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THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM SOUTH CAROLINA WORKER'S COMPENSATION COMMISSION

WCC File No.: 1506114

**RECEIVED**

JUL 29 2019

**SC Court of Appeals**

Frankie Padgett ..... Respondent,

v.

Cast and Crew Entertainment Services, Inc. ....Employer,

&

American Zurich Insurance Company..... Carrier,  
Appellants,

**NOTICE OF APPEAL**

Pursuant to Rule 203, SCACR, Appellants, Cast and Crew Entertainment Services, Inc., and American Zurich Insurance Company ("Appellant" or "Appellants"), by and through the undersigned attorney, do hereby appeal from the Final Order of the South Carolina Workers' Compensation Commission Appellate Panel initially served June 26, 2019 and subsequently filed and served on July 3, 2019.

Appellants submit that the South Carolina Worker's Compensation Commission Appellate Panel ("Commission") erred in vacating in part the Hearing Commissioner's decision which granted Appellants' petition and request that payment of temporary total disability compensation

benefits be terminated as of June 15, 2018. The Commission's Order affirming in part and vacating in part the Hearing Commissioner's decision was filed on July 3, 2019. Appellants received a copy of the filed Order from the Commission on July 3, 2019.

The Commission's Order is appealed on the following grounds:

1. The Commission erred in vacating the Hearing Commissioner's finding that the settlement agreement and release (clincher) reflected that 1,704.56 weeks of benefits had been paid pursuant to a prior work-related accident and as such, Claimant was not entitled to additional indemnity benefits because Claimant's payment for the prior accident had exceeded or reached the 500 week limitation as is set forth in § 42-9-10 & 30 of the *South Carolina Code of Laws Annotated (2019)*. The error being that there is no legal or factual basis or theory reflecting the Hearing Commissioner erred as a matter of law or based upon the factual evidence.
2. The Commission erred in vacating the Hearing Commissioner's decision in its application and erroneous analysis of §42-9-170, in which the Commission concluded that the statute applies to successive permanent injuries after a previous permanent injury, the error being that Respondent was illegally in the same employ at the time of the subsequent accident which occurred on May 6, 2015 and had been paid in excess of 500 weeks of compensation according the prior settlement terms..
3. The Commission erred in legally finding and concluding that Respondent is entitled to payment of temporary total disability compensation benefits, despite having been paid in excess of 500 weeks of worker's compensation benefits.
4. The Commission erred in vacating the Hearing Commissioner's Order and prospectively finding Respondent is entitled to continue temporary total compensation benefits and that a determination of permanent partial, permanent total and/or wage loss benefits can be determined

at a later date once Respondent reaches maximum medical improvement. The error being that Respondent has already been paid in excess of 500 weeks of benefits and is not entitled to any additional indemnity benefits; and was subsequently employed in violation of the previous judgment, decree and order of the Commission.

5. The Commission legally erred in factually finding and legally concluding that Respondent shall be paid temporary total disability compensation benefits until further Order of the Commission, the error being that the conclusion and finding is contrary to the terms set forth in the settlement agreement which prohibited Respondent from seeking employment with Cast and Crew subsequent to October 12, 2012. As a result, the South Carolina Worker's Compensation Commission lacks subject-matter jurisdiction and cannot award Respondent any benefits arising from the May 6, 2015 accident because there was not a lawful employment relationship. Thus, the Commission is unable to exercise jurisdiction over this case.

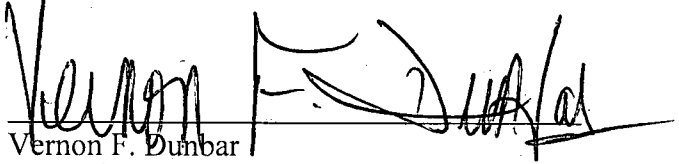
6. The Commission erred in vacating the Hearing Commissioner's findings and decision regarding the payment of temporary total disability compensation benefits and ordering such to be paid in the absence of an injunction, fraud committed by Appellants, or lack of subject-matter jurisdiction. Additionally, the Commission's order vacating the Hearing Commissioner's decision on the payment of temporary total disability compensation benefits as opposed to a reversal, would permit Appellants to re-litigate the issue before the Hearing Commissioner upon remand. The decision constitutes a violation of Appellants right to due process.

7. The Commission erred in vacating the Hearing Commissioner's decision denying Respondent temporary total disability compensation benefits, when the reliable, probative, and substantial evidence reflects Respondent has been paid in excess of 500 weeks of benefits and was

not a lawful and legal employee of Cast and Crew at the time of his accident on May 6, 2015. The Commission's findings are contrary to the facts of the case.

