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THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

**RECEIVED**

APR 17 2019

SC Court of Appeals

APPEAL FROM SOUTH CAROLINA  
WORKERS' COMPENSATION COMMISSION

W.C.C. File No.: 1105628

Ex Parte: Christine Bradley, Surviving Spouse, .....Appellant,

v.

Southern Industrial Constructors, Inc., Employer,  
and Zurich American Insurance Company  
c/o Zurich North America, Carrier, ..... Respondents.

**MOTION FOR COURT TO SET DEADLINE FOR  
APPELLANT'S INITIAL BRIEF OR, IN THE ALTERNATIVE,  
DISMISS THE APPEAL**

Respondents Southern Industrial Constructors, Inc. and Zurich American Insurance Company c/o Zurich North America hereby move this Court to set a deadline by which Appellant Christine Bradley must file her initial brief or, in the alternative, to dismiss the appeal in the above-reverenced matter pursuant to Rule 260(a) SCACR.

Appellant initially filed her Notice of Appeal on August 20, 2018. Pursuant to Rule 207(b)(1), SCACR, Appellant was required to order the transcript of the proceeding below within 10 days. Appellant moved for leave to order the transcript out of time, which this Court granted on October 2, 2018 noting that the Court had received a copy of a letter ordering the transcript. Respondents not only have received a copy of the transcript of the May 21, 2018 Appellate Panel hearing, but they provided the same to Appellant and the Court on February 20, 2019. To date, no deadlines have been set for initial briefing. Instead, Appellant continues to complain that the transcript contains

errors and/or that she needs additional information, including the Commission's file, before she can proceed forward with her appeal.

Appellant filed a Motion For: Release of Transcripts, dated March 11, 2019. Respondents filed a Return in Opposition pointing out that the South Carolina Workers' Compensation Commission had provided Appellant with contact information for all the court reporters for the proceedings in this case before that forum.<sup>1</sup> In addition, the partial transcript of the December 6, 2017 hearing before Commissioner T. Scott Beck, attached to Respondents' Return, demonstrates that a copy of the Commission file has been provided to Appellant.

In response, Appellant wrote a letter to the Commission, dated March 22, 2019 and copied to the Court, setting forth alleged difficulties with obtaining transcripts that she felt were acceptable. The March 22, 2019 letter does not indicate that Appellant has actually ordered and/or made arrangements to pay for any additional transcripts that she believes are necessary for this appeal.

Instead, Appellant has sent a letter, dated March 26, 2019, to Tereasa Osborne, with the North Carolina Department of Health and Human Services, and Victoria Litchenberger, with Eldersource, seeking discovery on a whole range of issues, including "medical, financial, providers, doctors, therapists, nurses," *etc.* (Exh. A). This letter was copied to Chief Justice James Lockemy, as well as to V. Claire Allen and Jenny Kitchings with this Court. Regardless of the purpose of Appellant's March 26, 2019

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<sup>1</sup> In a letter dated March 5, 2019, the Commission again provided Appellant with the names and contact information for the court reporters on the dates of the various hearings in this matter before the Commission. The list attached to the Commission's letter specifically notes "that all cases may not have been heard on the records so, there may not be a transcript for all dates of hearing."

letter, unless the materials and records she seeks are contained within the Commission file, which Appellant already has received, they are irrelevant to this appeal. *See* Rule 210(c) & (h), SCACR, providing that this Court's review is limited to the Record on Appeal, which may only include matter that was presented to the lower tribunal.

In this regard, it is important to note that the Commission Decision under appeal awarded Appellant, as the surviving spouse and dependent of decedent Albert Bradley, \$136,977.59 in unpaid compensation and benefits and \$2,500 for funeral expenses. In addition, the Commission ordered that the balance of the account maintained by the Guardian ad litem for Mr. Bradley be paid to the personal representative of Mr. Bradley's estate or, if no personal representative has been established, to the Lee County Clerk of Court. (Exh. B, pp. 15-20). It is, therefore, unclear exactly what Appellant is appealing. Respondents simply are waiting for a final order so that they can pay the appropriate benefits to Appellant.

Appellant has been provided a copy of the transcript of the May 21, 2018 hearing before the Full Commission. Claimant previously received a copy of the Commission's file in this case, as is described in Respondents' Return. There is no good reason to delay the briefing in this matter any further. As a result, Respondents request that this Court set a due date for Appellant's initial brief or, in the alternative, dismiss the appeal based on Appellant's failure to timely prosecute her appeal.

This Motion conforms to Rules 240 and 267, SCACR.

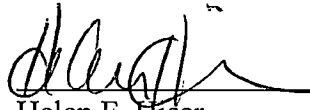
**CONCLUSION**

For all the reasons stated herein, Respondents move this Court to set a deadline by which Appellant must file her initial brief or, in the alternative, dismiss the pending appeal based on Appellant's failure to timely prosecute her appeal.

Respectfully submitted,

McANGUS GOUDELOCK & COURIE, LLC

April 15, 2019



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Helen F. Hiser

S.C. Bar No.: 76124

735 Johnnie Dodds Blvd., Suite 200 (29464)

P.O. Box 650007

Mount Pleasant, South Carolina 29465

(843) 576-2900

*Attorneys for Respondents Southern Industrial Constructors, Inc., Employer, and Zurich American Insurance Company c/o Zurich North America, Carrier*

20216. 11055

March 26, 2019

Albert Bradley/Christine Bradley  
475 Lower Lee School Road  
Mayesville, SC 20104

Ms. Tereasa Osborne  
Dept. of Health and Human Services  
(D.S.S.)  
330 Martin Luther King Way  
Gastonia, NC 28052

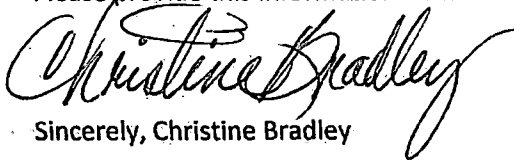
Ms. Victoria Lichtenberger  
(Eldersource)  
1018 East Blvd. Suite 3  
Charlotte, NC 28203

Reference: Albert Bradley files  
W.C.C. Case No. 1105628

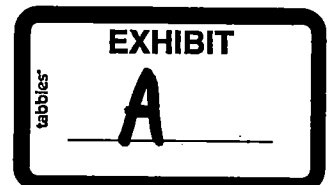
To Whom It May Concern:

Please provide all records (medical, financial, providers, doctors, therapists, nurses, caregivers, aides, medications, DSS records, Eldersource records, guardians record, medications, labs, hospitals, facilities, courts, x-rays, attorneys records and etc...) on Albert Bradley.

