

THE STATE OF SOUTH CAROLINA  
In the Supreme Court

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Appeal from South Carolina Workers' Compensation Commission

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Appellate Case No. 2018-00959 Opinion 27951 filed March 11, 2020

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Danny B. Cane,

Petitioner,

v.

Raber's Discount Tire Rack, Employer, and  
South Carolina Uninsured Employers' Fund, Carrier,

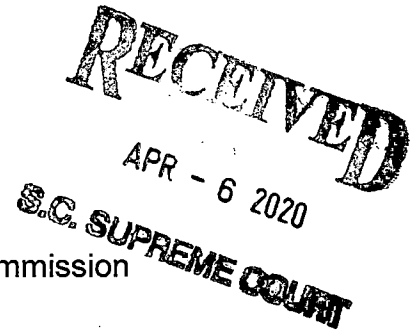
Respondents.

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**RESPONDENT'S REPLY TO PETITIONER'S RESPONSE TO PETITION FOR  
REHEARING**

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In Petitioner's response to the Respondent's Petition for Rehearing, Petitioner clearly acknowledges that he abandoned his claim for a brain injury. Petitioner then asserts that because the remand is for a *de novo* hearing that this could somehow revive issues that were previously abandoned. Petitioner references Brunson v. Am. Koyo Bearings, 367 S.C. 161, 623 S.E.2d 870, (Ct. App. 2005) in his response although Petitioner also acknowledges that Brunson seems to stand for the proposition that as the Petitioner did not appeal the denial of the brain injury that is now the law of the case. (Petitioner's Response, p. 2). Petitioner then argues that as a *de novo* hearing was ordered all issues are to be litigated and the arguably the brain issue could be re-litigated. However, the Brunson case states: "the Commission's authority, by operation of law,

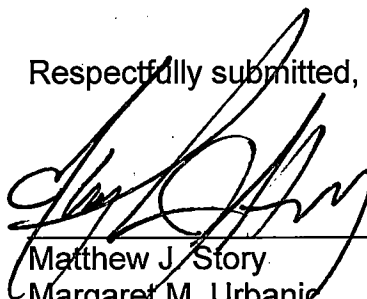


extends only to those issues within the application for review, the hearing on remand is similarly restricted.” Id. p.873. As acknowledged by the Petitioner, he abandoned his brain injury claim on appeal, thus it is clearly not part of appellate process and the remand hearing does not give the Petitioner a new opportunity to relitigate this issue.

Petitioner then argues that any revision to the Supreme Court’s order should make findings that he had proven his case as to hearing loss and psychological overlay. Respondent would point out that Petitioner did not file a Petition for Rehearing to address these alleged issues with the Court and cannot properly raise these issues in his reply to the Respondent’s Petition for Rehearing.

Therefore, the Respondent respectfully requests that the Court reverse the reverse the order that the South Carolina Workers’ Compensation Commission makes *de novo* findings on whether Petitioner suffers a brain injury.

Respectfully submitted,



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THE STATE OF SOUTH CAROLINA  
In The Supreme Court

APPEAL FROM THE SOUTH CAROLINA  
Workers' Compensation Commission

APPELLATE CASE NO. 2018-00959 OPINION 27951

DANNY B. CRANE ..... PETITIONER,

v.

RABER'S DISCOUNT TIRE RACK, EMPLOYER, AND SOUTH  
CAROLINA UNINSURED EMPLOYERS FUND, CARRIER, ..... RESPONDENTS.

PROOF OF SERVICE

The undersigned hereby certifies that a true copy of the Respondent, South Carolina Uninsured Employers' Fund's Reply was served upon the following parties on the 3 day of April, 2020, via United States overnight delivery:

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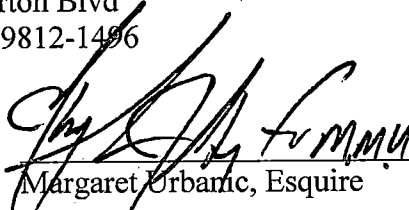
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S.C. SUPREME COURT

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