THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION APPELLATE PANEL

Michael R. Campbell, II, Commissioner, Chair
T. Scott Beck, Commissioner
Gene McCaskill, Commissioner

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SC Court of Appeals

Appellate Case No. 2018-000623
W.C.C. File Nos. 1509301 and 1701425

Corey Scott, Claimant, Respondent,

v.

Agru America, Inc.,
Employer, Appellant,

and

Hartford Underwriters Insurance Co.,
Carrier, Appellant,

and

Granite State Insurance Co., Carrier, Respondent.

INITIAL BRIEF OF APPELLANT

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STATEMENT OF ISSUES ON APPEAL

1. DID THE APPELLATE PANEL ERRED ITS INTERPRETATION OF GEATHERS V. 3V, INC. AS A MATTER OF LAW?

2. DID THE APPELLATE PANEL INCORRECTLY DETERMINED CLAIMANT'S CONDITION WAS A "MERE RECURRENCE," WHEN SUCH A FINDING IS CLEARLY ERRONEOUS IN VIEW OF THE RELIABLE, PROBATIVE, AND SUBSTANTIAL EVIDENCE ON THE WHOLE RECORD?

STATEMENT OF THE CASE

This matter was heard before Commissioner Wilkerson in Andrews, SC on June 15, 2017. Claimant alleged injuries to the back, groin, right hip, right leg, and left leg from a work-related accident on July 20, 2015. Hartford Underwriters Insurance Co. was the carrier for Employer, Agru America, at the time of the original claim. Claimant additionally asserts a second injury by accident, aggravating the injuries sustained in the first incident, on January 20, 2017. Granite State Insurance Co. was the carrier for Employer at the time of the subsequent claim. The two claims, WCC#'s 1509301 and 1701425 respectively, were consolidated for purposes of adjudication.

The Hartford admitted Claimant sustained an injury to the back as a result of the July 20, 2015 accident and denied any other alleged body parts. The Hartford continued to provide medical care and benefits until Claimant's new January 20, 2017 injury and aggravation, at which time they denied further benefits pursuant to Geathers v. 3V, Inc., 371 S.C. 570, 641 S.E.2d 29 (2007). The Hartford argued that, under Geathers, the party on the exposure at the time of the last injurious exposure would be responsible for any necessary future care or treatment. The Hartford further argued that, aside from simple last injurious exposure, the Claimant sustained a quantifiable aggravation and worsening of his condition sufficient to shift liability to the subsequent injury.

Granite State argued that the subsequent injury was a mere recurrence and, therefore, the Hartford should remain solely liable for benefits.

Thereafter, on August 3, 2017, the Single Commissioner issued an Order finding the Claimant did not sustain an aggravation, but a mere recurrence or continuation and held that The Hartford remained liable for the Claimant's injury and future treatment.

The Defendants/Appellants subsequently requested the Appellate Panel of the Workers' Compensation Commission review the prior decision. The Appellate Panel received briefs, evidence, and heard oral arguments on January 23, 2018. Thereafter, on March 9, 2018, the Appellate Panel issued an Order affirming the Order of the Single Commissioner. The Defendants (Hartford) filed a Notice of Appeal on April 5, 2018. This appeal follows.

STANDARD OF REVIEW

"The Administrative Procedures Act (APA) provides the standard for judicial review of decisions by the [Appellate Panel]." Pierre v. Seaside Farms, Inc., 386 S.C. 534, 540, 689 S.E.2d 615, 618 (2010); *accord* Lark v. Bi–Lo, Inc., 276 S.C. 130, 133–34, 276 S.E.2d 304, 306 (1981). Under the APA, this court can reverse or modify a decision of the Appellate Panel if the substantial rights of the appellant "have been prejudiced because the decision is affected by an error of law or is clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record." Transp. Ins. Co. v. S.C. Second Injury Fund, 389 S.C. 422, 427, 699 S.E.2d 687, 689–90 (2010); S.C.Code Ann. § 1–23–380(5)(d), (e) (Supp.2012).

