

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

D. Garrison Hill, Circuit Court Judge

Appellate Case No. 2016-000227
Case No. 2013-CP-42-03915

RECEIVED
JAN 24 2019
SC Court of Appeals

Angie Keene, Individually and as
Personal Representative of the Estate of
Dennis Seay, Deceased, and Linda Seay, Respondents,

v.

CNA Holdings, LLC, Appellant.

RETURN

This return is filed pursuant to Rule 240(e) of the South Carolina Appellate Court Rules.

As the Court is aware, the appellant's chief argument in this case is that Hoechst Celanese was Dennis Seay's "statutory employer." The appellant has filed a motion seeking permission to provide this Court with four unpublished District Court decisions addressing the statutory employee doctrine. The appellant also seeks permission to provide the Court with "any subsequent unpublished decisions" on this issue.

The respondents feel they have no choice but to oppose the motion.

As the motion itself acknowledges, this is outside the scope of the appellate court rules. The rules require a party to notify this Court when "pertinent and significant

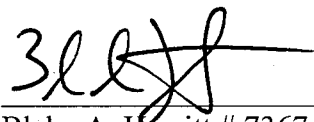
authorities” come to the party’s attention after the briefs have been filed. Rule 208(b)(7), SCACR. Unpublished decisions from a trial court have no significance outside the context of the specific case in question and are not “authorities.” There have likely been countless state and federal decisions involving statutory employment since the briefing in this case concluded in May of 2017—nearly two years ago. Surely part of the reason Rule 208 has words of limitation are so parties do not inundate the Court with this sort of material.

This is buttressed by Rule 268, SCACR, which prohibits citing *appellate* decisions when they are unpublished. Nothing suggests an unpublished trial court decision warrants better treatment. An unpublished decision from District Court is no different than an unpublished decision from the Court of Common Pleas. Neither constitutes any sort of authority beyond the fact that it binds the litigants who were involved in that case.

The parties submitted lengthy briefs discussing their perspective on the relevant authorities. Here, the authorities are the precedents of this Court and of the Supreme Court. There is no need to deviate from what the rules allow. The Court should deny the motion.

January 24, 2019

Respectfully Submitted,



Blake A. Hewitt # 73674
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Attorney for Respondents

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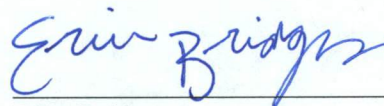
CNA Holdings, LLC, Appellant.

PROOF OF SERVICE

The undersigned hereby certifies that on the date indicated below she served
counsel for the Appellant with a copy of the *Return* by mailing copies of the same by
United States Mail with first class postage prepaid to the following address:

C. Mitchell Brown
A. Mattison Bogan
Blake T. Williams
Nelson Mullins Riley & Scarborough, LLP
PO Box 11070
Columbia, SC 29211

January 24, 2019



Erin Bridges

January 24, 2019

VIA HAND DELIVERY

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

RE: Angie Keene v. CNA Holdings
Case Tracking No.: 2016-000227

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Dear Ms. Kitchings:

Please find enclosed for filing the original and seven (7) copies of a *Return* in reference to this case. I have also enclosed a proof of service of this document upon counsel for Appellant. Please return the additional filed copy to me via our courier.

Thank you for your attention to this matter. If you have any questions or need any additional information, please do not hesitate to contact me.

Sincerely,



Erin Bridges
Paralegal to Blake A. Hewitt
Bluestein Thompson Sullivan, LLC

/emb

Enclosures

cc: Theile B. McVey, Esquire
C. Mitchell Brown, Esquire
A. Mattison Bogan, Esquire
Blake T. Williams, Esquire