THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Robin B. Stilwell, Circuit Court Judge

Appellate Case No. 2019-000020
Case No. 2018-CP-23-2580

South Carolina Property and Casualty Insurance Guaranty Association,..... Respondent,

v.

South Carolina Second Injury Fund,..... Appellant,

In Re:

Michael Quarles..... Employee/Claimant,

v.

Cryovac Sealed Air Corporation, Employer, and Lumbermens Mutual Casualty Company in Liquidation/South Carolina Property and Casualty Insurance Guaranty Association,..... Carrier/Defendants.

BRIEF OF APPELLANT

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II. Did the Workers' Compensation Commission, as affirmed by the Circuit Court, err in concluding that the Guaranty Association had paid assessments to the Second Injury Fund and is therefore eligible to seek reimbursement from the Second Injury Fund?

III. Did the Workers' Compensation Commission, as affirmed by the Circuit Court, err in ruling that the Quarles claim was not released based on the unambiguous language contained in the Settlement Agreement and Release entered between the Guaranty Association and the Second Injury Fund dated June 17, 2013?

STATEMENT OF THE CASE

This is an appeal from the South Carolina Workers' Compensation Commission. The Respondent South Carolina Property and Casualty Insurance Guaranty Association ("Guaranty Association") brought this action before the Commission to seek reimbursement from the South Carolina Second Injury Fund of workers' compensation benefits paid to the Employee/Claimant Michael Quarles.

The South Carolina Second Injury Fund was created by statute "to reimburse employers/carriers for Worker's Compensation benefits paid to employees resulting from second or subsequent injuries." *Greenwood Mills, Inc. v. Second Injury Fund*, 315 S.C. 256, 433 S.E.2d 846, 847, n.1 (1993). The purpose of the Second Injury Fund was to "encourage the employment of disabled or handicapped persons without penalizing an employer with greater liability if the employee is injured because of his preexisting condition." *Liberty Mutual Ins. Co. v. Second Injury Fund*, 363 S.C. 612, 611 S.E.2d 297, 303 (Ct. App. 2005). "The Fund accomplishes this goal by absorbing some of the risk that such a worker will become injured in the workplace. Its creation allows the employer, or his insurance carrier, to seek compensation from the Fund when an employee with a prior permanent physical impairment incurs a subsequent disability in the workplace." *Id.*

On June 20, 2007, the South Carolina General Assembly enacted the Workers' Compensation Reform Act which provided for the winding down and closure of the Second Injury Fund. The Reform Act tasked the State Budget and Control Board, now known as the State Fiscal Accountability Authority,[1] and its Insurance Reserve Fund, with providing "for the efficient and expeditious closure of the fund with the orderly winding down of the affairs of the fund so that the remaining liabilities of the fund are paid utilizing assessments, accelerated assessments, annuities, loss portfolio transfers, or such other mechanisms as are reasonably determined necessary to fund any remaining liabilities of the fund." *See*, S.C. Code Ann. § 42-7-320. As a result, the Appellant is identified as the Second Injury Fund Operations of the South Carolina Insurance Reserve Fund f/k/a South Carolina Second Injury Fund.

The Respondent Guaranty Association submitted the claim for Michael Quarles to the Second Injury Fund seeking reimbursement for the workers' compensation benefits paid by the Guaranty Association for an insolvent insurer, specifically Lumbermens Mutual Insurance Company. The Second Injury Fund denied the claim for several reasons. First, the Guaranty Association is not statutorily authorized to seek reimbursement from the Second Injury Fund.

[1] Pursuant to the South Carolina Restructuring Act of 2014, the State Budget and Control Board was abolished. Effective July 1, 2015, the Insurance Reserve Fund and the Second Injury Fund were ultimately transferred to the State Fiscal Accountability Authority.

Second, the Guaranty Association does not directly participate in funding the Second Injury Fund. Third, a 2013 settlement and release between the parties bars this claim for reimbursement.

Those issues were initially addressed by Commissioner T. Scott Beck. By Order filed October 2, 2017, Commissioner Beck made various findings of fact and conclusions of law and ordered the Second Injury Fund to make reimbursements to the Guaranty Association in accordance with the terms of a previously approved Agreement to Reimburse Compensation. (R. 56-78).

The Second Injury Fund filed a Form 30 Request for Commission Review of the Single Commissioner's Decision and Order. In its appeal, the Second Injury Fund asserted several issues for review including each of the issues raised in the present appeal. (R. 83-84). The Appellate Panel ultimately affirmed the Decision and Order of the Single Commissioner. (R. 28-55).