"In Hines v. Pacific Mills, 214 S.C. 125, 51 S.E.2d 383, we held that awards of the Industrial Commission may not rest upon surmise, conjecture or speculation but must be founded upon substantial evidence, and that if the evidence is all one way, or if the findings of the Commission are

based on surmise, speculation or conjecture, then the issue becomes one of law for the court and not of fact for the Commission. In this same case we held that expert testimony is not binding upon the fact-finding body if there is competent substantial evidence to the contrary, though in matters of such kind which are not of common knowledge, fact-finding body must accept opinion of experts." Herndon v. Morgan Mills, Inc., 246 S.C. 201, 210, 143 S.E.2d 376, 381 (1965).

STATEMENT OF FACTS

Shortly after the initial injury on June 20, 2015, Claimant was referred to Dr. Brian Blair at Carolina Orthopedics for further evaluation of right elbow pain and right hip pain (APA 3 at 116-121). The right elbow pain was described as dull and resolved quickly. (APA 3 at 122). Claimant's primary complaints to Dr. Blair were of right hip pain. On his August 3, 2015 visit, Dr. Blair noted Claimant to walk with a slight limp and to display tenderness over the right greater trochanter and groin. (APA 3 at 122-125). Claimant was sent for a right hip MRI at Georgetown Memorial Hospital, but the results were unremarkable. (APA 6 at 134-135). Claimant returned to Dr. Blair on August 20th and was referred a back specialist. (APA 3 at 126).

Claimant presented to Dr. Stephen Parker for the back referral on August 26, 2015 with a pain level of 7. (APA 1 at 1-2). Claimant retunred on September 9, 2015 complaining of a pain level of 8. (APA 1 at 8). Claimant received a lumbar MRI on September 16, 2015 which showed some minimal hypertrophic changes in some of the facet joints but little other abnormal findings. (APA 5 at 131-132). On September 30, 2015, Claimant's pain level was 7 and Dr. Parker recommended physical therapy and continued Claimant on light duty. (APA 1 at 13-14). Claimant began physical therapy following the MRI, but returned to Dr. Parker on October 28, 2015, reporting that the PT increased his pain. Dr. Parker noted the minimal findings on the MRI but stated that Claimant may

benefit from facet blocks for mild facet arthropathy. (APA 1 at 21). Claimant continued to be written to light duty.

In early November 2015, there was an issue regarding prescription refills and Dr. Parker declined to continue treating Claimant for a period of time. Following clarification, Claimant returned to Dr. Parker for follow-up on April 26, 2016, at which point his pain level was an 8 and he was scheduled for a medial branch block. (APA 1 at 26). On May 25, 2016, Claimant indicated his pain score was a 7 and that his problem was fluctuating and occurred intermittently. (APA 1 at 33). He was to continue light duty work. (APA 1 at 33).

Claimant received medial branch blocks on July 14, 2016 and July 21, 2016 (APA 1 at 38-41). On July 27, 2016, Claimant returned to the doctor reporting an 8 pain level that was fluctuating and intermittent, with issues down the right leg. (APA 1 at 44). On August 31, 2016, Claimant reported his pain was worse since wearing a back brace during work and that his pain was worsening and persistent. Despite the much different reported pain symptoms, Claimant continued to report a pain score of 8. (APA 1 at 50). At his next visit on October 19, 2016, Claimant stated his pain is always an 8 out of 10, but elsewhere reported 9/10 pain (APA 1 at 56). Dr. Parker indicated he would refer Claimant to Dr. Cook for a surgical consult. (APA 1 at 56). Claimant returned to Dr. Parker on November 23, 2016 reporting 8.5-9 pain and Dr. Parker recommended an SI joint injection and Claimant continued on light duty. (APA 1 at 60). At his December 21, 2016 appointment, Claimant was no longer reporting persistent pain and described moderate symptoms that occurred intermittently. (APA 1 at 65).

