

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE SOUTH CAROLINA
WORKERS COMPENSATION COMMISSION
★ VOLUNTARY REMANDED ★
BY THE APPELLATE PANEL

RECEIVED
APR 29 2019
SC Court of Appeals

Appellate Case No. 2019-000369
Formerly 2018-001364
W.C.C. File Nos. 1322451, 1319203, 1420487

Terry H Capone,

Appellant,

v.

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

Respondents,

DESIGNATION OF MATTER TO BE
INCLUDED IN THE RECORD

Appellant proposes the following Evidence be included in the Record on Appeal without prejudice, as it was previously provided to the Defendants and Court prior to the Voluntary Remand in the associated Appellate Case 2018-001364, which severely prejudiced the Appellant right to due process and the action caused irreparable harm, was arbitrary, capricious, abuse of discretion and was not in accordance with law, was taken without procedures required by law, and failed to address “any” of the Appellants claims and to incur excessive court cost and fees associated with filing a new appeal under a new appellate case number referenced above:

1. APPELLATE EXHIBIT -AE#1

February 15, 2018 Pre-hearing brief for WCC FILE No.: 1322451
Notices of Witness and APA Submissions

2. APPELLATE EXHIBIT -AE#2

February 13, 2018 Pre-hearing brief for WCC FILE No.: 1319203
Notices of Witness and APA Submissions

3. APPELLATE EXHIBIT -AE#3

January 24, 2018 Pre-hearing brief for WCC FILE No.: 1420487
Notices of Witness and APA Submissions

4. APPELLATE EXHIBIT -AE#4

July 18, 2018 Appellate Case No.: 2018-001364
W.C.C. File Nos. 1322451, 1319203, 1420487
Initial Brief of Appellate

5. APPELLATE EXHIBIT -AE#5:

August 11, 2018 Appellate Case No.: 2018-001364
W.C.C. File Nos. 1322451, 1319203, 1420487

Appellate Return To Motion To Dismiss Appeal - Crime Fraud Exception, Fraud On The Court, "Active Concealment For Fraud In Real Property" 15-3-670 (C) (1) (2) And Others regarding the above-referenced matters.

6. APPELLATE EXHIBIT -AE#6:

September 21, 2018 WCC File Nos.: 1322789, 1719990, 1423445, 1519702, 1503655
Object to the Defendants Attorney's office requesting my providers under threat, duress and coercion of a Subpoena provide them with my protected health information based on the fact that their request has been made under an Unlawful and Invalid procedures and law. In addition, it is in direct violation Pursuant 67-214, 67-215, Federal and South Carolina Rules of Civil Procedure to include 45, 45 C.F.R 164.512 9 (3) (A) (HIPAA) , Constitutional protected and Fundamental rights guaranteed and any other authority's of law. The hearing in this matter was held July 2, 2018, that included an additional forty- Five (45) days to request additional discovery and present evidence beginning July 3, 2018 and ended August 16, 2018, presumably 11:59 pm when the record closed and is a case of fraud.

7. October 1, 2018 WCC File Nos.: 1322789, 1719990, 1423445, 1519702, 1503655

Memorandum of Points and Authorities in this Notice of Motion and Motion to Quash All Letters And Subpoenas (*All Defective Authorizations and Combined Authorizations*) Requesting Protected Health Information And Provide An Order For Protection And Sanctions Based On Fraud Upon The Court, *Denial Of Procedural Due Process* and Others And Do What The Law Commands, In The Above Referenced Matters, Pursuant to R 19-11-95, 42-15-95, 42-9-440, 67-214, 67-215, 67-1301, South Carolina Rules of Civil Procedure 11(A), 16, 41(B), 45(2)(B), 3 (A) (I) (III) (IV), The Health Insurance Portability and Accountability Act of 1996 (HIPAA) and accompanying regulations, 45 CFR § 164.501, 45 CFR § 164.502 (a) (2) (II), 45 CFR § 164.506-.512, 45CFR § 164.512(e), 45 C.F.R. § 164.524, 45 CFR §164.532 and others

8. APPELLATE EXHIBIT -AE#7:

October 5, 2018 W.C.C. File Nos. 1322451, 1319203, 1420487

Notice to Take Judicial Notice

APPELLATE EXHIBIT-AE#8:

August 6, 2018 WCC File Nos.: 1322789, 1719990, 1423445, 1519702, 1503655

Amended Pre-Hearing Brief and Notice of Witnesses and Written Medical Reports

I certify that this designation contains no matter which is irrelevant to this appeal



Terry H Capone, Pro Se Appellant.

Note: All stated herein have been provided to the defendants through their Attorneys and Court through previous submittals without prejudice.

