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SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO: 1105654

CAR LOS KINLAW,

Employee,

Claimant,

vs.

LOWE'S HOME CENTERS, INC.,

Employer,

AND

SEDGWICK CLAIMS MANAGEMENT SERVICES, INC.

Carrier,

Defendants.

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**RECEIVED**  
JUL 17 2015  
SC Court of Appeals

**NOTICE OF MOTION & MOTION  
TO POSTPONE/ADJOURN  
HEARING**

TO: SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION;  
COMMISSIONER GENE MCCASKILL; AND CARLOS KINLAW, *PRO SE*  
CLAIMANT:

Pursuant to South Carolina Worker's Compensation Commission Regulation 67-215(A)(5) and Regulation 67-613(B)(1)(c)and(e) and Regulation 67-613(C)(1) and other applicable law, Defendants hereby move for an Order of the Worker's Compensation Commission permitting the postponement or adjournment of the Hearing set in the above matter for February 28, 2013 to allow Defendants to complete discovery; to wit, to obtain the independent medical evaluation procured by Claimant on February 14, 2012, and to allow for the deposition of the IME physician. This Motion is based on the following grounds:

1. A Hearing was held in this matter on January 9, 2013, at which time, during the pre-trial conference, Claimant requested the Hearing be postponed to allow him time to undergo

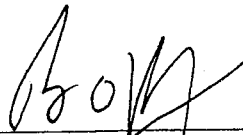
his own independent medical evaluation as Claimant asserted he was scheduled for an IME appointment on February 14, 2013, in Georgia.

2. Claimant refused to identify for the record the name of the IME physician because he allegedly feared that Defendants would attempt to unduly influence the doctor prior to his evaluation.
3. Attorney for Defendants consented to Claimant obtaining his own IME evaluation on February 14, 2013, with the condition that the Claimant notify Attorney for Defendants in writing on February 15, 2013, the name and contact information of the IME physician.
4. Commissioner McCaskill thereafter Ordered the Hearing set for January 9, 2013 to be postponed to allow Claimant to undergo an independent medical evaluation on February 14, 2013. Commissioner McCaskill further Ordered Claimant to provide to Defendants the name and contact information of the IME physician on February 15, 2013.
5. Commissioner McCaskill further Ordered Defendants “are entitled to reasonable time to obtain the independent medical evaluation report and take the deposition of the doctor prior to the next scheduled hearing.”
6. Thereafter, Defendants received a reset Notice of Hearing on January 10, 2013 re-setting the hearing for February 28, 2013.
7. Therefore, Defendants Pre-Hearing Brief is due on February 18, 2013 pursuant to the re-set Hearing Notice.
8. Defendants submit that because Claimant is not required to provide the name and contact information for an IME physician until February 15, setting the hearing on February 28, 2013 is an untenable timeframe for Defendants to obtain a copy of the IME report, schedule and conduct the deposition of an out of state physician.

9. Therefore, as the Order of the Commission dated January 18, 2013, provided Claimant's would have "reasonable time to obtain the IME evaluation report and take the deposition of the doctor prior to the next scheduled hearing" Defendants respectfully request further postponement of the Hearing, of least 30 additional days, for Defendants to obtain the IME report, schedule and conduct the deposition of an out of state physician.
10. Defendants further aver this Motion to Postpone the Hearing is for the purposes of procuring evidence which is unavailable at the scheduled time of the Hearing and is not intended to delay the final adjudication of this claim. See *Morgan v. JPS Automotives* 467 S.E. 2d 457 (S.C. Court App. 1996) and South Carolina Worker's Compensation Regulation 67-613(C)(1).

Wherefore, the Defendants respectfully pray the Hearing scheduled in the above matter for February 28, 2013, should be postponed to allow Defendants to procure evidence: to wit, the IME report and deposition of IME physician which will be identified on February 15, 2013, which is necessary for a decision in this matter, but is unavailable prior to the hearing.

