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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SOUTH CAROLINA
SC Workers' Compensation Commission
Appellate Panel

SCWCC File No.: 1307922

RECEIVED
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SC Court of Appeals

Preston F. McDaniel, Esquire and
John M. Milling, Esquire, Appellants,

v.

South Carolina Workers
Compensation Commission, Respondent.

IN RE:

South Carolina Workers' Compensation
Commission

Pamela Cartee, Employee Claimant,

v.

South Carolina Judicial Dept., Employer
And State Accident Fund, Carrier Defendants.

NOTICE OF APPEAL

Appellants Preston F. McDaniel, Esquire and John M. Milling,
Esquire appeal the Decision of the Hearing Commissioner filed
March 6, 2018 and the Full Commission Order of the South Carolina
Workers' Compensation Commission filed May 30, 2018. Appellant
received notice of entry of the Full Commission (the final Agency

Decision) according to an unsigned "Affidavit of Service" by email pursuant to Regulation 67-213 on May 30, 2018. SC Code §42-17-60 requires service by registered mail which has been requested. A party's time to appeal or otherwise plead under SC Code §1-23-380 as to a motion for rehearing does not begin until so served; service and compliance with the statute has been requested. A Regulation while having the force of law cannot alter or add to the requirement of a statute. The Commission has refused compliance. See for example: Gadson v. Mikasa Corp., 368 S.C. 214, 628 S.E.2d 262 (SC App. 2006).

Pursuant to SC Code §42-17-60, the grounds of the appeal and/or the errors of law presented to the Court are set out hereinafter:

I.

The following issues were presented for decision by the Full Commission from the Decision of the Hearing Commissioner which are hereby appealed to this Court:

1. That pursuant to SC Code of Laws §42-17-40, the attorneys as Claimants request a review of all of the Findings of Fact, the Conclusions of Law, the Order and Award and of all rulings and decisions made by the Commissioner at the hearing, as contained in the Record or as made at any unrecorded pre-hearing conference, and/or in any communications concerning the claim (fee request), Order, Award and Decision between December 5, 2017 and March 6, 2018 with or between the Commission rendered by the Hearing Commissioner in this matter.

2. That the hearing Commissioner erred by refusing to approve the fee as requested on December 5, 2017, which fee request is in accordance with Statute, Regulation and Case Law.

3. The Commissioner erred as a matter of law by denying a portion of the fee in violation of Statutory authority granted to the Commission under 42-15-90 and Regulations 67-1203 thru 1207.

4. Where the Statute provides that if a Commissioner reviewing a fee request has any question or concerns concerning the fee requested in any regard, The Commissioner is required (shall) to, "immediately schedule" a hearing to hear argument and/or present testimony, is the hearing Commissioner estopped from and/or has he waived challenging the fee where a hearing was not immediately scheduled and where a hearing was not set until requested by counsel and then was set on January 17th for February 12th, and a portion of the fees requested was not finally denied until over 3 months post when the fee request was submitted.

5. Where the hearing Commissioner does not immediately question a part of the fee and return an Amended Order which would allow a Motion to be filed with the Commission pursuant to Regulation 67-1204(E) to challenge the amendment to the fee as requested, is the Commissioner in derogation of the Law and is the Commissioner and Commission estopped from further challenging the fee for non-compliance with statute and regulation.

6. Are the Regulations adopted by the Commission that being Regulations 67-1203 thru 1207 null and void as being in violation of the requirements of South Carolina Code §42-3-185?

7. Where the Fee request filed on December 5, 2017, was in accordance with South Carolina Code §42-15-90; and Commission Regulation 67-1205(C) which provides for a 33.3% fee based on the total of compensation paid and also under §67-1205(C)(2) which provides that, "if the attorney secures the payment of permanent disability later, the attorney may charge, according to these Regulations, up to but not more than 33.3% of the settlement or Award"; and where under South Carolina case law presented to the hearing Commissioner holding that the permanent Award is determined based on the date that the Commission determines maximum medical improvement at which time weekly compensation benefits payable thereafter constitute payments towards the Award and not temporary total disability benefits, [See for example as presented to the hearing Commissioner Hendricks v. Pickens County 335 S.C. 405, 517 S.E.2nd 698 (1999), did the Hearing Commissioner err as a matter of law by not Awarding the Attorneys fees as requested: violate statute, tortuously interfere with contract commit malfeasance in office, fail to perform a ministerial act contrary to law and fact. Further did the action and order constitute an arbitrary, capricious act, and an abuse of discretion under law?

