

OTIS NERO

SC DEPARTMENT OF TRANSPORTATION

PLAINTIFF(S)

AND STATE ACCIDENT FUND  
DEFENDANT(S)

Submitted by: STEPHEN J. WUKELA

Attorney for:  Plaintiff  Defendant  
or  
 Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.  See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):**  Rule 12(b), SCRCP;  Rule 41(a), SCRCP (Vol. Nonsuit);  Rule 43(k), SCRCP (Settled);  Other
- ACTION STRICKEN (CHECK REASON):**  Rule 40(j), SCRCP;  Bankruptcy;  Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;  Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**  
 Affirmed;  Reversed;  Remanded;  Other

RECEIVED  
JUN 08 2020  
SC Court of Appeals

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

**IT IS ORDERED AND ADJUDGED:**  See attached order (formal order to follow)  Statement of Judgment by the Court: This Court hereby renders judgment in the amount of \$190,648.00, along with weekly benefits in the amount of \$346.57 in accordance with the Order of the S.C. Court of Appeals, Op. No. 5660, (06/26/19)(cert. den'd., 02/12/2020)(attached), which reinstated the Order of the Workers' Compensation Commission dated 08/05/2014. (Attached).

ORDER INFORMATION

This order  ends  does not end the case.

Additional Information for the Clerk : See Page 2 for additional information

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
OTIS NERO	S.C. DEPT. OF TRANS. AND STATE ACCIDENT FUND	\$190,648 along with weekly benefits in the amount of \$346.57
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

This judgment was entered on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ and a copy mailed first class or placed in the appropriate attorney’s box on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ to attorneys of record or to parties (when appearing pro se) as follows:

Stephen J. Wukela  
PO Box 13057  
Florence SC 29504  
ATTORNEY(S) FOR THE PLAINTIFF(S)

Kirsten Barr  
PO Box 2167  
Mt. Pleasant SC 29464  
ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

**Court Reporter:**

**E-Filing Note:** In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk’s entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

**ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.**

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

This is a Workers’ Compensation matter. By Order of August 5, 2014, the Single Commissioner of the Workers’ Compensation Commission Ordered inter alia that the Defendants “shall pay the Claimant benefits at the weekly compensation rate of Three Hundred Forty-Six and 57/100 (\$346.57) Dollars from June 20, 2012 until the date of this Order and continuing until further Order of this Commission.” (attached). (The Single Commissioner’s Order also ordered the payment of certain medical bills. That portion will, if necessary, be addressed by subsequent judgment when those amounts are ascertained).

Thereafter, the case had a long appellate history; culminating in the Court of Appeals reinstating the Order of the Single Commissioner by Order of June 26, 2019.(attached). The Defendants petitioned certiorari to the Supreme Court and certiorari was denied by the Supreme Court by Order dated February 12, 2020. (attached).

The Workers’ Compensation Act, S.C. Code §42-17-70 provides: “Any party in interest may file in the court of common pleas of the county in which the injury occurred ... an award of the commission affirmed upon appeal, whereupon such court shall render judgment in accordance therewith and notify the parties.”

The Claimant, therefore, filed the attached Order of the Court of Appeals dated June 26, 2019 reinstating the Order of the Single Commissioner dated August 5, 2014.

The amount of the judgment is calculated as follows:

**A. Indemnity Benefits**

The Single Commission ordered the payment of weekly compensation benefits at the weekly rate of Three Hundred Forty-Six and 57/100 (\$346.57) Dollars from June 20, 2012, to the date of the Single Commission Order and continuing until further Order of the Commission. That amount, as of March 6, 2000, totals \$139,321.14; representing weekly benefits of \$346.57 for the 402-week period of 06/20/2012-03/06/2020.

**B. Interest**

The Workers’ Compensation Act, S.C. Code §42-9-240 provides:

**Date on which compensation payable under award becomes due.**

The first installment of compensation payable under the terms of an award by the commission or under the terms of a judgment of a court upon an appeal from such an award shall become due seven days from the date of such an award or from the date of such a judgment of the court, on which date all compensation then due shall be paid, including interest from the original date of the award at the maximum legal rate.(emphasis added).

By Order of the Supreme Court, 2014-01-03-01, dated 01/03/2014, (attached), for the period 01/15/2014 through 01/14/2015, the legal rate of interest is 7.25% compounded annually. The Single Commission Order was issued on 08/05/2014. Therefore, as of March 6, 2020, the total amount of interest owed was \$33,995.22.

