

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM S.C. WORKERS' COMPENSATION COMMISSION

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Appellate Case No. 2016-000790

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Ann Stevenson, Claimant,

Appellant,

v.

Wal-Mart Stores, Inc., Employer, and  
New Hampshire Insurance Co., Carrier,

Respondents.

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SEP 14 2016

SC Court of Appeals

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RESPONDENTS' RETURN TO CLAIMANT'S MOTION TO HOLD TIME IN ABEYANCE  
TO CONSIDER SUBJECTS TO BE INCLUDED IN THE APPEAL

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In response to the Claimant's Motion To Hold Time in Abeyance to Consider Subjects to Be Included in the Appeal, Defendants respectfully assert:

1. This case has been ongoing and involved in active litigation for a time period of nearly three years. Respondents request a timely adjudication of the appeal filed by Claimant.
2. By Order of the Court of Appeals dated June 3, 2016, pro se claimant was to file and serve her Initial Brief and Designation of Matter within 30 days, which would have been July 3, 2016. On June 17, 2016, claimant filed a Motion to Extend Time for Filing Appellant's Briefs.
3. By Order of the Court of Appeals dated July 12, 2016, the time for serving and filing the Appellant's Initial Brief and Designation of Matter was extended until September 6, 2016.
4. On September 6, 2016, the claimant failed to file her Initial Brief or Designation of Matter.

Instead, she filed a Motion to Hold Time in Abeyance to Consider Subjects to Be Included in the Appeal. This Motion to Hold Time is improper, and the documents submitted with this Motion to Hold Time are improper.

5. The Appellant's Motion to Hold Time does not cite or give any legitimate legal or factual basis for another extension of time in this matter. Instead, the Motion to Hold Time cites the following reasons for the filing: (1) alleged radiological reading errors; (2) alleged refusal of care by carrier; (3) a statement by appellant that she was forced to see a doctor; (4) alleged medical and prescription errors; and (5) a statement by appellant that she is still having nerve problems. All of these assorted "reasons" are nothing more than arguments by appellant as to why she is aggrieved by the underlying Order of the South Carolina Workers' Compensation Commission. These "reasons" are simply a continuation of the appellant's long-standing argument as to factual issues on the claim. However, none of these reasons are legitimate legal or factual bases for another extension of time. Respondents request that Appellant's Motion to Hold Time be denied and dismissed.
6. The Appellant has attached to her Motion to Hold Time a number of documents which are improper. Respondents request that these documents be stricken from the record and not considered in any way by the Court of Appeals. The documents included are (1) two pages of typewritten language offered by the Appellant which are arguments about the underlying merits of the claim and factual determinations by the Commission (these have never been submitted as evidence during the case); (2) ten pages of a print out that appears to be a North Carolina Medical Board Position Statement (never submitted as evidence during the case); (3) six pages of an email containing self-serving declarations between Appellant and Doctors Care (never submitted as evidence in the case); (4) three pages of text from Section 40 of the South Carolina

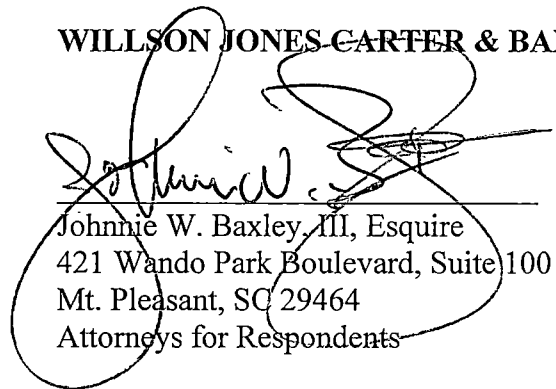
Code of Laws; (5) one page consisting of the Walmart Associate Incident Report; (6) 15 pages of emails between the claimant and the adjuster (never submitted as evidence in the case); (7) two pages excerpted from Respondents' Brief to SCWCC; (8) 23 pages of medical records (only a few of which were submitted as evidence in the case); (9) four pages of typewritten language offered by the Appellant which are her statements and theories as to radiological reading errors, refusal of care, why the claimant was sent to Dr. Scott, and Dr. Tamadon's evaluation (never submitted as evidence in the case); (10) and 16 pictures of the accident (never submitted as evidence in the case). The vast majority of these documents were never submitted as evidence before the South Carolina Worker's Compensation Commission and therefore cannot be part of the Record on this appeal. Additionally, many of these documents have not been authenticated, are inadmissible as evidence, are self-serving, and cannot be considered by the Court of Appeals as part of this appeal. Finally, all of these documents are completely irrelevant to any extension of time but again go to Appellant's arguments regarding her disagreements with the merits of the case and the decision of the South Carolina Workers' Compensation Commission.

