THE STATE OF SOUTH CAROLINA
In The Court of
Appeals

APPEAL FROM THE SOUTH
CAROLINA WORKERS'
COMPENSATION COMMISSION

Case No. 2021-000778

Vasile Florin Craus, Employee,

Appellant,

v.

NUTRA Manufacturing, Inc.,
Employer, and Sentry
Casualty Company, Carrier,

Respondents.

INITIAL BRIEF OF RESPONDENTS

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STATEMENT OF ISSUES ON APPEAL

1. Did the Appellant properly perfect and present his appeal according to the Appellate Court Rules?
2. Did the Single Commissioner deprive the Appellant of representation?
3. Does substantial evidence support the Commission's findings regarding 1) failure to prove compensable injury other than the hip; 2) permanent partial disability; 3) credit for temporary disability paid; and 4) denial of unauthorized medical treatment?

STATEMENT OF THE CASE

Appellant Vasile Craus, an unrepresented workers' compensation claimant, filed this appeal. In this workers' compensation claim, the employer and insurance carrier (Respondents) admitted an injury to the right hip only, with a date of injury of June 15, 2017. Respondents denied all other allegations of injury. As more fully explained below, the Appellant proceeded pro se before the Single Commissioner and the Appellate Panel of the South Carolina Workers' Compensation Commission, making various claims of injury, which were denied by the Commission.

Over the course of this claim, the Appellant has been represented by four lawyers. After providing treatment with nine physicians, including multiple orthopedists, the Respondents asserted that the Appellant had reached maximum medical improvement as of June 3, 2020. The Respondents filed and served a Form 21 request for hearing on July 16, 2020 and requested the following remedies: Termination of temporary compensation; determination of whether permanent disability is due; and determination of overpayment of temporary compensation. Respondents served the request for hearing on Stephen N. Garcia, Esq., the Appellant's attorney at that time.

On July 30, 2020, the Commission served a notice of hearing on counsel of record, setting the hearing for September 8, 2020. On September 3, 2020, Mr. Garcia filed a motion to be relieved as counsel, which was heard by Commissioner Susan Barden on September 8, 2020. Commissioner Barden granted Mr. Garcia's motion. In a separate order, Commissioner Barden granted a postponement of the scheduled hearing to allow the Appellant additional time to obtain another attorney. At that time, Commissioner Barden rescheduled the hearing for October 22, 2020

- the order contains a provision that the rescheduled hearing would "go forward on October 22, 2020 regardless of whether the claimant obtains another attorney."

On October 22, 2020, the hearing went forward, with the Appellant unrepresented by counsel. The Commissioner noted on the record that no attorney had made an appearance on behalf of the Appellant. The Respondents' counsel timely submitted medical records pursuant to the APA. Over the objection of the attorney for the Respondents, Commissioner Barden received medical records submitted by the Appellant at the time of the hearing. The Appellant was the sole witness at the hearing. After receiving testimony and reviewing the APA submissions, Commissioner Barden issued an order finding, among other things, that the Appellant was at maximum medical improvement with a 7% permanent partial disability to the right hip, that Respondents were entitled to a credit for temporary disability paid after June 3, 2020, and that Appellant had failed to meet his burden of the preponderance of the evidence to prove a compensable injury to any other part of the body. The Commissioner ordered the carrier to reimburse the Appellant for unauthorized medical treatment.

On December 7, 2020, after receiving numerous communications from the Appellant to the Commission that he intended to appeal, Respondents timely filed a Form 30, Request for Commission Review, appealing the Single Commissioner's Findings of Facts and Order requiring Respondents to reimburse Appellant for his unauthorized right hip surgery and follow up care. On December 10, 2020, Appellant filed a Form 30, Request for Commission Review.

The Appellate Panel of the Commission heard the appeal on February 22, 2021. By order dated June 22, 2021, the Appellate Panel affirmed the Single Commissioner's finding of maximum medical improvement, permanent partial disability, and credit for temporary benefits paid. The Appellate Panel reversed Commissioner Barden's findings regarding reimbursement and found

the Respondents were not required to reimburse the Appellant for unauthorized medical treatment. The unrepresented Appellant filed the current appeal.