II.

As to the appeal procedure and the appeal before the Full Commission (which is actually a request for review under SC Code §42-17-50) and as to the Full Commission Decision, the following issues in addition to the issues presented to the Full Commission as to the Hearing Commissioner's Decision, are raised and constitute errors of law and/or fact:

1. That it is a fatal defect for an Order to be improperly captioned. In this matter, the Order of the Full Commission is captioned as being an Order in the Matter of: Pamela O. Cartee, Claimant v. South Carolina Judicial Department, Employer and State Accident Fund, Carrier. That is not the case. A review of the Form 30 filed with the Commission will show that the Appeal is in reference to, not a fee dispute, but a Request for Review of the Order denying a portion of the attorneys' fees request made by the attorneys. This is not a dispute between the attorneys and the Claimant as noted by the Commission in the Rule and at oral argument (letter from claimant imploring Commission to approve entire fee requested) nor are the Defendants to the underlying WCC claim in any way involved as parties to the action. The parties to this action are at most, the Commission, the attorneys for the Claimant and the Claimant and this action is an ex parte ancillary action by the attorneys, In Re (in the matter of) Ms. Cartee, as a claimant, versus the Employer and Carrier. It is elementary pleading practice that the title and

caption of an action/pleading are jurisdictional and is a fatal flaw. Rule 10, SCRCP.

2. That according to the vote sheets, four (4) Commissioners voted simply to, "affirm" and two (2) of the Commissioners voted to affirm with amendment. As to the four (4) members that voted to affirm, that is a vote to affirm as written. If the Commissioners deem it appropriate to make any modifications to the hearing Commissioner's Order, the Commission Regulations require that the Commissioners, "shall agree on a modification, if any, and record their Findings of Fact and Conclusions of Law on a vote sheet." [Reg. 67-709(E)(2)]. Instead of an Order to confirm the decision of the Commissioner which is what the Commission voted to do, an entirely separate Order with separate Findings of Fact and Conclusions of Law was entered which is in derogation of the Commission's Regulations.

3. That the decision of the Full Commission which is in derogation of Commission Regulations states that the Full Commission had reviewed the Record and considered the position of counsel. Assuming that the new separate Order issued by the Full Commission is appropriate, the Commission's own Regulations and statutory law require that the drafting party, in this case the assigned Commissioner, is required to set forth "a concise and explicit statement of the underlying facts supporting the findings" and shall be based only on the Record which would include the APA Submissions and documentation contained in the

Commission file, and transcript that was reviewed by the Commission. Statutory requirements SC Code §1-23-310, (G-I), (Record and findings exclusive to Record); §42-9-5 (detailed Findings); §42-17-40 (detailed Findings and Conclusions and file a Transcript with Award).

Further, the Petitioners repeatedly requested that the Commission confirm that a copy of the transcript of the hearing before Commissioner McCaskill had been made a part of the Record pursuant to SC Code §42-17-40. No confirmation has ever been received and no reference to the content of the hearing, including the case law, Regulations and documentation submitted to Commissioner McCaskill is set forth in the Order. It is an error of law for the Order not to establish that the transcript of the hearing and the documentation submitted to the Commissioner was made a part of the Record and considered by the Commission.

4. That Finding of Fact No. 1 is appropriate but fails to note that through the efforts of counsel, Claimant's compensation rate was raised by \$184.02/week resulting in an additional award to the Claimant over the 500-week period which was ultimately paid of approximately \$92,010.00. The fact is not noted anywhere in the Record that the attorneys did not request a fee for the entire period of time of the Award. Assuming that the Commission decision is correct only as of the payment of a lump sum, for the period of time from the payment date of back due temporary total,

the underpayment from the time of the prior Award on September 12, 2016 through the date of payment of a lump sum on December 1, 2017 would be a figure of over \$15,089.64 thus entitling the attorneys to a fee on that basis alone of over \$5,000.00.

