

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SOUTH CAROLINA
Workers' Compensation Commission

WCC File No. 1122474, 1219561
Appellate Case No.: 2017-001932

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MAY 21 2018
SC Court of Appeals

Jose Juan Jimenez, Employee,.....Appellant,

v.

Kohler Company, Self-Insured Employer,.....Respondent.

**Appellant's Return to Respondent's Motion for Costs on Appeal Pursuant to Rule
222, SCACR**

The Workers' Compensation claim, which was the subject of this appeal, was denied on the basis that Appellant did not establish that he suffered a compensable "injury by accident."

Respondents now seek the imposition of costs and attorney's fees against Appellant, pursuant to Rule 222, SCACR.

According to Austin v. Stokes-Crave Holding Corp. 406 S.C. 187, 750 SE2d 78 (2013):

It is within the Court's discretion whether to award fees and costs under Rule 222. Rule 222 (a), (e), SCACR (identifying circumstances for which an appellate court may tax costs on appeal).

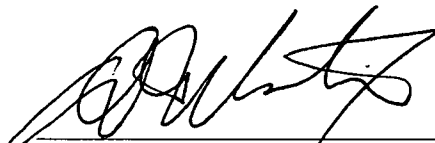
Appellant, Mr. Jose Jimenez, lives in a rented single-wide mobile home with his wife and children in Spartanburg. He has remained out-of-work, without pay since January of 2013. While he failed to establish a compensable "injury by accident", the undisputed medical evidence reflected that he needs back surgery. He pursued this claim and appeal in the hope of getting the needed surgery paid for by workers' compensation. He is now pursuing hospital sponsorship for the surgery, as he has no other means to pay for it.

Mr. Jimenez does not have the financial means to pay for the costs and attorney's fees requested by Respondents. As such he opposes Respondent's request for costs, or alternatively, seeks reduction of the amount of costs to be awarded.

CONCLUSION

Appellant, Mr. Jimenez, prays the Court would use its discretion to deny Respondents' request for costs and attorney's fees, or reduce the amount requested, whichever it deems fit under the circumstances.

Respectfully submitted,



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Greenville, SC 29604
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Attorney for Claimant/Appellant

May 18, 2018

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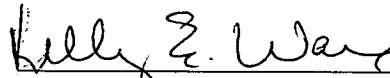
Kohler Company, Self-Insured Employer,.....Respondent.

PROOF OF SERVICE

I, Kelly E. Ware, Paralegal to Alton L. Martin, Jr. certify that I have served the **Appellant's Return to Respondent's Motion for Costs on Appeal Pursuant to Rule 222, SCACR** upon counsel for the Respondents by mailing a copy of the same in the United States mail, with sufficient postage affixed thereto and return address clearly marked on the date indicated below, addressed as follows:

The Honorable Jenny Abbott Kitchings
Clerk of the South Carolina Court of Appeals
1015 Sumter St.
Columbia, SC 29201

Grady Beard, Esquire
Sowell Gray
PO Box 11449
Columbia, SC 29211


Kelly E. Ware

May 18, 2018
Greenville, South Carolina

MARTIN Attorneys
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May 18, 2018

The Honorable Jenny Abbott Kitchings
Clerk of the South Carolina Court of Appeals
1015 Sumter St.
Columbia, SC 29201

RE: José Juan Jiménez, Appellant v. Kohler Company, Self-Insured Employer,
Respondent
Appellate Case No.: 2017-001932
WCC File No. 1122474, 1219561

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Dear Ms. Kitchings:

SC Court of Appeals

Please find enclosed the original and six (6) copies of Appellant's Return to Respondents Motion for Costs on Appeal Pursuant to Rule 222, SCACR, along with our Certificate of Service. By copy, we are serving the attorney for Respondent and the South Carolina Workers' Compensation Commission

Should you have questions or need any additional information, please do not hesitate to contact my office. Thank you for your consideration in this matter.

With kind regards, I am

Sincerely,

MARTIN & MARTIN P.A.


Alton L. Martin, Jr.

ALMjr/kew
Enclosures

cc: Grady L. Beard, Esquire (w/enclosures)
Amy Bracy, Judicial Director, South Carolina Workers' Compensation Commission
(w/enclosures)

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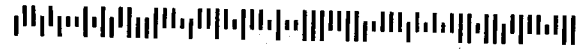
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The Honorable Jenny Abbott Kitchings
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