The appeal was next heard by the Circuit Court because the date of accident pre-dates the amendment to Section 42-17-60, which provides for direct appeals from the Commission to this Court. A hearing was held before Circuit Court Judge Robin B. Stilwell on October 30, 2018. Judge Stilwell issued an Order filed December 7, 2018, which affirmed the Decision and Order of the Workers' Compensation Commission filed March 18, 2018. (R. 1-27).

A timely appeal was subsequently filed to this Court.

STANDARD OF REVIEW

The South Carolina Administrative Procedures Act established the standard for judicial review of decisions of the South Carolina Workers' Compensation Commission. Section 1-23-380(5) provides in pertinent part that "[t]he court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are (a) in violation of constitutional or statutory provisions [or] (d) affected by other error of law." S.C. Code Ann. § 1-23-380(5).

The appellate court "may reverse where the decision is affected by any error of law." *Murphy v. Owens Corning*, 393 S.C. 77, 710 S.E.2d 454, 457 (Ct. App. 2011). "Statutory interpretation is a question of law." *Id.* The appellate courts are "free to decide matters of law with no particular deference to the fact finder." *Id.*

With respect to the release issue, "[i]t is a question of law for the court whether the language of a contract is ambiguous." *Callawassie Island Members Club v. Dennis*, 425 S.C. 193, 821 S.E.2d 667, 669 (2018). "The construction of a clear and unambiguous contract presents a question of law for the court." *South Carolina Department of Transportation v. M&T Enterprises of Mt. Pleasant, LLC*, 379 S.C. 645, 667 S.E.2d 7, 13 (Ct. App. 2008). The standard of review for a question of law is *de novo*.

ARGUMENTS

I. The Workers' Compensation Commission, as affirmed by the Circuit Court, erred in ruling that the Guaranty Association meets the statutory definition of "insurer" or "carrier" and thereby is entitled to seek reimbursement from the Second Injury Fund.

The Workers' Compensation Commission, as affirmed by the Circuit Court, committed reversible error in ruling that the Guaranty Association meets the statutory definition of "insurer" or "carrier" and thereby is entitled to seek reimbursement from the Second Injury Fund.

Section 42-9-400(a) of the Workers' Compensation Act provides for reimbursement by the Second Injury Fund to an "employer or his insurance carrier" which paid the "awards of compensation and medical benefits provided by this title." S.C. Code Ann. § 42-9-400(a). Similarly, Section 42-7-320, which authorizes the winding down of the Second Injury Fund, provides that "[t]he fund shall continue reimbursing *employers and insurance carriers* for claims accepted by the fund on or before December 31, 2011." S.C. Code Ann. § 42-7-320(B)(3). (Emphasis added). Section 42-7-310(d)(2), however, defines "carrier" as "all insurance carriers, self-insurers and the State Accident Fund." S.C. Code Ann. § 42-7-310(d)(2). The term "insurance carrier" is not defined to include the Guaranty Association.

It is well settled that "[t]he court's primary function in interpreting a statute

is to ascertain the intent of the General Assembly." *Liberty Mut. Ins. Co. v. South Carolina Second Injury Fund*, 363 S.C. 612, 611 S.E.2d 297, 302 (Ct. App. 2005). "A statute must receive a practical and reasonable interpretation consistent with the 'design' of the legislature." *Id.* "Once the legislature has made a choice, there is no room for the courts to impose a different judgment based upon their own notions of public policy." *Id.*

The rule of statutory construction known as "expressio unius est exclusion alterius" is particularly appropriate to this analysis. That rule provides that "to express or include one thing implies the exclusion of another, or of the alternative." *Hodges v. Rainey*, 341 S.C. 79, 533 S.E.2d 578, 582 (2000). As noted, the term "carrier" is defined in Section 42-7-310(d)(2) as "all insurance carriers, self-insurers, and the State Accident Fund." S.C. Code Ann. § 42-7-310(d)(2). The term "carrier" is likewise defined in Section 42-1-60 as "any person or fund authorized under Section 42-5-20 to insure under this title and includes self-insurers." S.C. Code Ann. § 42-1-60. A guaranty association is not specifically included in either definition, and thus, consistent with "expressio unius est exclusion alterius," the failure to identify a guaranty association compels the conclusion that the General Assembly intended that a guaranty association *not be treated* as a "carrier" for purposes of the Second Injury Fund reimbursement. Quite simply, had the General Assembly intended to include a guaranty association

as a "carrier" that could seek reimbursement from the Second Injury Fund, it certainly would have so stated in explicit terms.

