



ATTORNEYS AT LAW

Reply To
WESTON ADAMS, III
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wadams@mgclaw.com
COLUMBIA

December 5, 2013

The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
1015 Sumter Street
Columbia, South Carolina 29201

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DEC 05 2013

SC Court of Appeals

RE: William Miller v. Owen Steel Company, Inc.
and Great American Insurance Group c/o Strategic Comp Services
Date of Accident: August 15, 2012
WCC File No.: 1213162
Our File No.: 20496.12004
Claim No.: 564579791
Appeal Tracking No.: 2013-001564

Dear Ms. Kitchings:

On December 2, 2013, Respondents filed a Motion to Dismiss Claimant's appeal for failure to serve Respondents with his Initial Brief. That same day, after the Motion was filed, we received by hand delivery Claimant's Initial Brief. Respondents then, on December 4, 2013, withdrew their Motion to Dismiss and instead, moved for an extension of time in which to file their Initial Brief. On this same day, Claimant filed a return to our Motion that implied that counsel for Respondents misrepresented the truth, and further asked for a sanction by this Court. Although we have withdrawn our Motion for reasons unrelated to Claimant's return, I feel compelled to respond to Claimant's accusations.

On September 19, 2013, Respondents moved to dismiss Claimant's appeal due to Claimant's failure to file his proof of service to the Commission. Respondents were first made aware of Claimant's Initial Brief when Claimant mentioned in his Return to Respondent's Motion to Dismiss dated September 26, 2013 that he had filed his Initial Brief that same day. The attached affidavit of Laura Hawkinson represents that, on September 27, we received Claimant's Return in the mail, but did not receive the aforementioned Initial Brief. Additionally, Claimant stated in his Return that he had filed a supplement to his Motion for Reinstatement, which, again, we never received.

Because Respondents' Motion to Dismiss Claimant's appeal due to failure to file proof of service to the Commission, filed September 19, 2013, was still pending, this office had no reason to inquire further with Claimant's counsel concerning his Initial Brief. On November 8, 2013,

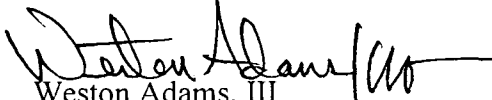
this Court denied Respondents' Motion. On November 12, 2013, Ms. Helen Hiser emailed Claimant's counsel, stating that she had received this Court's order and would begin preparing the Respondents' Initial Brief. As the attached affidavit from Ms. Hiser attests, at this point in time, she simply assumed that we had received the Claimant's Initial Brief, and had not, due to other appellate court filings due in other matters, had time to review the file to determine if we had in fact received Claimant's Initial Brief. Approximately two weeks later, in preparation for drafting Respondents' Initial Brief, this office conducted a thorough search for Claimant's Initial Brief and did not find any evidence that it had been served by mail or by hand delivery. On November 27, 2013, Ms. Hawkinson called Claimant's counsel's office to inquire as to whether his Initial Brief was filed, but no one was available to answer her question. Upon calling this Court on November 27, 2013, we learned that this Court had received Claimant's Initial Brief on September 27, 2013.

In reviewing Claimant's Return to Respondents' Motion to Dismiss filed on December 2, 2013, Claimant's counsel states that prior conversations with this office made it clear that we had possession of his Initial Brief. The written correspondence with Claimant's counsel, as explained in Ms. Hiser's affidavit, does not acknowledge receipt of Claimant's Initial Brief. Claimant's counsel asserts that he served this office by hand delivery, although his supporting affidavit from his receptionist states that she could not say for sure that the Initial Brief was hand delivered, and his runner merely states that she recalled delivering some unidentified package to this office sometime in late September, without specifying whether such package was related to this particular matter. Interestingly, Claimant's proof of service only states that the Initial Brief was served by mail.

As Respondent has withdrawn its Motion to Dismiss, there is no pleading for this Court to rule upon in regards to Claimant's self-evident failure to serve us with his brief in a timely manner. The undersigned, however, wishes to clarify that our actions in this matter have been in accord the Court's Rules, despite suggestions by Claimant's counsel to the contrary. Claimant's request for sanctions and fees has no factual merit whatsoever.

Enclosed you will find the affidavits of Helen Hiser and Laura Hawkinson, and proof of service of this letter upon Claimant's counsel. If you have any questions, please do not hesitate to contact me.

Yours truly,


Weston Adams, III

Enclosures

cc: J. Charles Ormond, Jr., Esquire

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

W.C.C. File No. 1213162

William E. Miller, Jr., Employee,Appellant,
v.

Owen Steel Company, Inc., Employer, and
Great American Insurance Group
c/o Strategic Comp Services, Carrier, Respondents.