STANDARD OF REVIEW

Judicial review of a Commission decision is directed by the substantial evidence rule of the Administrative Procedures Act, S.C. Code Ann. § 1-23-380(5) (2021). Lark v. Bi-Lo, Inc., 276 S.C. 130, 276 S.E.2d 304 (1981). " 'Substantial evidence' is not a mere scintilla of evidence nor the evidence viewed blindly from one side of the case, but is evidence which, considering the record as a whole, would allow reasonable minds to reach the conclusion that the administrative agency reached or must have reached in order to justify its action. Id. at 135, 276 S.E.2d at 306. "[T]he possibility of drawing two inconsistent conclusions from the evidence does not prevent an administrative agency's finding from being supported by substantial evidence." Palmetto Alliance, Inc. v. S.C. Pub. Serv. Comm'n, 282 S.C. 430, 432, 319 S.E.2d 695, 696 (1984) (citing Ellis v. Spartan Mills, 276 S.C. 216, 218, 277 S.E.2d 590, 591 (1981)). A reviewing court should affirm the decision of the Full Commission unless it is clearly erroneous in view of the substantial evidence of the whole record. Lark, 276 S.C. at 136, 276 S.E.2d at 307.

The reviewing court may not substitute its own judgment for that of the Full Commission as to the weight of the evidence on a question of fact, but may reverse or modify if the decision is: "(a) in violation of constitutional or statutory provision; (b) in excess of the statutory authority of the agency; (c) made upon unlawful procedure; (d) affected by other error of law; (e) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion." S.C. Code Ann. § 1-23-380(5) (2021). The Administrative Procedures Act "mandates that the commission take the evidence, judge the credibility and weight of that evidence, and from that judgment determine the facts of the case." Rogers v. Kunja Knitting Mills, Inc., 312 S.C. 377, 381, 440 S.E.2d 401, 403 (Ct. App. 1994). The Full Commission is the ultimate fact finder in

workers' compensation cases. Shealy v. Aiken County, 341 S.C. 448, 455, 535 S.E.2d 438, 442 (2000). "When the evidence is conflicting over a factual issue, the findings of the Appellate Panel are conclusive." Fishburne v. ATI Sys. Int'l, 384 S.C. 76, 85, 681 S.E.2d 595, 600 (Ct. App. 2009). Furthermore, "[t]he weight to be accorded medical opinion testimony is a matter for the Commission." Harbin v. Owens-Corning Fiberglass, 316 S.C. 423, 431, 450 S.E.2d 112, 116 (Ct. App. 1994).

ARGUMENT

I. Appellant's Failure to Follow the Appellate Court Rules and Present His Appeal Warrants Dismissal.

Appellant's submissions to the Commission and this Court fail to conform to the South Carolina Appellate Court Rules, and Respondents request this Court dismiss the appeal. Pursuant to Rule 260, SCACR and Henning v. Kaye, 307 S.C. 436, 415 S.E.2d 794 (1992), this Court has the power to dismiss an appeal when the party violates the rules. Indeed, pursuant to Rule 260, the clerk is required to dismiss.

Candidly, the Respondents' brief has been difficult to organize and draft. Appellant's submissions demonstrate a significant subjective feeling of being aggrieved. However, from the outset of this appeal process, Appellant fails to demonstrate clear attribution of legal error or cogent discussion of evidence. Therefore, it is incredibly difficult to meaningfully respond. Appellant's submissions contain allegations without citation to the Commission's file and theories of wrongdoing outside the Commission's limited jurisdiction. In his initial Form 30, request for commission review, the Appellant accuses Respondent's counsel of the following: hiding medical evidence, colluding with the Appellant's former counsel to settle against the Appellant's interest, and being dishonest with the tribunal. Respondents explicitly reject any allegation of wrongdoing. Furthermore, these allegations occur in the first three paragraphs of the Form 30, are completely unsupported by the record, and are entirely indicative of the remainder of Appellant's filings in this matter. Respondents understand that the Appellant is pro se and not a member of the Bar. However, "the South Carolina Appellate Court Rules are not mere technicalities but provide the parties and this Court with an orderly mechanism through which to guide appeals in this State. It is incumbent upon counsel to provide material that complies with the Rules and facilitates

appellate review." Henning v. Kaye, 415 S.E.2d 794, 307 S.C. 436 (S.C. 1992). When the Appellant fails to follow the rules, "this Court would be completely justified in dismissing this appeal based on appellant's numerous violations of the Rules . . . ." Henning v. Kaye, 415 S.E.2d 794, 307 S.C. 436 (S.C. 1992).

