

# The State of South Carolina



## Office of the Attorney General

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October 10, 1989

Mr. Michael J. Cavanaugh  
Executive Director  
South Carolina Department of Probation,  
Parole, and Pardon Services  
P. O. Box 50666  
Columbia, South Carolina 29250

Re: Government Volunteers and Workers' Compensation  
Coverage

Dear Mike:

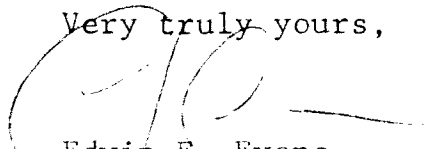
Thank you for yours relative to the above. I have enclosed an earlier opinion of this Office (Op. Atty. Gen. 7/28/89) wherein we recognize that "[o]rdinarily, voluntary, non-compensated public service work does not establish the requisite employment relationship [for the purpose of workers' compensation]. LARSON'S WORKMEN'S COMPENSATION (1986) Section 47.41 (a); ...." Subsequent to the issuance of that opinion, the South Carolina Court of Appeals has held that for the purpose of the application of workers' compensation "[t]he phrase 'contract of hire' connotes payment and a worker who neither receives nor expects payment for his services is not generally considered an employee within the definition." McCreery v. Covenant Presbyterian Church, et al, Op. No. 1387 (S. C. App., August 14, 1989). The Court's holding in McCreery is consistent with our earlier opinion.

There are, of course, exceptional circumstances where the general rule may be found inapplicable, see LARSON'S, supra, Sections 47.41 and 47.42; however, whether an exception to the general rule would come into play depends upon the particular

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facts. Most often, in the context of government volunteers, the general rule will be applicable.

Very truly yours,

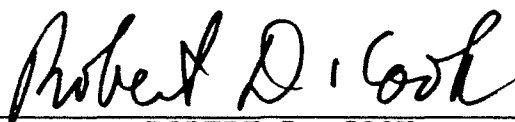


Edwin E. Evans  
Chief Deputy Attorney General

EEE/shb

Enclosure

REVIEWED AND APPROVED:

  
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ROBERT D. COOK  
EXECUTIVE ASSISTANT FOR OPINIONS