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SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

Case No. 2012207908

Ravenel Gaskins (deceased), Employee,.....Respondent,

v.

Johnny Gaskins Trim, Employer,  
and Accident Insurance Company, Carrier,.....Appellants.

RECORD ON APPEAL

Jason Anderson Williams  
1239 Gracewood Avenue  
Atlanta GA 30316  
843-408-3255  
Attorney for Appellant

Kathryn R. Fiehrer  
Attorney for Appellants  
Wood & Warder, LLC  
P.O. Box 20550  
Charleston, SC 29413  
(843) 577-5732

R. Walter Hundley  
Attorney for Respondent  
P.O. Box 31189  
Charleston, SC 29417  
(843) 723-1995

## INDEX

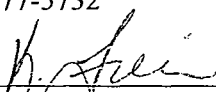
- (1) Order of Single Commissioner filed July 1, 2011.....p. 1
- (2) Order of Full Commission Appellate Panel filed January 18, 2012.....p. 3
- (3) Claimant's Request for Hearing, death case (Form 52) dated  
May 27, 2011.....p. 9
- (4) Appellants' Answer to Request for Hearing, death case (Form 53)  
dated June 22, 2011.....p. 10
- (5) Appellants' Motion to Compel filed on June 2, 2011.....p. 11
- (6) Claimant's Pre-Hearing Brief (Form 58) and APA Submissions  
dated June 13, 2011.....p. 13
- (7) Appellants' Request for Commission Review (Form 30) dated  
July 11, 2011.....p. 21
- (8) Appellants' Brief to the South Carolina Workers' Compensation  
Commission dated August 23, 2011.....p. 24
- (9) Claimant's Brief to the South Carolina Workers' Compensation  
Commission dated September 23, 2011.....p. 31
- (10) Appellants' Notice of Intent to Appeal dated February 14, 2012.....p. 35
- (11) Appellants' Notice of Appeal dated February 14, 2012.....p. 37
- (12) Appellants' Petition for Judicial Review dated February 14, 2012.....p. 38
- (13) Appellants' Memorandum in Support of Direct Appeal dated  
February 14, 2012.....p. 43
- (14) Transcript of Hearing before Full Commission dated October 25,  
2011.....p. 47

**CERTIFICATE OF COUNSEL**

I certify that this Record on Appeal contains all material proposed to be included by any party and does not contain any matter which is irrelevant to this appeal.

I further certify that the Record on Appeal complies with the Supreme Court Order of August 13, 2007 in that there are no personal data identifiers included in the Record on Appeal or the identifiers have been redacted where necessary.

WOOD & WARDER, LLC  
P.O. Box 20550  
Charleston, SC 29413  
(843) 577-5732

By:   
Kathryn R. Fiehrer, Esquire  
Attorney for Appellant

Charleston, South Carolina  
June 14, 2012

BEFORE THE  
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. 1020984

Ravenel Gaskins,	EMPLOYEE,	)	
		)	
	CLAIMANT,	)	
VS.		)	
		)	
Johnny Gaskins Trim		)	
	EMPLOYER,	)	
		)	<b>ADMINISTRATIVE ORDER</b>
AND		)	
		)	
Accident Insurance Company		)	
	CARRIER,	)	
		)	
	DEFENDANTS,	)	

---

A Motion regarding the following issue(s) has been received:

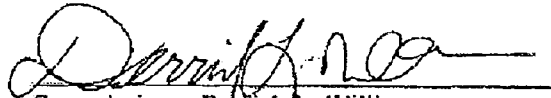
**X Motion to Compel the exhumation of the body of the Deceased Employee for purposes of performing an autopsy.**

The following dispositions have been made:

Denied. In this case, the coroner has already issued a report noting what he believes is the cause of death, based on his personal investigation of the body and the medical evidence. While South Carolina has not specifically addressed this issue, the North Carolina Supreme Court affirmed the denial of an exhumation and stated the following: "A court will not, however, order a body to be disinterred unless there is a strong showing that it is necessary and the interest of justice requires it." Cabe v. Parker-Graham-Sexton, Inc., 162 S.E. 223 (1932). As a general rule, since the South Carolina Workers' Compensation Act was modeled after the North Carolina Workers' Compensation Act, and the South Carolina courts often give deference to North Carolina decisions interpreting Workers' Compensation statutes. The Cabe decision is consistent with South Carolina Supreme Court decisions which state that an order directing exhumation ought not to be made except upon the most serious considerations. In re Percival's Estate, 85 S.E. 247 (S.C. 1915).

Section 42-15-80, 1976 Code of Laws of the State of South Carolina, as amended, states: "The Employer or the Commission *may* in any case of death require an autopsy at the expense of the person requesting it." Section 42-15-80 does not state the Commission *shall* require an autopsy.

Therefore, under the discretion given the Commission in this part of the statute, the Defendants' Motion for Exhumation and Autopsy is denied.



Commissioner Derrick L. Williams

July 1, 2011

CERTIFICATE OF SERVICE

This is to certify the undersigned has this date served this order in the above entitled action upon all parties to this cause by sending an electronic copy hereof by electronic mail addressed to the attorney or attorneys for said parties or by depositing a copy hereof, postage paid, in the United States certified mail addressed to any unrepresented party.

July 1, 2011

By: Renee Smith, Administrative Assistant to Commissioner Williams

**APPELLATE PANEL  
DECISION AND ORDER**  
of the  
**SOUTH CAROLINA WORKER'S COMPENSATION COMMISSION**

**W.C.C. FILE NO. 1020984**

**Ravenel Gaskins, Employee,  
Claimant,**

**v.**

**Johnny Gaskins Trim, Employer,**

**and**

**Accident Insurance Company, Carrier,  
Defendants.**

**AFFIRMATION**

Appellate Panel Review held in Columbia, South Carolina on October 25, 2011, per notices timely and properly served upon all parties of interest.

Appellate Panel *Decision and Order* filed 1/18, 2012

**APPEARANCES:**

Claimant/Respondent represented by R. Walter Hundley, Esquire  
Defendants/Appellants represented by Jason A. Williams, Esquire

## STATEMENT OF CASE

An Administrative Order was issued by Commissioner Derrick L. Williams on June 29, 2011, in North Charleston, South Carolina. Under the date of July 1, 2011, the Hearing Commissioner issued the following Administrative Order, the pertinent part of which is as follows:

### **NOW THEREFORE IT IS ORDERED,**

**Motion to Compel the exhumation of the body of the Deceased Employee for the purposes of performing an autopsy.**

**The following dispositions have been made:**

**Denied.** In this case, the coroner has already issued a report noting what he believes is the cause of death, based on his personal investigation of the body and the medical evidence. While South Carolina has not specifically addressed this issue, the North Carolina Supreme Court affirmed the denial of an exhumation and stated the following: "A court will not, however, order a body to be disinterred unless there is a strong showing that it is necessary and the interest of justice requires it." Cabe v. Parker-Graham-Sexton, Inc., 162 S.E. 223 (1932). As a general rule, since the South Carolina Workers' Compensation Act was modeled after the North Carolina Workers' Compensation Act, and the South Carolina courts often give deference to North Carolina decisions interpreting Workers' Compensation statutes. The Cabe decision is consistent with South Carolina Supreme Court decisions which state that an order directing exhumation ought not to be made except upon the most serious considerations. In re Percival's Estate, 85 S.E. 247 (S.C. 1915).

Section 42-15-80, 1976 Code of Laws of the State of South Carolina, as amended states: "The Employer or the Commission *may* in any case of death require an autopsy at the expense of the person requesting it." Section 42-15-80 does not state the Commission *shall* require an autopsy. Therefore, under the discretion given the Commission in this part of the statute, the Defendants' Motion for Exhumation and Autopsy is denied.

Within the statutory period, the Defendants filed an Application for Review in the case setting forth their grounds of appeal, copies of which were furnished to all interested parties prior to oral arguments presented before the Appellate Panel on October 25, 2011.

All proffered testimony has been taken. Such, together with an documentary evidence has been delivered by argument to the individual members of the Panel and has since been under study and consideration.

By appeal, Appellants-Defendants respectfully submitted:

1. The Hearing Commissioner erred as a matter of law (and denied the Defendants a substantial right) in denying the Defendants' Motion to Compel the deceased Employee's body to be exhumed and an autopsy performed at the expense of the Defendant; the error being that §42-15-80 of the South Carolina Code 91976, as amended) provides the Defendants a statutory right to require an autopsy and the Hearing Commissioner's denial of the Defendants' Motion constitutes an error of law.
2. The Hearing Commissioner erred as a matter of law (and denied the Defendants a substantial right) in construing §42-15-80 so as to hold that the Defendants' right to an autopsy is permissive and within the discretion of the South Carolina Workers' Compensation Commission to allow or disallow; the error being this constitutes an error of law and statutory construction, as §42-15-80 clearly and unequivocally provides the Defendants the right to require an autopsy.
3. The Hearing Commissioner erred as a matter of law (and denied the Defendants a substantial right) in denying the Defendants' Motion to Compel the deceased Employee's body to be exhumed and an autopsy performed at the expense of the Defendants on the basis that the language of §42-15-80 does not offer any instruction in regard to, or contemplate, an exhumation; the error being that this is an inconsequential distinction as the exhumation is part and parcel of the autopsy process in this case given the current circumstances, i.e. the deceased Employee having already been interred.

4. The Hearing Commissioner erred as a matter of law (and denied the Defendants a substantial right) in finding that the Defendants failed to meet their burden of proving that the requested exhumation and autopsy is necessary and required in the interest of justice; the error being that this constitutes an error of law, as the Defendants have no burden of proving that the requested exhumation and autopsy is necessary and required in the interest of the justice given their absolute statutory right to require the same under §42-15-80.

5. The Hearing Commissioner erred as a matter of law (and denied the Defendants a substantial right) in basing his decision to deny the Defendants' Motion to Compel the deceased Employee's body to be exhumed and an autopsy performed at the expense of the Defendants on the statutory and se law of the State of North Carolina, as opposed to the statutory and case law of the State of south Carolina; the error being that this constitutes an error of law, as the Defendants have an absolute right to require an autopsy under the statutory and case law of the State of South Carolina as set forth under §42-15-80.

