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JAN 19 2017

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE APPELLATE PANEL OF THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

Appellate Case No.: 2016-001257
W.C.C. File No.: 1414851

Michael ThompsonAppellant,

v.

KMS, Inc./Bridgefield Casualty Insurance Company c/o Summit Holdings, Inc. Respondents.

**RETURN TO MOTION FOR FAILURE TO COMPLY TO THE APPELLATE COURT
RULES**

Nicolas L. Haigler
Jasmine D. Smith
Sowell Gray Robinson Stepp & Laffitte, L.L.C.
1310 Gadsden Street
Post Office Box 11449
Columbia, South Carolina 29211
(803) 929-1400

ATTORNEYS FOR RESPONDENTS

INTRODUCTION

Pursuant to Rule 240(e) of the South Carolina Appellate Court Rules, Respondents KMS, Inc./Bridgfield Casualty Insurance Company c/o Summit Holdings, Inc. (KMS) file this Return to the “Motion for Failure to Comply to the Appellate Court Rules” of Appellant Michael Thompson (Thompson). The motion should be denied because KMS complied with all South Carolina Appellate Court Rules.

ARGUMENT

Pursuant to Rule 208(b)(4), SCACR, KMS referenced transcripts, pleading, orders, exhibits, or other materials which may be properly included in the Record on Appeal to support the salient facts alleged. Once Thompson prepares the Record on Appeal, KMS will revise the references as provided by Rule 211(b)(1).

Although Thompson references “Rule 209(2)(3),” such an Appellate Court Rule does not exist. Assuming, *arguendo*, Thompson intended to reference South Carolina Appellate Court Rule 209 (b) and (c), KMS submits it properly complied with those rules as well. The Designation of Matter identified what KMS desires to have included in the Record on Appeal, and only proposed to include portions of the transcript, pleadings, orders, exhibits, or other materials which may be properly included in the Record on Appeal. All of the included matter is relevant to the appeal. Furthermore, the Designation was accompanied by a certificate signed by KMS’s counsel of record that the Designation contains no matter which is irrelevant to the appeal.

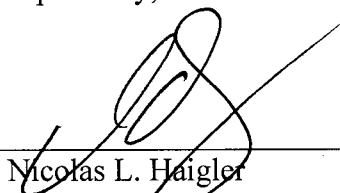
Finally, KMS complied with all South Carolina Rules of Professional Conduct. Pursuant to Rule 3.4, RPC, Rule 407, SCACR, KMS was fair to Thompson as the opposing party. Counsel for KMS did not unlawfully obstruct Thompson's access to evidence, falsify evidence, knowingly disobey an obligation under the rules of a tribunal, make a frivolous discovery requests, allude to

any matter that counsel for KMS does not reasonably believe is relevant or that will not be supported by admissible evidence, or request a person other than a client to refrain from voluntarily giving relevant information to another party. Pursuant to Rule 4.1, RPC, Rule 407, SCACR, counsel for KMS did not make a false statement of material fact or law to a third person or fail to disclose a material fact when disclosure is necessary to avoid assisting a criminal or fraudulent act by a client. Pursuant to Rule 4.4(a)(1), RPC, Rule 407, SCACR, counsel for KMS did not use means that have no substantial purpose other than to embarrass, delay, or burden a third person, or use methods of obtaining evidence that violate the legal rights of such a person.

CONCLUSION

The Motion for Failure to Comply to the Appellate Court Rules should be denied because KMS complied with all South Carolina Appellate Court Rules.

Respectfully,



Nicolas L. Haigler
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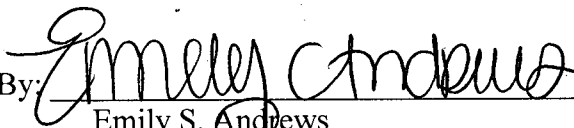
v.

KMS, Inc. /Bridgefield Casualty Insurance Company c/o Summit Holdings, Inc. Respondents'

PROOF OF SERVICE

I certify that I have served the Respondents' Return to Motion for Failure to Comply to the Appellate Court Rules, on the following: Michael Thompson, Pro Se, 116 School Bus Road, West Columbia, SC 29172 (via Certified Mail and U.S. Mail) and Honorable Jenny Abbott Kitchings, Judicial Director, South Carolina Court of Appeals, 1015 Sumter Street, Columbia, SC 29201 (via hand-deliver), on January 19, 2017.

SOWELL GRAY ROBINSONSTEPP & LAFFITTE,
L.L.C.

By: 
Emily S. Andrews
Legal Assistant
Post Office Box 11449
Columbia, South Carolina 29211
(803) 929-1400

Attorneys for Respondents'

January 19, 2017



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January 19, 2017

VIA HAND DELIVERY

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
1015 Sumter Street
Columbia, SC 29201

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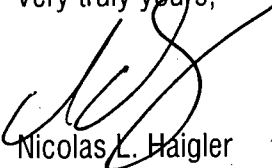
RE: Michael S. Thompson v. KMS, Inc.
WCC File No.: 1414851
Date of Accident: 10/08/14
Claim No.: 055698
Our File No.: 6288/8124

Dear Ms. Kitchings:

Please find enclosed herewith the original and one (1) copy of the Respondents' Return to Motion for Failure to Comply to The Appellate Court Rules, in the above-referenced matter. We would appreciate your filing the original Brief and Designation of Matter and returning a clocked-in copy of the same to us via our courier.

By copy of this letter and aforementioned documents to the Appellant, we are serving him with a copy of the Respondents' Return to Motion for Failure to Comply to the Appellate Court Rules.

Very truly yours,



Nicolas L. Haigler

NLH:esa
Enclosures

cc: Mr. Michael S. Thompson, Pro Se (via Certified Mail and U.S. Mail)
Ms. Kiema Lewis (via email)
Ms. Kerri Dolan (via e-mail only)