THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE SOUTH CAROLINA WORKER'S COMPENSATION COMMISSION
W.C.C. File No. 1512151

Appellate Case No. 2018-000216

Donna Dozier, Claimant, Appellant

v.

Georgetown County School District, Employer, and
SC School Boards Insurance Trust, Carrier, Respondents

RECEIVED
JUN 18 2018
SC Court of Appeals

INITIAL BRIEF OF APPELLANT

Neil D. Wright, Esq., SC Bar #6240
BARNETT & WRIGHT, P.A.
1304 Azalea Court, Suite B
Myrtle Beach, SC 29577-5723
Office: (843) 449-0781 Ext. #3
Fax: (843) 449-1583
nwright@barnettandwright.com
Attorney for Appellant

Other Counsel of Record:
Timothy B. Killen, Esq.
HOLDER PADGETT LITTLEJOHN + PRICKETT, LLC
349 W Coleman Blvd, Suite 300
Mt. Pleasant, SC 29464
Office: (843) 277-0826
Fax: (843) 589-9000
tkillen@hplplaw.com
Attorney for Respondents

TABLE OF CONTENTS

Page

Table of Contents i

Table of Authorities ii

Statement of Issues on Appeal 1

Statement of the Case 1

Standard of Review 6

Statement of Facts 8

Arguments

1. THE APPELLATE PANEL OF THE SOUTH CAROLINA WORKERS COMPENSATION COMMISSION ERRED BY DETERMINING THAT THE APPELLANT'S AVERAGE WEEKLY WAGE AT THE TIME OF HER INJURY WAS $200.77 PER WEEK AND THAT HER CORRESPONDING COMPENSATION RATE IS $133.86 14

2. THIS MATTER SHOULD BE REMANDED TO THE SOUTH CAROLINA WORKER'S COMPENSATION COMMISSION PURSUANT TO THE AUTHORITY OF SC CODE ANN. §1-23-380(3) (2006) TO TAKE ADDITIONAL MATERIAL EVIDENCE CONCERNING THE APPELLANT'S AVERAGE WEEKLY WAGE WHICH WAS NOT AVAILABLE FOR PRESENTATION TO THE COMMISSION DURING THE PROCEEDING BEFORE THE COMMISSION BECAUSE SUCH MATERIAL EVIDENCE WAS UNLAWFULLY WITHHELD BY THE RESPONDENTS WHO FAILED TO COMPLY WITH A LAWFUL DOCUMENT PRODUCTION SUBPOENA. 22

Conclusion 25

TABLE OF AUTHORITIES

CASES:

Ayres v. Crowley, 205 S.C. 51, 30 S.E.2d 785 (1944) 22

Bennett v. Gary Smith Builders, 271 S.C. 94, 98-99, 245 S.E.2d 129, 131 (1978) 14

Bone v. U.S. Food Service, 404 S.C. 67, 744 S.E.2d 552 (S.C. 2013) 7, 23

Breeland v. Colleton County et al., 216 S.C. 147, 57 S.E.2d 63 (S.C. 1950) 20, 21

Broughton v. S. of the Border, 336 S.C. 488, 495, 520 S.E.2d 634, 637 (Ct.App.1999) 7

City of North Charleston v. North Charleston District 289 S.C. 438, 346 S.E.2d. 712 (SC 1986) 22

Charlotte–Mecklenburg Hosp. Auth. v. S.C. Dep't of Health & Envt'l Control, 387 S.C. 265, 267, 692 S.E.2d 894, 895 (2010) 7, 23

Elliott v. S.C. Dep't of Transp., 362 S.C. 234, 238, 607 S.E.2d 90, 92 (Ct.App.2004) 14

Hodges v. Rainey, 341 S.C. 79, 85, 533 S.E.2d 578, 582 (2000) 18

Kiriakides v. United Artists Communications, Inc., 312 S.C. 271, 275, 440 S.E.2d 364, 366 (1994). 18

Lark v. Bi–Lo, Inc., 276 S.C. 130, 276 S.E.2d 304 (1981) 6

S.C. Baptist Hosp. v. S.C. Dep't of Health & Envt'l Control, 291 S.C. 267, 270, 353 S.E.2d 277, 279 (1987) 7, 23

Shealy v. Aiken Cnty., 341 S.C. 448, 455, 535 S.E.2d 438, 442 (2000) 7

Stone v. Traylor Bros., 360 S.C. 271, 274, 600 S.E.2d 551, 552 (Ct.App.2004) 7

STATUTES:

29 U.S.C. §201, et seq 14, 21, 22

S.C. Code Ann. § 1–23–380 (Supp.2010) 6, 7, 8

SC Code Ann. §1-23-380(3) (2006) 1, 22, 24, 25

SC Code Ann. §42-9-260(D) (1988) 2, 5, 10

SC Code Ann. § 42-1-40 ..... 14, 17, 18, 20, 21

REGULATIONS:

SC Code of Regulations 67-203 (2010) 10

STATEMENT OF ISSUES ON APPEAL

1. **DID THE APPELLATE PANEL OF THE SOUTH CAROLINA WORKERS COMPENSATION COMMISSION ERR BY DETERMINING THAT THE APPELLANT'S AVERAGE WEEKLY WAGE AT THE TIME OF HER INJURY WAS $200.77 PER WEEK AND THAT HER CORRESPONDING COMPENSATION RATE IS $133.86?**

2. **SHOULD THIS MATTER BE REMANDED TO THE SOUTH CAROLINA WORKER'S COMPENSATION COMMISSION PURSUANT TO THE AUTHORITY OF SC CODE ANN. §1-23-380(3) (2006) TO TAKE ADDITIONAL MATERIAL EVIDENCE CONCERNING THE APPELLANT'S AVERAGE WEEKLY WAGE WHICH WAS NOT AVAILABLE FOR PRESENTATION TO THE COMMISSION DURING THE PROCEEDING BEFORE THE COMMISSION BECAUSE SUCH MATERIAL EVIDENCE WAS UNLAWFULLY WITHHELD BY THE RESPONDENTS WHO FAILED TO COMPLY WITH A LAWFUL DOCUMENT PRODUCTION SUBPOENA?**

STATEMENT OF THE CASE

The Appellant Donna Dozier was hired by the Respondent Georgetown County School District on October 1, 2014 to work as a food service operator in the cafeteria of Waccamaw Intermediate School. The Appellant's written employment contract with the Respondent Georgetown County School District required Appellant to work for a total of one hundred fifty (150) days during the 2014-2015 school year which ended on June 5, 2015. The Appellant did not work for the Respondent Georgetown County School District again until the beginning of the 2015-2016 school year.