6. The Hearing Commissioner erred as a matter of law (and denied the Defendants a substantial right) in ordering that the Defendants are not entitled to an exhumation and autopsy of the deceased Employee and in denying the Defendants' Motion to Compel such; the error being that the Defendants have an absolute statutory right to require an autopsy under the clear and plain language of §42-15-80.

7. To the extent that the Defendants have a burden of proving that the requested exhumation and autopsy of the deceased employee is necessary and required in the interest of justice, the Hearing Commission erred as a matter of fact and law (and denied the Defendants a substantial right) in denying the Defendants' Motion to Compel: the error being that the greater weight of

the evidence in the records supports a determination that the deceased Employee suffered from balance issues, cardiac problems that included a sting, and hypertension at the time of his death.

8. To the extent that the Defendants have a burden of proving that the requested exhumation and autopsy of the deceased Employee is necessary and require in the interest of justice, the Hearing Commissioner erred as a matter of fact and law (and denied the Defendants a substantial right) in denying the Defendants' Motion to Compel; the error begin that, while the Report of William B. Salisbury dated December 22, 2010 classifies the death of the deceased Employee as an accident resulting from a head injury due to a fall from a standing position, the Defendants have been effectively barred from conducting any first-hand medical investigation as to the cause of the deceased Employee's fall from a standing position despite the greater weight of the evidence in the record supporting a determination that the deceased Employee suffered from balance issues, cardiac problems that included a stint, and hypertension at the time of his death.

In an Appellate Review, the Commission has the power to weigh the evidence as presented at the initial hearing and, after careful review in the instant case, the Commission, by unanimous vote, has determined that the Hearing Commissioner's Administrative Order should be Affirmed. The Majority Panel affirms the decision of the Single Commissioner. Barden reverses.

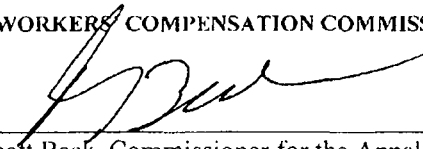
#### **ORDER**

The Order of the Single Commissioner filed in the above entitled matter on July 1, 2011, is hereby affirmed by the Panel and the same shall constitute the Decision and Order of the Appellate Panel.

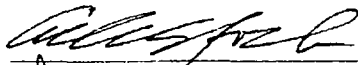
AND IT IS SO ORDERED.

**[SIGNATURE PAGE FOLLOWS]**

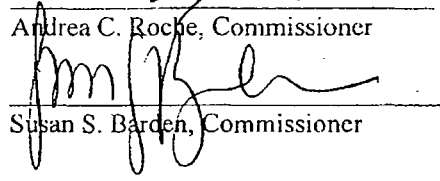
S.C. WORKERS' COMPENSATION COMMISSION

  
T. Scott Beck, Commissioner for the Appellate Panel

CONCUR:

  
Andrea C. Roche, Commissioner

REVERSE:

  
Susan S. Barden, Commissioner

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served this order in the above entitled action upon all parties to this cause by depositing a copy hereof, postage paid, in the United States mail addressed to the attorney or attorneys for said parties.

This 10 day of January, 2012  
By Wallace D. Deller

Administrative Assistant to the Commissioner

Ka Khryn R. Fiehrer  
R. Walter Hurdley

**South Carolina Workers' Compensation Commission**

P.O. Box 1715 • 1612 Marion Street  
Columbia, South Carolina 29202-1715  
(803) 737-5700

WCC File # 1020984  
Carrier File # \_\_\_\_\_  
Carrier Code # \_\_\_\_\_  
Employer FEIN \_\_\_\_\_

Johnnie Gaskins, Claimant, Surviving Spouse and sole Beneficiary of Ravenel Gaskins, Deceased Employee				Johnny Gaskins Trim			
Claimant's Name				Employer's Name			
SSN _____				Ridgeville, SC 29472			
Address _____		City _____		Address _____		City _____	
State _____		Zip _____		State _____		Zip _____	
( ) _____		( ) _____		Accident Insurance Co. _____			
Home Phone _____		Work Phone _____		Insurance Carrier _____			
R. Walter Hundley, Esquire				(843) 723-1995			
Preparer's Name				Phone #			

Complete each information blank. To request a hearing, check box 12 b., indicate the kinds of benefits claimed by checking the box(es) at lines 6, 7, and 8 and file this form in duplicate.

A claim for worker's compensation benefits is made based on the following grounds:

The claimant is Johnnie Gaskins, Claimant, Surviving Spouse and sole Beneficiary of Ravenel Gaskins, Deceased Employee  
relationship to employee \_\_\_\_\_ employee's name \_\_\_\_\_

1. The employee sustained an accidental injury to the fatality on 12/02/10 in Berkeley County, State of South Carolina  
part of body hurt \_\_\_\_\_ month day year \_\_\_\_\_
2. Both the employee and the employer were subject to the South Carolina Workers' Compensation Act at the time of the injury.
3. The relationship of employer and employee existed at the time of the injury.
4. At the time of the injury the employee was performing services arising out of and in the course of employment.
5. Notice of the accidental injury was given to the employer on 12/02/10 in the following manner:  
Month day year \_\_\_\_\_
6. Due to injury, the employee received medical examination and treatment which remains unpaid by the employer.
7. Due to injury, the employee lost compensable time from work and wages for the periods of: \_\_\_\_\_  
No lost time prior to the date of death.
8. The employee died on 12/02/2010 as a result of the accidental injury, and death compensation is claimed.  
month day year \_\_\_\_\_
9. At the time of injury the employee was paid weekly wages of \$ \_\_\_\_\_ The claimant demands an accounting of days worked and wages earned as provided by law.  
Wage/salary documentation to be provided \_\_\_\_\_
10. Further grounds of claim: Claimant reserves the right to amend this document.
11. Appropriate benefits as provided in the Act for the above grounds and other relief as the Workers' Compensation Commission may direct as just and proper.

12. a. I am filing a claim. I am not requesting a hearing at this time.
12. b. I am requesting a hearing.

Signature of Claimant/Representative  Date May 27, 2011

South Carolina Workers' Compensation Commission  
P.O. Box 1715 • 1612 Marion Street  
Columbia, South Carolina 29202-1715  
(803) 737-5700

WCC File # 1020984  
Carrier File # 234437  
Carrier Code # \_\_\_\_\_  
Employer FEIN \_\_\_\_\_

<u>Ravenel Gaskins (Deceased)</u> Claimant's Name				SSN _____	<u>Johnny Gaskins Trim</u> Employer's Name				
Address _____				City _____	State _____	Zip _____	Address _____		
							Ridgeville, SC 29472		
Home Phone _____				Work Phone _____		US Administrator Claims			
				Jason A. Williams, Esquire		(843) 577-5732			
				Preparer's Name		Phone #			

Complete each information blank. Specify clearly when contentions are admitted in part and denied in part. The employer-insurance

Insurance carrier in answer to the claim, due to death of Ravenel Gaskins (Deceased), respectfully shows:  
employee's name

- It is denied that the employee sustained a causally related and compensable injury on or about the date set forth in the application.
- It is denied that both the employer and employee were subject to the Workers' Compensation Act at the time in question. The reasons for denial are: Defendants deny that deceased Employee's alleged injury and resulting death occurred while deceased Employee was performing services arising out of and in the course of his employment with Johnny Gaskins Trim; and Defendants deny that deceased Employee elected to be included as an employee under the workers' compensation coverage of Johnny Gaskins Trim.
- It is denied that the relationship of employer and employee existed at the time in question. The reasons for denial are: Defendants deny that deceased Employee's alleged injury and resulting death occurred while deceased Employee was performing services arising out of and in the course of his employment with Johnny Gaskins Trim; and Defendants deny that (alleged) deceased Employee elected to be included as an employee under the workers' compensation coverage of Johnny Gaskins Trim.
- It is denied that at the time in question the employee was performing services arising out of and in the course of employment.
- It is admitted that notice of injury was given the employer as specified in the application.
- It is denied that the employee was entitled to medical care as a result of injury.
- It is denied that the employee lost compensable time from work and wages for periods of: N/A
- It is denied that the employee's death resulted proximately from accidental injury arising out of and in the course of employment on
- It is contended that an average weekly wage of \$ TBD applies, according to attached accounting of employee's earnings as provided by law.
- Further contentions or grounds of defense are: Defendants reserve their right to amend the Form 53; and Defendants filed a Motion to Compel the exhumation and autopsy of the deceased Employee for purposes of conducting further investigation into the matter at hand.

I certify that I have served this document pursuant to R.67-212 by delivering a copy to R. Walter Hundley, Esquire  
Name

P.O. Box 31189, Charleston, SC, 29417.  
Address

on the 22nd day of June, 2011 by  first class mail;  personal service;  certified mail.

[Signature] Attorney for Defendants. 6/22/11  
Preparer's Signature Title Date

Refer to R.67-205 and R.67-601 through R.67-615. Questions about the use of this form may be directed to the Commission's Judicial Department. Pursuant to R.67-606, a Form 20 must be filed with the Claims Department at least 30 days from the date of filing this form.

BEFORE THE  
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO.: 1020984

Ravenel Gaskins, )  
 )  
Deceased Employee, )  
 )  
-vs- )  
 )  
Johnnie Gaskins Trim, ) MOTION TO COMPEL  
 )  
Employer, and )  
 )  
Accident Insurance Company, )  
 )  
Carrier, )  
 )  
Defendants. )  
\_\_\_\_\_ )

TO: SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION AND  
R. WALTER HUNDLEY, ESQUIRE.

YOU WILL PLEASE TAKE NOTICE that the above named Defendants, by and through their undersigned attorney, respectfully move pursuant to Regulation 67-215 and S.C. Code Ann. §42-15-80 (1976, as amended) for an Order of the South Carolina Workers' Compensation Commission (hereinafter referred to as "Commission") compelling both the exhumation of the body of the Deceased Employee and the performance of an autopsy upon said body at the expense of the Defendants. The grounds for the Motion are as follows:

1. That on May 27, 2011, the Claimant, by and through her attorney of record, R. Walter Hundley, Esquire, filed a Form 52, Employee's Request for Hearing (Death Case), wherein a hearing was requested in connection

with her allegation that the Deceased Employee sustained a fatality on December 2, 2010 by accident arising out of and in the course of his employment with Johnny Gaskins Trim;

2. That one of the primary issues in dispute in this case is whether the death of the Deceased Employee is causally related to the alleged work related injury by accident on December 2, 2010;
3. That upon information and belief, the Defendants contend that an autopsy has significant potential to reveal information as to the cause of the Deceased Employee's death on December 2, 2010, and whether said death is causally related to the alleged injury by accident arising out of and in the course of the Deceased Employee's employment; and
4. That the Defendants have a statutory right to obtain an autopsy under the terms and provisions of §42-15-80.

