

Stella Mae Richardson,
Claimant,

vs.

Yuasa Exide, Inc.,
Employer,

Great American Insurance Company of
NY,
Carrier,
Defendants.

RECEIVED

SC Court of Appeals

The claimant has alleged an injury by occupational disease or injury by accident on November 10, 1997 to multiple body parts due to alleged lead exposure. The claimant initially filed her claim in 2009 when she was represented by The Steinberg Law Firm. At some point, the claimant's relationship with The Steinberg Law Firm ended. The claimant filed a Form 50 requesting a hearing on December 6, 2013, and subsequently hired attorney Charles Brooks to represent her. The parties attended a hearing on April 3, 2014 at which time the parties put forth evidence that the claimant last worked for the employer in October or November of 1997-- which would place the claim squarely within the coverage period provided by Great American Insurance/Mitsui Sumitomo Insurance. Therefore, Commissioner Beck issued an Order adding Great American Insurance as carrier to this file.

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November 3, 2014 and the parties entered a clincher agreement which was approved by the Commission on December 10, 2014 (attached).

Mr. Brooks submitted a Motion to be relieved as Counsel in this matter which was granted on June 3, 2015. The claimant filed a Pro Se Form 50 on June 18, 2015 alleging an illness due to invasive ductal carcinoma (breast cancer) and requested compensation for total disability and medical care and treatment. The employer/carrier timely filed a Form 51 alleging that the claimant's breast cancer was not causally related to her alleged injury/exposure and also alleging every available defense (affirmative and otherwise) available under the South Carolina Workers' Compensation Act and specifically the occupational disease portion of the statute. Most importantly, however, the employer/carrier alleged that the claimant had clinchered her case on December 10, 2014 and that the claimant, therefore, was not entitled to any further benefits whatsoever pursuant to the terms of the claimant agreement. The procedural history of this case following the claimant's June 18, 2015 F50 follows.

First Hearing before Commissioner Campbell

The parties appeared before Commissioner Campbell on August 10, 2015 as scheduled. The parties had an extensive pre-trial conference with Commissioner Campbell. The employer/carrier submitted a pre-hearing brief and APA submissions consisting of the Clincher Agreement the parties signed and which the Commission approved, dated December 10, 2014 and medical records documenting the claimant's physical condition. The employer carrier argued that the claimant's claim was closed as a result of the clincher, that the South Carolina Workers' Compensation Commission had no jurisdiction to consider the claimant's Form 50; the issues raised in the claimant's Form 50 were barred by the doctrine of *Res Judicata* and that the clincher

agreement approved by the Commission on December 10, 2014 specifically closed both the claimant's alleged date of injury (November 10, 1997) and any other date of injury which could be alleged in the future.

Findings of fact in Commissioner Campbell's Order dated December 7, 2015

1. The South Carolina Workers' Compensation Commission has jurisdiction over this matter and the parties to the extent necessary to determine whether or not the case may be re-opened post settlement;

2. The claimant originally filed a claim seeking benefits as the result of a work related occupational exposure in 2009;

3. The claimant was originally represented by the Steinberg Law Firm; however, the claimant was no longer represented by the Steinberg Law Firm by December 6, 2013 when she filed her first *pro se* Form 50 hearing request;

4. The claimant was represented by Charles Brooks as of April 3, 2014, and this representation lasted until June 3, 2015 when Mr. Brooks was relieved of counsel by Order of the Commission;

5. The parties attended a mediation of this case on October 31, 2014 before H. Mills Gallivan. The claimant was represented by Mr. Brooks throughout the mediation;

6. The parties settled the claimant's claim at the aforementioned mediation for \$20,000.00 on a full and final, doubtful and disputed clincher, which was approved by the Commission on December 10, 2014;

7. The settlement appears to have been entered into willingly and voluntarily and with advice of counsel;

8. No party attempted to "appeal" the clincher agreement; as such, it is a final order and is the law of the case;

9. Based upon statements made in the pre-trial conference by the claimant, she had competent representation at the time of the mediation and settlement of her claim, and she was informed that a settlement could end her entitlement to any further benefits;

10. The claimant has made no allegation and has presented no evidence that she was defrauded or otherwise induced to enter a settlement against her will or that she was not of sound mind and body when she entered into the settlement agreement;

11. The attached clincher agreement specifically states that the claimant will no longer be entitled to any further benefits which may otherwise have been available under this claim;

12. The attached clincher agreement specifically "releases and discharges the employer\carrier from any and all work related injuries which may have occurred during her employment with the employer. . .;"

13. The claimant willfully and voluntarily and in exchange for valuable consideration released her right to any further benefits as a result of this or any other claim she may have against the employer\carrier; therefore, the South Carolina Workers' Compensation Commission has no jurisdiction to award additional benefits in this matter or to consider additional claims between these parties.