On the morning of August 19, 2015, at the beginning of the 2015-2016 school year, the Appellant returned to work for the Respondent Georgetown County School District as a food service operator at Waccamaw Intermediate School. While walking toward the school cafeteria on the premises of the Waccamaw Intermediate School, the Appellant slipped on rocks and fell on both of her knees. The Appellant alleged that she suffered injuries to both of her knees when she fell on the morning of August 19, 2015. The Respondents admitted

that the Appellant suffered a compensable injury to her right knee on August 19, 2015 but denied that the Appellant suffered a compensable injury to her left knee. The Respondents provided medical care for treatment of the injury to the Appellant's right knee, including arthroscopic surgery in January of 2016 to repair a torn meniscus in the Appellant's right knee. The Appellant received orthopedic medical care for the injury to her right knee at Coastal Orthopedic Associates, P.A., in Conway, South Carolina, where she received medical treatment from Kevin Bunn, M.D., and Todd M. Tupis, M.D. The Respondents refused to provide medical care for the Appellant's left knee.

On October 31, 2016, Todd M. Tupis, M.D., determined that the Appellant had reached maximum medical improvement with respect to her right knee. The Respondents then filed South Carolina Workers Compensation Commission ("SCWCC") Form 21 Employer's Request for Hearing pursuant to SC Code Ann. §42-9-260(D) (1988) to stop payment of Appellant's temporary compensation. The Appellant responded by filing a SCWCC Form 22 Answer to Employer's Request for Hearing which denied that the Appellant had reached maximum medical improvement and alleged that the Appellant required additional medical treatment.

On March 21, 2017, a hearing was held on the issues raised in the Respondents' Form 21 and the Appellant's Form 22 by SCWCC Commissioner Gene McCaskill. At that hearing Appellant's legal counsel challenged the Respondents' calculation of Appellant's average weekly wage and compensation rate as set forth on a Form 20 prepared by the Respondents' claim representative, James Lindler of the SC School Boards Insurance Trust. As there was a dispute concerning Appellant's average weekly wage, Commissioner McCaskill agreed to hold the record open to permit counsel for the parties to submit additional information

relevant to the determination of Appellant's average weekly wage and further agreed to determine the issue if counsel could not agree upon a stipulation concerning the Appellant's average weekly wage (Transcript of Hearing of March 21, 2017, Page 11, Line 8 through Line 18).

Following the hearing, on March 28, 2017, counsel for Appellant served a document production subpoena upon counsel for the Respondent Georgetown County School District which specifically requested documents that set forth the Appellant's compensation rate and the number of weeks that Appellant worked for the Respondent Georgetown County School District prior to her injury. (Appellant's Exhibit 1 to the Deposition of Catherine Calli Pope). Despite the fact that documents responsive to the Appellant's document production subpoena were in the possession of the Respondent Georgetown County School District at all times (Appellant's Exhibit 1 to the Deposition of Catherine Calli Pope; Transcript of Deposition of Catherine Calli Pope, Page 17, Line 9 through Line 21; Appellant's Exhibits 1 and 2 to the Deposition of Douglas Jenkins), such documents were not produced in response to the Appellant's document production subpoena as the document production subpoena was not delivered by Respondent's counsel to the Director of Human Resources of the Respondent Georgetown County School District or the Appellant's former supervisor, Catherine Calli Pope. (Transcript of Deposition of Douglas Jenkins, Director of Human Resources, Page 3, Line 20 through Page 22, Line 10; Transcript of Deposition of Catherine Calli Pope, Page 36, Line 19 through Page 37, Line 21).

As counsel for the Appellant and counsel for the the Respondents could not agree upon a stipulation concerning the Appellant's average weekly wage, Commissioner McCaskill had to make a determination concerning the Appellant's average weekly wage

without the benefit of relevant documents withheld by the Respondents. Such documents clearly establish the Appellant's compensation rate and the number of weeks actually worked by the Appellant prior to her injury and clearly refute the purported average weekly wage calculation set forth in the Form 20 prepared by the Respondents' representative James Lindler.

On August 16, 2017, Commissioner McCaskill issued an Interim Decision and Order which determined that the Appellant had not reached maximum medical improvement, that the Appellant was entitled to receive medical care and treatment for the injury to her left knee, and that the Respondents were obligated to pay for any and all reasonable and customary causally related medical care and treatment for the Appellant's left knee injury as provided or directed by Todd M. Tupis, M.D. Commissioner McCaskill's Interim Decision and Order further set forth his determination that Respondents' calculation of the Appellant's average weekly wage at $200.77, as reflected on the Form 20 filed by the Respondents, most correctly reflects the directives of the Act concerning calculation of average weekly wage. The Respondents did not appeal Commissioner McCaskill's Interim Decision and Order. The Appellant timely filed a Form 30 Request for Full Commission Review challenging Commissioner McCaskill's determination of the Appellant's average weekly wage and compensation rate.

The Respondents have provided medical care and treatment for the injury to the Appellant's left knee in accordance with Commissioner McCaskill's Interim Decision and Order. Todd M. Tupis, M.D., the treating physician for the Appellant's left knee injury has filed SCWCC Form 14B, Physician's Statement, which sets forth his medical opinion to a reasonable degree of medical certainty that the Appellant reached maximum medical

improvement on January 15, 2018. The Respondents have again filed SCWCC Form 21 Employer's Request for Hearing pursuant to SC Code §42-9-260(D) (1988) to stop payment of Appellant's temporary compensation. The Appellant has filed SCWCC Form 50 requesting an award of permanent total general disability benefits, an award of additional medical care and treatment to lessen the period of her disability, an award of appropriate benefits for serious bodily disfigurement as a result of Appellant's obvious limp, and an award of additional temporary total disability benefits from August 19, 2015 until January 15, 2018 to reflect the Appellant's correct compensation rate. The Respondents have filed their SCWCC Form 51 in response to the Appellant's SCWCC Form 50. A hearing before Commissioner McCaskill is pending with respect to the Respondents' Form 21, the Appellant's Form 50, and the Respondents' Form 51.

The Full Commission heard the Appellant's Request for Full Commission Review of Commissioner McCaskill's determination of the Appellant's average weekly wage and compensation rate on November 14, 2017. The Full Commission's Appellate Panel, which also had to make a determination concerning the Appellant's average weekly wage without the benefit of relevant documents withheld by the Respondents, affirmed Commissioner McCaskill's determination of the Appellant's average weekly wage and compensation rate by its Decision and Order dated January 12, 2018. Appellant received a copy of the Commission's Appellate Panel Decision and Order by an e-mail transmission from the Commission on January 12, 2018.

The Decision and Order of the Full Commission's Appellate Panel dated January 12, 2018 is not a final agency decision that disposes of the whole subject matter of the Appellant's workers compensation proceeding as further proceedings are currently pending

before the SCWCC. The Decision and Order of the Full Commission's Appellate Panel dated January 12, 2018 may therefore not be immediately appealable. Nevertheless, out of an abundance of caution and mindful of arguments that the Respondents would make and have made concerning the applicability of the concept of *res judicata*, the Appellant appealed the Decision and Order of the Commission's Appellate Panel by filing and serving her Notice of Appeal in this Honorable Court on February 9, 2018.

