



ATTORNEYS AT LAW

Reply To  
HELEN F. HISER  
Direct Dial: (843) 576-2930  
helen.hiser@mgclaw.com  
CHARLESTON

May 29, 2013

**Via U.S. Mail**

The Honorable Jenny Abbott Kitchings  
Clerk of Court  
South Carolina Court of Appeals  
1015 Sumter Street  
Post Office Box 11629  
Columbia, South Carolina 29211

RE: Robbin Cole vs. Joy Global and ACE USA/ESIS  
Date of Accident: September 8, 2008  
WCC File No.: 0825491  
Our File No.: 2062.10533  
Claim No.: 494C1733402  
Case Tracking No.: 2012-205507

RECEIVED

MAY 30 2013

SC Court of Appeals

Dear Ms. Kitchings:

On May 7, 2013, the parties to this appeal filed a Motion to Dismiss Appeal signed by counsel for both Robbin Cole (Respondent) and Joy Global and ACE USA/ESIS (Appellants). On May 23, 2013, this Court issued an order remanding the settlement to the Workers' Compensation Commission for approval of the settlement. However, under S.C. Code Ann. § 42-9-390 (Voluntary Settlements), for injuries occurring after July 1, 2007, and so long as both parties are represented by an attorney, the employer only needs to file a copy of the settlement agreement with the Commission. Mr. Cole alleged injury arising out of a September 8, 2008 accident, and both parties have been represented through this case by counsel. The settlement agreement has been filed with the Commission and is attached hereto for the Court's files. As a result, no further Commission approval is necessary in order to make this settlement final and binding. Therefore, this matter should be remitted to the Commission without further delay.

Counsel for Robbin Cole is in accordance with this request. If you have any questions, please contact the undersigned.

Yours truly,

McAngus Goudelock & Courie, LLC

  
Helen F. Hiser

The Honorable Jenny Abbott Kitchings  
May 29, 2013  
Page 2

Enclosures

cc: Lynn Shook, Esquire  
Donna Richards, ESIS

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO: 0825491

ROBBIN COLE,  
Employee,  
Claimant,  
vs.  
JOY GLOBAL, INC.,  
Employer,  
AND  
ACE USA/ESIS,  
Carrier,  
Defendants.

**RECEIVED**  
SETTLEMENT

APR 17 2013

Division of Claims  
SC Workers Comp. Comm.

**SETTLEMENT AGREEMENT  
AND RELEASE**

**RECEIVED**

MAY 30 2013

**SC Court of Appeals**

Robbin Cole "Claimant" alleges to have sustained his occupational asthma and aggravation of pre-existing COPD, by accident arising out of and in the course of his employment with Joy Global, Inc. "Employer" on or about September 8, 2008 when he sustained chemical exposure.

Claimant's average weekly wage is \$684.72; and the compensation rate is \$456.50.

Claimant contends that he is in need of additional medical examination and treatment; that he has lost compensable time from work and wages; that he has sustained permanent disability in excess of any ratings by treating physicians; and Defendants dispute the Claimant's allegations and deny that any benefits are due.

Claimant has been treated and/or evaluated by Joe A. Martin, M.D., who did not rate the Claimant's permanent impairment, by Bryan Casey, MD, who did not rate the Claimant's

permanent impairment, by Stephen Hand, M.D., who did not rate the Claimant's permanent impairment and by Reid Johnstone, M.D., who did not rate the Claimant's permanent impairment.

Claimant died on February 27, 2012 of causes unrelated to his admitted work accident. Claimant's wife, Darlene Brock Cole, and Claimant's son, Phoenix Cole, are Claimant's statutory beneficiaries of any compensation benefits owed to deceased Claimant per Order of the South Carolina Workers' Compensation Commission. Each beneficiary is entitled to one-half of the compensation benefits owed to the deceased Claimant.

