

## COURT OF APPEALS OF VIRGINIA

Present: Judges McCullough, Decker and Senior Judge Felton

THE UNINSURED EMPLOYERS' FUND

v. Record No. 1647-15-4

SILDER A. MARTINEZ

MEMORANDUM OPINION\*  
PER CURIAM  
FEBRUARY 2, 2016

FROM THE VIRGINIA WORKERS' COMPENSATION COMMISSION

(Justin R. Main; Siciliano, Ellis, Dyer & Boccarosse PLC, on briefs),  
for appellant.

(Joseph T. Trapeni, Jr., on brief), for appellee.

The Uninsured Employers' Fund (the Fund) appeals a decision of the Workers' Compensation Commission awarding Silder A. Martinez temporary total disability and medical benefits, finding that Colortrend Home Improvements (employer) did not prove it had less than three employees regularly in service. The Fund argues that the Commission "erroneously applied a heightened evidentiary standard to employer's jurisdictional defense by requiring it to produce business documents to meet its burden of proof." The Fund also contends the Commission's finding that employer "did not meet its burden of proving it regularly employed less than three employees, and is therefore subject to the Virginia Workers' Compensation Act, is unsupported by credible evidence."

We have reviewed the record and the Commission's opinion and find that this appeal is without merit. Accordingly, we affirm for the reasons stated by the Commission in its final opinion. See Martinez v. Colortrend, VWC File No. VA02000018712 (Oct. 5, 2015). We

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\* Pursuant to Code § 17.1-413, this opinion is not designated for publication.

dispense with oral argument and summarily affirm because the facts and legal contentions are adequately presented in the materials before the Court and argument would not aid the decisional process. See Code § 17.1-403; Rule 5A:27.

Affirmed.