

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SOUTH CAROLINA
Workers' Compensation Commission
Appellate Panel

Appellate Case No. 2018-001234

Ex Parte: Preston F. McDaniel, Esquire,
and John M. Milling, Esquire, Appellants,

v.

SC Workers' Compensation Commission.....Respondent.

IN RE:

Pamela Cartee, Claimant,

v.

SC Judicial Department, Employer,
and State Accident Fund, Carrier, Defendants.

RECEIVED
JUL 20 2018
SC Court of Appeals

NOTICE OF MOTION AND MOTION FOR AN ORDER OF A JUDGE OF THE COURT FOR A TEMPORARY STAY OF THE APPEAL AND TIME LIMITS PURSUANT TO RULE 240(b) AND 240(i), SCACR; THEN AFTER TIME TO FILE A RETURN FOR AN ORDER STAYING THE APPEAL PURSUANT TO RULE 205 AND 240, SCACR, AND REMANDING THE MATTER TO THE SC WORKERS' COMPENSATION COMMISSION FOR COMPLIANCE WITH THE LAW IN REFERENCE TO SERVICE OF ITS ORDER PURSUANT TO STATUTE, AND RE-CAPTIONING AND REVISING THE CONTENT OF ITS ORDER AND FOR A STAY OF FURTHER PROCEEDINGS PENDING A RESOLUTION OF THE DECLARATORY JUDGMENT ACTION; AND FURTHER PROCEEDINGS NOT INCONSISTENT WITH THE ORDER OF THE COURT.

TO: SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION:

YOU WILL PLEASE TAKE NOTICE that pursuant to the authority of the Court and any Judge thereof under Rule 205, 240(b) and (i),

the Appellants move for a temporary stay of the time limits imposed by the Appellate Court Rules to allow for a Return, if any, to be filed pursuant to Rule 240(e), SCACR, and for such time thereafter for consideration of and a decision to be entered on the Motion to Stay, for Remand to the SC Workers' Compensation Commission, and to Stay pending the Circuit Court declaratory judgment action.

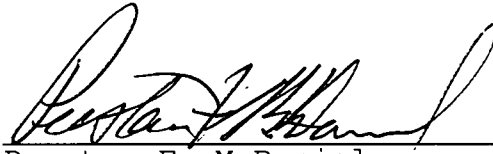
YOU WILL PLEASE TAKE FURTHER NOTICE that on the 10th day after service hereof or as soon thereafter as Appellants may be heard, the Appellants will move for a stay of the proceedings of the Appeal filed in the above-referenced matter and for a Remand to the Commission for the reasons as more fully set forth in the Memorandum in Support of Motion attached hereto and incorporated herein by reference but specifically as to the Remand and Stay:

1. The Order of the Full Commission was improperly captioned and not only fails to list as a party Mr. Milling but also was not served upon the Appellant, Mr. John M. Milling;

2. The Order of the Full Commission was not properly served on either Appellant pursuant to statute; and

3. A declaratory judgment action was filed April 17, 2018 and is pending in the Circuit Court for the Fourth Judicial Circuit in which a sixty (60) day Stay was entered based on the filing of a Motion for Rehearing before the Commission and to supplement and file amended pleadings in reference to the actions by the Full Commission.

WE SO MOVE.



Preston F. McDaniel
SC Bar #: 3770
MCDANIEL LAW FIRM
1315 Elmwood Avenue
Columbia, South Carolina 29201
(803) 771-7211

and

John M. Milling
SC Bar #: 3994
MILLING LAW OFFICE
Post Office Box 519
Darlington, SC 29532
(843) 393-4083

APPELLANTS

July 20, 2018

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SOUTH CAROLINA
Workers' Compensation Commission
Appellate Panel

Appellate Case No. 2018-001234

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Ex Parte: Preston F. McDaniel, Esquire,
and John M. Milling, Esquire, Appellants,

v.

SC Workers' Compensation Commission.....Respondent.

IN RE:

Pamela Cartee, Claimant,

v.

SC Judicial Department, Employer,
and State Accident Fund, Carrier, Defendants.