5. That Finding of Fact No. 2 fails to note the date of maximum medical improvement which is the date under Supreme Court decisions that the Award of temporary weekly benefits transitions to being an Award as part of the permanent disability Award made by the Commission.

6. That Finding of Fact No. 3, although not made in Commissioner McCaskill's Order, is in accordance with the Record.

7. That as to Finding of Fact No. 4, the Finding of Fact misstates the Record in that the attorneys' fees requested was requested as part of the permanent Award made to the Claimant under the permanent disability Award made to the Claimant for total and permanent disability in the amount of \$220,283.33. It also misstates that the attorneys' fees requested is for 33.3% of the permanency award made to the Claimant. The Finding also contains a calculation that is not part of the Record before the Commission and is also not a Finding of Fact made by Commissioner McCaskill in his original Order.

8. That the Finding of Fact No. 5 is in accordance with the Record but Finding of Fact No. 6 goes outside the Record and makes statements concerning whether or not notice was given by the Commission and refers to, "adjudication" instead of, "approval" and makes a statement outside of the Record that the

single Commissioner had, "declined to communicate with him about the matter". It fails to note that Commissioners and attorneys regularly communicate concerning fee petitions under consideration concerning any questions the Commissioner may have.

9. That Finding of Fact No. 7 again is not a Finding made in the Hearing Commissioner's Order that was affirmed by the Commission, nor does it set out the reason that a hearing was set at that time February 12th or the parties listed as parties that were notified and objections made to those notified.

10. That while Finding of Fact No. 8 was not made by the Hearing Commissioner, it is accurate as to the hearing being held but fails to note what evidence was submitted and the position of the Petitioners nor is there any reference again to the Case Law and/or the date of maximum medical improvement in this Finding.

11. That Finding of Fact No. 9, while not included in the Hearing Commissioner's Order, is accurate as to the date of the Interim Order of the Hearing Commissioner.

12. That Finding of Fact No. 10 and Finding of Fact No. 11 are not contained within the Commissioner McCaskill's Order and as written are inaccurate as to the Record and as written potentially accuse the Petitioners of improper conduct.

13. That as to Finding of Fact No. 12, outside of not being made as part of the Hearing Commissioner's decision which was affirmed by the Full Commission, it is inaccurate in that there was no change in the amount of the Award from which the attorneys' fees were requested. The only purpose of the amended

Form 61 was to make is perfectly clear, due to scrivener's errors, that the request for the attorneys' fees was based on the permanent Award as of the date of maximum medical improvement at which time under the Supreme Court decisions and statutes the Award became final.

14. That Finding of Fact No. 14 is not contained within the Hearing Commissioner's Order and further is inaccurate in that there has never been a request for, "additional" attorneys' fees. The request for attorneys' fees was and has remained as being from and based on the final Award of the Commission.

15. That as to Finding of Fact No. 14, while not being a part of the Commissioner's Order, also contains an inaccurate representation of the Facts and in addition misstates the letter in that it is clearly a notification for the Record and there is no, "threat to file litigation". There is also a failure to note that one of the purposes of the letter was to note in the Finding that the Order had not been served on one of the Petitioners, co-counsel in this case, Mr. John Milling.

16. That Finding of Fact No. 15 is not part of Commissioner McCaskill's Order and is further a misstatement of fact and should not be made.

17. That Finding of Fact No. 16 again is not part of Commissioner McCaskill's Order that was affirmed by the Full Commission.

18. That Finding of Fact No. 17 is an accurate statement of the filing of the Form 30.

19. That as to Findings of Fact 18 through 22, they are not part of the original Order affirmed by the Full Commission and are further inaccurate for the following reasons:

A. Petitioners were originally advised that the matter was set for review by a Full Commission Panel but were then notified it was set en banc. Upon inquiry, the Petitioners were advised that it was set en banc due to the Commission's policy to hear all Attorney Fee issues en banc and that there had been no request for an en banc hearing by Commissioner McCaskill. Subsequently, the Petitioners were advised that Commissioner McCaskill had made a verbal request and after renewed inquiry for a copy of the Commission policy they were advised that the policy of the Commission to hear attorney's fee issues en banc was not a "written" policy of the Commission.