In consideration of the sum of Sixty-Seven Thousand Five Hundred Dollars and No Cents (\$67,500.00), Claimant's wife, Darlene Cole, and Claimant's son, Phoenix Cole, do hereby release and forever discharge Defendants from any and all claims, demands, actions or causes of action under the South Carolina Workers' Compensation Act, on account of any and all injuries, disability, disfigurement, specific loss, death, operations, medical, hospital or like expense, continuances, recurrences, aggravations, changes of condition, ailments, illnesses, and diseases or other damages, consequences or results, past, present or future in any way connected with, or arising from the alleged injury sustained by Claimant on or about September 8, 2008, and does hereby acknowledge that Defendants have fully, finally and completely paid and discharged all of their obligations, liabilities and responsibilities under the South Carolina Workers' Compensation Act, and that the sum set forth above is being paid to, and received by, Claimant's wife, Darlene Cole, and Claimant's son, Phoenix Cole, in full and final satisfaction of all claims whatsoever as a result of the alleged accident described above and that Defendants shall not be liable for any additional payments whatsoever. Claimant's wife, Darlene Cole, and Claimant's son, Phoenix Cole, will split the sum of Sixty-Seven Thousand Five Hundred Dollars

and No Cents (\$67,500.00). Each will receive Thirty-Three Thousand Seven Hundred and Fifty Dollard and No Cents (\$33,750.00).

Defendants have paid or have agreed to pay authorized medical expenses incurred as a result of the alleged accident described above, in accordance with the South Carolina Workers' Compensation Full Commission order dated December 5, 2011.

Claimant's wife, Darlene Cole, and Claimant's son, Phoenix Cole, and their attorney represent that they have been fully advised of their rights under the South Carolina Workers' Compensation Act and that they are of the opinion that the proposed settlement is reasonable and fair. Claimant's wife, Darlene Cole, and Claimant's son, Phoenix Cole, and their attorney represent that they have reviewed the settlement agreement and that they voluntarily and without coercion agreed to the terms.

Claimant's wife, Darlene Cole, and Claimant's son, Phoenix Cole, hereby relinquish and release each and every claim which they or anyone on their behalf now has, or may hereafter have, so that they shall not have any other or future claim or demand of any kind or nature as a result of the alleged accident described above.

The parties are hereby filing this SETTLEMENT AGREEMENT AND RELEASE with the South Carolina Workers' Compensation Commission as required by S.C. Code Ann. § 42-9-390.

WE CONSENT:

McAngus Goudelock & Courie, L.L.C.

\_\_\_\_\_

Darlene Cole  
Wife and Representative of Deceased Claimant

\_\_\_\_\_

Phoenix Cole  
Son and Representative of Deceased Claimant

\_\_\_\_\_

Mark A. Allison  
Attorney for Defendants

\_\_\_\_\_

Lynn Shook, Esquire  
Attorney for Claimant

Greenville, South Carolina

Date: 4/15/13

FEE SUBJECT TO FORM 61

South Carolina Workers' Compensation Commission  
 33 Main Street, Suite 500  
 P.O. BOX 1715  
 Columbia, SC 29202-1715  
 (803) 737-5723



WCC File #: 0825486  
 Carrier File #: 494 C 173340 2  
 Carrier Code #: 395  
 Employer FEIN #: \_\_\_\_\_

Claimant's Name: Cole, Robin SSN: 248 31 9573 Employer's Name: Joy Global  
 Address: 216 Guthrie Avenue Address: 645 Floyd Wright Drive  
 City: Belton State: SC Zip: 29627 City: Belton State: SC Zip: 29627  
 Home Phone: 864 276 8756 Work Phone: ( ) - Insurance Carrier: ACE/ESIS POB 6560 Scranton PA  
 Preparer's Name: Donna Richards Law Firm: \_\_\_\_\_ Preparer's Phone #: 864 834 5255