While this appeal has been pending, the Appellant has conducted further discovery pertaining to the Appellant's average weekly wage in preparation for the final hearing on the merits with respect to the Respondents' Form 21, the Appellant's Form 50, and the Respondents' Form 51. That discovery has included a document production subpoena served upon the Respondent Georgetown County School District and the depositions of Douglas Jenkins, the designated Rule 30(b)(6) representative of the Respondent Georgetown County School District, and Catherine Calli Pope, the Appellant's former immediate supervisor at the Waccamaw Intermediate School cafeteria. The depositions were taken on April 16, 2018. The discovery has produced records and testimony that irrefutably establish that the Form 20 prepared by the Respondents' claim representative, James Lindler of the SC School Boards Insurance Trust, and relied upon by Commissioner McCaskill and the Full Commission Appellate Panel is inaccurate and materially understates the Appellant's average weekly wage and compensation rate.

STANDARD OF REVIEW

The South Carolina Administrative Procedures Act establishes the substantial evidence standard for judicial review of decisions by the Appellate Panel of the Workers Compensation Commission. S.C. Code Ann. § 1–23–380 (Supp.2010); *Lark v. Bi–Lo, Inc.,*

276 S.C. 130, 276 S.E.2d 304 (1981). Under the substantial evidence standard of review, the appellate court may not "substitute its judgment for that of the [Appellate Panel] as to the weight of the evidence on questions of fact, but may reverse where the decision is affected by an error of law." *Stone v. Traylor Bros.*, 360 S.C. 271, 274, 600 S.E.2d 551, 552 (Ct.App.2004). "Substantial evidence is not a mere scintilla of evidence, nor the evidence viewed blindly from one side of the case, but is evidence which, considering the record as a whole, would allow reasonable minds to reach the conclusions the administrative agency reached in order to justify its actions." *Broughton v. S. of the Border,* 336 S.C. 488, 495, 520 S.E.2d 634, 637 (Ct.App.1999). In workers' compensation cases, the Appellate Panel is the ultimate fact finder. *Shealy v. Aiken Cnty.*, 341 S.C. 448, 455, 535 S.E.2d 438, 442 (2000). The Appellate Panel is reserved the task of assessing the credibility of the witnesses and the weight to be accorded evidence.

Under section 1–23–380(A) of the APA, "[a] party who has exhausted all administrative remedies available within the agency and who is aggrieved by a final decision in a contested case is entitled to judicial review...." S.C.Code Ann. § 1–23–380(A) (Supp.2007). "An agency decision which does not decide the merits of a contested case ... is not a final agency decision subject to judicial review...." [404 S.C. 74] *S.C. Baptist Hosp. v. S.C. Dep't of Health & Envt'l Control,* 291 S.C. 267, 270, 353 S.E.2d 277, 279 (1987). "A final judgment disposes of the whole subject matter of the action or terminates the particular proceeding or action, leaving nothing to be done but to enforce by execution what has been determined." *Charlotte–Mecklenburg Hosp. Auth. v. S.C. Dep't of Health & Envt'l Control,* 387 S.C. 265, 267, 692 S.E.2d 894, 895 (2010); *Bone v. U.S. Food Service,* 404 S.C. 67, 744 S.E.2d 552 (S.C. 2013). "A preliminary, procedural, or intermediate agency action or ruling

is immediately reviewable if review of the final agency decision would not provide an adequate remedy." S.C.Code Ann. § 1–23–380(A).

STATEMENT OF FACTS

The Appellant Donna Dozier was hired by the Respondent Georgetown County School District on October 1, 2014 to work as a food service operator in the cafeteria of Waccamaw Intermediate School. (Appellant's Exhibit 1 to the Deposition of Catherine Calli Pope) The Appellant's written employment contract with the Respondent Georgetown County School District required Appellant to work for a total of one hundred fifty (150) days during the 2014-2015 school year which ended on June 5, 2015. (Appellant's Exhibit 3 to the Deposition of Douglas Jenkins, Director of Human Resources for the Respondent Georgetown County School District) The Appellant actually worked no more than thirty-three (33) weeks during the 2014-2015 school year which ended on June 5, 2015 (Appellant's Exhibit 1 to the Deposition of Catherine Calli Pope; Transcript of Deposition of Douglas Jenkins, Director of Human Resources, Page 22, Line 21 through Page 23, Line 23) and earned gross wages in the amount of $7,830.19 for her service as a food service operator for the Respondent Georgetown County School District.

The Appellant's normal work hours at Waccamaw Intermediate School were 8:00 A.M. to 2:00 P.M. The Appellant normally worked six (6) hours per day, five (5) days per week and thirty (30) hours per week. (Transcript of Hearing of March 21, 2017, Page 16, Line 18, through Page 17, Line 5; Appellant's Exhibit 1 to the Deposition of Catherine Calli Pope; Appellant's Exhibit 1 to the Deposition of Douglas Jenkins). The Appellant earned $10.61 per hour for each hour and $63.66 for each day that she worked for the Respondent Georgetown County School District. (Appellant's Exhibits 1 and 2 to the Deposition of

Douglas Jenkins; Transcript of Deposition of Douglas Jenkins, Director of Human Resources, Page 14, Line 11 through Page 16, Line 15; Page 20, Line 3 through Page 21, Line 1)

Dividing the $7,830.19 gross wages earned by the Appellant during the 2014-2015 school year by the thirty three (33) weeks actually worked by the Appellant during the 2014-2015 school year yields an average weekly wage of $237.28. The Appellant's written employment contract with the Respondent Georgetown County School District is silent on the issue of the amount and frequency of payment of the Appellant's compensation.

On the morning of August 19, 2015, at the beginning of the 2015-2016 school year, the Appellant returned to work as a food service operator at Waccamaw Intermediate School. While walking toward the school cafeteria on the premises of the Waccamaw Intermediate School, the Appellant slipped on rocks and fell on both of her knees. The Appellant alleged that she suffered injuries to both of her knees when she fell on the morning of August 19, 2015. The Respondents admitted that the Appellant suffered a compensable injury to her right knee on August 19, 2015 but denied that the Appellant suffered a compensable injury to her left knee. The Respondents provided medical care for treatment of the injury to the Appellant's right knee, including arthroscopic surgery in January of 2016 to repair a torn meniscus in the Appellant's right knee. The Appellant received orthopedic medical care for the injury to her right knee at Coastal Orthopedic Associates, P.A., in Conway, South Carolina, where she received medical treatment from Kevin Bunn, M.D., and Todd M. Tupis, M.D. The Respondents refused to provide medical care for the Appellant's left knee.

On October 31, 2016, Todd M. Tupis, M.D., determined that the Appellant had reached maximum medical improvement with respect to her right knee. The Respondents

then filed South Carolina Workers Compensation Commission ("SCWCC") Form 21 Employer's Request for Hearing pursuant to SC Code §42-9-260(D) (1988) to stop payment of Appellant's temporary compensation. The Appellant responded by filing a SCWCC Form 22 Answer to Employer's Request for Hearing which denied that the Appellant had reached maximum medical improvement and alleged that the Appellant required additional medical treatment.