Several requests have been made and I have not received any records or heard from your agency.  
Please provide this information within ten days of this letter.

  
Sincerely, Christine Bradley

C/c Attorney Helen Hiser, Attorney Jason Lockhart, SCWCC, Chief Justice James Lockemy, V. Claire Allen  
and Jenny Kitchings.



Albert Bradley/Christine Bradley, pro se  
475 Lower Lee School Road  
Mayesville, SC 29104


South Carolina State Court of Appeals  
1220 Senate Street  
Columbia, SC 29101

Reference: Albert Bradley  
File No.: 110562  
Southern Industrial Constructors, Inc.,  
Zurich Insurance Co. c/o Zurich North America  
Victoria Lichtenberger  
Tereasa Osborne

PROOF OF SERVICE

I certify that I have served the notice for all documents and files from Tereasa Osborne, 330 Martin Luther King Jr. Way, Gastonia, NC, 28052 and Victoria Lichtenberger on Albert Bradley by depositing a copy of the letter in the United States Mail, postage prepaid on March 26, 2019 address to Attorney Jason Lockhart, PO Box 12519, Columbia, SC 29201, Victoria Lichtenberger, 1018 E. Blvd. Suite 3, Charlotte, NC., 28203, Tereasa Osborne D.S.S., SCWCC, Attorney Helen Hiser, 735 Johnnie Dobbs Blvd., Mount Pleasant, SC, 29464, Jenny Kitchings, and V. Claire Allen, SC State Court of Appeals.

March 26, 2019

 03/26/19 Signature

APPELLATE PANEL DECISION AND ORDER  
OF THE  
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO: 1105628

Albert Bradley

EMPLOYEE,  
CLAIMANT/APPELLANT

VS.

Southern Industrial Constructors, Inc.

EMPLOYER,

AND

Zurich American Insurance Company c/o  
Zurich North America

CARRIER,  
DEFENDANTS/RESPONDENTS

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Appellate Panel Review held in Columbia, South  
Carolina, on May 21, 2018 per notices timely  
and properly served upon all parties of interest.

Appellate Panel Decision and Order Filed:

July 26, 2018

APPEARANCES: Dependent/Appellant Christine Bradley, appeared *pro se*.

Defendants/Respondents represented by Jason W. Lockhart.



## STATEMENT OF THE CASE

A hearing was scheduled on September 13, 2017 before the Single Commissioner pursuant to Defendants' Form 21. Claimant sustained compensable physical brain damage while in the course and scope of his employment with Defendants on May 16, 2011 and was entitled to lifetime causally-related medical treatment and lifetime compensation. Subsequently, on February 5, 2017, Claimant died as a result of complications of diffuse acute bronchopneumonia.

Defendants maintained that they conducted a good faith dependency investigation and that the proper parties were before the Commission. Defendants requested that the Single Commissioner find that Defendants conducted a good faith investigation and also sought a determination of the dependents entitled to receive benefits pursuant to S.C. Code Ann. §42-9-290. Defendants requested that the Single Commissioner verify the accounting from the Guardian ad Litem of funds, which were in the possession of the Guardian ad Litem, that have been utilized by the Guardian ad Litem in the best interests of the Claimant and in accordance with the prior Decision and Order of the Single Commissioner. Defendants requested that the Single Commissioner determine whether the remaining balance of the funds, which were in the possession of the Guardian ad Litem and have been utilized by the Guardian ad Litem in the best interests of the Claimant, should be returned to the Claimant's estate. Defendants requested that the Single Commissioner discharge the Guardian ad Litem of any and all obligations to the Claimant previously established by the prior Decision and Order of the Single Commissioner.

On January 22, 2018, the Single Commissioner issued a Decision and Order making the following Findings of Fact and Conclusions of Law:

### FINDINGS OF FACT

1. The parties hereto are subject to and bound by the South Carolina Workers' Compensation Act.
2. Claimant's average weekly wage is One Thousand Two Hundred Eighty Seven Dollars (\$1,287.34) and 34/100 with a corresponding compensation rate of Seven Hundred Four Dollars (\$704.92) and 92/100.
3. Based upon the preponderance of the evidence, Claimant was involved in a work-related accident and sustained permanent physical brain damage arising out of and in the course of the Claimant's employment on May 16, 2011. (Commission File).
4. Based upon the preponderance of the evidence, including the death certificate and the autopsy report, Claimant died as a result of complications of diffuse acute bronchopneumonia. (APA #1; #2).
5. Based upon the preponderance of the evidence, at the time of Claimant's death, Claimant continued to receive causally-related medical care. (Commission File).
6. Based upon the preponderance of the evidence, Claimant was married to Christine Bradley and had three non-dependent children at the time of his death. (APA #1; #3).
7. Based upon the preponderance of the evidence, upon Claimant's death, Defendants' requested a dependency investigation regarding the allocation of remaining workers' compensation benefits that would have been payable to Claimant. (APA #3).
8. Based upon the preponderance of the evidence, including the dependency investigation report and testimony, Claimant's wife and three children were uncooperative with regards to completion of the Dependency Investigation. (APA #3).
9. Based upon the preponderance of the evidence, Christine Bradley, Claimant's wife, was wholly dependent upon Claimant at the time of Claimant's death.
10. Based upon the preponderance of the evidence, no others were financially dependent upon Claimant.
11. Based upon the preponderance of the evidence, the Claimant's three non-dependent children, all above the age of eighteen (18) years of age, waive any entitlement to permanent disability benefits in light of Christine Bradley's, the claimant's wife, entitlement to benefits.

