

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE WORKERS' COMPENSATION COMMISSION

Gene McCaskill, Commissioner
T. Scott Beck, Commissioner
Susan S. Barden, Commissioner

82288
RECEIVED

Appellate Case No. 2016-002296

JAN 25 2017

Tyrone Lawrence, Employee, Claimant, Respondent

SC Court of Appeals

v.

AGY Holdings Corporation, Employer, and Great American Alliance Insurance Company,
Carrier, Appellants.

MOTION TO DISMISS

This motion is filed pursuant to Rule 240 of the South Carolina Appellate Court Rules, which governs motions and petitions generally. This is an appeal from an order that finds the case compensable but does not find the Claimant at maximum medical improvement. The Court should dismiss this appeal because such an order is not immediately appealable.

BACKGROUND

The Claimant filed a Form 50 Request for Hearing on October 9, 2014 (Attachment A) requesting temporary total benefits and medical care for the Claimant for injuries he sustained on the job on August 14, 2013. Defendants filed a Form 51 on November 6, 2014 denying all issues of the claim (Attachment B).

On November 23, 2015, a hearing was held before Commissioner Avery B. Wilkerson, Jr. who issued an order on February 11, 2016 finding the case to be compensable under the SC Workers' Compensation Act and awarded the Claimant temporary total benefits for five weeks during the fall of 2013 and for the period of June 4, 2015 through July 27, 2015 as well as payment of all causally related medical expenses incurred from August 14, 2013 to the present and continuing (Attachment C). The Defendants filed an appeal to the SC Workers' Compensation Commission Appellate Panel on February 23, 2016. The SC Workers' Compensation Commission Appellate Panel heard the case on August 15, 2016 and affirmed the decision of the single commissioner in an Order dated October 14, 2016 (Attachment D). The orders found that Claimant was in need of additional medical care and ordered Defendants to provide further care as well as weekly worker's compensation benefits. The orders did not find the Claimant at maximum medical improvement, did not yet award permanent disability and held all other issues in abeyance.

ARGUMENT

The issues that the parties argued to the Appellate Panel were the compensability of the claim, payment for past and future medical care, and entitlement to temporary total disability. The Appellate Panel found the case compensable, ordered provision of medical treatment, and payment of temporary total disability benefits.

This Order is not immediately appealable as it is not a final order. The Administrative Procedures Act generally limits a party's right to appeal an administrative case until after there has been a "final" decision. See S.C. Code Ann. §1-23-380. This term is a term of art: it describes an order that disposes of all of the issues in a case and leaves nothing to be done but to

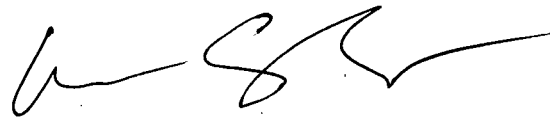
enforce by execution what has been determined. See Bone v. U.S Food Service, 404 S.C. 67, 83, 744 S.E.2d 552, 561(2013).

There is much more to be done in the present workers' compensation case. The Commission's decision specifically notes this; it orders provision of medical care and temporary total compensation and holds all other issues in abeyance including permanent disability benefits. The decision finds the case compensable but the decision does not find how long Claimant will receive medical care, temporary compensation, or any eventual permanent disability benefits and, thus, is an intermediate order and not a final order of the Commission.

CONCLUSION

This appeal should be dismissed. The dismissal should be without prejudice and with leave to re-file once the Commission has entered a final decision.

Respectfully Submitted,



William L. Smith, II, Bar No. 5226
Chappell Smith & Arden
PO Box 12330
Columbia, SC 29211
PH: (803) 929-3600
FAX: (803) 929-3604
Email: bsmith@csa-law.com
ATTORNEY FOR RESPONDENT

January 25, 2017



Claimant's Name: Tyrone Lawrence SSN: 250-27-0033 Employer's Name: Advanced Glassfiber Yarns
Address: 845 Colbert Bridge Road Address: 2556 Wagener Road
City: Windsor State: SC Zip: 29856 City: Aiken State: SC Zip: 29801-957
Home Phone: (803) 641-6748 Work Phone: _____ Insurance Carrier: Great American Alliance Ins. Co.
Preparer's Name: William L. Smith II Law Firm: Chappell, Smith & Arden Preparer's Phone #: 803-929-3600

A claim for workers' compensation benefits is made based on the following grounds: Date of Injury or Illness: 8/14/2013

Injury Illness Repetitive Trauma Occupational Disease Physical Brain Injury Concurrent Jurisdiction

- The claimant sustained an injury to right shoulder/arm, head, neck, and back (Part(s) of Body Injured) on 8/14/2013 (Month/Day/Year) in Aiken county, state of SC. Body part(s) affected are: right shoulder/arm, head, neck, and back
- Briefly describe how the accident occurred. Claimant was injured when a ceiling collapsed on him.
- Both the claimant and the employer were subject to the South Carolina Workers' Compensation Act at the time of injury.
- The relationship of employer and employee existed at the time of injury.
- At the time of the injury the claimant was performing services arising out of and in the course of employment.
- Notice of the accidental injury was given to the Employer on 8/14/2013 (Month/Day/Year) in the following manner:
Notice given to supervisor

7. Due to injury, the claimant is in need of (check one):
 (a) medical examination and treatment for: _____
 (b) additional medical examination and treatment for: right shoulder/arm, head, neck, and back

8. Due to injury, the claimant requests temporary total disability benefits because of lost compensable time from work and wages for the period of:
TTD for five weeks.

