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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM
THE WORKERS' COMPENSATION COMMISSION

SCWCC Case No. 1809996
Court of Appeals Case No. 2022-000864

William D. Downes, Employee, Respondent,

vs.

Bon Secours Mercy Health, Inc., Employer, and
Safety Nat'l Cas. Corp., Carrier, Appellants.

MOTION TO COMPEL

Don Kamb
Williams & Kamb, LLC
P.O. Box 10693
Greenville, SC 29603
(864) 235-6254
dkamb@williamskamb.com
Attorney for Respondent

Other Counsel of Record:

Helen F. Hiser, Esq.
McAngus Goudelock & Courie, LLC
P.O. Box 650007
Mt. Pleasant, SC 29465
(843) 576-2900
helen.hiser@mgclaw.com
Attorney for Appellants

Respondent Danny Downes moves this Court for an Order compelling appellants to comply with the Commission's Order and provide medical treatment awarded therein pursuant to S.C. Code Ann. § 42-17-60 (2007). This motion is made on the following grounds:

1. On June 8, 2022, the Workers' Compensation Commission awarded respondent additional medical treatment, specifically "the back surgery recommended by Dr. Esce...."

2. Appellants appealed this decision to this Court on June 21, 2022 alleging various errors in the Commission's Decision and Order.

3. S.C. Code Ann. § 42-17-60 provides that an appeal to this Court "does not operate as a supersedeas and, after that time, the employer is required to make weekly payments of compensation and to provide medical treatment ordered by the commission involved in the appeal or certification until the questions at issue have been fully determined in accordance with the provisions of this title." S.C. Code Ann. § 42-17-60 (2007).

4. The fact that this ordered medical treatment is the basis of appellants' appeal is irrelevant, as the General Assembly specifically provided that "the employer is required to ... provide medical treatment ordered by the commission *involved in the appeal...*" S.C. Code Ann. § 42-17-60 (2007)(emphasis added).

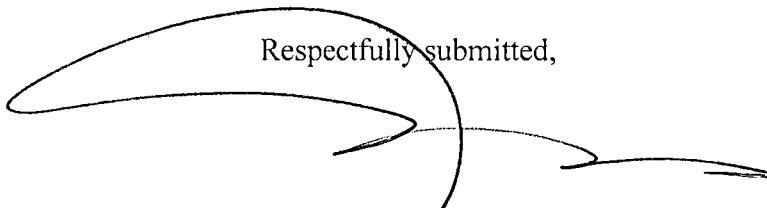
5. Respondent requested that appellants immediately schedule and provide the awarded medical treatment during the pendency of the appeal. (see attached e-mail correspondence)

6. To date, respondent has received no information concerning a medical appointment.

7. This appellate Court has jurisdiction to entertain this motion, See e.g. McLeod v. Piggly Wiggly Carolina Co., 280 S.C. 466, 313 S.E.2d 38 (Ct. App. 1984).

WHEREFORE, respondent prays for an Order requiring appellants to immediately comply with the Commission's Orders and the relevant statutory provision to provide the medical treatment awarded during the pendency of the appeal.

Respectfully submitted,



Don Kamb (SC Bar #16633)
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dkamb@williamskamb.com
Attorney for Respondent

Dated 8/18/22
Greenville, South Carolina

Don Kamb

From: Don Kamb
Sent: Tuesday, July 5, 2022 11:22 AM
To: 'Helen Hiser'
Cc: 'Ashley Forbes'; 'Anna Yeandel'; Tracey Tanzey
Subject: RE: Downes v. Bon Secours - Amended Notice of Appeal (Appeal No.: 2022-)

Ashley:

Any word on the medical appointment? Thanks,

CONFIDENTIALITY NOTE: THIS E-MAIL HAS BEEN SENT FROM A LAW FIRM. IT CONTAINS CONFIDENTIAL AND PRIVILEGED INFORMATION AND IS INTENDED SOLELY FOR THE USE OF PERSON OR PERSONS NAMED ABOVE. IF YOU ARE NOT AN INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION OR DUPLICATION OF THIS E-MAIL IS PROHIBITED AND THAT THERE SHALL BE NO WAIVER OF ANY PRIVILEGE OR CONFIDENCE BY YOUR RECEIPT OF THIS TRANSMISSION. THIS LAW FIRM EXPRESSLY RESERVES ANY AND ALL PRIVILEGES AND CONFIDENCES CONCERNING THIS E-MAIL. IF YOU HAVE RECEIVED THIS E-MAIL IN ERROR, PLEASE NOTIFY US BY RETURN E-MAIL OR BY TELEPHONE CALL TO THE NUMBER INDICATED BELOW.

