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JUN 26 2017

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The South Carolina Court of Appeals

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

W.C.C. File No.: 1215417

APPELLATE CASE NO.: 2016-000614

Jefferson Taylor.....Employee, Claimant, Appellant,

Vs.

Wildcat Steel & Fabricating, LLC, Employer, and
Guarantee Insurance Company/Patriot Risk Services
c/o Patriot Risk Services, Inc., Carrier,.....Respondents.

JOINT MOTION TO DISMISS APPEAL

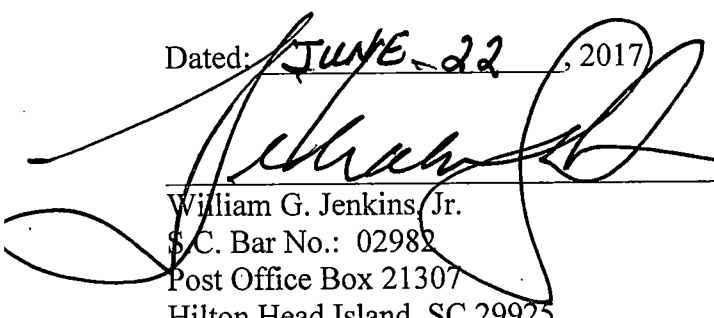
The parties to this appeal hereby move to dismiss the appeal in the above referenced matter pursuant to rule 260(c) SCACR. This matter is currently pending before this Court on appeal from an Order of the South Carolina Workers' Compensation Commission. Appellant, Jefferson Taylor, is represented by William G. Jenkins, Jr., Esquire, and Respondents, Wildcat Steel & Fabricating, LLC, and Guarantee Insurance Company/Patriot Risk Services, c/o Patriot Risk Services, Inc., are represented by Erin L. Hantske, Esquire. The parties have reached a settlement agreement regarding the issues on appeal. The parties have, further, agreed that each party will bears its own costs with respect to this appeal.


The parties hereby move to dismiss this appeal with prejudice. Under § 42-9-390 (Voluntary Settlements), for injuries occurring after July 1, 2007; and so long as both parties are

represented by an attorney, the employer only needs to file a copy of the settlement agreement with the Commission. Appellant, Jefferson Taylor, alleged injuries arising out of a November 5, 2012 accident, and both parties have been represented throughout this case by counsel. The settlement agreement has been filed with the Commission and is attached hereto for the Court's files. As a result, no Commission approval is necessary in order to make this settlement final and binding. Therefore, this appeal should be dismissed without further delay.

This Motion conforms with Rule 240 and Rule 267, SCACR.

Dated: JUNE 22, 2017


William G. Jenkins, Jr.
S.C. Bar No.: 02982
Post Office Box 21307
Hilton Head Island, SC 29925


Erin L. Hantske
S.C. Bar No.: 76313
Post Office Box 650007
Mt. Pleasant, SC 29465

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO: 1215417

JEFFERSON TAYLOR,

Employee,

Claimant,

vs.

WILDCAT STEEL & FABRICATING, LLC,

Employer,

AND

GUARANTEE INSURANCE
COMPANY/PATRIOT RISK SERVICES
C/O PATRIOT RISK SERVICES, INC.,

Carrier,

Defendants.

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SETTLEMENT
JUN 01 2017
Division of Claims
SC Workers Comp. Comm.

**SETTLEMENT AGREEMENT
AND RELEASE**

Jefferson Taylor "Claimant" alleges to have injured his left leg, left ankle, left foot, and back by an accident arising out of and in the course of his employment with Wildcat Steel & Fabricating, LLC "Employer" on or about November 5, 2012 when he allegedly fell off a ladder.

Claimant's average weekly wage is \$581.58; and the compensation rate is \$387.74.

Claimant contends that he is in need of additional medical examination and treatment; that he has lost compensable time from work and wages; that he has sustained permanent disability in excess of any ratings by treating physicians; that he has sustained bodily disfigurement; and Defendants dispute the Claimant's allegations and deny that any additional benefits are due.

Claimant has been treated and/or evaluated by Richard Vagilenti, M.D., who did not rate the Claimant's permanent impairment, by Optim Healthcare, who did not rate the Claimant's permanent impairment, by Steven B. Storick, M.D., who did not rate the Claimant's permanent impairment, by Coastal Carolina Hospital, who did not rate the Claimant's permanent impairment, by Richard Kaplan, M.D., who did not rate the Claimant's permanent impairment, by Norman Bettle, M.D., who did not rate the Claimant's permanent impairment and by Nicholas E. Mihelic, M.D., who has rated the Claimant's permanent impairment at 100 percent of the left lower extremity; 39 percent whole person on September 9, 2015.

