Respectfully submitted,

A handwritten signature in black ink that reads "Reginald Evans". The signature is written in a cursive style with a large initial "R" and a stylized "E".

Reginald Evans
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CERTIFICATE OF SERVICE

I, Reginald Evans, do hereby certify that on this 26TH day of August 2017, a true and correct copy of foregoing Appellants' Final Brief and the Appellants' Record of Appeal has been served upon the Defendant by depositing the same in the U.S. Mail postage pre-paid, address as follows: Helen F. Hisher, PO Box 650007, Mt. Pleasant, SC 29465.

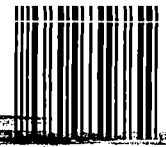
Respectfully submitted,



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