Claimant returned to Dr. Parker on January 18, 2017, for follow-up of 8/10 lumbar spine pain with radiating symptoms. Dr. Parker indicated he wanted to refer Claimant to Dr. Cook for a

surgical consult as Claimant did not get much relief from injections. (APA 1 at 70).

Claimant presented to the Emergency Department of Georgetown Memorial Hospital on January 23, 2017 complaining that "**he reinjured himself four days ago.**" (APA 7 at 137; emphasis added). Claimant testified that this occurred when he was winding up his truck's landing gear and the gear jammed, which caused a pull in his back with pain through the legs, back, and groin. (Tr. at 35).

On February 6, 2017, Claimant saw Dr. Cook for his persistent low back pain. Dr. Cook noted that Claimant had another new injury on January 23, 2017 and was "having pain on the right side of back, leg, and hip pain." (APA 2 at 103-104). Dr. Cook recommended Dr. Parker perform a right hip injection and then see Claimant back. (APA 2 at 103-108).

Claimant returned to Dr. Parker on February 15, 2017, **complaining for the first time of "moderate-severe" pain**. He complained of persistent 9/10 pain and, **for the first time, pain that reached a level of 10/10**. (APA 1 at 76; emphasis added). Claimant confirmed at the Hearing that, following the second accident, his pain was "possibly getting up to a ten." (Tr. at 36).

Claimant's symptoms following the new, January 20, 2017 injury were still severe enough for him to return to the ER at Georgetown Memorial Hospital on March 2, 2017 complaining of 9/10 pain and sharp pain that wrapped around the waist. (APA 8 at 169-170, 211). Claimant continued to report that his increased complaints were related to a reinjury. (APA 8 at 173).

Claimant testified that he went out of work on March 2, 2017 after reporting to the emergency room for dizziness (Tr. at 37), which is a symptom he had not complained about nor had prevented him from working prior to the second injury on January 20, 2017.

Claimant returned to Dr. Parker on March 15, 2017 after presenting to the ER on March 2,

2017. Dr. Parker noted, "he is having an increase in pain, I will change his medications around." Claimant was pulled off of Percocet, which he had been taking for many months, and placed on Oxycontin 20mg and Dilaudid 4mg. The current pain level was noted to be 9/10 and worsening. (APA 1 at 81).

Claimant returned to Dr. Parker on April 12, 2017 reporting that he recently started taking anxiety medication and continued to report fluctuating pain. (APA 1 at 86). Claimant returned on May 3, 2017 complaining of 8/10 lower back pain; his medications were altered and he was referred for a new MRI and physical therapy. (APA 1 at 90). Claimant was, for the first time, taken completely out of work while on the narcotic medications which had been altered following his January 20, 2017 injury. (APA 1 at 95).

Claimant presented for a physical therapy evaluation on May 11, 2017 for complaints of back pain radiating to the hip and legs. Claimant reported reinjuring his back in January 2017 when he "**was trying to deal with the landing gear on the 18 wheeler and he felt an aggravation of his pain.**" (APA 9 at 219; emphasis added).

Claimant underwent an updated lumbar MRI on May 10, 2017, which revealed pertinent changes, particularly at L2-3. Whereas, the September 16, 2015 (post-first accident) MRI noted at L2-3: "slight disc dessication which is not unusual for a patient of this age, some facet joint hypertrophy is seen. No bony injury is seen. No disc herniation is seen." (APA 5 at 131). The post-second accident MRI showed the following at L2-3: "**Mild degenerative disc change. Mild lateral bulging of disc material bilaterally with extension of disc material to the proximal neuroforamen which appears visually slightly greater on the left on parasagittal imaging.** No disc herniation or high-grade canal stenosis. Degenerative facet hypertrophic changes and the

combination slightly narrows the bilateral neuroforamen." (APA 4 at 129; emphasis added).

Claimant returned to Dr. Parker on May 17, 2017 following his MRI which was noted for bulging disc with spondylosis. Claimant noted that his pain was an 8 and worsening. (APA 1 at 98). Dr. Parker discharged him from physical therapy and recommended another referral to Dr. Cook for a surgical consult. (APA 1 at 98).