MEMORANDUM IN SUPPORT OF
NOTICE OF MOTION AND MOTION FOR AN ORDER OF A JUDGE OF THE COURT
FOR A TEMPORARY STAY OF THE APPEAL AND TIME LIMITS PURSUANT TO
RULE 240(b) AND 240(i), SCACR; AFTER NOTICE FOR AN ORDER STAYING
THE APPEAL PURSUANT TO RULE 205 AND 240, SCACR, AND REMANDING THE
MATTER TO THE SC WORKERS' COMPENSATION COMMISSION FOR COMPLIANCE
WITH THE LAW IN REFERENCE TO SERVICE OF ITS ORDER PURSUANT TO
STATUTE, AND CAPTIONING AND CONTENT OF ITS ORDER AND FOR FURTHER
PROCEEDINGS NOT INCONSISTENT WITH THE ORDER OF THE COURT.

That the Appellants would respectfully show unto the Court
in support of the Motion for a Temporary Stay pending a decision
on the Motion for a Stay and as to the Motion to Stay the
Appellate Court time limits and the appeal in this matter, and

for a Remand to the Commission to properly caption the Decision and to further comply with the law, statutes, and Regulations in reference to the final Decision of the Commission and to properly serve the revised Decision and/or to stay further proceeding pending a decision in the declaratory judgment action:

1. That this matter arises out of an Order of the Commission refusing to approve a portion of the attorneys' fees as requested by the Appellants in the matter of: Pamela Cartee v. SC Judicial Department and State Accident Fund. The Appellants' client, Mrs. Pamela Cartee, specifically in writing joined in and has requested that the Commission approve the attorneys' fees as requested under the Fee Petition and has waived appearance in that matter. Thus, the parties in this action over the refusal of the Commission to approve a portion of the attorneys' fees as requested are the Appellants, Preston F. McDaniel and John M. Milling, and the Commission as Respondent.

2. That subsequent to an adverse Decision entered by the Hearing Commissioner, over three (3) months after approval of the attorneys' fees was originally requested, the Appellants filed both a Declaratory Judgment Action ("DJ") in the Circuit Court as to that Order as set forth more fully hereinafter and filed a Request for Commission Review to preserve a right of review, a copy of the Request for Review is attached hereto and incorporated herein by reference as Exhibit "A", and lists both Mr. McDaniel and Mr. Milling as parties requesting review.

3. That a Temporary Restraining Order without Notice was

issued by the Circuit Court in the DJ action restraining further action by the Commission, which after hearing was lifted to allow the Full Commission to rule on the Request for Commission Review. A copy of the Commission Review Notice is attached hereto and incorporated herein by reference as Exhibit "B" to establish that both Mr. Milling and Mr. McDaniel, the Appellants, are listed as Counsel for the Claimant and as Petitioners requesting review with the Commission.

4. That subsequent thereto after both Appellants filed a Brief on May 30, 2018, the Full Commission issued a decision affirming the Hearing Commissioner's Decision as written refusing to approve the portion of the attorneys' fees as requested that was in dispute. A copy of the May 30th Decision was filed with the Notice of Appeal and is on file with the Court, but the cover page setting forth the caption of the Decision listing the parties to the Request for Commission Review, and the last page of the Decision in reference to service is attached hereto and incorporated herein as Exhibit "C".

5. That subsequently, the following day, May 31, 2018, the Appellant Preston F. McDaniel wrote the Judicial Department of the Commission notifying the Commission of the improper captioning of the Decision and Order by not including Mr. Milling as a party and notifying the Commission that the Petitioner, and Appellant before this Court, John M. Milling, Esquire, had not been served with the Order. By email dated June 1, 2018, from the Commission's Judicial Director, Ms. Amy Bracy, confirmed that Mr. Milling had

not been served with the Order. A copy of those emails is attached hereto and incorporated herein by reference as Exhibit "D".

6. That on June 5, 2018, via email the Appellants notified the Judicial Director with a copy to the Commissioner assigned to write the Order for the Full Commission that it was an error for Mr. Milling not to be listed as a party and that he was not served and requesting a revised recaptioned Order, and for the Appellants to be properly served with the revised Order. A copy of that email is attached hereto and incorporated herein by reference as Exhibit "E".

7. That pursuant to the Affidavits of the Appellant Preston F. McDaniel and the Affidavit of John M. Milling, the Appellant Preston F. McDaniel has not been served with a revised, recaptioned Order as of the date of this filing, and John M. Milling has never been served either by electronic mail, regular US mail, certified US Mail, or personally with a copy of the Order issued by the Full Commission on May 30, 2018, or a revised Order.