12. Based upon the preponderance of the evidence, including the dependency investigation report and testimony, Defendants completed a "good faith" Dependency Investigation in accordance with the Act, to determine whether Claimant had dependents to receive death benefits. (APA #3).
13. Based upon the preponderance of the evidence, including the dependency investigation report and testimony, Claimant's wife, Christine Bradley, is entitled to receive the balance of unpaid compensation and benefits as the surviving spouse.
14. Based upon the preponderance of the evidence, including testimony, Victoria Lichtenberger, in her capacity as Guardian ad litem for Albert Bradley, has maintained an account on behalf of the Claimant at the direction of the undersigned Commissioner, and that the current balance of the above-referenced account is \$10,133.07.
15. Based upon the preponderance of the evidence, including testimony, Victoria Lichtenberger, in her capacity as Guardian ad litem for Albert Bradley, shall make payment of \$10,133.07 from the account, which she maintained on behalf of the Claimant at the direction of the undersigned Commissioner, to the personal representative of the Claimant's estate, which has been opened in the Lee County Clerk of Court (Case Number 2017-ES-31055).
16. Based upon the preponderance of the evidence, including testimony, Victoria Lichtenberger, in her capacity as Guardian ad litem for Albert Bradley, shall make payment of \$10,133.07 from the account, which she maintained on behalf of the Claimant at the direction of the undersigned Commissioner, to the Lee County Clerk of Court (Case Number 2017-ES-31055) if no personal representative of the Claimant's estate has been appointed.
17. Based upon the preponderance of the evidence, including testimony, Victoria Lichtenberger, in her capacity as Guardian ad litem for Albert Bradley, shall provide certification of her payment of \$10,133.07 from the account, which she maintained on behalf of the Claimant at the direction of the undersigned Commissioner, to the undersigned Commissioner and shall also provide an accounting to the undersigned Commissioner.
18. Based upon the preponderance of the evidence, including testimony, once Victoria Lichtenberger, in her capacity as Guardian ad litem for Albert Bradley, provides certification of her payment of \$10,133.07 from the account, which she maintained on behalf of the Claimant at the direction of the undersigned Commissioner, to the personal representative of the Claimant's estate or to the Lee County Clerk of Court (Case Number 2017-ES-31055) and provides an accounting to the undersigned Commissioner, then Victoria Lichtenberger is discharged from any and all responsibilities in her capacity as Guardian ad litem for Albert Bradley.

19. Based upon the preponderance of the evidence, including testimony, the Defendants shall make payment of funeral expenses in the amount of \$2,500.00 to Christine Bradley upon provision by Christine Bradley of documentation of funeral expenses.
20. Based upon the preponderance of the evidence, including the dependency investigation report and testimony, Claimant's wife, Christine Bradley, is entitled to and the Defendants shall make payment of the balance of unpaid compensation and benefits as the surviving spouse in the amount of \$136,977.59 representing the present-day value of the remaining 202 weeks of compensation. The Defendants shall make payment of the balance of unpaid compensation and benefits to Christine Bradley, as the surviving spouse, in the amount of \$136,977.59 through sending payment to Christine Bradley at 475 Lower Lee School Road, Mayesville, South Carolina 29104.

#### CONCLUSIONS OF LAW

1. Pursuant to S.C. Code Ann. Section 42-9-280, when an employee dies of causes unrelated to the injury for which he is entitled to compensation, payment of the unpaid balance shall be paid to his next of kin dependent upon him for support.
2. Pursuant to S.C. Code Ann. Section 42-9-290 is applicable and sets forth the amount of compensation due for the death of an employee due to an accident.
3. South Carolina Workers' Compensation Commission Regulation 67-902 is applicable and sets forth the requirements for conducting a "good faith" investigation concerning dependency issues.
4. Pursuant to South Carolina Workers' Compensation Commission Regulation 67-902 and other applicable law, Defendants conducted a "good faith" Dependency Investigation. Defendants identified all possible dependents, and they were all properly notified of the hearing in this matter.
5. Pursuant to S.C. Code Ann. Section 42-9-290, Claimant's dependent is entitled to receive the balance of unpaid compensation and benefits, at the compensation rate of \$704.92.
6. Pursuant to S.C. Code Ann. Section 42-9-110, Christine Bradley is Claimant's surviving spouse and is therefore presumed to be wholly dependent upon Claimant at the time of Claimant's death. No others were financially dependent upon Claimant.
7. Pursuant to S.C. Code Ann. Section 42-9-290, all benefits are to be paid to Christine Bradley, Claimant's wife.