Conclusion of Law in Commissioner Campbell's Order dated December 7, 2015 Order

1. Pursuant to *S.C. Code Ann. Reg. 67-801E (1990)*, a “clincher agreement” is a full and final settlement agreement that “relieves the employer and its representative from any further responsibility for payment of compensation or medical expenses.”

2. Pursuant to *Singleton v. Young Lumber Company*, 236 S.C. 454, 114 S.E.2d 837 (1960) and *Spivey v. Carolina Crawler*, 367 S.C. 154, 624 S.E.2d 435 (Ct. App. 2005), [a] clincher or settlement agreement, when approved by the Commission, has the same effect as an unappealed Order or Decision or award of the Commission and is binding upon the parties.

Claimant's Appeal of Commissioner Campbell's Order to the Appellate Panel

Claimant timely filed a F30 appeal to the Full Commission on December 21, 2015 in which she did not request oral argument. This matter was considered by the Appellate Panel of the South Carolina Workers' Compensation Commission without oral argument during the March 2016 term, pursuant to a Form 30 timely filed by the Appellant on December 21, 2015.

The Appellate Panel reviewed the record, Commissioner Campbell's Order and the claimant's appeal, and made the following findings of fact and conclusions of law:

1. We conclude as a matter of law that all parties to this proceeding are subject to and bound by the terms and provisions of South Carolina Workers' Compensation Act;

2. We conclude as a matter of law that, when reviewing evidence in the award of the Single Commissioner, the Full Commission makes its own findings of fact and reaches its own conclusions of law either consistent or inconsistent with those of the Single Commissioner. *Lowe v. Am-Can Transport Services, Inc.*, 283 S.C. 534, 324 S.E.2d 87 (Ct. App. 1984); *S.C. Code Ann. § 42-17-50 (1985)*.

3. We conclude as a matter of law that an administrative order may be reversed or modified if substantial rights of the appellant are prejudiced because the administrative findings are: (1) in violation of constitutional or statutory provisions; (2) made upon unlawful procedure; (3) affected by other error of law; (4) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or (5) arbitrary or capricious or characterized by an abuse of discretion or clearly unwarranted exercise of discretion. S.C. CODE ANN. § 1-23-380 (1986).

Based upon its findings of fact and conclusions of law, the Appellate Panel Ordered that this matter should be scheduled for a *de novo* hearing and that the hearing commissioner "shall open the record, take testimony and make any findings of fact and conclusions of law consistent with the evidence submitted"

REMAND DE NOVO HEARING BEFORE COMMISSIONER CAMPBELL

August 17, 2016 part of Commissioner Campbell's remand hearing

The first part of the *de novo* hearing before Commissioner Campbell took place on August 17, 2016. Commissioner Campbell reminded Ms. Richardson that she had the right to hire an attorney to which Ms. Richardson responded that she could not find an attorney (Hearing Transcript August 17, 2016, pg 3). Commissioner Campbell then asked each party to put their respective positions on the record.

On behalf of the employer/carrier, defense counsel stated that the clincher agreement is the law of the case and the South Carolina Workers' Compensation Commission has no jurisdiction to hear Ms. Richardson's challenge. Defense counsel stated that, should the Commission decide to hear this matter, the clincher agreement speaks for itself and Ms. Richardson had an attorney to represent her and that she had offered no justification to look past the terms of the clincher

document itself. Ms. Richardson's F50 states that she should receive additional benefits to treat her breast cancer, which was diagnosed post settlement. Defense counsel argued that this was not a reason to re-open the case or set aside the clincher and Ms. Richardson had not alleged fraud, deceit lack of capacity or estoppel and, therefore, the Commission could not re-open her case. Finally, defense counsel requested that if the Commission did conclude that Ms. Richardson could re-open her claim that the employer and carrier receive a credit for the \$20,000.00 already paid to Ms. Richardson and that the case be scheduled for a merits hearing compensability, causation and all other issues.