Aside from Appellant's allegations that have no evidentiary basis, Appellant's Brief and Designation of Matter exhibit serious technical defects:

- The Table of Contents fails to comply with page number citations for each authority listed.
- The Statement of Issues on Appeal is not concise or direct and contains broad general statements that should be disregarded.
- The Statement of the Case contains 111 numbered paragraphs that fail to concisely summarize the history of the Proceedings. Rather, this section contains numerous unsubstantiated allegations with citations to "authority" not pertinent to the current appeal, e.g., sections of United States Code. In substance, the Appellant testifies in this section, airing grievances rather than summarizing procedure and sets forth contested matters, as well as irrelevant matter and material never put before the Commission or reasonably includable in the Record on Appeal.
- The Standard of Review contains 19 numbered paragraphs similar in style and content as to that in the Statement of the Case. There is no standard set forth and no citations to case law.
- The Argument seems to be the shortest section and is almost identical in style and theme to the aforementioned sections.

In tandem with his failure to follow the Appellate Court Rules, the Appellant improperly argues outside the record, and his brief should be stricken. South Carolina Code of Law Section

1-23-380(4) requires that the Court's review "must be confined to the record." The Single Commissioner's Decision and Order recites the evidence received by the Commission, including the submissions pursuant to the APA (medical records only), hearing testimony and Appellant's deposition testimony. (Order at 2-4.) The record was closed at the end of the proceeding before the Single Commissioner. In any event, the bases for the bulk of Appellant's allegations cannot be found in the record. As an example, the Appellant's "Statement of Issues on Appeal" begins as follows:

> CLAIMANT FORMER EMPLOYEE AGAINST EX-EMPLOYER GNC NUTRA MFG., WITH HISTORY OF BANKRUPTCY FOR CONSPIRACY, SELLING FAKE VITAMINS SUPPLEMENTS WITH FALSE LABELS, WITH MULTIPLE LAWSUITS FOR VIOLATION OF WAGES, DISCRIMINIATIONS LAWSUITS, WORKPLACE SAFETY OR HEALTH VIOLATIONS, SEVERAL WORKERS COMPENSATIONS LAWSUITS INVOLVED IN FRAUD ACROSS US . . . .

(Appellant's Br. at 1.) Without making any determination of the accuracy or relevance of these allegations, there is no evidence in the record to support this statement. These types of assertions continue throughout Appellant's Brief, and Respondents assert that Appellant's Brief is such that a review cannot be "confined to the record."

Even omitting the content of Appellant's Brief that is obviously outside of the Commission's subject matter jurisdiction, Appellant continues with assertions not supported by the record. Paragraph 10 asserts "Evidence refused by WC commissioner S.Barden shows strong evidence that defense attorney J.S.Jones *pressured and formed IME To Deny Any Further Medical Treatment to stop the benefit*." (Appellant's Br. at 3.) While this allegation is questionably relevant to the claim, the Appellant provides no citation in support of this allegation. Similarly, the Appellant states that "[e]vidence shows very clear fabrication of evidence by Defendants and false claims statements where defendants refused to show from Dr. S Koch office refusal in May/2018

. . . ." (Appellant's Br. at 12.) Again, there is no citation to this strong allegation. It is impracticable to detail the numerous allegations made without citation or support. Indeed, in reviewing the Appellant's Brief, it would seem impossible for the Court to confine its review to the record as required by Section 1-23-380(4) because the Appellant consistently fails to argue from the record.

