

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

Proudly representing injured workers  
for over 30 years

Preston F. McDaniel

Telephone (803) 771-7211

Matthew C. Robertson

Facsimile (803) 252-0709

July 7, 2016

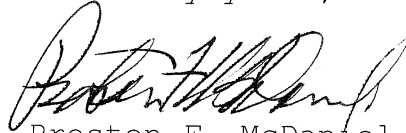
VIA EMAIL - [sdebruhl@wcc.sc.gov](mailto:sdebruhl@wcc.sc.gov)  
Chairman T. Scott Beck  
SC Workers Compensation Commission  
1333 Main Street  
Columbia, South Carolina 29202

RE: **Clarence B. Winfrey v. Archway Service, Inc.**  
**WCC File No. 1306305**

Dear Chairman Beck:

Because of Mr. Bayne's response and so the Commission will have a copy of it, please find attached a copy of the Petition that I have just filed in the Supreme Court which is self-explanatory. I would ask you to take a look at the portion of the Order from the Court of Appeals quoted in the Petition ordering Mr. Bayne's clients to provide the surgery and treatment and their findings concerning no depositions or challenge until after the treatment is provided.

Sincerely yours,



Preston F. McDaniel

PFM/rmt

cc: Honorable Paula H. Thomas (via email: [pthomas@sccourts.org](mailto:pthomas@sccourts.org))  
Brett Bayne, Esquire (Via Email: [brett.bayne@mgclaw.com](mailto:brett.bayne@mgclaw.com))

THE STATE OF SOUTH CAROLINA  
In the Supreme Court

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APPEAL FROM SOUTH CAROLINA  
WORKERS' COMPENSATION COMMISSION

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Appellate Case No: 2014-001788

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Clarence Winfrey, Employee, ..... Petitioner,

v.

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

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PETITION FOR AN EX PARTE ORDER OF PROTECTION  
POSTPONING THE DEPOSITION SET FOR JULY 11, 2016  
AND FOR WRITS OF PROHIBITION AND MANDAMUS

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The Petitioner pursuant to Rule 240 and 245(b), SCACR hereby petitions the Court for an ex parte emergency Order of Protection in reference to the deposition set for July 11, 2016 and after due and proper Notice pursuant to and in accordance with Rule 245, SCACR, for extraordinary Writs of Prohibition and Mandamus. Said Petition is based upon the following:

1. That as is attached hereto and incorporated

herein by reference, that the Petitioner filed a Motion for an Emergency Order of Protection with the SC Court of Appeals for the reasons set forth in the Motion and supporting Memorandum on July 5, 2016.

2. That as set forth in the Motion for an Emergency Protective Order filed with the Court of Appeals, the Court had previously ordered the Respondents, the Appellants before the SC Court of Appeals, to provide medical care and specifically the surgery referred to in the Court's Order. The Order provided that the Respondents could not challenge that medical care in any way shape or fashion including depositions until after that medical care had been provided.

3. That in its Order attached hereto and incorporated herein by reference on July 6<sup>th</sup> per the ruling of Judge Paula H. Thomas, the SC Court of Appeals denied the Motion for an Emergency Protective Order on the basis that the, "Appellate Panel" of the SC Workers' Compensation Commission, "retained jurisdiction over motions related to this type of discovery and depositions" and then ruled that, "because this motion is more appropriate for the Appellate Panel", the motion for a protective order was denied.

4. That the above-referenced matter is on appeal

before the SC Court of Appeals and pursuant to SC Code §42-17-60 that Court has jurisdiction over the provision of medical care and the payment of compensation after and during the pendency of the appeal before the Court. The denial of compensation and medical care are the specific issues before the Court.

5. That further there is no such standing entity as the Appellate Panel as referred to by the SC Court of Appeals at the SC Workers' Compensation Commission. Workers' compensation claims are heard by a Hearing Commissioner under SC Code §42-17-40 and then that decision can be appealed to the Full Commission pursuant to SC Code §42-17-50. That review may be assigned to three-member panels for the hearing of those appeals §42-3-20. Those panels are assigned on a rotating basis among the Commissioners and the three-members panels only meet for three (3) days out of one week each month to hear only appeals. The panels and the Full Commission are not meeting at this time and only meet on the third week of each month. Petitioner would request that the Court take judicial notice of this fact.