B. As to Finding of Fact No. 19, the Finding as written is inaccurate as to the Record and in no way had Petitioners threatened litigation.

C. Finding of Fact No. 20 is an inappropriate Finding of Fact and misstates the Record.

D. Finding of Fact No. 21 is an inappropriate Finding of Fact, fails to note both co-counsel as Petitioners and has nothing to do with the issues before the Commission on appeal.

E. Finding of Fact No. 22 is not appropriate as to any of the issues on appeal and is a misstatement of the Record and is not factual in that counsel for the Defendant, the Assistant Attorney General assigned, to the Declaratory Judgment

Action advised the Commission that the Temporary Restraining Order was allowed to dissolve thus allowing the Full Commission to rule.

20. That Conclusion of Law No. 1 is an inaccurate statement of the law as attorneys' fees are subject to the approval by the Commission or a "court of competent jurisdiction".

21. That Conclusion of Law No. 2 properly notes the applicable Code sections, however it fails to note the, date of and citation to, the requirement that "before" any procedures become effective as promulgated under the Administrative Procedures Act in reference to attorney's fees that those "proposed" Regulations before promulgation under the Administrative Procedures Act "shall" have received, "approval of the Judiciary Committees of the Senate and House of Representatives" and also by "concurrent Resolution of the General Assembly". There is no citation as to the Acts and Joint Resolutions and/or to the Record of the Senate and House Journals as to the promulgation under law that those statutory requirements have been met. This has been repeatedly requested from the Commission.

22. That Conclusion of Law No. 3 and 4 are accurate in reference to the Code sections and Regulations (whether or not the Regulation has been properly adopted) as set forth in the South Carolina Code of Laws as does Conclusion of Law No. 5 and Conclusion of Law No. 6 to the extent that those apply to an

award of, "compensation", but not to other representation of a claimant on other issues before the Commission.

23. That Conclusion of Law No. 7 specifically is not contained within the decision of the Hearing Commissioner's Decision and cites to Case Law inapplicable to a South Carolina workers' compensation case and as to attorney's fees in a workers' compensation action. Also, the footnote under Conclusion of Law No. 7 is not referred to by the Hearing Commissioner and is an appropriate and an inaccurate statement as to reviews by the Commission.

24. Conclusion of Law No. 8 is in derogation of the holdings of the Supreme Court. The Supreme Court has specifically held that the payment of any Award of the Commission dates back to the date of that Award where that Award is affirmed on appeal. As is addressed and as is set forth hereinafter this Conclusion of Law and more importantly Conclusion of Law No. 9 through 29 are not included in the Order of Commissioner McCaskill affirmed by the Full Commission as written and in addition thereto are legal argument. It is unethical for a Commissioner or the Commission to seek legal advice without specific notice to the parties. In this case, the Record consists of the documents placed in the Record and the APA and documents before Commissioner McCaskill and the law including the decisions, statutes and regulations as presented to Commissioner McCaskill for decision. For the Commission, no matter from whom, to request a legal interpretation without advising the

Petitioners that such legal interpretation was being requested or sought is a violation of Petitioners due process rights to be confronted by their accuser. These Conclusions of Law contain numerous legal positions and opinions and Petitioners have been given no notice of such legal interpretation or opinion. As to each Conclusion of Law set forth the Petitioners would further submit:

A. No. 10 is a legal analysis, cites Case Law that was not submitted to the hearing Commissioner or noticed to the parties including Curriel v. Environmental Management Services and cites improper legal opinion to the effect that in some way there is some kind of a difference between an award of permanent disability involving the payment of weekly payments of compensation benefits in reference to an award of attorney's fees as compared to a permanent award as to the payment of compensation to a Claimant. This Conclusion is totally wrong under §42-9-10(D) and Glover by Cauthen v. Suitt Constr. Co.

B. No. 11, the stop payment statute as referred to was not cited in the Commissioner's Order and has absolutely nothing to do with a permanent award. While this Conclusion is not included and should not have been made, it is furthermore unconscionable by placing a chilling effect on a Claimant and his/her right to a Claimant's attorney and by placing the Claimant's attorney in an obvious conflict of interest by having to make a Hobsons's choice of whether or not to appeal or accept an amount less than awarded but which would increase his fees.