Ms. Richardson alleged that her case should be reopened because she had been confined to a mental institution in the past, she was brain damaged, had breast cancer and numerous other medical problems which were caused by lead poisoning. Commissioner Campbell asked Ms. Richardson if she had any evidence that she was not mentally capable of making the decision to enter into a clincher agreement at the time that she settled her case. Ms. Richardson said that she did, and she also pointed to a report from Dr. Edward Baker dated January 25, 2013 which stated that her lead exposure caused her 10% impairment to her brain and 10% impairment to her heart. Defense counsel stated that Dr. Baker's report pre-dated the mediation by more than a year, giving Ms. Richardson plenty of time to incorporate Dr. Baker's report into her settlement negotiations. Defense counsel objected to Ms. Richardson's use of medical records to establish causation because there had been no merits hearing and neither party had taken the opportunity to conduct full discovery. It was improper to consider causation at this point in the proceeding. Defense counsel concluded by pointing out that Ms. Richardson's main argument was one of incapacity, and that whether or not Ms. Richardson had been institutionalized in the past was immaterial to that issue as there was no evidence that Ms. Richardson lacked the mental capacity to enter into her clincher

agreement on the day she settled her case or at any time during the post settlement process. Ms. Richardson then testified that she “wasn’t thinking clearly that day because that attorney was pushing [her] to sign off on the document and saying that if [she] didn’t sign the document there’s going to be all kind of problems and issues and on top of that he forged my name and he sent him a piece of paper telling the lawyer to make sure [she] signed [her] paper” (Hearing Transcript, Pg. 20, Lns 21-25; Pg. 21, Lns. 1-4).

Ms. Richardson allowed defense counsel to review 282 pages of documents that she submitted to Commissioner Campbell, and the parties went off the record. When the hearing reconvened, Commissioner Campbell stated that the purpose of the hearing was to address the issue of claimant’s mental competency to enter into a Clincher Agreement at the time the case was settle. Commissioner Campbell asked Ms. Richardson again if she had any evidence relevant to that issue. Ms. Richardson referred to an inpatient admission to Richland Springs hospital from January 2, 1998 until January 12, 1998 and her award of SSDI dated April 22, 2002. Defense counsel responded that all of that evidence far predated the October 2014 mediation and there was still no medical evidence that Ms. Richardson lacked the mental capacity to settle her case. Ms. Richardson then produced a letter dated September 5, 2012 and written by Vernon Dunbar to David Pearlman and Malcolm Crosland and copied to Virginia Crocker, then Judicial Director of the Commission, in which Mr. Dunbar stated that he could not mediate Mr. Richardson’s claim because he could not locate her personnel file. He also opined that “ because Ms. Richardson suffers from schizophrenia it appears that a guardian *ad litem* should be appointed. . .I am concerned that if the case is successfully resolved, she may not be capable of protecting her monetary award.” (See letter from Vernon Dunbar to David Pearlman and Malcolm Crosland dated September 5, 2012 contained in the Commission’s file and contained in the 282 pages of documents which claimant submitted at the

hearing). Ms. Richardson argued that Mr. Dunbar's letter was proof that she lacked the mental capacity to settle her case. Defense counsel stated that Mr. Dunbar's opinion was not medical evidence and that his only concern was that she may not be able to handle a monetary award—not that she could not aid in the prosecution of her case or decide whether or not to settle her case. Ms. Richardson then testified that her lawyer forged her name and lied to her. The Commission reminded Ms. Richardson that this was not the proper forum for such an issue. Ms. Richardson testified that her attorney, Charles Brooks forged her name on the settlement check and F19 without her authorization and she testified that she never signed the formal clincher.

Commissioner Campbell adjourned the hearing and instructed defense counsel to depose Mr. Charles Brooks after which the hearing would re-convene to determine whether the claimant received adequate assistance from her legal counsel (Mr. Charles Brooks) and whether or not she had the mental capacity to settle her case.

