

BEFORE THE  
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

Dorothy Miller,	)	W.C.C. FILE NO. 1318602
	)	
Employee/Claimant,	)	
	)	
-vs-	)	<b>SETTLEMENT AGREEMENT</b>
	)	<b>AND RELEASE</b>
Husqvarna,	)	
	)	
Employer,	)	
	)	
and	)	
	)	
Ace American Insurance Company,	)	
	)	
Carrier,	)	
	)	
Defendants.	)	
	)	

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MAR 14 2018  
SC Court of Appeals

The Claimant, Dorothy Miller, while in the course of employment of Husqvarna sustained bodily injuries to her right wrist and right and left shoulders in an accident (repetitive trauma) arising out of and in the course of her employment on or about October 8, 2013, in the County of Orangeburg, State of South Carolina.

At the time of the accident aforementioned, the Claimant and the Employer were subject to the Workers' Compensation Law of South Carolina (hereinafter called "Act") and the Carrier was the Employer's insurer under said Act.

Following said accident, the Defendants paid temporary disability benefits in the amount of \$23,452.56 and medical benefits in the amount of \$41,658.78 Dollars. *In addition, Defendants agree to fully fund a self-administered Medicare Set-aside Account in the amount of \$49,986.00.*

The employee is represented by Chip Alexander, Esquire, Esquire of Shelly Leeke Law Firm, LLC in North Charleston, South Carolina. The employer and carrier are represented by Shelby G. Hapeshis, Esquire of Hapeshis Law, LLC in Irmo, South Carolina. Disputes exist

between the parties as to: Extent of injuries; Whether or not employee has reached maximum medical improvement; Carrier's entitlement, if any, to credit for overpayment of temporary total; Claimant's entitlement to further medical care; Claimant's entitlement to further payments of temporary disability and the extent of any causally related permanent disability, if any.

The parties hereto now advise that, in view of the aforementioned disputes, an agreement has been reached to settle this matter in its entirety, pursuant to Section 42-9-390.

Under the proposed settlement, the Defendants have agreed to pay, and the Claimant has agreed to accept, the sum of **\$86,400.00 (Eight Six Thousand Four Hundred Dollars and 00/100)** in full settlement and satisfaction of every liability under the Act growing out of or in any way connected with any injury and/or accident occurring on or about October 8, 2013; further, claimant states there are no other workers' compensation claims, reported or unreported, at any other time prior to this agreement.

The Carrier agrees to fully fund a self-administered Medicare Set-aside Account in the amount of \$49,986.00 (*Exhibit A*) to be used solely for legitimate medical expenses related to or resulting from the work-related injury described herein, which would otherwise be reimbursable or paid for by Medicare. The claimant understands and acknowledges the terms and conditions for a self-administered Medicare Set Aside Account as outlined and attached in *Exhibit B*.

As an integral part of this settlement agreement, it is expressly understood and agreed that the Defendants have paid all medical expenses for which they are liable and that the Claimant is responsible for any and all other medical expenses of whatsoever nature and the Defendants shall have no liability therefor.

The Claimant hereby asserts that she has been fully advised of all her rights under the South Carolina Workers' Compensation Act, and is of the opinion that the proposed settlement is reasonable and fair and in this opinion, the Claimant's attorney concurs. The Claimant hereby

asserts that she recognizes that her consent to, and the approval of, this settlement is a final determination and adjudication of all benefits under the South Carolina Workers' Compensation Act, growing out of, or in any way connected with, any known injury and/or accident occurring on or about October 8, 2013.

NOW, THEREFORE, in consideration of the payment to the Claimant of the sum of **\$86,400.00 (Eight Six Thousand Four Hundred Dollars and 00/100)**, and in further consideration of the mutual covenants, stipulations, and releases herein contained, the Claimant hereby releases and discharges Husqvarna and Ace American Insurance Company, and binds Claimant's heirs, executors, administrators, dependents, next of kin, privies, and assigns under the Act and agrees to release, discharge, defend, and indemnify Husqvarna and Ace American Insurance Company and their respective agents, servants, insurers, physicians, privies, and their successors, from any and all debts, claims, demands, causes of action, rights of action, and liabilities whatsoever of any known injury and/or accident on or about October 8, 2013 including, but not limited to, any right which the Claimant might otherwise have to demand benefits for disability, disfigurement, bodily impairment, medical treatment, medicine or drugs, prosthetic devices, lost time or death, under the Act or otherwise and specifically including any right which Claimant might otherwise have to demand further benefits by way of compensation or medical care under the Act because of a change in condition hereinafter (which is expressly waived, released and renounced) whether or not arising out of, or directly or indirectly in any way conceivably attributable to any known injury and/or accident occurring on or about October 8, 2013, further, claimant states there are no other workers' compensation claims, reported or unreported, at any other time prior to this agreement.

The Claimant's net proceeds of \$57,162.25 from the foregoing lump sum settlement, (\$86,400.00 less attorneys' fees of \$27,563.94, less costs of \$464.09, less lien to prior attorney of

\$1,209.72, equaling \$57,162.25 net proceeds to Claimant) shall be prorated based on the Claimant's current age of sixty (60). S.C. Code Ann. § 19-1-150 (1976, as amended), yields a life expectancy of 24.08 years (1,252.16 weeks). Therefore, the Claimant's net proceeds of \$57,162.25 shall be prorated at the rate of \$45.65 per week. *James v. Anne's Inc.*, 386 S.C. 326, 688 S.E.2d 562 (2010), rev'd on reh'g, 390 S.C. 188, 701 S.E.2d 730 (2010); *Social Security Program Operations Manual System* DI 52001.555(4) (f/k/a *Utica-Mohawk Mills v. Orr*, 227 S.C. 226, 87 S.E.2d 589 (1955); as well as the provisions of the South Carolina Workers' Compensation Act, as interpreted by the Courts of the State of South Carolina.