8. That subsequent thereto on June 25, 2018 as set forth in the cover letter to the Motion for Rehearing, and although having not been properly served pursuant to SC Code §42-17-60, the Appellants filed a Motion for Rehearing noting the failure to be properly served pursuant to statute, and requesting rehearing on the Order. A copy of that cover letter to the Motion that was filed and the Certificate of Service on June 25, 2018, is attached hereto and incorporated herein by reference as Exhibit "F". On

that same day in the declaratory judgment action filed with the Circuit Court and pending before the Honorable Paul M. Burch, a Notice of Motion and Motion to File Amended and Supplemental Pleadings and for a Stay and Temporary Restraining Order, which included the Motion for Rehearing filed with the Commission, was filed in the declaratory judgment action which was heard on June 27, 2018, and at the hearing that day the Motion to Stay all actions in reference to the proceeding for sixty (60) days was granted from the bench in a Form 4 Order, which was subsequently confirmed by the formal Order of the Honorable Paul M. Burch staying all matters in reference to the proceedings pending before the Circuit Court for a period of sixty (60) days. A copy of the Form 4 Order and the Order of Judge Burch is attached hereto and incorporated herein by reference as Exhibit "G".

9. That the declaratory judgment action filed on April 19, 2018 following the Hearing Commissioner's refusal to award a portion of the attorneys' fees as requested sought a declaration of Appellants' rights and as to whether or not the Fee Petition as originally filed with the Commission was in accordance with case law, statutory law, and Regulation; and whether or not there had been violations in the procedures of the Commission and/or in violation of the statutory law in the processing of, and as to the approval of, the Fee Petition before the Commission. The Motion sought to supplement the pleadings to include the actions taken by the Full Commission following the initial declaratory judgment action which had been filed in reference to the Hearing

Commissioner's Decision and to add constitutional issues and to further supplement the pleadings and to seek discovery as to the proceedings and the processing and procedures of the Commission, and as to whether or not there was compliance with the Regulations and statutory law in reference to the processing of this request for the approval of attorneys' fees by and before the Commission. S.C. Code §1-23-380 specifically allows under its provisions and subsections: for a stay (sub§ 2), for discovery and evidence [sub§ 3 and 4 (non-Record irregular proceeding)], and for reversal based on (sub§ 5): constitutional/ statutory violations (a); excess of authority (b); and/or unlawful procedure (c).

10. That subsequent to the Order of Judge Burch on June 27, 2018, staying the declaratory judgment action and all Motions and actions, and further actions in reference thereto and in the underlying action that had been before the SC Workers' Compensation Commission, the Appellants received in the mail on June 28th a letter dated June 26, 2018, from the Judicial Department of the SC Workers' Compensation Commission, along with the original Motion for Rehearing that had been filed on June 25, 2018, which was returned to the Appellants on the basis that it was untimely. Note to the Court: although the Commission is charged with the responsibility of making all Judicial decisions under the Act, SC Code §42-3-20(c), no Order of the Commission was received dismissing the Motion as being untimely; the Motion was simply, "returned" to the Appellants. A copy of that letter is attached hereto and incorporated herein by reference as Exhibit

"H".

11. That subsequent thereto, on June 29, 2018, a Notice of Appeal was properly and timely served with this Court to ensure the Appellants' right to appeal and in part on the basis of the need for a determination as to whether or not the Order of the Honorable Paul M. Burch issued on June 27, 2018, which stayed all action in this matter including a decision on the Rehearing Motion and the right of the Appellants to appeal this Decision until after a determination in the declaratory judgment action pending with the Circuit Court was made is binding and stayed further action, in light of the return of the Motion for Rehearing on the basis that it was untimely filed under the newly adopted Regulation.

12. That further SC Code §42-17-60, which is the appeal statute following a Decision by the SC Workers' Compensation Commission requires that the parties have a right to appeal,

"within thirty (30) days from the date of the award or within thirty (30) days after receipt of notice to be sent by registered mail of the award, but not thereafter, whichever is the longest, may appeal from the decision of the Commission to the Court of Appeals." (emphasis added).

