

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM SOUTH CAROLINA WORKERS' COMPENSATION
COMMISSION

Appellate Case No. 2018-0001526

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SC Court of Appeals

Monica Murphy, EmployeeAppellant,

v.

Halocarbon Products Corporation, Employer, and Commerce & Industry
Insurance Company c/o AIG Claims, Inc., CarrierRespondents.

APPENDIX AND SUPPLEMENTAL RECORD ON APPEAL

Frederick I. Hall, III
The Rick Hall Law Firm, LLC
301 Gibson Road
Lexington, SC 29072
(803) 957-5333
(803) 957-7717 facsimile
rick@sctrilattorneys.com
S.C. Bar No. 2591
Attorney for Appellant

Helen F. Hiser
McAngus Goudelock & Courie, LLC
P.O. Box 650007
Mount Pleasant, SC 29465
(843) 576-2900
S.C. Bar No. 76124
Attorney for Respondent

James Lichty
McAngus Goudelock & Courie, LLC
1320 Main Street
Meridian, 10th Floor
Columbia, SC 29201
(803) 779-2300
Attorney for Respondent

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1 A. CORRECT.

2 Q. IN YOUR HANDWRITTEN STATEMENT, YOU WERE OVERCOME BY

3 THE SMELL OF H.F., CORRECT?

4 A. THAT'S RIGHT.

5 Q. YOU DIDN'T SMELL SEVOFLURANE, DID YOU?

6 A. NO.

7 Q. YOU DIDN'T SMELL ANY OTHER CHEMICAL; YOU WROTE IN

8 YOUR STATEMENT THAT IT WAS H.F. THAT YOU WERE

9 OVERCOME BY, YES?

10 A. I KNOW FOR -- I KNOW IT WAS H.F.

11 Q. AND YOU SAY YOU WERE -- YOU WERE COUGHING?

12 A. I WAS.

13 Q. AND STILL COUGHING WHEN YOU SAW MS. MURPHY, YES?

14 A. I WAS.

15 Q. AND IN YOUR STATEMENT, YOU TOLD MS. MURPHY THAT

16 LONNIE WAS WORKING ON SOMETHING THAT SMELLS PRETTY

17 BAD, YES?

18 A. (NO VERBAL RESPONSE)

19 BY COMMISSIONER BARDEN:

20 IS THAT A YES?

21 BY THE WITNESS:

22 I'M TRYING TO RECALL WHAT I SAID.

23 BY COMMISSIONER BARDEN:

24 I'M SORRY. I THOUGHT YOU WERE NODDING.

25 BY THE WITNESS:

1 A. YES, SIR.

2 Q. AND IN YOUR STATEMENT -- I'VE GOT IT RIGHT HERE. I
3 PULLED IT OUT. THAT'S WHAT HAPPENED.

4 BY MR. HALL:

5 COMMISSIONER, THIS IS PAGE 180.

6 BY COMMISSIONER BARDEN:

7 THANK YOU.

8 CROSS EXAMINATION RESUMED BY MR. HALL:

9 Q. AND I'LL JUST HAND IT TO YOU SO YOU CAN LOOK AT IT.
10 I DON'T WANT YOU TO NOT HAVE ACCESS TO IT. IN YOUR
11 STATEMENT, YOU NOTE THAT EQUIPMENT, WHICH YOU HAD
12 REPAIRED WAS STILL FUMING, CORRECT?

