

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE S.C. WORKERS' COMPENSATION COMMISSION

Case No: 2018-000532

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JUL 17 2018

SC Court of Appeals

Misty A. Morris, Claimant,

v.

BB&T Corporation, Employer, and Hartford Accident & Indemnity Co., Carrier.

**REPLY TO RETURN TO RESPONDENT'S MOTION TO DISMISS AND/OR MOTION
FOR SUBSTITUTION OF PARTIES**

The Commission's position is that it is not the appropriate Respondent to this particular appeal. The Commission takes no position at this time on whether the decision on appeal was rightly or wrongly decided. Appellant does not cite, and the Commission is unaware, of any authority requiring the administrative tribunal who decided the case under review to be transformed into an adverse party on appeal. The Commission was not a party to the dispute giving rise to the decision that is presently on appeal; it was merely the adjudicator.

The Commission moves the Court of Appeals to issue an order holding that the Commission is not an appropriate party to this appeal in accordance with the statutory procedure set forth in § 42-17-60 and explained in *Greer v. Greenville County*, 245 S.C. 442, 141 S.E.2d 91 (1965), and *Walsh v. U. S. Rubber Co.* 238 S.C. 411, 120 S.E.2d 685 (1961).

Appellant references in a footnote to his Return that he has been contacted by the family of the Claimant, Misty Morris. This underscores how important it is for Ms. Morris to be given

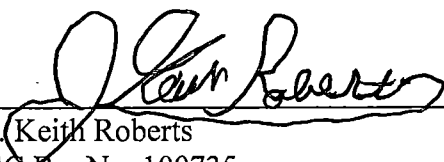
the opportunity to participate if this appeal is allowed to go forward. It is Ms. Morris, not the Commission, who will have to pay to Mr. Proffitt \$11,992.29 of money that has been awarded to her if he ultimately prevails on his claim for additional attorney's fees.

The Commission moves for the appeal to be dismissed for failure to designate the proper parties in the Notice of Appeal in accordance with Rule 202, SCACR, and failure to provide the proper adverse party with notice under Rule 203, SCACR. If the appeal is not dismissed in its entirety, then the Commission moves to be dismissed with prejudice as a Respondent.

The Commission would agree to enter into a Consent Order substituting Misty A. Morris as Respondent and dismissing the Commission with prejudice.

Respectfully submitted,

THE SOUTH CAROLINA WORKERS' COMPENSATION
COMMISSION



J. Keith Roberts
SC Bar No. 100735
1333 Main Street, Suite 500,
P.O. Box 1715
Columbia, South Carolina 29202-1715
(803) 737-5701

Attorney for the South Carolina Workers' Compensation Commission

July 16th, 2018

DATE

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE WORKERS' COMPENSATION COMMISSION

Appellate Case No. 2018-000532

MISTY A. MORRIS, CLAIMANT,

v.

BB&T CORPORATION, EMPLOYER, AND HARTFORD ACCIDENT & INDEMNITY
CO., CARRIER.

PROOF OF SERVICE

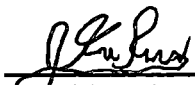
I, the undersigned counsel for the Workers' Compensation Commission, hereby certify that I have served a copy of the RESPONDENT'S REPLY TO RETURN TO MOTION TO DISMISS AND/OR FOR SUBSTITUTION OF PARTIES by causing a copy of the same to be deposited in the United States mail, first class postage, prepaid, addressed to the Appellant and all known addresses for Claimant as listed below.

Ms. Misty A. Morris
200 Farmhouse Loop
Lexington, SC 29072

Ms. Misty A. Morris
107 Waverly Point Dr.,
Lexington, SC 29072

Mr. David Proffitt
Proffitt & Cox, LLP
140 Wildewood Park Dr., Suite A
Columbia, SC 29223

July 16th, 2018



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*Attorney for the South Carolina
Workers' Compensation Commission*

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State of South Carolina

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Workers' Compensation Commission

July 16th, 2018

Jenny Abbott Kitchings, Clerk of Court
South Carolina Court of Appeals
1220 Senate St.
Columbia, SC 29201

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SC Court of Appeals

Re: Misty A. Morris v. BB&T Corporation (David Proffitt)
Appellate Case No. 2018-000532
WCC File No. 1600715

Dear Ms. Kitchings:

Enclosed please find the original and six (6) copies of the South Carolina Workers' Compensation Commission's Reply to Appellant's Return to the Commission's Motion to Dismiss and/or for Substitution of Parties, which I would appreciate your filing with the court.

By copy of this letter to Robert David Proffitt, Appellant, and Misty Morris, Claimant, I am hereby serving them with copies of our Reply. Please see the attached Certificate of Service.

If there is anything further the court requires from the Commission at this time, please do not hesitate to ask.

With warmest regards,

Sincerely,

A handwritten signature in black ink, appearing to read "J. Keith Roberts".

J. Keith Roberts, Esquire
S.C. Workers' Compensation Commission

Enclosure

Cc: David Proffitt, Esquire
Ms. Misty Morris

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South Carolina Workers' Compensation Commission

1333 MAIN STREET, SUITE 500
P.O. Box 1715

COLUMBIA, SOUTH CAROLINA 29202-1715

RETURN SERVICE REQUESTED

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SC Court of Appeals

Jenny Abbott Kitchings, Clerk of Court
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Columbia, SC 29201

7/18/2018 20:00