

THE STATE OF SOUTH CAROLINA
In The Supreme Court

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AUG 22 2018

Appellate Case No. 2018-000769
Lower Court Case No. 0824526

S.C. SUPREME COURT

Robert L. Harrison, Employee,.....Petitioner,

v.

Owen Steel Company, Inc., Employer, and
Old Republic Insurance Company
c/o Gallagher Bassett Services, Inc., Carrier,.....Respondents.

MOTION TO SUPPLEMENT THE RECORD ON APPEAL/APPENDIX

Pursuant to Rule 212(b) of the South Carolina Appellate Court Rules, Petitioner Robert Harrison respectfully requests he be allowed to supplement the Record and/or Appendix in this matter. This request is made upon the following grounds:

As this Court is aware, this is an appeal of a workers compensation claim. The Petitioner-Claimant was denied relief by the Full Commission and appealed to the Court of Appeals. The Court of Appeals affirmed the decision of the Full Commission, but the affirmance was based upon grounds not addressed in the decision of the Full Commission and therefore not raised or addressed by either of the parties in their briefs to the Court of Appeals. More specifically, the Court of Appeals concluded the claim by the Petitioner for an injury which occurred on September 17, 2008, was barred pursuant to S.C. Code Section 42-9-170 because the Petitioner settled a subsequent workers compensation

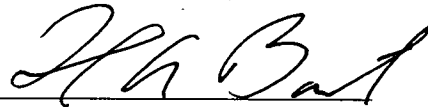
accident of October 4, 2010, to the back, prior to the hearing on his back injury claim for the accident of September 17, 2008.

Because the issue relied upon by the Court of Appeals in affirming the decision of the Workers Compensation Commission was not relied upon or raised by the Commission in its decision or by the parties in their briefs to the Court of Appeals, very pertinent and relevant information was not included in the Record on Appeal to the Court of Appeals. Specifically, the settlement of the Petitioner's second workers compensation claim of October 4, 2010, was settled at a hearing before single Commissioner. A transcript of that settlement hearing which took place on July 25, 2011, was submitted into the record of the current claim under appeal at a first hearing of the claim which took place on August 8, 2013. That hearing resulted in a decision adverse to Petitioner which was appealed to the Full Commission. The Full Commission reversed the decision issued after the first hearing and remanded the claim back for rehearing. It is the decision issued upon the rehearing of this action on August 1, 2014, which was subsequently affirmed by the Full Commission, and the Court of Appeals which is the subject of the current Petition for Writ of Certiorari.

Petitioner respectfully submits the transcript of the settlement hearing for the second workers compensation claim of October 4, 2010, would show the express understanding of the parties when that claim was settled and is extremely probative to the decision this Court has to make. The transcript is comprised of eleven (11) pages. Petitioner would request that he be allowed to include this transcript in the Record and/or Appendix in this matter and that dates for filing the Appendix and briefs of the parties be stayed pending a decision on this motion.

West Columbia, South Carolina
August 22, 2018

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'F.A. Barton', written over a horizontal line.

Frank A. Barton

ATTORNEY AT LAW

P.O. Box 3972

West Columbia, SC 29171

(803) 739-1824 / fax (803) 739-1888

ATTORNEY FOR THE PETITIONER

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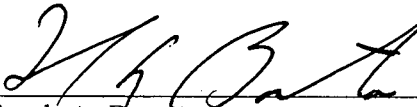
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PROOF OF SERVICE

The undersigned does hereby certify one copy of the **MOTION TO
SUPPLEMENT THE RECORD ON APPEAL/APPENDIX** was served in the
foregoing action by regular mail on August 22, 2018, to the following address:

Helen F. Hiser, Esquire
MCANGUS GOUDELICK & COURIE, LLC
Post Office Box 650007
Mount Pleasant, South Carolina 29465

August 22, 2018
West Columbia, S.C.


Frank A. Barton
Attorney for Petitioner