

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE S.C. WORKERS' COMPENSATION COMMISSION

Appellate Panel Review

WCC File NO. 1312352

TIMOTHY YORK.....APPELLANT

v.

LONGWOODS PLANTATION a.k.a
KNOLLWOOD INC., RESPONDENT

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SC Court of Appeals

RETURN TO MOTION TO AMEND CAPTION

This return is filed pursuant to Rule 240(e) of the South Carolina Appellate Court Rules. The caption of this appeal is incorrect, but the accurate caption is not the caption proposed in the pending motion.

This is a dispute between persons asserting competing claims to a deceased employee's workers' compensation award. Timothy York is the claimant. He died in a work-related accident.

The undersigned (attorney Ann Mickle) represents Mr. York's personal representative as well as Shirley York, who is Mr. York's mother. Ms. York's claim to her son's workers' compensation award is opposed by Yvone Burns, who alleges she is Timothy York's common law spouse and dependant. The commission held in Ms. York's favor and denied Ms. Burns' claim. Ms. Burns then initiated this appeal.

The commission's caption does not reflect this. The order does not signal that Mr. York has died, and the order does not identify Ms. Young or Ms. Burns as the principal parties in the litigation. This is not a criticism. The order is simply captioned as a traditional case would be.

This Court has addressed similar circumstances on at least one occasion. Palm v. General Painting Co. involved a dispute among a claim's potential beneficiaries. The full caption of that case identified that the worker had died and listed the potential beneficiaries as plaintiffs. 296 S.C. 41, 370 S.E.2d 463 (Ct. App. 1988). That approach seems reasonable, and if that approach was followed here, the caption of the present case would be:

Timothy York, Deceased, Shirley York
and Yvonne Burns, Plaintiffs

v.

Longwoods Plantation a.k.a. Knollwood, Inc., Defendant

Of Whom

Shirley York is the Respondent

And

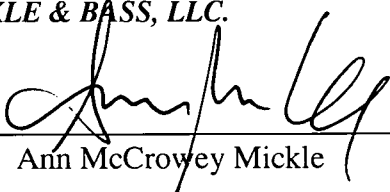
Yvonne Burns is the Appellant

Ms. York, who is the properly-captioned Respondent, consents to the caption's amendment and has no preference as to whether this Court corrects the caption or whether the Court chooses to remand the matter for the Commission to make this correction.

Respectfully Submitted,

MICKLE & BASS, LLC.

By: _____


Ann McCrowey Mickle

Columbia, South Carolina
March 16, 2016

AS

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PROOF OF SERVICE

The undersigned employee of *Mickle & Bass, LLC* does hereby certify that she has served a copy of the below referenced document(s) in the above captioned case on the below referenced individuals, entity, employer/carrier by depositing the same by first class postage in the United States mail on the 16th day of March, 2016.

Documents served: CLAIMANT'S RETURN TO MOTION TO AMEND CAPTION

Parties served:

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

Amy Bracy
Judicial Director-SCWCC
1333 Main Street, Suite 500
Columbia, SC 29202

Mr. W. E. Jenkinson, III
Jenkinson, Jarrett, and Kellahan, P.A.
PO Box 669
Kingstree, SC 29556

J.Brandon Hylton, Esq.
McAngus Goudelock & Courie, LLC
P.O. Box 7489
Florence, SC 29502



Betsy L. Paulk

Columbia, South Carolina

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SC Court of Appeals

Timothy York, Employee, Claimant/Appellant,
v.

Longlands Plantation a.k.a,
Knollwood, Inc.
and

Companion Property and
Casualty Group, Carrier, Defendants/Respondents

APPELLANT'S MOTION TO AMEND CAPTION

The Appellant, Yvonne Burns, by and through her undersigned attorney, moves before the South Carolina Court of Appeals for an Order allowing the caption in the above captioned appeal to be amended to conform with Rule 267(a) SCACR to properly state parties to the appeal to the caption on the following grounds:

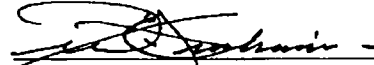
1. This is an appeal from the South Carolina Workers' Compensation Commission of the Decision and Order filed January 20, 2016 with Notice of Appeal to the South Carolina Court of Appeals dated February 10, 2016. The Decision and Order of the South Carolina Workers' Compensation Commission caption did not include Companion Property and Casualty Group, Carrier/Defendant/Respondent or Yvonne Burns, Defendant/Claimant who is the Appellant in the Notice of Appeal to the South Carolina Court of Appeals.
2. The Decision of the South Carolina Workers' Compensation Full Commission awarded death benefits of Timothy York to his mother, Shirley York and no benefits were awarded to Yvonne Burns Defendant/Claimant.
3. The Notice of Intention to Appeal and the Caption of the Order should be Amended to reflect the following parties:

Tyrone York, as personal representative for Timothy York (Deceased),
Employee/Claimant and Yvonne Burns, Defendant/Claimant versus Longlands

Plantation a.k.a. Knollwood, Inc., Employer and Companion Property and Casualty Group, Carrier.

4. Appellant would further move to then file an Amended Notice of Intention to Appeal within thirty (30) days of the Order of this court disposing of this Motion.