On March 21, 2017, a hearing was held on the issues raised in the Respondents' Form 21 and the Appellant's Form 22 by SCWCC Commissioner Gene McCaskill. At the hearing Appellant's legal counsel challenged the Respondents' calculation of Appellant's average weekly wage and compensation rate as set forth on a Form 20 prepared by the Respondents' claim representative, James Lindler of the SC School Boards Insurance Trust. James Lindler did not utilize the then current Form 20 as required by SC Code of Regulations 67-203 (2010) which required him to designate the applicable method of computation of Appellant's average weekly wage. (Appellant's Exhibit 4 to the Deposition of Douglas Jenkins) As the Appellant had not completed four quarters of employment with the Respondent Georgetown County School District during the 2014-2015 school year, the then current Form 20 required James Lindler to report the Appellants earnings based on actual time worked (33 weeks). Instead, James Lindler divided the Appellant's gross wages earned during the 2014-2015 school year by thirty-nine (39) weeks which yielded an average weekly wage of $200.77 and materially understated the Appellant's actual average weekly wage and compensation rate. (Appellant's Exhibit 5 to the Deposition of Douglas Jenkins) The Appellant did not actually work thirty-nine (39) weeks prior to her injury; rather, she worked no more than thirty-three

(33) weeks prior to her injury (Transcript of Deposition of Douglas Jenkins, Director of Human Resources, Page 22, Line 21 through Page 23, Line 23).

As there was a dispute concerning Appellant's average weekly wage, the Hearing Commissioner agreed to hold the record open to permit counsel for the parties to submit additional information relevant to the determination of Appellant's average weekly wage and agreed to determine the issue if counsel could not agree upon a stipulation concerning the Appellant's average weekly wage (Transcript of Hearing, Page 11, Line 8 through Line 18). Following the hearing, counsel for Appellant served a document production subpoena upon counsel for the Respondent Georgetown County School District which specifically requested, among others, the following documents:

"6. *All documents, including but not limited to work schedules*, employee time cards, *time sheets, or time records*, *payroll records,* and employee earnings statements *that accurately reflect the number of hours and/or the number of days that Donna Dozier actually worked for you as a food service worker/employee during the 2014-2015 Georgetown County School District school year.* (*Emphasis supplied*)....

8. *All documents, including but not limited to work schedules,* employee time cards, *time sheets, or time records, payroll records,* and employee earnings statements *that either indicate or may be used to compute the gross hourly pay/wage/compensation rate paid to Donna Dozier by you for each hour of her actual service as a food service worker/employee during the 2014-2015 Georgetown County School District school year. (Emphasis supplied)....*

9. *All documents, including but not limited to work schedules,* employee time cards, *time sheets, or time records, payroll records, and employee earnings statements that either indicate or may be used to compute the gross daily pay/earnings/compensation paid to Donna Dozier by you for each day of her actual service as a food service worker/employee during the 2014-2015 Georgetown County School District school year,* before deductions for South Carolina retirement system contributions, employee medical insurance premium payments, employee dental insurance premium payments, employee optional life insurance payments, employee FICA contributions, employee federal withholding tax, and South Carolina withholding tax." *(Emphasis supplied)*

(Appellant's Exhibit 2 to the Deposition of Catherine Calli Pope)

Despite the fact that documents responsive to the Appellant's document production subpoena that established the Appellant's compensation rate and the number of weeks that she worked prior to her injury were in the possession of the Respondent Georgetown County School District at all times (Appellant's Exhibit 1 to the Deposition of Catherine Calli Pope; Transcript of Deposition of Catherine Calli Pope, Page 17, Line 9 through Line 21; Appellant's Exhibits 1 and 2 to the Deposition of Douglas Jenkins), such documents were not produced in response to the Appellant's document production subpoena as the document production subpoena was not delivered to the Director of Human Resources of the Respondent Georgetown County School District and the Appellant's former supervisor, Catherine Calli Pope. (Transcript of Deposition of Douglas Jenkins, Director of Human Resources, Page 3, Line 20 through Page 22, Line 10; Transcript of Deposition of Catherine Calli Pope, Page 36, Line 19 through Page 37, Line 21).

As counsel for the Appellant and counsel for the Respondents were unable to reach an agreement concerning the Appellant's average weekly wage, Commissioner McCaskill had to make a determination concerning the Appellant's average weekly wage without the benefit of relevant documents withheld by the Respondents. Such documents clearly establish the Appellant's compensation rate and the number of weeks actually worked by the Appellant prior to her injury and clearly refute the purported average weekly wage calculation set forth in the Form 20 prepared by the Respondents' representative James Lindler.

On August 16, 2017, Commissioner McCaskill issued an Interim Decision and Order which determined that the Appellant had not reached maximum medical improvement, that the Appellant was entitled to receive medical care and treatment for the injury to her left knee, and that the Respondents were obligated to pay for any and all reasonable and

customary causally related medical care and treatment for the Appellant's left knee injury as provided or directed by Todd M. Tupis, M.D. Commissioner McCaskill's Interim Decision and Order further set forth his determination that Respondents' calculation of the Appellant's average weekly wage at $200.77 as reflected on the Form 20 filed by the Respondents most correctly reflects the directives of the Act concerning calculation of average weekly wage. The Respondents did not appeal Commissioner McCaskill's Interim Decision and Order. The Appellant timely filed a Form 30 Request for Full Commission Review challenging Commissioner McCaskill's determination that the Appellant's correct average weekly wage is $200.77.

The Full Commission heard the Appellant's Request for Full Commission Review of Commissioner McCaskill's determination of the Appellant's average weekly wage and compensation rate on November 14, 2017. The Full Commission's Appellate Panel, which also had to make a determination concerning the Appellant's average weekly wage without the benefit of relevant documents withheld by the Respondents, affirmed Commissioner McCaskill's determination of the Appellant's average weekly wage and compensation rate by its Decision and Order dated January 12, 2018. Appellant received a copy of the Commission's Appellate Panel Decision and Order by an e-mail transmission from the Commission on January 12, 2018.

The Decision and Order of the Full Commission's Appellate Panel dated January 12, 2018 is not a final agency decision that disposes of the whole subject matter of the Appellant's workers compensation proceeding as further proceedings are currently pending before the SCWCC. While the Decision and Order of the Full Commission's Appellate Panel dated January 12, 2018 may not be immediately appealable, the Appellant has

nevertheless, out of an abundance of caution, appealed the Decision and Order of the Commission's Appellate Panel by filing and serving her Notice of Appeal on February 9, 2018.