WHEREFORE, the Defendants respectfully request that the Commission issue an Order compelling both the exhumation of the body of the Deceased Employee and the performance of an autopsy upon said body at the expense of the Defendants pursuant to the terms and provisions of §42-15-80.

Respectfully submitted,

Wood & Warder, LLC  
P. O. Box 20550  
Charleston, SC 29413

By: \_\_\_\_\_  
Jason A. Williams  
Attorney for the Defendants

June 2, 2011



Claimant's Name: Johnnie Gaskins, as surviving spouse and sole beneficiary of Ravenel Gaskins, Decedent. Employer's Name: Johnny Gaskins Trim  
Address: \_\_\_\_\_ Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Home Phone: \_\_\_\_\_ Work Phone: \_\_\_\_\_ Carrier: Accident Insurance Co.  
Preparer's Name: R. Walter Hundley, Esquire Preparer's Phone #: ( 843 ) 723-1995

**A claim for workers' compensation benefits is made based on the following grounds:**

Injury  Illness  Repetitive Trauma

1. Compensation Rate: \$366.66 2. AWW: \$245.45 Date of Injury: December 2, 2011

3. Type of injury and body part(s): Fatality.

4. Facts in controversy: \_\_\_\_\_

This is a denied fatality claim. This hearing is set on the Defendants Motion to Compel, filed on June 2, 2011, seeking an order for

The exhumation of the body of the deceased employee, Ravenel Gaskins, for the purpose of having an autopsy performed. The Defendants' Motion indicates that the ordered autopsy is expected to have "significant potential for revealing as to the cause" of the Decedent's death and whether the death was causally related to injury arising out of and in the course of the Decedent's employment. The Claimant objects to the Motion on the grounds that an autopsy to determine the precise organic cause of the Decedent's passing would not yield any information beyond that already contained in the Berkeley County Coroner's report, [ See APA #(1) ] that would warrant the harsh emotional toll an exhumation and ordered autopsy would take on the Decedent's family.

5. Legal issues involved: Sections 42-9-10; 42-9-20; 42-9-30; and 42-15-60.

6. Unusual aspects: The Decedent is the owner and operator of the insured employer in this case . He purchased the coverage and did not exclude himself. The Decedent was found dead in a bathroom in his home located at \_\_\_\_\_ which is the specified physical location of the insured business. The Decedent conducted all his business out of the home, usually by phone.

7. Witnesses (designate if expert):\* The Claimant, Johnnie Gaskins, and any witnesses called by the Defendant.

8. Exhibits: APA #(1) William B. Salisbury, Chief Deputy Coroner, Berkeley County, SC.

9. Medical evidence (indicate report pursuant to R.67-612; deposition or appearance): \_\_\_\_\_

(Claimant reserves the right to amend this document and submit any additional medical records and other evidence as they may become available).

10. Name, address, and specialty, if any, of the treating physician: Fatality.

11. Impairment rating(s); body part(s); physician and date of opinion: Fatality.

12. I am amending my Form 50/51 in the following manner: \_\_\_\_\_

I verify the contents of this form are accurate and true to the best of my knowledge.

Signature: \_\_\_\_\_

Email: FIRM@RWalterHundley.com

Attorney for  
Claimant

Date of hearing: June 29, 2011

Time needed for hearing: 30 minutes

On behalf of  Claimant  Employer

---

File this form and proof of service on the opposing party according to R.67-611 and R.67-212. Do not send medical reports.  
\* Commissioners reserve the right to admit expert witnesses at hearings.

**WCC Form # 58**  
Rev. 9/07

**58**

**PRE-HEARING BRIEF**

BEFORE THE SOUTH CAROLINA  
WORKERS' COMPENSATION  
COMMISSION

W.C.C. FILE NO. 1020984

Johnnie Gaskins, as Surviving Spouse and )  
Sole Beneficiary of Ravenel Gaskins )  
Deceased Employee, )  
Claimant, )  
v. )  
Johnny Gaskins Trim, )  
Employer, )  
And )  
Accident Insurance Co., )  
Carrier, )  
Defendants. )  
\_\_\_\_\_ )

NOTICE OF WITNESSES AND  
WRITTEN REPORT(S) / PHYSICIAN  
OR OTHER EVIDENCE TO BE  
INTRODUCED ON BEHALF OF  
CLAIMANT

TO: **South Carolina Workers' Compensation Commission and Jason A. Williams,  
Esquire, Attorney for the Defendants:**

YOU ARE HEREBY NOTIFIED THAT THE CLAIMANT, pursuant to the provisions of the South Carolina Workers' Compensation Act and S.C. Code Ann. Section 1-23-330 (1985), herewith submits the following reports/physician or other evidence on behalf of the Claimant, to wit:

NAME OF REPORT(S)/PHYSICIAN OR OTHER EVIDENCE	DATE OF REPORT(S)	PAGES
I. William B. Salisbury, Chief Deputy Coroner Berkeley County, SC.	12/03/10	1-2

YOU ARE FURTHER HEREBY NOTIFIED that you have the right to cross-examination and, should you desire to exercise that right, you are to forthwith schedule the deposition(s) of any of the physicians or other person(s) whose reports are submitted, for the purposes of cross-

examination.

YOU ARE FURTHER NOTIFIED that the originals of the documents referred to herein, or photocopies received from said physicians/others, will be submitted at the Hearing before the South Carolina Workers' Compensation Commission, for insertion in the file of the South Carolina Workers' Compensation Commission and inclusion into evidence on behalf of the Claimant.

YOU ARE FURTHER NOTIFIED that the following witnesses may be called on behalf of the Claimant:

The Claimant, Johnnie Gaskins, and any witnesses called by the Defendants.

BY: 

**R. Walter Hundley, Esquire**  
ATTORNEY FOR THE CLAIMANT

1517 Sam Rittenberg Blvd.

P.O. Box 31189

Charleston, SC 29417-1189

Phone : (843) 723-1995

Facsimile : (843) 723-1945

13 day of June, 2011  
Charleston, South Carolina

CERTIFICATE OF SERVICE

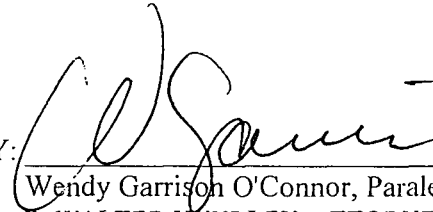
I, the undersigned, do hereby certify that on **June 13, 2011**, I served the document(s) listed below by placing a copy of same in the United States Mail, with sufficient first class postage thereon, addressed to the following:

Document(s) Served : **Form 58, Claimant's Pre-Hearing Brief & Notice of Witnesses/Medical Reports, with attached Documentation**

Person(s) Served :

Jason A. Williams, Esquire  
Wood, Porter & Warder, L.L.C.  
One Wesley Dr.  
PO Box 20550  
Charleston, SC 29413

BY:



Wendy Garrison O'Connor, Paralegal  
**R. WALTER HUNDLEY, ATTORNEY AT LAW**  
1517 Sam Rittenberg Blvd.  
P.O. Box 31189  
Charleston, SC 29417-1189  
Phone : (843) 723-1995  
Facsimile : (843) 723-1945  
Attorneys for the Claimant

Blank

BERKELEY COUNTY CORONER'S OFFICE  
GLENN RHOAD, CORONER

Berkeley County Court House  
300-B California Avenue  
Moncks Corner, South Carolina 29461

Telephone (843) 761-4199

Charleston (843) 723-3800, Ext. 4567

Printed 12/22/2010 Page 1

Deceased: GASKINS, RAVENEL

Case# 2010 000670

Splmnt# 0

SSN:

Race: W Sex: M D.O.B: 03/30/1936 Age: 74 YEARS

Incident Date: 12/02/2010 Time: Location: RESIDENCE

Death Date: 12/02/2010 Time: Location: RESIDENCE

Manner: NATURAL Category: NATURAL CAUSES

Cause: HEAD INJURY DUE TO FALL FROM STANDING POSITION

Alcohol Involved:  N Drugs Involved:  N Physician:

Next of Kin: JOHNNIE MAE GASKINS

Relationship: SPOUSE

Address:

Work Ph:

Home Ph:

Witness:

Witness:

Work Ph:

Work Ph:

Home Ph:

Home Ph:

Notified By: BERKELEY COUNTY 911 DISPATCH

On Call Coroner: SALISBURY, WILLIAM B.

Recv: 06:10 Arrv: 06:38 Comp: Miles: Weather:

Pronounced By: SALISBURY, WILLIAM B.

At: 12/02/2010 06:38

Blood Drawn:  N Autopsy:  N ME:

Autopsy Agency:

Transport By: DIAL-MURRAY FUNERAL HOME, INC.

Funeral Home: DIAL-MURRAY FUNERAL HOME, INC.

B.T.P.: 614434

Invst: BERKELEY COUNTY SHERIFF'S DEPT.

Ofcr: MITCHUM

Case# 201012052520

BERKELEY COUNTY CORONER'S OFFICE  
GLENN RHOAD, CORONER

Berkeley County Court House  
300-B California Avenue  
Moncks Corner, South Carolina 29461

Telephone (843) 761-4199

Charleston (843) 723-3800, Ext. 4567

Printed 12/22/2010 Page 2

Deceased: GASKINS, RAVENEL

Case# 2010 - 000670

Splmnt# 0

On December 2, 2010, at approximately 6:10 a.m., this Officer was notified by Coroner Rhoad of a death at Berkeley County, Community of Berkeley County.

I immediately responded. I found a 74 year old white male, identified as Ravenel Gaskins, who was an acquaintance of mine. He was lying on the bathroom floor. The EKG showed asystole in all leads. Also noted was a head wound on his temple area of his head.

