

State of South Carolina)
County of Richland)

Terry McCall, Pro Se
Plaintiff

Vs,

Trojan Labor/Hire Quest, LLC
And
Ace American Insurance Co.
Defendants

In The Court of Appeals
Case # _____

Motion for Default
against WCC# 1410083
IN VIOLATION OF S.C.
Code Ann Regulation 67-603(B)

RECEIVED
JUL 08 2016
SC Court of Appeals

Now comes the above named Plaintiff, Pro Se' to move this Court for and Order for Default against the Defendants.

The Plaintiff alleges he filed a workers Compensation Claim against the Defendant on November 20, 2014 using form 50 requesting a hearing for injuries he sustained on July 4th, 2014. Previously, before this filing Plaintiff was represented by counsel Paul Rathke whom was relieved. The Plaintiff also filed an additional form 50 requesting a hearing, for injuries he sustained on June 30, 2014, on November 20, 2014 as well. The Plaintiff argues the Defendants failed to respond in a timely manner of (30) days with their deivals, the Plaintiff alleges he mailed out both forms on November 18, 2014 to S.C. Workers Comp. Commission, and to the Defendants, the S.C. Commissioner for Workers Comp. received theirs and filed it November 20, 2014, the Defendants did not respond until February 23, 2015, exceeding their (30) day period. The Plaintiff directs the Court to: Adams v. Westinghouse SRS, 2009 WL 9529469 where respondents waived their Affirmative defenses pursuant to 25A S.C. Code Regulations 67-603 C by failing to respond in a timely manner.

The Plaintiff alleges he sought relief on Appeal and Motion for Default after failing to prevail at his hearing 8-28-2015. Being the information was not made aware to the Plaintiff until after the hearing, the Plaintiff's Appeal and Motion for Default was rejected and unprocessed due to his indigent status at the time of the Plaintiff.

The S.C. Workers Compensation Commission Executive Director, Gary M. Cannon knows the Defendants are in Default, And the Agency is denying rejecting Plaintiffs filings, due to his indigency status. However the record reflects a previous Motion for Reconsideration fee was granted due to indigency status. However, nothing changed other than prejudice against the Plaintiff due to the fact, the Defendants are in Default.

therefor the Plaintiff prays the Court finds the Defendants are in Default and Order a judgment on behalf of Plaintiff and grant his total Benefits Medical And Weekly wages of \$372.52, or as the Court deems just and proper.

Dated 7-6-16

Richland, S.C.

Terry McCall

Terry McCall 233236
S.C.D.C.#

W.C.F. W5-39B

4340 Broad River Rd.

Columbia, S.C.

29210

State of South Carolina)
County of Richland)

Terry McCall, Pro Se
Plaintiff

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Now comes the above named Plaintiff, Pro Se' to move this ^{SC Court of Appeals} Court for and order for Default against the Defendants.

The Plaintiff alleges he filed a workers Compensation Claim against the Defendants on November 20, 2014 using form 50 requesting a hearing for injuries he sustained on July 4th, 2014. Previously, before this filing Plaintiff was represented by counsel Paul Rothke whom was relieved. The Plaintiff also filed an additional form 50 requesting a hearing, for injuries he sustained on June 30, 2014, on November 20, 2014 as well. The Plaintiff argues the Defendants failed to respond in a timely manner of (30) days with their deivats, the Plaintiff alleges he mailed out both forms on November 18, 2014 to S.C. Workers Comp. Commission, and to the Defendants. The S.C. Commissioner for Workers Comp. received theirs and filed it November 20, 2014. The Defendants did not respond until February 23, 2015, exceeding their (30) day period. The Plaintiff directs the Court to: Adams v. Westinghouse SRS, 2009 WL 9529409 where respondents waived their Affirmative defenses pursuant to 25A S.C. Code Regulations 67-603 C by failing to respond in a timely manner.

The Plaintiff alleges he sought relief on Appeal and Motion for Default after failing to prevail at his hearing 8-28-2015. Being the information was not made aware to the Plaintiff until after the hearing, the Plaintiff's Appeal and Motion for Default was rejected and unprocessed due to his indigency status at the time of the Plaintiff.