Charles Brooks' Deposition

The parties took Charles Brooks' deposition on October 3, 2016. Mr. Brooks testified that he started representing Ms. Richardson in this matter in the spring of 2014 (Deposition of Charles Brooks, Pg. 8, lns. 12-16). Mr. Brooks testified that, in addition to his representation in this matter, he represented Ms. Richardson in a slip and fall injury she sustained at Lowes. Ms. Richardson provided Mr. Brooks with her medical bills, and Mr. Brooks was able to obtain a small settlement for Ms. Richardson (Deposition of Charles Brooks, Pg. 7, lns 1-25). Mr. Brooks described Ms. Richardson as being no different from any of his other clients as far as mental stability or her ability to understand events or issues in her case. She would frequently call his office to check the status of

her case, she brought her workers' compensation file to Mr. Brooks and had frequent contact with his office staff (Deposition of Charles Brooks, Pg. 11, Lns. 7-25; pg. 12, lns. 1-8, lns 9-25).

Mr. Brooks discussed the October 31, 2014 mediation as being similar to other mediations (Deposition of Charles Brooks, Pg. 17, lns. 17-25). He and Ms. Richardson "started high," and negotiated from to an eventual settlement. Mr. Brooks testified that he, and Mills Gallivan, explained to Ms. Richardson that her case had some "difficulties" and that her case was different from some of the larger Exide settlements because she did not have kidney problems. Mr. Gallivan confirmed to Mr. Brooks and Ms. Richardson that kidney problems "drove" some of the larger settlements in the past (Deposition of Charles Brooks, Pg. 18, lns. 1-15). When the Defendants made the \$20,000.00 offer, Mr. Brooks and Mills Gallivan explained to Mr. Richardson that she had a "bird in the hand" and she could accept the \$20,000.00, or she could go to a hearing and receive less money or no money. Based upon discussions with Mills Gallivan, Mr. Brooks recommended to Ms. Richardson that she accept the \$20,000.00 settlement offer. (Deposition of Charles Brooks, Pg. 20-22). Ms. Richardson questioned whether or not she should settle at that point because she was "not sure" if she had cancer. Mr. Brooks testified that he explained to Ms. Richardson that she would need medical evidence linking her cancer to lead exposure and that she never provided that evidence (Deposition of Charles Brooks, Pg. 23, lns 1-25). Mr. Brooks also testified that he explained to Ms. Richardson that her case would be "over" if she accepted the \$20,000.00 and clinchered her case (Deposition of Charles Brooks, Pg. 24). Ms. Richardson accepted the \$20,000.00 settlement offer to clincher her case and the parties signed a handwritten settlement document which stated that the case was settled for \$20,000.00 on a doubtful and disputed clincher and that a more formal settlement agreement would follow (Deposition of Charles Brooks, Pg. 25 and Exhibit #1 to Deposition of Charles Brooks. The claimant reviewed and signed the formal

clinchier agreement with her attorney on December 5, 2016. Mr. Brooks testified that Ms. Richardson also signed a "Specific Power of Attorney to Endorse and Deposit Settlement Check" on December 5, 2016, at the same time that she signed the formal clincher agreement (See Deposition of Charles Brooks, Pg. 46, Lns 5-22; and Exhibit #2 of Deposition of Charles Brooks, October 3, 2016). Mr. Brooks, returned the formal clincher signed by the claimant to defense counsel on December 5, 2014, and defense counsel sent the clincher to the South Carolina Workers' Compensation Commission on December 8, 2016 (See Deposition of Charles Brooks, Pg. 39, Lns. 10-25; pg. 40, Lns. 1-3, and please see Commission's file which contains defense counsel correspondence to Commission dated December 8, 2016 and attaching clincher agreement). The Commission's file reflects that the clincher was approved on December 10, 2014. Mr. Brooks testified that the insurance carrier for the employer issued the \$20,000.00 settlement check on December 16, 2014 (See Deposition of Charles Brooks Exhibit #3). Mr. Brooks, received the settlement check and F19 on December 23, 2014 via overnight mail and Mr. Brooks endorsed the settlement check and F19 on December 23, 2014 in accordance with his Special Power of Attorney (See Deposition of Charles Brooks, Pg. 47, Lns. 13-25; Pg. 48, Lns. 1-25; pg 49, Lns 1-14).