His wife stated that he had been having some problems recently that included losing his balance. He also had some cardiac issues that included a stint and hypertension. His daughter stated that he had gotten up around 4:30 a.m., and had gone into the bathroom. She checked on him around 5:45 a.m., and she found him in the above condition.

After speaking with family members and inspecting the decedent's body, this Officer determined that no autopsy be ordered.

This Officer will certify and sign the death certificate. Death will be classified as an accidental death with the cause of death being head injury due to a fall from standing position.

The family requested that Dial-Murray Funeral Murray Funeral Home be called to handle final arrangements and disposition of the body.

BRT NO. 614434 was issued by this Officer.

No further investigation will be necessary in this case.

William B. Salisbury, Chief Deputy Coroner

WBS:cl  
12-03-2010

South Carolina Workers' Compensation Commission  
P.O. Box 1715 • 1612 Marion Street  
Columbia, South Carolina 29202-1715  
(803) 737-5700

W File # 1020984  
Carrier File # 234437  
Carrier Code # \_\_\_\_\_  
Employer FEIN \_\_\_\_\_

Ravenel Gaskins (Deceased)  
Claimant's Name SSN \_\_\_\_\_  
Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
Home Phone \_\_\_\_\_ Work Phone \_\_\_\_\_

Johnny Gaskins Trim  
Employer's Name  
Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
US Administrator Claims  
Insurance Carrier

Jason A. Williams, Esquire (843) 577-5732  
Preparer's Name Phone #

Request for Commission Review by  claimant  employer (check one) Date of injury: 12/2/10

The undersigned makes application for review of the findings of the Commissioner in the above captioned case. The request for review is based on the following grounds: (State the grounds of your appeal in the form of questions presented. Each question presented must contain a concise statement of one proposition of law or fact. Refer to evidence by title and exhibit number. Use additional pages, if necessary).

See attachment page.

(Check one) Oral argument  is  is not requested. Appellant's request for oral argument is waived if not indicated on this form.

I certify that \_\_\_\_\_ I have served this document pursuant to R.67-211 by delivering a copy to R. Walter Hundley, Esquire,  
Name

P.O. Box 31189, Charleston, SC 29417-1189  
Address

on the 11<sup>th</sup> day of July, 2011 by  first class mail;  personal service;  certified mail.

Preparer's Signature \_\_\_\_\_ Attorney for Defendants July 11, 2011  
Title Date

Check this box if you are not represented by an attorney.

If the claimant appeals and is representing himself or herself, the Judicial Department will prepare the additional copies of this form and serve this form on the opposing party. R.67-701 B. Otherwise, file the original and 4 copies of this form with the Judicial Department. The appeal must be postmarked no later than 14 days from the date of service of the Hearing Commissioner's decision. R.67-701 and R.67-205. Attach the filing fee to this form. Attach a Form 32 if you are unable to pay the filing fee. Refer to R.67-701 through R.67-711 for additional information.

Ravenel Gaskins (Deceased) v. Johnny Gaskins Trim  
W.C.C. File No: 1020984  
Carrier File No: 234437  
Date of Accident: December 2, 2010

FORM 30, ATTACHMENT

1. The Hearing Commissioner erred as a matter of law (and denied the Defendants a substantial right) in denying the Defendants' Motion to Compel the deceased Employee's body to be exhumed and an autopsy performed at the expense of the Defendants; the error being that §42-15-80 of the South Carolina Code (1976, as amended) provides the Defendants a statutory right to require an autopsy and the Hearing Commissioner's denial of the Defendants' Motion constitutes an error of law;
2. The Hearing Commissioner erred as a matter of law (and denied the Defendants a substantial right) in construing §42-15-80 so as to hold that the Defendants' right to an autopsy is permissive and within the discretion of the South Carolina Workers' Compensation Commission to allow or disallow; the error being this constitutes an error of law and statutory construction, as §42-15-80 clearly and unequivocally provides the Defendants the right to require an autopsy;
3. The Hearing Commissioner erred as a matter of law (and denied the Defendants a substantial right) in denying the Defendants' Motion to Compel the deceased Employee's body to be exhumed and an autopsy performed at the expense of the Defendants on the basis that the language of §42-15-80 does not offer any instruction in regard to, or contemplate, an exhumation; the error being that this is an inconsequential distinction as the exhumation is part and parcel of the autopsy process in this case given the current circumstances, i.e. the deceased Employee having already been interred;
4. The Hearing Commissioner erred as a matter of law (and denied the Defendants a substantial right) in finding that the Defendants failed to meet their burden of proving that the requested exhumation and autopsy is necessary and required in the interest of justice; the error being that this constitutes an error of law, as the Defendants have no burden of proving that the requested exhumation and autopsy is necessary and required in the interest of justice given their absolute statutory right to require the same under §42-15-80;
5. The Hearing Commissioner erred as a matter of law (and denied the Defendants a substantial right) in basing his decision to deny the Defendants' Motion to Compel the deceased Employee's body to be exhumed and an autopsy performed at the expense of the Defendants on the statutory and case law of the State of North Carolina, as opposed to the

Ravenel Gaskins (Deceased) v. Johnny Gaskins Trim  
W.C.C. File No: 1020984«F1»  
Carrier File No: 234437  
Date of Accident: December 2, 2010

statutory and case law of the State of South Carolina; the error being that this constitutes an error of law, as the Defendants have an absolute right to require an autopsy under the statutory and case law of the State of South Carolina as set forth under §42-15-80;

6. The Hearing Commissioner erred as a matter of law (and denied the Defendants a substantial right) in ordering that the Defendants are not entitled to an exhumation and autopsy of the deceased Employee and in denying the Defendants' Motion to Compel such; the error being that the Defendants have an absolute statutory right to require an autopsy under the clear and plain language of §42-15-80;
7. To the extent that the Defendants have a burden of proving that the requested exhumation and autopsy of the deceased Employee is necessary and required in the interest of justice, the Hearing Commission erred as a matter of fact and law (and denied the Defendants a substantial right) in denying the Defendants' Motion to Compel; the error being that the greater weight of the evidence in the record supports a determination that the deceased Employee suffered from balance issues, cardiac problems that included a stint, and hypertension at the time of his death; and
8. To the extent that the Defendants have a burden of proving that the requested exhumation and autopsy of the deceased Employee is necessary and required in the interest of justice, the Hearing Commission erred as a matter of fact and law (and denied the Defendants a substantial right) in denying the Defendants' Motion to Compel; the error being that, while the Report of William B. Salisbury dated December 22, 2010 classifies the death of the deceased Employee as an accident resulting from a head injury due to a fall from a standing position, the Defendants have been effectively barred from conducting any first-hand medical investigation as to the cause of the deceased Employee's fall from a standing position despite the greater weight of the evidence in the record supporting a determination that the deceased Employee suffered from balance issues, cardiac problems that included a stint, and hypertension at the time of his death.

RESPECTFULLY SUBMITTED,

BEFORE THE  
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO.: 1020984

Ravenel Gaskins (Deceased),	)	
	)	
Employee/Claimant,	)	
	)	
-vs-	)	<b>APPELLATE BRIEF</b>
	)	<b>OF DEFENDANTS</b>
Johnny Gaskins Trim,	)	
	)	
Employer, and	)	
	)	
Accident Insurance Co.,	)	
	)	
Carrier,	)	
	)	
Defendants.	)	
<hr style="border: 0.5px solid black;"/>		

**STATEMENT OF THE CASE**

This matter is before the South Carolina Workers' Compensation Commission (hereinafter referred to as "Commission") pursuant to a Form 30, Request for Commission Review, filed by the Defendants on July 11, 2011. Prior thereto, Johnnie Gaskins, the surviving spouse of the above named deceased Employee, (hereinafter referred to as "Claimant"), by and through her attorney of record, R. Walter Hundley, Esquire, filed a Form 52, Employee's Request for Hearing, Death Case, on May 27, 2011. The Form 52 contends that the deceased Employee/Claimant died on December 2, 2010, while performing services arising out of and in the course of his employment with Johnny Gaskins Trim. In connection therewith, the Form 52 further contends that the Claimant is entitled to death benefits pursuant to the terms and provisions of the South Carolina Workers' Compensation Act (hereinafter referred to as "Act").

By way of a Form 53, Employer's Answer to Request for Hearing, Death Case, filed on June 22, 2011, the Defendants denied, *inter alia*, that the deceased Employee sustained a causally related and compensable injury as alleged. Prior thereto, the Defendants filed a Motion to Compel on June 2, 2011, wherein they requested an Order of the Commission compelling the deceased Employee's body to be exhumed and an autopsy performed at the expense of the Defendants. In support thereof, the Defendants noted that one of the primary issues in dispute in connection with the matter at hand involves whether the deceased Employee's death was causally related to the alleged work related injury by accident. In this regard, the Defendants further set forth that an autopsy has the significant potential to reveal information as to the cause of the deceased Employee's death. Furthermore, the Defendants noted their statutory right to require an autopsy pursuant to the terms and provisions of S.C. Code Ann. §42-15-80 (1976, as amended).

By way of an Administrative Order dated July 1, 2011, Commissioner Derrick L. Williams denied the aforementioned Motion of the Defendants, thereby ruling that the Defendants are not entitled to an exhumation and autopsy of the deceased Employee. In support of his ruling denying the Motion, Commissioner Williams noted that the coroner "already issued a report noting what he believes to be the cause of death, based on his personal investigation of the body and the medical evidence." Additionally, Commissioner Williams noted that the terms and provisions of §42-15-80 do not indicate the Commission *shall* require an autopsy, thereby concluding that the statute provides discretion to the Commission only as it pertains to determining whether an autopsy is required in connection with a request for the payment of benefits in any case of death. In

support thereof, Commissioner Williams further noted the following in citing the ruling of the Supreme Court of North Carolina in Cabe v. Parker-Graham-Sexton, Inc., 202 N.C. 176, 162 S.E. 223 (1932), which involved a claim for death benefits under the North Carolina Workers' Compensation Act: “[a] court will not, however, order a body to be disinterred unless there is a strong showing that it is necessary and the interest of justice requires it.” In relying on the aforementioned ruling of the Supreme Court of North Carolina, Commissioner Williams not only noted that the Act was modeled after the North Carolina Workers' Compensation Act, but further indicated that the ruling in Cabe is consistent with prior decisions of the Supreme Court of South Carolina indicating that “an order directing exhumation not to be made except upon the most serious considerations.” In re Percival's Estate, 85 S.E.247 (1915).

