

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

71428

APPEAL FROM RICHLAND COUNTY

RECEIVED

Court of Common Pleas

MAR 03 2014

Hon. Alison R. Lee, Circuit Court Judge

SC Court of Appeals

Case No. 2011CP4003561

Gertrude Shiver.....Claimant, Appellant,

v.

Palmetto Health Richland, Employer,
Key Risk Management Services, Inc., TPA
Palmetto Hospital Trust Services, Carrier,
Trident Regional Medical Center, Employer,
Zurich American Insurance Company, Carrier..... Respondents,

**MOTION IN OPPOSITION TO RESPONDENT'S MOTION TO DISMISS
APPEAL AND TO POSSIBLY CORRECT THE AMENDED INITIAL BRIEF
AND DESIGNATION OF MATTER**

The Appellant, appearing Pro se', respectfully moves that Respondents' Motion To Dismiss Appeal be denied based upon the following reasons:

On January 27, 2014, around four (4) O'clock p.m., Appellant, along with a friend to assist her, entered the Edgar A. Brown Building on Sumter Street next to the building of the South Carolina Court of Appeals to file her Amended Initial Brief and

Amended Designation of Matter. Unfortunately, the pages of the Amended Initial Brief were xeroxed with no regard to keeping them in a numerically organized sequence. As a result, neither Appellant nor her friend could properly organize the pages of the Brief in time before the Clerk's Office closed at five (5) O'clock p.m.

Appellant cannot type as fast as the average person and her handwriting is illegible because of the injuries and disability to her cervico-thoracic area, right shoulder, arm, and right wrist. It takes the painful Appellant more time than the average person to accomplish a task. In addition, Appellant has suffered another traumatic accident on January 3, 2014, which has caused Appellant more pain, stress, and anxiety.

In addition, a person whose name Appellant did not know came from the Clerk's Office and ordered the assistance clerk at the counter to close immediately because it was five (5) O'clock. Appellant asked this person, who was a woman, if it could be anyway possible to file the documents early in the morning on the day of February 28, 2014? This person answered stating that The Appeals Court will be closed on February 28, 2014.

Then, this person explicitly instructed Appellant to mail the documents to The Court since Appellant had a full page typed-written Proof of Service dated January 27, 2014. Appellant complied exactly with this person's instruction. Within an hour or so after organizing The Brief, Appellant went to The United States Post Office on Assembly Street and mailed her Amended Initial Brief and Amended Designation of Matter to this Court. Thus, the filing of the Brief was timely.

Subsequently, on January 29, 2014, Appellant served a copy of her Amended Initial Brief and Amended Designation of Matter on all attorneys of record in this matter. What Appellant did not realize that she should not have mailed Respondents' attorney a copy of The Brief and Designation of Matter before This Court had first received and clocked the documents. Appellant admits to this error which should not constitute a substantial ground for the dismissal of her entire appeal.

Equally, This Court should not deny Appellant's Appeal as Respondents requested because her amended initial brief has about 57 pages, has both typed and hand-written pages, has no Table of Content, has at least one argument not in agreement to her enumerated issue on appeal, and has several non-sequentially numbered. Appellant admits to making mistakes in the drafting of her Pro se' Brief; however, This Court should hold Appellant's drafting of her Pro se' Brief to a less stringent standard than one drafted by an attorney. Gordon v. Leeke, 574 F.2d 1147, 1151 (4th Cir. 1978).

Appellant asserts in addition that the matter relating to the Brief's deficiencies can be corrected without causing any prejudice to Respondents' ability to reply effectively and efficiently to Appellant's issues raised and arguments. Moreover, The Brief's deficiencies do not adversely diminish the substance of Appellant's appeal issues and arguments which are correctly set forth in her Brief according to The South Carolina Rules of Appellate Procedure.

Appellant as a Pro se' litigant is learning The Appellate Rules and is trying diligently to learn, understand, and correctly apply those rules. Therefore, Appellant

requests This Court to allow her to correct any deficiency to her Brief including to refile it absence of the deficiencies.

Wherefore, Appellant prays that This Court grant her Motion to deny Respondents' Motion for Dismissal of Appeal and to allow her to correct any deficiencies of her Amended Initial Brief.

Respectfully submitted,



March 3, 2014

Ms. Gertrude Shiver,
Appellant Pro se?
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Palmetto Hospital Trust Services, Carrier, Trident Regional Medical Center, Employer,
Zurich American Insurance Company, Carrier.....Respondents,

PROOF OF SERVICE

I, Gertrude Shiver, do hereby certify that I have served all counsel in this action with a copy of the Motion In Opposition To Respondent's Motion To Dismiss Appeal And To Possibly Correct The Amended Initial Brief and Designation Of Matter to be included in the Record of Appeal by depositing a copy of the same in the United States Mail, postage prepaid, addressed as indicated below on the 3rd day of March, 2014.

March 3, 2014

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SC Court of Appeals

Gertrude Shiver

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Parties Served:

Via Postage Paid Mail,

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