As set out in this Motion, the Appellants have repeatedly requested service pursuant to statute which has never been done in this matter, and in fact one of the Appellants, John M. Milling, has never been served with the May 30th Order at all.

Further, SC Code §1-23-350 provides that the, "parties

shall be notified either personally or by mail of any Decision or Order." (emphasis added). That section also requires that upon request a copy of the Decision or Order shall be delivered or mailed forthwith to each party or to his Attorney of Record. Neither of the Appellants have ever been served either personally or by mail with the May 30th Order, and even after request. Therefore, the Commission has failed to comply with that statutory provision as well. Service by email is not proper under statute.

Regulations authorized by the Legislature have the force of law; however, no Regulations may alter or add to the terms of the statute. Gadson v. McCasa Corp., 368 S.C. 214, 628 S.E.2d 262 (SC App. 2006). An Order of an administrative body cannot be made by the administrative body which would materially alter or add to the law. The authority and powers of any reviewing Board and/or Officers must be strictly confined to the limits marked out by statutory and constitutional provisions from which their existence is derived and any action in excess of their jurisdiction are void. SC Tax Commission v. SC Tax Board of Review, 278 S.C. 556, 299 S.E.2d 489 (1983).

In this case, in the first instance the Appellant John M. Milling has not been served with the May 30th Order as a party to the action. Further, the Commission has not served either of the Appellants Preston F. McDaniel or John M. Milling in accordance with either the Administrative Procedures Act or the SC Workers' Compensation Act. No statute and only a Regulation

provides for email service. SCWCC Reg. 67-213.

Further, the Decision and Order is improperly captioned and it does not properly reflect the parties to the Fee Petition filed on behalf of Preston F. McDaniel and John M. Milling before the Hearing Commissioner, nor in the Request for Commission Review which was filed by both Appellants as Counsel before the Commission for the Claimant requesting approval of their fee.

Due to the improper captioning and the failure to properly serve under the Rules of this Court, and under the Circuit Court Rules, the matter would be subject to dismissal under Rule 12, SCRCR, and is void ab initio as being non-binding as to the parties, the Appellants in this matter.

"When a statute's terms are clear and unambiguous on their face, there is no room for statutory construction and the Court must apply the statute according to its literal meaning."
Neal v. Brown, 383 S.C. 619, 682 S.E.2d 268 (2009).

Wherefore, the Appellants would respectfully move for an Order of a Judge of this Court temporarily staying the Appellate process; and then after an opportunity to file a Return, for an Order of the Court 1) staying the appeal; and 2) remanding this matter to the SC Workers' Compensation Commission with directions for the Commission to specifically recaption the Order and to properly serve the Order on the Appellants pursuant to SC Code §42-17-60 and SC Code §1-23-380 and to further amend the Order to comply with and to address the issues before the Court in reference to the, "parties" involved, and specifically to include

adding the Appellant John M. Milling as a, "party" to the action for approval for the remainder of attorney's fees under the action filed with the Full Commission; and 3) to then stay further action in this matter before the Commission pending a resolution of the declaratory judgment action in the Circuit Court; for further proceedings not inconsistent with the Order of the Court; and for such other and further relief as the Court deems just and appropriate.

Respectfully submitted,



Preston F. McDaniel
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MCDANIEL LAW FIRM
1315 Elmwood Avenue
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(803) 771-7211

and

John M. Milling
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MILLING LAW OFFICE
Post Office Box 519
Darlington, SC 29532
(843) 393-4083

APPELLANTS

July 20, 2018

BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC FILE NO. 1307922

PRESTON F. MCDANIEL AND)
JOHN M. MILLING,)
Attorneys at Law)

v.)

South Carolina Workers)
Compensation Commission)
Commissioner McCaskill Order)
Concerning Attorneys Fees)

IN RE:)

PAMELA CARTEE, Employee,)
Claimant,)

v.)

SC JUDICIAL DEPARTMENT,)
Employer, and)

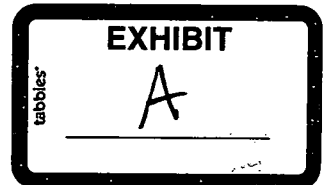

STATE ACCIDENT FUND,)

Insurance Carrier,)

Defendants.)