#### **QUESTION PRESENTED**

1. DID COMMISSIONER BECK ERR IN DENYING THE DEFENDANTS' MOTION TO COMPEL AN AUTOPSY?

- (a) Applicable Law

The terms and provisions of §42-15-80 specifically address the issue concerning an employer's right to require an autopsy in any case of death. In this regard, §42-15-80(A) states in pertinent part “. . . The employer or the commission may require in any case of death an autopsy at the expense of the person requesting it.” While Commissioner Williams correctly concluded that the aforementioned statutory terms and provisions provide discretion to the Commission as it pertains to determining whether an autopsy is required in connection with a request for the payment of benefits in any case of death, the Defendants contend that he erred as a matter of law with respect to his determination that the terms and provisions of §42-15-80 fail to provide that same discretion to an employer.

In support of the aforementioned contention, the Defendants note that the conjunction “or” serves as the equivalent or substitutive character of two words or phrases. In view of the foregoing, the Defendants set forth that the true intent of the statutory language set forth in §42-15-80 is to provide both an employer, in this case, the Defendants, and the Commission with the right and/or discretion to determine whether an autopsy is required in connection with a request for the payment of benefits in any case of death.

The Defendants further contend that any statutory construction of §42-15-80 to the contrary is baseless and without merit. In this regard, the Defendants set forth that any attempt to distinguishing between the statutory right to an autopsy pursuant to §42-15-80 and the exhumation process necessary to conduct the same produces an absurd result. As in the matter at hand, when a claim for death benefits under the Act is filed subsequent to the burial of a deceased employee, an autopsy cannot be performed without the body being exhumed. As such, the Defendants contend that the exhumation is part and parcel of the autopsy itself.

Additionally, the terms and provisions of §42-15-80 make no reference whatsoever to an employer, in this case, the Defendants, or the Commission having any burden of proof in exercising their right and/or discretion to require an autopsy in any case of death. In this regard, to the extent that the 1932 ruling of the South Carolina Supreme Court in In re Percival's Estate remains good law in State of South Carolina, the Defendants set forth the aforementioned statutory provisions of the Act, enacted by subsequent to the aforementioned ruling, control in the matter at hand. The Defendants further point out that the ruling of the South Carolina Supreme Court in In re Percival's Estate did not concern a workers' compensation claim in the State of South Carolina.

Regardless of whether an Employer or the Commission has any burden of proof in exercising their right and/or discretion to require an autopsy in any case of death pursuant to the terms and provisions of §42-15-80 (1976, as amended), the Defendants point to the second page of the report of William B. Salisbury, Chief Deputy Coroner of Berkeley County, South Carolina, which was submitted into the evidentiary record by the attorney for the Claimant. In this regard, while Chief Deputy Coroner Salisbury classified the death of the deceased Employee as an accidental death with a cause of death being head injury due to a fall from a standing position, the Defendants point out that he failed to make any specific conclusions as to the reason the deceased Employee fell from a standing position. Chief Deputy Coroner Salisbury did indicate the following:

His wife stated that he had been having some problems recently that included losing his balance. He also had some cardiac issues that included a stint and hypertension.

In view of the foregoing, the Defendants further set forth that the terms and provisions of S.C. Code Ann. §42-1-160 (1976, as amended) states the following in pertinent part:

Stress, mental injuries, heart attacks, strokes, embolisms, or aneurysms arising out of and in the course of employment unaccompanied by physical injury are not considered compensable if they result from any event or series of events which are incidental to normal Employer/Employee relations.

In this regard, given the objection of Chief Deputy Coroner Salisbury that the deceased Employee suffered from balance issues and some cardiac issues, including a stint and hypertension, the Defendants further contend that the requested exhumation and autopsy

are necessary and in the interest of justice given the request for death benefits under the Act by the Claimant.

(b) Interlocutory Nature of Appeal

The Defendants contend that the Administrative Order of Commissioner Williams dated July 1, 2011 is immediately appealable to the Appellate Panel of the Commission pursuant to the terms and provisions of Reg. 67-701 and S.C. Code Ann. §42-17-50 (1976, as amended), as such do not distinguish between a final or interlocutory order. In addition, the terms and provisions of S.C. Code Ann. §14-3-330 (1) and (2) (1976, as amended) permit an appeal from an interlocutory order if it affects the merits or deprives an appellant of a substantial right. *See Green v. City of Columbia*, 311 S.C. 78, 427 S.E.2d 685 (Ct.App. 1993); *See also Brunson v. American Koyo Bearings*, 367 S.C. 161, 623 S.E.2d 870, *re-hearing denied* (Ct.App. 2005). In this instance, the Administrative Order issued by Commissioner Williams clearly and unequivocally denies the Defendants their statutory right to an autopsy as provided pursuant to the terms and provisions of §42-15-80. Moreover, the Administrative Order affects the merits of the case because it is the only means by which to investigate the cause of the deceased Employee/Claimant's death.

**CONCLUSION**

Commissioner Williams erred as a matter of law in denying the Defendants' Motion to Compel filed on June 2, 2011. In this regard, the Full Commission should reverse the Administrative Order of Commissioner Williams dated July 1, 2011 in its entirety, thereby issuing its own Order granting the Motion and compelling the

exhumation of the deceased Employee for purposes of an autopsy to be performed at the expense of the Defendants pursuant to the clear and unambiguous terms of §42-15-80.

RESPECTFULLY SUBMITTED:

Wood & Warder, LLC  
P.O. Box 20550  
Charleston, SC 29413  
Tel No.: (843) 577-5732

By: \_\_\_\_\_  
Jason A. Williams, Esquire  
Attorney for Defendants

August 23, 2011

BEFORE THE  
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO. 1020984

Ravenel Gaskins, )  
Employee, )  
Claimant, )  
)  
v. )  
)  
Johnny Gaskins Trim, )  
Employer, )  
)  
And )  
)  
Accident Insurance Company, )  
Carrier, )  
Defendants. )  
\_\_\_\_\_ )

BRIEF OF RESPONDENT

**STATEMENT OF THE CASE**

This matter is before the Full Commission on appeal of an Administrative Order of Commissioner Derrick L. Williams, issued on July 1, 2011, in which he denied the Defendants request for exhumation of the body of the deceased Claimant, in the following Administrative Order:

Denied. In this case, the coroner has already issued a report noting what he believes is the cause of death, based on his personal investigation of the body and the medical evidence. While South Carolina has not specifically addressed this issue, the North Carolina Supreme Court affirmed the denial of an exhumation and stated the following: "A court will not, however, order a body to be disinterred unless there is a strong showing that it is necessary and the interest of justice required it." Cabe v. Parker-Graham-Sexton, Inc., 162 S.E. 223(1932). As a general rule, since the South Carolina Workers' Compensation Act was modeled after the North Carolina Workers' Compensation Act, and the South Carolina courts often give deference to North Carolina decisions

interpreting Workers' Compensation statutes. The Cabe decision is consistent with South Carolina Supreme Court decisions which states that an order directing exhumation ought not to be made except upon the most serious considerations. In re Percival's Estate, 85 S.E. 247 (S.C. 1915).

Section 42-15-80, 1976 Code of Laws of the State of South Carolina, as amended, states: "The Employer or the Commission *may* in any case of death require an autopsy at the expense of the person requesting it." Section 42-15-80 does not state the Commission *shall* require an autopsy. Therefore, under the discretion given the Commission in this part of the statute, the Defendants' Motion for Exhumation and Autopsy is denied.

#### **ARGUMENT**

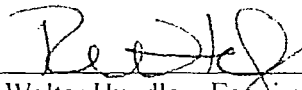
In his Order, Commissioner Williams made his own decision based upon the facts and clear law of the case without the necessity of oral arguments. It was the position of the Claimant that this would be a gross injustice to the family inasmuch as the coroner has already ruled on the cause of death. Further, it is noted that the Defendants had denied the Claimants claim stating they denied the deceased injuries and resulting death occurred while the deceased Employee was performing services arising out of and the course of employment with Johnny Gaskins Trim: further, the Defendants denied that the deceased Employee elected to be included as an Employee under the workers' compensation coverage of Johnny Gaskins Trim. The Defendants are alleging that there is no jurisdiction over the Claimant as he was not an Employee. Until the threshold issues is answered, premature, and unnecessarily traumatic, for the family do have to undergo and exhumation that proposes to identify the cause of death, it is again noted the cause of death has already been established by the coroner's report.

#### **CONCLUSION**

Under clear ruling of the Administrative Order and the fact that this is in fact interlocutory, the Claimants/Respondents respectfully request that the Order of Commissioner

Williams denying an exhumation request be affirmed.

Respectfully submitted.

BY:   
R. Walter Hundley, Esquire  
**R. WALTER HUNDLEY, ATTORNEY AT LAW**  
1517 Sam Rittenberg Blvd.  
PO Box 31189  
Charleston, SC 29417-1189  
Phone : (843) 723-1995  
Facsimile : (843) 723-1945  
Attorneys for the Claimant

Charleston, South Carolina  
22 day of September, 2011

BEFORE THE  
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO. 1020984

Ravenel Gaskins, )  
Employee, )  
Claimant, )  
v. )  
Johnny Gaskins Trim, )  
Employer, )  
And )  
Accident Insurance Company )  
Carrier, )  
Defendants. )  
\_\_\_\_\_ )

CERTIFICATE OF MAILING

I, the undersigned, do hereby certify that on **September 23, 2011**, I did serve the document(s) listed below by placing a copy of same in the United States Mail, Certified / Return Receipt Requested, with sufficient first class postage thereon, addressed to the following:

Document(s) Served : **Brief of Claimant/Respondent**

Person(s) Served : Jason A. Williams Esquire  
Wood, Porter & Warder, L.L.C.  
One Wesley Dr.  
PO Box 20550  
Charleston, SC 29413

BY: 

Denise R. Palmer, Paralegal  
**R. WALTER HUNDLEY, ATTORNEY AT LAW**  
1517 Sam Rittenberg Blvd.  
P.O. Box 31189  
Charleston, SC 29417-1189  
Phone : (843) 723-1995  
Facsimile : (843) 723-1945  
Attorneys for the Claimant

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM SOUTH CAROLINA  
WORKERS' COMPENSATION COMMISSION

S.C.W.C.C. File No. 1020984

Case No. \_\_\_\_\_

RECEIVED  
FEB 15 2012  
SC COURT OF APPEALS

Johnnie Gaskins, Claimant on behalf of  
Ravenel Gaskins (deceased).....Respondent,

v.