9. Due to the injury, the Claimant has permanent disability of the following nature and extent (check one):
 (1) General Disability: Total Partial (2) Specific Disability: Total Partial (3) Wage Loss

9a. A determination of permanent disability is premature at this time.

10. Due to the injury, the Claimant has a serious bodily disfigurement consisting of:

10a. At the time of the injury, the Claimant was paid weekly wages of F20, and demands accounting of days worked and wages earned as provided by law.

10b. Give names and addresses of all employers for whom the Claimant has worked since the date of the accident:
Advanced Glassfiber Yarns

11. Further grounds or unusual aspects of claim:

11a. List names and addresses of all physicians or other medical specialists who have seen or treated the Claimant as a result of the accident:
Doctors Care, Aiken Regional Medical Center, Carolina Musculoskeletal, Dr. William Lehman

11b. To the best of your knowledge, did you have any prior permanent disability?
If yes, describe:

12. Appropriate benefits as provided in the Act for the above grounds and other relief as the Workers' Compensation Commission may direct as just and proper.

13a. I am filing a claim. I am not requesting a hearing at this time. 14. Estimated time needed for hearing: 30 minutes

13b. I am requesting a hearing. A \$25 fee is required.

Mediation

- a. Mediation is requested to be ordered pursuant to Reg. 67-1801 B.
- b. Mediation is required pursuant to Reg. 67-1802.
- c. Mediation is requested by consent of the Parties pursuant to Reg. 67-1803.
- d. Mediation has been conducted by a duly qualified mediator and resulted in an impasse.

Questions regarding mediation may be submitted to mediation@wcc.sc.gov.

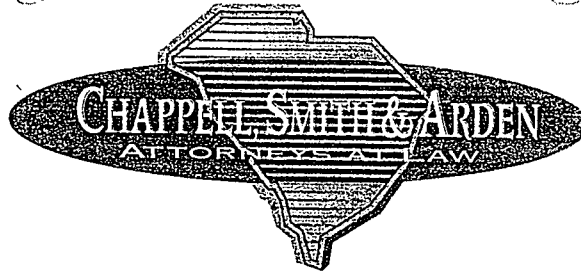
I certify I have served this document pursuant to Reg. 67-211 by delivering a copy to E. Ros Huff
address P.O. Box 1935, Columbia, SC 29063 on the _____ day of October 20 14, by first class postage certified mail personal service.

I verify the contents of this form are accurate and true to the best of my knowledge.

Preparer's Signature: [Signature] Attorney: bsmith@csa-law.com Title: _____ Email: _____ Date: 10-9-14

Questions about the use of this form should be directed to the Claims Department at 803.737.5723. Refer to Regulations 67-204 through 67-211 and Regulations 67-601 through 67-615 as well as Reg. 67-1801.

Mark D. Chappell*
William L. Smith, II
Mark T. Arden
W. Beau Busch
C. Daniel Vega
W. Hugh McAngus, Jr.**
Jacob D. Born***



STATEWIDE PRACTICE

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www.csa-law.com

* Also licensed in DC

** Also licensed in NC

*** Also licensed in GA

**** Also licensed in GA, TN

Of Counsel:
Solomon, Budman & Stricker****

October 9, 2014

Via Hand Delivery

Ms. Amy Bracy, Judicial Administrator
S.C. Workers' Compensation Commission
Post Office Box 1715
Columbia, SC 29202-1715

RE: Tyrone Lawrence v. Advanced Glassfiber Yarns
WCC File No.: 1310882

Dear Ms. Bracy:

Enclosed is our Form 50 pertaining to the above-referenced matter. I would appreciate your having this immediately filed and a hearing scheduled as soon as possible. Also enclosed is our firm check in the amount of \$25.00 for the filing fee.

By copy of this letter, sent via First Class Mail, I am serving a copy of the Form 50 on E. Ros Huff, Jr., attorney for the defendants.

Very truly yours,


William L. Smith II

bsmith@csa-law.com

Direct Dial: 803-509-5839

WLS/ceb

Enclosure

cc: E. Ros Huff, Jr.

AIKEN

322 Laurens Street, NW

CHARLESTON

One Poston Road

COLUMBIA

1510 Calhoun Street

FLORENCE

181 S. Coit Street

ROCK HILL

1770 India Hook Road

A

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION
COMMISSION

Tyrone Lawrence,

Claimant,

vs.

Advanced Glassfiber Yarns,

Employer,

Great American Alliance Ins. Co.,

Carrier/Defendants.

