

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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SC Court of Appeals

APPEAL FROM THE SOUTH CAROLINA  
WORKERS' COMPENSATION COMMISSION  
APPELLATE PANEL

Appellate Case No. 2019-000369  
W.C.C. File Nos. 1322451, 1319203, 1420487

Terry Capone, .....Appellant,

v.

City of Columbia, Employer, and  
Companion Third Party Administrator, LLC, Carrier, ..... Respondents.

**RETURN IN OPPOSITION TO APPELLANT'S NOTICE OF MOTION REQUESTING  
PERMISSION FROM THE COURT TO ACCEPT THE AMENDED DESIGNATION OF  
MATTER FILED WITH THIS COURT SEPTEMBER 14, 2020**

Respondents City of Columbia, Employer, and Companion Third Party Administrator, LLC, Carrier, ("Respondents") submit this return in opposition to the Notice of Motion of Appellant Terry Capone ("Appellant") dated September 24, 2020, requesting permission from the Court to Accept the Amended Designation of Matter filed September 14, 2020. For the reasons set forth herein, Appellant's Motion should be denied.

Appellant filed his "Final Brief of Appellant and Designation of Matters Appellant Exhibit AE #1-8 unredacted" on or after July 24, 2020. Attached to the as-served copy of his motion, Appellant attached two discs. The first is labeled "DESIGNATION OF MATTERS TO BE INCLUDED IN THE RECORD", and the outer sleeve is marked "sealed and confidential unredacted." The disc contains 3,181 pages of materials that appear to have been submitted to

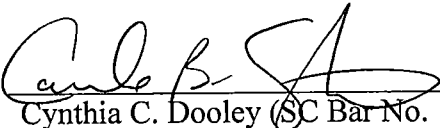
the South Carolina Workers' Compensation Commission during the pendency of Appellant's pursuit of workers' compensation benefits. The second disc is labeled "7/24/2020 SC COA COMPLETE FILING APPELLATE CASE No.: 2019-000369" and is not marked or otherwise designated as confidential or sealed. This disc contains the motion to seal Appellant filed in this Court, as well as additional exhibits and/or materials filed with the South Carolina Workers' Compensation Commission.

This Court denied Appellant's motion to seal for the reasons stated in its September 3, 2020 Order. In addition, the Court required Appellant to serve the record on appeal and proof of service of the same within thirty days of the date of its Order. Disregarding the Court's prior orders and instructions, as well as the Appellate Court Rules pertaining to designation of matter and the record on appeal, Appellant submitted yet another supplement to his designation of matter and what purports to be a redacted version of the same materials that were the subject of his original motion to seal. *See* September 22, 2020 correspondence from Chief Deputy Clerk V. Claire Allen and September 24, 2020 correspondence and filings by Appellant. To date, Respondents have yet to be served with a designation of matter to be included in the record on appeal that comports with Rule 209, SCACR, a record on appeal as required by Rule 210, SCACR, or a final brief of Appellant pursuant to Rule 211, SCACR.

Given the numerous delays brought about by Appellant's repeated filing of extraneous motions and exhibits, Respondents respectfully submit his most recent motion to supplement the record should be denied. Further, Respondents respectfully request an order from this Court specifying deadlines for Appellant to file and serve a properly formatted designation of matter, Respondents' corresponding deadline to object to the same and/or designate any additional matter that should be included in the record, as well as deadlines for

service and filing of the record and final briefs of the parties that comply with the South Carolina Appellate Court Rules.

October 1, 2020

By:   
Cynthia C. Dooley (SC Bar No. 13623)  
Carmelo B. Sammataro (SC Bar No. 69746)  
TURNER PADGET GRAHAM & LANEY P.A.  
Post Office Box 1473  
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ATTORNEYS FOR RESPONDENTS

THE STATE OF SOUTH CAROLINA  
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**PROOF OF SERVICE**

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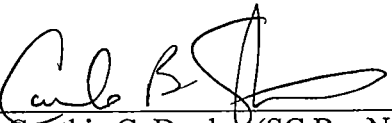
I certify this 1st day of October 2020 that I have served a copy of the RETURN IN OPPOSITION TO APPELLANT'S NOTICE OF MOTION REQUESTING PERMISSION FROM THE COURT TO ACCEPT THE AMENDED DESIGNATION OF MATTER FILED WITH THIS COURT SEPTEMBER 14, 2020, by mailing same, postage prepaid in the United States mail, addressed to the following:

Terry Capone  
130 Summerlea Drive  
Columbia, SC 29203

APPELLANT, *PRO SE*

(Signature page to follow.)

October 1, 2020

By:   
Cynthia C. Dooley (SC Bar No. 13623)  
Carmelo B. Sammataro (SC Bar No. 69746)  
TURNER PADGET GRAHAM & LANEY P.A.  
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ATTORNEYS FOR RESPONDENTS

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**Carmelo B. Sammataro**

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October 1, 2020

**VIA HAND DELIVERY**

The Honorable Jenny Abbott Kitchings, Clerk  
South Carolina Court of Appeals  
1220 Senate Street  
Columbia, SC 29201

**RECEIVED**  
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SC Court of Appeals

Re: Terry Capone v. City of Columbia and Companion Third Party Administrator, LLC  
Appellate Case No.: 2019-000369  
File No.: 15030.119

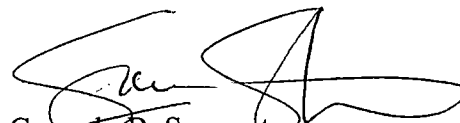
Dear Ms. Kitchings:

Enclosed please find the original and seven copies of the Return in Opposition to Appellant's Notice of Motion requesting permission from the Court to accept the Amended Designation of Matter filed with this Court September 14, 2020, regarding the above-referenced matter. Also enclosed are the original and one copy of the Proof of Service. Please file the original filings and return a clocked copy of each to me via the enclosed self-addressed, stamped envelope. Thank you for your assistance with this matter, and please contact me if you have any questions.

With kind regards, I am

Very truly yours,

TURNER, PADGET, GRAHAM & LANEY, P.A.

  
Carmelo B. Sammataro

CBS/tj

Enclosures

cc: Terry Capone, Appellant *pro se* (w/enc.)

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SC Court of Appeals

**Turner | Padgett**

PO Box 1473, Columbia, SC 29202

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15030.119

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The Honorable Jenny Abbott Kitchings, Clerk  
South Carolina Court of Appeals  
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Columbia, SC 29201