Respectfully submitted,



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BRIAN O'KEEFE  
MCANGUS GOUDELICK & COURIE, L.L.C.  
Post Office Box 650007  
735 Johnnie Dodds Blvd, Suite 200  
Mt. Pleasant, South Carolina 29465  
(843) 534-0101  
Attorneys for the Employer/Carrier

Charleston, South Carolina  
February 13, 2013

## **Carlos Kinlaw vs The State Of South Carolina Workers Compensation Commission**

### **67-613. Postponement or Adjournment of the Scheduled Hearing.**

A. Each party shall arrange and present all evidence at the hearing. Testimony of a necessary witness unable to appear at the hearing may be presented by deposition.

B. A commissioner may postpone a hearing for good cause.

(1) Good cause includes but is not limited to:

(a) The attorney is actually engaged in another court;

(b) Illness;

(c) Additional discovery is necessary;

(d) A conflict of interest exists requiring another Commissioner hear the case;

(e) It is premature to hear the case.

(2) To request a postponement, file and serve a motion pursuant to R.67-215 at least ten days before the hearing. If the moving party can show emergency or other circumstance beyond its control, the motion may be filed and served as soon as reasonably possible before the hearing.

(3) If the moving party postpones a hearing set pursuant to Section 42-9-260, the requirement to hold the hearing within sixty days is waived. The hearing will be postponed only until the following month. If the commissioner cannot hear the case by the following month, the case will be returned to the Judicial Department for reassignment.

(4) All hearings other than those set pursuant to Section 42-9-260 are postponed only until the following month. If the commissioner cannot hear the case the following month, the hearing will not be reset until the moving party files a written request with the Judicial Department. If the nature of the claim or the relief requested changes, file a new hearing request according to R.67-207 unless R.67-610 applies.

C. A party may move for adjournment at a hearing under the following circumstances:

(1) To procure additional evidence when the evidence is in existence, identified, and necessary for the decision, but unavailable at the hearing.

(2) When a witness fails to appear.

(a) If the witness has been properly subpoenaed, produce a copy of the Form 27 and proof of service. The Commission may allow the testimony to be made part of the record by de bene esse deposition or by testimony at a reconvened hearing.

(b) If the witness has not been properly subpoenaed, the moving party shall provide a reasonable basis for failure to subpoena the witness. The testimony may be allowed at the Commissioner's discretion.

**HISTORY: Amended by State Register Volume 21, Issue No. 4, eff April 25, 1997; State Register Volume 22, Issue No. 6, Part 3, eff June 26, 1998.**



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STATE OF SOUTH CAROLINA,  
COUNTY OF BEAUFORT

RECEIVED

IN THE COURT OF COMMON PLEAS  
JUDICIAL CIRCUIT

JUL 17 2015

Carlos Kinlaw

Plaintiff )  
SC Court of Appeals )  
MOTION AND AFFIDAVIT TO  
PROCEED IN FORMA PAUPERIS

vs.

The State of South Carolina Workers  
Compensation Commission

Defendant. ) FILE NO.

2015-CP-07-65

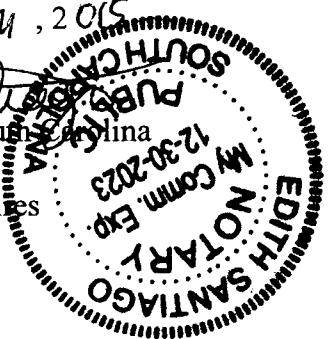
2015 APR 13 PM 2:00

I, Carlos Kinlaw, being duly sworn, state that I am the Plaintiff and that I do not have the funds available to pay the costs of filing and service in the present matter. I hereby request that the complaint be filed and service made without costs.

Sworn to and Subscribed before me  
this 9 day of May, 2015

Edith Santiago  
Notary Public for South Carolina

My Commission expires



Carlos Kinlaw

Signature of Plaintiff or  
Person Filing Complaint on Behalf of  
Plaintiff

ORDER

Leave is *granted* to proceed in forma pauperis without payment of the filing fee.

Leave is *granted* to proceed in forma pauperis without payment of the service cost.

Leave is *denied* to proceed in forma pauperis.

Dated: 6 / 1, 2015

Beaufort

South Carolina

[Signature]

JUDGE/CLERK OF COURT

2015 JUN 16 PM 3:32

NOTICE TO PLAINTIFF: The Court may assess costs against either party at hearing.