On June 12, 2017, Dr. Cook noted the new findings in the MRI show "mild degenerative disc disease at L2/3, left sided disc bulge approximates the L2 nerve root on the left" and recommended follow up with Dr. Parker for injections. (APA 10 at 228).

ARGUMENTS

I. THE APPELLATE PANEL ERRED ITS INTERPRETATION OF GEATHERS V. 3V, INC. AS A MATTER OF LAW

The full Commission held that Claimant's second injury was not sufficient to transfer liability to the second carrier pursuant to Geathers v. 3V, Inc., 371 S.C. 570, 641 S.E.2d 29 (2007).

The court in Geathers v. 3V, Inc., 371 S.C. 570, 641 S.E.2d 29 (2007) held that "the last injurious exposure rule" applied to cases of successive carriers. "This rule 'places full liability upon the carrier covering the risk at the time of the most recent injury that bears a causal relation to the disability.'" Id. at 371 S.C. 577-578, 641 S.E.2d 33.

"Consistent with the rule that an employer takes its employee as it finds her, the last injurious exposure rule makes the insurer at risk at the time of the second injury liable even if the second injury would have been much less severe in absence of the prior condition and even if the prior injury significantly contributed to the final condition." Id. at 371 S.C. 577-578, 641 S.E.2d 33.

Furthermore, "the essence of the last injurious exposure rule ... is to hold the insurer on the risk at the time of the second injury solely liable when the second injury aggravates the first." Id. at 371 S.C. 580, 641 S.E.2d 34.

It is undisputed that Claimant sustained a new injury by accident when he injured his back on the job on January 20, 2017. Claimant testified that he was cranking up his truck's landing gear when it jammed, causing a new injury to the back.

A "mere recurrence" as used in Geathers implies that the symptoms of the first injury had waned to some extent and a new injury/incident at work causes the symptoms to return, but not exceed the prior injury. Here, the Claimant testified that the new injury was severe enough to warrant a trip to the emergency room on January 23, 2017. (Tr. at 36). Claimant testified at the Hearing that his pain levels in the immediate aftermath of the second injury were 8-9/10 and "possibly getting up to at ten." (Tr. at 36). The medical reports of January, February, and March 2017 contemporaneously recorded Claimant's pain reports to be 9/10 and 10/10 and that these pain reports were related to a reinjury. (APA 1 at 76, 81; APA 8 at 169-170, 211). From pain levels alone, this new injury produced symptoms exceeding any prior pain complaints related to the original injury.

Claimant's increased pain complaints with the second injury also resulted in Dr. Parker doubling the dosage of Claimant's Oxycontin (increased from Percocet 10mg) and adding Dilaudid. (APA 1 at 81-82). There is also evidence of worsening on Claimant's MRI studies, which were now notable for "bulging disc with spondylosis" as Dr. Parker noted "the problem is worsening."

It appears that the Commission relied on an interpretation that, if Claimant's surgical status is unchanged and his ongoing pain levels are similar in the 8-9/10 range, then the new injury was

simply a recurrence of the original injury.

However, the Commission's interpretation ignores the fact that Claimant's symptoms following the second injury exceeded any reports connected to the first injury. He complained of highest ever pain scores, Claimant had to go to the emergency room twice for the second accident before he stabilized compared to once for the first, Claimant began having complaints of a new symptom that had not previously impacted his work (dizziness), and Claimant's medications had to be increased substantially to get a similar pain relief to those he took prior to January 20, 2017.

Even if Claimant's new injury has not resulted in serious new treatment beyond the new medications (i.e. surgery) and pain levels have returned to pre-reinjury levels (with the benefit of increased medications and being out of work); the fact that the new injury exceeded anything related to the prior accident takes it out of the realm of a "mere recurrence." There was no point prior to January 20, 2017 where Claimant suffered 10/10 pain for the Commission to point back to as a recurrence of something normal to the first injury.