Compensation Paid:	Number of Weeks	From (m/d/yyyy)	To (m/d/yyyy)	Amount
Number of Weeks T.T.	_____	_____	_____	\$ _____
Number of Weeks T.P.	_____	_____	_____	\$ _____
Number of Weeks P.P.	_____	_____	_____	\$ _____
Disfigurement	_____	_____	_____	\$ _____
Agreement and Final Release	Check issued to Darlene Cole per SCWCC order			\$ <u>33,750.00</u>
<b>Total Compensation Paid</b>				\$ <u>33,750.00</u>
Total Medical Benefits* Paid	_____	_____	_____	\$ <u>0.00</u>
Funeral Benefits	_____	_____	_____	\$ _____

Case Denied Date of Injury: 09/08/2008  
 (m/d/yyyy)

By signing this receipt, I acknowledge that I have received the compensation shown above.

Darlene Cole  
 Claimant

By: [Signature]  
 Employer's Representative

4/11/2013  
 Date (m/d/yyyy)

Print or type the name of the person, other than the claimant, receiving benefits and sign below.

Report of Additional Fees and Recoupment

Carrier Reimbursement by Third Party \_\_\_\_\_ \$ \_\_\_\_\_  
 Attorney's Fee Paid by Employer \_\_\_\_\_ \$ \_\_\_\_\_  
 Attorney's Fee Paid by Claimant (Not contingent fee only) \_\_\_\_\_ \$ \_\_\_\_\_

**RECEIVED**

APR 17 2013

File this form with the Claims Department according to R.67-414 and R.67-1204. A person, other than the claimant, receiving benefits should sign on the line provided. \* Do not include as medical costs fees paid for expert testimony, fees for determining carrier's liability, costs of autopsy, birth and death certificates and partial examination. Form 19 must be filed within 16 days of final payment of compensation. Form 19 must be filed when a claim is denied.



Claimant's Name: Cole, Robin SSN: 248 31 9573 Employer's Name: Joy Global  
 Address: 216 Guthrie Avenue Address: 645 Floyd Wright Drive  
 City: Belton State: SC Zip: 29627 City: Belton State: SC Zip: 29627  
 Home Phone: 864 276 8756 Work Phone: ( ) - Insurance Carrier: ACE/ESIS POB 6560 Scranton PA  
 Preparer's Name: Donna Richards Law Firm: \_\_\_\_\_ Preparer's Phone #: 864 834 5255

Compensation Paid:	Number of Weeks	From (m/d/yyyy)	To (m/d/yyyy)	Amount
1. Number of Weeks T.T.	_____	_____	_____	\$ _____
2. Number of Weeks T.P.	_____	_____	_____	\$ _____
3. Number of Weeks P.P.	_____	_____	_____	\$ _____
4. Disfigurement	_____	_____	_____	\$ _____
5. Agreement and Final Release	Check issued to Phoenix Cole per SCWCC order			\$ <u>33,750.00</u>
<b>Total Compensation Paid</b>				\$ <u>33,750.00</u>
6. Total Medical Benefits* Paid	_____	_____	_____	\$ <u>0.00</u>
7. Funeral Benefits	_____	_____	_____	\$ _____

Case Denied

Date of Injury: 09/08/2008  
(m/d/yyyy)

By signing this receipt, I acknowledge that I have received the compensation shown above.

By: *Robin Cole*  
Claimant

By: *Donna Richards*  
Employer's Representative

Date  
(m/d/yyyy)

Print or type the name of the person, other than the claimant, receiving benefits and sign below.

By: **RECEIVED**

Report of Additional Fees and Recouperment

A. Carrier Reimbursement by Third Party	_____	\$ _____
B. Attorneys Fees Paid by Employer	_____	\$ _____
C. Attorney's Fee Paid by Claimant (Non-contingent fees only)	_____	\$ _____

File this form with the Claims Department according to R.67-414 and R.67-1204. A person, other than the claimant, receiving benefits should sign on the line provided. \* Do not include as medical costs fees paid for expert testimony, fees for determining carrier's liability, costs of autopsy, birth and death certificates and impartial examination. Form 19 must be filed within 16 days of final payment of compensation. Form 19 must be filed when a claim is denied.