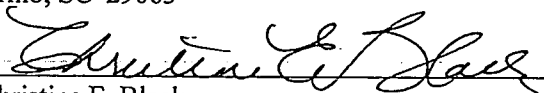
WCC FILE NO: 1310882

CERTIFICATE OF SERVICE

Christine E. Black, being first duly sworn, says that she is the paralegal for the Claimant's/Employee's attorney of Chappell, Smith & Arden located at 1510 Calhoun Street, Columbia, South Carolina; and, that on October 9, 2014, she forwarded a copy of the attached **Form 50** to:

Via First Class US Mail:

E. Ros Huff, Jr.
Huff Law Firm
P.O. Box 1935
Irmo, SC 29063



Christine E. Black
Chappell, Smith & Arden
PO Box 12330, Columbia, SC, 29211
803-929-3600



Claimant's Name: Tyrone Lawrence SSN: 250-27-0033 Employer's Name: Agy Holding Corporation
Address: 845 Colbert Bridge Road Address: 2556 Wagener Road,
City: Windsor State: SC Zip: 29856 City: Aiken State: SC Zip: 29801
Home Phone: 803-641-6748 Work Phone: _____ Insurance Carrier: Great American Alliance Insurance Company
Date of Injury: 08/14/13
Preparer's Name: E. Ros Huff, Jr., Esquire Law Firm: Huff Law Firm, LLC Preparer's Phone #: 803.252.2232

Date of Injury or Illness: 08/14/13 Estimated time for hearing: _____
Complete each information blank. Clearly specify when contentions are admitted in part and denied in part. The Employer/Carrier in answer to the claim, respectfully shows:

1. It is Admitted Denied the employee sustained an injury or illness on or about the date set forth in the Form 50. The reasons for denial are:
Pending Investigation/Discovery
2. It is Admitted Denied both the employer and employee were subject to the Workers' Compensation Act at the time in question. The reasons for denial are: _____
3. It is Admitted Denied the relationship of employer and employee existed at the time in question. The reasons for denial are: _____
4. It is Admitted Denied at the time in question the employee was performing services arising out of and in the course of employment. The reasons for denial are: _____
5. It is Admitted Denied notice of injury was given the employer. The reasons for denial are _____
6. It is Admitted Denied the employee Needs Is Entitled to Additional medical care as a result of injury or illness. The reasons for denial are: See No. 1
7. It is Admitted Denied the employee is entitled to temporary total disability for the period(s) of: See No. 1
8. It is Admitted Denied the employee is permanently disabled. The reasons for denial are:
Not raised in Form 50
9. It is Admitted Denied the employee has serious disfigurement.
10. It is contended that an average weekly wage of \$ 967.82 applies, according to attached Form 20 as provided by law.
11. Further contentions, grounds of defense, or unusual aspects are:
At this time no affirmative defenses are known, however, the defendants reserve the right to amend and raise any and all defenses once discovered.

- Mediation
- a. Mediation is requested to be ordered pursuant to Reg. 67-1801 B.
 - b. Mediation is required pursuant to Reg. 67-1802.
 - c. Mediation is requested by consent of the Parties pursuant to Reg. 67-1803.
 - d. Mediation has been conducted by a duly qualified mediator and resulted in an impasse.

Questions regarding mediation may be submitted to mediation@wcc.sc.gov.

I verify the contents of this form are accurate and true to the best of my knowledge.

E. Ros Huff, Jr. Attorney
Preparer's Signature Title

roshuff@colalaw.com
Email

November 6, 2014
Date

Refer to R.67-204 through R.67-210 and R.67-601 through R.67-615. Refer to R. 67-1801 for mediation. Questions about the use of this form may be directed to the Commission's Judicial Department at 803-737-5675 or judicial@wcc.sc.gov or mediation@wcc.sc.gov. Pursuant to R.67-606, a Form 20 must be filed with the Claims Department at least 30 days from the date of filing this form.



HUFF
LAW FIRM LLC

E. Ros Huff, Jr.
roshuff@colalaw.com

Shelby H. Kellahan
skellahan@colalaw.com

November 6, 2014

Amy Bracy
Judicial Director
S.C. Workers' Compensation Commission
Post Office Box 1715
Columbia, SC 29202

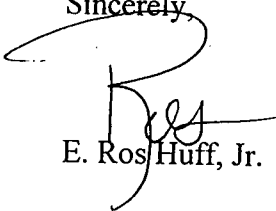
Re: Tyrone Lawrence v AGY Holding Corporation 1310882
WCC File No: 1310882

Dear Ms. Bracy:

Enclosed for filing is a Form 51.

By copy of this letter to the claimant's attorney, William L. Smith, II, I am serving him with the Form 51.

Sincerely,


E. Ros Huff, Jr.

ERH/caw
Enclosure

cc: William L. Smith, II, Esquire

5500.0688

NOV 07 2014

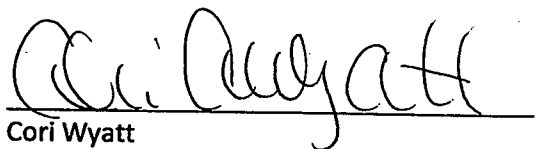
B

CERTIFICATE OF SERVICE

This is to certify that copies of the foregoing Form 51 – Employer’s Answer to Request for Hearing has been served upon the following named individuals indicated below by mailing a copy of the same in the United States mail, with sufficient postage affixed thereto and return address clearly marked on 11-6, 2014.