In fact, reference to another section of the Workers' Compensation Act makes this abundantly clear. Section 42-1-560 governs the subrogation rights of a "carrier" against third parties. Section 42-1-560(a) specifically provides:

> The respective rights and interests of the injured employee, or, in the case of his death, his dependents and any person entitled to sue therefor, and of the employer or person, *association*, corporation or carrier *liable for the payment of compensation and other benefits under this title, hereinafter called the "carrier,"* in respect to the cause of action and the damages recovered shall be as provided by this section.

S.C. Code Ann. § 42-1-560(a). (Emphasis added). Specifically, with regard to Section 42-1-560, the General Assembly re-defined the term "carrier" to explicitly include an "association ... liable for the payment of compensation and other benefits under this title," which would thus include a guaranty association. This shows that the General Assembly understood that the general definition of "carrier" in Section 42-1-60 does not include a guaranty association; otherwise, it would not have been necessary to provide a unique and expanded definition of "carrier" for purposes of Section 42-1-560 alone. This also shows that the General Assembly did not intend for a guaranty association to be included in the definition of "carrier" as used in Sections 42-7-310, 42-7-320, and 42-9-400 with respect to reimbursement from the Second Injury Fund because quite simply the General

Assembly did not utilize the same expanded definition of "carrier" as it used in Section 42-1-560.

Importantly, the Guaranty Association is a creature of statute, and its statutory framework make clears that the Guaranty Association is not a "carrier" or "insurer" as defined under the Workers' Compensation Act. Indeed, in *South Carolina Property and Casualty Insurance Guaranty Association v. Brock*, 410 S.C. 361, 764 S.E.2d 920 (2014), the South Carolina Supreme Court described the Guaranty Association as an "unincorporated, non-profit legal entity" which is "neither the wrongdoer *nor the insurer of a wrongdoer*, but is instead a statutory entity that exists to provide some protection for the insureds of insolvent insurance companies." 764 S.E.2d at 922-923. (Emphasis added). *See also*, *Buchanan v. South Carolina Property and Casualty Insurance Guaranty Association*, 424 S.C. 542, 819 S.E.2d 124 (2018). In fact, the Guaranty Association has denied that it is an insurance company throughout this litigation but nevertheless claims a statutory entitlement reserved only for insurance companies. *See*, Guaranty Association's Full Commission Brief, p. 17 ("SCPCIGA does not purport to be an insurance company"); Guaranty Association's Circuit Court Brief, p. 18 (same). (R. 114, 149).

The Commission, as affirmed by the Circuit Court, focused on the statutory powers and duties of the Guaranty Association rather than the express provisions

in the Workers' Compensation Act. That reliance was misplaced for the reasons already discussed, but, at any rate, consideration of that statutory scheme still does not suggest that the Guaranty Association is a "carrier" or "insurer" for purposes of Second Injury Fund reimbursement. Specifically, the lower tribunals cited to Section 38-31-60(b), which provides that the Guaranty Association "is considered the insurer *to the extent of its obligations on covered claims* and, *to this extent*, has all rights, duties, and obligations of the insolvent insurer as if the insurer had not become insolvent." S.C. Code Ann. § 38-31-60(b). (Emphasis added). Reading that language impermissibly broadly, the lower tribunals concluded that the Guaranty Association is considered an "insurer" for purposes of seeking reimbursement from the Second Injury Fund. That interpretation disregards the explicit limiting language "to the extent of its obligations on covered claims." That limiting language provides that the Guaranty Association is considered an "insurer" only with respect to its "obligations on covered claims," which consists of its *liabilities* to consumers and not its ability to file claims or seek reimbursement from third parties such as the Second Injury Fund. *See*, *Buchanan v. South Carolina Property and Casualty Insurance Guaranty Association*, 424 S.C. 542, 819 S.E.2d 124, 126 (2018) (recognizing that the Guaranty Association's liability is derivative of an insolvent insurer's direct liability to a consumer on a "covered claim"). Thus, the Guaranty Association enjoys "all rights, duties, and

obligations of the insolvent insurer" but only with respect to its liability for covered claims.