6. That under the Commission's Regulations, individual Commissioners hear motions in reference to discovery and depositions, not an, "Appellate Panel". See:

S.C. Workers' Compensation Regulation 67-215. Therefore, there is no standing entity known as "Appellate Panel" and there is no, "Appellate Panel" in existence at this time to which the Petitioner may file a motion as referred to in the SC Court of Appeal's Order. Therefore, the Order refers to an entity that does not exist as a standing entity and does not exist in reference to the hearing of motions nor to an entity with any jurisdiction over motions.

7. That further as noted above, the SC Court of Appeals has exclusive jurisdiction over the appeal and all matters in reference thereto and specifically the provision of medical care and compensation. See: Rule 205, SCACR.

8. That finally, the only possible remedy available to Petitioner outside of the SC Court of Appeals' July 6<sup>th</sup> Order which refers the Petitioner to a non-existing entity for the filing of a motion, is a Petition for Rehearing filed with the SC Court of Appeals under Rule 240(j), which provides for a review of any Order issued by an individual Judge by a three-member panel of the Court. However, that Rule also provides for and requires ten (10) days service of any such Petition under subsection (e). Due to the emergent situation involved, there is insufficient time to allow for such rehearing and the Petitioner.

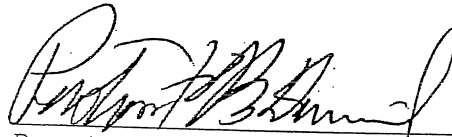
WHEREFORE, the Petitioner would respectfully petition the Court based on the special grounds of emergency for an ex parte Protective Order postponing the deposition set for July 11, 2016 and subsequently pursuant to Rule 240 and 245(b), SCACR, for Writs of Mandamus and Prohibition addressed to the SC Court of Appeals.

The Petitioner would respectfully request a Writ of Mandamus be issued directing the SC Court of Appeals to perform the ministerial act of enforcing its Order in reference to the deposition and to rule on the matters within its jurisdiction pursuant to the appeal which is currently pending before the SC Court of Appeals in reference to the Motion for a Protective Order as to the provision of medical care and for such further relief as requested in the Motion. In reference to the Writ of Mandamus, the Petitioner would cite the case of: In The Interest of Lyde, 284 S.C. 419, 327 S.E.2d 70 (1985).

The Petitioner would respectfully request a Writ of Prohibition being issued prohibiting the SC Court of Appeals from enforcing its Order of July 6<sup>th</sup> directing the Petitioner to file a Motion with an entity that does not exist for the hearing of such motions at the SC Workers' Compensation Commission. As to the Writ of Prohibition, the Petitioner would cite to the case of Berry v. Lindsay, 256

S.C. 282, 182 S.E.2d 78 (1971) (a Writ of Prohibition may issue in a proper case to restrain a judicial act).

Respectfully submitted,



---

Preston F. McDaniel, Esquire  
SC Bar No. 3770  
MCDANIEL LAW FIRM  
1315 Elmwood Avenue  
Columbia, South Carolina 29201  
(803) 771-7211

Attorney for Petitioner

July 7, 2016

# 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.

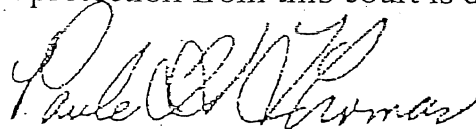
Appellate Case No. 2014-001788

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## ORDER

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Respondent has filed an emergency motion for an order of protection, seeking this court to postpone a deposition set for July 11, 2016. As this court has previously noted, the Appellate Panel has retained jurisdiction over motions relating to this type discovery and depositions. Because this motion is more appropriate for the Appellate Panel, the motion for an order of protection from this court is denied.



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FOR THE COURT

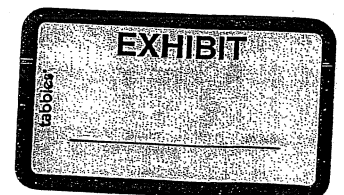
Columbia, South Carolina

cc:

Brett Harris Bayne, Esquire  
Preston F. McDaniel, Esquire  
Amy Bracy

**FILED**

July 6, 2016



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ATTORNEYS AND COUNSELORS AT LAW  
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COLUMBIA, SOUTH CAROLINA 29201

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Preston F. McDaniel

Telephone (803) 771-7211

Matthew Robertson

Facsimile (803) 252-0709

July 5, 2016

**EMERGENCY!! IMMEDIATE  
ATTENTION REQUESTED!!**

VIA EMAIL - [callen@sccourts.org](mailto:callen@sccourts.org)