For example, in this case, had the Claimant's attorneys negotiated a settlement at the time of the Award for 95% of the Award at the time that it was made thus saving the Defendants 5%, the attorneys would have increased their fees by more than that requested which would not have been in the best interest of the Claimant. This Conclusion is also in violation of the Supreme Court Rules, Case Law and Statutory Law.

C. Conclusion No. 12 is contrary to Case Law and Statutory Law. The Award is final as of the date that it is made if it is affirmed on appeal. That will not be addressed again, but this is a legal opinion that is contrary to Case Law and Statute and to which counsel has never been given the opportunity to respond. Most respectfully, whoever wrote this decision under these legal principles has misinterpreted established Black Letter Law. See Case v. Hermitage Cotton Mills for a recitation of the principle that the Award of the Commission dates back to the date that the award was to start whenever it is finally resolved at whatever appellate level. Also see the Amendments to SC Code §42-17-60 that clearly state that the accrued payments of compensation under the Award of the Commission made in reference to that permanent Award is held in abeyance during the pendency of an appeal and is then payable with interest and penalty thereafter back to the date of the first Award.

D. Conclusion of Law No. 13 and the footnote thereunder, specifically points out the whole problem with the legal decision being entered by the Commission and the Commission

not following established Case Law. The footnote reads like a debate of two competing legal opinions between members of the Court of Appeals or the Supreme Court. The Commission is a quasi-judicial body and is charged with the responsibility of administering the law in accordance with the decisions of the Supreme Court, Court of Appeals and the statutes as implemented by the Legislature. It also has the authority to adopt Regulations, in accordance with its controlling statutes as passed by the Legislature and most importantly, must follow its own Regulations once adopted. There is no reference to the requirement that Commissioner McCaskill was to immediately approve the attorneys' fees or to amend it and return it or to set the matter for hearing "immediately".

E. Conclusion of Law No. 14 is simply a further dictation of a legal opinion and is likened to a brief. None of this was raised nor cited to the Commissioner nor have the Petitioners been notified of any such legal interpretation and while Petitioners are criticized in the Findings of Fact this legal interpretation by the Commission was never noticed to the Petitioners. Further, this Conclusion fails again to note the chilling effect this decision would have on the right of a claimant to obtain legal representation and also how it violates freedom of contract. Under due process and in general, the Petitioners should have been given notice and allowed to respond

to this interpretation and have an open-ended discussion in reference to this with the Commission at a minimum.

F. Conclusion of Law No. 15 is again a misstatement of law as the Supreme Court since 1940 and ever since then and the Legislature specifically since 2007 with the Amendments noted and specifically set forth that the, "Award" dates back to the date that the permanent, "Award" is made. This again would put a tremendous chilling effect on the right of a claimant to counsel and in addition would place counsel in a Hobson's choice in reference to the best interest of his client in reference to an appeal as does Conclusions of Law No. 16, 17 and 18.

G. As to Conclusion of Law No. 19, contrary to that Conclusion of Law, the Record is devoid of any evidence showing that it is not the Commission policy nor has there ever been an interpretation of the word "Award" as a Regulation nor more importantly, that it is contrary statutory law to award an attorney(s) a one-third (1/3) fee of all benefits obtained under the "Award" of the Commission. Uncontradicted as an Officer of the Court as put into evidence, and as the Record confirms, Counsel requested to be placed under oath, the Commission accepted as a fact his comments as an Officer of the Court that Appellant/Petitioner McDaniel had submitted in the past numerous fee petitions identical to one involved; that no Commissioner prior to this time had ever not approved those fees as requested; and that this is the first time any fee petition has ever been

questioned in the at least 42 years that either of the Petitioners has been practicing law. In fact, it is uncontradicted fact in the Record that every Commissioner that heard this matter en banc, and including the Hearing Commissioner, has approved attorney's fees from the date of the, "Award" of the Commission. There is nothing in the Record nor any contradictory statement nor is there any statement by any Commissioner hearing this matter contradicting that evidence.