8. Pursuant to S.C. Code Ann. Section 42-9-301, Mrs. Bradley is entitled to a lump-sum payment of benefits.
9. Pursuant to S.C. Code Ann. Section 42-9-110 and Section 42-9-120, and based upon the preponderance of the evidence, Defendants completed a "good faith" Dependency Investigation in accordance with the Act to determine whether Claimant had dependents to receive death benefits. (APA #3).
10. Pursuant to S.C. Code Ann. Section 42-9-110 and based upon the preponderance of the evidence, including the dependency investigation report and testimony, Claimant's wife, Christine Bradley, is entitled to receive the balance of unpaid compensation and benefits as the surviving spouse conclusively presumed to be wholly dependent for support.
11. Pursuant to S.C. Code Ann. Section 42-15-55 and based upon the preponderance of the evidence, including testimony, Victoria Lichtenberger, in her capacity as Guardian ad litem for Albert Bradley, has maintained an account on behalf of the Claimant at the direction of the undersigned Commissioner, and that the current balance of the above-referenced account is \$10,133.07.
12. Pursuant to S.C. Code Ann. Section 42-15-55 and based upon the preponderance of the evidence, including testimony, Victoria Lichtenberger, in her capacity as Guardian ad litem for Albert Bradley, shall make payment of \$10,133.07 from the account, which she maintained on behalf of the Claimant at the direction of the undersigned Commissioner, to the personal representative of the Claimant's estate, which has been opened in the Lee County Clerk of Court (Case Number 2017-ES-31055).
13. Pursuant to S.C. Code Ann. Section 42-15-55 and based upon the preponderance of the evidence, including testimony, Victoria Lichtenberger, in her capacity as Guardian ad litem for Albert Bradley, shall make payment of \$10,133.07 from the account, which she maintained on behalf of the Claimant at the direction of the undersigned Commissioner, to the Lee County Clerk of Court if no personal representative of the Claimant's estate has been appointed.
14. Pursuant to S.C. Code Ann. Section 42-15-55 and based upon the preponderance of the evidence, including testimony, Victoria Lichtenberger, in her capacity as Guardian ad litem for Albert Bradley, shall provide certification of her payment of \$10,133.07 from the account, which she maintained on behalf of the Claimant at the direction of the undersigned Commissioner, to the undersigned Commissioner and shall also provide an accounting to the undersigned Commissioner.
15. Pursuant to S.C. Code Ann. Section 42-15-55 and based upon the preponderance of the evidence, including testimony, once Victoria Lichtenberger, in her capacity as Guardian ad litem for Albert Bradley, provides certification of her payment of

\$10,133.07 from the account, which she maintained on behalf of the Claimant at the direction of the undersigned Commissioner, to the undersigned Commissioner and provides an accounting to the undersigned Commissioner, then Victoria Lichtenberger is discharged from any and all responsibilities in her capacity as Guardian ad litem for Albert Bradley.

16. Pursuant to S.C. Code Ann. Section 42-9-290 and based upon the preponderance of the evidence, including testimony, the Defendants shall make payment of funeral expenses in the amount of \$2,500.00 to Christine Bradley upon provision by Christine Bradley of documentation of funeral expenses.
17. Pursuant to S.C. Code Ann. Section 42-9-110, Section 42-9-290 and Section 42-9-301, and based upon the preponderance of the evidence, including testimony, Claimant's wife, Christine Bradley, is entitled to and the Defendants shall make payment of the balance of unpaid compensation and benefits as the surviving spouse in the amount of \$136,977.59 representing the present-day value of the remaining 202 weeks of compensation.
18. Pursuant to S.C. Code Ann. Section 42-9-110, Section 42-9-290 and Section 42-9-301, and based upon the preponderance of the evidence, including testimony, Claimant's wife, Christine Bradley, is entitled to and the Defendants shall make payment of the balance of unpaid compensation and benefits as the surviving spouse in the amount of \$136,977.59 representing the present-day value of the remaining 202 weeks of compensation. The Defendants shall make payment of the balance of unpaid compensation and benefits to Christine Bradley, as the surviving spouse, in the amount of \$136,977.59 through sending payment to Christine Bradley at 475 Lower Lee School Road, Mayesville, South Carolina 29104

Following the Decision and Order, Claimant filed a Form 30 and asserted several exceptions to the Decision and Order. According to Claimant's Appellant's Brief, these exceptions are quoted as follows:

- I. "Section 42-9-10(A)(B)(C)(D). Amount of compensation for total disability and what constitutes total disability. During proceedings and order, temporary compensation was applied to a permanent disability claim. Although Commissioner Beck stated that claimant Albert Bradley was declared permanently disabled, law was applied for temporary disability with attempt to settle the claim on that basis."
- II. "Section 42-15-60 (C)- Albert Bradley, now deceased claimant, who received total care and medical services in his home by family members 24/7 up until the year he was taken, were never compensated for the services they provided to the claimant even after care plan which was requested was presented to the court to show the care the claimant was receiving in the home. There was a court order which ordered

monies which Albert Bradley paid out of his own monies to be reimbursed by the carrier for expenses such as medications and supplies dating back to 2013 which still have not been paid as of this date. Albert Bradley paid for his own transportation to court hearings, doctors' visits, medications, and nursing services, all which no reimbursement was received. Albert Bradley even had to purchase his own wheelchair accessible van for transportation out of his own money and was never reimbursed."

- III. "67-902-Dependency investigation. The argument here is that a thorough investigation of benefits on behalf of the claimant for all dependents through his employers should be brought before the court. Christine Bradley stated before the court in a prior hearing and made pleas to the Commission that she was due spousal benefits as she was the beneficiary listed for Albert Bradley through his employer Southern Industrial. Her request for further information and documentation pertaining to the above was not [acknowledged]."
- IV. "Section 42-17-60. Christine Bradley, spouse of claimant, has been denied benefits. 'In case of appeal from the decision of the commission on questions of law, the appeal does not operate as a supersedeas, and, after that time the employer is required to make weekly payments of compensation.'"
- V. "Sections 42-9-220, 42-9-230. Christine Bradley was separated from her husband on March 17, 2016, and all benefits that Albert Bradley had been receiving had stopped in December 2016."
- VI. "Section 42-9-10(A)(B)(C)(D). Albert Bradley was declared permanently and totally disabled."
- VII. "Section 42-15-80. It was ordered that Albert Bradley died of acute bronchopneumonia. No medical records including autopsy and toxicology results were submitted to support this diagnosis. No expert witness testified at the hearing to provide expert testimony to support this diagnosis."
- VIII. "Albert Bradley died in the custody of Gaston County DSS/Tereasa Osborne, Stephanie Stevenson and Victoria Lichtenberger, appointed Guardian/Guardian ad Litem through the SC Workers' Compensation Commission. Victoria Lichtenberger is owner of ElderSource, located at 1018 East Blvd., Suite 3, Charlotte, NC, a geriatric care management company that is responsible for the placement of geriatric patients into adult homes and facilities."
- IX. "Albert Bradley suffered immensely under the hands of Guardian Ad Litem Victoria Lichtenberger and Gaston County DSS/Tereasa Osborne, Stephanie Stevenson. From the time of their acquisition of the claimant, there was a rapid decline in his health evidenced by multiple hospital visits and admissions that ultimately led to his death."
- X. "Section 42-15-60- The claimant has medical bills that have not been paid by the carrier. These bills have not been brought before the court to show proof of payment."
- XI. "67-902, 67-903, 67-904. Tuten testified that he conducted the dependency investigation in good faith when in fact he failed to make contact with all of the claimant's family

