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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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FEB 02 2017

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

SC Court of Appeals

The Honorable George C. James, Jr., Circuit Court Judge

Appellate Case No. 2016-002417
Civil Action No. 2016-CP-40-2524

Terry McCall #233236, Appellant.

v.

Hire Quest, LLC d/b/a Trojan Labor, Respondent.

MOTION TO DISMISS APPEAL

The Respondent moves this Court to dismiss the appeal pursuant to Rules 201 and 240, of the South Carolina Appellate Court Rules. Appellant appeals an Order of the Circuit Court in which the Circuit Court granted the pro se Appellant's motion to withdraw three pending motions due to a lack of jurisdiction. (Notice of Appeal, attached as **Exhibit A**).

FACTS

Appellant alleged he suffered injuries to his neck, right shoulder, back, right hand, wrist, and a hernia in July 2014 when he tripped over a wire and fell while employed with Respondent Trojan Labor/Hire Quest, LLC. Following a hearing, the single commissioner issued an order, denying Appellant's request for benefits with prejudice. Appellant appealed the single commissioner's order to the Circuit Court. On November 10, 2016, the Circuit Court heard the following three motions: Appellant's Emergency Motion to Transfer Appeal to Court of

Appeals; Appellant's Motion to Reopen Hearing Request for Reviews; and Respondent's Motion to Dismiss. At the hearing, Appellant placed on the record that he voluntarily withdrew his motions due to the Circuit Court lacking jurisdiction over his appeal. The Circuit Court then issued an order dismissing the pending motions with prejudice. (Ex. A).

ARGUMENT

A party must first appeal an award of a single commissioner to the appellate panel of the South Carolina Workers' Compensation Commission. S.C. Code Ann. § 42-17-50. For all injuries that occurred after July 1, 2007, parties must appeal from the appellate panel to the Court of Appeals. S.C. Code Ann. §§ 1-23-600(D), 42-17-60. The Circuit Court no longer has jurisdiction over workers' compensation appeals for injuries that occurred after July 1, 2007. See id.

The Circuit Court lacked jurisdiction to hear Appellant's appeal from the single commissioner's order. See id. Any appeal from the Workers' Compensation Commission should have been to this Court. Appellant admitted as much when he voluntarily withdrew his motions before the Circuit Court because the Court lacked jurisdiction. (Ex. A). Because the Circuit Court lacked jurisdiction, Respondent respectfully submits that this Court cannot have jurisdiction over the Circuit Court case. See e.g., Senn v. Spartanburg Co., 192 S.C. 489, 7 S.E.2d 454 (1939) (providing that generally when a lower court does not have jurisdiction, an appeal from its decision cannot confer jurisdiction upon the appellate court).¹

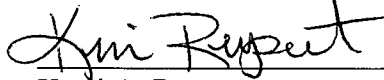
¹ Appellant appealed the same order from Commission to both the Circuit Court and this Court. Appellant has filed a number of appeals before this Court. Respondent moved to dismiss several appeals. There are two remaining appeals before this Court: Appellate Case No. 2016-001457 and 2016-002417. Appellate Case No. 2016-002417, which is the subject of this motion to dismiss, is the appeal of the order from the Circuit Court. Appellate Case No. 2016-001457 is the appeal of the appellate panel's decision to deny Appellant's request to waive the filing fees associated with his appeal to the appellate panel. Appellate Case No. 2016-002417 should be

CONCLUSION

Based on the foregoing argument, Respondent respectfully requests the Court dismiss the appeal as not immediately appealable.

Respectfully submitted,

COLLINS & LACY, P.C.



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ATTORNEYS FOR RESPONDENT

**RESPONDENT'S MOTION TO
DISMISS APPEAL**

Columbia, South Carolina
February 1, 2016

dismissed for lack of jurisdiction, while allowing Appellate Case No. 2016-001457 to proceed pursuant to Judge Lockemy's December 1, 2016 order. (Order reinstating Appellate Case No. 2016-001457, attached as **Exhibit B**).

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Circuit Court Judge

Appellate Case No. 2016-002417
Civil Action No. 2016-CP-40-2524

Terry McCall #233236, Appellant.

v.

Hire Quest, LLC d/b/a Trojan Labor, Respondent.

PROOF OF SERVICE

I hereby certify that I served the Respondent's Motion to Dismiss Appeal upon all parties, by placing a copy in the United States mail, postage prepaid, to all parties on February 1, 2017, addressed to the following:

PARTY SERVED:

Terry McCall, #233236
W.C.I. W5-39B
4340 Broad River Road
Columbia, SC 29210

[SIGNATURE PAGE TO FOLLOW]

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FEB 02 2017

SC Court of Appeals

COLLINS & LACY, P.C.



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ATTORNEYS FOR RESPONDENT

PROOF OF SERVICE-RESPONDENT'S
MOTION TO DISMISS APPEAL

STATE OF SOUTH CAROLINA
Court of Appeals

2016 CP-46-2524

Terry McCall, Appellant
Prose

vs.

HireQuest/Trojan Labor, Respondent

Appellate Case No.:

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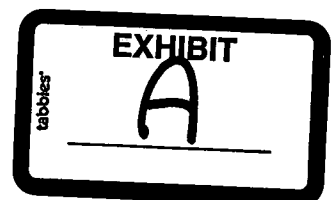
SC Court of Appeals

"Notice of Appeal"

I, Terry McCall hereby give Notice of Intent To Appeal
the decision handed down 11-10-2016 by the Hon. George C. James Jr.
At the Richland County Court of Common Pleas. I intend
to Appeal.

