

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 Robertson

Facsimile (803) 252-0709

November 21, 2016

**~~URGENT! IMMEDIATE
ATTENTION REQUESTED!~~**

**VIA EMAIL - jkitchings@sccourts.org
VIA FACSIMILE - 734-1839
AND VIA HAND DELIVERY**

Honorable H. Bruce Williams
Honorable Paula H. Thomas
Honorable John D. Geathers
SC COURT OF APPEALS
1220 Senate Street
Columbia, South Carolina 29211

RECEIVED
NOV 21 2016
SC Court of Appeals

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

Order filed November 18, 2016

Dear Judge Williams, Judge Thomas and Judge Geathers:

I have just been advised via email by Counsel for the Appellants/Defendants, Mr. Brett Bayne, that they will not reinstate temporary compensation benefits and medical care to my client under the Order of the Court issued November 18, 2016, while his clients make the decision of whether or not they will seek a Petition for a Writ of Certiorari to the Supreme Court. A copy of that email is attached hereto and incorporated herein by reference, along with my Affidavit since this is a factual allegation.

First, as part of my Petition, I had requested an Order of the Court due to the emergency situation ordering the Appellants/Defendants to reinstate benefits pending a final decision in this matter. I would renew that request due to their position.

Further, I have read and re-read the Appellate Court Rules and particularly in reference to Rule 241 and Rule 242, and Rule 245, and as to the general requirements of Rule 240. Based on my reading of the Rules there is no stay of the Order of the Court issued November 18, 2016 at least until they actually file for a Writ of Certiorari. Further and more importantly, under Rule

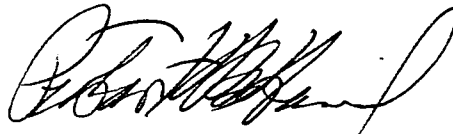
Honorable H. Bruce Williams
Honorable Paula H. Thomas
Honorable John D. Geathers
November 21, 2016
Page 2

241(b)(7), since this Court's Order vacated the Order of the Commission that allowed the Defendants to stop payment of benefits that would please the payment of benefits by statute back in effect and the Defendants would be required pursuant to the Rule and statute to pay benefits.

Based on this, this is to request an Order of the Court directed to the Defendants ordering immediate payment under one and/or both of those bases. If I need to file anything else in the form of a Motion or a Petition on an emergency basis, please let me know. Again, I know of no legal authority for the position being taken by the Appellants/Defendants.

I am filing this letter and request with the Court and if there is any required filing fee, I will file that as well, along with six (6) copies of the request and my Proof of Service, and my Affidavit. By copy of this email, I am notifying Ms. Kitchings and Mr. Bayne of this filing and request for an Order of the Court.

Respectfully submitted,



Preston F. McDaniel
Attorney for Respondent

PFM/kth
Enclosures

cc: Honorable Jenny Abbott Kitchings
(Via Email Only - jkitchings@sccourts.org)
Brett H. Bayne, Esquire
(Via Email Only - brett.bayne@mgclaw.com)

Kim Hinkle

From: Brett Bayne <brett.bayne@mgclaw.com>
Sent: Monday, November 21, 2016 2:35 PM
To: Kim Hinkle
Cc: elizabeth.wrinkle@libertymutual.com; Altman, Howard
Subject: RE: Clarence Winfrey v. Archway Services, Inc.; WCC File No.: 1306305

Preston,

I will be discussing this with Liberty when the adjuster returns tomorrow. As I understand it, they will have 30 days to petition for cert from the date of the Order (so they will have until approximately December 18). I am not sure what they will want to do but that discussion will need to be had before anything further can happen. Obviously, if they decline to appeal then benefits would be reinstated. In the interim, Mr. Winfrey has other avenues available to speed up the process—which you are fully aware of.

