

McDANIEL LAW FIRM  
ATTORNEYS AND COUNSELORS AT LAW  
1315 ELMWOOD AVENUE  
COLUMBIA, SOUTH CAROLINA 29201

RECEIVED

MAR 29 2016

SC Court of Appeals

Proudly representing injured workers  
for over 30 years.

Telephone (803) 771-7211

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Preston F. McDaniel

Matthew Robertson

March 24, 2016

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

RE: Clarence Winfrey, Employee, Respondent, v. Archway  
Services, Inc., Employer, and American Fire &  
Casualty Insurance Co., Carrier, Appellants.  
Appellate Case No. 2014-001788

REQUEST FOR ENFORCEMENT OF THE COURT'S ORDER  
ORDERING MEDICAL CARE FILED ON MARCH 18, 2016

Dear Ms. Kitchings:

Attached is my Affidavit confirming that we have just received notice from Mr. Brett Bayne representing Liberty Mutual advising MUSC that they are not authorizing the medical care ordered by the Court. It is my understanding that Mr. Bayne intends to file what he refers to as a "Motion for Rehearing" to the Decision of the Court based on my Motion for rehearing concerning my Motion. I am not sure what Mr. Bayne is referring to since SCACR, Rule 240(i) prohibits any such motion.

Regardless of whether or not there is a Motion for Rehearing to a Motion for Rehearing Order, since the very purpose of an Order under §42-17-60 is to prevent delay in the provision of medical care, I would request pursuant to SC Code §14-8-130 that the Court enforce the Order of the Court under applicable law including SC Code §14-5-320.

While I believe that this notice to the Court with my sworn Affidavit that it is my understanding that it is the intention of the Defendants not to comply with the Order of the Court is sufficient to request enforcement of the Order, if a formal Motion is required either to request enforcement or for the issuance of a Rule to Show Cause, please advise and I will be glad to file the same.

The Honorable Jenny Abbott Kitchings

March 24, 2016

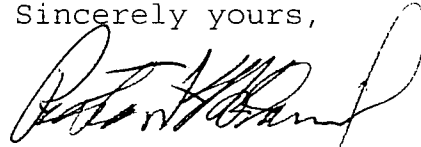
Page 2 of 2

For enforcement purposes, I am sure that this action is being taken pursuant to the instructions given to Mr. Bayne by his clients and it is my understanding that the Managing Agent on this claim for Liberty Mutual is Ms. Elizabeth Wrinkle.

By copy of this letter, I am forwarding and serving a copy of my Affidavit and the letter on Mr. Bayne. Also for filing with the Court are a Proof of Service of this filing, and Proof of Service on Mr. Bayne, representing the Defendants.

If anything else is needed to request enforcement, please advise. As always, I appreciate all the courtesies and kindnesses shown to me by the Court.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Preston F. McDaniel", written in a cursive style.

Preston F. McDaniel

PFM/kth  
Enclosures

cc: Brett H. Bayne, Esquire

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

**RECEIVED**

MAR 29 2016

APPEAL FROM SOUTH CAROLINA  
WORKERS' COMPENSATION COMMISSION

**SC Court of Appeals**

Appellate Case No. 2014-001788

Clarence Winfrey, Employee, Claimant, ..... Respondent,

v.

Archway Services, Inc., Employer,  
and American Fire & Casualty Insurance  
Company c/o Liberty Mutual Group, Carrier, .....Appellants.

**AFFIDAVIT OF PRESTON F. McDANIEL**

I, PRESTON F. MCDANIEL, having been duly and properly sworn  
do depose and state:

1. That I am Counsel for the Respondent in the above-  
referenced matter.

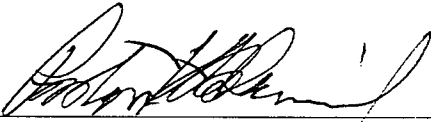
2. That following receipt of the Order of the Court  
ordering the Appellants in the above-referenced matter to  
provide medical care as ordered by the authorized treating  
physicians pursuant to SC Code §42-17-60, I contacted Mr. Brett

Bayne, Esquire, Attorney for the Appellants, asking to be advised as to his clients' intention as to compliance with the Order. A copy of that letter sent via email is attached hereto and incorporated herein by reference to this Affidavit. As of the time of the issuance of this Affidavit, I have received no response from Counsel for the Appellants.