Johnny Gaskins Trim and  
Accident Insurance Co. ....Appellants,

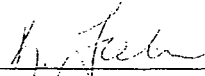
NOTICE OF INTENT TO APPEAL

TO: SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION AND R.  
WALTER HUNDLEY, ESQUIRE, ATTORNEY FOR RESPONDENT:

YOU WILL PLEASE TAKE NOTICE that the Appellants, Johnny Gaskins Trim and Accident Insurance Co., by and through their undersigned attorney, file this Notice of Intent to Appeal to the South Carolina Court of Appeals to appeal the final decision of the South Carolina Workers' Compensation Commission filed January 18, 2012 and received on January 18, 2012 pursuant to the provisions of §1-23-380, South Carolina Code of Laws, (1986, as amended) (commonly known as the Administrative Procedures Act) and §42-17-60, South Carolina Code of Laws, (1976, as amended), (commonly known as the South Carolina Workers' Compensation Act), upon the grounds stated in the attached Petition for Judicial Review as if fully stated herein.

RESPECTFULLY SUBMITTED,

Kathryn R. Fiehrer  
WOOD & WARDER, LLC  
P. O. Box 20550  
Charleston, SC 29413

By:  \_\_\_\_\_

Kathryn R. Fiehrer, Esquire  
Attorney for Appellants  
Johnny Gaskins Trim and  
Accident Insurance Co.

February 14, 2012  
Charleston, South Carolina

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM SOUTH CAROLINA  
WORKERS' COMPENSATION COMMISSION

S.C.W.C.C. File No. 1020984

Case No. \_\_\_\_\_

SC Court of Appeals

RECEIVED  
FEB 15 2012

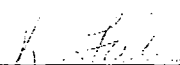
Johnnie Gaskins, Claimant on behalf of  
Ravenel Gaskins (deceased).....Respondent,

v.

Johnny Gaskins Trim and  
Accident Insurance Co. ....Appellants,

NOTICE OF APPEAL

Johnny Gaskins Trim and Accident Insurance Co. appeal the Order of the South Carolina Workers' Compensation Commission dated January 18, 2012. Appellants received written notice of entry of this Order on January 18, 2012.

  
Kathryn R. Fiehrer, Esquire

February 14, 2012

WOOD & WARDER, LLC  
P.O. Box 20550  
Charleston, South Carolina 29413  
(843) 577-5732  
Attorney for Appellants

Other Counsel of Record:

R. Walter Hundley, Esquire  
P.O. Box 31189  
Charleston, South Carolina 29417-1189  
(843) 723-1995  
Attorney for Respondent

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM SOUTH CAROLINA  
WORKERS' COMPENSATION COMMISSION

S.C.W.C.C. File No. 1020984

Case No. \_\_\_\_\_

RECEIVED

FEB 15 2017

SC Court of Appeals

Johnnie Gaskins, Claimant on behalf of  
Ravenel Gaskins (deceased).....Respondent,

v.

Johnny Gaskins Trim and  
Accident Insurance Co. ....Appellants,

PETITION FOR JUDICIAL REVIEW FROM  
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

The Appellants, Johnny Gaskins Trim and Accident Insurance Co., by and through their undersigned attorney, pray for review from the final decision of the South Carolina Workers' Compensation Commission dated January 18, 2012 pursuant to the provisions of §1-23-380 of the South Carolina Code of Laws, (1986, as amended) (commonly known as the Administrative Procedures Act) and §42-17-60 of the South Carolina Code of Laws (1976, as amended) (commonly known as the South Carolina Workers' Compensation Act) and would respectfully allege and show unto this Honorable Court the grounds of error as follows:

The Defendants, Johnny Gaskins Trim and Accident Insurance Co. request judicial review of the Decision and Order of the South Carolina Workers' Compensation Commission (hereinafter "Commission") on the grounds that the administrative findings, inferences, and conclusions and the decision issued therein are in violation of statutory provisions; affected by error of law; and are clearly erroneous in view of the reliable, probative and substantial evidence on the whole record as provided in §1-23-380 (5)(a)(d) and (e) of the South Carolina Code of Laws, (1986, as amended), and in such cases made and provided on the following grounds and exceptions.

1. The Commission erred as a matter of law (and denied the Defendants a substantial right) in denying the Defendants' Motion to Compel the deceased Employee's body to be exhumed and an autopsy performed at the expense of the Defendants; the error being that §42-15-80 of the South Carolina Code (1976, as amended) provides the Defendants a statutory right to require an autopsy and the Commission's denial of the Defendants' Motion constitutes an error of law.
2. The Commission erred as a matter of law (and denied the Defendants a substantial right) in construing §42-15-80 so as to hold that the Defendants' right to an autopsy is permissive and within the discretion of the South Carolina Workers' Compensation Commission to allow or disallow; the error being that this constitutes an error of law and statutory construction, as §42-15-80 clearly and unequivocally provides the Defendants the right to require an autopsy.
3. The Commission erred as a matter of law (and denied the Defendants a substantial right) in denying the Defendants' Motion to Compel the deceased Employee's body to be exhumed and an autopsy performed at the expense of the Defendants

on the basis that the language of §42-15-80 does not offer any instruction in regard to or contemplate an exhumation; the error being that this is an inconsequential distinction as the exhumation is part and partial of the autopsy process in this case given the current circumstances, i.e. the deceased Employee having already been buried.

4. The Commission erred as a matter of law (and denied the Defendants a substantial right) in finding that the Defendants failed to meet their burden of proving that the requested exhumation and autopsy is necessary and required in the interest of justice; the error being that this constitutes an error of law as the Defendants have no burden of proving that the requested exhumation and autopsy is necessary and required in the interest of justice given their absolute statutory right to require the same pursuant to §42-15-80.
5. The Commission erred as a matter of law (and denied the Defendants a substantial right) in basing its decision to deny the Defendants' Motion to Compel the deceased Employee's body to be exhumed and an autopsy performed at the expense of the Defendants on the statutory and case law of the State of North Carolina, as opposed to the statutory and case law of the State of South Carolina; the error being that this constitutes an error of law, as the Defendants have an absolute right to require an autopsy under the statutory and case law of the State of South Carolina as set forth under §42-15-80.
6. The Commission erred as a matter of law (and denied the Defendants a substantial right) in ordering that the Defendants are not entitled to an exhumation and autopsy of the deceased Employee and denying the Defendants' Motion to

Compel such; the error being that the Defendants have an absolute statutory right to require an autopsy under the clear and plain language of §42-15-80.

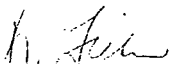
7. To the extent that the Defendants have the burden of proving that the requested exhumation and autopsy of the deceased Employee is necessary and required in the interest of justice, the Commission erred as a matter of fact and law (and denied the Defendants a substantial right) in denying the Defendants' Motion to Compel; the error being that the evidence in the record supports a determination that the deceased Employee suffered from balance issues, cardiac problems including a stint and hypertension at the time of his death.
8. To the extent that the Defendants have a burden of proving that the requested exhumation and autopsy of the deceased Employee is necessary and required in the interest of justice, the Commission erred as a matter of fact and law (and denied the Defendants a substantial right) in denying the Defendants' Motion to Compel; the error being that while the report of William B. Salisbury dated December 22, 2010 classifies the death of the deceased Employee as an accident resulting from a head injury due to a fall from a standing position, the Defendants have been effectively barred from conducting any first hand medical investigation as to the cause of the deceased Employee's fall from a standing position despite the weight of the evidence in the record supporting a determination that the deceased Employee suffered from balance issues, cardiac problems including a stint, and hypertension at the time of his death.

WHEREFORE, the Defendants, Johnny Gaskins Trim and Accident Insurance Co., pray that this Honorable Court review the Workers' Compensation Commission's

Decision and Order dated January 18, 2012; reverse those aspects of the South Carolina Workers' Compensation Commission's Decision and Order which find, rule, or Order that the Defendants are not entitled to an exhumation and autopsy of the deceased Employee and further reverse the denial of the Defendants' Motion to Compel.

RESPECTFULLY SUBMITTED,

Kathryn R. Fiehrer  
WOOD & WARDER, LLC  
P. O. Box 20550  
Charleston, SC 29413

By:  \_\_\_\_\_  
Kathryn R. Fiehrer, Esquire  
Attorney for Defendants  
Johnny Gaskins Trim and  
Accident Insurance Co.

February 14, 2012  
Charleston, South Carolina

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM THE SOUTH CAROLINA  
WORKERS' COMPENSATION COMMISSION

S.C.W.C.C. File No. 1020984

Case Tracking No. \_\_\_\_\_

RECEIVED

FEB 15 2012

SC Court of Appeals

Johnnie Gaskins, Claimant, on behalf of Ravenel Gaskins (deceased).....Respondent,

vs.

Johnny Gaskins Trim and Accident Insurance Co.....Appellants.

**Memorandum in Support of Direct Appeal**

This matter is before the South Carolina Court of Appeals pursuant to the Appellants' Notice of Appeal filed on February 14, 2012 from the Decision & Order of the Workers' Compensation Commission's Appellate Panel (hereinafter referred to as "Full Commission") dated January 18, 2012. Johnnie Gaskins, the surviving spouse of the above named deceased Employee, (hereinafter referred to as "Claimant"), by and through her attorney of record, R. Walter Hundley, Esquire, filed a Form 52, Employee's Request for Hearing, Death Case, on May 27, 2011. The Form 52 contends that the deceased Employee/Claimant died on December 2, 2010 while performing services arising out of and in the course of his employment with Johnny Gaskins Trim. In connection therewith, the Form 52 further contends that the Claimant is entitled

to death benefits pursuant to the terms and provisions of the South Carolina Workers' Compensation Act (hereinafter referred to as "Act").

