

STATE OF SOUTH CAROLINA
BEFORE THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC FILE NOS. 1815744

ALICIA RUFFIN)
)
 Claimant,)
)
 v.)
)
 BUILDERS FIRSTSOURCE, INC.)
)
)
 Employer, and)
)
 LIBERTY INSURANCE CORP.)
)
)
 Carrier,)
 Defendants.)
)

ORDER

RECEIVED
Oct 12 2022
SC Court of Appeals

This matter came before the Commission on August 8, 2022 on Claimant's Form 50 Hearing Request. In her pleading, Claimant alleges injuries to her neck, brain, and psyche that occurred on October 4, 2018, April 12, 2019, and June 19, 2019 during her employment with Defendant Builders FirstSource.

STATEMENT OF FACTS

1. Claimant suffered an admitted, work-related accident to her lumbar and cervical spine on October 4, 2018. Defendants provided treatment for Claimant's cervical and lumbar spine injuries and paid temporary total indemnity benefits.
2. The Single Commissioner awarded 15% permanent partial disability to the back by Decision and Order, dated December 10, 2020. The Single Commissioner also found the Claimant at maximum medical improvement and found that she was not entitled to any further medical treatment.
3. Thereafter, Claimant appealed this decision to both the Court of Appeals and the Supreme Court. After the Supreme Court denied certiorari and before the Commission adjudicated Defendants' motion to certify the Form 19, Claimant filed another Form 50 Hearing request, dated February 24, 2022, seeking benefits for injuries to her neck, brain, psyche that occurred on October 4, 2018 while in Defendants' employ. Claimant also alleged that she sustained additional injury to her neck on April 12, 2019 and on June 19, 2019. According to Claimant,

- her injuries resulted from either an accident, illness, repetitive trauma, occupational disease, or physical brain injury.
4. The February 24, 2022 pleading was administratively dismissed by the Single Commissioner on August 3, 2022 because, in his determination, the issues plead therein were *res judicata* having previously been adjudicated by Commission Decision & Order, dated December 10, 2020.
 5. Claimant's August 8, 2022 Form 50 Hearing request alleges injury to the neck, brain, and psyche occurring on October 4, 2018, April 12, 2019, and June 19, 2019 while she was employed by Defendant Builders FirstSource. She again asserts that her injuries resulted from either repetitive trauma or occupational disease.
 6. The Single Commissioner's August 3, 2022 Decision & Order states in relevant part: "[F]urther pleadings filed by the Claimant against Defendants subsequent to the date this Decision and Order becomes the law of the case shall be reviewed by the Jurisdictional Commissioner and shall be administratively dismissed if they relate to the same set of facts and circumstances already decided by the final decision of the SC Court of Appeals."
 7. Neither party appealed the Single Commissioner's August 3, 2022 Decision & Order.

CONCLUSIONS OF LAW

1. The relief sought by Claimant in her August 2022 Form 50 Hearing Request is denied. The issues set forth therein are *res judicata*. "Res judicata bars a subsequent suit by the same parties on the same issues." Johnson v. Greenwood Mills, Inc., 317 S.C. 248, 250 (S.C. 1993) and Crosby v. Prysmian Communications Cables, 397 S.C. 101, 108 (S.C. Ct. App. 2012) (citing Bennett v. S.C. Dep't of Corr., 305 S.C. 310 (1991) "Res judicata is shown if (1) the identities of the parties is the same as a prior litigation; (2) the subject matter is the same as the prior litigation; and (3) there was a prior adjudication of the issue by a court of competent jurisdiction." Johnson, 397 S.C. at 251.
2. After the South Carolina Supreme Court denied her petition for certiorari, and before the Commission adjudicated Defendants' request to certify the Form 19, Claimant filed a Form 50 Hearing Request, dated February 24, 2022, alleging injury to her neck, brain, and psyche on October 4, 2018 while she was employed by Builders FirstSource. In her February pleading, Claimant alleged that she sustained additional injury to her neck on April 12, 2019 when a physician's assistant removed her neck brace and another injury during an EMG exam on June 19, 2019. She asserted that her injuries resulted from either an accident, illnesses, repetitive trauma, occupational disease, or physical brain injury. The Single Commissioner administratively dismissed this pleading because the issues plead therein were *res judicata*; the Commission's December 10, 2020 fully adjudicated these issues and is the law of the case.
3. Claimant's August 2022 Form 50 alleges injury to the same body parts that were claimed in the prior February filing. She also alleges the same injuries occurred while employed by the same defendant as plead in the prior Form 50. She again asserts that her injuries resulted from

either repetitive trauma or occupational disease. The Single Commissioner's August 3, 2022 adjudicated these issues and neither party appealed. It is the law of the case.

4. Once *res judicata* is established, the Commission may not continue to adjudicate the matter. The undersigned has reviewed the claim and finds that Claimant's August 8, 2022 Form 50 seeks compensation from the same Defendants for the same previously alleged injuries that occurred on the same date(s) of accident, October 4, 2018, April 12, 2019, and June 19, 2019. This matter has been fully and finally adjudicated by the Appellate Courts and This Commission. Any further relief is barred by the doctrine of *res judicata* and, pursuant to the Single Commissioner's August 3, 2022 Decision & Order, this matter is administratively dismissed.

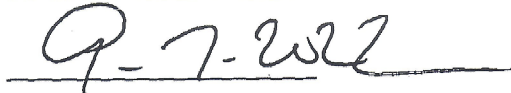
ORDER

THEREFORE, IT IS ORDERED that Claimant's August 8, 2022 petition for Hearing is denied and dismissed with prejudice.

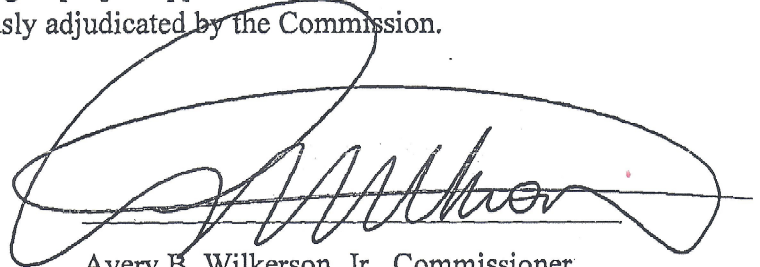
IT IS ORDERED that further pleadings filed by the Claimant against Defendants subsequent to the date this Decision and Order becomes the law of the case shall be reviewed by the Jurisdictional Commissioner and shall be administratively dismissed if they relate to the same set of facts and circumstances already decided by the final decision of the Single Commissioner, dated December 10, 2020.

IT IS ORDERED that subsequent to the date this Decision and Order becomes the law of the case Defendants shall be relieved of any obligation to respond to further filings by Claimant related to this claim unless specifically instructed to do so by the Commission. This shall not prevent, however, either party from pursuing a proper appeal of this Decision and Order or pursuing a future, unrelated claim not previously adjudicated by the Commission.

IT IS SO ORDERED!



(date) Columbia, SC



Avery B. Wilkerson, Jr., Commissioner

CERTIFICATE OF SERVICE

This is to certify that the undersigned has on this date served a copy of this order in the above entitled action upon all parties to this case by sending an electronic copy hereof by electronic mail addressed to the attorneys for said parties; or if there is an unrepresented party(ies), by depositing a copy hereof, postage paid in the United States mail, first class, addressed to the unrepresented party(ies) and to the attorney(s) for the represented party(ies).

By Melani Roark on September 7, 2022