

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas

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L. Casey Manning, Circuit Court Judge NOV 01 2017

Appellate Case No. 2016-001494

SC Court of Appeals

Theodore P. Polansky, Employee, ..... Respondent,

v.

SC Office of the Attorney General,  
Employer, and State Accident Fund, Carrier, ..... Appellants.

MOTION TO CORRECT, AMEND OR SUPPLEMENT  
THE RECORD ON APPEAL AND FOR AN EXTENSION  
OF THE TIME TO FILE RESPONDENT'S FINAL BRIEF  
UNTIL CORRECTED, AMENDED OR SUPPLEMENT  
RECORD ON APPEAL IS SERVED ON RESPONDENT

TO: TEMUS C. MILES JR., ESQUIRE, COUNSEL FOR THE APPELLANTS:

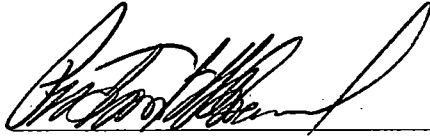
YOU WILL PLEASE TAKE NOTICE pursuant to SCACR Rule 240, 209  
and 210, the Respondent hereby moves for an Order of the Court  
ordering the Appellants to review the Designation of Matter of  
the Respondent and to correct, amend and/or supplement the  
Record on Appeal to include those portions of the Designation of  
Matter as designated by the Respondent to be included and

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specifically including the 711 pages of written evidence submitted as APA Submissions before the South Carolina Workers' Compensation Commission but not included; for an extension to file Respondents' Final Brief after correction and for the costs of this Motion. Said Motion is based upon the Memorandum attached hereto and incorporated herein by reference.

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 Respondent

October 30, 2017

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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MEMORANDUM IN SUPPORT OF  
MOTION TO CORRECT, AMEND OR SUPPLEMENTED  
THE RECORD ON APPEAL AND FOR AN EXTENSION  
OF THE TIME TO FILE RESPONDENT'S FINAL BRIEF  
UNTIL CORRECTED, AMENDED OR SUPPLEMENT  
RECORD ON APPEAL IS SERVED ON RESPONDENT

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The Respondent would respectfully show unto the Court:

1. That this is an Appeal from the South Carolina  
Workers' Compensation Commission and from the Decision of  
Circuit Court affirming the Award due to this being a pre-2007  
appeal from a Decision of the Commission.

2. That as part of his Designation of Matter for

inclusion in the Record, the Respondent designated the Claimant's Pre-Hearing Briefs, Supplemental or Amended Pre-Hearing Briefs including his APA Submissions served and filed with the Commission on August 26, 2014, February 19, 2015, February 27, 2015 and the final and Amended APA Submissions that were filed with the Commission on March 4, 2015 consisting of seven hundred and eleven (711) pages of written documentary evidence which served as the basis in part for the Commission's decision. Based upon a review of the Record as served upon the Respondent in this matter, that specific Designation of Matter was not included with the Record on Appeal as served. The Amended and Supplemental APA Submissions consisting of seven hundred and eleven (711) pages of APA Submissions were specifically admitted into the Record by the Hearing Commissioner at the hearing held at the March 6, 2015 hearing. Transcript of Record, p. 4, l. 6-p. 18 and specifically p. 18, l. 2-4.

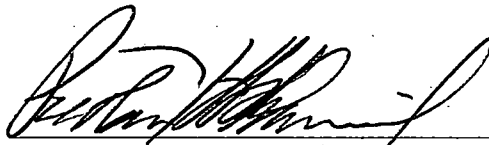
3. That all of the Appellants similarly summarized and designated APA Submissions as set forth in its Designation of Matter were included in the Record. In reference to the Respondents' APA Submissions that were designated for submission, the very first sentence of the Appellants' first Argument in its Initial Brief reads, "the Record of the parties and APA Submissions include medical reports spanning over 15

years ..., See Generally the APA Submission No. 4 of the Claimant at P. 20-30, ...". (emp. added).

Thus, it is clear both parties intended that the Claimant's APAs were being made a part of the Record.

WHEREFORE the Respondent cannot complete the submission of his Final Brief until the Record is corrected and therefore the Respondent as the Movant would respectfully request that the Appellants be ordered to review the Record and to correct, amend and/or supplement the Record to include all of the Designation of Matter as designated by the parties pursuant to the Court Rules specifically including the seven hundred and eleven (711) pages of Claimant's written evidence made a part of the Record as APA Submissions, for the costs of this Motion and for an extension of time for 20 days after the amended, corrected or supplemented Record is filed for the filing of his Final Respondent's Brief.

Respectfully submitted,



Preston F. McDaniel, Esquire  
SC Bar No. 3770  
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1315 Elmwood Avenue  
Columbia, South Carolina 29201  
(803) 771-7211

Attorney for Respondent/Movant

October 30, 2017

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PROOF OF SERVICE

I certify that I have served the **MOTION TO CORRECT, AMEND OR SUPPLEMENT THE RECORD ON APPEAL** and **MEMORANDUM IN SUPPORT OF** by depositing a copy of it in the United States Mail, postage prepaid, on October 30, 2017 addressed to:

Temus C. Miles, Jr., Esquire  
McKay, Cauthen, Settana & Stublely  
PO Box 7217  
Columbia, SC 29202-7217

Dated: October 30, 2017



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

Attorney for Movant/Respondent

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

Proudly representing injured workers  
for over 30 years.

Preston F. McDaniel

Telephone (803) 771-7211

Matthew Robertson

Facsimile (803) 252-0709

October 30, 2017

VIA FAX - 734-1839  
AND US MAIL

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

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SC Court of Appeals

**RE: Theodore Polansky v. SC Attorney General  
Appellate Case No. 2016-001494**

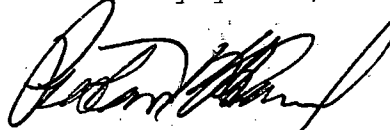
Dear Ms. Kitchings:

Pursuant to my conversation with the Court, please find attached my Motion for the Respondents to correct, amend or supplement the Record on Appeal to include the Designation of Matter not included in the Record on Appeal as served upon the Respondent in this matter, for the costs of this Motion and for a 20-day extension of time after the filing of the corrected Record for the filing of the Final Brief of the Respondent in this matter.

The required filing fee of \$25.00 and Affidavit of Service on Appellants' counsel is also included.

As always, I appreciate all the courtesies and kindnesses shown to me by the Court.

Sincerely yours,

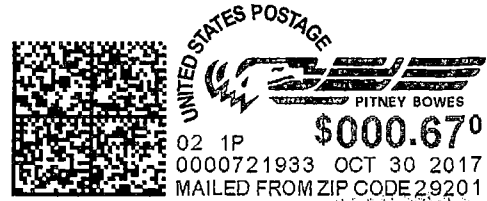
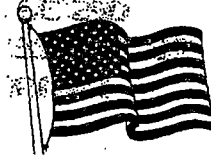


Preston F. McDaniel

PFM/abh  
Enclosures

cc: Temus C. Miles, Jr., Esquire (via email [tmiles@mckayfirm.com](mailto:tmiles@mckayfirm.com) and US Mail)

McDaniel Law Firm  
1315 Elmwood Avenue  
Columbia, SC 29201



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SC Court of Appeals

Honorable Jenny Abbott Kitchings  
Clerk of Court  
SC Court of Appeals  
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29211-162929

