

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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APPEAL FROM APPELLATE PANEL OF THE SOUTH CAROLINA  
WORKERS' COMPENSATION COMMISSION

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WCC NO. 1320600

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**RECEIVED**  
AUG 27 2018  
SC Court of Appeals

Kevin M. Todd ..... Appellant

vs.

Michael Roberts d/b/a Michael Roberts Home Repair  
and S.C. Uninsured Employers' Fund ..... Respondents

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PETITION FOR REHEARING

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The Appellant moves the Court pursuant to SCAR 221 for rehearing in regard to this Court's Order denying Appellant's Motion for Costs. The Order was filed August 16, 2018 and received August 20, 2018. While Appellant is grateful the Court vacated and remanded this case to the Full Commission, he respectfully requests that costs be granted pursuant to SCAR 222. First, Appellant is a seriously injured worker from an explosion and is currently making minimum wage. Appellant has diligently pursued this appeal and the costs of the appeal would be borne by the Appellant whose average wage is less than \$500.00 a week. Appellant needs every dollar he can obtain because of his serious burn injury and it will be a hardship for Appellant to pay the costs of this appeal. Second, the cost of the record alone is \$1,144.00 which equals two weeks of Appellant's pay. The other costs, including the cost of the final brief (\$100.00) and the court reporter fees (\$295.00), would take another week for Appellant to pay based on his wages. It would

be an extreme hardship to Appellant to bear these costs especially in light of the erroneous rulings of the Workers' Compensation Commission as per this Court's opinion.

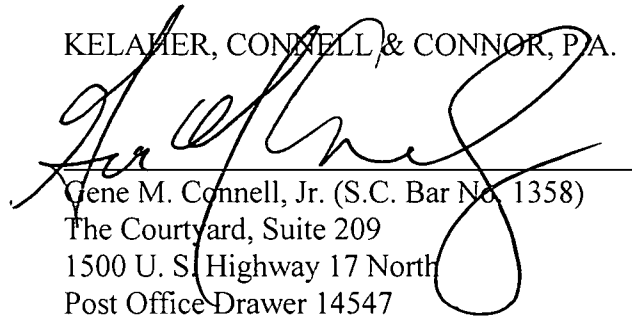
Appellant prevailed in this Court after the Workers' Compensation Commission denied his claim at both the hearing level and the full Commission level. It is without question that denying costs in these types of appeals chills the injured workers' attempt to have their claims heard in this Court. Appellant's position is supported by the premise that the Workers' Compensation Act is to be liberally construed by the courts of this state. *Davis v. S.C. Dept. of Corrections*, 289 S.C. 12,3 345 S.E.2d 245 (S.C. 1986) (The workers Compensation Act shall be liberally construed in furtherance of the purposes for which it was designed). Appellant suggests that not awarding any costs does not carry out the intent and spirit of the workers' compensation law and thus offends public policy for a poor injured worker trying to get his case decided by this Court.

Further, the Order of this Court does not address why Appellant's costs were denied. SCAR 222(a) provides: "When an appeal is affirmed or reversed in part or is vacated, costs shall be allowed only as ordered by the appellate court." Appellant believes that the costs in this case are very reasonable but are burdensome to him and requests the Court issue its Order as to why it has denied these costs. Appellant further notes that the Respondent did not object to the costs and thus this Court should grant Appellant costs.

Accordingly, Appellant respectfully requests that the court reconsider its Order denying costs and that the court either grant the costs based on the above arguments or in the alternative offer specific reasons why the costs have been denied the reason being that costs are normally allowed in such situations. See *Taylor v. Medenica*, 332 S.C. 324, 504 S.E.2d 590 (1998) (upon Supreme Court's affirmance of judgment for plaintiff under Unfair Trade Practices Act, plaintiff was entitled to recover \$1,000.00 attorney's fee and \$81.66 for costs of printing their brief.

Respectfully submitted,

KELAHER, CONNELL & CONNOR, P.A.



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**Attorney for Appellant**

August 24, 2018  
Surfside Beach, South Carolina

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IN THE COURT OF APPEALS

APPEAL FROM APPELLATE PANEL OF THE SOUTH CAROLINA  
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WCC NO. 1320600

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Kevin M. Todd ..... Appellant

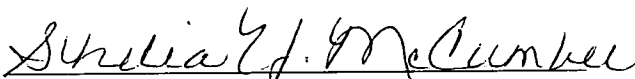
vs.

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and S.C. Uninsured Employers' Fund ..... Respondents

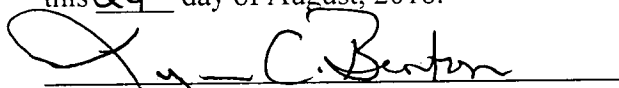
PROOF OF SERVICE

PERSONALLY appeared before me, Shelia Y. McCumbee, who being duly sworn, deposes and says that she is an employee of Kelaher, Connell & Connor, P.C., and that she has served a copy of Appellant's Petition for Rehearing on the Respondent on the 24<sup>th</sup> day of August, 2018, by depositing a copy of same in the United States Mail, postage prepaid, to::

Lisa C. Glover, Esquire  
S. C. Uninsured Employers' Fund  
Post Office Box 210039  
Columbia, SC 29221-0039

  
Shelia Y. McCumbee

SWORN AND SUBSCRIBED before me,  
this 24<sup>th</sup> day of August, 2018.

  
Notary Public for South Carolina  
My Commission Expires: 2-17-19

**KELAHER, CONNELL & CONNOR, P.C.**

ATTORNEYS AT LAW

SUITE 209

THE COURTYARD

1500 U.S. HIGHWAY 17 NORTH

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SURFSIDE BEACH, SOUTH CAROLINA 29587

EDWARD T. KELAHER\*  
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L. SIDNEY CONNOR, IV  
LISA POE DAVIS

\* OF COUNSEL

AREA CODE 843

238-5648

FAX: 238-5050

August 24, 2018

**VIA FEDERAL EXPRESS**

The Honorable Jenny Abbott Kitchings  
South Carolina Court of Appeals  
1220 Senate Street  
Columbia, South Carolina 29201

Re: Appellate Case No. 2016-000181  
*Kevin M. Todd v. Michael Roberts d/b/a Michael Roberts Home Repair and*  
*S.C. Uninsured Employers' Fund*  
W.C.C. File No. 1320600  
Our File No. 2014-0046C

Dear Ms. Kitchings:

Enclosed please find an original and seven (7) copies of Appellants' **Petition for Rehearing** and **Proof of Service** of same in the above-captioned matter. I also enclose our check for \$25.00 for the filing fee. Please return a filed copy to this office in the self-addressed, stamped envelope enclosed for your convenience.

By copy of this letter, we hereby serve a copy of the above-stated document on Respondent through counsel of record.

With best regards, I am

Sincerely yours,



Gene M. Connell, Jr.

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AUG 27 2018

**SC Court of Appeals**

GMC,Jr.:sm

Enclosures

cc w/enc.: Lisa C. Glover, Esquire

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City SURFSIDE BEACH State SC ZIP 29575-6078

2 Your Internal Billing Reference 2014-0046C

3 To Recipient's Name JENNY ABBOTT KITCHINGS Phone 803 734-1890  
CLERK OF COURT

Company SOUTH CAROLINA COURT OF APPEALS

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