AND VIA FACSIMILE - 734-1839

AND HAND DELIVERY

V. Claire Allen

Deputy Clerk of Court

SC Court of Appeals

1220 Senate Street

Columbia, South Carolina 29211

RE: Clarence Winfrey v. Archway Services, Inc.  
Appellate Case No. 2014-001788

Dear Ms. Allen:

Attached is an emergency Motion due to the refusal of the Appellants' Counsel to cancel a deposition set for July 11, 2016 with a doctor at the Medical University of South Carolina, Dr. John Ikonomidis. As the Motion states, we first became aware on Friday, July 1<sup>st</sup> that this deposition had been specifically set and after notifying Counsel for the Appellants that we had not received any Notice that the deposition had been set and that I had protection for that week and that I would be out of the country. Counsel responded by notifying me that the deposition was going forward and I was then served at approximately 4:00 o'clock p.m. on this past Friday afternoon, July 1<sup>st</sup>, with Notice of the deposition.

I would ask the Court to please note its Order compelling medical care and that the ordered care including the surgery has not been performed.

I am asking for either an ex parte Order postponing the deposition at this point and/or the Court granting the Appellants a very short period of time of no more than forty-eight (48) hours to respond so that the Court will have at least some time to review the Motion and response and an Order then postponing the deposition.

V. Claire Allen  
Deputy Clerk of Court, SC Court of Appeals  
July 5, 2016  
Page 2 of 2

The required \$25.00 filing fee is attached hereto along with a Proof of Service via hand delivery and facsimile. As always I appreciate all the courtesies and kindnesses shown to me by the Court.

As noted, I will be leaving Columbia on the evening of July 9<sup>th</sup> and via air from Charlotte, North Carolina on Sunday, July 10<sup>th</sup> and am scheduled to go to a wedding here on Saturday, July 9<sup>th</sup> but will make myself available through Saturday night at 9:00 o'clock p.m. should the Court wish to hear Counsel on this issue.

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

APPEAL FROM SOUTH CAROLINA  
WORKERS' COMPENSATION COMMISSION

Appellate Case Nos: 2014-001788

**RECEIVED**

JUL 05 2016

SG 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.

EMERGENCY MOTION FOR AN ORDER OF PROTECTION  
POSTPONING THE DEPOSITION OF DR. JOHN IKONOMIDIS  
SET FOR JULY 11, 2016 UNTIL FURTHER ORDER OF  
THE COURT AND FURTHER TO A MEMORANDUM SCHEDULE  
AS TO WHETHER OR NOT THE DEFENDANTS HAVE THE  
RIGHT TO TAKE DEPOSITIONS DURING THE  
PENDENCY OF THE APPEAL(S)

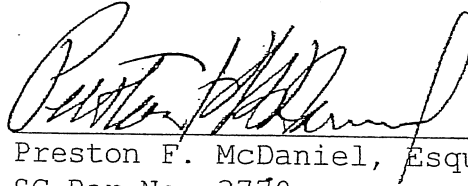
TO: SC COURT OF APPEALS AND MR. BRETT BAYNE, COUNSEL FOR  
THE APPELLANTS:

YOU WILL PLEASE TAKE NOTICE that pursuant to Rule 240  
(and specifically subsections (d)(e), SCACR, the Respondent  
hereby moves for an Order of Protection from the Court  
cancelling and postponing the deposition scheduled for July  
11<sup>th</sup> and ordering that it not be reset until further Order

of the Court and for the further relief as requested in the Motion. Pursuant to Rule 240(e), SCACR, and due to the emergent situation involved, the Respondent would request that the Court limit the time for filing the Return and Order the Appellants to respond in forth-eight (48) hours or less and/or that the Court after review of the Motion grant the Motion *ex parte* to the extent of cancelling the deposition scheduled for July 11, 2016. This extraordinary request is made because of the facts as more specifically set forth in the Memorandum in Support of the Motion but specifically the Respondent was served with the Notice of Deposition without Subpoena at approximately 4:00 o'clock p.m. on Friday, July 1<sup>st</sup> and this Motion is being filed with the Court and served on the Defendants on the next business day July 5<sup>th</sup>, 2016; the Deposition is set for Monday, July 11, 2016 at 2:00 o'clock p.m. The Respondent further requests in this Motion that the Court set a timetable for the filing of Memorandums from the parties as to whether or not during the pendency of an appeal where the Appellants are paying benefits pursuant to SC Code §42-17-60 the Appellants have the right to take the depositions as to any issues on appeal and if so, under what procedure. Said Motion is further based upon the Memorandum in Support attached hereto and incorporated herein by reference.