13 A. THAT I HAD REPAIRED, I HADN'T REPAIRED IT. I DIDN'T
14 REPAIR IT.

15 Q. BUT IN YOUR STATEMENT, YOU SAID THAT -- THE
16 STATEMENT -- YOU SAID THAT THE H.F. WAS STILL
17 FUMING?

18 A. VAGUELY AT THE VERY TOP, YES, SIR. VAGUELY -- VERY
19 VAGUELY.

20 Q. WAS IT FUMING, OR WAS IT NOT FUMING?

21 A. I MEAN, A LOT LESS THAN IT WAS WHEN I GOT THERE, I
22 KNOW THAT.

23 Q. YOU KNOW NOT TO BREATHE H.F.?

24 A. YES, SIR.

25 Q. ALL RIGHT. YOU TRIED TO AVOID BREATHING THE H.F.,

1 DIDN'T YOU?

2 A. YES, SIR.

3 Q. AND IF YOU KNOW H.F. IS PRESENT, YOU'RE NOT GOING TO
4 TRY TO BREATHE IT, ARE YOU?

5 A. CORRECT.

6 Q. AND IN YOUR STATEMENT, JUST AGAIN TO MAKE SURE THAT
7 THE RECORD IS CLEAR, YOU STATE "IT IS STILL FUMING,"
8 YES?

9 A. YES.

10 Q. YOU DON'T STATE THAT IT'S BARELY FUMING.

11 A. OKAY.

12 Q. CORRECT?

13 A. THAT'S WHAT I STATED, YES, SIR.

14 Q. DID YOU KNOW -- HAVE YOU WORKED WHAT H.F. FOR VERY
15 LONG?

16 A. YES, SIR.

17 Q. YOU'VE REVIEWED THE SAFETY DATA SHEETS ON H.F., YES?

18 A. YES.

19 Q. Y'ALL HAVE GONE OVER THAT IN MEETINGS, YES?

20 A. YES.

21 Q. YOU KNOW THAT H.F. HAS A BOILING POINT OF 67
22 DEGREES, YES?

23 A. I WOULD HAVE TO LOOK AGAIN, BUT RIGHT OFF THE TOP OF
24 MY HEAD, I COULDN'T ANSWER THAT YES OR NO.

25 Q. WELL, IF THE SAFETY DATA SHEET SAYS THAT, YOU

- 1 WOULDN'T DISPUTE IT?
- 2 A. RIGHT.
- 3 Q. ALL RIGHT. AND IF THE CENTER FOR DISEASE CONTROL
- 4 SAYS THAT, YOU WOULDN'T DISPUTE IT?
- 5 A. PROBABLY NOT.
- 6 Q. AND SO, YOU SMELLED H.F.; I MEAN, YOU KNEW H.F. WAS
- 7 OUT THERE RATHER. YOU DIDN'T SMELL IT; YOU KNEW NOT
- 8 TO BREATHE IT?
- 9 A. CORRECT.
- 10 Q. YOU DIDN'T TELL MS. MURPHY THAT H.F. WAS LEAKING
- 11 UNTIL SHE WALKED CLOSER TO YOU; IS THAT CORRECT?
- 12 A. I SEEN HER AS SOON AS -- I TOLD HER NOT TO COME ANY
- 13 CLOSER, THAT I WAS GETTING A PIECE OF EQUIPMENT
- 14 READY, AND WHEN SHE ASKED ME WHAT THAT SMELL WAS,
- 15 THAT'S WHEN I TOLD HER.
- 16 Q. YOU HAD NO BARRICADES UP, DID YOU?
- 17 A. NO, SIR.
- 18 Q. NO WARNING HAD BEEN GIVEN AS FAR AS YOU KNOW TO THE
- 19 LAB TECHNICIANS OR THE EMPLOYEES THAT THERE WAS AN
- 20 H.F. LEAK; IS THAT CORRECT?
- 21 A. CORRECT.
- 22 Q. H.F. IS DANGEROUS, ISN'T IT? CORRECT?
- 23 A. IT DEPENDS ON THE QUANTITY, YES, SIR, OR THE PURITY.
- 24 Q. IS THERE A CATWALK UP ABOVE THE AREA, OR DO YOU KNOW
- 25 WHAT I'M TALKING ABOUT?

1 COVERED PATIO, YES?

2 A. YES.

3 Q. BUT IT'S OPEN TO THE ELEMENTS?

4 A. RIGHT.

5 Q. THE WIND CAN BLOW, YES?

6 A. YES.

7 Q. AND THIS WAS IN AUGUST, CORRECT?

8 A. I BELIEVE SO.

9 Q. AUGUST 11TH, 2015?

10 A. YES, SIR.

11 Q. WHAT'S THE DATE OF YOUR STATEMENT?

12 A. 8/11/15.

13 Q. OKAY. IT'S HOT OUTSIDE, ISN'T IT, IN AUGUST
14 NORMALLY?

15 A. I WOULD GUESS. I MEAN, I CAN'T REMEMBER THE EXACT
16 TEMPERATURE THAT DAY.

17 Q. ALL RIGHT. LIKELY TO BE A BOILING POINT THAT H.F. -
18 - WOULD CAUSE H.F. TO FUME, YES?

19 A. I'M NOT SURE. LIKE I SAID, I DON'T REMEMBER THE
20 TEMPERATURE THAT DAY.

21 Q. WELL, I MEAN, YOU USE THE WORDS IN YOUR STATEMENT
22 THAT IT WAS FUMING; IS THAT CORRECT?

23 A. YES.

24 BY MR. HALL:

25 I DON'T HAVE ANY FURTHER QUESTIONS.

1 A: Because I reviewed that.

2 Q: It'd be Murphy 124. I've got the record to
3 save some time, Doctor.

4 A: Okay. It does not report an increase in FEV1.

5 Q: What was the response that she had? Was it a
6 positive response to a bronchodilator?

7 A: They report that there's a positive response.
8 I believe they're talking the FEF 25-75, which
9 is something that pulmonologists argue about a
10 lot.

11 Q: I'm just going to read it and see if I read
12 this correctly. It says, there is a
13 significant bronchodilator response
14 particularly in the small airways with midflows
15 improving to 1.63. 65% and a 42% change, is
16 that correct?

17 A: That means, that means small. That means FEF
18 25-75 not FEV1. And many people would not
19 consider that as a positive bronchodilator
20 response because it doesn't change the FEV1.
21 It's the FEF 25-75.

22 Q: What did it say with respect to her change in
23 FEV1?

24 A: It's a small airway. It -- that's what I was
25 trying to find. I don't think he's -- he



- 1 specifies, whereas if you -- if you just look
2 for example on the ones that we did, there was
3 a six percent change in her FEV1. So it's very
4 clearly reported with us and some people's
5 verbiage for trying to describe numeric data is
6 less precise and usually if they think that
7 there is a change in the FEV1 of twelve percent
8 they'll state that. But he said small airway,
9 which is another way of saying FEF 25-75.
- 10 Q: But reversibility upon administration of a
11 bronchodilator is some evidence of airflow
12 obstruction, is it not?
- 13 A: It is.
- 14 Q: All right. And they use the word that she had
15 a positive response to bronchodilators?
- 16 A: The caveat is it seems to be a small airway
17 response which is less reliable.
- 18 Q: It was significant enough for them to write it
19 in the record, correct?
- 20 A: That's what they reported.
- 21 Q: All right.
- 22 A: But with the -- the statement that it was small
23 airway.
- 24 Q: But again, if she was not having an asthmatic
25 attack upon testing in your office, it may or



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CERTIFICATE OF COUNSEL

In accordance with Rule 210 (g) S.C.A.C.R., the undersigned counsel for the Appellant certifies that this Appendix and Supplemental Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

February 11, 2019



Frederick I. Hall, III
The Rick Hall Law Firm, LLC
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Lexington, SC 2972
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