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THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM SOUTH CAROLINA  
WORKERS' COMPENSATION COMMISSION

MAR 20 2017

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.

**MOTION TO DISMISS APPEAL  
OR TO STRIKE ALL OR PORTIONS OF  
APPELLANT'S AMENDED INITIAL REPLY BRIEF**

Pursuant to Rules 208, 240 AND 260, SCACR, Respondents Amazon.Com DEDC, LLC and Zurich Ins. Co. move this Court either to dismiss this appeal, or to strike all or portions of Appellant's Amended Initial Reply Brief. First, this Court's February 2, 2017 Order instructed Appellant to, "within twenty days of entry of this order, serve and file an amended initial reply brief that excludes .... All references to ... any disability payments from Liberty Mutual Insurance or Aetna Insurance," and warned that failure to comply may result in dismissal of his appeal. Appellant's Amended Initial Reply Brief was due on or before February 22, 2017; however, he did not file his Amended Initial Reply Brief until March 6, 2017. He neither filed a request for an extension of time nor a motion for leave to file out of time. In addition, as discussed in more detail below, Appellant failed to comply with the substance of this Court's February 2, 2017 Order. As

a result, this appeal should be dismissed or, in the alternative, Appellant's Amended Initial Reply Brief should be stricken in its entirety or amended as set out below.

Appellant's Amended Initial Reply Brief does not comply with this Court's February 2, 2017 Order. That Order specifically struck "all references to ... any disability payments from Liberty Mutual Insurance or Aetna Insurance." However, Appellant's Amended Initial Reply Brief continues to contain references to:

- "...short-term and long-term disability payments from Liberty Mutual and Aetna Insurance submitted by Appellant ..." (Amended Initial Reply Brief, Table of Contents, No. III, p. i; and Statement of Issues on Appeal, No. III, p. iii);
- "...Appellant has received disability payments from Liberty Mutual and Aetna insurance which Respondents has denied but has been documented at SCWCC." (Amended Initial Reply Brief, pp. 3-4);
- "...verifying short-term and long-term disability payments from Liberty Mutual and Aetna Insurance submitted by Appellant ..." (Amended Initial Reply Brief, Heading to Arg. III, p. 5);
- "Appellant was determined to be disable and received disability payments from Liberty Mutual And Aetna Insurance that was included in the four folders brought on May 21, 2015 denied by Commissioner Michael Campbell II. as expert documents under R67-612. Appellant's financial verifications of disability payments from Liberty Mutual and Aetna Insurance had nothing to do with R67-612 therefore was not provided due prudence and due process required by law." (Amended Initial Reply Brief, pp. 5-6);

- ...”short-term and long-term disability payments from Liberty Mutual and Aetna Insurance, ...” (Amended Initial Reply Brief, p. 7); and,

- “SCWCC has refused to acknowledge payment of disability benefits from Liberty Mutual and Aetna Ins. even though verification has been provided to them.”

As a result, this Court should strike the Amended Initial Reply Brief in its entirety or, at a minimum, order that the above-referenced portions be stricken from a further amended initial reply brief.

### CONCLUSION

For the reasons stated herein, Respondents move this Court either to dismiss this appeal for failure to comply with this Court’s February 2, 2017 Order or to strike Appellant’s Amended Initial Reply Brief in its entirety. In the alternative, Appellant should be ordered to strike the above-referenced arguments/issues from his Amended Initial Reply Brief.

McANGUS GOUDELOCK & COURIE, LLC

March 16, 2017



Helen F. Hiser, S.C. Bar No.: 76124  
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*Attorneys for Respondents Amazon.Com DEDC,  
LLC and Zurich Ins. Co.*

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**PROOF OF SERVICE**

I certify that on the 16th day of March 2017, I served the Respondents' **Motion to Dismiss Appeal or to Strike All or Portions of Appellant's Amended Initial Reply Brief** 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  
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*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

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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' Motion to Dismiss Appeal or to Strike All or Portions of Appellant's Amended Initial Reply Brief, 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.

Also enclosed is our firm's check in the amount of \$25 for filing the motion.

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*

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**20194.13164/HFH/Kea**  
The Honorable Jenny Abbott Kitchings  
South Carolina Court of Appeals  
1220 Senate Street  
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