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THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM THE SOUTH CAROLINA WORKERS COMPENSATION COMMISSION
COMMISSIONERS WILKERSON, WILLIAMS AND BECK

WCC FILE NUMBER: 0818970

LATIKA BROWN,

Appellant,

v.

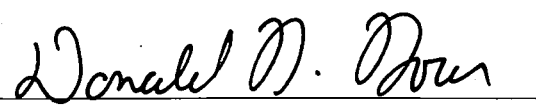
THE PANTRY, INC.

Respondent.

NOTICE OF APPEAL

Latika Brown appeals the decision of the South Carolina Workers' Compensation Commission dated December 3, 2012. Appellant received a copy of this decision on December 3, 2012.

December 21, 2012



Donald H. Howe
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Attorney for Appellant

Other Counsel of Record:
Amanda A. Mellard
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Post Office Box 2980
Greenville, SC 29602
(864) 239-4000
Attorney for Respondent

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DEC 27 2012

SC Court of Appeals

THE STATE OF SOUTH CAROLINA)
 IN THE COURT OF APPEALS)
 WCC FILE NUMBER: 0818970)
 LATIKA BROWN, Appellant,)
 v.)
 THE PANTRY, INC., Respondent.)

APPELLANT/CLAIMANT'S
 ENUMERATION OF ERROR

The claimant will base her appeal on the following errors of the three member panel of Commissioners of the South Carolina Workers Compensation Commission:

1. In a situation in which the Claimant settled her third-party tort action for \$505,000.00 out of \$525,000.00 of available insurance coverage, The South Carolina Workers Compensation Commission erred in ruling that the Claimant, by failing to give prior written notice of the settlement to the carrier, thereby forfeited her rights to reduce the lien of the carrier by an amount of reasonable attorneys' fees and expenses and principles of equity as provided in 42-1-560.
2. The South Carolina Workers Compensation Commission failed to properly apply the guidelines pronounced by the South Carolina Supreme Court in Kirkland v. Allcraft Steel Co., 320 S.C. 289, 496 S.E.2d 624 (1998) when it refused to reduce the lien of the workers' compensation carrier by any amount.
3. The South Carolina Workers Compensation Commission erred when it failed to follow the statutory language of 42-1-560 in failing to provide for any amount of reasonable attorneys' fees to be deducted from the amount of money ultimately awarded to the carrier for its lien.
4. The South Carolina Workers Compensation Commission erred when it failed to reduce the amount of the workers' compensation carrier's lien by any amount based on the fact that no prior written notice was given to the carrier even though there was no prejudice to the carrier.
5. The South Carolina Workers Compensation Commission erred in affirming the ruling of the original commission that the third party settlement was "not to the benefit of the carrier" pursuant to 42-1-560 despite the fact that he awarded the carrier \$219,496.90.

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6. The South Carolina Workers Compensation Commission erred when it failed to admit into evidence and consider medical evidence by Dr. Peter DeVito, a plastic surgeon, about future potential surgery available to the Claimant to improve her extensive scarring.

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THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM CHARLESTON COUNTY
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

COMMISSIONERS WILKERSON, WILLIAMS AND BECK

WCC FILE NUMBER: 0818970

LATIKA BROWN.....Respondent,


V.

THE PANTRY, INC.....Appellant.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on The Pantry, Inc. by depositing a copy of it in the United States Mail, postage prepaid, on December 21, 2012, addressed to its attorney of record, Amanda A. Mellard, McAngus Goudelock & Courie, Post Office Box 2980, Greenville, SC 29602.

December 21, 2012



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December 21, 2012

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

Re: Latika Brown v. The Pantry, Inc.

Dear Mrs. Kitchings:

Enclosed for filing is a notice of appeal in the above case. Also enclosed are the following:

- (1) Proof of service of the notice of appeal on the respondent.
- (2) A copy of the Order which is to be challenged on appeal.
- (3) A filing fee of \$100.00.
- (4) Letter requesting transcript and APA submissions.
- (5) Enumeration of Error.

Sincerely,



Donald H. Howe
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(843) 853-6121
Attorney for Appellant

DHH:kc

Enclosures

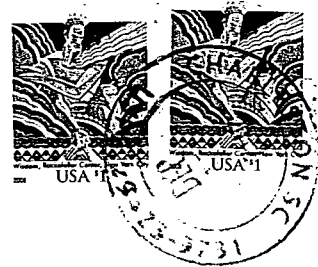
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& WYNDHAM, L.L.P.

Attorneys at Law

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The South Carolina Court of Appeals
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