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THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM S.C. WORKERS' COMPENSATION COMMISSION

Appellate Case No. 2016-000790

RECEIVED

OCT 10 2016

SC Court of Appeals

Ann Stevenson, Claimant,

Appellant,

v.

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

Respondents.

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

In response to the Claimant's Motion To Extend Time for Filing Appellant's Briefs, 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.

5. 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. Respondents filed a Return to that Motion on September 12, 2016.
6. Appellant then filed a Motion to Extend Time for Filing Appellant's Briefs on September 16, 2016. Again, this Motion and the documents submitted with this Motion are improper, and Respondents filed a Return to that Motion on September 21, 2016.
7. Appellant has now filed an Amended Motion to Hold Time in Abeyance to Consider Subjects to Be Included in the Appeal, which is ultimately nothing more than a duplicative filing of the first two Motions. Again, the Respondents assert that the Amended Motion is improper, the documents submitted with the Amended Motion are improper, and they request that the Amended Motion be denied.
8. The Appellant's Amended 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 Amended Motion to Hold Time cites the following reasons for the filing: (1) alleged radiological reading diagnostic errors that applies to the underlying merits; (2) alleged lack of medical treatment during the claim; (3) alleged refusal of medical treatment by the Defendants; (4) allegations regarding some of the doctors that she saw; (5) allegations of medical errors made by Dr. Tamadon; (6) eight time index and asserted corrections to the Hearing Transcript; and (7) corrections to the statements made in the Hearing Transcript.. 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 Amended Motion to Hold Time be denied and dismissed.

9. The Appellant has attached to her Amended 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) 119 pages of medical records, many of which were not submitted at the prior hearing and would not be part of the Record on Appeal and all of which have not been included in the Designation of Matter for proper consideration by the Court of Appeals; (2) and Associate Incident Report that was an exhibit to a deposition; (3) 7 pages of wage documents which were never submitted at the underlying hearing as evidence; (4) 86 pages of emails between appellant and her case adjuster which were never submitted as evidence at the underlying hearing; (5) 1 page of a prescription pharmacy print out with appellant's hand written notes as to her comments regarding the prescriptions, which was not submitted in evidence at the hearing on this claim; (6) copies of Rule 407 of the South Carolina Rules of Professional Conduct, ethics canons Rule 3.3 and Rule 3.4, Rule 45 of the Rules of Civil Procedure; (7) 15 pages of articles from a publication called The Medical Disability Advisor, none of which were submitted as evidence at the hearings before the Commission; (8) 1 page of HIPAA Patient Rights Form which was not submitted at the hearings before the Commission; (9) 6 pages of a type written document created by Appellant which allegedly shows corrections to incorrect statements in the Hearing Transcript; (10) six pages of a type written document created by Appellant which allegedly shows radiological reading errors, refusal of care by the defendants, choice of physician arguments, and allege wrongdoings by Dr. Tamadon; (11) 42 pages of a type written document created by appellant that asserts various arguments pertaining to the underlying merits of the claim and a Time Index of Events, which is a document created by Appellant asserting her version of the

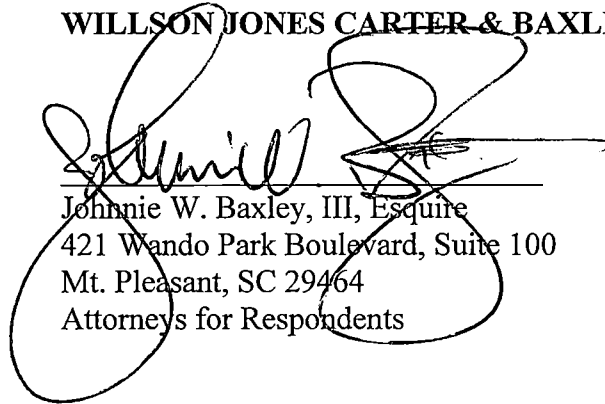
facts, arguments, unfounded assertions, commentary, questions, and reference to many pieces of evidence that were not submitted before the Commission; (12) 11 pages of a document from the North Carolina Medical Board on physician-patient relationship which was not submitted at the hearings before the Commission. 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.

10. Appellant has not made the requisite showing to introduce additional and newly discovered evidence. All of the documents submitted to her Motion to Extend 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.
11. Admittedly, some of the medical records submitted by Appellant with her Amended Motion to Hold Time were submitted at the hearings before the Commission and would properly be included in the Record on Appeal, but they are not properly submitted as exhibits to this Amended Motion.
12. Respondents request that all of the documents attached to Appellant's Amended Motion to Hold Time be stricken from the record, disregarded, and not considered by the Court of Appeals.
13. This Amended Motion to Extend Time is not timely and should be denied for the same reasons as the previously filed Motion to Extend Time and previously filed Motion to Hold Time.
14. 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: October 4, 2016

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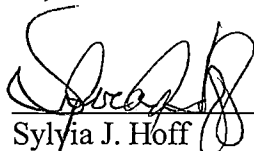
CERTIFICATE OF SERVICE

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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 4<sup>th</sup> day of October, 2016, I mailed the foregoing **RESPONDENTS' RETURN TO AMENDED 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.**  
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Mount Pleasant, SC 29464

# WILLSON JONES CARTER & BAXLEY, P.A.

ATTORNEYS AT LAW

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SC Court of Appeals

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

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 Amended Motion to Hold Time in Abeyance to Consider Subjects to be included in the Appeal; 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)

neopost  
10/04/2016

FIRST-CLASS MAIL

US POSTAGE

\$02.62<sup>00</sup>



ZIP 29464  
041L10235341

hsh

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SC Court of Appeals

THE HONORABLE JENNY ABBOTT KITCHINGS  
SOUTH CAROLINA COURT OF APPEALS  
P.O. BOX 11629  
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