I SO MOVE.

Respectfully submitted,



Preston F. McDaniel, Esquire  
SC Bar No. 3770

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

Attorney for Movant/Respondent

July 5, 2016

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

RECEIVED

JUL 05 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.

MEMORANDUM IN SUPPORT OF  
EMERGENCY MOTION FOR AN ORDER OF PROTECTION  
POSTPONING THE DEPOSITION OF DR. JOHN IKONOMIDIS  
SET FOR JULY 11, 2016 UNTIL FURTHER ORDER OF  
THE COURT AND FURTHER TO A MEMORANDUM SCHEDULE  
AS TO WHETHER OR NOT THE DEFENDANTS HAVE THE  
RIGHT TO TAKE DEPOSITIONS DURING THE  
PENDENCY OF THE APPEAL(S)

The Movant, Respondent before this Court as to the  
appeal filed in the above-referenced matter, would  
respectfully show unto the Court as follows:

1. That the above-referenced matter is currently on  
appeal to this Court and is an appeal by the Appellants,  
the Defendants below from a Decision rendered in favor of  
the injured worker, the Respondent to the appeal and the

Movant herein, wherein the SC Workers' Compensation Commission determined that the Respondent had suffered compensable injury by accident and was entitled to temporary total disability benefits and medical care until further Order of the Commission.

2. That the provisions of SC Code §42-17-60 (as Amended effective July 1, 2007) requires that after appeal to this Court, the Employer and its Insurance Carrier, Appellants and the Defendants below, are required to make payments of weekly compensation benefits and to provide for, "medical treatment ordered by the Commission involved in the appeal or certification until the questions at issue have been fully determined in accordance with the provisions of this Title".

3. That previously the Appellants refused to pay for medical care as directed by the authorized treating physicians, Dr. Jeffrey Travis and Dr. Lanneau Lide, through the Medical University of SC in Charleston, SC. A Petition was filed ordering the Appellants to provide care. By Order of this Court, this Court ordered the Appellants to provide that medical care and at this time surgery is currently pending.

4. That as set forth in the Affidavit of Counsel for the Respondent attached hereto and incorporated herein by

reference, on Friday July 1, 2016, Counsel for Respondent received a series of emails which emails made reference to a deposition of Dr. John Ikonomidis set for July 11, 2016. Counsel for Respondent immediately contacted Counsel for the Appellants and notified him that he had not been served with any Notice of Deposition and that in addition, that Respondent's Counsel had protection for all matters due to vacation that week; that he would be out of the country on July 11<sup>th</sup> and requested that the deposition at this point be cancelled and reset. Counsel further noted the position that since the Appellants were paying medical benefits pursuant to the Act during the pendency of the appeal of the Award, that the Appellants had no right to a deposition in this matter until resolution of the appeal.

5. That late in the afternoon of Friday, July 1<sup>st</sup>, after notifying Counsel for the Appellants that Counsel for the Respondent had not received notice of the deposition and would be out of the country, the response of Counsel for the Appellants first sent an email at 3:37 o'clock p.m. was to notify Counsel that a courier would be delivering a Notice of Deposition to Counsel for the Respondent and that the deposition would be going forward. Subsequently at approximately 4:00 o'clock p.m. on the afternoon of Friday, July 1<sup>st</sup>, a courier delivered a copy of the Notice of

Deposition to Counsel for the Respondent without Subpoena.

6. That as noted above, this matter is currently on appeal before this Court on the Award of benefits including medical and specifically whether or not the Respondent is entitled to medical care is an issue before the Court at this time. SC Code §42-17-60 provides that during the pendency of the appeal from an Award of the Commission that the Appellants are required to provide medical treatment as ordered by the Commission pursuant to the Award. This Court therefore has jurisdiction over any issues relative to the provision of medical care during the pendency of the appeal. Counsel has not been served with any Motion or request made to this Court before whom this matter is currently pending requesting permission to take the deposition setting forth the reasons for such deposition.

