

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas
DeAndrea G. Benjamin, Circuit Court Judge

RECEIVED
OCT 10 2016
SC Court of Appeals

Appellate Case No.: 2016-000788

Clarence B. Winfrey, Jr.,Appellant,

v.

American Fire & Casualty Company c/o
Liberty Mutual Group.....Respondent,

and

State of South Carolina.....Respondent.

MOTION AND PARTIES' CONSENT AGREEMENT
FOR A STAY AND/OR AN EXTENSION OF TIME
FOR FILING APPELLANT'S INITIAL BRIEF
AND DESIGNATION OF MATTER

That the parties to the above-referenced Appeal have entered into an agreement as set forth hereinafter and hereby move for an Order of the Court granting a Stay of the Appeal or granting an extension of time for filing the Appellants Initial Brief and Designation of Matter until at least December 10, 2016. The basis for the Motion and Consent Agreement are set forth hereinafter:

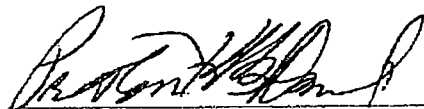
1. That the parties to the Appeals from the decisions of the South Carolina Workers' Compensation Commission, that being the Employer and Insurance Carrier and the Claimant in the matter of Clarence Winfrey v. Archway Services, Inc.; Appellate Case Nos.: 2014-001815; 2014-001816; and 2014-001788, have already requested that oral argument in those three (3) appellate cases set for October 4, 2016 be continued and reset at a later date to allow the parties to conduct informal discussions and formal discussions in October and a Mediation on November 4th in an effort to resolve through global settlement all of the issues involved. In that request, this appeal was referred to but was not specifically listed.

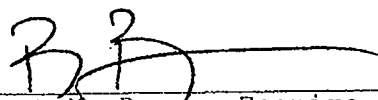
2. That as a result of that request, the oral argument of those appeals set for October 4, 2016 was continued by this Court and is reset for argument during the Term of Court in December on either December 6, 2016 or December 7, 2016.


3. That the basis for this request is the same as the original request filed by the parties to the workers' compensation claim appeals which resulted in the appellate arguments being moved over to December, which is that the parties are entering into informal and formal meetings set in October and are conducting a third-party Mediation set for November 4th with the intent of trying to reach a global settlement of all issues relative to all appeals in this matter.

4. That as a result of these efforts during the months of October and November, the parties mutually request and move the Court for an Order either: Staying the appeal and the requirement of the filing of the Appellants Initial Brief and Designation of Matter; or granting an extension of time for the filing of the Appellant's Brief and Designation of Matter at least until December 10, 2016; or providing that the Briefing Schedule be reset to start on December 10, 2016.

WE HEREBY MUTUALLY CONSENT, AGREE, AND SO MOVE:


 Preston F. McDaniel, Esquire
 SC Bar #: 3770
 MCDANIEL LAW FIRM
 1315 Elmwood Avenue
 Columbia, South Carolina 29201
 (803) 771-7211
Attorney for Appellant


 Brett H. Bayne, Esquire
 SC Bar #: 100018
 MCANGUS GOUDELOCK & COURIE
 1320 Main Street, 10th Floor
 Columbia, South Carolina 29201
 (803) 779-2300
Attorney for Respondent
American Fire & Casualty Ins. Co.


 T. Parkin Hunter, Esquire
 SC Bar #: 2827
 Senior Assistant Attorney General
 Office of SC Attorney General
 Post Office Box 11549
 Columbia, South Carolina 29211
 (803) 734-3680
Attorney for Respondent
State of South Carolina

September 30, 2016

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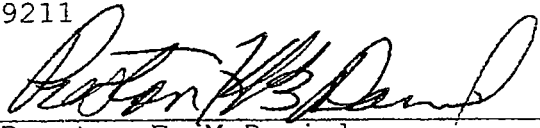
PROOF OF SERVICE

I certify that I have served the **MOTION AND PARTIES' CONSENT AGREEMENT FOR A STAY AND/OR AN EXTENSION OF TIME FOR FILING APPELLANT'S INITIAL BRIEF AND DESIGNATION OF MATTER** by depositing a copy of it in the United States Mail, postage prepaid, on October 5, 2016 addressed to:

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

T. Parkin C. Hunter
Senior Assistant Attorney General
Post Office Box 11549
Columbia, SC 29211

Dated: October 5, 2016


Preston F. McDaniel
MCDANIEL LAW FIRM
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(803) 771-7211
Attorney for Appellant

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

Proudly representing injured workers
for over 30 years.

Preston F. McDaniel

Matthew Robertson

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Telephone (803) 771-7211

Facsimile (803) 252-0709

OCT 10 2016

October 5, 2016

SC Court of Appeals

V. Claire Allen, Deputy Clerk
SC Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

**RE: MOTION/CONSENT AGREEMENT TO STAY OF APPEAL AND/OR
EXTENSION TO FILE APPELLANT'S BRIEF AND DESIGNATION
OF MATTER**

**Clarence Winfrey v. American Fire & Casualty
Insurance Company c/o Liberty Mutual Group and State of
South Carolina Appellate Case Nos.: 2016-000788**

Dear Ms. Allen:

Please find attached a Mutual Consent Agreement/Motion requesting that the Court either grant a Stay of the above-referenced appeal or grant an extension of time for filing the Appellant's Initial Brief and Designation of Matter.