ARGUMENTS

1. THE APPELLATE PANEL OF THE SOUTH CAROLINA WORKERS COMPENSATION COMMISSION ERRED BY DETERMINING THAT THE APPELLANT'S AVERAGE WEEKLY WAGE AT THE TIME OF HER INJURY WAS $200.77 PER WEEK AND THAT HER CORRESPONDING COMPENSATION RATE IS $133.86.

The objective of the wage calculation is to fairly approximate the employee's probable future earning capacity. *Elliott v. S.C. Dep't of Transp.*, 362 S.C. 234, 238, 607 S.E.2d 90, 92 (Ct.App.2004). "Disability reaches into the future, not the past; loss as a result of the injury must be thought of in terms of its impact on probable future earnings." *Id.* (citing *Bennett v. Gary Smith Builders,* 271 S.C. 94, 98-99, 245 S.E.2d 129, 131 (1978)). In this case the Appellate Panel's calculation of the Appellant's average weekly wage fails to satisfy the objective. The Appellate Panel's calculation of the Appellant's average weekly wage and compensation rate is based upon multiple errors of law, including an error of law in the application of SC Code Ann. § 42-1-40 that produced an incorrect determination of the Appellant's average weekly wage and thus her compensation rate, and an error of law concerning the legal obligation of the Respondent Employer to pay the Appellant an hourly wage that is not less than the minimum wage required by the federal Fair Labor Standards Act of 1938, as amended, (29 U.S.C. §201, et seq.).

The only testimony presented to the Commission concerning the Appellant's average weekly wage was provided by the Appellant. The Appellant testified that she was employed by the Respondent Georgetown County School District as a food service operator at

Waccamaw Intermediate School. The Appellant further testified that her normal work hours at Waccamaw Intermediate School were 8:00 A.M. to 2:00 P.M., that she normally worked six (6) hours per day and five (5) days per week for an average of thirty (30) hours per week and that she earned approximately $11.00 per hour for each hour that she worked for the Respondent Georgetown County School District. (Transcript of Deposition of Donna Dozier submitted by Stipulation, Page 14, Line 10 through Page 15, Line 17 and Page 16, Line 2 through Line 7); (Hearing Transcript, Page 16, Line 5, through Page 17, Line 5). The Respondents did not present any testimonial evidence concerning the terms of the Appellant's employment to dispute the Appellant's testimony. Nevertheless, the Form 20 prepared by the Respondents' representative James Lindler necessarily assumes that the Appellant earned the equivalent of an hourly rate of $6.69 per hour for each of the thirty (30) hours per week that the Appellant worked for the Respondent Employer prior to her injury. Mr. Lindler's calculation of the Appellant's average weekly wage as set forth on the Form 20 assumes an hourly wage rate that is not only less than the required federal minimum wage, but is also significantly less than the Appellant's actual hourly wage rate of $10.61 as revealed by the records of the Respondent Employer that the Respondent Employer failed to produce in response to the Appellant's document production subpoena of March 27, 2017. (Appellant's Exhibit 1 to the Deposition of Douglas Jenkins, Director of Human Resources for the Respondent Georgetown County School District)

After the hearing before Commissioner McCaskill, in accordance with Commissioner McCaskill's decision to hold the record open, the Appellant submitted the following A.P.A. Supplemental Post Hearing Submissions:

Appellant's Exhibit 1 Letter to Appellant, dated August 28, 2015, from Lisa Johnson, Respondent Employer's Associate Superintendent of Financing Operations, which lists the Appellant's salary for the 2015-2016 school year at the time of her injury as $11,857.00.

Appellant's Exhibit 2 Appellant's Employment Agreement, executed in October, 2014, which sets forth the terms of Appellant's employment as a Food Service Operator for the Respondent Employer during the 2014-2015 school year and indicates that food service worker employees such as the Appellant are expected to work 181 work days during the school year. As the Appellant was hired after the commencement of the 2014-2015 school year, her Employment Agreement indicates that she was expected to work a total of 150 work days during the 2014-2015 school year.

Appellant's Exhibit 3 Active Employee Notice of Election (NOE) executed by the Appellant and Aisha T. Greene, Benefits Administrator for the Respondent Employer, which lists the Appellant's salary for the 2014-2015 school year as $11,522.00.

After the hearing in this matter, in accordance with Commissioner McCaskill's decision to hold the record open, the Respondent Employer submitted the following A.P.A. Supplemental Post Hearing Submission:

Respondent Employer's Exhibit 1 A collection of documents which includes the Appellant's Employment Agreement with Respondent Employer as a Food Service Operator for the Respondent Employer for a period of 150 days during the 2014-2015 school year, Employee Check Detail Reports, and Employee Absence Reports. The Employee Check Detail Reports submitted by the Respondent Employer reflect that the daily wages that the Respondent Employer docked the Appellant for absences during the 2014-2015 school year were as follows:

1. Page 2 Pay Period 01/09/2015-01/30/2015 Time Docked 1.57 days Pay Reduction-$99.95

2. Page 3 Pay Period 02/20/2015-03/11/2015 Time Docked 1.00 days Pay Reduction-$63.66

3. Page 3 Pay Period 03/13/2015-03/30/2015 Time Docked 3.00 days Pay Reduction-$190.98

All of the testimonial and documentary evidence established that the Appellant worked less than fifty-two (52) weeks as a food service employee for the Defendant Employer prior to her injury on August 19, 2015. Based upon the evidence presented, Commissioner McCaskill correctly found as a fact that the Appellant worked less than fifty-two (52) weeks as a food service employee for the Defendant Employer prior to her injury on August 19, 2015. While Commissioner McCaskill correctly found that the Appellant worked less than fifty-two (52) weeks as a food service employee for the Respondent Employer prior to her injury on August 19, 2015, both he and the Appellate Panel of the Full Commission erred in application of SC Code Ann. § 42-1-40 by finding that the Respondent Employer's calculation of the Appellant's average weekly wage at $200.77, as reflected on the Form 20 filed by the Respondents, most correctly reflects the directives of the Act concerning calculation of average weekly wage.

SC Code Ann. § 42-1-40 provides in relevant part:

> "Section 42-1-40 'Average weekly wages' defined
> 'Average weekly wages' means the earnings of the injured employee in the employment in which he was working at the time of the injury during the period of fifty-two weeks immediately preceding the date of the injury... 'Average weekly wage' must be calculated by taking the total wages paid for the last four quarters immediately preceding the quarter in which the injury occurred as reported on the Department of Employment and Workforce's Employer Contribution Reports divided by fifty-two or by the actual number of weeks for which wages were paid, whichever is less. When the employment, prior to the injury, extended over a period of less than fifty-two weeks, *the method of dividing the earnings during that period by the number of weeks and parts thereof during which the employee earned wages shall be followed,* as long as results fair and just to both parties will be obtained.' (*Emphasis supplied.*)

Commissioner McCaskill and the Appellate Panel of the Full Commission failed to correctly calculate the Appellant's average weekly wage by dividing her earnings during the period that she worked by the number of weeks and parts thereof during which she earned wages, as required by the plain and unambiguous language of SC Code Ann. § 42-1-40. The cardinal rule of statutory construction is to ascertain and give effect to the intent of the legislature. *Kiriakides v. United Artists Communications, Inc.*, 312 S.C. 271, 275, 440 S.E.2d 364, 366 (1994). If a statute's language is plain, unambiguous, and conveys a clear meaning, "the rules of statutory interpretation are not needed and the court has no right to impose another meaning." *Hodges v. Rainey,* 341 S.C. 79, 85, 533 S.E.2d 578, 582 (2000).