William L. Smith, II
Chappell, Smith & Arden
Post Office Box 12330
Columbia, SC 29211

Amy Bracy
Judicial Director
S.C. Workers’ Compensation Commission
Post Office Box 1715
Columbia, SC 29202



Cori Wyatt
Paralegal to E. Ros Huff, Jr.
HUFF LAW FIRM, LLC
Post Office Box 1935
7244 Woodrow Street
Irmo, South Carolina 29063
(803) 252-2232

B

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION
COMMISSION

Tyrone Lawrence,

Claimant,

vs.

Advanced Glassfiber Yarns,

Employer,

Great American Alliance Ins. Co.,

Carrier/Defendants.

DECISION & ORDER

WCC FILE NO: 1310882

STIPULATIONS

The parties stipulated at the hearing to following issues:

1. The claimant has an average weekly wage of \$967.82 with a corresponding compensation rate of \$645.24.
2. Notice of the hearing was timely and properly served on all parties of interest.
3. Venue was proper in Aiken County.

APA SUBMISSIONS

Pursuant to the Administrative Procedures Act, the following were submitted into evidence;

Claimant's APA:

	<i>Provider</i>	<i>Date of Service</i>	<i>Page Nos.</i>
APA 1	William L. Lehman, MD	8/07/14 – 4/27/15	1-6
APA 2	Carolina Musculoskeletal Institute	10/10/13 – 6/17/15	7-54; a
APA 3	Doctors Care - Aiken	8/15/13 - 8/19/13	55-72
APA 4	Aiken Regional Medical Center	8/14/13 - 12/23/13	73-114; c
APA 5	Advanced Glassfiber Yarns	8/14/13 - 9/20/13	115-132
APA 6	Claimant's Statement to Adjuster	8/27/13	133-146
APA 7	Steven C. Poletti, MD	5/27/15	147-148

C

Defendant's APA:

APA 2	Carolina Musculoskeletal Institute	4/7/98 -11/17/14	133-151
APA 3	Aiken Regional Medical Center	5/7/97 – 1/27/06	152-174
APA 4	Augusta Orthopaedic Clinic	10/25/02 – 11/15/02	175-178
APA 5	Southside Family Medicine	10/29/12 – 7/01/13	179-183
APA 6	Ten Year Driving Record		184-185
APA 7	MVA Reports		186-196
APA 8	2006 Farm Bureau MVA File		197-228
APA 9	SLED Report		229-230
APA 10	Claimant Deposition		231-277
APA 11	Doctors Care	8/3/02 – 8/19/13	278-290
APA 12	Augusta Orthopaedic Clinic	10/25/02 – 11/15/02	291-294
APA 13	Aiken Regional Medical Center	8/14/13 – 6/4/15	295-324
APA 14	Carolina Musculoskeletal Institute	9/17/13 – 9/22/15	325-387

However, claimant objected to the SLED report and ten year driving record, pages 229 and 230 and pages 184 and 185. Claimant also objected to his deposition being offered as evidence. The defendants agreed and those items were removed from the record and, while noted above under the APA submissions, these records were removed and are not part of the evidence in this case.

In addition, the deposition of Dr. Steven C. Poletti was admitted into evidence.

STATEMENT OF THE CASE

Claimant contends that he suffered a compensable injury on August 14, 2013 when a fluorescent light and part of a ceiling fell on top of him hitting him in the head and neck. Claimant alleges injuries to both shoulders, his head, his neck, and his lower back. Claimant is seeking temporary total compensation for five weeks in the fall of 2013 as well as June 4, 2015 through July 27, 2015 along with payment of all medical expenses. Claimant further contends he has not reached maximum medical improvement and any award of permanent disability would be premature.

Defendants, on the other hand, contend that the injury could not have occurred the way claimant alleges and they allege that claimant is not credible. Defendants deny any benefits due under the Workers' Compensation Act.

Claimant is represented by William L. Smith II of Columbia and defendants are represented by E. Ros Huff, Jr. of Columbia. The Commission file was made a part of the record.

This case was heard by the undersigned Commissioner on November 23, 2015, at which the times the parties and their representatives appeared and evidence was received. Initially, the case was scheduled to be heard on May 5, 2015. However, the defendants wished to depose Dr. Steven Poletti, who was not available for deposition until November 18, 2015. The Commission forwarded the instructions to the parties for creating the Order on December 15, 2015.

EVIDENCE OF THE CASE

Claimant is a fifty-six (56) year old married male. He has been married to his wife Yvonne for thirty-five (35) years and they have three (3) adult children. Claimant graduated from high school and has worked at AGY for thirty-seven (37) years. Claimant testified that before August 2013 he was not having any trouble with his neck, arms, or low back.

On August 14, 2013, claimant testified he was attending to his job and as he walked toward position number seven to close the lid a light fixture with sheet metal and ceiling tile fell from the ceiling striking him on the top of the head, neck, and shoulder area. Claimant testified that when it happened he thought the whole ceiling was coming down. Claimant reported the injury and eventually saw the plant nurse, Ann Tyler. An accident report was written up and the claimant was taken to Aiken Regional Medical Center by his department head. Claimant received follow-up care at Doctors Care and was placed on light duty. Claimant originally

worked light duty up until the time that he had a planned vacation to go see his son play college football in Seattle, Washington. When claimant returned from his vacation he was notified that they were no longer providing light duty and that his workers' compensation claim had been denied.