Counsel for the Respondent would also note to the Court that the provisions of SC Code §1-23-380(3) specifically provide for the submission of additional evidence and the process for requesting to be allowed to submit additional evidence. Again, at this point in time this is an appeal pending before this Court and the Record is set. The Appellants are required pursuant to the provisions of §42-17-60 to provide medical care as ordered by the Commission during the pendency of the appeal. They

have no right to contest that medical care in any way, shape or form.

Finally, in its Order compelling medical care filed March 18, 2016, the Court specifically held:

"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 (7) days of January 5, 2016. We note that nothing prevents Appellants from raising the issue after Respondent receives the recommended treatment."

The appropriate method, of course, would be to comply with §1-23-380 if the matter is still pending in this Court or in accordance with the Act if the appeal has been concluded and the matter returned to the Commission.

7. That the Notice of Deposition also did not include a Subpoena pursuant to Rule 45, SCRCP, but stated that it was being served pursuant to the Circuit Court Rules as allowed under the SC Workers' Compensation Act. However again, not only is this matter pending before this Court and no request has been made to this Court, the Circuit Court Rules in reference to the taking of depositions and Rule 30, SCRCP, specifically provides that:

"(b) (2) If a party shows that when he was served with Notice under this subsection (b) (2), he was unable through the excise

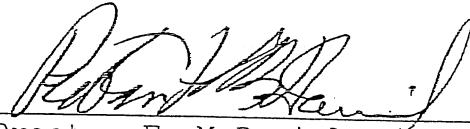
of diligence to obtain Counsel to represent him at the taking of the deposition, the deposition may not be used against him.

(b) (3) The Court may for cause shown enlarge or shorten the time for the taking of deposition."

Rule 26(c) specifically provides for a protective order which justice requires to protect a party from among other things as oppression and the Order may in reference to depositions and among the bases for such Order include that under subsection (2) the discovery may only be had under certain specific terms and conditions including the designation of time and place; or under subsection (1) that the discovery not be had.

Wherefore, the Movant/Respondent would respectfully request that the Court issue an *ex parte* Order or an Order after Return and review cancelling and postponing the deposition and ordering that it not be reset until further Order of the Court; and, that in addition the Court consider pursuant to this Motion issuing an Order directing the parties to submit Memorandums as to whether or not the Appellants may institute the depositions for additional evidence and set forth the framework by which such requests may be made during the pendency of an appeal.

Respectfully submitted,



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Preston F. McDaniel, Esquire  
SC Bar No. 3770  
MCDANIEL LAW FIRM  
1315 Elmwood Avenue  
Columbia, South Carolina 29201  
(803) 771-7211

Attorney for Movant/Respondent

July 5, 2016

Kim Hinkle

---

From: Brett Bayne <brett.bayne@mgclaw.com>  
Sent: Friday, July 01, 2016 11:40 AM  
To: Hyland, Betsy  
Cc: Altman, Howard; Elizabeth.Wrinkle@LibertyMutual.com; Kim@PFMCDlaw.com; Ikonomidis, John S.  
Subject: Re: Clarence Winfrey 22209963

Betsy,

The July 11 deposition doesn't preclude you from performing the surgery before that date if that's what Dr Ikonomidis wants to do.

Brett H. Bayne  
Attorney  
MGC  
O: 803-227-2281  
C: 214-405-8175

Sent from my iPhone

On Jul 1, 2016, at 11:37 AM, Hyland, Betsy <puthofey@musc.edu<mailto:puthofey@musc.edu>> wrote:

Howard,

Dr. Ikonomidis returned to the office yesterday. I talked to him about the scheduling of Mr. Winfrey's surgery. Dr. Ikonomidis is scheduled with Brett Bayne for a deposition regarding Mr. Winfrey's surgery on Monday, July 11th. We did not think we could schedule anything regarding surgery until after that. We are confused regarding the next step. Any suggestions?

Whenever we scheduled surgery, we will have to admit Mr. Winfrey to the hospital the day before. He needs a cardiac catheterization, pulmonary functions, carotid duplex exam, chest x-ray, labs, etc.