Upon cross examination by Ms. Richardson, Mr. Brooks acknowledged that he asked Ms. Richardson to sign a Special Power of Attorney so that he could endorse her settlement check when it arrived. He also acknowledged that the Special Power of Attorney erroneously claimed that she no longer lived in Sumter County (Deposition of Charles Brooks, pg. 65, Lns. 15-25; pg. 66, Lns. 1-8). Mr. Brooks also acknowledged that Ms. Richardson provided him with a trove of documents to assist with her case (Deposition of Charles Brooks, Pg. 57, Lns. 10-25).

November 10, 2016 part of Commissioner Campbell's remand hearing

The parties reconvened the hearing on November 10, 2016. Ms. Richardson waived her right to counsel (Hearing Transcript, pg 21, lns. 1-15). Ms. Richardson testified that she did not have the mental capacity to settle her case and that she does not comprehend well and that she is confused by things that are written (Hearing Transcript, November 10, 2016, Pg. 18, lns 12-25). She testified that she was very poorly represented by Charles Brooks because he did not understand the process of a workers' compensation case and he did not know her doctors or her medical history (Hearing Transcript, Pg. 30, lns. 5-11). Ms. Richardson also testified that defense counsel and Charles Brooks were trying to decide what was best for her, "but nobody was talking to me asking me what was best for me, what was best for Stella" (Hearing Transcript, Pg. 31, lns. 15-25). Finally, Ms. Richardson testified that she did not remember signing the formal Clincher agreement (Hearing Transcript, pg. 22, lns. 9-22), and she restated her positions as outlined in the August 17, 2016 hearing.

COMMISSIONER CAMPBELL'S ORDER SIGNED JANUARY 25, 2017

The undersigned Commissioner listened to statements made by the parties and reviewed the attached clincher agreement and makes the following findings of fact based upon the preponderance of the evidence:

1. The South Carolina Workers' Compensation Commission has jurisdiction over this matter and the parties to the extent necessary to determine whether or not the case may be re-opened post settlement;
2. The scope of this hearing is limited to determining whether or not the claimant has produced sufficient evidence to re-open her workers' compensation claim to seek additional benefits and/or set aside her clincher consistent with the instructions of the appellate panel.

3. The undersigned makes no findings with regard to the underlying compensability of the claimant claim or medical causation of her various medical problems as those issues are not before the Commission;

4. The claimant originally filed a claim seeking benefits as the result of a work related occupational exposure in 2009;

5. The claimant was originally represented by the Steinberg Law Firm; however, the claimant was no longer represented by the Steinberg Law Firm by December 6, 2013 when she filed her first *pro se* Form 50 hearing request;

6. The claimant was represented by Charles Brooks as of April 3, 2014, and this representation lasted until June 3, 2015 when Mr. Brooks was relieved of counsel by Order of the Commission;

7. The parties attended a mediation of this case on October 31, 2014 before H. Mills Gallivan. The claimant was represented by Mr. Brooks throughout the mediation;

8. The parties settled the claimant's claim at the aforementioned mediation for \$20,000.00 on a full and final, doubtful and disputed clincher, which was approved by the Commission on December 10, 2014;

9. The settlement appears to have been entered into willingly and voluntarily and with advice of counsel. This finding is based upon Ms. Richardson's having appeared at mediation on 10/31/2014 and her having signed a handwritten document memorializing the settlement terms (Hearing Transcript, November 10, 2016, pg. 35, lns. 18-21);

10. I find unpersuasive Ms. Richardson's testimony that she did not sign her clincher agreement, or that she does not remember signing her clincher agreement. Ms. Richardson claims that she did not sign the formal clincher (the "Order"), and that the only settlement