Claimant eventually started treatment at Carolina Musculoskeletal Institute where he was treated by Dr. Vaughn Massey and by Dr. Ty Carter. Claimant underwent injections, physical therapy, and took medications. Claimant returned to work but continued to see the doctors at Carolina Musculoskeletal. Eventually claimant had a second MRI scan and Dr. Carter recommended cervical fusion surgery. Claimant went to Dr. Steven Poletti who concurred with the need for surgery and Dr. Ty Carter performed the cervical fusion. Claimant testified that he had not sustained any subsequent injuries after his on the job injury in August 2013.

On cross examination claimant was questioned about his use of the cervical collar while on vacation in Seattle. Claimant was also questioned about moving luggage while on that trip. In his deposition, claimant testified that he wore the cervical collar on vacation and that his wife moved all of the luggage. On cross examination, he admitted that those statements had been inaccurate but he had not intended to be untruthful about it. Claimant was questioned regarding an internet post where he stated "I will be honest I just fell on both knees just hollering." However, claimant clarified this to indicate this was a post to his son's professional agent after his son made an outstanding play in a playoff game. He was referring to the fact that he was so excited he jumped on his knees in prayer and there had not been any injury involved.

Ricky Raeford testified. Mr. Raeford is employed at AGY as a furnace process operator and has been employed there for thirty-nine (39) years. He testified that on August 14, 2013 he was working down the line from Mr. Lawrence. He heard something and saw another employee

run by him. He walked back to where Mr. Lawrence was and saw him stooped over holding his neck. He saw the light fixture hanging down from the ceiling and he testified the whole light thing came down. He testified that he estimated that the light fixture weighed around thirty (30) pounds and that Mr. Lawrence appeared to be in shock and was holding his neck. Prior to that time he had not observed claimant having any trouble in performing his work.

Richard Gladden also testified. Mr. Gladden has worked at AGY for forty-three (43) years. He testified that he did not see the accident happen but that he came up after the event had occurred. He saw the light fixture and debris hanging from the ceiling. By the time he got there the claimant had already been taken up front for treatment. He said the only thing that was holding the light fixture up from completely falling to the floor was the conduit pipe. He testified that he had issues with the fixture before but that the light had not been fixed.

Martha Caine was also called to testify. Ms. Caine testified that she is currently employed at Glasgow Smith Kline LLC. Ms. Caine had previously worked at AGY for ten and a half years and was working in close proximity to claimant at the time of the injury. She testified that on that day she was performing her job as a glass fiber operator and she heard a loud shout. She looked up and saw the claimant with debris from the ceiling and the light fixture hanging from the ceiling and Mr. Lawrence was under it at the time. She asked him if he was okay and she went to find someone to assist him. She testified that there was debris on the floor and debris all over the table as well as debris on Mr. Lawrence. Shortly after the accident Mr. Lawrence was taken out of the area by a supervisor. Prior to that time she had never seen Mr. Lawrence have any difficulty in performing his job from a physical stand point.

Yvonne Lawrence, wife of claimant testified. She testified that she had observed her husband on a daily basis for a long period of time and that he was not having any difficult prior

to his injury in August of 2013. However, after the injury he began to have pain and problems and he has not suffered any injuries since August of 2013.

Robert Padgett testified on behalf of the employer. Mr. Padgett has worked at AGY for forty (40) years. He identified photographs of the work area that were taken after the accident and confirmed that a ceiling light had fallen. He testified that in the aftermath of the incident the light was down touching the table. He testified that the area in which Mr. Lawrence was working was six to seven feet from the table and that the light fixture was forty-eight (48) inches long. On cross examination, Mr. Padgett was shown the statement given by claimant to the adjuster in which indicated that claimant was going toward position number 7, not actually at position number 7. He testified that he was unaware of exactly where claimant was at the time of the accident because he did not see the accident.

Defendants introduced a videotape of claimant taken by a private investigator. This videotape shows claimant briefly moving luggage and standing in an airport and in a hotel lobby. Claimant is not wearing a cervical collar during the time the video was taken.

All of the medical records were reviewed as evidence. The AGY medical department notes were reviewed and they show from their accident report the incident occurred on August 14, 2014 around 11:55 a.m. It indicates that Mr. Lawrence was hit by a falling light fixture in the ceiling on the back of the head and back of the neck. The damage was listed as broken light fixture and supports in ceiling. The records reveal that claimant was treated at Aiken Regional Medical Center on that date. Follow-up care occurred with Doctors Care in Aiken and claimant began receiving treatment at Carolina Musculoskeletal institute on October 10, 2013.

The records of Carolina Musculoskeletal Institute indicate claimant had cervical spine pain, bilateral shoulder pain, and low back pain. Claimant ultimately underwent a cervical

fusion performed by Dr. Ty Carter. Dr. Carter provided an opinion that claimant's neck and shoulder pain were most probably caused by the event of the light fixture falling on his head and shoulder on August 14, 2013. (APA p. 37)

Claimant was also evaluated by Dr. William Lehman. Dr. Lehman evaluated claimant on August 7, 2014. Dr. Lehman opined that claimant's low back and cervical spine problems were caused by his on the job injury in which a light fixture fell on him.