The Appellant's normal work week at Waccamaw Intermediate School was Monday through Friday from 8:00 a.m. to 2:00 p.m. She normally worked six (6) hours per day and five (5) days per week. The Appellant's testimony on those issues is unchallenged. (Transcript of Deposition of Donna Dozier submitted by Stipulation, Page 14, Line 10 through Page 15, Line 17 and Page 16, Line 2 through Line 7); (Hearing Transcript, Page 16, Line 5, through Page 17, Line 5). The Appellant did not begin her employment as a Food Service Operator for the Respondent Employer at the beginning of the 2014-2015 school year. The Appellant was hired in October of 2014 and her written employment agreement indicates that she was expected to work a total of 150 work days (the equivalent of thirty (30) five (5) day weeks) during the 2014-2015 school year. (Appellant's Post Hearing Exhibit 2- also submitted as Page 12 of the Respondent Employer's 15 Page Post Hearing Exhibit 1). Appellant's Post Hearing Exhibit 3, the Active Employee Notice of Election (NOE) submitted to the South Carolina Public Employee Benefit Authority (PEBA) on October 10, 2014 and executed by the Appellant and Aisha T. Greene, Benefits Administrator for the

Respondent Employer, lists the Appellant's salary for the full 2014-2015 school year as $11,522.00. Division of the Appellant's annual gross wage of $11,522.00 set forth in the NOE (Appellant's Post Hearing Exhibit 3) by the required 181 day work period for the full school year reveals that the Respondent Employer contracted to pay to the Appellant, and the Appellant earned, $63.66 per day for each day that she worked for the Respondent Employer during the 2014-2015 school year. The accuracy of the Appellant's daily compensation rate of $63.66 is confirmed by the Respondent Employer's use of that exact amount when docking the Appellant's pay check for each day during the 2014-2015 school year that the Appellant was absent. The Employee Check Detail Reports submitted by the Respondent Employer (please see Respondent Employer's Exhibit 1) reflect that the daily wages that the Respondent Employer docked the Appellant for absences during the 2014-2015 school year were as follows:

1. Page 2 Pay Period 01/09/2015-01/30/2015 Time Docked 1.57 days Pay Reduction-$99.95
2. Page 3 Pay Period 02/20/2015-03/11/2015 Time Docked 1.00 days Pay Reduction-$63.66
3. Page 3 Pay Period 03/13/2015-03/30/2015 Time Docked 3.00 days Pay Reduction-$190.98

It is apparent that the Respondent Employer docked the Appellant $63.66 for each full day of work missed by the Appellant during the 2014-2015 school year. The Respondent Employer's acknowledgment of the Appellant's daily compensation rate for purposes of docking her pay for absences clearly contradicts the average weekly wage computation set forth on the Form 20 prepared by the Respondents' representative James Lindler.

The Respondents' calculation of the Appellant's average weekly wage as set forth on the Form 20 prepared by the Respondents' representative James Lindler, which was adopted by Commissioner McCaskill and the Appellate Panel, understates the actual wages <u>earned</u> by

the Appellant during each of the weeks that she worked for the Respondent Employer during the 2014-2015 school year. Testimonial and documentary evidence uncovered during recent discovery proceedings establishes that the Appellant actually worked no more than thirty-three (33) weeks during the 2014-2015 school year which ended on June 5, 2015. (Appellant's Exhibit 1 to the Deposition of Catherine Calli Pope; Transcript of Deposition of Douglas Jenkins, Director of Human Resources, Page 22, Line 21 through Page 23, Line 23). Despite information in the possession of the Respondents which confirmed that the Appellant actually worked no more than thirty-three (33) weeks during the 2014-2015 school year, the Respondents' representative James Lindler divided the Appellant's earnings by thirty-nine (39) weeks to calculate the Appellant's average weekly wage on the Form 20 presented to the Commission, thereby materially understating the Appellant's average weekly wage and compensation rate.

In *Breeland v. Colleton County et al.,* 216 S.C. 147, 57 S.E.2d 63 (S.C. 1950), our Supreme Court had occasion to construe a predecessor statute that contained identical language to SC Code Ann. § 42-1-40 as it pertained to a school bus driver who suffered fatal injuries by compensable accident and who worked during a school term of nine successive calendar months. The Court construed Code Sec. 7035-2(e) and referenced the following, applicable portion of the statute, the language of which is identical to the applicable statute in the instant case:

> "Where the employment prior to the injury extended over a period of less than fifty-two weeks, the method of dividing the earnings during that period by the number of weeks and parts thereof during which the employee earned wages shall be followed"

The Breeland Court held:

> "There is no ambiguity in the statute here applicable. There is no doubt of the meaning of the words, quoting again, 'Where the employment prior to the injury extended over a period of less than fifty-two weeks, the method dividing the earnings during that period by the number of weeks and parts thereof during which the employee earned wages shall be followed * * *.' Unquestionably, the result is fair and just and the prescribed method should have been applied in this case."

The unambiguous language of SC Code Ann. § 42-1-40 compels the Full Commission to divide the Appellant's gross wages for the 2014-2015 school year in the amount of $7,830.19 by the thirty-three (33) weeks that the Appellant actually worked during the 2014-2015 school year to produce an average weekly wage of $237.28.

The fallacy of the average weekly wage calculation advocated by the Respondents and adopted by the Appellate Panel of the Full Commission is proven by the fact that the average weekly wage calculation advocated by the Respondents and adopted by the Full Commission clearly violates the federal Fair Labor Standards Act of 1938, as amended, (29 U.S.C. §201, et seq.). All evidence in this case establishes that the Appellant's normal work week at Waccamaw Intermediate School was Monday through Friday from 8:00 a.m. to 2:00 p.m. The Appellant normally worked six (6) hours per day and five (5) days per week for an average of thirty (30) hours per week. (Transcript of Deposition of Donna Dozier submitted by Stipulation, Page 14, Line 10 through Page 15, Line 17 and Page 16, Line 2 through Line 7); (Hearing Transcript, Page 16, Line 5, through Page 17, Line 5). At all times material hereto, the Respondent Employer was subject to the federal Fair Labor Standards Act of 1938, as amended, (29 U.S.C. §201, et seq.) and the federal minimum wage for employees performing services such as those performed by the Appellant was $7.25 per hour. Multiplication of the undisputed thirty (30) hours per week worked by the Appellant by the federal minimum wage of $7.25 per hour reveals that the average weekly wage calculation

advocated by the Respondent Employer and adopted by Commissioner McCaskill and the Appellate Panel of the Full Commission clearly violates the minimum wage provisions of the federal Fair Labor Standards Act of 1938, as amended, (29 U.S.C. §201, et seq.). The minimum wage provisions of the federal Fair Labor Standards Act of 1938 require the Respondent Employer to pay the Appellant no less than $217.50 per week.