3. That in addition as attached hereto and incorporated herein by reference, I forwarded a letter and email to the Scheduling Clerk at MUSC, Ms. Laura Waters, forwarding a copy of the Court's Order. A copy of that email to Ms. Waters was forwarded to Mr. Brett Bayne and Mr. Howard Altman, the assigned Rehab Nurse, advising Ms. Waters to coordinate the scheduling of the dental examination and the surgery with Mr. Altman.

4. That while not receiving a response directly to my inquiry to Counsel for the Appellants as to the intention of his clients concerning the provision of this medical care as Ordered by the Court, I did receive a copy of an email sent to Ms. Waters at MUSC from Counsel for the Appellants advising that they would not comply with the Order of the Court and would not be authorizing the medical care pursuant to that Order, at least until after the Court had a chance to rule on a "Motion for Rehearing". A copy of that email is attached hereto and incorporated herein by reference to this Affidavit.

FURTHER THE AFFIANT SAYETH NOT.

  
PRESTON F. MCDANIEL  
Affiant

March 24<sup>th</sup>, 2016

SWORN TO BEFORE ME this  
24<sup>th</sup> day of March, 2016.

  
\_\_\_\_\_  
Notary Public for South Carolina L.S.

My Commission Expires: 4-26-20

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Preston F. McDaniel

Telephone (803) 771-7211

Matthew Robertson

Facsimile (803) 252-0709

March 21, 2016

VIA EMAIL ONLY: [brett.bayne@mgclaw.com](mailto:brett.bayne@mgclaw.com)

Brett H. Bayne, Esquire  
McAngus Goudelock & Courie, LLC  
Post Office Box 12519  
Columbia, South Carolina 29211

RE: Clarence B. Winfrey, Jr. v. Archway Services, Inc.  
WCC File No. 1306305

Dear Brett:

I am in receipt of the Order of the Court of Appeals ordering medical care. I am sending a copy of this to Howard Altman. Please let me know as soon as possible the intentions of your client to comply with the Order and let's get this medical care, dental appointment, and surgery set up as soon as possible. I look forward to working with you and to hearing from you.

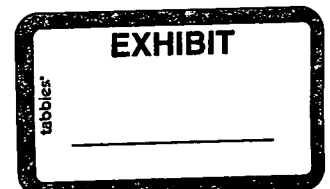
Sincerely yours,



Preston F. McDaniel

PFM/kth

cc: Mr. Howard Altman



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Preston F. McDaniel

Telephone (803) 771-7211

Matthew Robertson

Facsimile (803) 252-0709

March 23, 2016

VIA EMAIL ONLY: [watersl@musc.edu](mailto:watersl@musc.edu)  
Laura M. Waters, RN, PCCN  
Nurse Coordinator, Research & Patient Care  
South Carolina Heart Valve Center  
Medical University of South Carolina  
Charleston, SC 29425

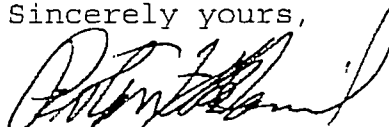
RE: Clarence B. Winfrey, Jr. v. Archway Services, Inc.  
WCC File No. 1306305

Dear Ms. Waters:

I got your name off of one of the medical records and please find attached an Order issued by the SC Court of Appeals ordering that the surgery requested by Dr. Ikonomidis be provided. We were in the process of getting the dental examination set up which we would ask Mr. Altman now to set up as soon as possible and you should coordinate with Mr. Howard Altman, the assigned Rehab Nurse, concerning the scheduling of the surgery.

By copy of this letter, I am notifying Mr. Altman and Mr. Bayne of this communication.

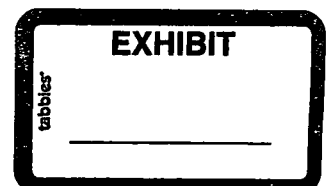
Sincerely yours,



Preston F. McDaniel

PFM/kth  
Enclosure

cc: Brett H. Bayne, Esquire (Via email only)  
Mr. Howard Altman (Via Email only)



# The South Carolina Court of Appeals

Clarence Winfrey, Employee, Claimant, Respondent,

v.

Archway Services Inc., Employer, and American Fire &  
Casualty Insurance Company c/o Liberty Mutual Group,  
Carrier, Appellants.