Betsy

Betsy P. Hyland

Administrative Assistant John S. Ikonomidis, MD

MUSC Cardiothoracic Surgery

843-876-4842 Office

843-876-4866 Fax



puthofey@musc.edu<mailto:puthofey@musc.edu>

From: Altman, Howard [mailto:Howard.Altman@genexservices.com]  
Sent: Wednesday, June 22, 2016 1:50 PM  
To: Hyland, Betsy; Waters, Laura  
Cc: Elizabeth.Wrinkle@LibertyMutual.com<mailto:Elizabeth.Wrinkle@libertymutual.com>;  
brett.bayne@mgclaw.com<mailto:brett.bayne@mgclaw.com>;  
Kim@PFMCDlaw.com<mailto:Kim@pfmcdlaw.com>  
Subject: RE: Clarence Winfrey 22209963

Thanks, Betsy.

Howard Altman, RN, BSN  
Field Medical Case Manager / Charlotte Midlands  
Genex Services  
O 704.503.4775  
C 803.530.9693 (preferred)  
F 866.268.3974  
TF 800.456.7890

howard.altman@genexservices.com<mailto:howard.altman@genexservices.com>

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GENEX Services, Inc.

Please note in the HIPAA Privacy Rule Standards: "A covered entity is permitted to disclose an individual's protected health information as necessary to comply with and to the full extent authorized by workers' compensation law. See 45 CFR 164.512(I)"

From: Hyland, Betsy [mailto:puthofey@musc.edu]  
Sent: Wednesday, June 22, 2016 10:07 AM  
To: Altman, Howard; Waters, Laura  
Cc: Elizabeth.Wrinkle@LibertyMutual.com<mailto:Elizabeth.Wrinkle@LibertyMutual.com>;  
brett.bayne@mgclaw.com<mailto:brett.bayne@mgclaw.com>;  
Kim@PFMCDlaw.com<mailto:Kim@PFMCDlaw.com>  
Subject: RE: Clarence Winfrey 22209963

All,

Presently, Dr. Ikonomidis is out of the office until Thursday, June 30th. I will get with him when he returns regarding surgery for Mr. Winfrey.

Thanks to everyone for their assistance with this matter.

Betsy

Betsy P. Hyland

Administrative Assistant John S. Ikonomidis, MD

MUSC Cardiothoracic Surgery

843-876-4842 Office

843-876-4866 Fax

puthofey@musc.edu<mailto:puthofey@musc.edu>

From: Altman, Howard

[mailto:Howard.Altman@genexservices.com]<mailto:[mailto:Howard.Altman@genexservices.com]>

Sent: Monday, June 20, 2016 3:27 PM

To: Waters, Laura; Hyland, Betsy

Cc: Elizabeth.Wrinkle@LibertyMutual.com<mailto:Elizabeth.Wrinkle@LibertyMutual.com>;

brett.bayne@mgclaw.com<mailto:brett.bayne@mgclaw.com>;

Kim@PFMCDlaw.com<mailto:Kim@PFMCDlaw.com>

Subject: Clarence Winfrey 22209963

Laura and Betsy,

Here are the dental records I have received on Thursday, 6-16-16. I will wait for your response regarding Mr. Winfrey's surgery.

Thank you,

Howard Altman, RN, BSN

Field Medical Case Manager / Charlotte Midlands

Genex Services

O 704.503.4775

C 803.530.9693 (preferred)

F 866.268.3974

TF 800.456.7890

oward.altman@genexservices.com<mailto:oward.altman@genexservices.com>

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GENEX Services, Inc.

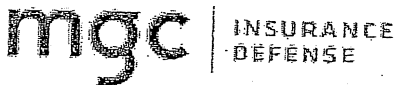
Please note in the HIPAA Privacy Rule Standards: "A covered entity is permitted to disclose an individual's protected health information as necessary to comply with and to the full extent authorized by workers' compensation law. See 45 CFR 164.512(I)"

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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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Please consider the environment before printing this email.

Kim Hinkle

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From: Brett Bayne <brett.bayne@mgclaw.com>  
Sent: Friday, July 01, 2016 2:52 PM  
To: Kim Hinkle  
Subject: Re: Clarence Winfrey v. Archway Services, Inc; WCC File No. 1306305

We will be taking Dr Ikonomidis deposition on July 11 as has been set for roughly two months now and in accordance with the Court of Appeals order permitting the deposition in this matter.

I have no control over the surgery or what he chooses to do with that. It has been approved to go forward from the carrier's perspective.