REQUEST FOR COMMISSION
REVIEW OF THE
MARCH 6, 2018 ORDER
REFUSING TO APPROVE
ATTORNEYS FEES

Attached hereto and incorporated herein by reference is the
Commission Form Requesting Commission Review





IN RE:

Claimant's Name: Pamela O. Cartee SSN: 242 - 92 - 6400 Employer's Name: SC Judicial Department
Address: 1825 Woodbine Drive Address: 1015 Sumter Street
City: Hartsville State: SC Zip: 29550 City: Columbia State: SC Zip: 29201
Home Phone: () - Work Phone: () - Insurance Carrier: State Accident Fund
Preparer's Name: Preston F. McDaniel Law Firm: McDaniel Law Firm Preparer's Phone #: (803) 771 - 7211

REQUEST FOR COMMISSION REVIEW

Request for Commission Review by Claimant Employer (check one) Date of Injury or Illness: 03/01/2013

The undersigned makes application for review of the findings of the Commissioner in the above-captioned case. The request for review is based on the following grounds: (State the grounds of your appeal in the form of questions presented. Each question presented must contain a concise statement of one proposition of law or fact. Refer to evidence by title and exhibit number. Use additional pages if necessary).

Although not provided for by Statute or Regulation the Claimant's attorneys are requesting Commission Review of the Order of Commissioner McCaskill issued on March 6, 2018 refusing to approve a portion of

The fee requested December 5, 2017

Grounds for Review are Attached

(Check one) Oral argument is is not requested. Appellant's request for oral argument is waived if not indicated on this form.

Mediation

Mediation is requested by consent of the Parties pursuant to Reg. 67-1803.

Questions regarding mediation may be submitted to mediation@wcc.sc.gov.

I certify I have served this document pursuant to Reg. 67-211 by delivering a copy to **SEE ATTACHED CERTIFICATE OF SERVICE** on the ___ day of 2018, by ___ first class postage ___ certified mail ___ personal service.

Preparer's Signature: [Signature] Attorney for Claimant: [Signature] Email: preston@pfmcdlaw.com Date: March 20, 2018

Questions about the use of this form should be directed to the Judicial Department at 803.737.5675 or appeals@wcc.sc.gov.

If the claimant appeals and is not represented by counsel, the Judicial Department will properly serve this form pursuant to Reg. 67-607 C. Pursuant to Reg. 67-205 and Reg. 701, the appeal must be postmarked no later than 14 days from the date of service of the Decision and Order of the Hearing Commissioner along with the filing fee. Attach a Form 32, if you are unable to pay the filing fee. Refer to Reg. 67-211 and Reg. 67-701 through 711.

South Carolina Workers' Compensation Commission

1333 Main Street, Suite 500
P.O. BOX 1715
Columbia, SC 29202-1715
(803) 737-5723



WCC File #: **1307922**

Carrier File #: 2013001614

March 26, 2018

FORM 31 BRIEFING SCHEDULE AND NOTICE OF APPELLATE HEARING

Reset

Pamela O. Cartee v SC Judicial Department

Filing Date for Appellant's Brief: April 26, 2018

Subject: Set on Review

Date: May 16, 2018 at 1:00 PM

**Location: South Carolina Workers' Compensation Commission
1333 Main Street Suite 500**

You are receiving this notice pursuant to South Carolina Regulation 67-704. This matter is to be set for Full Commission Review on the above date. Regulation 67-705(A) requires the appellant to file a brief which includes a statement of the case, questions presented, argument, and the conclusion by the date above. Pursuant to Regulation 67-205, please submit your brief electronically through the **Upload** functionality in eCase located on the Commission's website at www.wcc.sc.gov.

The claimant must attend when not represented by an attorney or when disfigurement is involved. Corporations must be represented by an attorney, and uninsured employers must attend.

Pursuant to South Carolina Regulation 67-705, the Respondent may file a responding brief within fifteen (15) days of service of Appellant's brief. Appellant may then file a reply brief within ten (10) days of service of Respondent's responding brief. All briefs must be received by the Workers' Compensation Commission at least five (5) days before the scheduled date for review.