Appellate Case No. 2014-001788

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## ORDER

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This appeal stems from injuries Respondent sustained when Respondent was shocked with 240-480 volts of electricity while working on a rotisserie oven. On March 7, 2016, Respondent filed a motion to compel medical care pursuant to the award of the South Carolina Workers' Compensation Commission under section 42-17-60 of the South Carolina Code (2015). Respondent argued that Appellants had refused to authorize medical treatment recommended by Respondent's surgeon at the Medical University of South Carolina (MUSC), including a dental examination and valve repair surgery. On March 7, 2016, this court issued an order agreeing that medical treatment awarded by the Commission is not stayed on appeal pursuant to section 42-16-60, but finding the question of whether the medical treatment sought by Respondent was "medical treatment for his heart condition" as set forth in the Appellate Panel's order was a question more appropriate for the Commission.

Respondent has now filed a petition for rehearing, explaining that Respondent's "condition is extremely delicate," Respondent's surgeon at MUSC sought to schedule valve repair surgery within seven days of January 5, 2016, and any delay could result in "an absolutely devastating situation for [Respondent], up to and including his death."

After careful review of this matter, Respondent's motion is granted. We reject Appellants' position that depositions are necessary at this time to establish whether the recommended treatment is causally related to Respondent's heart condition given that Respondent's surgeon recommended valve repair surgery within seven days of January 5, 2016. We note that nothing prevents Appellants from raising the issue after Respondent receives the recommended treatment.

*Preston F. McDaniel*

J.

*George D. Gallagher*

J.

*Brett Harris Bayne*

J.

Columbia, South Carolina

cc:

Brett Harris Bayne, Esquire  
George D. Gallagher, Esquire  
Preston F. McDaniel, Esquire

**FILED**  
March 18, 2016 *Jak*

## Kim Hinkle

---

**From:** Brett Bayne <brett.bayne@mgclaw.com>  
**Sent:** Wednesday, March 23, 2016 4:02 PM  
**To:** Kim Hinkle; watersl@muscd.edu  
**Cc:** Altman, Howard  
**Subject:** RE: URGENT - Clarence Winfrey

Laura,

You are certainly free to schedule this at your convenience. However, this care **has not been authorized** by the carrier at this time until the Court has had a chance to rule on our Motion for Rehearing. I do not expect that decision until next week at the earliest.

Thank you,

Brett

---

**From:** Kim Hinkle [<mailto:kim@pfmcdlaw.com>]  
**Sent:** Wednesday, March 23, 2016 3:56 PM  
**To:** [watersl@muscd.edu](mailto:watersl@muscd.edu)  
**Cc:** Brett Bayne; Altman, Howard  
**Subject:** URGENT - Clarence Winfrey  
**Importance:** High

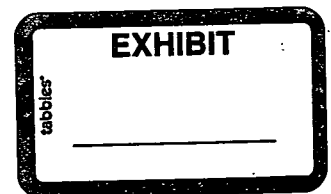
The attached is being sent to you at the request of Preston F. McDaniel.

Kimberley T. Hinkle, Senior Paralegal  
to Preston F. McDaniel  
McDaniel Law Firm  
1315 Elmwood Avenue  
Columbia, South Carolina 29201  
T: 803-771-7211  
F: 803-252-0709

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**Brett Bayne, Attorney**  
[brett.bayne@mgclaw.com](mailto:brett.bayne@mgclaw.com)  
1320 Main Street, 10th Floor  
Columbia, SC 29201  
Main: 803-779-2300 | Direct: 803-227-2281 | Fax: 803-748-0526  
VCARD | BIO



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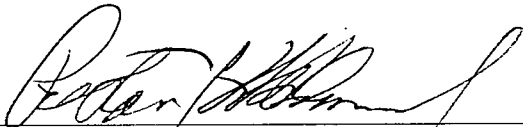
Archway Services, Inc., Employer,  
and American Fire & Casualty Insurance  
Company c/o Liberty Mutual Group, Carrier, ..... Appellants.

PROOF OF SERVICE

I certify that I have served the LETTER TO HONORABLE JENNY ABBOTT KITCHINGS DATED MARCH 24, 2016 REQUESTING ENFORCEMENT OF ORDER OF THE COURT ORDERING MEDICAL CARE FILED MARCH 18, 2016 and AFFIDAVIT OF PRESTON F. MCDANIEL by depositing a copy of it in the United States Mail, postage prepaid, on March 24, 2016 addressed to:

Brett H. Bayne, Esquire  
McAngus, Goudelock & Courie  
Post Office Box 12519  
Columbia, SC 29211

Dated: March 24, 2016

  
Preston F. McDaniel  
MCDANIEL LAW FIRM  
1315 Elmwood Avenue  
Columbia, South Carolina 29201  
(803) 771-7211

Attorney for Respondent