members and failed to provide documentation to support his findings.”

- XII. “APA submission presented by Attorney Jason Lockhart used as evidence was not provided to all parties prior to hearing or after the hearing and was used as facts for the case.”
- XIII. “67-216, 42-15-55. Victoria Lichtenberger, Guardian ad Litem, said representative for the deceased claimant, was speaking on behalf of the insurance company instead of the claimant. Albert Bradley was in the custody of Victoria Lichtenberger, Guardian Ad Litem and Gaston County DSS/Tereasa Osborne/Stephanie Stevenson when he died. Victoria Lichtenberger, Guardian Ad Litem was also documented as dependent of the claimant. Proof of guardianship was never provided during court when requested. Family members, or the claimant himself, Albert Bradley, was not present at any hearing for the appointment of Guardian Ad Litem.”
- XIV. “Family members had very limited contact with Albert Bradley during the last year of his life, and visits with him were supervised when they were allowed.”
- XV. “Section 42-9-20. Temporary compensation, partial disability law cannot be applied who has suffered physical brain damage. Albert Bradley sustained physical brain damage on May 16, 2011, and was permanently and totally disabled on the date of his accident.”
- XVI. “42-9-20. Based on the findings and the laws, as highlighted above a temporary compensation and partial disability cannot be applied when an individual has suffered a permanent disability.”
- XVII. “Family members were denied their rights to civil proceedings for guardianship for Albert Bradley. Albert Bradley has a living spouse Christine Bradley.”
- XVIII. “67-902. There was failure to conduct thorough dependency investigation though the claimant’s employer Southern Industrial.”
- XIX. “Albert Bradley was in the custody of Victoria Lichtenberger, Guardian Ad Litem, and owner of EldersSource and Gaston County DSS/Tereasa Osborne, Agency Attorney/Stephanie Stevenson, guardianship supervisor. No proof of guardianship was ever provided.”
- XX. “67-1301. Expert physician testimony was not heard on the given diagnosis, acute bronchopneumonia, as to the cause of Albert Bradley’s death.”
- XXI. “Other documentation which was ordered by the Commissioner to include the complete financial record of the claimant held by the Guardian Ad Litem Victoria Lichtenberger as well as her final accounting, full medical records from the time that Albert Bradley was taken into custody from 3/17/16 until the date of his death including autopsy and toxicology were not submitted as ordered for review and evidence.”
- XXII. “Apply the law accordingly, consider the facts in the case, and apply due

process to be fair and equal representation.”

### EVIDENCE OF THE CASE

Claimant was pronounced dead on February 5, 2017 at Carolinas Medical Center in Charlotte, North Carolina. (APA#1 p.1). Upon receiving authorization from Claimant's next of kin, Derwin Bradley, Dr. Carol Weida conducted Claimant's autopsy on February 6, 2017 and concluded that Claimant's cause of death was a result of complications of diffuse acute bronchopneumonia. (APA #2 p. 3).

Upon Claimant's death, Defendants' requested a dependency investigation regarding the allocation of remaining workers' compensation benefits that would have been payable to Claimant. (APA #3). The investigation revealed that Claimant was born in Lee County, South Carolina on October 27, 1949. (APA #3 p.14). Claimant married Christine Bradley and, per the dependency investigation, had three children, Derwin Bradley, Lavare Seltun, and Christy James, all of whom are over the age of eighteen. (APA #3 pp. 7, 14). From February 24, 2017 to April 17, 2017, numerous attempts were made to contact Mrs. Bradley in order to complete the dependency investigation. (APA #3). On February 24, 2017, Mrs. Bradley was contacted, via telephone, to initiate the investigation but she indicated that she did not wish to cooperate with Defendants regarding completion of the investigation and requested further contact via letter. (APA #3 pp. 7-8). A letter, dated March 8, 2017, was mailed to Mrs. Bradley's address explaining the purposes of the investigation and requesting contact. (APA #3 p. 8). No response was received until Mrs. Bradley's April 10, 2017 letter, which requested a full description of all aspects and the nature of the dependency investigation. (APA #3 p. 10). Per her request, a letter, dated April 17, 2017, was mailed to Mrs. Bradley but no response was received.

Further, attempts were made to contact Claimant's three children in order to complete the dependency investigation. (APA #3 p. 8). In April 2017, voicemail messages were left for Derwin Bradley and Lavare Seltun and letters were sent to all three children requesting further contact. (APA #8). Numerous attempts were made to contact Raymond Tillery, Derwin Bradley's attorney, in order to be put in contact with Mr. Bradley. (APA #3 pp. 10-11). Attorney Tillery indicated that he attempted to contact Mr. Bradley, but Mr. Bradley failed to return his calls. A text message was sent to Mr. Bradley, in which he redirected contact to Attorney Tillery. (APA #3 p. 11). No further communication or response has been received from Mrs. Bradley of any of Claimant's children with regards to the dependency investigation. (APA #3 p. 5).