This construction of the limiting language in 38-31-60(b) is clear from the plain and ordinary language used. Nonetheless, other provisions of the South Carolina Property and Casualty Insurance Guaranty Association Act, S.C. Code Ann. § 38-31-10, *et seq.*, further support that interpretation. Specifically, the Guaranty Association Act includes a section that expressly defines (and thus limits) the Guaranty Association's rights to recover the amount of any "covered claim" from third parties. Section 38-31-90(2) authorizes the Guaranty Association to recover the amount of any "covered claim" against certain insureds with a high net worth or against "an affiliate of the insolvent insurer." The Second Injury Fund is not listed and does not fit the description of those entities stated in Section 38-31-90(2). Importantly, the Guaranty Association Act does not include any other provision authorizing the Guaranty Association to recover the amount of any "covered claim" from any other entity, including the Second Injury Fund. As a "creature of statute," the Guaranty Association's right to seek recovery is limited to what the Guaranty Association Act expressly authorizes. *See, Duke Power Co. v. Laurens Electric Cooperative, Inc.*, 344 S.C. 101, 543 S.E.2d 560, 562 (Ct. App. 2000) ("creatures of statute ... only have such authority as the legislature has given them"). That does not include a claim for reimbursement from the Second Injury

Fund. Again, if the General Assembly intended to authorize a claim for reimbursement from the Second Injury Fund, it would have expressly provided for such. It did not do so.

There is also an eminently rational basis for this interpretation. Both the Guaranty Association and the Second Injury Fund are funded in similar ways. The Guaranty Association is funded by assessments collected from member insurers, and for purposes of the Guaranty Association's "workers' compensation insurance account," those assessments are collected from workers' compensation carriers. *See*, S.C. Code Ann. § 38-31-60(c). Similarly, the Second Injury Fund is funded by assessments collected from the very same workers' compensation carriers. *See*, S.C. Code Ann. § 42-7-310(d). Thus, in practical terms, allowing the reimbursement by the Guaranty Association from the Second Injury Fund would be circuitous action that is largely a meaningless exercise and a waste of resources that substantially originate from the same source. The General Assembly obviously did not intend to allow for such circuitous litigation that fosters only administrative inefficiencies.

In sum, the Commission, as affirmed by the Circuit Court, committed an error of law in construing the applicable provisions of the Workers' Compensation Act and the Guaranty Association Act as authorizing the Guaranty Association to seek reimbursement from the Second Injury Fund. It is legal error, and a

contortion of the statute and logic, to conclude that the Guaranty Association is an "insurer" or "carrier" under the Workers' Compensation Act which can pursue a claim for reimbursement. That ruling should be reversed, and the reimbursement claim for benefits paid to Michael Quarles should be barred.

II. The Workers' Compensation Commission, as affirmed by the Circuit Court, erred as a matter of law in concluding that the Guaranty Association had paid assessments to the Second Injury Fund and is therefore eligible to seek reimbursement from the Second Injury Fund.

As a corollary to the prior argument, the Fund also takes the position that the Guaranty Association does not qualify as an "insurance carrier" to whom reimbursement may be made because the Guaranty Association does not pay any assessments to the Second Injury Fund. By explicit language, reimbursement from the Second Injury Fund is restricted to those employers and carriers which are current in the payment of those assessments. *See*, S.C. Code Ann. § 42-7-310(d)(2). As this language in the statutory scheme makes clear, because the Guaranty Association does not pay assessments, it cannot be eligible for reimbursement from the Second Injury Fund.[2]

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[2] It is worth noting that Section 42-7-320 also provides that "[i]nsurance carriers, self-insurers, and the State Accident Fund remain liable for Second Injury Fund assessments, as determined by the State Fiscal Accountability Authority, in order to pay accepted claims." S.C. Code Ann. § 42-7-320(B)(3). Again, in Section 42-7-320, the Guaranty Association is not identified as an entity responsible for paying assessments to cover the reimbursable claims.

Nonetheless, the Commission, as affirmed by the Circuit Court, ruled that the Guaranty Association "effectively pays assessments to SCSIF via the assessments paid by its workers' compensation member insurers." (R. 23-24). While it is true that workers' compensation member insurers of the Guaranty Association are sources of funding for the Second Injury Fund as well, those insurers are not paying those assessments *for or on behalf of* the Guaranty Association. They are paying those assessments because they individually qualify as "carriers" which are statutorily responsible to pay assessments to the Second Injury Fund pursuant to Sections 42-7-310 and 42-7-320. There is no "effective" payment of assessments for the Guaranty Association. Indeed, the record clearly reflects that the Guaranty Association pays no assessments to the Second Injury Fund.