The Court's docket reveals numerous deficiency letters sent to the Appellant, warning the Appellant of potential dismissal. His repeated failure to comply with the applicable rules subjects his case to dismissal. Therefore, the Respondents request this Court dismiss the Appellant's appeal in its entirety, with finality.

II. No Person Deprived Appellant of Counsel.

Appellant's allegation that he was deprived of representation is demonstrably false. In fact, pursuant to orders on file with the Commission, the Appellant had four different attorneys during the life of his claim. (See Orders.) Each was relieved. Furthermore, in an order served directly on the Appellant on September 24, 2020 (Order), the Appellant was on notice that the hearing set for October 22, 2020 would go forward regardless of whether the Appellant obtained another attorney. Commissioner Barden recounted this procedural history in the hearing transcript.

> Commissioner Barden: [E]ven though . . . Mr. Garcia was the fourth lawyer that Mr. Craus had retained, Mr. Craus wanted counsel. So on September the 8th, . . . I postponed the matter to allow him to do that. . . . So that was approximately a month-and-a-half. . . . So as I told y'all when we met on September 8th, we would have to go forward with or . . . without counsel.
>
> The Claimant: Correct. Correct.

(Hrg. Tr. 14:14-15:12.) Therefore, as of September 8, 2020, the Appellant was on notice that, as of October 22, 2020, the hearing set on the Respondents' hearing request would occur. In fact, at the time of this colloquy, the Appellant does not object or move for additional time, and, therefore,

he essentially concedes that he is ready to proceed without a lawyer. Thus, the Appellant has failed to preserve lack of counsel as an issue for review. "An issue conceded in a lower court may not be argued on appeal." TNS Mills, Inc. v. SC Dep't. of Rev., 331 S.C. 611, 617, 503 S.E.2d 471 (1998). Therefore, to the extent that the Appellant's appeal depends on his argument he was deprived counsel, this issue fails.

III. Substantial Evidence Supports the Commission's Decision and Order.

The Record clearly supports the Commission's findings. A reviewing court should affirm the decision of the Full Commission unless it is clearly erroneous in view of the substantial evidence of the whole record. Lark v. Bi-Lo, Inc., 276 S.C. 130, 136, 276 S.E.2d 304, 307 (1981). The evidence submitted to the Commission contains the following only: the hearing transcript (Appellant was the only witness); the Appellant's deposition transcript; the Respondents' APA submissions, numbered 1-20 and paginated 1-213; and the Appellant's APA submissions (submitted on the date of the hearing and admitted into evidence over the objection of the Respondents), numbered 1-16 and paginated 1-90. (Single Commissioner Order at 2-4.) Per the substantial evidence standard of review, the only pertinent questions are as follows: 1) Did the Commission review the entirety of the record and 2) does the substantial evidence support the Commission's findings? The Respondents assert both questions should be answered affirmatively.

The Single Commissioner's order contains 82 detailed findings of fact. Finding of fact 3 explicitly states that the Single Commissioner reviewed all the medical evidence after the hearing. In that same finding, the Single Commissioner attempted to address the compensability of each part of the body about which the Appellant complained to the medical providers, even after noting that the Appellant did not specifically plead the alleged injuries set forth in finding of fact 3. The

Single Commissioner was obviously present for the testimony at the hearing. Finally, there are citations to the Appellant's deposition transcript throughout the findings of fact. Therefore, the Single Commissioner reviewed all the evidence submitted at the hearing.

Similarly, the Commission's Appellate Panel order contains 83 findings of fact. In its review, the Appellate Panel adopted many of the Single Commissioner's findings verbatim, including finding of fact 3, stating that all the medical evidence was reviewed. There are numerous references in the Appellant Panel order to the Appellant's hearing testimony and deposition transcript. Therefore, the Appellate Panel order shows that the Commission reviewed all the evidence on file.