By way of a Form 53, Employer's Answer to Request for Hearing, Death Case, filed on June 22, 2011, the Appellants denied, *inter alia*, that the deceased Employee sustained a causally related and compensable injury as alleged. Prior thereto, the Appellants filed a Motion to Compel on June 2, 2011, wherein they requested an Order of the Commission compelling the deceased Employee's body to be exhumed and an autopsy performed at the expense of the Appellants. In support thereof, the Appellants noted that one of the primary issues in dispute in connection with the matter at hand involves whether the deceased Employee's death was causally related to the alleged work related injury by accident. In this regard, the Appellants further set forth that an autopsy has the significant potential to reveal information as to the cause of the deceased Employee's death. Furthermore, the Appellants noted their statutory right to require an autopsy pursuant to the terms and provisions of S.C. Code Ann. §42-15-80 (1976, as amended).


By way of an Administrative Order dated July 1, 2011, Commissioner Derrick L. Williams denied the aforementioned Motion of the Appellants, thereby ruling that the Appellants are not entitled to an exhumation and autopsy of the deceased Employee. Oral arguments were held before the Full Commission on October 25, 2011. Thereafter, by majority vote, the Full Commission affirmed the Order of Commissioner Williams. The Appellants contend that the Decision and Order of the Full Commission dated January 18, 2012 is immediately appealable to this Honorable Court.

The Defendants contend that the Commission's Order is immediately appealable pursuant to Regulation 67-712 and §42-17-60 of the South Carolina Code (1976, as amended) which do not distinguish between a final or interlocutory Order. In addition, South Carolina Code Ann.

§14-3-330(1) and (2)(1976, as amended) permits an appeal from an interlocutory Order if it affects the merits or deprives the Appellants of a substantial right. See Green v. City of Columbia, 311 S.C. 78, 427 S.E.2d 685 (Ct.App. 1993) and Brunson v. American Koyo Bearings, 367 S.C. 161, 623 S.E.2d 870, re-hearing denied (Ct.App. 2005). In this instance, the Order issued by the Full Commission clearly and unequivocally denies the Appellants their statutory right to an autopsy under to §42-15-80. Any statutory construction to the contrary is baseless and without merit. In addition, the Order affects the merits of the case because it is the only means by which to investigate the cause of the deceased Employee's death. Without a determination as to the cause of the deceased's Employee's death, the Appellants cannot properly investigate and defend the element of whether the death arose out of the employment. Therefore, the Full Commission Decision and Order is immediately appealable due to the denial of a substantial right of the Appellants and the affect on the merits of the case.

Respectfully Submitted:

Wood & Warder, LLC  
P.O. Box 20550  
Charleston, SC 29413

  
\_\_\_\_\_  
Kathryn R. Fiehrer, Esquire  
Attorney for Appellants

February 14, 2012

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM SOUTH CAROLINA  
WORKERS' COMPENSATION COMMISSION

S.C.W.C.C. File No. 1020984

Case No. \_\_\_\_\_

RECEIVED  
FEB 15 2012  
SC COURT OF APPEALS

Johnnie Gaskins, Claimant on behalf of  
Ravenel Gaskins (deceased).....Respondent,

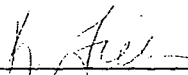
v.

Johnny Gaskins Trim and  
Accident Insurance Co. ....Appellants,

PROOF OF SERVICE

I certify that I have served the Notice of Appeal, Petition for Judicial Review and Memorandum in Support of Direct Appeal on all interested parties by depositing a copy of each in the United States Mail, postage prepaid, on February 14, 2012, addressed to the Respondent's attorney of record, R. Walter Hundley, Esquire, P.O. Box 31189, Charleston, SC 29117-1189 and the South Carolina Workers' Compensation Commission, P.O. Box 1715, Columbia, SC 29202-1715.

February 14, 2012

  
\_\_\_\_\_  
Kathryn R. Fichrer, Esquire  
WOOD & WARDER, LLC  
P.O. Box 20550  
Charleston, South Carolina 29413  
(843) 577-5732  
Attorney for Appellants

BEFORE THE  
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION  
WCC FILE NO. 1020984

RAVENEL GASKINS, )  
 )  
 CLAIMANT, ) HEARING BEFORE THE  
 ) FULL COMMISSION  
 ) PANEL A  
 VS. )  
 ) COMMISSIONER BECK  
 JOHNNY GASKINS TRIM, ) COMMISSIONER HUFFSTETLER  
 ) COMMISSIONER ROCHE-CHAIR  
 EMPLOYER, )  
 )  
 and ) **TRANSCRIPT**  
 )  
 ACCIDENT INSURANCE )  
 COMPANY, )  
 )  
 CARRIER, )  
 DEFENDANTS. )  
 \_\_\_\_\_ )

WORKERS' COMPENSATION COMMISSION HEARING TAKEN  
BEFORE CORA ELLIS BRUTON, A NOTARY PUBLIC IN AND FOR THE  
STATE OF SOUTH CAROLINA, COMMENCING AT THE HOUR OF 2:09  
PM ON TUESDAY, OCTOBER 25, 2012, SOUTH CAROLINA WORKERS'  
COMPENSATION COMMISSION, 1333 MAIN STREET, COLUMBIA,  
SOUTH CAROLINA.

**CORA ELLIS BRUTON  
COURT REPORTER**

**LEXINGTON, SOUTH CAROLINA 29073  
803-397-0189**

**APPEARANCES**

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CHARLESTON, SOUTH CAROLINA 29417  
(843) 723-1995

**FOR THE DEFENDANTS**

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1239 GRACEWOOD AVENUE  
ATLANTA, GEORGIA 30316  
(404) 524-6400

REPORTED BY

CORA ELLIS BRUTON - COURT REPORTER  
LEXINGTON, SOUTH CAROLINA 29073  
(803)397-0189

**INDEX**

BY MR. WILLIAMS. . . . .	.3
BY MR. HUNDLEY . . . . .	.9
BY MR. WILLIAMS. . . . .	10
CERTIFICATE. . . . .	

(EXHIBITS)

No Exhibits Proffered

CORA ELLIS BRUTON - COURT REPORTER  
- LEXINGTON, SOUTH CAROLINA 29073  
(803) 397-0189

1 THE COURT REPORTER: Today is October 25th, 2011.  
2 This is South Carolina Workers' Compensation Case  
3 Number 1020984. This is the case of Ravenel Gaskins,  
4 Claimant versus Johnny Gaskins Trim, Employer and  
5 Accident Insurance Company is the Carrier.

6 The Appellant is the Defendant represented by  
7 Attorney Jason A. Williams. The Respondent is  
8 represented by Attorney R. Walter Hundley.

9 Each side is allowed ten minutes for oral  
10 argument and the Appellant three minutes in reply.  
11 You are requested to argue the grounds of exception  
12 and stay within the record.

13 THE COURT: Mr. Williams.

14 BY MR. WILLIAMS: Commissioners, this claim involves  
15 the death of Ravenel Gaskins on or about December 2nd of  
16 2010. The Defendants are appealing the Administrative  
17 Order of the Single Commissioner dated July 1 of 2011 which  
18 denies the Defendants' motion to compel the exhumation and  
19 autopsy of Mr. Gaskins. The crux of the Defendants'  
20 argument is that the Workers' Compensation Act,  
21 specifically 42-15-80 permits an Employer to require an  
22 autopsy in the case of death. And I guess more  
23 specifically it states "the Employer or the Commission may  
24 require in any case of death an autopsy". And in this case  
25 Mr. Gaskins was, of course, already interred. The

1 Defendants don't believe there's really any distinguishment  
2 you can make between the -- the, I guess, disinterment and  
3 the autopsy itself because there's no way you can, you  
4 know, proceed with an autopsy that you -- that you have a  
5 legal right to proceed with without exhuming the body;  
6 particularly when the claim is not filed until after he's  
7 been -- been buried. The Defendants also would argue that  
8 there's no standard that they need to prove -- no standard  
9 of proof that they need to establish in order to compel the  
10 autopsy. Regardless, even if there was to be found some  
11 sort of standard in this particular case the -- the report  
12 of Deputy Chief Coroner William Salisbury does indicate  
13 that Mr. Gaskins had been suffering from balance and  
14 cardiac issues at the time of his death, specifically  
15 stents and hypertension. And in -- in this regard the  
16 Defendants believe we have a right to investigate whether  
17 or not Mr. Gaskins fell and struck his head as a result of  
18 a heart attack, stroke or an aneurysm, not to mention other  
19 -- other issues we're not even aware of at this point. And  
20 that's the Defendants' argument.

21 Thank you.

22 COMMISSIONER BECK: What medical evidence do you have  
23 in exhuming the body that would prove any one of the things  
24 that you think you're looking for?

25 MR. WILLIAMS: Well the Defendants' principal

1 argument would be that's irrelevant because the Statute  
2 allows us to permit one in the case of death period.

3 COMMISSIONER BECK: So you're --

4 MR. WILLIAMS: Specifically if -- specifically if --  
5 if you believe that there -- we have to establish some sort  
6 of -- some -- or be able to prove beforehand that we're  
7 going to find something that we don't know about, I have --  
8 the Defendants have numerous medical records indicating  
9 that the -- the Claimant has hypertension problems --

10 COMMISSIONER BECK: But you don't believe --

11 MR. WILLIAMS: -- he has heart problems --

12 COMMISSIONER BECK: But you don't believe -- actually  
13 you do believe the Statute just gives you the right just to  
14 exhume him period --

15 MR. WILLIAMS: It gives the --

16 COMMISSIONER BECK: -- without any -- without any  
17 rational basis for doing it?

18 MR. WILLIAMS: If -- I believe the Commission or the  
19 Employer has a right to do it in the case of death. It's  
20 very clear in the Statute.