Brett H. Bayne  
Attorney  
MGC  
O: 803-227-2281  
C: 214-405-8175

Sent from my iPhone

On Jul 1, 2016, at 2:48 PM, Kim Hinkle <kim@pfmcdlaw.com<mailto:kim@pfmcdlaw.com>> wrote:

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

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

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**Preston mcDaniel**

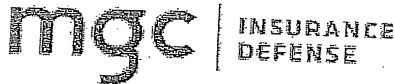
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**From:** Fiona Reed <[fiona.reed@mgclaw.com](mailto:fiona.reed@mgclaw.com)>  
**Sent:** Friday, July 01, 2016 3:37 PM  
**To:** [preston@pfmcdlaw.com](mailto:preston@pfmcdlaw.com)  
**Cc:** [barbara@pfmcdlaw.com](mailto:barbara@pfmcdlaw.com); Brett Bayne  
**Subject:** Clarence Winfrey v. Archway Services  
**Attachments:** NOD Ikonomidis.pdf

Mr. McDaniel,

Please see attached. A courier from our office will be arriving shortly to deliver the hard copy.

Thank you,  
Fiona R. Reed  
Legal Assistant to Brett Bayne



Fiona Reed, *Secretary*  
[fiona.reed@mgclaw.com](mailto:fiona.reed@mgclaw.com)  
1320 Main Street, 10th Floor  
Columbia, SC 29201  
Main:803-779-2300 | Direct:803-227-2242 | Fax:803-748-0526  
VCARD

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~~STATE OF SOUTH CAROLINA~~

COUNTY OF RICHLAND

CLARENCE WINFREY,

Claimant/Plaintiff,

v.

AMERICAN FIRE & CASUALTY  
INSURANCE COMPANY C/O LIBERTY  
MUTUAL GROUP,

Carrier/Defendant,

and

The State of South Carolina

Defendants.

~~IN THE COURT OF COMMON PLEAS~~

FIFTH JUDICIAL CIRCUIT

Civil Action No. 2013-CP-40-05888

**NOTICE OF DEPOSITION OF JOHN  
IKONOMIDIS, MD**

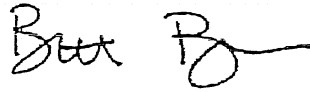
TO COUNSEL OF RECORD:

YOU WILL PLEASE TAKE NOTICE: That pursuant to Rule 30 of the South Carolina Rules of Civil Procedure, the Defendant, American Fire & casualty Insurance Company C/O Liberty Mutual Group, will take the deposition upon oral examination of JOHN IKONOMIDIS, MD, before a Notary Public or some other official authorized by law to take depositions, at the offices of MUSC, Strom Thurmond Building, 114 Doughty Street, Charleston, South Carolina 29425 on July 11, 2016 at 2:00 p.m.

The oral examination will continue from day to day until completed. You are invited to attend and participate.

*[Signature Page to Follow]*

MCANGUS GOUDELOCK & COURIE, L.L.C.



---

Brett H. Bayne, Bar No. 100018  
Post Office Box 12519, Capitol Station  
Meridian, 1320 Main Street, 10<sup>th</sup> Floor (29201)  
Columbia, South Carolina 29211-2519  
(803) 779-2300

ATTORNEYS FOR DEFENDANT, AMERICAN  
FIRE & CASUALTY INSURANCE COMPANY  
C/O LIBERTY MUTUAL GROUP

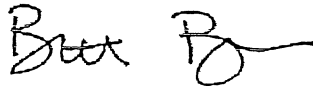
Columbia, South Carolina  
July 1, 2016

~~SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION~~

W.C.C. FILE NO: 1306305

TO: PRESTON F. MCDANIEL, ESQUIRE, ATTORNEY FOR CLAIMANT:

PLEASE TAKE NOTICE that the oral deposition of in the above-captioned action, will be taken pursuant to Section 42-3-160 of the South Carolina Code of Laws, 1976, before a Notary Public for South Carolina, or before some other officer authorized by law to take depositions on Monday the 11th day of July, 2016, at 2:00pm and from day to day thereafter until the taking of the deposition is adjourned, at the offices of . You are hereby notified of the time and place, and you are further invited to attend and participate. This deposition is being taken for the purpose of discovery, for use at trial and for all other purposes as are permitted under the rules of the Commission and all applicable statutes and laws.



---

Brett H. Bayne  
MCANGUS GOUDELOCK & COURIE, L.L.C.  
Post Office Box 12519, Capitol Station  
1320 Main Street. 10<sup>th</sup> Floor  
Columbia, South Carolina 29211-2519  
(803) 779-2300  
Attorneys for the Employer/Carrier

July 1, 2016  
Columbia, South Carolina

W.C.C. FILE NO: 1306305

RECEIVED

JUL 05 2016

SC Court of Appeals

CLARENCE WINFREY,

Employee,

Claimant,

vs.

