

1974 WL 27717 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 16, 1974

***1 RE: O'Brian v. State Election Commission and/or Beaufort County Election Commission—Issue of Liability.**

Commissioner Paul M. MacMillan, Jr.
S. C. Industrial Commission
1025 Sumter Street
Columbia, S. C. 29201

Dear Commissioner MacMillan:

Pursuant to your request, the following is a memo on the question of liability in the above workmen's compensation case.

It is the position of the State Fund and the State and County Elections that the claimant is not covered by workmen's compensation. First, if the claimant was an employee, then the claimant is precluded from recovering workmen's compensation because of her casual status under Section 72-107, Code of Laws of South Carolina. Second, if the claimant was a public official as the oath in Section 23-400, Code of Laws of South Carolina, indicates, this individual was serving on the Board of Managers for that particular pole or voting place, as indicated in Section 23.400.1, Code of Laws of South Carolina. Since the State Fund pursuant to Section 72-455 and 72-456, Code of Laws of South Carolina, covers only those State agencies which opt to come under the system and since this particular Board of Managers did not so elect, this claimant is not covered by the State Fund. Furthermore, we maintain that the individual involved is specifically excluded from coverage under the provisions of Section 72-11, Code of Laws of South Carolian. In conclusion, the claimant, whether an employee or an officer, is not covered by the provisions of the workmen's compensation statutes; and, therefore, any injury received by her while working as a pole manager is not compensable.

Please contact me if you wish any further clarification or information.

Sincerely,

Hardwick Stuart, Jr.
Assistant Attorney General

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