

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

W.C.C. File No.: 1303989

Clarence B. Jenkins, Employee, Appellant,

v.

Amazon.Com DEDC, LLC, Employer, and
American Zurich Ins. Co., Carrier, Respondents.

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**RETURN IN OPPOSITION TO
APPELLANT'S MOTION**

SEP 18 2017

SC Court of Appeals

Pursuant to Rule 240, SCACR, Respondents Amazon.Com DEDC, LLC and Zurich Ins. Co. file this Return in Opposition to Appellant Clarence B. Jenkins Jr.'s Appellant's Motion, dated August 30, 2017. While it is unclear from the documentation received by Respondents that Appellant has corrected all the deficiencies noted by this Court, Respondents provide this Return in Opposition out of an abundance of caution.

Appellant's assertions and accusations are largely without merit. The only item designated by Appellant to which Respondents objected in error is the April 24 email from J. Russell Goudelock to Appellant advising him that he would not receive any workers' compensation payments at that time. Given the multiple Form 50s and other filings at the Commission, and although the undersigned undertook a careful and diligent search of the Commission file to determine what actually had been submitted, the

undersigned mistakenly missed this one email which was attached to the Amended Form 50 served by the Commission on October 13, 2014. As a result, Respondents withdraw their objection to the referenced April 24 email from J. Russell Goudelock to Appellant.

It is unclear that either of the Earnings Statements attached to the Amended Form 50, dated September 21, 2014 to October 4, 2014 and March 23, 2014 to April 5, 2014, is for short-term disability. Although one of them may be what Appellant designated as “Disability Payments from Amazon.Com, LLC dated March, 2014 to April, 2014,” the other clearly is not. Appellant designated and has consistently alleged he received short-term and long-term disability payments from Liberty Mutual and long-term disability payments from Aetna. Again, to the extent the March 23, 2014 to April 5, 2014 Earnings Statement constitutes the “Disability Payments” designated by Appellant, which is unclear, Respondents do not object to its being included in the Record.

However, the remaining items identified in Appellant’s Motion either were not designated, were not objected to or were not submitted to the Commission. Appellant did not designate the February 19 email from Michelle Doyle indicating that he should reach out to the LOA team. Instead, Appellant designated “Documentations from Amazon.Com DEDC, LLC Human Resources (Michelle Doyle) placing Claimant on a leave because of medical condition/ restrictions dated August 14, 2013.” (Exh. A). The email attached to his Amended Form 50 is not documentation placing him on leave as of August 14, 2013.

Appellant suggests that Respondents wrongly objected to including “medical referrals from Dr. Mahmoud Abu-Ata.” However, Respondents only objected to two designated items concerning Dr. Abu-Ata, which were never submitted to the

Commission. These include: “A reminder letter from Assigned Nurse Kelly Wells dated June 9, 2014 assigned by Amazon.Com DEDC, LLC regarding June 20, 2014 medical appointment with Dr. Mahmoud Abu-Ata, May 21, 2015,” and “A Health care Provider Certificate for FMLA completed by Dr. Mahmoud Abu-Ata, assigned worker’s [sic] compensation doctor regarding claimant medical condition/restrictions dated March 9, 2014.” Appellant did not designate the referrals attached to his Amended Form 50 and, consequently, Respondents did not object to them.

Finally, with respect to “an email from Aetna Ins. Co. and etc.,” the email attached to his Form 50 is from Monica L. Goss, Long Term Disability Analyst with Aetna to Appellant regarding medical records. Although Appellant designated “An email from Monica Goss of Aetna Insurance dated September 25, 2014 stating that Dr. Stickler Office are advising them there are no medical records for Claimant, May 21, 2015 Transcript,” in his August 25, 2016 Designation, Respondents did not object to including the referenced email from Monica Goss to Appellant. (*See* Second Motion for Correction and/or to Strike Items from Appellant’s Designation of Matter and Initial Brief, dated August 30, 2016).

CONCLUSION

For all the reasons stated herein, this Court should deny Appellant’s Motion. Respondents inadvertently and mistakenly objected to the April 24 email from J. Russell Goudelock to Appellant and do not object to its inclusion in the Record. To the extent the Earnings Statement dated March 23, 2014 to April 5, 2014, constitutes the “Disability Payments from Amazon.Com DEDC, LLC dated March, 2014 to April, 2014” designated by Appellant, which remains unclear, Respondents also withdraw their objection to its

inclusion in the Record. However, the remaining items either were not designated or were not objected to or were not submitted to the Commission.

September 15, 2017

McANGUS GOUDELICK & COURIE, LLC



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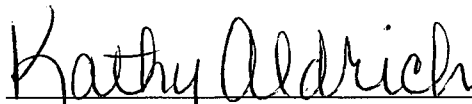
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PROOF OF SERVICE

I certify that on the 15th day of September 2017, I served the Respondents' **Return in Opposition to Appellant's Motion** 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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Reply To

HELEN F. HISER
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September 15, 2017

Via U.S. Mail

The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

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' Return in Opposition to Appellant's Motion, 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.

If you have any questions, please do not hesitate to contact me.

Yours truly,

McAngus Goudelock & Courie, LLC



Helen F. Hiser

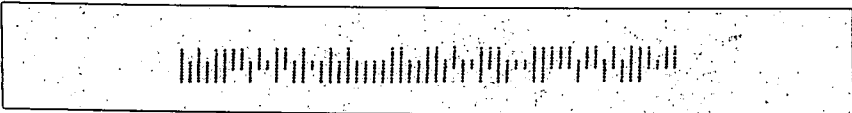
Enclosures

cc: Clarence B. Jenkins, *pro se*

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DEFENSE**

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