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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SOUTH CAROLINA
Workers' Compensation Commission
Appellate Panel

Appellate Case No. 2018-001234

RECEIVED
FEB 08 2019
SC Court of Appeals

Pamela Cartee, Claimant,

v.

SC Judicial Department, Employer, and State Accident
Fund, Carrier, Defendants.

IN RE:

Preston F. McDaniel, Esquire, and John M. Milling,
Esquire,Appellants,

v.

South Carolina Workers' Compensation Commission,
.....Respondent.

PETITION FOR REHEARING

TO: T. PARKIN C. HUNTER, ESQUIRE AND HARLEY L. KIRKLAND,
ATTORNEY, ATTORNEYS FOR THE RESPONDENT:

Pursuant to Rule 240(j), SCACR, the Appellants, for the
reasons as set forth in the Memorandum attached hereto and
incorporated herein by reference, hereby move for reconsideration

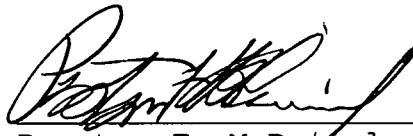
and rehearing as to the Order of the Honorable Stephanie P. McDonald, issued on January 25, 2019 concerning their Motion to Dismiss without prejudice filed by the Appellants wherein Rule 240(j) of the SC Rules of Appellate Procedure specifically provides that,

"any review of an Order issued by an individual Judge or Justice shall be by Petition for Rehearing".

The Appellants are specifically requested and filing for Rehearing, not as to an Order of the Court, but as to the Order of an individual Judge of the Court on the Motion filed by the Appellants.

WE SO MOVE.

Respectfully submitted:



Preston F. McDaniel, Esquire
MCDANIEL LAW FIRM
1315 Elmwood Avenue
Columbia, SC 29201
(803) 771-7211

and

John M. Milling, Esquire
MILLING LAW FIRM
Post Office Box 519
Darlington, SC 29532
(843) 393-4083

Appellants

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MEMORANDUM IN SUPPORT OF
PETITION FOR REHEARING

In support of the Petition for Rehearing, the Appellants
would respectfully submit to the Court that Judge McDonald
overlooked or misapprehended:

1. That the basis for the Motion to Dismiss the appeal filed

by the Appellants was based on a lack of jurisdiction of the Court over the appeal on the basis that there had been no final Order issued by the Commission on Appellant's Petition for Rehearing that had been filed with the Commission; until the Commission issues an Order there is no finality.

2. That in Judge McDonald's Order, Judge McDonald overlooked or misapprehended that the letter in question was not from the Commission but was from the Commission's Judicial Director and overlooked or misapprehended that the Motion was filed on the basis as to whether or not a final Decision or Order had been entered by the Commission which is the only body that has the jurisdiction and authority to issue a final Decision or Order in a workers' compensation matter.

3. That Judge McDonald in her Order overlooked or misapprehended this fact wherein Judge McDonald in her Order simply found that, "nothing prevents Appellants from including issues stemming from the Commission's June 26, 2018 letter in their brief."

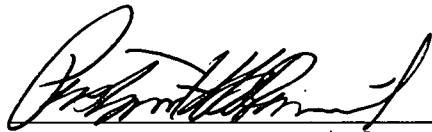
The issue again is whether or not the Judicial Director's letter was a final Order of the Commission because if it is not, the Court lacks jurisdiction to entertain the appeal. Jurisdiction is precatory to an appeal.

4. That further the Appellants as Movants had

specifically requested a hearing before the Court on this and other matters. This is not a Motion in the normal course of practice of Motions addressed to the processing of an appeal before the Court under the Rules, and the Petitioners would respectfully request a hearing on this Petition and on the original Motion.

Wherefore, the Movants would respectfully request rehearing before a Panel of the Court and would request the right of appearance before the Court in this matter on this substantive Motion.

Respectfully submitted:



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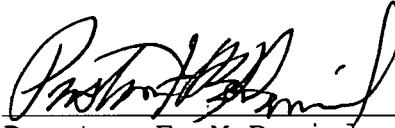
v.

South Carolina Workers' Compensation Commission, ...
.....Respondent.

PROOF OF SERVICE

I certify that I have served the PETITION FOR REHEARING
with MEMORANDUM IN SUPPORT OF by depositing a copy of same in
the United States Mail, postage prepaid, on February 8, 2019
addressed to:

T. Parkin C. Hunter, Esquire
Harley L. Kirkland, Esquire
Post Office Box 11549
Columbia, South Carolina 29211-1549



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Appellants

February 8, 2019

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Proudly representing injured workers
for over 30 years.

Preston F. McDaniel

Matthew Robertson

Telephone (803) 771-7211

Facsimile (803) 252-0709

February 8, 2019

HAND DELIVERED

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

RE: Pamela Cartee v. SCJD (Preston F. McDaniel)
Appellate Case No. 2018-001234

Dear Ms. Kitchings:

Please find attached our Petition for Rehearing to the Order of Judge McDonald entered on our Motion to Dismiss our appeal without prejudice which we are filing pursuant to the provision of SCACR, Rule 240(j) which specifically provides for a Petition for Rehearing as to an Order of an individual Judge of the Court. This is not a Petition for Rehearing as to an Order of the Court under SCACR, Rule 240(i). Please find enclosed the filing fee and also a Proof of Service on all Counsel of Record. It is my understanding that Counsel of Record consists of Mr. T. Parkin Hunter, Esquire, and Ms. Harley L. Kirkland, Attorney, both of whom have noticed representation as the assigned attorneys from the Attorney General's office to handle this matter on behalf of the Commission.

I look forward to hopefully having a hearing before the Court on this substantive Motion.

Sincerely yours,



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Preston F. McDaniel

FEB 08 2019

SC Court of Appeals

PFM/kth
Enclosures

cc: John M. Milling, Esquire
T. Parkin Hunter, Esquire
Harley L. Kirkland, Attorney