March 7, 2016



W. E. Jenkinson, III, Esquire
J. Thomas Thompson, Esquire
JENKINSON, JARRETT & KELLAHAN, P.A.
Attorneys at Law
Post Office Drawer 669
Kingstree, South Carolina 29556
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Email: billy@jenkinsonlaw.com

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Longlands Plantation a.k.a,
Knollwood, Inc.
and

Companion Property and
Casualty Group, Carrier, Defendants/Respondents

PROOF OF SERVICE

I certify that I have served Appellant's MOTION TO AMEND CAPTION on Respondent Longlands Plantation a.k.a Knollwood, Inc. and Companion Property and Casualty Group and the S.C. Workers' Compensation Commission by depositing a copy of it in the United States Mail, postage prepaid, on March 7, 2016, addressed as follows:

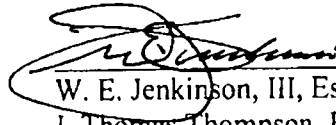
Attorneys of record:

Ann M. Mickle, Esquire
James R. Davidson, IV, Esquire
Mickle & Bass, LLC
Post Office Box 5639
1519 Richland Street
Columbia, SC 29250

Amy Bracy, Judicial Director
S.C. Workers' Compensation Commission
P.O. BOX 1715
Columbia, SC 29202-1715

J. Brandon Hylton, Esquire
McAngus Goudelock & Courie, LLC
Post Office Box 7489
Florence, SC 29502

March 7, 2016



W. E. Jenkinson, III, Esquire
J. Thomas Thompson, Esquire
JENKINSON, JARRETT & KELLAHAN, P.A.
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Jenkinson, Jarrett & Kellahan, PA

ATTORNEYS AT LAW

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www.jenkinsonlaw.com

COPY

W. E. Jenkinson, III
Ernest J. Jarrett*
Jennifer R. Kellahan**

J. Thomas Thompson

*Certified Family Court Mediator
**Certified Circuit Court Mediator

March 7, 2016

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

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SC Court of Appeals

RE: Timothy York v. Longlands Plantation
WCC File No.: 1312352
Appellate Case No.: 2016-000258

Dear Ms. Kitchings:

Please find enclosed the following documents:

- 1) Original and seven (7) copies of Appellant's Motion to Amend Caption in the above captioned case;
- 2) Check in the amount of \$25.00 for the filing fee; and
- 3) Proof of Service of Motion on opposing counsel.

By copy of this letter I am serving all counsel of record with a copy of the same. I would appreciate your returning a clocked copy of my motion and proof of service to me in the enclosed self-addressed stamped envelope.

With best regards, I am

Very truly yours,

JENKINSON, JARRETT & KELLAHAN, PA

W. E. Jenkinson, III
Email: billy@jenkinsonlaw.com

JWEJ/lls

Enclosure(s): as stated

Cc: Ann M. Mickle, Esquire
James R. Davidson, IV, Esquire
J. Brandon Hylton, Esquire
Amy Bracy, Judicial Director - SCWCC

AG



Ann McCrowey Mickle*†
J. Alan Bass*†
Derrick L. Williams*†
Andrea C. Roche*†
James "Jamie" Davidson, IV

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SC Court of Appeals

March 16, 2016

Reply to: Columbia Office

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

**Re: Tyrone York, as Personal Representative for Timothy York (deceased) v. Longlands Plantation
a.k.a Knollwood, Inc.
Our file: 201369 SCWCC file: 1312352**

Dear Ms. Kitchings:

Enclosed for filing is the original and (7) copies of Claimant's Return to Motion to Amend Caption. The following documents are also enclosed:

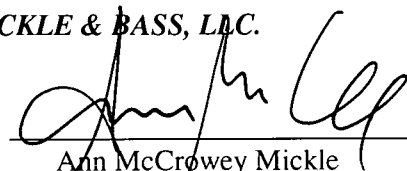
1. Proof of Service of the Return to Motion to Amend Caption to the Appellant and the SCWCC.
2. Copy of Appellant's Motion to Amend Caption.

By copy of this letter I am serving all counsel of record with a copy of the same. Please send a stamped copy of the Return to Motion to Amend Caption and Proof of Service to me in the enclosed, self-addressed envelope.

If you have any questions, please do not hesitate to contact me. With kindest personal regards, I remain,

Yours very truly,

MICKLE & BASS, L.L.C.

By: 
Ann McCrowey Mickle

AMM/blp

Enclosure(s): As stated

Cc: W. E. Jenkinson, III., Esq.
Brandon Hylton, Esq.
Amy Bracy, Judicial Director, SCWCC

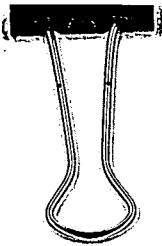
930 Oakland Avenue
PO Box 10751
Rock Hill, SC 29731
(803) 980.0083
(803) 328.2525 fax

1519 Richland Street
PO Box 5639
Columbia, SC 29250
(803) 929.0029
(803) 929.1024 fax

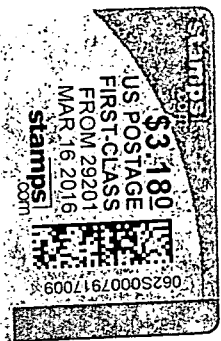
1039 44th Avenue North
Suite 102
Myrtle Beach, SC 29577
(843) 839.2501
(843) 839.2507 fax

1311 Chuck Dawley Blvd.
Suite 201
Mount Pleasant, SC 29464
(843) 406-2800
(888) 884-8311 fax

Mickle and Bass, LLC
1519 Richland Street
Columbia, SC 29250



The Honorable Jenny Abbott Kitchings
Clerk, SC Court of Appeals
P.O. Box 11629
Columbia SC 29211-1629



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SC Court of Appeals

AB