document she signed was the informal handwritten memorandum (Hearing Transcript, pg. 38). However, Ms. Richardson acknowledged in her deposition dated July 29, 2015 that she spoke with Mr. Brooks in December of 2014 about her case and the settlement, that Mr. Brooks recommended that she "sign the papers," and that "by him being my attorney, I listened to what he said." (Claimant's deposition, July 29, 2015, Pg. 8, lns. 4-25; Pg. 9, lns1-3). Her having signed the clincher agreement in December 2014 (December 5, 2014) is consistent with other evidence presented at the hearing and during Mr. Brook's deposition. Mr. Brooks acknowledges receiving the clincher agreement on December 5, 2014. He also testified that that he reviewed the clincher with Ms. Richardson on December 5, 2014 together with a Special Power of Attorney. Finally, the Commission's file shows that Defense counsel mailed the signed clincher to the Commission for approval on December 8, 2014 and the Commission stamped it approved on December 10, 2014. Although Ms. Richardson claims to not remember signing the clincher on December 5, 2014 (or any other day), she acknowledges that she signed the Special Power of Attorney on December 5, 2014. I find that the timeline supports Mr. Brook's testimony more so than it does Ms. Richardson's testimony. I find that Ms. Richardson's deposition testimony is more consistent with Mr. Brook's testimony than her own hearing testimony. Therefore, I find that the preponderance of the evidence support's Mr. Brook's testimony that Ms. Richardson did sign her clincher agreement on December 5, 2014;

11. I find that Ms. Richardson possessed the mental capacity to enter into an agreement to clincher this workers' compensation claim. This finding is based upon there being *no medical evidence* in the record *at all* indicating that Ms. Richardson lacked the mental capacity at the time she settled her workers' compensation case. The medical evidence indicates that she placed herself into inpatient psychiatric care at Richland Memorial Hospital on January

7, 1998 until January 12, 1998 (APA Pg. 515-526). She was diagnosed at that time with psychosis, schizophrenia and obsessive compulsive disorder (*Id*). There is no record of her having been admitted to any psychiatric facility since that time, and there is no evidence that she has ever been medically or legally unable to handle her own affairs. Ms. Richardson explained in her deposition taken on July 29, 2015 that Mr. Brooks told her that she may not “go back and get anything” once her workers’ compensation case was settled (Claimant’s deposition Pg. 7, lns. 2-8). Ms. Richardson also testified at her deposition that she discussed her settlement with Mr. Brooks in December 2014, and that she discussed her concerns with him, that he recommended she settle her case anyway and she accepted his advice (Claimant’s deposition, pg. 8, lns. 1-15; pg. 9, lns. 1-3). This testimony indicates that Ms. Richardson understood the settlement proceedings and decided voluntarily to settle her case. Furthermore, Ms. Richardson has represented herself in this matter and shows a clear understanding of the proceedings and requirements. (*See* entire transcript of August 17, 2016 hearing). I base this last finding upon my personal observations of Ms. Richardson as well as her testimony at each of the hearings.

12. I find that Mr. Charles Brooks provided appropriate and adequate assistance to Ms. Richardson. Mr. Brooks represented Ms. Richardson for a period of about fourteen (14) months from April 2014 when he was hired until June 3, 2015 when Mr. Brooks filed a Motion to be Relieve as Counsel. I based this finding upon the Commission’s file and upon Ms. Richardson’s testimony at the November 10, 2016 hearing. During this time, Mr. Brook’s represented Ms. Richardson in a slip and fall incidence which occurred at Lowes, and obtained a small settlement for her (Deposition of Charles Brooks, pages 7 & 8). Mr. Brooks took this workers’ compensation case to mediation and secured a \$20,000.00 settlement for her; which she accepted (Deposition of Charles Brooks, page 9). Based upon Mr. Brooks’ exchanges with Ms.

Richardson during his deposition, it is clear to the undersigned that he followed a process for concluding her workers' compensation settlement, including having her sign a Special Power of Attorney so that she would not have to return to his office to endorse her settlement check (Deposition of Charles Brooks, pg. 46, lns 5-22). It is, likewise, clear that Mr. Brooks considered the Medicare Set Aside issue and understood that the settlement amount fell below CMS review threshold for an MSA (Deposition of Charles Brooks, Pg. 27, lns 1-25; p. 28, 1-25). Based upon the above findings, the undersigned finds that Charles Brooks provided appropriate representation to Ms. Richardson.

13. Finally, I find no impropriety on behalf of defense counsel. It appears from the undersigned that defense counsel treated the claimant with respect and courtesy.