7. Appellant has not made the requisite showing to introduce additional and newly discovered evidence. All of the documents submitted to her Motion to Hold Time were either in existence at the time of the original hearing and not submitted, or they are inadmissible pieces of evidence in the first place, or they are documents manufactured by claimant after her hearing before the Commission. These documents would not be admissible as newly discovered evidence under the long-standing case law from the Court of Appeals.
8. Respondents request that all of the documents attached to Appellant's Motion to Hold Time be stricken from the record, disregarded, and not considered by the Court of Appeals.

9. Per Rule 240(b) of the South Carolina Appellate Court Rules, the time limits on an appeal are not stayed by the filing of a motion. By order of the Court of Appeals, the claimant was to file her Initial Brief and Designation of Matter by September 6, 2016. Those filings were not timely made. Per Rule 208 (a)(4) of the South Carolina Appellate Court Rules, the Respondents request that the clerk of the Court of Appeals signed an order dismissing the appeal.

Respectfully submitted,

**WILLSON JONES CARTER & BAXLEY, P.A.**



Johnnie W. Baxley, III, Esquire  
421 Wando Park Boulevard, Suite 100  
Mt. Pleasant, SC 29464  
Attorneys for Respondents

Date: September 12, 2016

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In The Court of Appeals

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CERTIFICATE OF SERVICE

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I, Sylvia J. Hoff, do hereby certify that I am the Paralegal for Johnnie W. Baxley, III, Esquire, attorney for the defendants with **WILLSON JONES CARTER & BAXLEY, P.A.** in Mt. Pleasant, South Carolina, and that on the 12th day of September, 2016, I mailed the foregoing **RESPONDENTS' RETURN TO MOTION TO HOLD TIME IN ABEYANCE TO CONSIDER SUBJECTS TO BE INCLUDED IN THE APPEAL** to the following by placing a copy thereof in the United States mail, first class, proper postage affixed thereto:

Ann Stevenson  
2261 Greenleaf Dr.  
Conway, SC 29526

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



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Sylvia J. Hoff  
Paralegal to Johnnie W. Baxley, III, Esquire  
**WILLSON JONES CARTER & BAXLEY, P.A.**  
421 Wando Park Boulevard, Suite 100  
Mount Pleasant, SC 29464

# WILLSON JONES CARTER & BAXLEY, P.A.

ATTORNEYS AT LAW

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September 12, 2016

The Honorable Jenny Abbott Kitchings  
1015 Sumter Street  
P.O. Box 11629  
Columbia, SC 29211

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SC Court of Appeals

Re:    Ann Stevenson vs. Wal-Mart Stores, Inc.  
      WCC File No.: 1303465 DOI: 2/16/2013  
      Carrier: New Hampshire Insurance, Co. - Claim No.: 6815476  
      WJC&B File No.: 0170.02572  
      **Appellate Case No.: 2016-00790**

Dear Ms. Kitchings:

Please find enclosed the following documents (an original and six copies) for filing in regards to the above-referenced case.

1.    Respondents' Return To Claimant's Motion To Hold Time In Abeyance To Consider Subjects To Be Included In The Appeal for filing; and
2.    Proof of service.

With kindest regards,

WILLSON JONES CARTER & BAXLEY, P.A.

  
Johnnie W. Baxley, III

JWB/hsh

Enclosures

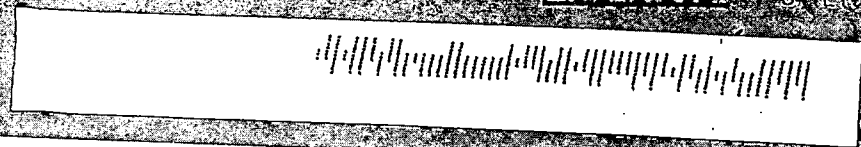
cc:    Ann Stevenson  
      Barbara Cowan (via e-mail)

request  
09/12/2015  
US POSTAGE

\$02.20<sup>0</sup>



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0411102353



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MOUNT PLEASANT, SC 29464

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SC Court of Appeals

THE HONORABLE JENNY ABBOTT KITCHINGS  
SOUTH CAROLINA COURT OF APPEALS  
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P.O. Box 11629  
COLUMBIA, SC 29211