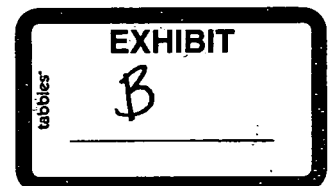
For questions regarding this matter, please visit eCase Status at www.wcc.sc.gov or contact the Judicial Department of the South Carolina Workers' Compensation Commission at (803) 737-5739.

The Commission requests your presence thirty minutes prior to your scheduled oral argument.

This matter is set before: **En Banc**

CERTIFICATE OF SERVICE – This is to certify the undersigned has served this notice in the above entitled action upon all parties to this cause by sending a copy hereof by electronic mail or United States mail. Unrepresented parties were served by United States Postal Service first class postage.

By: Eugenia Hollmon, SC Workers' Compensation, March 26, 2018



Party

Employee: Pamela O. Cartee

Employee: Pamela O. Cartee

Employer: SC Judicial Dept.
Carrier: State Accident Fund

Employer: SC Judicial Dept.
Carrier: State Accident Fund

Employee: Pamela O. Cartee
1825 Woodbine Dr
Hartsville, SC 29550

Attorney

John M. Milling
johnmilling@bellsouth.net

Preston F. McDaniel
Preston@pfincdlaw.com
803-771-7211

Erin Farthing
efarthing@saf.sc.gov
803-896-5892

Sarah C. Sutusky
scsutusky@wjlaw.net
803-227-2885

DECISION AND ORDER
OF
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

SCWCC FILE NO.: 1307922

Pamela O. Cartee,

Claimant,

v.

S.C. Judicial Department,

Employer,

&

State Accident Fund

Carrier,

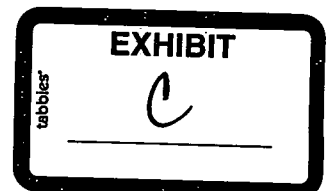
Hearing held in Richland County,
South Carolina on May 21st, 2018.

Appearances: Mr. Preston F. McDaniel, on his own behalf.
No appearance was made by the Claimant.
No appearance was made by Defendants.

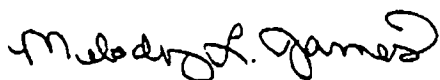
Purpose of Hearing: To resolve the dispute of Attorney Fees and Costs.

Filed:

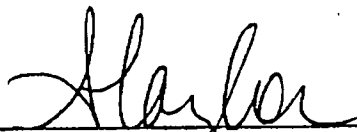
May 30, 2018



We find that due to the factors reviewed that the award of attorney's fees in this matter should be calculated as 33.3% of the amount awarded to Claimant as of the date of the final award of the Commission, which is the Full Commission Decision and Order dated October 17, 2017. For the reasons as set forth above, we would affirm in part and reverse in part the Order of the Single Commissioner.



Commissioner Melody L. James



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 May 30, 2018

McDANIEL LAW FIRM
ATTORNEYS AND COUNSELORS AT LAW
1315 ELMWOOD AVENUE
COLUMBIA, SOUTH CAROLINA 29201

Proudly representing injured workers
for over 30 years.

Preston F. McDaniel

Telephone (803) 771-7211

Matthew Robertson

Facsimile (803) 252-0709

May 31, 2018

Eugenia Hollmon - ehollmon@wcc.sc.gov
SC Workers' Compensation Commission
Post Office Box 1715
Columbia, South Carolina 29202

RE: Pamela Cartee v. SC Judicial Department
WCC File No. 1307922

Dear Eugenia:

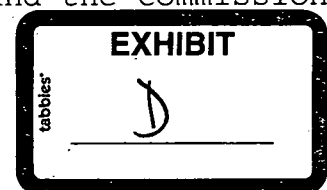
I am in receipt of the Full Commission Decision and while Mr. Milling and I will be filing a Petition for Re-Hearing w/in 30 days, I believe a revised order needs to be filed and served as there are several corrections that need to be made under "appearances" and throughout the Order where it only lists me, Preston F. McDaniel on his own behalf whereas both I and my co-counsel, the Honorable John M. Milling, Esq, both appeared at the Hearing and are both the attorneys and Petitioners requesting approval of the balance of our attorney's fees by the Full Commission. The order needs substantial revision in that regard alone.

Most importantly I do not see where Mr. Milling was served.

First, I would appreciate it if I could be forwarded a copy of the vote sheets with any notes as is provided for by the Regulations.

