

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

) IN THE COURT OF COMMON PLEAS
) FOURTEENTH JUDICIAL CIRCUIT
)
)

Carlos Kinlaw and God Sent Transport, LLC,

) C/A NO. 2014-CP-07-1142
)

Plaintiffs,

) ORDER
)

v.

South Carolina Workers' Compensation
Commission,

Defendants.

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SC Court of Appeals

This matter comes before the Court to decide Plaintiff's Motion to Recuse dated May 19th, 2014, Motion to Vacate Case and Amend Civil Action filed June 26, 2014, and Defendant's Motion to Dismiss dated June 19, 2014, and Motion to Dismiss the Amended Complaint dated July 10, 2014. These matters were heard on August 7, 2014, at 2:00 pm before the undersigned. *Pro se* Plaintiff was present on his own behalf. Keith Roberts, Esq. appeared on behalf of the Defendant.

The instant action arises out of Plaintiff's Summons and Complaint filed May 13, 2014, alleging a cause of action against the South Carolina Workers' Compensation Commission. It was learned during the hearing that Plaintiff previously filed two workers' compensation claims, appealing one claim to the full Commission, and receiving a final order on that claim in January 2014. Plaintiff then filed the instant suit in Beaufort County.

The court first took up Plaintiff's Motion to Recuse. Specifically, Plaintiff recited to the Court its denying his previous motion to proceed *in forma pauperis*. I explained that the reason for my denying that motion was because the Plaintiff did not allege a justiciable controversy in his pleadings. Under the laws of this State, the sole remedy available for a claimant alleging he

is aggrieved by a decision and order of the Workers' Compensation Commission is provided under S.C. Code Ann. § 42-17-60, which prescribes the method by which a party may appeal a Commission decision to the courts. I further reasoned that my denying his motion to proceed *in forma pauperis* was not for financial reasons. Following a discussion with Plaintiff about his desire for requesting the undersigned to recuse due to denying his earlier motion to proceed *in forma pauperis* and the undersigned's duty and ability to consider the matter before it impartially, the Plaintiff withdrew his motion for recusal and the Court addressed the remaining pending motions.

After hearing the arguments of the parties, the court finds that recusal is not necessary as the court's impartiality is not questioned by the instant case at bar, that the Plaintiff has not raised a justiciable controversy in his underlying lawsuit, that this Court lacks jurisdiction over the subject matter, and that the Plaintiff has failed to state facts sufficient to constitute a cause of action.

Therefore, it is ORDERED that Defendant's Motion to Dismiss and Motion to Dismiss the Amended Complaint are GRANTED pursuant to Rules 12(b)(1) and 12(b)(6), SCRCF. Accordingly, Plaintiff's Summons and Complaint is hereby DISMISSED WITH PREJUDICE.

AND IT IS SO ORDERED.



Carmen T. Mullen

August 29, 2014
Wearford, South Carolina