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STATE OF SOUTH CAROLINA

COUNTY OF Beaufort

Carlos Kinlaw

Plaintiff(s)

vs.

The State of South Carolina Workers Compensation Commission

Defendant(s)

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

RECEIVED -CP-

JUL 17 2015

SC Court of Appeals

2015 MAR 13 11:20 AM DATE & TIME CANCELLED

Submitted By: Carlos Kinlaw
Address: 2 taylor court road, bluffton, sc 29910
Mailing address pobox 403, bluffton, sc 29910

SC Bar #:
Telephone #: 843 757 3583
Fax #:
Other:
E-mail: carloskinlaw@yahoo.com

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

\*If Action is Judgment/Settlement do not complete

- JURY TRIAL demanded in complaint.
NON-JURY TRIAL demanded in complaint.
This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- Contracts: Constructions (100), Debt Collection (110), Employment (120), General (130), Breach of Contract (140), Other (199)
Torts - Professional Malpractice: Dental Malpractice (200), Legal Malpractice (210), Medical Malpractice (220), Previous Notice of Intent Case # 20 -NI- - 14th, 6th amendments violations
Torts - Personal Injury: Assault/Slander/Libel (300), Conversion (310), Motor Vehicle Accident (320), Premises Liability (330), Products Liability (340), Personal Injury (350), Wrongful Death (360), Other (399)
Real Property: Claim & Delivery (400), Condemnation (410), Foreclosure (420), Mechanic's Lien (430), Partition (440), Possession (450), Building Code Violation (460), Other (499)
Inmate Petitions: PCR (500), Mandamus (520), Habeas Corpus (530), Other (599)
Administrative Law/Relief: Reinstate Drv. License (800), Judicial Review (810), Relief (820), Permanent Injunction (830), Forfeiture-Petition (840), Forfeiture-Consent Order (850), Other (899)
Judgments/Settlements: Death Settlement (700), Foreign Judgment (710), Magistrate's Judgment (720), Minor Settlement (730), Transcript Judgment (740), Lis Pendens (750), Transfer of Structured Settlement Payment Rights Application (760), Confession of Judgment (770), Petition for Workers Compensation Settlement Approval (780), Other (799)
Appeals: Arbitration (900), Magistrate-Civil (910), Magistrate-Criminal (920), Municipal (930), Probate Court (940), SCDOT (950), Worker's Comp (960), Zoning Board (970), Public Service Comm. (990), Employment Security Comm (991), Other (999)
Special/Complex /Other: Environmental (600), Automobile Arb. (610), Medical (620), Other (699), Pharmaceuticals (630), Unfair Trade Practices (640), Out-of State Depositions (650), Motion to Quash Subpoena in an Out-of-County Action (660), Sexual Predator (510)

Submitting Party Signature: Carlos Kinlaw

Date: 3/9/15

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous

STATE OF SOUTH CAROLINA, )

COUNTY OF BEAUFORT ) IN THE COURT OF COMMON PLEAS

Carlos Kinlaw ) CIVIL ACTION COMPLAINT

Plaintiff, )

VS )

The State of South Carolina Workers Compensation)

Commission )

)

)

)

Defendant. )

2015 MAR 13 2:04  
DATE & TIME CANCELLED

## STATEMENT OF CLAIM

Issue 1. Conspiracy to violation 6<sup>th</sup>,14<sup>th</sup> Amendment and a 6<sup>th</sup>,14<sup>th</sup> Amendments violation

Argument and Facts. Brian O'Keefe Esq. and Commissioner Gene McCaskill planned to violated my 6<sup>th</sup> and 14<sup>th</sup> amendment right. Commissioner Gene McCaskill postponed a hearing January 9, 2013 and it was to happen on February 28, 2013 but the attorney Brian O'Keefe postponed it on February 13, 2013 . The commissioner did the hearing on April 23, 2013 which broke this law 67- 613 E (3) (4) which is also a clear violation of my 6<sup>th</sup> and 14<sup>th</sup> amendment right to a fair trial, improper venue and procedural due process violations because he did not have the judicial authority to hold the hearing and reset the case that power is given to the South Carolina Workers' Compensation Commission Judicial Department . Appellate panel made up of Commissioners Avery B. Wilkerson, Jr, Melody L James, Aisha Taylor and Erin Hantske Esq. did a conspiracy to aid in a 6<sup>th</sup> and 14<sup>th</sup> amendment right violation in their decision because they could see in the paper work for the case all the postponements in the file and did not act to give a fair trial or procedural due process.