Next, the Order reflects that Commissioner McCaskill requested En Banc consideration by the Commission whereas by written email after my inquiry, I was advised that the reason this matter was set En Banc was because it is "Commission Policy" in reference to attorney fee disputes and that Commissioner McCaskill had not made the request. In my inquiry I had specifically asked for the written request if it had been made by Commissioner McCaskill pursuant to Reg. 67-709 (B) (1) and my understanding of the Regulations.

In that regard I would appreciate either a copy of the Commission policy of hearing all attorney fee disputes En Banc or a copy of Commissioner McCaskill's written request for an En Banc Hearing. I will be glad to forward to you, if you can't find it, my original email request concerning why this matter was set En Banc and the Commission's reply.



Sabrina Kelley

From: Bracy, Amy <abracy@wcc.sc.gov>
Sent: Friday, June 1, 2018 4:25 PM
To: preston@pfmcdlaw.com; Sabrina Kelley
Subject: Pamela Cartee, 1307922
Attachments: Cartee votesheet.docx.pdf

Dear Mr. McDaniel:

We are in receipt of your letter dated May 31, 2018. Please allow this to serve as a response.

Mr. Milling was not served with a copy of the Decision and Order as he was neither a party to the December 8th, 2017 Form 61 Fee Petition nor the March 20th, 2018 Form 30 Request for Full Commission Review. We are happy to send him a copy of the Decision and Order.

Pursuant to your request, enclosed please find copies of the Vote Sheets completed in accordance with Reg. 67-709(C).

Regarding your request for copies of Commission policy regarding fee disputes or a copy of Commissioner McCaskill's written request for *En Banc* Hearing, the Commission has never adopted its policy in writing but rather follows this policy in practice, and Commissioner McCaskill made his request for *En Banc* review verbally.

If you would like information regarding the transcript, you must request a transcript from the Court Reporter directly.

Amy Bracy, Judicial Director
SC Workers' Compensation Commission
1333 Main Street
Columbia, SC 29201
803-737-5672

CONFIDENTIAL & PRIVILEGED

The preceding email message, including any attachments, may be confidential and/or protected by the attorney-client or other applicable privileges. It is intended for the sole use of the individual or entity named above. If the reader of this transmission is not the intended recipient, please notify the sender immediately and destroy any copies, electronic, paper or otherwise, that you may have of this communication. Any unauthorized review, use, disclosure or distribution is strictly prohibited and may be unlawful.

Sabrina Kelley

From: Sabrina Kelley <sabrina@pfmcdlaw.com>
Sent: Tuesday, June 5, 2018 12:57 PM
To: abracy@wcc.sc.gov
Cc: John Milling (johnmilling@bellsouth.net); 'preston@pfmcdlaw.com'; 'DeBruhl, Shawn'
Subject: Pamela Cartee
Attachments: SCAN18060512590.pdf

Dear Ms. Bracy:

Thank you for a copy of the vote sheets and your reply email sent Friday, June 1, 2018 at 4:25pm. Note: Because based on the review of the vote sheets I find that Chairman Beck was charged with the responsibility of entering the Commission Decision with 4 members voting to affirm the decision as written, I am forwarding a copy of this requesting jurisdictional, procedural, and statutory compliance in reference to service and captioning of any purposed Decision.

In reference to your response concerning Mr. Milling not being served as he was not a party to the fee petition or the Form 30, either the person who related this to you has not read the Record, or mis-read the Record.

First, you will note from the Commission Record, Mr. Milling and I are both Attorneys of Record and have been such since the beginning of this case since Mr. Milling associated me on the case. Mr. Milling has appeared at ALL depositions, hearings and mediations.

Second, you will find attached, a copy of the Form 61, 61A, and the original December 2017 disbursement statement, all of which were filed with the Commission in December, listing both Preston F. McDaniel and John Milling as Attorneys of Record and listing the request for approval being made on behalf of both myself and Mr. Milling as to the attorneys' fees and the itemized costs requested.

Please also specifically note under "G" of the 61A as to the, "experience, reputation, and ability of the lawyer/lawyers performing the services..." that Mr. Milling's credentials as a Circuit Court Judge and Trial Lawyer are set out in that Section.

Next, you will find also upon review of the first fee petition concerning the past due increase of almost \$200 per week that Mr. Milling and I obtained for Mrs. Cartee, that the attorneys' fees were paid to both Mr. Milling and myself.