The Appellate Panel of the Full Commission clearly failed to apprehend its responsibility to apply the law of the land concerning minimum wage when determining the Appellant's correct average weekly wage. The employment agreement between the Appellant and the Respondent Employer is a contract. It is well-established in South Carolina that the law existing at the time and place of the making of a contract is a part of the contract. *Ayres v. Crowley*, 205 S.C. 51, 30 S.E.2d 785 (1944). This rule of law applies in the area of governmental contracts. *City of North Charleston v. North Charleston District* 289 S.C. 438, 346 S.E.2d. 712 (SC 1986). The Respondent Employer could not legally contract to pay wages to the Appellant that were less than the required minimum wage rate pursuant to the federal Fair Labor Standards Act of 1938 which applied to the Respondent Employer at all times material hereto. The Appellate Panel's complete lack of understanding of this requirement of law is noteworthy. (Transcript of Hearing before the Appellate Panel of the Full Commission Page 7, Line 19, through Page 8, Line 19).

2. THIS MATTER SHOULD BE REMANDED TO THE SOUTH CAROLINA WORKER'S COMPENSATION COMMISSION PURSUANT TO THE AUTHORITY OF SC CODE ANN. §1-23-380(3) (2006) TO TAKE ADDITIONAL MATERIAL EVIDENCE CONCERNING THE APPELLANT'S AVERAGE WEEKLY WAGE WHICH WAS NOT AVAILABLE FOR PRESENTATION TO THE COMMISSION DURING THE PROCEEDING BEFORE THE COMMISSION BECAUSE SUCH MATERIAL EVIDENCE WAS UNLAWFULLY WITHHELD BY THE RESPONDENTS WHO FAILED TO COMPLY WITH A LAWFUL DOCUMENT PRODUCTION SUBPOENA.

As noted above in the Appellant's Statement of the Case, the Decision and Order of the Full Commission's Appellate Panel dated January 12, 2018 which is the subject of this appeal is not a final agency decision that disposes of the whole subject matter of the Appellant's workers compensation proceeding as further proceedings are currently pending before the SCWCC. Accordingly, this Honorable Court may determine that the Decision and Order of the Full Commission's Appellate Panel dated January 12, 2018 is not a final agency decision subject to judicial review pursuant to the authority of *S.C. Baptist Hosp. v. S.C. Dep't of Health & Envt'l Control,* 291 S.C. 267, 270, 353 S.E.2d 277, 279 (1987); *Charlotte–Mecklenburg Hosp. Auth. v. S.C. Dep't of Health & Envt'l Control,* 387 S.C. 265, 267, 692 S.E.2d 894, 895 (2010); and *Bone v. U.S. Food Service,* 404 S.C. 67, 744 S.E.2d 552 (S.C. 2013).

In any event, discovery conducted by the Appellant pertaining to the Appellant's average weekly wage in preparation for the final hearing on the merits with respect to the Respondents' Form 21, the Appellant's Form 50, and the Respondents' Form 51 has made it clear that:

A. The Respondents failed to comply with the Appellant's document production subpoena dated March 27, 2017;

B. Documents responsive to the Appellant's document production subpoena which establish the Appellant's compensation rate and the number of weeks that the Appellant worked prior to her injury were in the possession of the Respondent Georgetown County School District at all times material hereto (Appellant's Exhibit 1 to the Deposition of Catherine Calli Pope; Transcript of

Deposition of Catherine Calli Pope, Page 17, Line 9 through Line 21; Appellant's Exhibits 1 and 2 to the Deposition of Douglas Jenkins); and,

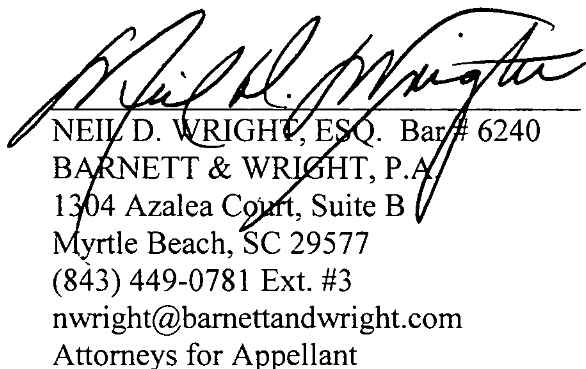
C. Although Appellant's document production subpoena was served upon counsel for the Respondents, the Respondents did not produce all documents in their possession in response to the Appellant's document production subpoena as the document production subpoena was not delivered to the Director of Human Resources of the Respondent Georgetown County School District and the Appellant's former supervisor, Catherine Calli Pope. (Transcript of Deposition of Douglas Jenkins, Director of Human Resources, Page 3, Line 20 through Page 22, Line 10; Transcript of Deposition of Catherine Calli Pope, Page 36, Line 19 through Page 37, Line 21).

It is equally clear that the documents which the Respondents failed to produce in response to the Appellant's document production subpoena contradict the computation of the Appellant's average weekly wage as set forth upon the Form 20 prepared by the Respondents' representative James Lindler and that such material evidence should have been available to the Hearing Commissioner and the Appellate Panel of the Full Commission. This matter should therefore be remanded to the South Carolina Workers' Compensation Commission pursuant to the authority of SC Code Ann. §1-23-380(3) (2006) to take additional material evidence concerning the Appellant's average weekly wage which was not available for presentation to the Commission during the proceeding before the Commission because such material evidence was unlawfully withheld by the Respondents who failed to comply with a lawful document production subpoena.

CONCLUSION

Based upon the foregoing arguments and authorities, the Appellant respectfully requests that this Honorable Court overturn the Full Commission's determination of the Appellant's average weekly wage and compensation rate and determine that the Appellant's accurate average weekly wage rate is $237.28. In the alternative, the Appellant requests that this Honorable Court remand this matter to the South Carolina Workers' Compensation Commission pursuant to the authority of SC Code Ann. §1-23-380(3) (2006) to take additional material evidence concerning the Appellant's average weekly wage which was not available for presentation to the Commission during the proceeding before the Commission because such material evidence was unlawfully withheld by the Respondents who failed to comply with a lawful document production subpoena.