14. Based upon the above findings, I find that the claimant, Stella Mae Richardson, has failed to carry her burden of proving fraud, lack of capacity, estoppel, deceit or any other circumstance or condition which could give the Workers' Compensation Commission justification to re-open her claim and/or set aside her clincher agreement;

15. Based upon the forgoing findings, I find that the claimant, Stella Mae Richardson, is owed no additional benefits in this matter.

**CONCLUSIONS OF LAW INCLUDED IN COMMISSIONER
CAMPBELL'S JANUARY 25, 2017 ORDER**

1. Pursuant to *S.C.Code Ann. Reg. 67-801E (1990)*, a "clincher agreement" is a full and final settlement agreement that "relieves the employer and its representative from any further responsibility for payment of compensation or medical expenses."

2. Pursuant to *Singleton v. Young Lumber Company*, 236 S.C. 454, 114 S.E.2d 837 (1960) and *Spivey v. Carolina Crawler*, 367 S.C. 154, 624 S.E.2d 435 (Ct. App. 2005), [a]

clinchier or settlement agreement, when approved by the Commission, has the same effect as an unappealed Order or Decision or award of the Commission and is binding upon the parties.

**APPELLATE PANEL REVIEW AND FINDINGS FROM REVIEW DURING APRIL
2017 TERM**

This matter was considered by the Appellate Panel of the South Carolina Workers' Compensation Commission without oral argument during the April 2017 term, pursuant to a Form 30 timely filed by the Appellant on February 8, 2017. This matter was originally heard before the Single Commissioner in Columbia, South Carolina on November 10, 2016, and this was an appeal from that Order filed on January 25, 2017. The Full Commission reviewed the APA submissions, hearing testimony presented to the Single Commissioner and the Commission's file and makes the following Findings of Fact and Conclusions of law based upon the substantial evidence in the record:

Full Commission Findings of Fact:

1. The parties herein are bound by the terms and provisions of the South Carolina Workers' Compensation Commission;
2. Each and every Finding of Fact and Conclusion of Law included in the Single Commission Order dated January 25, 2017 is ***affirmed*** and all Findings of Fact and Conclusions of Law included in the Single Commission Order dated January 25, 2017 are made into an Order of the Full Commission in each and every particular;

Full Commission Conclusions of Law

1. We conclude as a matter of law that, when reviewing evidence in the award of the Single Commissioner, the Full Commission makes its own findings of fact and reaches its own conclusions of law either consistent or inconsistent with those of the Single Commissioner. Lowe v. Am-Can Transport Services, Inc., 283 S.C. 534, 324 S.E.2d 87 (Ct. App. 1984); S.C. Code Ann. § 42-17-50 (1985).

2. We conclude as a matter of law that a "clincher agreement" is a full and final settlement agreement that "relieves the employer and its representative from any further responsibility for payment of compensation or medical expenses." S.C. Code Ann. Reg. 67-801E (1990;

3. We conclude as a matter of law that), [a] clincher or settlement agreement, when approved by the Commission, has the same effect as an unappealed Order or Decision or award of the Commission and is binding upon the parties to Singleton v. Young Lumber Company, 236 S.C. 454, 114 S.E.2d 837 (1960) and Spivey v. Carolina Crawler, 367 S.C. 154, 624 S.E.2d 435 (Ct. App. 2005).

Based upon the above Statement of Case, Findings of Fact, and Conclusions of Law, the following Order is made:

It is **ORDERED, ADJUDGED AND DECREED** that the Single Commission Order dated January 25, 2017 is **affirmed** in its entirety!

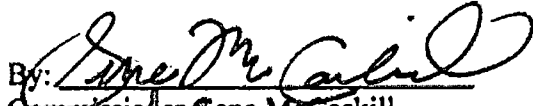
AND IT IS SO ORDERED!

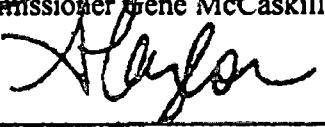
No hearing costs are assessed in this matter.

S.C. WORKERS' COMPENSATION COMMISSION

By: Melody L. James
Honorable Melody James

CONCURRING:

By: 
Commissioner Gene McCaskill

By: 
Commissioner Aisha Taylor

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 Eugenia on August 24, 2017