**C. Ten (10%) Percent Penalty**

The Workers' Compensation Act, S.C. Code §42-9-90 provides:

.... if any installment of compensation payable in accordance with the terms of an award by the commission is not paid within fourteen days after it becomes due, as provided in Section 42-9-240, there shall be added to such unpaid installment an amount equal to ten per cent thereof, which shall be paid at the same time as, but in addition to, such installment, unless such nonpayment is excused by the commission after a showing by the employer that owing to conditions over which he had no control such installment could not be paid within the period prescribed for the payment.

No payment was made within fourteen (14) days after it became due, i.e. February 26, 2020. (see attached Certificate of Non-payment). A ten (10%) percent penalty shall be added. Ten (10%) percent of the amount above is \$17,331.64.

Therefore, the total amount of the judgment, (including interest and penalties), as of March 6, 2020, is \$190,648.00, along with weekly benefits in the amount of \$346.57.

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**FORM 4C INSTRUCTIONS—JUDGMENT IN A CIVIL CASE**  
**(Instructions for Information Only-Not to be filed with Form 4C)**

1. Form 4C-Judgment in a Civil Case has been modified to add order information and enrollment instructions for the clerk of court. The purpose of Form 4 has not changed with the exception that judgment information is provided when applicable.
2. Please note that the Form 4C must be attached to all orders that include information to enroll in the judgment index. The clerk will not be responsible for reading the order to determine enrollment information.

The attorney or prevailing party will prepare and attach the Form 4C when submitting the proposed order that includes judgment enrollment information for the judgment index. The judge will review and sign Form 4C when he or she signs an order that includes judgment enrollment information for the judgment index.

3. Form 4C is not required to be submitted to the Court with orders that do not include information to enroll in the judgment index. If the clerk receives such an order without Form 4C attached, the clerk should enter and process the order pursuant to Rule 58 and Rule 77(d), SC Rules of Civil Procedure (i.e., the clerk should serve notice of entry of the judgment by mail or provide the attorneys with copies of the signed order by other means).
4. The “Information for the Judgment Index” section should be completed when the judgment affects title to real or personal property or if any amount should be enrolled. In the “Judgment in Favor of” column, enter the name of the party to whom the judgment is awarded. In the “Judgment Against” column, enter the name of the person to whom the judgment is against. The judgment amount to be enrolled should be noted in the “Judgment Amount” column. As necessary, describe any property referenced in the order if it is to be enrolled in the judgment index. If there is no judgment information to enroll, indicate “N/A” in one of the boxes in this section of the form.
5. To enter information to accommodate multiple parties, additional Form 4Cs may be used as necessary. Additional space may be inserted on the form as necessary.
6. The section “For the Clerk of Court Office Use Only” should be completed by the clerk as it has been with the previous version of Form 4.
7. If the matter is on appeal to the Circuit Court, then the parties on the form should be changed from Plaintiff and Defendant to Appellant and Respondent.
8. If an arbitrator prepares an order after arbitration, the arbitrator should strike through “Circuit Court Judge” and indicate “Arbitrator” in the signature block.

9. If a Special Circuit Court Judge, Master in Equity, or Special Referee prepares an order after hearing a Circuit Court matter, then he or she should strike through the title "Circuit Court Judge" below the signature line and indicate the appropriate title.
10. When an Order of Foreclosure is filed, neither the parties or debt owed should be listed in the Information for the Judgment Index Section, unless the foreclosure order specifically requires entry of the full judgment amount before the foreclosure sale, pursuant to Section 29-3-650 of the SC Code.
11. If the deficiency judgment is waived in a Foreclosure action, indicate N/A in the "Judgment Amount To Be Enrolled" box.
12. Foreclosure actions should be ended by the Clerk of Court upon receipt of the Order of Foreclosure. Subsequent information, including deficiency judgments, can be added to the action after the case is ended. The Master in Equity should end the action in the MIE system upon the receipt of the Order of Foreclosure.
13. When judgment enrollment information is included in the Information for the Judgment Index Section (for example, when there is a deficiency judgment), only the parties who the judgment is for and against should be included in the Section. Subordinate parties and lienholders should not be included in the box if there is not a judgment amount specifically for or against them.
14. Form 4C is not required to be attached to Transcripts of Judgment and Confession of Judgment.