In Beaufort, South Carolina, In The Court Of Common Pleas Fourteenth Judicial Circuit in the County of Beaufort South Carolina a civil lawsuit was heard on August 7, 2014 at 2:00pm Carlos Kinlaw and God Sent Transport LLC vs Workers Compensation Commission of South Carolina, Case No 2014CPo701142 before Judge Carmen T Mullen over a 6<sup>th</sup> Amendment violation by the state, where Keith Robert, Esq. appeared of the defendant in the hearing. I told the Judge Mullen in the hearing and on the paper work that my 6<sup>th</sup> Amendment right was violated by the state. Mr. Robert said in that hearing that the state had clear up the 6<sup>th</sup> Amendment problem when they had not did it at all. Mr Robert hide the fact that Workers Compensation Commission of South Carolina had planned a conspiracy with the lawerys and commissioners to violated my 6<sup>th</sup> and 14<sup>th</sup> amendments rights through a workers compensation hearing. This conspiracy could not have been pull off without the Governor Nikki R Haley knowing about it because of the civil lawsuit in The Court of Common Pleas and Workers Compensation Commission of South Carolina is ran by the Governor office.

Due Process is the legal requirement that the state must respect all legal right that are owed to a person. Due process balances the power of law of the land and protects the individual person from it. When a government harms a person without following the exact course of the law, this constitutes a due process violation, which offend the rule of law. The exact course of the law is 67- 613. This is the provision in Article Six, Clause 2 of the United States Constitution that establishes the United States Constitution, federal statutes, and treaties as "the supreme law of the land." It provide that these are the highest form of in United States legal system, and mandates that all state judges must follow federal law when a conflict arises between federal law and either a constitution or state law of any state.

**RELIEF**

I would like the court to make the state follow procedural Due process in this case as require by sc law 67-613 E (3) (4) of workers compensation. I ask for relief of \$16,000,000 because the state should not have ever plan a conspiracy to violated a person 6<sup>th</sup>,14<sup>th</sup> Amendment right in court.

*Walter Kinlaw*

*3/9/13*



State of South Carolina  
The Circuit Court of the Fourteenth Judicial Circuit

CARMEN MULLEN  
JUDGE

100 RIBAUT ROAD  
POST OFFICE DRAWER 1128  
BEAUFORT, SOUTH CAROLINA 29901-1128  
TELEPHONE: (843) 255-6070  
FAX: (843) 522-8362

April 2, 2015

Carlos Kinlaw  
Post Office Box 403  
Bluffton, SC 29910

Re: Carlos Kinlaw vs. The State of South Carolina Workers Compensation Commission  
Case: 2015CP0700651

Mr. Kinlaw,

Judge Mullen's chambers is in receipt of your request to proceed In Forma Pauperis in the above referenced case. Before your request can be considered, you will need to file an affidavit stating the specifics of the 14<sup>th</sup> Amendment violation, such as who conspired with whom and what transpired. Once we receive your affidavit, Judge Mullen will review your claim and consider your request. Thank you.

A handwritten signature in black ink, appearing to read "Jamie Thompson".