In consideration of the sum of Thirty-Five Thousand Dollars and No Cents (\$35,000.00), Claimant does hereby release and forever discharge Defendants from any and all claims, demands, actions or causes of action under the South Carolina Workers' Compensation Act, on account of any and all injuries, disability, disfigurement, specific loss, death, operations, medical, hospital or like expense, continuances, recurrences, aggravations, changes of condition, ailments, illnesses, and diseases or other damages, consequences or results, past, present or future in any way connected with, or arising from the alleged injury sustained by Claimant on or about November 5, 2012, and does hereby acknowledge that Defendants have fully, finally and completely paid and discharged all of their obligations, liabilities and responsibilities under the South Carolina Workers' Compensation Act, and that the sum set forth above is being paid to, and received by, Claimant in full and final satisfaction of all claims whatsoever as a result of the alleged accident described above and that Defendants shall not be liable for any additional payments whatsoever.

Defendants have paid or have agreed to pay authorized and causally-related medical

expenses through April 12, 2017 incurred as a result of the alleged accident described above, in such amounts as may be approved by the South Carolina Workers' Compensation Commission.

The parties have reasonably and adequately considered the interests of Medicare in reaching this compromise settlement agreement pursuant to 42 CFR §411.46 and §411.47, the Medicare intermediary manual, the Medicare carriers manual, and under the terms of the memorandum to All Associate Regional Administrators from Parashar B. Patel of the Centers for Medicare and Medicaid Services (CMS) dated July 23, 2001, and the subsequent related memoranda issued up to the date of this compromise settlement agreement, including, but not limited to, the Gerald Walters memorandum dated December 30, 2005, upon which the parties to this agreement expressly rely. Claimant is *not* currently receiving or determined to be eligible to receive Medicare benefits and has *not* applied for Social Security Disability benefits at this time. Claimant is not a Class I beneficiary as Claimant is not 65 years old or older, has not been on Social Security Disability for 24 months or longer, and is not in end stage renal disease.

Furthermore, it is the understanding of the parties that there is *not* a reasonable expectation that Claimant will be eligible to become a Medicare beneficiary within thirty (30) months of the date of this compromise settlement agreement and the total payout under the terms of this compromise settlement agreement will *not* exceed Two Hundred Fifty Thousand and NO/100 Dollars (\$250,000.00). Therefore, Claimant is not a Class II Medicare beneficiary.

Therefore, it is the understanding of the parties, based on the foregoing paragraphs, that it is *not* recommended nor required by Centers for Medicare and Medicaid Services (CMS) that this compromise settlement agreement be approved and/or reviewed by CMS in order to preserve Claimant's eligibility for Medicare coverage, as Claimant is not currently eligible for Medicare

and not currently eligible for Social Security Disability benefits and this settlement does not exceed Two Hundred Fifty Thousand and NO/100 Dollars (\$250,000.00), and Claimant has not even in fact applied for Social Security Disability benefits to date. In that regard, the parties have reasonably considered the interest of Medicare in reviewing all medical records related to this matter and have in good faith determined that no allocation is needed and, therefore, propose that no monetary amount of the total settlement be allocated to pay for the anticipated future "qualified" Medicare-covered medical expenses Claimant will incur for treatment of the work injury. None of the parties in this matter, by entering into this compromise settlement agreement, is attempting to shift to the Federal Government or Medicare the responsibility for paying for medical treatment for these alleged work-related injuries and medical conditions.

Claimant agrees to indemnify, defend and hold the Defendants harmless from any action by Medicare seeking payment of past, current, or future medical expenses for Claimant. Claimant shall further hold Defendants harmless from any and all adverse consequences in the event this settlement results in the loss of right to Social Security and/or Medicare benefits to the extent Claimant would have been entitled to those benefits in the absence of this settlement agreement. Claimant further agrees to waive any and all future actions against the Defendants, including but not limited to any private cause of action for damages pursuant to 42 U.S.C. § 1395y(b)(3)(A) at seq.

Claimant and his attorney represent that Claimant has been fully advised of his rights under the South Carolina Workers' Compensation Act and that they are of the opinion that the proposed settlement is reasonable and fair. Claimant's attorney represents that he has reviewed the settlement and has explained the terms fully to Claimant and Claimant voluntarily and


without coercion agreed to the terms.

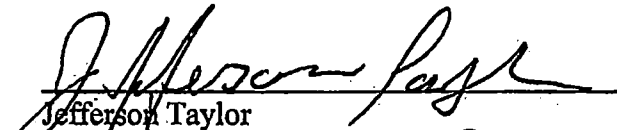
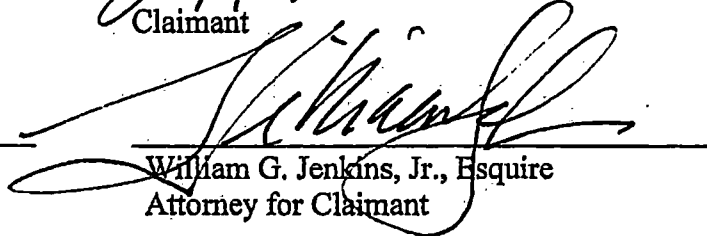
Claimant hereby relinquishes and releases each and every claim which he or anyone on his behalf now has, or may hereafter have, so that he shall not have any other or future claim or demand of any kind or nature as a result of the alleged accident described above.