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From: Don Kamb
Sent: Tuesday, June 21, 2022 1:57 PM
To: Helen Hiser <helen.hiser@mgclaw.com>
Cc: 'joe@mblc.com' <joe@mblc.com>; Ashley Forbes <ashley.forbes@mgclaw.com>; Anna Yeandel <Anna.Yeandel@mgclaw.com>
Subject: RE: Downes v. Bon Secours - Amended Notice of Appeal (Appeal No.: 2022-)

Ashley:

Thanks for forwarding. Please let us know when the medical appointment is scheduled.

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(Attachment)

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From: Helen Hiser <helen.hiser@mgclaw.com>
Sent: Tuesday, June 21, 2022 1:49 PM
To: Court Of Appeals Filings <ctappfilings@sccourts.org>
Cc: Don Kamb <DKamb@williamskamb.com>; 'joe@mblc.com' <joe@mblc.com>; Ashley Forbes <ashley.forbes@mgclaw.com>; Anna Yeandel <Anna.Yeandel@mgclaw.com>
Subject: Downes v. Bon Secours - Amended Notice of Appeal (Appeal No.: 2022-)

Please find attached our Amended Notice of Appeal for filing.
Sincerely,
Helen Hiser



Helen Hiser, Attorney
helen.hiser@mgclaw.com
10 Brook Street Suite 200
Asheville, NC 28803
Main:843-576-2900 | Direct:843-576-2930 | Fax:843-534-0605
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APPEAL FROM
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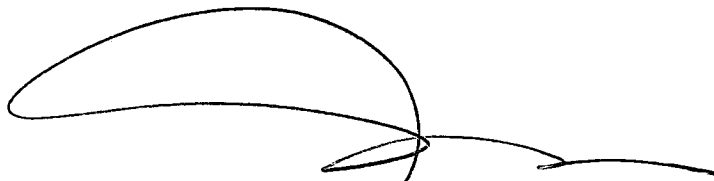
vs.

Bon Secours Mercy Health, Inc., Employer, and
Safety Nat'l Cas. Corp., Carrier, Appellants.

PROOF OF SERVICE

I certify that I have served the **MOTION TO COMPEL** on the below-named attorney of record for appellants by forwarding copies electronically to the addresses shown on 8/18/22 as follows:

Helen F. Hiser, Esq.
McAngus Goudelock & Courie, LLC
by e-mail to helen.hiser@mgclaw.com



Don Kamb (SC Bar #16633)
Williams & Kamb, LLC
dkamb@williamskamb.com
Attorney for Respondent

WILLIAMS & KAMB, LLC
ATTORNEYS AT LAW

affiliated with KATHRYN WILLIAMS, P.A.

KATHRYN WILLIAMS, *of counsel*
DONALD E. KAMB, JR.

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August 18, 2022

The Honorable Jenny Abbott Kitchings
Clerk of Court
S.C. Court of Appeals
P.O. Box 11629
Columbia, SC 29211

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AUG 22 2022

SC Court of Appeals

Re: **William D. Downes v. Bon Secours Mercy Health, Inc., et al.**
Appellate Case No.: 2022-000864

Dear Ms. Kitchings:

Enclosed herein please find the following items for filing in the above-referenced matter:

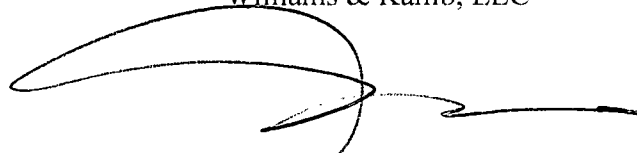
1. Motion to Compel;
2. Proof of Service by Mail; and
3. Filing fee (\$50.00).

By copy of this letter, I am also serving appellants' attorney with copies of the same.

Kindest regards,

Yours truly,

Williams & Kamb, LLC



Don Kamb

dek
Enclosures

cc: Helen F. Hiser, Esq.
Ashley R. Forbes, Esq.
Joe Mooneyham, Esq.

NSOPC
08/18/2022
US POSTAGE \$0.07 68
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OK 11025

WILLIAMS & KAMB, LLC
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SC Court of Appeals

The Honorable Jenny Abbott Kitchings
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