Jamie Thompson  
Administrative Assistant  
To the Honorable Carmen T. Mullen  
Fourteenth Judicial Circuit



State of South Carolina  
The Circuit Court of the Fourteenth Judicial Circuit

MEGAN WHITE  
LAW CLERK TO THE  
HONORABLE CARMEN MULLEN

102 RIBAUT ROAD  
POST OFFICE DRAWER 1128  
BEAUFORT, SOUTH CAROLINA 29901-1128  
TELEPHONE: (843) 255-5070  
FAX: (843) 522-8362

June 5, 2015

Carlos Kinlaw  
Post Office Box 403  
Bluffton, SC 29910

Re: Carlos Kinlaw vs. The State of South Carolina Workers Compensation Commission  
Case: 2015CP0700651

Mr. Kinlaw,

Judge Mullen's chambers is in receipt of your correspondence to the Court on May 29, 2015 which answered the Court's request to state the specifics of the 14<sup>th</sup> Amendment violation claimed in your motion to proceed *in forma pauperis*.

In *Martin v. State*, 321 S.C. 533, 535-536, 471 S.E.2d 134, 134-135 (1995), the South Carolina Supreme Court:

[gave] guidance as to when it is appropriate to waive filing fees. In the absence of a statutory provision allowing the general waiver of filing fees, we conclude motions to proceed *in forma pauperis* may only be granted where specifically authorized by statute or required by constitutional provisions. *See Tahtinen v. Superior Court, Pinal County*, 130 Ariz. 513, 637 P.2d 723 (1981); *Steinkamp v. Jacque*, 36 Conn.Sup. 37, 410 A.2d 489 (1979); 1986 Op.S.C.Att'y Gen. No. 86-44 at 131.

The Court further directed:

...when an indigent litigant files a motion to proceed *in forma pauperis* pursuant to Rule 3(c), [SCRCP] and the complaint does not appear to fit within one of the statutory or constitutional exceptions to the requirement of a filing fee, the clerk of court must submit the motion to a judge for a ruling as to whether the complaint does fit within one of the statutory exceptions or

whether the cause of action concerns a fundamental right that requires waiver of the filing fee.

The *Martin* Court outlines the statutory provisions for requiring waiver of filing fees as follows:


- S.C. Code Ann. §§ 8-21-310(11) (Supp.1994) (no fee must be paid to appeal from a conviction in magistrate's or municipal court);
- S.C. Code Ann. § 17-27-60 (1985) (no fee required of indigent filing a post-conviction relief action);
- S.C. Code Ann. § 20-4-40(e) (1985) (clerks of court must assist persons seeking an order of protection from domestic abuse by giving them forms to proceed in forma pauperis);
- S.C. Code Ann. § 20-7-1440 (Supp. 1994) (no court fee may be charged in delinquency and neglect actions);
- S.C. Code Ann. § 41-39-30 (1986) (fee waived in a proceeding involving a claim for benefits from the Employment Security Commission);
- and, S.C. Code Ann. § 44-41-34(B) (Supp. 1994) (a minor may file an action seeking consent for an abortion without paying any filing fee).

Motions to leave to proceed *in forma pauperis* must also be granted where "certain fundamental rights are involved." Courts have found these certain rights include access to the court when involved in divorce actions, *Boddie v. Connecticut*, 401 U.S. 371, 91 S. Ct. 780, 28 L.Ed.2d 113 (1971); and when petitioning for a writ of habeas corpus, *Smith v. Bennett*, 365 U.S. 708, 81 S. Ct. 895, 6 L.Ed.2d 39 (1961). However, courts have upheld requiring payment for appellate filing fee by indigents seeking review of an adverse welfare decision, *Ortwein v. Schwab*, 410 U.S. 656, 93 S. Ct. 1172, 35 L.Ed.2d 572 (1973) and for bankruptcy actions. *United States v. Kras*, 409 U.S. 434, 93 S. Ct. 631, 34 L.Ed.2d 626 (1973)

Based the foregoing reasoning set forth in *Martin v. State*, the Court has carefully reviewed the pleadings and finds that Plaintiff's Complaint does not appear to fit within any statutory exceptions and does not involve a Constitutionally protected fundamental right that requires a waiver of the filing fee. Therefore, the Plaintiff's Motion to Proceed *in forma pauperis* is respectfully denied.

Please be advised that a judge's denial of leave to proceed *in forma pauperis* does not prevent ones case from going forward. A plaintiff simply must pay the filing fees as required by the Clerk of Court to file the Summons and Complaint.

Regards,

  
Megan C. White  
Law Clerk to the Honorable Carmen Mullen