Dated 11-28-2016
Richland, South Carolina

s Terry McCall, Prose
Terry McCall 233236
G.C.F.-D-3-B-25-BB
4556 Broad River Rd
Columbia, S.C.
29210



Certificate of Service

I, Terry McCall have served the Notice to Appeal
Order issued 11-10-2016 by placing same in U.S.
Postal Mail Service, Postage Prepaid, forwarded to the
Address below:

Dated 11-28-2016

s Terry McCall
Terry McCall 233236
G.C.F. D3-B-25 BB
4556 Broad River Rd
Columbia, S.C.
29210

South Carolina Court of Appeals
Jenny Abbott Kitchinys, Clerk

P.O. Box 11629
Columbia, S.C. 29211

To: Jennifer Honeycutt, Esquire
Collins@Caly, Attorney At Law

P.O. Box 12487
Columbia, S.C.

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NOV 30 2016

SC Court of Appeals

Terry McCall 233236
G.C.I-D-3-B-25-BB
4556-Broad River Rd
Columbia, S.C.
29210

11-28-16

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NOV 30 2016

SC Court of Appeals

In Re: Notice of Intent To Appeal, File Clock For
Return Copy.

Dear Clerk of Court,

I find enclosed my notice to
Appeal, which needs filed, and a copy returned
for my records. I'm incarcerated at present
time. And our printer is down at the
institution.

Thank You!

Mr. Terry McCall

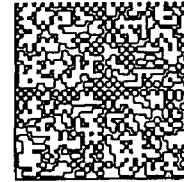
Terry McCall 233236
G.C.F - Dorm 3-B-25-BB
4556 Broad River Rd.
Columbia, S.C.

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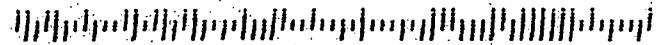
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P.O. Box 11629
Columbia, S.C.
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SC Court of Appeals

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29211-162929



STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Terry McCall,

Appellant,

vs.

Hire Quest, LLC d/b/a Trojan Labor,

Respondent.

IN THE COURT OF COMMON PLEAS

FOR THE FIFTH JUDICIAL CIRCUIT

Civil Action No.: 2016-CP-40-2524

ORDER

RICHLAND COUNTY
FILED
2016 NOV 18 PM 3:21
JEANNETTE W. MCBRIDE
C.C.P. & G.S.

Appellant Terry McCall purports to appeal the Order of a Workers' Compensation single commissioner's order arising out of alleged injuries which occurred on June 30 and July 3, 2014. Three motions were heard before this Court on November 10, 2016: Appellant's Emergency Motion to Transfer Appeal to Court of Appeals; Appellant's Motion to Reopen Hearing Request for Reviews; and Respondent's Motion to Dismiss.

At the hearing, Appellant placed on the record that he voluntarily withdraws his motions pending before the Circuit Court due to lack of jurisdiction.

THEREFORE IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Appellant's motion to withdraw pending motions is granted, the effect of which dismisses the motions pending before this Court with prejudice.

AND IT IS SO ORDERED


PRESIDING JUDGE OF THE FIFTH
JUDICIAL CIRCUIT

Columbia, South Carolina
November 10, 2016

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NOV 30 2016

SC Court of Appeals

The South Carolina Court of Appeals

Terry McCall #233236, Appellant,

v.

Trojan Labor and Hire Quest, LLC, and Respondents.

Appellate Case No. 2016-001457

ORDER

On September 30, 2016, this court dismissed this appeal, holding that this court lacks jurisdiction to review an order of the single commissioner. Appellant has filed a motion, which we construe as a motion to reinstate the appeal, explaining that he filed an appeal with the Workers' Compensation Commission, but the Commission denied his request to waive filing fees and dismissed his appeal. Appellant attached a memorandum from the Commission, which states that the Chair of the Commission rejected Appellant's request to waive the filing fees.

Because the Appellant appealed the single commissioner's order to the Commission and the Commission dismissed his appeal after Appellant's request to waive fees was denied, we reinstate this appeal. The scope of this appeal is limited to issues stemming from the denial of Appellant's request to waive fees and the dismissal of his appeal to the Commission. This court will not consider any issues stemming from the single commissioner's order.


FOR THE COURT

Columbia, South Carolina

FILED

December 1, 2016

EXHIBIT

tabbles

B

cc:

Terry McCall

Ellen M. Adams, Esquire

Kelsey Jan Brudvig, Esquire



Kerri A. Rupert | D: 803.255.0421 | E: krupert@collinsandlacy.com

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FEB 02 2017

SC Court of Appeals

February 1, 2017

The Honorable Jenny A. Kitchings
South Carolina Court of Appeals
Post Office Box 11629
Columbia, SC 29211

Re: Terry McCall #233236, Appellant v. Trojan Labor and Hire Quest, LLC,
Respondents
Appellate Case No. 2016-002417
C&L File No. 001840-00804

Dear Ms. Kitchings:

Enclosed please find the original and seven (7) copies of a Motion to Dismiss Appeal in the above-referenced matter. Please clock the motion and return a copy to us in the self-addressed envelope. Also enclosed is the check for twenty-five (\$25.00) for filing.

With warmest regards,

Sincerely,

A handwritten signature in black ink that reads "Kerri Rupert".

Kerri A. Rupert

KAR/mmm
Enclosures

cc: Terry McCall