Respectfully submitted,

McANGUS GOUDELOCK & COURIE, LLC

A handwritten signature in black ink, appearing to read "Vernon F. Dunbar", is written over a horizontal line.

Vernon F. Dunbar

SC Bar # 7836

Post Office Box 2980

55 East Camperdown Way, Suite 300 (29601)

Greenville, South Carolina 29602

(864) 239-6735

Attorneys for Appellants

July 25, 2019

Other Counsel of Record:

Stephen B. Samuels  
Samuels Law Firm  
1320 Richland Street  
Columbia, South Carolina 29201  
(803) 779-4000

Attorney for Respondent

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM SOUTH CAROLINA WORKER'S COMPENSATION COMMISSION  
Court of Common Pleas

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WCC File No. 1506114

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Frankie Padgett ..... Respondent,

v.

Cast & Crew Entertainment Services, Inc., ..... Employer,

&

American Zurich Insurance Company c/o  
Zurich North America, ..... Appellants,

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**PROOF OF SERVICE**

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I certify that I have served the Notice of Appeal on the attorney of record for Frankie Padgett, Respondent, by depositing a copy of it in the United States Mail, postage prepaid, on the 25th day of July, 2019, addressed to Steven B. Samuels, Esquire and The South Carolina Worker's Compensation Commission

Stephen B. Samuels, Esquire  
Samuels Law Firm  
1320 Richland Street  
Columbia, South Carolina 29201

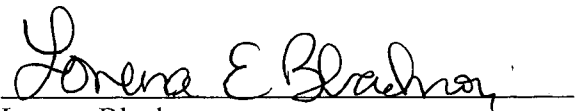
South Carolina Workers' Compensation Commission  
Post Office Box 1715  
Columbia, South Carolina 29202-1715

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SC Court of Appeals

July 25, 2019

A handwritten signature in black ink that reads "Lorena E. Blackmon". The signature is written in a cursive style and is positioned above a horizontal line.

Lorena Blackmon  
Legal Assistant for Vernon F. Dunbar  
McAngus, Goudelock & Courie LLC  
Post Office Box 2980  
55 East Camperdown Way, Suite 300 (29601)  
Greenville, South Carolina 29602  
(864) 239-4000

*Attorneys for Appellant*

**Reply To**

VERNON F. DUNBAR  
Direct Dial: (864) 239-6735  
vernon.dunbar@mgclaw.com

July 25, 2019

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JUL 29 2019

**SC Court of Appeals**

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

RE: Frankie Padgett v. Cast & Crew Entertainment Services, Inc. and American  
Zurich Insurance Company c/o Zurich North America  
Date of Accident: May 6, 2015  
WCC File No.: 1506114  
Our File No.: 20216.17069

Dear Ms. Kitchings:

I represent Cast & Crew Entertainment Services and American Zurich Insurance Company, the Defendants/Appellants. Enclosed for filing in the above-referenced matter are a Notice of Appeal and Proof of Service, the required filing fee and a copy of the South Carolina Workers' Compensation Order subject to the appeal. I am also enclosing a letter to the Commission's court reporter, requesting a copy of the Appellate Panel Hearing transcript.

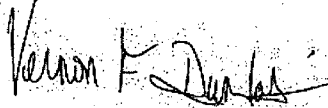
By copy of this letter, I am filing copies of the same documents with the South Carolina Worker's Compensation Commission. Likewise, I am serving a copy of the same on Steven B. Samuels, Esquire, Attorney for Frankie Padgett, Respondent.

Please return a copy of the filed Notice of Appeal in the self-addressed stamped envelope which I have enclosed.

If you should need additional questions regarding this matter, please do not hesitate to contact me.

With kind and warm regards, I remain,

Very truly yours,

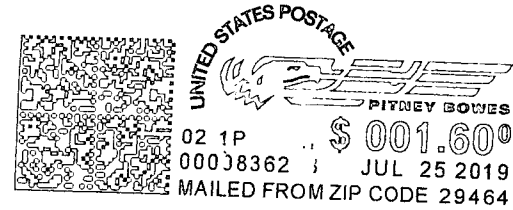
A handwritten signature in black ink, appearing to read "Vernon F. Dunbar". The signature is written in a cursive style with some loops and flourishes.

Vernon F. Dunbar

VFD/leb

Enclosures: Commission Order, \$250 filing fee check, Notice of Appeal, letter to Amber Scarborough, Court Reporter, and SASE

CC: Steven Samuels, Attorney for Respondent  
Shana'e Montgomery, Zurich North America



**mgc** | **INSURANCE  
DEFENSE**

POST OFFICE BOX 2980  
GREENVILLE, SC 29602

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**20216.17069/VFD/leb**  
The Honorable Jenny Abbott Kitchings  
South Carolina Court of Appeals  
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