Given that the Commission reviewed all the evidence, the Order shows the Commission thoroughly weighed the evidence to determine whether the pro se Appellant's problems could be proved compensable. In short, the admitted right hip is the only compensable body part. As more fully set forth below, the Commission made specific findings as to each allegation, with citations to the APA submissions and found that Appellant has failed to meet his burden of proof of compensability. The substantial evidence shows the following:[1]

- Findings of fact 13 and 14 finds the situs of the June 15, 2017 injury is the right hip based on the evidence as a whole, specifically including the temporal medical records and Appellant's deposition testimony taken two years after the date of accident (which was given great weight).
- Regarding allegations of hernia, finding of fact 15 examines evidence regarding potential hernia and shows no palpable hernias in November 2017.

[1] The bulleted list is a summary of the Commission's Appellate Panel Order at pages 20 through 43.

- Regarding the allegations of heart problems, finding of fact 16 reviews the evidence and finds no evidence of chest pain, palpitations, edema, shortness of breath, or respiratory problems. Finding of fact 21 finds that Appellant denied chest pain and had uneventful chest/heart examinations from June 15, 2017 through December 2017. Even so, medical records from the Appellant's cardiologists, as shown in finding of fact 23, show that the chest complaints are "clearly not cardiac in ideology." Finding of fact 24 shows inconsistencies in the Appellant's complaints related to his chest/heart. Finding of fact 25 finds the Appellant failed to meet his burden of proof that the chest/heart symptoms are causally related to the work injury.
- In finding of fact 17, the Commission found that the Appellant denied abdominal pain temporally with the accident or shortly thereafter.
- The Commission found the Appellant not wholly accurate regarding his testimony on pre-existing conditions. Finding of fact 20 shows pre-existing conditions in his lungs, bowels, and lumbar spine.
- Finding of fact 27 notes that the Appellant's complaints of shortness of breath are inconsistent with the objective physical examinations documented contemporaneously. Therefore, in finding of fact 28, the Commission found that the Appellant failed to meet his burden of proof that his shortness of breath complaints related to the hip injury.
- Finding of fact 29 notes that the medical records show no complaints of headaches or dizziness after the accident throughout the remainder of 2017. In 2018, when Appellant complained he had headaches, a CT and MRI were ordered, which were interpreted as normal. In finding of fact 30, the Commission found the Appellant failed to meet his burden of proof that his headaches were causally related to the work injury.

- In finding of fact 31, the Commission found that the Appellant testified he did not injure his neck or either arm in the accident, and, further, the medical evidence from November 2017 does not document an arm problem and shows that the Appellant has no arm pain on exertion. The Commission finds the Appellant failed to meet his burden of proof that the bilateral arm complaints are related to the work accident.
- In finding of fact 33, the Commission finds that March 2018 is the first complaint of left hip pain and no physician states that the left hip is causally related. In finding of fact 34, the Commission finds the Appellant has failed to meet his burden of proof that the left hip complaints are causally related.
- In finding of fact 35, the Commission finds that the first medical records related to the gallbladder is from August 2019 and there is no medical opinion linking the Appellant's gallbladder to his work accident. Therefore, in finding of fact 36, the Commission finds that the Appellant failed to meet his burden of proof that his gallstones and gallbladder symptoms are causally related.
- In finding of fact 37, the Commission summarizes the APA submissions regarding low back pain. Appellant complained of low back pain that allegedly radiated to his chest, abdomen and groin. The Respondents presented medical evidence that the Appellant's objective studies explain his anterolateral leg/groin/pelvic/chest complaints. Furthermore, there is inconsistency in the medical records regarding the back from March 2018 and April 2018. No physician has stated that the Appellant's work accident aggravated a pre-existing low back condition, and, in finding of fact 38, the Commission found that the Appellant failed to meet his burden of proof that his complaints of the back and bilateral legs are causally related to the work accident.