Brett

From: Kim Hinkle [mailto:kim@pfmcdlaw.com]
Sent: Monday, November 21, 2016 2:04 PM
To: Brett Bayne
Cc: elizabeth.wrinkle@libertymutual.com; Altman, Howard
Subject: Clarence Winfrey v. Archway Services, Inc.; WCC File No.: 1306305
Importance: High

RECEIVED
NOV 21 2016
SC Court of Appeals

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

Please consider the environment before printing this email.

CONFIDENTIAL COMMUNICATION: The information contained in this message may contain legally 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 duplication of this transmission is strictly prohibited. If you have received this communication in error, please notify us by telephone or email immediately and return the original message to us or destroy all printed and electronic copies. Nothing in this transmission is intended to be an electronic signature nor to constitute an agreement of any kind under applicable law unless otherwise expressly indicated. Intentional interception or dissemination of electronic mail not belonging to you may violate federal or state law.



Brett Bayne, Attorney
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

This electronic mail may contain information that is confidential, attorney/client and/or work product privileged, prepared in anticipation of litigation and/or exempt from disclosure under applicable law. This transmission is intended solely for the individual or entity designated above. If you are not the intended recipient, you should understand that any distribution, copying, or use of the information is unauthorized and strictly prohibited. If you have received this electronic mail in error, please immediately notify the sender and destroy all copies which you may have of this communication.

Please consider the environment before printing this email.

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

Appellate Case No. 2014-001788

RECEIVED

NOV 21 2016

SC Court of Appeals

Clarence Winfrey, Employee,Respondent,

v.

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

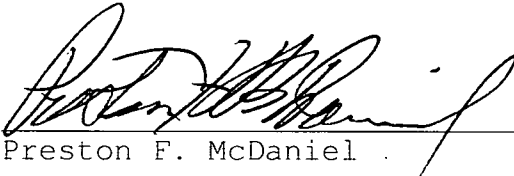
AFFIDAVIT OF PRESTON F. MCDANIEL

I, Preston F. McDaniel, having been duly and properly
sworn, do depose and state:

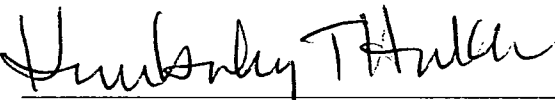
1. That I am Counsel for the Employee/Claimant/
Respondent, Clarence Winfrey, as set forth in the Order of the
Court dated November 18, 2016. The email referred to in the
Request for an Order that I am filing with this Affidavit was
received from Mr. Brett Bayne and is attached hereto and
incorporated herein by reference and is a record that is
maintained and kept by my office as part of the normal business

in the handling of this matter.

FURTHER THE AFFIANT SAYETH NOT.


Preston F. McDaniel

SWORN TO BEFORE ME this
21st day of November 2016.



Notary Public for South Carolina (L.S.)
My Commission Expires: 4-26-20

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED

NOV 21 2016

SC Court of Appeals

APPEAL FROM SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

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.

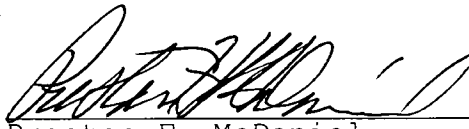
PROOF OF SERVICE

I certify that I have served the **LETTER TO HONORABLE H. BRUCE WILLIAMS, HONORABLE PAULA H. THOMAS, AND HONORABLE JOHN D. GEATHERS DATED NOVEMBER 21, 2016** on November 21, 2016 addressed as follows:

VIA EMAIL - jkitchings@sccourts.org
VIA FACSIMILE - 734-1839
AND VIA HAND DELIVERY
Honorable H. Bruce Williams
Honorable Paula H. Thomas
Honorable John D. Geathers
SC COURT OF APPEALS
1220 Senate Street
Columbia, South Carolina 29211

VIA EMAIL - brett.bayne@mgclaw.com
AND HAND DELIVERY
Brett H. Bayne, Esquire
McAngus, Goudelock & Courie
1320 Main Street, 10th Floor
Columbia, SC 29211

Dated: November 21, 2016


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