Furthermore, given the greater symptoms, new symptoms, and changing medication regimens, it was speculative of the Commission to hold that a similarity in current pain complaints (while not working and on higher medications) and a lack of new recommendations for surgery, means that Claimant's second accident did not cause a material lengthening in Claimant's course of treatment, or cause a weakening such that additional or more intensive treatment may be necessary in the future, or cause a prolonged period of disability from work. Claimant's new, more serious injury, like in Geathers, has become "intertwined, indistinguishable, and inseperable" from the prior accident. Id. at 371 S.C. 580, 641 S.E.2d 34. As with Geathers, in the instant case, the successive-carrier problem should be resolved to find the second carrier liable from the date of the second

accident forward.

The Appellants respectfully submit that, by its very nature, a more severe second accident cannot be a "mere recurrence" of a less severe first injury. The interpretation of the Commission ignores the plain meaning of the work recurrence (occurring again) and; therefore, the Appellants respectfully request that the Order of the Appellate Panel be reversed and liability from January 20, 2017 and continuing should fall on the Respondents (Granite State).

II. THE APPELLATE PANEL INCORRECTLY DETERMINED CLAIMANT'S CONDITION WAS A "MERE RECURRENCE," WHEN SUCH A FINDING IS CLEARLY ERRONEOUS IN VIEW OF THE RELIABLE, PROBATIVE, AND SUBSTANTIAL EVIDENCE ON THE WHOLE RECORD

The record is replete with evidence showing Claimant's second work injury had a tangible impact on his treatment and ongoing medical care.

a. The Claimant's Hearing Testimony Indicates a Physical Worsening

Claimant's testimony at the Hearing confirmed that his second injury was severe enough to require two emergency room visits (despite access to an authorized treating physician), whereas the first injury only required one ER visit. (Tr. at 42). He testified that the pain levels went up after the second injury and before the first new ER visit and by February 2017 he had experienced flares to 10/10 pain. (Tr. at 44, 45). There is no evidence of prior flares or pain reports to this level.

Claimant testified that, prior to the second accident (January 20, 2017), he was able to perform full days of work on light duty and drive a truck for two hours. (Tr. at 47). He testified that the physicality of the job would cause higher levels of pain in the end of the work day, but he would recover by the mornings to start again. (Tr. at 48). However, Claimant's testimony was that, after the second accident, the 8-9/10 pain levels have been constant while he's been out of work. (Tr. at 49).

Claimant testified that he is not getting the same relief with rest that he was prior to the second accident. (Tr. at 49, 54). While Granite State previously argued that there was no aggravation because the pain levels are similar now to what was reported prior to the second accident (there is already not much room beyond 8-9/10), the fact that the Claimant's pain now does not improve with rest is clear evidence of an important change in condition. By the time of the Hearing, Claimant had been completely out of work for several weeks without improved pain and with new, narcotic medications (Dr. Parker took him off his longstanding Percocet 10mg prescription and placed him on higher doses of Oxycontin 20mg and Dilaudid 4mg on March 15, 2017; APA 1 at 81).

While Claimant's testimony of similar pain may appear to reflect a lack of change in condition, it doesn't tell the entire story. Claimant's inability to recover with rest following the second-accident is important and indicative of a significant change in condition. Furthermore, the one pain report of 6/10 that Respondents (Granite State) relied on before the Commission, did not recede from the 9-10/10 pain levels until a month after Dr. Parker significantly increased pain medications due to the second injury (from Percocet 10mg to Oxycontin 20mg and Dilaudid 4mg). At the Hearing, Claimant testified that his pain was still in the 8-9/10 range (Tr. at 49), in spite of the increased dosage of pain medications and without the strain of daily work he experienced prior to the second injury. He was no longer getting the relief with rest that he felt prior to the second injury.