AFFIDAVIT OF HELEN F. HISER

I, Helen F. Hiser, being competent to testify as to the matters herein, and being duly sworn, do hereby testify to the following matters within my personal knowledge:

1. I am an attorney with the firm of McAngus Goudelock & Courie.
2. My practice includes appellate advocacy.
3. Upon Claimant's Notice of Appeal filed on July 22, 2013, I entered an appearance on July 29, 2013 which this Court received on July 31, 2013.
4. On September 19, 2013, I filed a Motion to Dismiss Claimant's appeal for failure to provide proof of service to the S.C. Worker's Compensation Commission ("Motion").
5. On November 12, 2013, I emailed Claimant's counsel acknowledging receipt of the Order denying our Motion and stated that we would begin preparing the Respondent's Initial Brief. At this point in time, I had not substantively reviewed the file since September and assumed that we had received Claimant's Initial Brief.

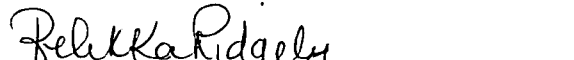
6. During this time period, I was working on large and time-consuming appellate filings in other cases.
7. I did not receive a copy of this Initial Brief, either directly from Claimant's counsel or from any other attorney or staff within my firm.

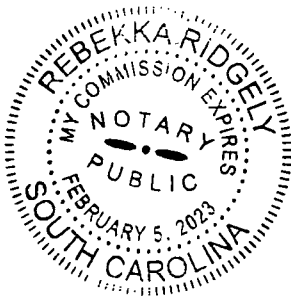
FURTHER AFFIANT SAYETH NOT.



Helen F. Hiser
McAngus Goudelock and Courie, LLC
735 Johnnie Dodds Boulevard, Suite 200
Mt. Pleasant, South Carolina 29464
(843) 576-2900

Sworn before me, this the 5th day of December, 2013.


Notary Public for State of South Carolina
My Commission expires 2/5/2023.



THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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APPEAL FROM THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

SC Court of Appeals

W.C.C. File No. 1213162

William E. Miller, Jr., Employee, Appellant,
v.

Owen Steel Company, Inc., Employer, and
Great American Insurance Group
c/o Strategic Comp Services, Carrier, Respondents.

AFFIDAVIT OF LAURA HAWKINSON

I, Laura Hawkinson, being competent to testify as to the matters herein, and being duly sworn, do hereby testify to the following matters within my personal knowledge:

1. I am a paralegal employed with McAngus Goudelock and Courie, LLC, and I am the paralegal assigned to the above-referenced case, with Jason W. Lockhart, Esquire, being the primary handling attorney.
2. As part of my normal job duties, I review all incoming mail on cases to which I am assigned. As part of this review, I date stamp the incoming mail as received, scan it in pdf form, and attach it to our computer file for the associated case.
3. I have reviewed our physical file, computer file and billing entries concerning the above-referenced case, which all reflect receipt of the Appellant's "Return to Respondent's Motion to Dismiss" and transmittal letter (consisting of 4 pages total) with the incoming mail on September 27, 2013.


4. I was asked on November 27, 2013, by Mullen Taylor, Esquire, for a copy of the Appellant's Initial Brief, and immediately reviewed our file documentation (physical file, computer file, and billing entries). I found no evidence that this filing had ever been received in our office.
5. I called Attorney Ormond's office at 11:41 a.m. on November 27, 2013 (per our call handling software) to determine the filing status of the Initial Brief. I was told by the person who answered the phone that both Mr. Ormond and his paralegal were not in the office that day, and that no one was in the office who could verify whether the Initial Brief had been filed. I left my name and number with her and she indicated that she would give the message to Mr. Ormond. I have not had any direct communications with Mr. Ormond or his office staff since leaving that message on November 27, 2013.

FURTHER AFFIANT SAYETH NOT.



Laura Hawkinson
McAngus Goudelock and Courie, LLC
Meridian Building
1320 Main Street, 9th Floor
Columbia, South Carolina 29211
(803) 779-2300

Sworn before me, this the 5 day of December, 2013.



Notary Public for State of South Carolina
My Commission expires 3/29/20.

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM THE SOUTH CAROLINA
WORKER'S COMPENSATION COMMISSION

Commissioners Barden, James and Wilkerson

CASE No. 2013-000413

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DEC 05 2013

SC Court of Appeals

John Hart, Employee,.....Appellant,

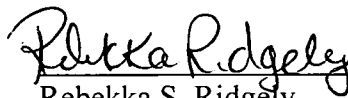
v.

Owen Steel Company, Employer, and
Old Republic Insurance Company, Carrier.....Respondents.

CERTIFICATE OF SERVICE

I certify that I have served a copy of a letter from Weston Adams III to Jenny Abbott Kitchings and attached affidavits by placing in the United States Mail, postage prepaid, on the 5th day of December, 2013, addressed to counsel of record, as follows:

J. Charles Ormond, Jr. Esquire
Holler, Dennis, Corbett, Plante & Garner
Post Office Box 11006
Columbia, South Carolina 29211



Rebekka S. Ridgely
Paralegal to M. McMullen Taylor
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