Mr. Terry H Capone
Fire Battalion Chief-Retired
130 Summerlea Drive
Columbia, South Carolina 29203
(803) 622-6578
tcapone@liberty.edu
Pro Per, Appellant

April 27, 2019

THE STATE OF SOUTH CAROLINA
In The Court Of Appeals

APPEAL FROM THE SOUTH CAROLINA
WORKERS COMPENSATION COMMISSION
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Appellate Case No.: 2018-000369 associated with 2018-001364

PROOF OF SERVICE

Terry H Capone, Claimant,

Appellant,

v.

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

Terry H Capone, of Richland County, Pro Se Appellant.

I certify this 27th day of April 2019 that I have served a copy of the **Amended** Initial Brief of Appellant and Designation of Matter by depositing a copy in the United States Mail, first class postage prepaid, certified or better addressed to the following:

Cynthia C. Dooley, Esquire
Carmelo Barone Sammataro, Esquire Attorneys for Respondents
TURNER PADGET GRAHAM & LANEY P.A.
P.O. Box 1473
Columbia, SC 29202

Amy Bracey
South Carolina WCC Judicial
P.O. Box 1715
Columbia, SC 29202-1715

April 27, 2019



By: _____
Mr. Terry H Capone
130 Summerlea Drive
Columbia, SC 29203
(803) 622-6578
Email: tcapone@liberty.edu
APPELLANT, PRO PER



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SC Court of Appeals
April 27, 2019

US MAIL DELIVERY OR PERSONAL SERVICE

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

Re: Terry Capone v. City of Columbia and Companion Third Party Administrator, LLC
Appellate Case No.: 2018-000369 associated with 2018-001364
W.C.C. File Nos. 1322451, 1319203, 1420487

Dear Ms. Kitchings:

Enclosed please find the original and seven copies of the **AMENDED** Appellants Initial Brief – The State of South Carolina Workers’ Compensation Commission is Unconstitutional. This is based on The State of South Carolina Workers’ Compensation Commission and this Court’s Long history & practicing racism (White Supremacy) which functions in all areas of human activity Labor, Law, Economics, Education, Entertainment, Politics, Religion, Sex and War, failure to appropriately investigate; Obstruction of Justice; Fraud Upon the Court; False Statements; Incompetence; Unfair & Unequal Treatment; Double Standards based on race and a denial of procedural & substantive due process, the devaluation of Workers Compensation Benefits (Property) I and my family have a substantial property- interest in. The decisions had disparate impacts, because despite all irrefutable evidence provided to the South Carolina Workers Compensation Commission, the State of South Carolina failed to provide equal protection under the color of law, there is a history of favorable outcomes to Whites under your system of misogyny and racism (White Supremacy).

The State of South Carolina Workers’ Compensation Commission employs Commissioners who are licensed as practicing attorneys and dully competent and qualified as administrative law judges to decide cases, and whose names are found on the Directory Members of attorneys in The State of South Carolina. The State of South Carolina Workers’ Compensation Commission “The State” allowed my claim to be heard and decided by biased (Caucasian/White Males) unlicensed Commissioners Wilkerson, Jr , McCaskill, and Campbell, who are NOT dully competent or qualified, their names were not found on the Directory Member of attorneys in The State of South Carolina and are paid same sum of about \$124,000.00 (plus free car and per diem possible \$10,000) as the dully qualified by the State of South Carolina and some secretaries (Caucasian/ White) \$50,000.00 shows White Privilege and racism (White Supremacy) which is misogynistic and systemic.

In my case without an opportunity as a Pro Per litigant to decide/ “object”; be heard and then to have mix (unqualified/qualified) again and who are biased, cycle themselves in and out continuously denying the appeals from the very decisions complained of, reinvesting by voluntary remanding the case, “never being heard a new”, in furtherance of racism (White Supremacy). In addition to the above aforementioned Constitutional and

statutory provisions- Crime Fraud Exceptions, Active Concealment For Fraud In Real Property 15-3-670 (C) (1) (2) And Others regarding the above-referenced matters. The Workers' Compensation Commission's decisions were "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. Sec. 706 (1977). The standard of review of the court is instructive. The court is to set aside the South Carolina Workers Compensation action if it finds it to be "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. Sec. 706 (1977). I am not a lawyer. Also enclosed are the original and seven copies of the Proof of Service. Thank you for your assistance with this matter, please contact me if you have any questions.

Thank you for your consideration.

With The Highest Regards,

A handwritten signature in black ink, appearing to be 'J. A. S.', written in a cursive style.

Enclosure(s) as Stated
Cc: Cynthina C Dooley
Carmelo B. Sammataro Attorney for Respondents
Amy Bracy

Mr. Terry H. Capone
Fire Battalion Chief-Retired

