

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

APPEAL FROM SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

DEC 28 2016

SC Court of Appeals

W.C.C. File No.: 1303989

Clarence B. Jenkins, Employee,Appellant,

v.

Amazon.Com DEDC, LLC, Employer, and
Zurich Ins. Co., Carrier, Respondents.

**RETURN IN OPPOSITION TO
APPELLANT'S MOTION TO DECLARE A VIOLATION OF
RULE 4.1 AND RULE 8.4 BY LEGAL COUNSEL FOR RESPONDENTS**

Pursuant to Rule 240(e), SCACR, Respondents Amazon.Com DEDC, LLC and Zurich Ins. Co. oppose Appellant's A Motion to Declare a Violation of Rule 4.1 and Rule 8.4 by Legal Counsel for Respondents ("Motion"). Appellant's allegations of fraud, misrepresentation, and dishonesty against counsel for Respondents are entirely baseless and Appellant should be cautioned about raising such claims that have no support or foundation in law or in fact.

Appellant argues that Respondents' counsel "deliberately submitt[ed] written false statements, misrepresentation to commit a fraudulent act for their clients." His apparent basis for this charge is that counsel stated in their Initial Brief that "Appellant was not considered to be disable or received disability payments because of work injury on February 10, 2013," which he believes "is deliberate distortion due to verifications of

disability payments from Liberty Mutual and Aetna Insurance.” (Motion p. 1). First, any reliance on the alleged disability payments by Liberty Mutual and Aetna Insurance are not part of the Commission record (*see* Motion to Strike Portions of Appellant’s Initial Reply Brief and for Clarification and/or to Strike Designation of Matter, filed December 21, 2016, as well as this Court’s October 25, 2015 Order striking Item Nos. 26, and 34 from Appellant’s Revised Designation). Second, Respondents have not argued that Appellant was or was not paid short- or long-term disability payments under separate disability policies Amazon.com may have had with either Liberty Mutual or Aetna – those are not workers’ compensation payments, have nothing to do with whether Appellant is entitled to additional workers’ compensation benefits, and are entirely irrelevant to this appeal.

Next, Appellant accuses defense counsel of committing fraud or making fraudulent statements that “no temporary partial or temporary total disability was paid to Appellant.” (Motion p. 2). Respondents did not argue any such thing. Instead, they argued, and the Commission agreed, that Appellant is not entitled to any *additional* workers’ compensation benefits, including medical treatment. (Initial Br. pp. 8, 15, 17).

Appellant also asserts that, in Respondents’ Initial Brief, they claimed that Appellant failed to address the “egregious error of R67-611 at May 21, 2015 hearing on his Form 30 ...” (Motion p. 2). Again, that is not what Respondents argued in their Initial Brief. Respondents did address Appellant’s argument that the Single Commissioner required him to submit a Pre-Hearing Brief, pursuant to Reg. 67-611, in order to submit medical evidence into the record as being incorrect. (Initial Br. p. 18). Respondents also argued that Appellant failed to raise a number of factual findings made

by the Single Commissioner on his Form 30. These include Findings of Fact Nos. 12, 13, 14, 15, and 19, none of which have anything to do with pre-hearing briefs or Reg. 67-611. (Initial Br. pp. 16-17).

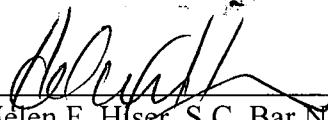
Finally, Appellant asserts that Respondents' Initial Brief incorrectly claims that they did not admit the Single Commissioner committed "an egregious error of R67-611." (Motion p. 2). First, the Defendants' Reply to Claimant's Motion to Include Appellant's Exhibits to the Form 30, dated October 9, 2015 and attached to Appellant's Motion, does not state that the Single Commissioner committed any error. Respondents did state that, pursuant to Reg. 67-611, a pro se claimant is not required to submit a Pre-Hearing Brief; however, Respondents also argued that "S.C. Code Reg. 67-611 is inapplicable to Claimant's assertion" that he was entitled to have the attachments to his Form 30 admitted into the Commission record, and that "any party to a hearing, including an unrepresented claimant, must admit written evidence which he intends to rely upon in accordance with S.C. Code Reg. 67-612," which Appellant failed to do. Thus, all of Appellant's accusations concerning Respondents' counsel are entirely without basis, merit or support, and should be denied.