- In finding of fact 39, the Commission details that the Appellant was examined by multiple physicians throughout the second half of 2017 and each reference contains a finding similar to "no palpable hernia." The first medical record documenting a finding of hernia is more than two years after the accident, and the doctor finding the hernia completed a questionnaire that the hernia is not secondary to the work accident or surgery to treat the admitted hip fracture. In finding of fact 42, the Commission finds the Appellant has failed to meet his burden of proof that the alleged abdomen and hernia symptoms are causally related to the work accident.
- In finding of fact 43, the Commission reviews evidence pertaining to the inguinal lymph nodes, and in finding of fact 44, the Commission finds that the Appellant failed to meet his burden of proof for proving a related injury to the inguinal lymph nodes.
- In findings of fact 45 and 46, the Commission finds no contemporaneous medical evidence for right knee complaints. The Appellant failed to provide expert medical evidence to explain the causality of his right knee complaints. The Commission found that the Appellant failed to meet his burden of proof that the right knee symptoms are causally related.
- In findings of fact 47, 48, 49, and 50, the Commission set forth its findings on Appellant's urinary/bladder/testicular/directional/prostate/kidney problems. Although Appellant was treated by two urologists, there was no medical opinion that the Appellant's complaints are related to the 2017 work accident. The Appellant theorized that much of his problems were due to a catheter being used from his hip surgery. The medical records are equivocal that a catheter was used, but even assuming so, there was no medical opinion linking catheter use to an infection. The Commission found that the Appellant failed to meet his burden of proof

for proving urinary/bladder/testicular/rectal/prostate/kidney problems were causally related to the work injury.

- In finding of fact 52, the Commission finds that the Appellant denied neck pain to multiple providers for 10 months after the accident and the neck examinations show no documented complaints or problems. Appellant first complained of neck pain 10 months after the accident. The Commission found that the Appellant failed to meet his burden of proof of neck symptoms causally related to the accident.
- Appellant also alleged "poor blood supply," but, as set forth in finding of fact 54 and 55, there was no medical evidence establishing this condition nor causation to the work accident, and, therefore, the Appellant failed to meet his burden of proof.

Furthermore, in findings of fact 57, 58, 59, 60, and 61, the Commission discusses additional medical opinions organized by providers rather than parts of the body. Dr. Folk states that the Appellant's hip pathology would not account for his complaints regarding the abdomen, scrotum, chest, and head, and, that his "hip pathology does not explain his vast array of complaints." (Defendant APA 6, p.104.) Dr. Behr states that it is highly unlikely that the Appellant's complaints of bladder issues, abdominal pain, chest pain, "poor blood supply," and prostate issues are related to the work injury. (Order at 36.) Dr. Crumpler, an ER physician, noted in April 2018 that the Appellant's story changes multiple times even during the exam. (Defendant APA 11, P.156.) Finding of fact 60, is extremely persuasive and quoted as follows: "Dr. Rana, whom claimant sought the request of one of his previous attorneys, states that claimant has no other causally – related injuries other than his right hip." (Order at 37.) (Emphasis added.) Finally, in finding of fact 61, the Commission notes that another authorized physician, Dr. Gerscovich, stated that "it appears that all the [alleged] symptoms are unrelated." (Id.)

As shown in finding of fact 74, two authorized physicians assigned impairment ratings of 7%. (Order at 41.) Those treating physicians issued no work restrictions. The Commission reviewed the Appellant's testimony. The Commission's finding is based on the credible medical evidence, and there is no discernible error of law.

The Commission correctly found that Respondents are entitled to credit for overpayment of temporary benefits paid beyond the date of maximum medical improvement. Curiel v. Env. Management Services, 376 S.C. 23, 29, 655 S.E.2d 482, 485 (2007) sets forth the proper analysis:

> Essentially, workers' compensation benefits accrue along a time continuum: temporary total disability benefits are available from the date of injury through the date of maximum medical improvement; post-MMI benefits may then be awarded either as a permanent total or partial disability, or as a percentage of impairment to a scheduled member. Accordingly, the date of maximum medical improvement signals the end of entitlement to temporary total benefits.
>
> The term "maximum medical improvement" means a person has reached such a plateau that, in the physician's opinion, no further medical care or treatment will lessen the period of impairment. Maximum medical improvement is a factual determination by the Commission. Hall, supra. Factual determinations by the Commission must be upheld on review unless unsupported by substantial evidence.