21 COMMISSIONER ROCHE: This wouldn't apply if it weren't  
22 in the case of death, right?

23 MR. WILLIAMS: Well, that's true, that is true,  
24 hopefully. That's -- that -- that's our position and if --  
25 if the Commission finds that there is some sort of -- if we

1 have to establish some sort of proof, the Claimant's  
2 attorney submitted the Deputy Chief Coroner's record in --  
3 at the time of the Motion Hearing or prior thereto. It  
4 indicates that the wife had stated at the scene that the --  
5 that Mr. Gaskins was suffering from balance problems and  
6 cardiac problems, including prior stents in his heart and  
7 hypertension. I think that alone is enough to -- to show  
8 that we -- we should be able to investigate whether he had  
9 a heart attack which caused his fall.

10 COMMISSIONER BECK: But is there going to be anything  
11 -- I mean how long has --

12 MR. WILLIAMS: He -- he died the -- Mr. Gaskins died  
13 on the 2nd of December. I believe he was interred around  
14 --

15 COMMISSIONER BECK: Of '10 --

16 MR. WILLIAMS: -- I mean within a week of that --

17 COMMISSIONER BECK: -- of 2010?

18 MR. WILLIAMS: Yes. So within a -- he was -- I  
19 believe he was buried within a week.

20 COMMISSIONER BECK: So, going on ten months?

21 MR. WILLIAMS: Yes.

22 COMMISSIONER BECK: Okay.

23 MR. WILLIAMS: Any other questions, Commissioner?

24 COMMISSIONER BARDEN: Is it -- is it your -- in  
25 interpretation of the Statute that require -- that if we

1 are to agree with your interpretation that we would be  
2 reading required as saying "requests"? In other words, --

3 MR. WILLIAMS: Yes, the Defendant -- the Defendants'  
4 position is that what 42-15-80 says is, you know, --

5 COMMISSIONER BARDEN: So they require --

6 MR. WILLIAMS: -- if the Commission in a case -- in a  
7 death case the Commission can -- can -- can force an  
8 autopsy. If the Commission was the one that requested it  
9 they would be the one that had to pay for it. Just like in  
10 this case the Employer is requesting the autopsy and they  
11 would be required to cover all costs associated with it.  
12 But we don't feel like we're -- we feel that's a statutory  
13 right. We're unable to defend the claim or gather any  
14 medical evidence whatsoever without being able to do this.

15 COMMISSIONER BECK: Do you think the language is  
16 permissive?

17 MR. WILLIAMS: I think it's -- it's simply we may  
18 require it just as the Commission may require it.

19 COMMISSIONER BECK: It doesn't say "shall" does it?

20 MR. WILLIAMS: It says "may require". Require is --  
21 is an absolute.

22 COMMISSIONER BECK: "May"?

23 MR. WILLIAMS: If they -- if they choose. We -- the  
24 Employer or the Commission doesn't have to -- doesn't have  
25 to request an autopsy, but if --

1           COMMISSIONER BECK: But it does --

2           MR. WILLIAMS: -- but they may choose to do so.

3           COMMISSIONER BECK: -- it gives us some discretion?

4           MR. WILLIAMS: I don't believe so, no. Well, it -- it  
5 gives you the discretion to -- if the Commissioner -- the  
6 Single Commissioner wanted to or did not want to. Just  
7 like in the case if the Employer believed that it would --  
8 there was no reason to -- to -- for an autopsy in a death  
9 case we wouldn't have to order one.

10           COMMISSIONER BECK: Some odd wording in the Statute; I  
11 guess that's what I'm trying to get to. And I take it  
12 based on your interpretation the fact that you may require  
13 it, because it's what you've intended to do?

14           MR. WILLIAMS: Yes.

15           COMMISSIONER BECK: What I'm trying to glean from the  
16 Statute is where we have to concur with that.

17           MR. WILLIAMS: Well, in this --

18           COMMISSIONER BECK: I guess what you're telling me  
19 that it's not permissive, you -- you're emphasizing the  
20 word "require", but in this particular situation you're the  
21 one that's requesting it and you have the authority to  
22 request it.

23           MR. WILLIAMS: Well, but -- in this particular case  
24 since -- since Mr. Gaskins is already interred, it is --  
25 the State -- the State governing bodies regarding interment

1 and disinterment are not going to allow that to happen  
2 without the -- the Commission acknowledging the statutory  
3 right of the Employer. I mean to -- to that extent -- I  
4 mean to that extent the Commissioner has to be a partner  
5 enforcing the -- the -- what we believe is clearly stated  
6 in the Statute.

7 COMMISSIONER BECK: Was there an autopsy done or is  
8 there just a report?

9 MR. WILLIAMS: It was just a report; there was no  
10 autopsy.

11 Commissioners? Thank you.

12 THE COURT: Mr. Hundley.

13 BY MR. HUNDLEY: Commissioner Williams heard this on  
14 their Motion prior to the hearing. He didn't have all the  
15 arguments; it was just based upon written submissions. He  
16 drafted this Order himself. He takes the position that he  
17 has discretion on whether or not to order an exhumation and  
18 that was the Order that he issued. He cited two cases  
19 saying he will not be disinterred unless there's strong  
20 interest in doing so. There's been no overt proof that  
21 it's going to require or reveal anything. And then lastly  
22 I took the position it's also interlocutory at this point  
23 because they've also denied it saying he wasn't a covered  
24 Employee because he didn't elect to be covered under the  
25 Act. They've denied it saying he wasn't performing

1 services arising out of and in the course of employment and  
2 I -- I can't exactly do anything other than come up here  
3 and defend Commissioner Williams' Order, because the family  
4 doesn't want to voluntarily do this.

5 THE COURT: Anything in reply, Mr. Williams?

6 BY MR. WILLIAMS: Yes, just briefly. With regard to  
7 the interlocutory issue 14-3-30 does permit appeal of an  
8 interlocutory Order if a substantial right is affected. To  
9 the extent that this is an interlocutory Order we would  
10 argue that -- that the enforcement of the Statute 42-15-80  
11 does affect a -- a substantial right of the Defendants to  
12 investigate the claim and whether if the claim meets the  
13 burdens of -- or meets the -- the requirements of 42-1-160.  
14 We'd also argue that -- that the Workers' Compensation Act  
15 does not distinguish between a final and interlocutory  
16 Order. Now finally, with regard to the -- specifically the  
17 Order of Commissioner Williams; he does make -- he does  
18 distinguish between the, I guess, right to proceed with an  
19 autopsy and the -- the disinterment of Mr. Gaskins.  
20 Defendants would point out if the Statute requires -- allow  
21 us to require an autopsy at our request it -- it just  
22 simply does not make any sense to distinguish the  
23 disinterment of -- of a Claimant. It would simply be  
24 impossible for an autopsy to go forward without  
25 disinterring the body, just in a practical sense in that

1 everyone -- or not everyone typically and specifically in  
2 this case are buried before a claim is even made. There's  
3 no way to distinguish the two.

4 Thank you.

5 THE COURT: That concludes the hearing.

6 (The hearing concluded at 2:19 p.m.)

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12

13

STATE OF SOUTH CAROLINA )  
 ) CERTIFICATE  
COUNTY OF LEXINGTON )

BE IT KNOWN THAT I TOOK THE FOREGOING WORKERS' COMPENSATION HEARING;

THAT I WAS THEN AND THERE A NOTARY PUBLIC IN AND FOR THE STATE OF SOUTH CAROLINA-AT-LARGE;

THE FOREGOING TRANSCRIPT CONSISTING OF 11 TYPEWRITTEN PAGES REPRESENTS A TRUE, ACCURATE AND COMPLETE TRANSCRIPTION OF THE TESTIMONY SO GIVEN AT THE TIME AND PLACE AFORESAID TO THE BEST OF MY SKILL AND ABILITY;

THAT I AM NOT RELATED TO NOR AN EMPLOYEE OF ANY OF THE PARTIES HERETO, NOR A RELATIVE OR EMPLOYEE OF ANY ATTORNEY OR COUNSEL EMPLOYED BY THE PARTIES HERETO, NOR INTERESTED IN THE OUTCOME OF THIS ACTION.

WITNESS MY HAND AND SEAL THIS 21ST DAY OF MARCH, 2012.

\_\_\_\_\_  
CORA ELLIS BRUTON  
NOTARY PUBLIC FOR SOUTH CAROLINA  
MY COMMISSION EXPIRES JANUARY 18, 2015

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM SOUTH CAROLINA  
WORKERS' COMPENSATION COMMISSION

S.C.W.C.C. File No. 1020984

Case No. 2012207908

**RECEIVED**

JUN 16 2012

**SC Court of Appeals**

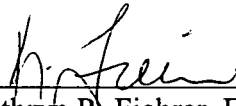
Ravenel Gaskins (deceased), Employee,.....Respondent,

v.

Johnny Gaskins Trim, Employer, and  
Accident Insurance Co., Carrier,.....Appellants.

PROOF OF SERVICE

I certify that I have served the Record on Appeal on all interested parties by depositing a copy in the United States Mail, postage prepaid, on June 14, 2012, addressed to the Respondent's attorney of record, R. Walter Hundley, Esquire, P.O. Box 31189, Charleston, SC 29117-1189.

  
Kathryn R. Fiehrer, Esquire  
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J. HUBERT WOOD, III  
F. REID WARDER, JR.

KATHRYN R. FIEHRER  
MATTHEW J. FULTZ

REPLY TO  
P.O. Box 20550  
CHARLESTON, SOUTH CAROLINA 29413

June 14, 2012

**RECEIVED**

JUN 16 2012

**SC Court of Appeals**

The Honorable Tanya Gee  
Clerk of the South Carolina Court of Appeals  
P.O. Box 11629  
Columbia, SC 29211

Re: Ravenel Gaskins (Deceased) v. Johnny Gaskins Trim  
WCC File No.: 1020984  
Date of Accident: December 2, 2010  
Case No.: 2012207908  
Our File No.: 58.46

Dear Ms. Gee:

Enclosed for filing is one (1) unbound copy of the Record on Appeal, as well as fifteen (15) bound copies of the Record on Appeal. The Certificate of Counsel is immediately following the Index. I have also enclosed a Proof of Service referencing the mailing of the Record on Appeal.

By copy of this letter to R. Walter Hundley, Esquire, attorney for Respondent, I am notifying him of the filing of the Record on Appeal and serving a copy upon him.

Very truly yours,



Kathryn R. Fiehrer

KRF/lap  
Enclosures

cc: Ms. Lora Peppers (w/enc.)  
R. Walter Hundley, Esquire (w/enc.)