H. As to Conclusion of Law No. 20, there is a constant reference to the, "policies" of the Commission. Without recitation, first there was nothing in the Record to establish that the requirements of §42-3-185 were complied with by the Commission in the adoption of its Regulations concerning attorney's fees. In fact, that issue was not raised and is not part of the hearing Commissioner's decision. Further, there is nothing in the Record that it is not the, "policy" of the Commission to award attorney's fees from the date of the final Award of the Commission. The Commission has no authority to establish policies but has the statutory authority and responsibility to follow the statutes and the Case Law interpreting the statutes and Regulations and to adopt, under law, Regulations to enforce the Workers' Compensation Act. Prior to this controversy, the Commission cannot point to any Regulation, Statute or Supreme Court decision that is contrary to fee petitions as filed and in fact, the Commission is duty bound

to follow its own Regulations as adopted and not to re-interpret those based on an unpublished policy.

I. The paragraph as set forth hereinabove, Conclusion of Law No. 21 is just simply wrong. The authority to approve attorney's fees is granted by statute in a workers' compensation action but it is not limited to the Commission. Attorney's fees are subject to the approval of the Commission or a Court of competent jurisdiction. Further, while the code section for approval of attorney's fees is set out, nowhere within the Commission's Order, and even after numerous requests has the Commission ever produced the Senate journal, the House journal and/or the Acts and Joint Resolutions of the General Assembly nor is there any citation to those approving those Regulations of the Commission concerning attorney's fees prior to their implementation as required by law.

J. As to Conclusion of Law No. 22, there is no reference to that Conclusion anywhere in the Commissioner's Order as there is no reference to No. 23.

K. As to Conclusion of Law No. 24, it is not actually a Conclusion of Law and is not based on the Record. The Commission has not set forth one example of where a fee as requested in this case, was not found to be in accordance with Statute, Case Law and Regulations prior to this situation. The Commission must base its findings on the Record and Appellant McDaniel's uncontradicted statement in the Record that the fees

as requested have readily been approved by the Commission in the past is not contradicted.

L. Conclusion of Law No. 25 has nothing to do with the issue before the Commission. Public notice of a hearing as compared to the parties on the notice that are parties to the action which is an elementary part of pleadings, due process and proper procedure.

M. Conclusion of Law No. 26 was not cited by the hearing Commissioner and although requested, the Commissioner advised of no communication with anyone concerning his position and in fact he refused to state his position on the Record. Also, a party is entitled to due process and both the Commissioner and general counsel had an obligation to notify the Petitioners if such extra-judicial legal opinion was sought. See Code of Judicial Conduct and the requirements of due process; Notice and opportunity to be heard.

N. Conclusion of Law No. 27 is inappropriate as not being addressed in the hearing Commissioner's Order. It is further inappropriate in that there is no basis for a month and a half delay in addressing the attorney's fees request entered on December 8th under the requirements of the Commission's Regulations and an "immediate" hearing.

O. Conclusion of Law No. 28 is not a conclusion of law and for all of the above-stated reasons is inappropriate.

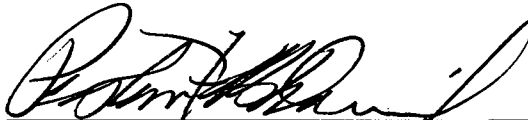
P. Conclusion of Law No. 29 is an inappropriate Finding of Fact outside of the Record and misstates the Record.

There has never been any challenge to the qualifications of Commissioner McCaskill to serve as a Workers' Compensation Commissioner. This Conclusion of Law is inappropriate and further does not go to the issue involved which is that the Commissioner is required to follow the law as dictated by the Statutes, Supreme Court decisions and Regulations and the Commission is required by law to provide the Appellants and all parties due process of law. Due process provides and requires notice of the issues to be presented and considered. At no time prior to or at the hearing, before the hearing Commissioner nor at the hearing before the Full Commission were the Appellants advised of the, "legal interpretation" of the Commissioner. Again, the Commission is not a Court. It is a quasi-judicial body and is required by law to follow the statutes, the Case Law interpreting those statutes and its own Regulations and to comply with the requirements that any outside legal advice is to be noticed to the parties before it is brought.