Additionally, prior to the second accident Claimant had been working light duty (to include driving a truck two hours a day) until going to the emergency room for the second time after the second accident due to new complaints of dizziness. (Tr. at 37). The Claimant was working for the Employer until following the second injury and had no prior reports of dizziness that would take him out of his truck. This new symptom is only documented to have presented itself after the second

accident, therefore, the proximate cause of the Claimant's inability to work (and therefore, disability from work) is the second accident.

b. The Claimant's Medications Were Changed in Response to the Second Injury, Causing Claimant to be Written Out of Work

As noted above, the Claimant was on a regular regimen of Percocet 10mg prior to the second injury. Following the second injury, Claimant's first visit with Dr. Parker was on February 15, 2017, where he complained of 9/10 pain with flares to 10/10 pain. (APA 1 at 76). Claimant's next appointment with Dr. Parker was on March 15, 2017 where he reported "The problem is worsening." Based on this, Dr. Parker noted, "He is having increased pain, I will change his medications around." (APA 1 at 81). Dr. Parker replaced 10mg Percocet with 20mg Oxycontin and 4mg Dilaudid, a significant increase in pain medications. At the very next appointment on April 12, 2017, Claimant noted that the Dilaudid was making him sleepy. (APA 1 at 86). The Claimant's reaction to this change in narcotic pain medications resulted in Dr. Parker ordering that he not work with chemicals while on the narcotic medications, which effectively took Claimant out of work. (APA 1 at 95).

The increase in medications caused by the worsening pain following the second accident, caused Claimant to be placed on a stronger medicine regimen, which ultimately caused him to be medically placed out of work due to the second accident.

c. Claimant's MRI Results and Subsequent Recommendations are Different

Claimant's initial MRI showed "minimal hypertrophic change in some facet joints... no disc herniation." (APA 5 at 131). Subsequently, Dr. Parker recommended facet blocks at L3-S1 based on mild facet arthropathy and otherwise "minimal findings on MRI." (APA 1 at 21). Claimant underwent two sets of medial branch blocks at L3-4, L4-5, and L5-6 on July 14 and 21, 2016. (APA 1 at 38, 41). In his August 31, 2016 note, Dr. Parker noted Claimant for "failed MBB injections."

(APA 1 at 50). As of November 23, 2016, Dr. Parker was recommending an SI joint injection. (APA 1 at 60). He was referred to Dr. Cook, who saw nothing surgical and recommended right hip injection. (APA 2 at 103).

Dr. Parker recommended a new MRI of the lumbar spine on May 3, 2017 (post-second accident). (APA 1 at 90). The new MRI showed "mild bulging of disc material bilaterally" with facet hypertrophic changes which combined to narrow the neuroforamen. (APA 4 at 129).

Following receipt of the new MRI, Dr. Parker's May 17, 2017 notes "I reviewed his MRI with him today which shows a bulging disc with spondylosis." (APA 1 at 98). This is the first mention of a bulging disc in Dr. Parker's notes, Claimant declined another injection and Dr. Parker re-referred Claimant to Dr. Cook for further surgical consultation. (Id.) Dr. Parker's patient history of May 17, 2017 also notes "The problem is worsening." (Id.)

Dr. Cook saw Claimant again on June 12, 2017 and, regarding the post-second accident MRI, noted "mild degenerative disc disease at L2-3, left sided disc bulge approximates the L2 nerve root on the left." (APA 10 at 228). Dr. Cook continued to opine that the condition was not surgical, but did issue a new recommendation for a radiofrequency ablation procedure. (Id.)

It is clear from the medical notes and course of treatment that the initial MRI did not show significant changes at L2-3, in fact, it was the first level left out of the injections performed by Dr. Parker prior to the second injury. Following the post-second injury MRI, both Dr. Parker and Dr. Cook noted the bulge at L2-3 in their notes, a finding that was not present prior to the Claimant's second accident.

d. Dr. Parker's "Guarded" Deposition Testimony Still Opines that Claimant Sustained a Change of Condition

Dr. Parker's deposition testimony repeatedly states that Claimant's second injury aggravated the pre-existing condition. Granite State previously argued that Dr. Parker's opinion should be dismissed because it was a "guarded" opinion of an aggravation and was, in part, based on Claimant's reports to him. The Defendants would argue that Dr. Parker is entitled to consider the Claimant's opinion in making a medical determination as is commonly done in the medical field. Dr. Parker's opinion on aggravation is not without documentation either. His post-second accident notes show a flare in pain to 10/10 levels and "moderate-severe" pain, which were both the first instances of pain reports to this level in his notes. (February 15, 2017; APA 1 at 76). Dr. Parker's March 15, 2017 note stated "The problem is worsening." and that "he is having increased pain, I will change his medications around." (APA 1 at 81).