(internal citations omitted). Based upon the opinion of Dr. Scott, Appellant reached maximum medical improvement on June 3, 2020. The Commission specifically consider the opinion of Dr. Rana that the Appellant was not at maximum medical improvement, but the Commission found Dr. Rana's opinion inferior because Dr. Scott's declaration was more recent in time. Therefore, the Commission's determination on MMI must be upheld because 1) the Appellate Panel is the ultimate factfinder; 2) it weighed the competing MMI opinions; and 3) assigned greater weight to Dr. Scott's opinion. Per Curiel, "maximum medical improvement signals the end of entitlement to temporary total benefits." The Commission correctly applied Section 42-9-210 in awarding credit for temporary total disability paid after MMI. Temporary disability was not properly payable, and,

therefore, the Commission permitted a credit against the permanent disability award. There being no error of law, the finding of credit for temporary disability paid after MMI should be affirmed.

Finally, the Commission correctly determined that the Respondents were not liable to reimburse the Appellant for unauthorized medical treatment undertaken in the state of Georgia. Section 42-15-60 requires the employer to provide a medical treatment to the claimant during any period of disability resulting from the injury. The employee is required to accept the employer's choice of attending physician unless otherwise ordered by the Commission. Therefore, in undergoing unauthorized treatment, the Appellant rejects the Employer's choice of physician and is not entitled to medical benefit. Section 42-15-60 provides a narrow exception that becomes operative upon the following precedent condition: an emergency caused by the employer's failure to provide medical care required by the statute. There is no evidence in the record of this condition.

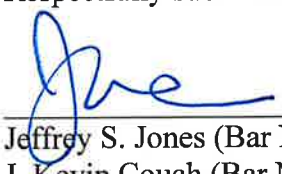
Appellant's testimony at the hearing shows that he was evaluated by Dr. Behr and subsequently released. (41:20-42:2.) Appellant then went online and found Dr. Potts (the Georgia physician) on his own. (42:3-5.) There is no indication that the Appellant's (or his attorney at the time) requested a hearing to make Dr. Potts an authorized physician. (42:8-43:4.) Therefore, there is no failure by the employer to provide medical treatment, much less an emergency caused by such failure. Therefore, a finding that the Respondents are not responsible for unauthorized medical treatment is supported by fact and law.

In sum, the Commission's order is supported by the substantial evidence, and there are no errors of law. The appeal should be dismissed.

CONCLUSION

Respondents assert that the Appellant's Brief should be stricken. There is no merit to the Appellant's assertion that he was denied counsel. The Commission committed no errors of law, and its order is supported by the substantial evidence. Respondents request dismissal of the appeal in its entirety.

Respectfully submitted,



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March 17, 2022

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Vasile Florin Craus, Employee,

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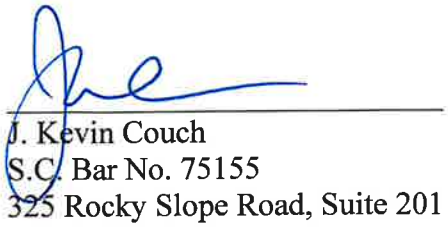
Respondents.

PROOF OF SERVICE

I hereby certify that I served the Initial Brief of Respondents and Designation of Matter to be Included in the Record on Appeal on Vasile Florin Craus by depositing a copy of it in the United States Mail, Certified, postage prepaid, on March 17, 2022 addressed to 201 Knollwood Drive, Anderson, SC 29625 and via electronic mail to floriano_craus@yahoo.it.



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March 17, 2022

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

Re: Vasile Florin Craus vs. Nutra Mfg
WCC File No.: 1708689 DOI: 6/15/2017
Carrier: Sentry Casualty Company - Claim No.: 55C354191-342
WJCB File No.: 0570.00351

Dear Ms. Kitchings:

Pursuant to Rules 208 and 209 I enclose for filing one copy of the Initial Brief of Respondents and one copy of the Designation of Matter to be Included in the Record on Appeal with Proof of Service.

By copy of this letter I am also serving a copy of the Initial Brief and Designation of Matter to be Included in the Record on Appeal on Vasile Florin Craus, the Appellant.

With kindest regards,

WILLSON JONES CARTER & BAXLEY, P.A.

Jeffrey S. Jones

JSJ/jcw
Enclosure

cc: Mr. Vasile Florin Craus
Ms. Dietra Garland