



THE CAPONE FAMILY

November 08, 2018

US MAIL

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

RECEIVED

NOV 13 2018

SC Court of Appeals

Re: Terry Capone v. City of Columbia and Companion Third Party Administrator, LLC
Appellate Case No.: 2018-001364 W.C.C. File Nos. 1322451, 1319203, 1420487
ADDENDUM To October 26, 2018 mailing order filed November 2, 2018.

Dear Ms. Kitchings:

Based on an email notification received today November 8, 2018 (enclosed), from South Carolina Workers Compensation Commission Request For A proposed Decision And Order.

When I realized that the hearing that was dated for October 22, 2018, was Fraud Upon the Court and had no intention of a full review of the above referenced case, I promptly notified this Court. That happened to take place after October 9th, 2018. I say again, I immediately gave notification to this Court after it was brought to my attention that Fraud Upon The Court was continued being perpetrated by the South Carolina Workers Compensation Commission. Why does the South Carolina Workers Compensation Commission get a second chance to revise their Interlocutory Decision without reviewing the whole record, despite a pool of evidence that proves fraud was committed in my case?

1. The South Carolina Workers Compensation Commission gets a second chance to make a determination they failed to make due to incompetence in the first decision and pulled my appeal from this Court.
2. The South Carolina Workers Compensation Commissioners are not only incompetent, but clearly lackadaisical on their part to require the Defendants Attorney to prepare the Commission Decision or Order for this Court, even though they are paid salaries of over \$124,000.00 and some secretaries receiving over \$50,000.00, paid by the State of South Carolina. Why is the Defendants Attorney task with preparing an Order or Decision against me that they failed to complete their first go at it?
3. This appeal process lacks fundamental fairness and clearly a denial of procedural due process and other violations, all while the Commission screams RES JUDICATA and yet gives themselves a second chance to correct a decision they failed to make.

****SEE SIGNATURE ON BACK****

I request that this Court reconsider my request and its November 2, 2018 Decision, or as an alternative I request that the \$100 fee to re-instate the forthcoming appeal based on continued Fraud Upon The Court by The South Carolina Workers Compensation Commission be waived as I prepare to move part of my complaint to

Federal Court. Do you realize no matter how many calls 1- 20, Firefighters go on we have to complete our own reports.

Thank you for your consideration.

With The Highest Regards,



Enclosure(s) as Stated

Cc: Carmelo B. Sammataro Attorney for Respondents (w/all enclosures)
South Carolina Workers Compensation Commission: Judicial Department

Mr. Terry H. Capone
Fire Battalion Chief-Retired
130 Summerlea Drive
Columbia, SC 29203
Email: tcapone@liberty.edu

The South Carolina Court of Appeals

Terry Capone, Appellant,

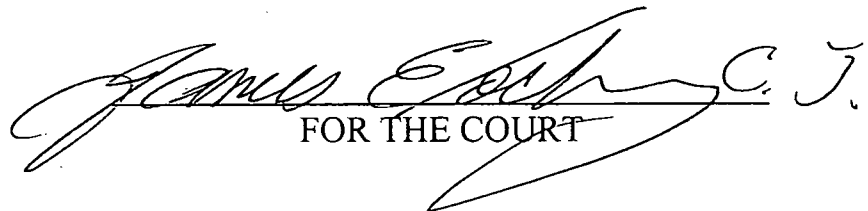
v.

City of Columbia, Employer, and Companion Third Party
Administrator, LLC, Carrier, Respondents.

Appellate Case No. 2018-001364

ORDER

This appeal was dismissed on September 20, 2018. No petition for rehearing was filed as of October 9, 2018, and this Court sent down the remittitur on that day. Appellant has now filed a letter, which this court construes as a motion to recall the remittitur and reinstate the appeal. A remittitur cannot be recalled except upon "a very strong showing . . . that remittitur was sent down through some mistake or inadvertence on the part of this Court or its officer." *State v. Keels*, 39 S.C. 553, 17 S.E. 802 (1893). Appellant has failed to make such a showing. Because Appellant failed to timely file a petition for rehearing with this Court, remittitur was properly sent, and this Court no longer has jurisdiction over the case. Appellant's motion, therefore, is denied.


FOR THE COURT

Columbia, South Carolina

cc:

Terry Capone

Cynthia C. Dooley, Esquire

Carmelo Barone Sammataro, Esquire

FILED

November 2, 2018

**SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
REQUEST FOR A PROPOSED DECISION AND ORDER**

This document is not a Decision and Order. It is a request for a proposed order.
The Commissioners reserve the right to modify and/or delete any or all portions
of the submitted Decision and Order.

**Terry Capone v City of Columbia
SCWCC: 1319203, 1322451, 1420487
Commission Panel: Barden, McCaskill, Beck; Chair
Order Assigned to Commissioner: Barden**

Terry Capone
Cynthia Dooley

Pro Se/Appellants
Defendants/Respondent

This matter was heard before the South Carolina Workers' Compensation Full Commission Appellate Panel during the last term of Review. The Commissioners considered the matter and **Affirm** the decision and order of the Single Commissioner.

Ms. Dooley please prepare a proposed order and submit to the Judicial Department within thirty (30) days of this notice. The proposed order shall be submitted in Word format to appeals@wcc.sc.gov and shared with each Party. Please make sure the Appellate Panel Decision and Order recites the specific Finds of Fact and Rulings of Law of the Single Commissioner's Decision and Order and reflects any comments requested by a Commissioner.

The signature page shall include a signature line for each Commissioner and the first signature should be the name of the Commissioner assigned the case as indicated above.

If you have any questions, please do not hesitate to email me at ehollmon@wcc.sc.gov or call at 803.737.5737

Judicial

Transmitted via regular and email mail this 8 November 2018

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SC Court of Appeals

Mr. Terry H Capone
130 Sumner Lea Dr
Columbia SC 29203

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SC Court of Appeals

To: The honorable Jenny A Kitchens
Clerk
South Carolina Court of Appeals
1220 Senate Street
Columbia SC 29201

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