In sum, the Commission and the Circuit Court erred as a matter of law in concluding that the Guaranty Association had paid assessments to the Second Injury Fund and is therefore eligible to seek reimbursement from the Second Injury Fund.

III. The Workers' Compensation Commission, as affirmed by the Circuit Court, erred in ruling that the Quarles claim was not released based on the unambiguous language contained in the Settlement Agreement and Release entered between the Guaranty Association and the Second Injury Fund dated June 17, 2013.

As an additional basis for denying the Guaranty Association's claim for reimbursement from the Second Injury Fund, the Fund relies upon the Settlement Agreement and Release entered between the Guaranty Association and the Second Injury Fund dated June 17, 2013. (R. 258-271). The Fund contends that the current claim for reimbursement of workers' compensation benefits paid to Michael Quarles was included in that settlement, and thus, any liability by the Fund for reimbursement was fully released.

Under South Carolina law, "[a] release is a contract, and the scope of a release is gathered by its terms." *Southern Glass & Plastics v. Duke*, 367 S.C. 421, 626 S.E.2d 19, 22 (Ct. App. 2005). "In construing a release, the court must seek to ascertain and give effect to the intention of the parties." *Id. See also, Bowers v. South Carolina Department of Transportation*, 360 S.C. 149, 600 S.E.2d 543 (Ct. App. 2004). "It is a question of law for the court whether the language of a contract is ambiguous." *Callawassie Island Members Club v. Dennis*, 425 S.C. 193, 821 S.E.2d 667, 669 (2018). The court "reads the contract or statute to determine if its meaning is clear and unambiguous." *Id.* "A contract is ambiguous when the terms of the contract are reasonably susceptible of more than one

interpretation." *Id.*

The Commission, as affirmed by the Circuit Court, found that the Settlement Agreement and Release entered between the Guaranty Association and the Second Injury Fund dated June 17, 2013, was not ambiguous. The Commission ruled:

> Based on the plain, clear and unequivocal language contained therein and any reasonable construction thereof, the Settlement Agreement and Release entered between the Guaranty Association and the Second Injury Fund dated June 17, 2013 does not bar SCPCIGA's claim for reimbursement in this matter nor does it effectuate a release of SCSIF's liability for reimbursement in this matter.

(R. 39). The Fund agrees that the Settlement Agreement and Release is unambiguous and should be construed as a matter of law. It is well settled that "[t]he construction of a clear and unambiguous contract presents a question of law for the court." *South Carolina Department of Transportation v. M&T Enterprises of Mt. Pleasant, LLC*, 379 S.C. 645, 667 S.E.2d 7, 13 (Ct. App. 2008).

However, the Commission, as affirmed by the Circuit Court, misread the release language contained in Paragraph 3 of the document. The pertinent language from Paragraph 3 reads as follows:

> ***The Parties intend this release to be general and comprehensive in nature*** and to release: (A) all claims related to Legion and/or Reliance and (B) ***any and all claims, whether related or unrelated to Legion and/or Reliance, on which the SIF is currently paying the Guaranty Association as of February 22, 2013, whether known or unknown, noticed or unnoticed, asserted or***

> ***not asserted, accepted or not accepted, existing or potential***, including, but not limited to, any claims which may arise pursuant to any "large deductible" policies issued and/or administered by Legion and/or Reliance, as well as their administrators, trustees, legal representatives, and successors and assigns to the maximum extent permitted by law for which the Guaranty Association assumed responsibility pursuant to S.C. Code Ann. Title 38 Chapter 31 (The Guaranty Association Act) subsequent to the respective liquidations of the underlying carrier or carriers. It is the intent of the Guaranty Association that the SIF and its past, present or future officers, directors, trustees, fiduciaries, administrators, employees, agents, representatives, predecessors, successors and assigns, including, but not limited to, the State of South Carolina and its past, present or future officers, directors, trustees, fiduciaries, administrators, employees, agents, representatives, predecessors, successors and assigns ***shall never be liable to any other person or party, whether a private or governmental entity, asserting any claim for any additional sums of money***, including any reimbursements, attorneys' fees and/or other costs and expenses of litigation, with respect to the claims released herein.