Courthouse searches for proof of Claimant's marriage license were conducted in Mecklenberg County, North Carolina, Lee, Sumter, and Darlington Counties, South Carolina but proof of a marriage license was not discovered. (APA #3 pp. 8-9). Although proof of a marriage license was not discovered, Mrs. Bradley is listed as Claimant's wife on the March 27, 2017 death certificate and she is listed as Claimant's wife and survivor in Claimant's obituary dated February 11, 2017. (APA #1; APA #3 pp. 14-15).

Pursuant to the request of the Single Commissioner, Chris Tuten provided testimony regarding his attempts to conduct a good faith investigation to determine beneficiaries to whom benefits were payable in order that the Defendants may fulfill their obligations pursuant to the South Carolina Workers' Compensation Act. Mr. Tuten stated that he completed a preliminary dependency investigation, but was unable to complete the dependency investigation due to a lack of cooperation provided by the Claimant's wife and children. Pursuant to the request of the Single Commissioner, Victoria Lichtenberger provided testimony in her capacity as Guardian ad

Litem. Ms. Lichtenberger stated that she has maintained an account on behalf of the Claimant, and that the current balance of the above-referenced account is \$10,133.07.

Christine Bradley testified that she was the lawful wife of the Claimant on the date of the Claimant's accident as well the lawful wife of the Claimant on the date of the Claimant's death. Mrs. Bradley stated that she has opened an estate on behalf of the Claimant, and that the estate was opened with the Lee County Probate Court. The file number of the estate opened with the Lee County Probate Court is 2017-ES-31055. Mrs. Bradley indicated that she had not yet been appointed as personal representative of the Claimant's estate nor had a personal representative of the Claimant's estate been appointed.

## **FULL COMMISSION FINDINGS OF FACTS AND CONCLUSIONS OF LAW**

### **FINDINGS OF FACT**

1. The South Carolina Workers' Compensation Commission has jurisdiction over the subject matter and parties of this claim.
2. Claimant's average weekly wage is One Thousand Two Hundred Eighty Seven Dollars (\$1,287.34) and 34/100 with a corresponding compensation rate of Seven Hundred Four Dollars (\$704.92) and 92/100.
3. Based upon the preponderance of the evidence, we find that Claimant was involved in a work-related accident and sustained permanent physical brain damage arising out of and in the course of the Claimant's employment on May 16, 2011. (Commission File).
4. Based upon the preponderance of the evidence, including the death certificate and the autopsy report, we find that Claimant died as a result of complications of diffuse acute bronchopneumonia. (APA #1; #2).

5. Based upon the preponderance of the evidence, at the time of Claimant's death, we find that Claimant continued to receive causally-related medical care. (Commission File).
6. Based upon the preponderance of the evidence, we find that Claimant was married to Christine Bradley and had three non-dependent children at the time of his death. (APA #1; #3).
7. Based upon the preponderance of the evidence, upon Claimant's death, we find that Defendants' requested a dependency investigation regarding the allocation of remaining workers' compensation benefits that would have been payable to Claimant. (APA #3).
8. Based upon the preponderance of the evidence, including the dependency investigation report and testimony, we find that Claimant's wife and three children were uncooperative with regards to completion of the Dependency Investigation. (APA #3).
9. Based upon the preponderance of the evidence, we find that Christine Bradley, Claimant's wife, was wholly dependent upon Claimant at the time of Claimant's death.
10. Based upon the preponderance of the evidence, we find that no others were financially dependent upon Claimant.
11. Based upon the preponderance of the evidence, we find that the Claimant's three non-dependent children, all above the age of eighteen (18) years of age, waive any entitlement to permanent disability benefits in light of Christine Bradley's, the claimant's wife, entitlement to benefits.
12. Based upon the preponderance of the evidence, including the dependency investigation report and testimony, we find that Defendants completed a "good faith" Dependency Investigation in accordance with the Act, to determine whether Claimant had dependents to receive death benefits. (APA #3).

13. Based upon the preponderance of the evidence, including the dependency investigation report and testimony, we find that Claimant's wife, Christine Bradley, is entitled to receive the balance of unpaid compensation and benefits as the surviving spouse.
14. Based upon the preponderance of the evidence, including testimony, we find that Victoria Lichtenberger, in her capacity as Guardian ad litem for Albert Bradley, has maintained an account on behalf of the Claimant at the direction of the Single Commissioner, and that the current balance of the above-referenced account is \$10,133.07.
15. Based upon the preponderance of the evidence, including testimony, we find that Victoria Lichtenberger, in her capacity as Guardian ad litem for Albert Bradley, shall make payment of \$10,133.07 from the account, which she maintained on behalf of the Claimant at the direction of the Single Commissioner, to the personal representative of the Claimant's estate, which has been opened in the Lee County Clerk of Court (Case Number 2017-ES-31055).
16. Based upon the preponderance of the evidence, including testimony, we find that Victoria Lichtenberger, in her capacity as Guardian ad litem for Albert Bradley, shall make payment of \$10,133.07 from the account, which she maintained on behalf of the Claimant at the direction of the Single Commissioner, to the Lee County Clerk of Court (Case Number 2017-ES-31055) if no personal representative of the Claimant's estate has been appointed.
17. Based upon the preponderance of the evidence, including testimony, we find that Victoria Lichtenberger, in her capacity as Guardian ad litem for Albert Bradley, shall provide certification of her payment of \$10,133.07 from the account, which she maintained on

behalf of the Claimant at the direction of the Single Commissioner, to the Single Commissioner and shall also provide an accounting to the Single Commissioner.