Claimant was also evaluated by Dr. Steven Poletti. Dr. Poletti's reports and deposition were admitted into evidence. Dr. Poletti testified that claimant had an extremely large disc herniation at C5-6. He testified that claimant began having pain in his neck and left arm after his accident. Based on that history, Dr. Poletti opined that claimant's neck problem was related to his on the job injury. He testified that he believed claimant suffered some measure of disc injury, a protruding disc which required injections by Dr. Carter and Dr. Daniel. These injections gave claimant temporary relief but in the course of going through non-operative care the disc herniated completely causing a nerve deficit and need for surgery. He further testified that a large disc herniation pressing against the spinal canal can cause spinal cord contusion and weakness in the legs. He agreed with Dr. Carter's assessment that claimant was in need of surgery. Dr. Poletti reviewed the records of the treating physicians following the surgery up until the time he saw him. When he reviewed those records the findings noted by those physicians showed that claimant was having symptoms consistent with the herniated disc that was ultimately diagnosed. It was Dr. Poletti's opinion that the reason for surgery was because of injuries sustained in the August 2013 accident when claimant was struck by a falling light fixture.

Based on the above-stated evidence, the following are made as

FINDINGS OF FACT

1. The parties and proceedings are to subject and bound by the terms and provisions of the South Carolina Workers' Compensation Act.
2. Advanced Glassfiber Yarns (AGY) is the employer and Great American Alliance Insurance is the insurance carrier.
3. Claimant sustained a compensable injury by accident.
4. Claimant was a very credible witness. Claimant is a thirty-seven (37) year employee and was testified in a clear, honest, and very credible manner.
5. All of the witnesses testified very similarly to the claimant and showed that the light fixture fell. The only person present in the area when the light fixture fell was the claimant. However, Martha Caine verified that the light fixture had fallen and there was debris on the claimant and he appeared stunned.
6. The light fixture was an older fixture and it had been designated for repair on several occasions. Such a hanging fixture would swing when it fell.
7. Dr. Poletti, Dr. Carter, and Dr. Lehman all provided opinions that claimant's condition was causally related to the accident.
8. Claimant is entitled to temporary total compensation for the five (5) weeks of benefits in the fall of 2013 and for the period of June 4, 2015 through July 27, 2015. Claimant has not reached maximum medical improvement. Dr. Poletti is named as authorized treating physician. Defendants denied the claim and lost the right to choose the medical provider.

RULINGS OF LAW

1. Pursuant to Section §42-1-160, claimant sustained a compensable injury by accident arising out of and in the course of his employment.
2. Pursuant to Section §42-15-20, notice of the accident was given to the employer.
3. Pursuant to Section §42-9-10, claimant is entitled to temporary total compensation as outlined above.
4. Pursuant to Section §42-15-60, claimant is entitled to payment of all causally related medical expenses to date and continuing with Dr. Poletti to serve as treating physician.

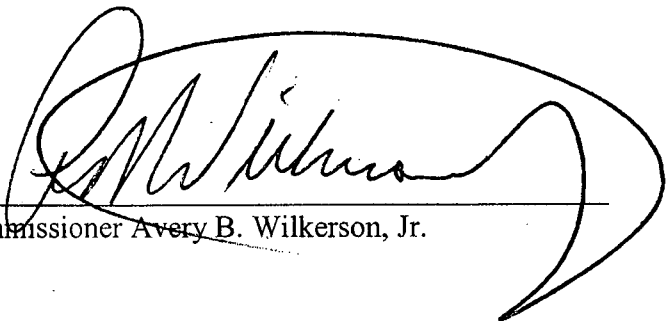
ORDER

It is therefore ordered that the defendants shall make the following payments;

1. Payment of temporary total compensation for five (5) weeks of benefits during the fall of 2013 and for the period of June 4, 2015 through July 27, 2015 at the rate of \$645.24 per week.
2. Payment of all causally related medical expenses from August 14, 2013 to present and continuing.
3. All other issues are held in abeyance.

AND IT IS SO ORDERED!

FILED: February 11, 2016



Commissioner Avery B. Wilkerson, Jr.

CERTIFICATE OF SERVICE

This is to certify the undersigned has on this date served a copy of this order in the above entitled action upon all parties to this case by sending an electronic copy hereof by electronic mail addressed to the attorneys for said parties; or if there is an unrepresented party(ies), by depositing a copy hereof, postage paid in the United States mail, first class, addressed to the unrepresented party(ies) and to the attorney(s) for the represented party(ies).

February 11, 2016

By: Elaine Boyd, Administrative Assistant to Commissioner Wilkerson

APPELLATE PANEL
DECISION AND ORDER
OF THE
SOUTH CAROLINA WORKERS'
COMPENSATION COMMISSION

W.C.C. FILE NO. 1310882

TYRONE LAWRENCE,

Employee,

Claimant,

vs.

ADVANCED GLASSFIBER YARNS, INC.,

Employer,

Ans

GREAT AMERICAN ALLIANCE INSURANCE CO.,

Carrier,

Defendants.