The parties are hereby filing this SETTLEMENT AGREEMENT AND RELEASE with the South Carolina Workers' Compensation Commission as required by S.C. Code Ann. § 42-9-390.

WE CONSENT:

McAngus Goudelock & Courie, L.L.C.


Erin L. Hantske, Esquire
Attorney for Defendants


Jefferson Taylor
Claimant

William G. Jenkins, Jr., Esquire
Attorney for Claimant

Charleston, South Carolina

Date: 5/26/17

THE STATE OF SOUTH CAROLINA
In The South Carolina Court of Appeals

APPEAL FROM THE APPELLATE PANEL DECISION AND ORDER OF
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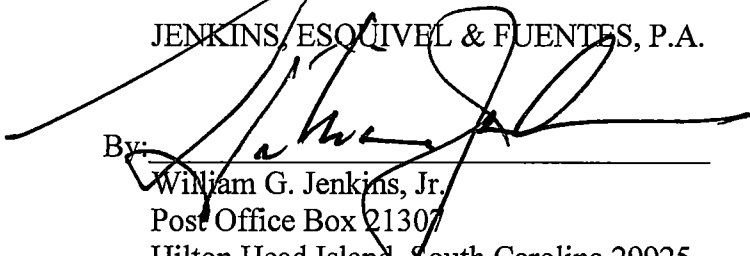
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c/o Patriot Risk Services, Inc., Carrier,.....Respondents.

PROOF OF SERVICE

I certify that I have served a copy of the **Joint Motion to Dismiss Appeal with attached Settlement Agreement and Release** on the Respondents by depositing a copy of it in the United States Mail, postage prepaid, on June 22, 2017, to their attorney of record, Erin L. Hantske, now Erin H. Edwards, Esquire, Law Offices of McAngus, Goudelock & Courie, LLC, Post Office Box 650007, Mt. Pleasant, South Carolina 29465.

JENKINS, ESQUIVEL & FUENTES, P.A.

By:


William G. Jenkins, Jr.
Post Office Box 21307
Hilton Head Island, South Carolina 29925
Telephone: (843)785-8800
Attorney for Appellant

Hilton Head Island, South Carolina

June 22, 2017

JF Jenkins Esquivel & Fuentes, P.A.

ATTORNEYS AT LAW

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June 22, 2017

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SC Court of Appeals

Ms. Jenny Abbott Kitchings
South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

**RE: Jefferson Taylor v. Wildcat Steel & Fabricating, LLC and Guarantee
Insurance Company/Patriot Risk Services, c/o Patriot Risk Services, Inc.
Appellate Case No.: 2017-000614**

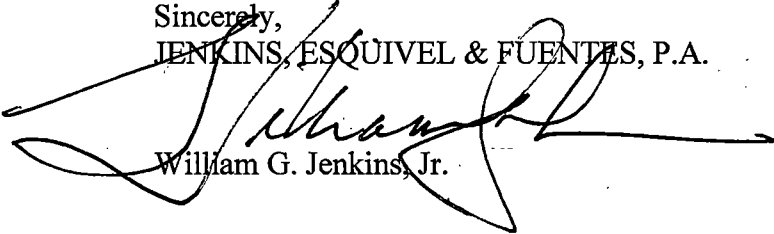
Dear Ms. Kitchings:

Please find enclosed an original Joint Motion to Dismiss Appeal along with an attached copy of the Settlement Agreement and Release, as well as the Proof of Service, relative to the above captioned case. The parties have settled this case and the appeal is no longer necessary. I have enclosed this firm's check in the amount of \$25.00 for the cost of filing this Joint Motion to Dismiss Appeal. We would appreciate the Court furnishing our office with the Order dismissing this case in the return envelope which is enclosed for the Court's convenience.

Should you have any questions or concerns regarding this matter, please do not hesitate to contact me. Thanking you in advance and with best wishes, I remain

Sincerely,

JENKINS, ESQUIVEL & FUENTES, P.A.


William G. Jenkins, Jr.

WGJjr/km
Enclosures

cc: Erin L. Hantske Edwards, Esquire
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Post Office Box 650007
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(843)576-2946
Attorney for Respondents

**JF Jenkins Esquivel
& Fuentes, P.A.**

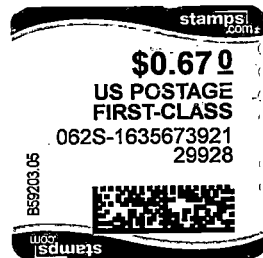
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