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OCT 09 2017

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM THE SC WORKERS COMPENSATION COMMISSION

Full Commission Order Dated April 28, 2017 Affirming Commissioner Melody L. James
orders dated January 04, 2013 And September 30, 2013

Case No: 2017-0001217

John McDaniel, Employee, Claimant, Appellant

v.

Career Employment Professional D/B/A Snelling Staffing, Employer and United Wisconsin
Insurance Co., Carrier, Respondents

RESPONSE TO RESPONDENTS' MOTION TO STRIKE

Appellant hereby responds to Respondents' Motion to Strike and states as follows:

Respondents' Initial Brief was due on or before August 21, 2017 and was filed and allegedly served by the Respondents on August 30, 2017. Thus, Appellant's Reply Brief is addressing a brief which is untimely filed and should be stricken by this Court.

The Appellant filed and served his Initial Brief on July 22, 2017. Pursuant to Rule 208(a)2, SCACR, Respondents' Initial Brief must be filed and served within thirty (30) days of service of Appellant's Initial Brief. Respondents' Initial Brief was due on or before August 21, 2017. Respondents allegedly served their Initial Brief on August 30, 2017. The court received and filed the brief the next day on August 31, 2017. Appellant became aware of the Respondents' Initial Brief on or after September 5, 2017. The Reply Brief was due on September 9, 2017. September 9th was a Saturday, thus, the Reply Brief should have been in the possession of the court the following Monday, September 11, 2017. Proof of Service reflects Appellant served the Initial Reply Brief on September 20, 2017.

The Appellant pleads that this court accept the Appellants Reply Brief for the following reasons:

- 1) The Appellant made a good faith effort to respond as quickly as possible to the Respondent's Initial Brief. The Appellant became aware of the Respondents' Brief sometime on or after September 5, 2017 when a notice of registered mail (dated September 5, 2017) was left at the Appellant's mail box. After becoming aware of the notice of mail, the Appellant inquired electronically to the Courts web site "ctrack.sccourts.org." The Appellant was never served the Respondents' Brief, as it was not sent "regular" mail, but "registered." Sending of the mail in "registered" form only, and not sending first class also, can delay the delivery of the article, and that does not constitute service as pondered in Rule 262. Sending restricted mail places an unnecessary burden on the Appellant, as the motion may never even be delivered to the receiving

party, as is the fact in this case. If the Appellant is neither in actual or constructive receipt of the Respondents' Reply, then that can further delay the procession of events needed to complete the Appellate Court Process.

2) During the period from Approximately August 22, 2017 until October 2, 2017 the Appellant maintained two active addresses. The Appellant is permanently disabled and it took the entirety of the time, connoted above, to move while maintaining two residences. The Appellant is of meager means and could not afford to pay movers and had to rely merely on himself and his wife.

3) In addition to moving while being disabled, the Appellant has a 15-month-old infant daughter that requires substantial time to care for. The Appellant has been the primary care giver to the infant as only the Appellants wife is able to find gainful employment since the Appellant's injury. (The Appellants' permanent physical restrictions limit him to less than "sedentary" as defined in the Dictionary of Occupational Titles.)

4) The Appellant currently lives in Michigan, this increases the days needed for mail to travel immensely. The Rules of Court should not be construed so strictly as to penalize someone for living out of state, if a good faith effort has been made to abide by the rules.

5) In addition to the above, the Appellant received a merit-based scholarship, for 100% of the cost of tuition, and is currently attending, Western Michigan University's Cooley School of Law.

The Appellant is currently enrolled in seventeen (17) credit hours in his first semester of law school. The Appellant is enrolled in an accelerated program that will allow graduation from law school in the fall of 2019, allowing for only 24 months to complete a *juris doctorate* degree. The “outside of class” to “inside of class” commitment is 3 to 1. That is to say, the accreditation of the school by the American Bar Association, depends on certain criteria to maintain that accreditation. The courses are designed to demand 3 hours outside of class for every 1 hour in class. This amounts to a total educational burden of 68 hours a week, dedicated to the study of law.

The Appellant’s ability to reenter the workforce is currently contingent on his graduation from law school.

Attendance is compulsory and the penalty for absences from law school are severe, up to and including expulsion. Expulsion from law school would rob the Appellant of the ability to provide for himself and his family, along with severely hampering his ability to reenter the workforce.