(R. 262-263). (Emphasis added). The Commission, as affirmed by the Circuit Court, read this language to apply only to claims on which the Second Injury Fund was paying the Guaranty Association as of February 22, 2013. The evidence reflects that Lumbermens Mutual Casualty Company was ordered liquidated on May 8, 2013. (R. 420-430). Moreover, the Guaranty Association had set up a claim for Michael Quarles on June 4, 2013, and set reserves on that same date. (R. 431). Those events clearly pre-dated the effective date of the Settlement Agreement and Release on June

17, 2013. Yet, because the Second Injury Fund was not paying on the Quarles claim on February 22, 2013, the Commission and Circuit Court found that the Release did not apply to that claim. In so ruling, the Commission and the Circuit Court committed several errors of law.

First, the lower tribunals failed to recognize the parties' express intent that the Release was "general and comprehensive in nature." (R. 262).

Second, the lower tribunal failed to give consideration to the rules of interpretation set forth in Paragraph 7, including the following: "As to the matters released herein, as set forth in paragraph numbered "3" above, the Parties agree that the terms of this Settlement Agreement and Release are to be given the broadest meaning such that the interpretation and construction do substantial justice to the intent of the Parties." (R. 265).

Third, and most importantly, the lower tribunals erred in reading key language out of the release language and in giving undue preference to a single modifying phrase in a series of co-equal modifying phrases. The lower tribunals focused on the phrase, "on which the SIF is currently paying the Guaranty Association as of February 22, 2013," and concluded that any other claims that existed or came into existence after that date were beyond the scope of the release. Likewise, the lower tribunals concluded that only claims already known to the

Second Injury Fund and on which payments were being made by February 22, 2013, fell within the scope of the release.

However, by interpreting that language in that limited manner, the lower tribunals failed to apply the "broadest meaning" as the parties agreed was proper in Paragraph 7. But more significantly, the lower tribunals gave absolutely no effect to and effectively struck the additional modifiers of the word "claims" that followed, including "whether known or unknown, noticed or unnoticed, asserted or not asserted, accepted or not accepted, existing or potential." Those modifying terms demonstrate that claims that were not even known or existing as of February 22, 2013, as well as claims on which payments were not being made as of that date, were nonetheless intended to be included within the scope of the release. Otherwise, the language "whether known or unknown, noticed or unnoticed, asserted or not asserted, accepted or not accepted, existing or potential" would be utterly meaningless. In other words, if limited to claims already being paid on February 22, 2013, those claims would obviously be "known," "asserted," "accepted" and "existing." What then could be the purpose of the modifiers "unknown," "not asserted," "not accepted," or "potential"? Each of those terms would be superfluous, and yet, that is precisely how the Commission and the Circuit Court read the release language. They chose to entirely ignore many of the

modifiers of the word "claims" which, when properly read, brought the Quarles claim clearly and unambiguously within the scope of the release.

Accordingly, the scope of the release must be read to include all claims "whether known or unknown, noticed or unnoticed, asserted or not asserted, accepted or not accepted, existing or potential." That is the proper reading of the Release, and one that comports with the direction from the Supreme Court that "an interpretation that gives meaning to all parts of the contract is preferable to one which renders provisions in the contract meaningless or superfluous." *Stevens Aviation, Inc. v. DynCorp International LLC*, 407 S.C. 407, 756 S.E.2d 148, 153 (2014).

In short, the Commission, as affirmed by the Circuit Court, erred as a matter of law in reading key language entirely out of the Release. For that reason, the orders on appeal should be reversed, and the Release should be given its full and intended effect such that the Quarles claim -- which was known to the parties at the time of execution -- was fully released by the prior settlement.

CONCLUSION

Based on the foregoing analysis, the Appellant Second Injury Fund Operations of the South Carolina Insurance Reserve Fund f/k/a South Carolina Second Injury Fund respectfully requests that the Court reverse the order of the South Carolina Workers' Compensation Commission, as affirmed by the Circuit Court, and order that the South Carolina Property and Casualty Insurance Guaranty Fund is barred from recovering reimbursement from the Second Injury Fund for benefits paid to Michael Quarles.

Respectfully submitted,

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October 16, 2019

CERTIFICATE OF COUNSEL

The undersigned counsel for the Appellant certifies that the Final Brief of Appellant complies with Rule 211(b), SCACR.

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CERTIFICATE OF COMPLIANCE

The undersigned counsel for the Appellant certifies that the Final Brief of Appellant complies with the Supreme Court's Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings, issued April 15, 2014.

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