18. Based upon the preponderance of the evidence, including testimony, we find that once Victoria Lichtenberger, in her capacity as Guardian ad litem for Albert Bradley, provides certification of her payment of \$10,133.07 from the account, which she maintained on behalf of the Claimant at the direction of the Single Commissioner, to the personal representative of the Claimant's estate or to the Lee County Clerk of Court (Case Number 2017-ES-31055) and provides an accounting to the Single Commissioner, then Victoria Lichtenberger is discharged from any and all responsibilities in her capacity as Guardian ad litem for Albert Bradley.
19. Based upon the preponderance of the evidence, including testimony, we find that the Defendants shall make payment of funeral expenses in the amount of \$2,500.00 to Christine Bradley upon provision by Christine Bradley of documentation of funeral expenses.
20. Based upon the preponderance of the evidence, including the dependency investigation report and testimony, we find that Claimant's wife, Christine Bradley, is entitled to and the Defendants shall make payment of the balance of unpaid compensation and benefits as the surviving spouse in the amount of \$136,977.59 representing the present-day value of the remaining 202 weeks of compensation. The Defendants shall make payment of the balance of unpaid compensation and benefits to Christine Bradley, as the surviving spouse, in the amount of \$136,977.59 through sending payment to Christine Bradley at 475 Lower Lee School Road, Mayesville, South Carolina 29104.

#### CONCLUSIONS OF LAW

1. Pursuant to S.C. Code Ann. Section 42-9-280, when an employee dies of causes unrelated to the injury for which he is entitled to compensation, payment of the unpaid balance shall be paid to his next of kin dependent upon him for support.
2. Pursuant to S.C. Code Ann. Section 42-9-290 is applicable and sets forth the amount of compensation due for the death of an employee due to an accident.
3. South Carolina Workers' Compensation Commission Regulation 67-902 is applicable and sets forth the requirements for conducting a "good faith" investigation concerning dependency issues.
4. Pursuant to South Carolina Workers' Compensation Commission Regulation 67-902 and other applicable law, Defendants conducted a "good faith" Dependency Investigation. Defendants identified all possible dependents, and they were all properly notified of the hearing in this matter.
5. Pursuant to S.C. Code Ann. Section 42-9-290, Claimant's dependent is entitled to receive the balance of unpaid compensation and benefits, at the compensation rate of \$704.92.
6. Pursuant to S.C. Code Ann. Section 42-9-110, Christine Bradley is Claimant's surviving spouse and is therefore presumed to be wholly dependent upon Claimant at the time of Claimant's death. No others were financially dependent upon Claimant.
7. Pursuant to S.C. Code Ann. Section 42-9-290, all benefits are to be paid to Christine Bradley, Claimant's wife.
8. Pursuant to S.C. Code Ann. Section 42-9-301, Mrs. Bradley is entitled to a lump-sum payment of benefits.
9. Pursuant to S.C. Code Ann. Section 42-9-110 and Section 42-9-120, and based upon the preponderance of the evidence, Defendants completed a "good faith" Dependency

Investigation in accordance with the Act to determine whether Claimant had dependents to receive death benefits. (APA #3).

10. Pursuant to S.C. Code Ann. Section 42-9-110 and based upon the preponderance of the evidence, including the dependency investigation report and testimony, Claimant's wife, Christine Bradley, is entitled to receive the balance of unpaid compensation and benefits as the surviving spouse conclusively presumed to be wholly dependent for support.
11. Pursuant to S.C. Code Ann. Section 42-15-55 and based upon the preponderance of the evidence, including testimony, Victoria Lichtenberger, in her capacity as Guardian ad litem for Albert Bradley, has maintained an account on behalf of the Claimant at the direction of the Single Commissioner, and that the current balance of the above-referenced account is \$10,133.07.
12. Pursuant to S.C. Code Ann. Section 42-15-55 and based upon the preponderance of the evidence, including testimony, Victoria Lichtenberger, in her capacity as Guardian ad litem for Albert Bradley, shall make payment of \$10,133.07 from the account, which she maintained on behalf of the Claimant at the direction of the Single Commissioner, to the personal representative of the Claimant's estate, which has been opened in the Lee County Clerk of Court (Case Number 2017-ES-31055).
13. Pursuant to S.C. Code Ann. Section 42-15-55 and based upon the preponderance of the evidence, including testimony, Victoria Lichtenberger, in her capacity as Guardian ad litem for Albert Bradley, shall make payment of \$10,133.07 from the account, which she maintained on behalf of the Claimant at the direction of the Single Commissioner, to the Lee County Clerk of Court if no personal representative of the Claimant's estate has been appointed.

14. Pursuant to S.C. Code Ann. Section 42-15-55 and based upon the preponderance of the evidence, including testimony, Victoria Lichtenberger, in her capacity as Guardian ad litem for Albert Bradley, shall provide certification of her payment of \$10,133.07 from the account, which she maintained on behalf of the Claimant at the direction of the undersigned Commissioner, to the Single Commissioner and shall also provide an accounting to the Single Commissioner.
15. Pursuant to S.C. Code Ann. Section 42-15-55 and based upon the preponderance of the evidence, including testimony, once Victoria Lichtenberger, in her capacity as Guardian ad litem for Albert Bradley, provides certification of her payment of \$10,133.07 from the account, which she maintained on behalf of the Claimant at the direction of the Single Commissioner, to the Single Commissioner and provides an accounting to the Single Commissioner, then Victoria Lichtenberger is discharged from any and all responsibilities in her capacity as Guardian ad litem for Albert Bradley.
16. Pursuant to S.C. Code Ann. Section 42-9-290 and based upon the preponderance of the evidence, including testimony, the Defendants shall make payment of funeral expenses in the amount of \$2,500.00 to Christine Bradley upon provision by Christine Bradley of documentation of funeral expenses.
17. Pursuant to S.C. Code Ann. Section 42-9-110, Section 42-9-290 and Section 42-9-301, and based upon the preponderance of the evidence, including testimony, Claimant's wife, Christine Bradley, is entitled to and the Defendants shall make payment of the balance of unpaid compensation and benefits as the surviving spouse in the amount of \$136,977.59 representing the present-day value of the remaining 202 weeks of compensation.