The Plaintiff has been incarcerated since he received these job related injuries and has remained indigent, with no means of funds. The Plaintiff believes the Appeal and Motion for Default should have been filed under the prison litigation act, but was denied this process procedure as well. The Plaintiff wrote the S.C. Workers Compensation Commission Executive Director explaining his situation. But in response letter dated April 21, 2016. The letter reflected the Commissioners Judicial Dept records indicate that on July 24, 2014, the Attorney representing the Plaintiff at the time, wrote a letter and filed a form 50 establishing a workers compensation injury sustained on July 4, 2014. However this letter's information is contrary and in conflict with the evidence and the record transcript. The record reflects form 50 was filed November 20, 2014 for July 4, 2014 injuries. At the hearing 8-28-2015 Plaintiff also raised issues concerning his form 50 requesting a hearing for injuries he sustained on June 30, 2014 served and mailed out to S.C. Workers Compensation Commission and to Defendants November 18, 2014, which a claim # 1411462 was issued for the claim. At the hearing held 8-28-14 Defendants claimed and misled the Court by alleging they did not have any knowledge of a June 30, 2014 injury or form 50 alleging these incident dates, or a claim # 1411462. The Defendants willfully knowingly and intentionally defrauded the Court by stating they had no knowledge of this claim, when in fact the letter written by Gary M. Cannon, Executive Director specifically states on September 4, 2014 the Defendants were informed that S.C. Workers Compensation Commission were cancelling out claim # 1411462 for June 30, 2014 injuries. And were processing this claim with the claim number 1410083 in conjunction with the July 4, 2014 form 50. Being both injury dates documented identical event specific information, relating to a single claim event. (Even though they didn't this was what occurred. But Plaintiff was never ever informed of this process, denying him due process. The defendants did mislead the Court and committed fraud upon the Court. The Defendants were in default for failing to respond in 30 days, in violation of S.C. Code Regulations 67-603(B).)

Accardi Doctrine: Provides government agencies are bound to follow their own rules even self imposed procedural rules that limit otherwise discretionary decisions.

The S.C. Workers Compensation Commission Executive Director, Gary M. Cannon knows the Defendants are in Default, And the Agency is denying rejecting Plaintiffs filings, due to his indigency status. However the record reflects a previous Motion for Reconsideration fee was granted due to indigency status. However, nothing changed other than prejudice against the Plaintiff due to the fact, the Defendants are in Default.

Therefore the Plaintiff Prays the Court finds the Defendants are in Default and Order a judgment on behalf of Plaintiff And grant his total Benefits Medical And weekly wages of \$372.52, or as the Court deems just and proper.

Dated 7-6-16

Richland, S.C.

Terry McCall

Terry McCall 233236
S.C.D.C.#

W.C.F. W5-39B

4340 Broad River Rd,

Columbia, S.C.

29210

Terry McCall 233236

W.C.T. W5-39B

4340 Broad River Rd

Columbia, S.C. 29210

Dated 7/6/16

RECEIVED

JUL-08-2016

SC Court of Appeals

In Re: Filing Motion For Default. This Motion
Superseades Any other Default Motion filed

Dear Court of Appeals, Clerk,

Find enclosed my Motion For Default
Affidavit, And Affidavit / Motion To Proceed In forma
Pauperis. This Motion For Default Superseades Any other
Default Motion filed.

Please clockstamp Date, return Copy for my records.
Enclosed is evidence where I tried to file with Workers Comp
But Rejected: Due to insufficient funds. This Motion is
supported by documentary evidence, which reflects the
Defendants/Respondents were and are in Default before the
hearing was held. Relief should never have been granted
to the Respondents/Defendants. to start with, Place Motion
To proceed in forma Pauperis before the Court to be
reviewed.

Awaiting Reply

Sincerely

Mr. Terry McCall

Certificate of Service

I, Terry McCall have properly served the Parties listed below with Motion for Default / Motion to Proceed In Forma Pauperis / Documents Attached by placing same in the United States Postal Service, Postage Prepaid Attached and forwarded to the Address below:

Date 7-6-16

s Terry McCall
Terry McCall 233236
W.C.I. - W5-39B
4340 Broad River Rd
Columbia, S.C. 29210

S.C. Court of Appeals
P.O. Box 11629
Columbia, S.C. 29211

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