DECISION AND ORDER

W.C.C. FILE NO. 1310882

Appellate Panel Review held in Columbia, South Carolina on

August 15, 2016

Appellate Panel Decision and Order filed on October 12th, 2016

Appearances: Claimant represented by William L. Smith II, Esquire
Defendants represented by E. Ros Huff, Jr., Esquire

STATEMENT OF THE CASE

This case came before the Single Commissioner, the Honorable Avery Wilkerson, pursuant to a Form 50 filed by Claimant, Tyrone Lawrence. Claimant sought benefits under the South Carolina Workers' Compensation Act based upon an accidental injury that occurred on August 14, 2013. Specifically, Claimant suffered an injury to his shoulders, his head, his neck, and his lower back when a fluorescent light and part of the ceiling fell on him. Defendants argued the light did not fall on Claimant in the manner he described and consequently denied the claim. The issues presented before the Single Commissioner were the compensability of Claimant's injury; Defendants' responsibility for the payment of temporary total disability for the time Claimant was out of work; reimbursement of Claimant's reasonable and causally related medical expenses; which doctor should be designated as the authorized treating physician; and the extent of Claimant's disability if he is found to be at maximum medical improvement.

The hearing was held before the Single Commissioner on November 23, 2015, and the Single Commissioner issued his Decision and Order on February 11, 2016, in which he made the following Findings of Fact:

1. The parties and proceedings are subject to and bound by the terms and provisions of the South Carolina Workers' Compensation Act.
2. Advanced Glassfiber Yarns (AGY) is the employer and Great American Alliance Insurance is the insurance carrier.
3. Claimant sustained a compensable injury by accident on August 14, 2013.
4. Claimant was a very credible witness. Claimant is a thirty-seven (37) year employee and testified in a clear, honest, and very credible manner.
5. All of the witnesses testified very similarly to the Claimant and showed that the light fixture fell. The only person present in the area when the light fixture fell was the Claimant. However, Martha Caine verified that the light fixture had fallen and there was debris on the Claimant and he appeared stunned.

6. The light fixture was an older fixture and it had been designated for repair on several occasions. Such a hanging fixture would swing when it fell.
7. Dr. Poletti, Dr. Carter, and Dr. Lehman all provided opinions that Claimant's condition was causally related to the accident.
8. Claimant is entitled to temporary total compensation for the five (5) weeks of benefits in the fall of 2013 and for the period of June 4, 2015 through July 27, 2015. Claimant has not reached maximum medical improvement. Dr. Poletti is named as the authorized treating physician. Defendants denied the claim and lost the right to choose the medical provider.

The Single Commissioner further made the following Conclusions of Law:

1. Pursuant to §42-1-160, Claimant sustained a compensable injury by accident arising out of and in the course of his employment.
2. Pursuant to §42-15-20, notice of the accident was given to the employer.
3. Pursuant to §42-9-10, Claimant is entitled to temporary total compensation as outlined above
4. Pursuant to §42-15-60, Claimant is entitled to payment of all causally related medical expenses to date and continuing with Dr. Poletti to serve as treating physician.

The Single Commissioner further issued the following Order:

1. Payment of temporary total compensation for five (5) weeks of benefits during the fall of 2013 and for the period of June 4, 2015 through July 27, 2015 at the rate of \$646.24 per week.
2. Payment of all causally related medical expenses from August 14, 2013 to present and continuing.
3. All other issues are held in abeyance.

Within the statutory period, the Defendants timely filed an application for review and a Form 30 setting forth their grounds for review. Copies of the application and the Form 30 were furnished to all interested parties. The Appellant/ Defendants requested review of the following questions:

1. Did the Single Commissioner err in finding as fact and concluding as a matter of law that the Claimant sustained a compensable injury by accident for the bodily injury?

2. Did the Single Commissioner err in finding as fact and concluding as a matter of law that Dr. Poletti is the authorized treating physician.

Briefs were submitted prior to oral arguments and they were presented before the Appellate Panel on August 15, 2016. All proffered testimony, documentary testimony, and oral arguments have been delivered to the Appellate Panel, and the Panel has since been under study and consideration. In appellate review, the Appellate Panel shall, pursuant to S.C. Code Ann. §42-17-50, review the award, weigh the evidence as presented at the initial hearing, and, if grounds exists for, make its own findings of fact and reach its own conclusions of law consistent or inconsistent with those of the Single Commissioner. Counsel for Claimant and for Defendants appeared at the scheduled hearing to present oral arguments on behalf of the parties.

A review of the record in its entirety shows the evidence supports, with amendments, the Single Commissioner's Decision and Order.

FINDINGS OF FACT

1. The parties and proceedings are subject to and bound by the terms and provisions of the South Carolina Workers' Compensation Act.
2. Advanced Glassfiber Yarns (AGY) is the employer and Great American Alliance Insurance is the insurance carrier.
3. Claimant sustained a compensable injury by accident.
4. Although there were discrepancies between Claimant's deposition testimony and Claimant's hearing testimony, we believe Claimant more than we doubt him.
5. All of the witnesses testified very similarly to the Claimant and showed that the light fixture fell. The only person present in the area when the light fixture fell was the Claimant. However, Martha Caine verified that the light fixture had fallen and there was debris on the Claimant and he appeared stunned.
6. While the fact is not dispositive, Claimant was a thirty-seven (37) year employee of Advanced Glassfiber Yarn, Inc., the Defendant/Appellant.
7. The light fixture was an older fixture and it had been designated for repair on several occasions. Such a hanging fixture would swing when it fell.