Please let me explain this request because the request while simple could be very confusing. There are three (3) other appeals pending before the Court involving this same case. Mr. Bayne and I made a previous request in reference to those three appeals of the underlying workers' compensation claim, which the Court granted and continued oral argument on those appeals that had been set for October 4th over to the December 6th term.

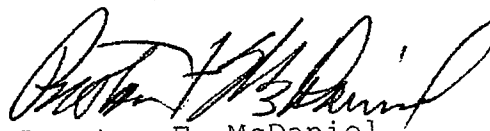
The basis for our mutual request in this appeal, as you will see, is the same as it was for cancelling and moving the oral arguments over in those appeals. Again, the basis is that we are having informal and formal discussions set in October and we have a third-party mediation on November 4th, all of which may lead to a global settlement of all the issues concerning all of these appeals that are pending before the Court.

I couched the Motion and Agreement in this request in terms of either a stay and/or an extension of time to file. If the Court is so kind as to grant this request, we would request that either the Court stay this matter and reset the Briefing Schedule beginning on December 10th or that the Court grant an extension of time for the filing of the Appellant's Initial Brief and the Designation of Matter to at least December 10th. Of course, we would welcome and seek the Court's guidance and

Honorable Jenny Abbott Kitchings
V. Claire Allen, Deputy Clerk
October 5, 2016
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I look forward to receiving the decision of the Court and as always, I appreciate all the courtesies and kindnesses shown to me by the Court in this and all matters.

Sincerely yours,



Preston F. McDaniel

PFM/abh
Enclosures

cc: Brett H. Bayne, Esquire (via email and US Mail brett.bayne@mgclaw.com)
T. Parkin Hunter, Esquire via email and US Mail: phunter@scag.gov)

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October 5, 2016

VIA FACSIMILE - 734-1839

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

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SC Court of Appeals
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**Clarence Winfrey v. American Fire & Casualty
Insurance Company c/o Liberty Mutual Group and State of
South Carolina Appellate Case Nos.: 2016-000788**

Dear Ms. Kitchings and Ms. Allen:

Attached is a Motion and Consent Agreement and our cover letter and the Affidavits of Service on the Motion and Consent Agreement which we were going to file via hand-delivery on October 5th only to find out that the Court had closed pursuant to the Order of the Governor. Because of this, I am filing a copy of this Motion and Agreement via fax with the Court today and will file the original and six copies on the next business that the Court is open for business following the hurricane emergency.

You will please note that the Designation of Matter and the Initial Brief were due to the Court on October 10th which probably will be the next business day for filing and we will file it on that date. By copy of this letter, I am notifying and forwarding a copy of this letter via email to both Respondents Counsel.

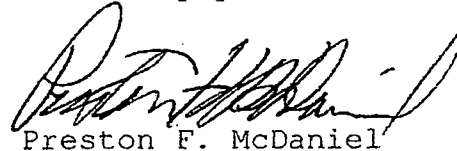
V. Claire Allen, Deputy Clerk
October 5, 2016
Page 2 of 2

direction as to any Order that the Court feels is appropriate which would move all of the processings of this appeal past the months of October and November when we will try to reach a global settlement of all these matters.

By copy of this letter, I am notifying and confirming our agreement and the filing of this Motion/Consent Agreement with the Court with Mr. Bayne, representing the employer and the insurance carrier and Mr. Hunter, representing the State of South Carolina. Also enclosed is the required \$25.00 filing fee for the filing of this Motion.

As always, I appreciate all the courtesies and kindnesses shown to me and my clients by the Court, in this and all matters. Should the Court need any further clarification or have any questions, please feel free to contact me at your convenience.

Sincerely yours,



Preston F. McDaniel

PFM/kth/abh
Enclosures

cc: Brett H. Bayne, Esquire (via email and US Mail brett.bayne@mgclaw.com)
T. Parkin Hunter, Esquire via email and US Mail: thunter@scad.gov)

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SC Court of Appeals

FAX TRANSMISSION COVER SHEET

Date: Oct. 5, 2016
From: McDaniel Law Firm
To: Hon. Jerry Kitchens / Claire Allen
Fax Number Called: 734-1839
Regarding: Clarence Winfrey #2016-000788
Comments: Please see attached.

We are transmitting 9 pages, including face sheet.

If you have any problems with this transmission, please call me at 803-771-7211.

Transmitted from Fax Number 803-252-0709

Transmitted by: Andrea Ham

THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE IS ATTORNEY PRIVILEGED AND CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE, AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS VIA U.S. POSTAL SERVICE. THANK YOU.