18. Pursuant to S.C. Code Ann. Section 42-9-110, Section 42-9-290 and Section 42-9-301, and based upon the preponderance of the evidence, including testimony, Claimant's wife, Christine Bradley, is entitled to and the Defendants shall make payment of the balance of unpaid compensation and benefits as the surviving spouse in the amount of \$136,977.59 representing the present-day value of the remaining 202 weeks of compensation. The Defendants shall make payment of the balance of unpaid compensation and benefits to Christine Bradley, as the surviving spouse, in the amount of \$136,977.59 through sending payment to Christine Bradley at 475 Lower Lee School Road, Mayesville, South Carolina 29104.

**ORDER**

**IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that the greater weight of the evidence supports a finding that the Decision and Order of the Single Commissioner is **AFFIRMED**.

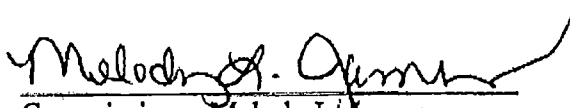
**IT IS FURTHER ORDERED** that the greater weight of the evidence does support a finding that the Defendants completed a "good faith" Dependency Investigation in accordance with the Act, to determine whether Claimant had dependents to receive death benefits.

**IT IS FURTHER ORDERED** that the greater weight of the evidence does support a finding that Claimant's surviving spouse, Christine Bradley, is determined to have been wholly dependent upon Claimant at the time of Claimant's death.

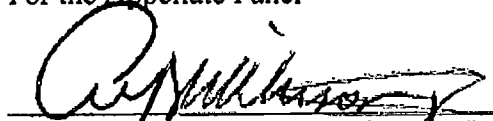
**IT IS FURTHER ORDERED** that the greater weight of the evidence does support a finding that an award of death benefits, pursuant to Section 42-9-110, Section 42-9-290 and Section 42-9-301, shall be paid to Christine Bradley at the compensation rate of \$704.92.


**IT IS FURTHER ORDERED** that the greater weight of the evidence does support a finding that Claimant's wife, Christine Bradley, is entitled to and the Defendants shall make payment of the balance of unpaid compensation and benefits as the surviving spouse in the amount of \$136,977.59 representing the present-day value of the remaining 202 weeks of compensation.

**IT IS SO ORDERED.**

  
Commissioner Melody L. James  
For the Appellate Panel

**WE CONCUR:**

  
Commissioner Avery B. Wilkerson, Jr.

  
Commissioner Gene McCaskill

**CERTIFICATE OF SERVICE**

This is to certify that the undersigned has on this date served a copy of this order in the above entitled action upon all parties to this case by sending an electronic copy hereof by electronic mail addressed to the attorneys for said parties; or if there is an unrepresented party(ies), by depositing a copy hereof, postage paid in the United States mail, first class, addressed to the unrepresented party(ies) and to the attorney(s) for the represented party(ies).

**By Eugenia on July 26, 2018**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

**RECEIVED**  
APR 17 2019  
SC Court of Appeals

APPEAL FROM SOUTH CAROLINA  
WORKERS' COMPENSATION COMMISSION

W.C.C. File No.: 1105628

Ex Parte: Christine Bradley, Surviving Spouse, ..... Appellant,

v.

Southern Industrial Constructors, Inc., Employer,  
and Zurich American Insurance Company  
c/o Zurich North America, Carrier, ..... Respondents.

**PROOF OF SERVICE**

I certify that on the 15th day of April 2019, I served the Respondents' **Motion for Court to Set Deadline for Appellant's Initial Brief or, in the Alternative, Dismiss the Appeal** on Christine Bradley by depositing a copy of it in the United States Mail, postage prepaid, addressed as follows:

Christine Bradley  
475 Lower Lee School Rd.  
Mayesville, South Carolina 29104



Mackenzie Broughton  
Legal Assistant to Helen F. Hiser  
McAngus, Goudelock & Courie LLC  
735 Johnnie Dodds Blvd., Suite 200  
P.O. Box 650007  
Mount Pleasant, South Carolina 29465  
(843) 576-2900

*Attorneys for Respondents Southern Industrial Constructors, Inc., Employer, and Zurich American Insurance Company c/o Zurich North America, Carrier*

**Reply To**

HELEN F. HISER  
Direct Dial: (843) 576-2930  
helen.hiser@mgclaw.com

April 15, 2019

**VIA U.S. MAIL**

The Honorable Jenny Abbott Kitchings  
South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211

RE: Albert Bradley v. Southern Industrial Constructors and Zurich American  
Insurance Company c/o Zurich North America  
Date of Accident: May 16, 2011  
WCC File No.: 1105628  
Our File No.: 20216.11055  
Claim No.: 2800074691  
Appeal No.: 2018-001535

**RECEIVED**  
APR 17 2019  
SC Court of Appeals

Dear Ms. Kitchings:

Enclosed please find the original and seven (7) copies of Respondents' Motion to Set Deadline for Appellant's Initial Brief or, in the Alternative, Dismiss Appeal, and the original and one copy of the Proof of Service in the above-referenced matter. Please file the originals and return a clocked-in copy in the enclosed self-addressed, stamped envelope. Also enclosed is our firm's check in the amount of \$50 for filing the motion.

If you have any questions, please do not hesitate to contact me.

Yours truly,

  
Helen F. Hiser

## Attachments

cc: Christine Bradley, *Pro Se*

P

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The Honorable Jenny Abbott Kitchings  
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DEFENSE

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The Honorable Jenny Abbott Kitchings  
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