Since this appeal involves alleged irregularities and procedure before the Commission, a Motion to Stay the appeal pending the taking of extrinsic evidence to be presented to the Court will be made in this matter. Under SC Code §1-23-320(A) (2018) provides that in reference to judicial review of the administrative proceeding below that the review should be conducted by the Court without a jury and shall be confined to the Record in cases where there is, "alleged irregularities and procedure before the Agency, not shown in the Record, proof

thereof may be taken in the Court." In Ross v. Medical University of SC, 317 S.C. 377, 453 S.E.2d 880, 882 (1994), the Supreme Court held that this section expressly authorizes the Circuit Court to accept proof of alleged irregularities in an agency proceeding explaining that the language, "proof thereon may be taken in the Court" does not require the Court itself to "take proof" but rather to allow such proof to be entered at the Circuit Court level, at the Court's discretion. Similarly, §1-23-380(4) makes the same provision except that the case may be remanded to the agency for such action as the Court deems appropriate and subsection 3 that can include that additional evidence be taken before the agency. Depositions of agency personnel and Commissioners are necessary to establish proof as to whether or not irregularities in the agency's proceedings.

Respectfully submitted by:



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and

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Attorneys and Appellants

June 29, 2018

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SOUTH CAROLINA
SC Workers' Compensation Commission
Appellate Panel

SCWCC File No.: 1307922

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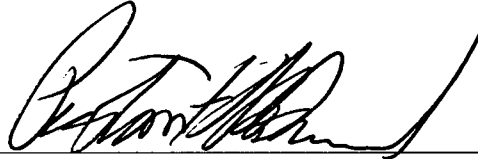
PROOF OF SERVICE

I certify that I have served the **NOTICE OF APPEAL** by
depositing a copy of it in the United States Mail, postage
prepaid, on June 29, 2018 addressed to:

Ms. Amy Bracy, Judicial Director
SC Workers' Compensation Commission
Post Office Box 1715
Columbia, South Carolina 29202

VIA CERTIFIED MAIL - 70023150000502817979
RETURN RECEIPT REQUESTED
Alan T. Wilson
SC Attorney General
Post Office Box 11549
Columbia, South Carolina 29211-1549

Dated: June 29, 2018



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Proudly representing injured workers
for over 30 years.

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June 29, 2018

RECEIVED
JUL 02 2018
SC Court of Appeals

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

**RE: Preston F. McDaniel, Esquire and John M. Milling,
Esquire, Appellants v. SC Workers' Compensation
Commission, Respondent.**

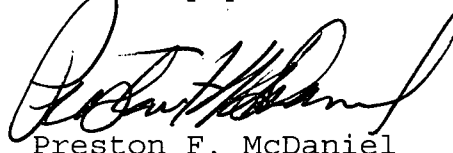
**IN RE:
Pamela Cartee, Employee, v. SC Judicial Department,
Employer, and State Accident Fund, Carrier.**

Trial Court Case No.: 1307922

Dear Ms. Kitchings:

Please find attached hereto a Notice of Appeal in the above-referenced matter, along with the required \$100.00 filing fee and Proof of Service on the Respondent. Please note that as of this date since there is no Counsel of Record, we have listed none on the Notice of Appeal. In addition, because this is a direct appeal against the Commission as a party we are serving not only the Commission but pursuant to the Circuit Court Rules to ensure proper service, we are serving a copy of the Notice of Appeal on the Attorney General's office by certified mail, return receipt requested. We are also serving just one copy on the Commission, both in its capacity as the Respondent and its capacity as the Agency involved under Rule 203(a)(6), SCACR.

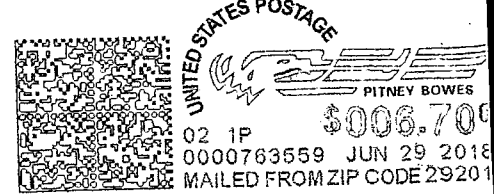
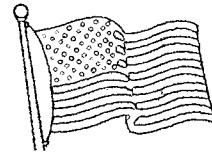
Sincerely yours,



Preston F. McDaniel

PFM/kth
Enclosures

cc: Ms. Amy Bracy, Judicial Director, SCWCC
John M. Milling, Esquire
Alan T. Wilson, SC Attorney General



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