The Appellant has not missed a single day of law school except the day before the Appellant’s Reply Brief was finally served. The Appellant forwent his mandatory attendance to law school, under threat of severe penalty, to complete the Reply Brief that day.

6) The rules of court are not meant to be punitive but to ensure an orderly and timely procession of events. The action at the heart of this case was initiated with the injury of the Appellant on November 21, 2011 and the date of this writing is October 6, 2017 or 2,147 days since the date of injury. The Respondents would have this court strike the Appellant’s Reply Brief for being approximately 10 days late. That ten days only accounts for .4% of the entire length of

this claim. To silence the Reply of the Appellant over extending the date of resolution by less than one half of one percent (20% less than ½ of 1% to be exact) would be prejudicial to the Appellant as lacking proportionality.

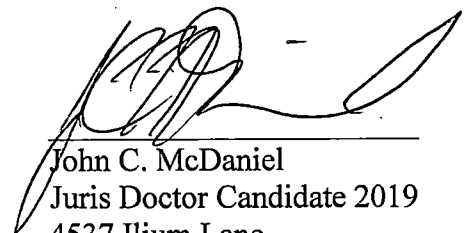
7) The Respondents served their Initial Brief 10 days after it was due. The court accepted it for filing, and the Appellant diligently set about authoring his response.

The Respondents have multiple offices across the state, multiple attorneys named on this case, secretaries and paralegals, and presumably, file clerks and mail runners.

The Appellant also served his brief approximately 10 days after it was due. The Appellant only has himself.

If the good faith efforts of a disabled, *pro se* Appellant, of meager means, more than 1,000 miles away from the Court in which this action proceeds, is the only one penalized, and a law firm, staffed exclusively with legal professionals, legal experts and officers of the court, is permitted to violate the rules of this Court with impunity, that would be highly prejudicial to the Appellant, and an absolute miscarriage of justice.

Therefore, and in consideration of the above reasons, the Appellant respectfully requests that this Court show compassion for the plight of the Appellant, that this Court deny the Respondents' Motion to Strike and/or accept Appellant's Initial Reply Brief and/or strike the Respondents' Initial Brief or any other actions this Court deems proper.



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October 6, 2017

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THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM THE SC WORKERS COMPENSATION COMMISSION

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Case No: 2017-0001217

John McDaniel, Employee, Claimant, Appellant

v.

Career Employment Professional D/B/A Snelling Staffing, Employer and United Wisconsin
Insurance Co., Carrier, Respondents

PROOF OF SERVICE

I certify that I have served Appellant's Response to Respondents' Motion to Strike by depositing
in the Mail, postage paid on October 7, 2017 addressed to the below:

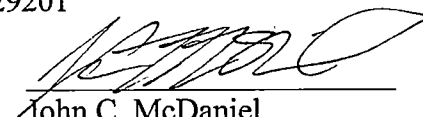
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Helen F. Hiser
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Mount Pleasant, SC 29465

Via UPS

Jenny Abbott Kitchings
SC Court of Appeals
Clerk of Court
1220 Senate Street
Columbia, SC 29201

October 7, 2017


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SC Court of Appeals

October 7, 2017

Jenny Abbott Kitchings
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Clerk of Court
P.O. Box 11629
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McAngus Goudelock & Courie, LLC
735 Johnnie Dodds Blvd., Suite 200
Mt. Pleasant, SC 29465

RE: John C. McDaniel v. Career Employment Professional d/b/a Snelling Staffing
DOI: 11/21/2011
WCC File: 1116275
Appellant Case No: 2017-001217

Dear Ms. Kitchings,

Enclosed for filing, please find Appellant's Response to Respondent's Motion to Strike and Proof of Service along with Appellant's Motion to Accept, Proof of Service and the \$25.00 filing fee for same. At your earliest conveniences please file the original.

By copy of this letter, I am serving counsel of record with same.

Please call me if you have any questions about the enclosed. Thank you for your time.

Sincerely,



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Phone Number: 843-425-3000
Email: jmcdaniel1982@gmail.com

John McDowell
4537 Ilium Lane
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South Carolina Court of Appeals

1220 Senate St

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SC Court of Appeals

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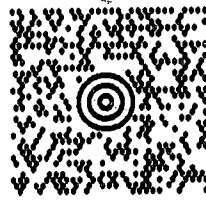
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 SC Court of Appeals

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