CONCLUSION

For the reasons stated herein, this Court should deny Appellant's Motion and caution him about making further baseless accusations against opposing counsel.

McANGUS GOUDELOCK & COURIE, LLC

December 21, 2016



Helen F. Hiser, S.C. Bar No.: 76124
735 Johnnie Dodds Blvd., Suite 200 (29464)
P.O. Box 650007
Mount Pleasant, South Carolina 29465
(843) 576-2900

*Attorneys for Respondents Amazon.Com DEDC,
LLC and Zurich Ins. Co.*

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

DEC 28 2016

APPEAL FROM SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

SC Court of Appeals

W.C.C. File No.: 1303989

Clarence B. Jenkins, Employee,Appellant,

v.

Amazon.Com DEDC, LLC, Employer, and
Zurich Ins. Co., Carrier, Respondents.

PROOF OF SERVICE

I certify that on the 21st day of December 2016, I served the Respondents' **Return in Opposition to Appellant's Motion to Declare a Violation of Rule 4.1 and Rule 8.4 by Legal Counsel for Respondents** on Clarence B. Jenkins, *pro se*, by depositing a copy of it in the United States Mail, postage prepaid, addressed as follows:

Clarence B. Jenkins
945 Wire Road
Neeses, South Carolina 29107



Kathy Aldrich
Legal Assistant to Helen F. Hiser
McAngus, Goudelock & Courie LLC
735 Johnnie Dodds Blvd., Suite 200
P.O. Box 650007
Mount Pleasant, South Carolina 29465
(843) 576-2900

*Attorneys for Respondents Amazon.Com DEDC,
LLC and Zurich Ins. Co.*

mgc

Reply To

HELEN F. HISER
Direct Dial: (843) 576-2930
helen.hiser@mgclaw.com

December 21, 2016

RECEIVED

DEC 28 2016

SC Court of Appeals

Via U.S. Mail

The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
1220 Senate Street
Columbia, SC 29201

RE: Clarence B. Jenkins v. Amazon.com and Insurance Company of the State
of Pennsylvania c/o Sedgwick Claims Management Services, Inc.
Date of Accident: February 10, 2013
WCC File No.: 1303989
Our File No.: 20194.13164
Claim No.: 30130262998
Appeal No.: 2016-000598

Dear Ms. Kitchings:

Enclosed please find the original and seven (7) copies of Respondents' Return in Opposition to Appellant's Motion to Declare a Violation of Rule 4.1 and Rule 8.4 by Legal Counsel for Respondents, and the original and one copy of the Proof of Service in the above-referenced matter. Please file the originals and return a clocked-in copy in the self-addressed, stamped envelope.

If you have any questions, please do not hesitate to contact me.

Yours truly,

McAngus Goudelock & Courie, LLC



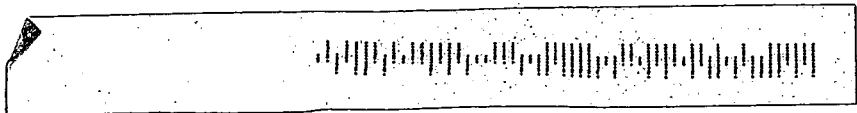
Helen F. Hiser

Enclosures

cc: Clarence B. Jenkins, *pro se*

1320 MAIN STREET, 10TH FLOOR
POST OFFICE BOX 12519
COLUMBIA, SC 29211

803.779.2300 PHONE
803.748.0526 FAX
WWW.MGCLAW.COM



mgc | **INSURANCE
DEFENSE**

POST OFFICE BOX 12519
COLUMBIA, SC 29211

20194.13164/JRG/kea **RECEIVED**
The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals **DEC 28 2016**
1220 Senate Street
Columbia, South Carolina 29201 **SC Court of Appeals**