Therefore, based on Claimant's reports of worsening problems, Dr. Parker made a medical decision to change his medications, which also had the impact of displacing Claimant from work, all related to the second date of accident. Dr. Parker's placement of Claimant on Dilaudid following the second injury (APA 1 at 81) resulted in Claimant's reports of drowsiness at this next appointment on April 12, 2017 and his eventual placement out of work. (APA 1 at 86).

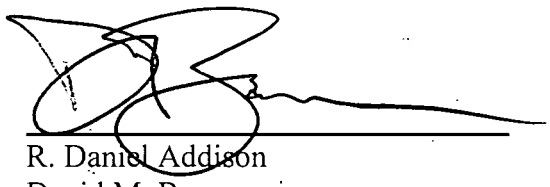
Given the MRI date of May 10, 2017, Dr. Parker did not have the benefit of the new MRI at his May 4, 2017 deposition; a finding that both he and Dr. Cook found significant enough to highlight in their notes. Given his highlighting of this point in his notes, it is reasonable to infer that it would only strengthen his position that the second accident constituted an aggravation.

Finally, the Defendants would point out that there are no medical opinions, guarded or otherwise, that state Claimant did not sustain an aggravation with the second injury on January 20, 2017.

CONCLUSION

For the reasons stated, this Court should reverse the judgment of the Appellate Panel of the South Carolina Workers' Compensation Commission and find the Respondents (Granite State Insurance Company) liable for any benefits the Claimant is entitled to following the second date of accident.

Respectfully submitted,



June 18, 2018

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T. Scott Beck, Commissioner
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Agru America, Inc.,	Employer, Appellant,
	and
Hartford Underwriters Insurance Co.,	Carrier, Appellant,
	and
Granite State Insurance Co.,	Carrier, Respondent.

PROOF OF SERVICE

This is to certify that a copy of the foregoing **Initial Brief of Appellant and Designation of Matter** has been served upon the flowing by placing the same in the United States mail, first class postage pre-paid, addressed as shown below on the 18th day of June, 2018.

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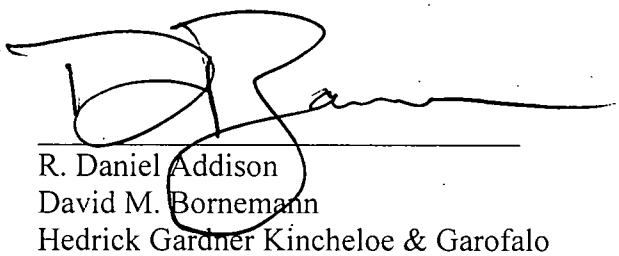

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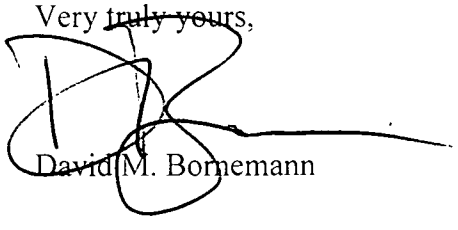
RE: Scott, Corey v. Agru America, Inc.
Appellate Case No. 2018-000623
Our File: 00013L.00130

Dear Ms. Kitchings:

Enclosed for filing is the Initial Brief of Appellant and Designation of Matter in the above referenced Workers' Compensation claim and the Proof of Service.

By copy of this letter I am herewith serving a copy of the enclosed on opposing counsel.

Very truly yours,



David M. Bornemann

DMB/dmb
cc: Harry A. Oxner, Esq.
Leslie M. Whitten, Esq. and Catherine H. Chase, Esq.