8. Dr. Poletti, Dr. Carter, and Dr. Lehman all provided opinions that Claimant's condition was causally related to the accident.
9. Claimant is entitled to temporary total compensation for the five (5) weeks of benefits in the fall of 2013 and for the period of June 4, 2015 through July 27, 2015. Claimant has not reached maximum medical improvement. Dr. Poletti is named as the authorized treating physician.

CONCLUSIONS OF LAW

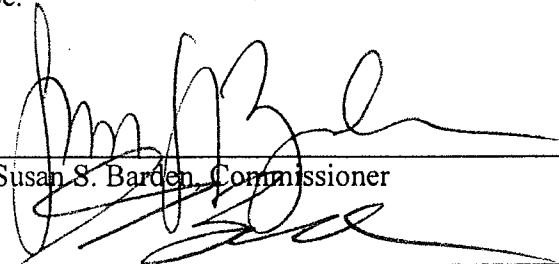
1. Pursuant to §42-1-160, Claimant sustained a compensable injury by accident arising out of and in the course of his employment.
2. Pursuant to §42-15-20, notice of the accident was given to the employer.
3. Pursuant to §42-9-10, Claimant is entitled to temporary total compensation as outlined above
4. Pursuant to §42-15-60, Claimant is entitled to payment of all causally related medical expenses to date and continuing with Dr. Poletti to serve as treating physician.

ORDER

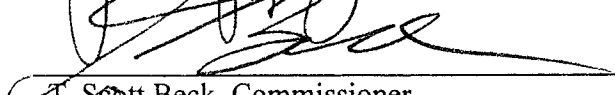
IT IS THEREFORE ORDERED: The decision of the Single Commissioner filed in the above entitled matter on February 11, 2016, is hereby affirmed with amendments by the Appellate Panel of the South Carolina Workers' Compensation Commission. We Order Defendants make the following payments:

1. Payment of temporary total compensation for five (5) weeks of benefits during the fall of 2013 and for the period of June 4, 2015 through July 27, 2015 at the rate of \$646.24 per week.
2. Payment of all causally related medical expenses from August 14, 2013 to present and continuing.
3. All other issues are held in abeyance.

AND IT IS SO ORDERED!



Susan S. Barden, Commissioner



T. Scott Beck, Commissioner



Gene McCaskill, Commissioner

CERTIFICATE OF SERVICE

This is to certify that the undersigned has on this date served a copy of this order in the above entitled action upon all parties to this case by sending an electronic copy hereof by electronic mail addressed to the attorneys for said parties; or if there is an unrepresented party(ies), by depositing a copy hereof, postage paid in the United States mail, first class, addressed to the unrepresented party(ies) and to the attorney(s) for the represented party(ies).

By Kim Falls on October 12, 2016

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE WORKERS' COMPENSATION COMMISSION

Gene McCaskill, Commissioner
T. Scott Beck, Commissioner
Susan S. Barden, Commissioner

Appellate Case No. 2016-002296

Tyrone Lawrence, Employee, Claimant, Respondent,

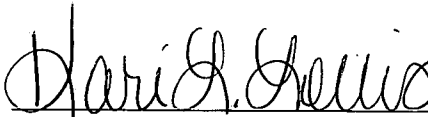
v.

AGY Holdings Corporation, Employer, and Great American Alliance Insurance Company,
Carrier, Appellants.

PROOF OF SERVICE

The undersigned hereby certifies that on the date indicated below, she served counsel for the Appellant with a copy of the *MOTION TO DISMISS* by mailing copies of the same by United States Mail with first class postage prepaid to the following address:

E. Ros Huff, Jr.
Shelby G. Hapeshis
Huff & Hapeshis, LLC
PO Box 1935
7244 Woodrow Street
Irmo, SC 29063


Kari L. Lollis

January 25, 2017

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January 25, 2017

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

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JAN 25 2017

SC Court of Appeals

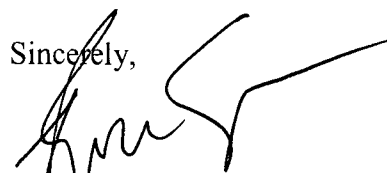
RE: Tyrone Lawrence, Employee, Claimant, Respondent. V. AGY
Holdings Corporation, Employer, and Great American Alliance Insurance
Company, Carrier, Appellants
Appellate Case No. 2016-002296

Dear Ms. Kitchings:

Please find enclosed for filing the original and seven (7) copies of a *MOTION TO DISMISS* in connection to the above-referenced case. I have also enclosed a proof of service of this document on counsel for the Appellant and a check for \$25.00 to cover the cost of filing this motion.

I am enclosing a return envelope for your convenience in returning the additional filed copy to our office. Thank you for your attention to this matter. If you need any additional information, please do not hesitate to contact me.

Sincerely,



William L. Smith, II
Attorney for the Respondent
PH: 803-509-5839
Email: bsmith@csa-law.com

WLS/kll