It is expressly understood that the defendant takes no position and makes no representation as to the requested allocation of the proposed settlement sum as set forth hereinabove and that the proposed allocation in no way affects the absolute release of the defendant.

This Agreement shall not be subject to review, modification, or amendment by the Commission or the Courts of this State and is res judicata.

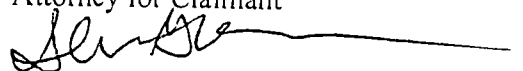
IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed as of March 6, 2018.

WITNESSED AND APPROVED:

In the presence of:

  
\_\_\_\_\_  
Chip Alexander, Esquire, Esquire  
Attorney for Claimant

  
\_\_\_\_\_  
Dorothy Miller, Claimant

  
\_\_\_\_\_  
Shelby G. Hapeshis, Esquire  
Attorney for Employer/Carrier

Date: 3/12/18  
Columbia, South Carolina



Claimant's Name: Dorothy Miller Employer's Name: Husqvarna  
 Address: 105 Gizmo Road Address: P.O. Box 1687  
 City: Orangeburg State: SC Zip: 29115 City: Orangeburg State: SC Zip: 29116  
 Home Phone: 803-937-0720 Work Phone: ( ) - Insurance Carrier: Ace American Insurance Company  
 Preparer's Name: Shelby G. Hapeshis Law Firm: Hapeshis Law, LLC Preparer's Phone #: 803.233.2102

Compensation Paid:	Number of Weeks	From (m/d/yyyy)	To (m/d/yyyy)	Amount
1. Number of Weeks T.T.	<u>96 1/7</u>	<u>05/21/14</u>	<u>03/23/16</u>	\$ <u>\$23,452.56</u>
2. Number of Weeks T.P.	_____	_____	_____	\$ _____
3. Number of Weeks P.P.	_____	_____	_____	\$ _____
4. Disfigurement	_____	_____	_____	\$ _____
5. Agreement and Final Release	_____	_____	_____	\$ <u>86,400.00</u>
<b>Total Compensation Paid</b>				\$ <u>136,386.00</u>
6. Total Medical Benefits* Paid	_____	_____	_____	\$ <u>91,644.78 **</u>
7. Funeral Benefits	_____	_____	_____	\$ _____

\*\*includes MSA of \$49,986.00

Case Denied

Date of Injury: 10/8/13  
(m/d/yyyy)

By signing this receipt, I acknowledge that I have received the compensation shown above.

By: *Dorothy Miller*  
Dorothy Miller, Claimant

By: *Shelby G. Hapeshis*  
Shelby G. Hapeshis, Esquire, Employer's Representative

3/12/18  
Date (m/d/yyyy)

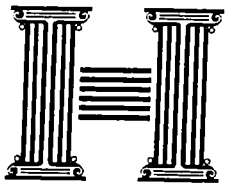
Print or type the name of the person, other than the claimant, receiving benefits and sign below.

By: \_\_\_\_\_

Report of Additional Fees and Recoupment

A. Carrier Reimbursement by Third Party	_____	\$ _____
B. Attorney's Fee Paid by Employer	_____	\$ _____
C. Attorney's Fee Paid by Claimant (Non-contingent fees only)	_____	\$ _____

File this form with the Claims Department according to R.67-414 and R.67-1204. A person, other than the claimant, receiving benefits should sign on the line provided. \* Do not include as medical costs fees paid for expert testimony, fees for determining carrier's liability, costs of autopsy, birth and death certificates and impartial examination. Form 19 must be filed within 16 days of final payment of compensation. Form 19 must be filed when a claim is denied.



HAPESHIS LAW, LLC

Shelby G. Hapeshis  
Shelby@hapeshislaw.com

March 12, 2018

Mary Bost  
S.C. Workers' Compensation Commission  
Post Office Box 1715  
Columbia, SC 29202

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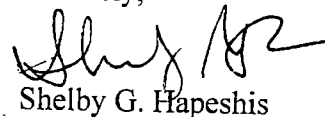
Re: Dorothy Miller v. Husqvarna  
WCC File No. 1318602  
Appellate Case No. 2017-001246

Dear Ms. Bost:

Please find enclosed the original and two copies of the executed Agreement and Final Release and Form 19 in the above matter. Also enclosed is a \$25.00 check for the filing fee. I would appreciate you having these approved and returning a copy to the parties in the envelopes provided herein.

If you have any questions or concerns, please do not hesitate to call.

Sincerely,

  
Shelby G. Hapeshis

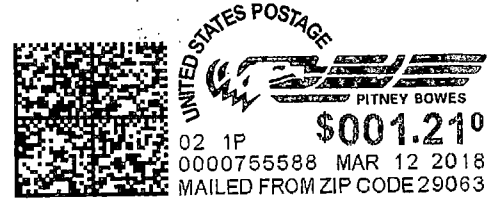
SGH/caw  
Enclosure

cc: Chip Alexander, Esquire  
Jenny Kitchings, Clerk of Court

1900.0490

Hapeshis Law Firm  
P.O. Box 4247  
Irmo, SC 29063

COLUMBIA  
SC 290  
19 MAR '18  
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MAR 14 2018  
SC Court of Appeals

Jenny Kitchings  
Clerk of Court  
SC Court of Appeals  
Post Office Box 11629  
Columbia, S.C. 29211

29211-162929

