

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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MAY 31 2019

SC Court of Appeals

APPEAL FROM THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

W.C.C. File No. 1116275

John McDaniel, Employee,.....Appellant,

v.

Career Employment Professional
d/b/a Snelling Staffing, Employer, and
United Wisconsin Insurance Co., Carrier, Respondents.

**RESPONDENTS' RETURN IN OPPOSITION TO
MOTION TO STRIKE**

Respondents Career Employment Professional d/b/a Snelling Staffing and United Wisconsin Insurance Co. hereby oppose Appellant John McDaniel's ("Claimant") Motion to Strike Respondent's Return to Petition for Rehearing Or to order that Appellant may Reply to the Petition for Rehearing ("Motion"). Claimant's accusations and arguments have no merit and should be dismissed.

While it is true that this Court did not request a return to Claimant's Petition for Rehearing pursuant to Rule 221, SCACR, there are no grounds for sanctions in this matter. First, Rule 221(a) uses the permissive "may" as opposed to the mandatory "shall" and, as a result, imbues the Court with discretion to accept or reject any return that may have been improperly filed.

Second, due to allegations years ago by Claimant that he did not receive a filing at the Commission level, Respondents have had a practice of always mailing pleadings to Claimant both by regular U.S. Mail and by Certified Mail, return receipt requested. Pursuant to the May 7, 2019 cover letter to Respondents' Return, that is precisely how that pleading was sent to Claimant. Claimant's denial that he received the copy sent via first class mail, when it was sent to exactly the same address as the copy that was sent via Certified Mail, confirms the necessity for Respondents to always serve Claimant by both methods. There was no attempt here to "act[] abusively to a pro se Appellant" and no cause or basis for sanctions.

Third, pursuant to the un-notarized Affidavit attached to Claimant's Motion, this Court has exercised its discretion and accepted Respondents' Return. If, in fact, Claimant did not receive the Return until the deadline to respond had expired, this Court may treat his current Motion as his Reply, which Respondents will not contest as untimely under the Rules of Appellate Procedure. Claimant addresses the substance of Respondents' Return on pages 3-4 of his Motion, arguing that it is non-responsive.

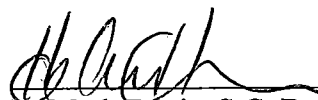
CONCLUSION

For all the reasons stated herein, this Court should deny Claimant's Motion to strike and/or for sanctions but allow his Motion to serve as his Reply.

Respectfully submitted,

McANGUS GOUDELICK & COURIE, LLC

May 29, 2019



R. Mark Davis, S.C. Bar No.: 15522
Helen F. Hiser, S.C. Bar No.: 76124
Allison Nussbaum, S.C. Bar No.: 72514
MCANGUS GOUDELICK & COURIE, LLC

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Mount Pleasant, South Carolina 29465
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Attorneys for Respondents

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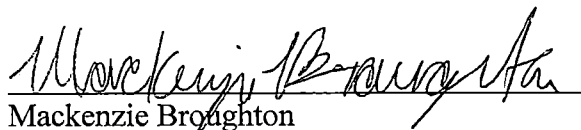
v.

Career Employment Professional
d/b/a Snelling Staffing, Employer, and
United Wisconsin Insurance Co., Carrier, Respondents.

PROOF OF SERVICE

I certify that on the 29th day of May, 2019, I served the **Respondents' Return in Opposition to Motion to Strike** on John McDaniel by depositing a copy of it in the United States Mail, postage prepaid, addressed as follows:

John C. McDaniel, *Pro Se*
4537 Illium Lane NW
Grand Rapids, MI 49534



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 Career
Employment Professional d/b/a Snelling
Staffing and United Wisconsin Insurance
Co.*

Reply To

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

May 29, 2019

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SC Court of Appeals

Via U.S. Mail

The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
P.O. Box 11629
Columbia, South Carolina 29211

RE: John McDaniel v. Career Employment Professionals d/b/a Snelling Staffing
Services and United Wisconsin Insurance Company c/o United Heartland
Date of Accident: November 21, 2011
WCC File No.: 1116275
Our File No.: 20638.12027
Claim No.: 041100021048
Appellate Tracking No.: 2017-001217

Dear Ms. Kitchings:

Enclosed please find the original and seven (7) copies of Respondents' Return in Opposition to Motion to Strike, 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 self-addressed, stamped envelope.

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

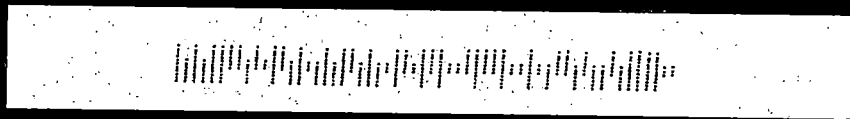
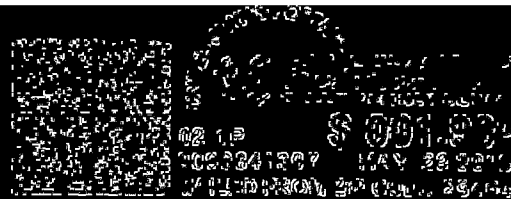
Yours truly,
McAngus Goudelock & Courie, LLC



Helen F. Hiser

Enclosures

cc: John C. McDaniel, *pro se* (via U.S. Mail and Certified Mail)



mgc | **INSURANCE
DEFENSE**

POST OFFICE BOX 650007
MT. PLEASANT, SC 29465

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SC Court of Appeals

20638.12027/ HFH/mtb
The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211