ARCHWAY SERVICES INC,

Employer,

AND

CERTIFICATE  
OF  
SERVICE

AMERICAN FIRE & CASUALTY  
INSURANCE COMPANY c/o LIBERTY  
MUTUAL GROUP,

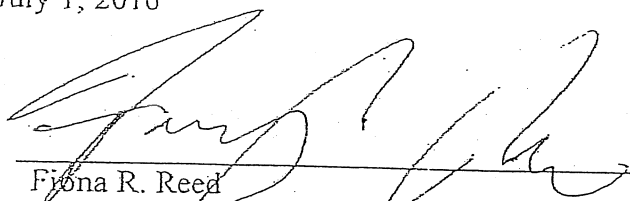
Carrier,

Defendants.

The undersigned certifies that she is an employee at MCANGUS GOUDELOCK & COURIE, and that she has served, on the date set forth below, a copy of the document described below, in the above entitled action to the following persons, pursuant to Section 15-9-930 and Section 15-9-940 of the Code of Laws of South Carolina, 1976, by depositing a copy of same in the United States Mail, postage prepaid, addressed to:

TO: Preston F. McDaniel, Esquire  
The McDaniel Law Firm  
1315 Elmwood Avenue  
Columbia, South Carolina 29201

DATE OF MAILING: July 1, 2016

  
\_\_\_\_\_  
Fiona R. Reed  
Legal Assistant to Brett H. Bayne

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM SOUTH CAROLINA  
WORKERS' COMPENSATION COMMISSION

Appellate Case No. 2014-001788

RECEIVED

JUL 05 2016

SC Court of Appeals

Clarence Winfrey, Employee, ..... Respondent/Movant,

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 Movant/Respondent in the above-referenced matter.

2. That on Friday, July 1, 2016, my office received a series of emails, which are attached hereto and incorporated herein by reference, including an email from Betsy Hyland at MUSC (11:37 a.m., 7/1/16), to which Counsel for the Appellants responded (11:40 a.m., 7/1/16, iPhone)

both of which mention a deposition of Dr. John Ikonomidis on July 11, 2016.

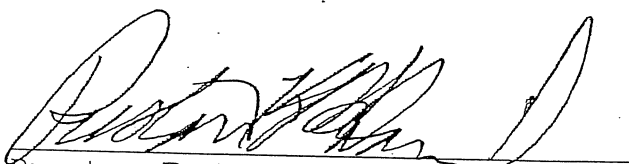
3. That upon notification of these emails, Counsel for the Movant/Respondent immediately forwarded an email to Counsel for the Appellants notifying him that Respondent's Counsel was unaware of the deposition set for July 11<sup>th</sup>, had not received or been served with Notice of the Deposition and also Counsel for the Respondent advised Counsel for the Appellants that he had protection for the weeks of July 4<sup>th</sup> and July 11<sup>th</sup> and in fact was out of the country on vacation during the week of July 11<sup>th</sup>. On all of these bases I asked that this deposition be cancelled.

4. That in reply, Respondent's Counsel received an email at 3:37 o'clock p.m. from Counsel for the Appellants notifying him that the deposition was going forward, attaching a copy of a Notice of Deposition signed that day, July 1<sup>st</sup>, and also notifying Counsel for the Respondent that he would be served that afternoon via courier with a copy of the Notice of Deposition in compliance with the ten (10) days' notice requirement of the Circuit Court Rules.

5. That subsequent thereto at approximately 4:00 o'clock p.m. on July 1<sup>st</sup>, Counsel's office received via courier hand delivered a copy of the Notice of Deposition without Subpoena.

6. That Respondent's Counsel was and is under the impression in accordance with the Court's Order which became final on April 8, 2016, the Appellants can take no further action until at least after the medical care is provided and as noted in the emails, the dental records were not submitted until June 16, 2016 and the surgery has not been scheduled in part due to Appellants' actions as to the deposition.

FURTHER THE AFFIANT SAYETH NOT.



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

SWORN TO BEFORE ME this  
5<sup>th</sup> day of July 2016.

H. Suley T. Hulle (L.S.)  
Notary Public for South Carolina

My Commission Expires: 4-26-20