RESPECTFULLY SUBMITTED



NEIL D. WRIGHT, ESQ. Bar# 6240
BARNETT & WRIGHT, P.A.
1304 Azalea Court, Suite B
Myrtle Beach, SC 29577
(843) 449-0781 Ext. #3
nwright@barnettandwright.com
Attorneys for Appellant

Myrtle Beach, South Carolina

June 15, 2018

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE SOUTH CAROLINA WORKER'S COMPENSATION COMMISSION
W.C.C. File No. 1512151

Appellate Case No. 2018-000216

RECEIVED
JUN 1 8 2018
SC Court of Appeals

Donna Dozier, Claimant, Appellant

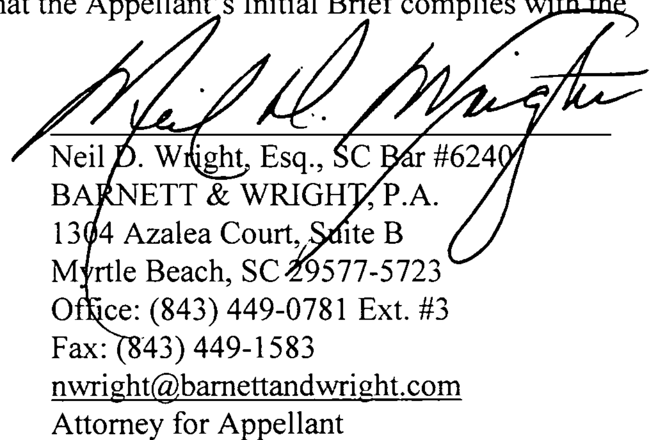
v.

Georgetown County School District, Employer, and
SC School Boards Insurance Trust, Carrier, Respondents

CERTIFICATE OF COUNSEL

I hereby certify on this 15th day of June, 2018, that the Appellant's Initial Brief complies with the requirements of Rule 208(b)(1), SCACR.

June 15th, 2018



Neil D. Wright, Esq., SC Bar #6240
BARNETT & WRIGHT, P.A.
1304 Azalea Court, Suite B
Myrtle Beach, SC 29577-5723
Office: (843) 449-0781 Ext. #3
Fax: (843) 449-1583
nwright@barnettandwright.com
Attorney for Appellant

Other Counsel of Record:

Timothy B. Killen, Esq.
Holder Padgett Littlejohn + Prickett, LLC
349 W. Coleman Blvd, Suite 300
Mt. Pleasant, SC 29464
Office: (843) 277-0826
Fax: (843) 589-9000
tkillen@hplplaw.com
Attorney for Respondents

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE SOUTH CAROLINA WORKER'S COMPENSATION COMMISSION
W.C.C. File No. 1512151

Appellate Case No. 2018-000216

Donna Dozier, Claimant, Appellant

v.

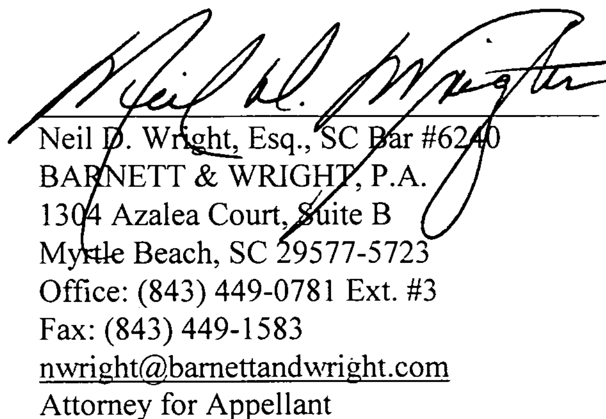
Georgetown County School District, Employer, and
SC School Boards Insurance Trust, Carrier, Respondents

RECEIVED
JUN 18 2018
SC Court of Appeals

PROOF OF SERVICE

I certify that on this 15th day of June, 2018, I have served true and correct copies of the Appellant's Initial Brief and the Appellant's Designation of Matter To Be Included In The Record On Appeal upon the Respondents Georgetown County School District and SC School Boards Insurance Trust by depositing same in the United States Mail, with sufficient first class postage affixed thereto, addressed to the Respondents' counsel of record, Timothy B. Killen, Esq., at Holder Padgett Littlejohn + Prickett, LLC, 349 W Coleman Blvd, Suite 300, Mt. Pleasant, SC 29464.

June 15, 2018



Neil D. Wright, Esq., SC Bar #6240
BARNETT & WRIGHT, P.A.
1304 Azalea Court, Suite B
Myrtle Beach, SC 29577-5723
Office: (843) 449-0781 Ext. #3
Fax: (843) 449-1583
nwright@barnettandwright.com
Attorney for Appellant

BARNETT & WRIGHT, P.A.

ATTORNEYS AT LAW
1304 AZALEA COURT, SUITE B
MYRTLE BEACH, SOUTH CAROLINA 29577

ROBERT L. BARNETT
NEIL D. WRIGHT
MATTHEW N. WRIGHT

Telephone: (843)449-0781-Ext#3
Telecopier: (843)449-1583
E-mail: nwright@barnettandwright.com
(Not for Confidential Communication)

June 15, 2018

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

RECEIVED
JUN 18 2018
SC Court of Appeals

RE: Donna Dozier, Claimant, Appellant,
v.
Georgetown County School District, Employer, and
SC School Boards Insurance Trust, Carrier, Respondents
Appellate Case No. 2018-000216

Dear Ms. Kitchings:

I am enclosing herewith the following documents to be filed in your office:

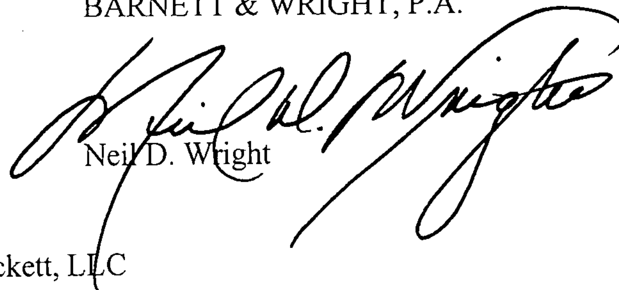
1. One copy of the Initial Brief of the Appellant;

2. One copy of the Appellant's Designation of Matter to be included in the Record on Appeal; and,

3. Proof of Service upon counsel for the Respondents.

Very truly yours,

BARNETT & WRIGHT, P.A.



Neil D. Wright

cc: Timothy B. Killen, Esq.
Holder Padgett Littlejohn + Prickett, LLC
349 W Coleman Blvd, Suite 300
Mt. Pleasant, SC 29464
Attorney for Respondents

FIRST•CLASS FIRST•CLASS FIRST•CLASS FIRST•CLASS FIRST•CLASS

NEIL D WRIGHT, ESQ
BARNETT & WRIGHT, P.A.
1304 AZALEA CT STE B
MYRTLE BEACH SC 29577-5723

$2.89^0
US POSTAGE
FIRST-CLASS
FROM 29577
JUN 15 2018
stamps.com

First Class Mail

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
PO Box 11629
Columbia SC 29211-1629

RECEIVED
JUN 18 2018
SC Court of Appeals