Next, in reference to and based on a review of the Form 30 filed which is attached and as you are aware in every email and every correspondence I sent from the date that we first submitted our fee petition to the filing of the Form 30 that I specifically asked you and counsel for the Commission, Keith Roberts, to note Mr. Milling's representation, because of the lack of such notation by the Commission.

Next, the Order under the Form 30 filed is completely improperly captioned. As I am sure Mr. Roberts and Chairman Beck as Attorneys know, an improper caption is fatally defective in any case. I have attached in that regard, the Form 30 requesting Commission Review that we filed which specifically notes, "Preston F. McDaniel and John Milling, Attorneys at Law, are the Petitioners in reference to the Order of Commissioner McCaskill and the South Carolina Workers Compensation Commission concerning attorneys' fees IN RE: (which is the legal term for in the matter of) Pamela Cartee, Claimant v. South Carolina Judicial Dept and State Accident Fund, Defendants. Therefore we, and I want to reiterate we, Mr. Milling and I, are the only parties.



Therefore most respectfully, the response is simply wrong, both as a matter of fact and as a matter of law. Based on the decision of the Commission, I am sure that the Chairman on behalf of the Commission wants to make sure that this Order is totally correct as far as the caption, the parties and issues addressed.

Again, since Chairman Beck was assigned to issue the Order on behalf of the Commission, I am forwarding a copy of this to him and look forward to being served with a Revised Order or an explanatory email or letter from the Chairman. Again, I am sure these errors were simply an oversight.

Finally, thank you for your response to the *En Banc* policy of the Commission and Commissioner McCaskill's "verbal request." I will address that after being advised whether a Revised Order will be submitted in a Motion for Reconsideration. I do assume that since Mr. Milling is a party to the action that he will be properly served and since the original Affidavit of Service by electronic mail, only refers to, "all parties being served." I would appreciate it if I could be forwarded a copy of the, "parties" that were actually served with the Order. The Order refers to all the parties being served but, as far as I know, I was the only one served with the Order.

I appreciate and look forward to the Commission's response.

-Preston F. McDaniel,
Attorney at Law

Thanks,

Sabrina M. Kelley, Paralegal to
Preston F. McDaniel
McDaniel Law Firm
1315 Elmwood Ave
Columbia, SC 29201
Telephone : (803) 771-7211
Fax : (803) 252-0709

Please "Reply to All" when responding

CONFIDENTIAL COMMUNICATION: The information contained in this message may contain legally privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or duplication of this transmission is strictly prohibited. If you have received this communication in error, please notify us by telephone or email immediately and return the original message to us or destroy all printed and electronic copies. Nothing in this transmission is intended to be an electronic signature nor to constitute an agreement of any kind under applicable law unless otherwise expressly indicated. Intentional interception or dissemination of electronic mail not belonging to you may violate federal or state law.

South Carolina Workers' Compensation Commission

1612 Marion Street
Post Office Box 1715
Columbia, South Carolina 29202-1715
803-737-5723



WCC File #: 1307922
Carrier File #: _____
Carrier Code #: _____
Employer FEIN #: _____

Claimant's Name: Pamela Cartee

Employer's Name: SC Judicial Department

Address: 1825 Woodbine Drive

Address: 1015 Sumter Street

City: Hartsville State: SC Zip: 29550

City: Columbia State: SC Zip: 29201

Home Phone: () - Work Phone: () -

Insurance Carrier: State Accident Fund

Preparer's Name: Preston F. McDaniel Law Firm: McDaniel Law Firm Preparer's Phone #: (803) 771 - 7211

Date Attorney Was Hired: 3/26/14

Date of Injury: 5/1/13

Compensation Rate: _____

Does this conclude the case? Yes No

PLEASE CHECK AND COMPLETE ONLY ONE: (A, B, C or D)

A. R.67-1205C does not apply to the facts of this case. A 33 % fee of the award or settlement (excluding medical costs) and the costs of this action, as shown by the attached Settlement of Costs, are requested for approval.

B. The subsection of R. 67-1205C applicable to this claim is (C) (____). A fee of \$ _____ is requested for approval based on the following:

Date of first impairment rating or offer of settlement: _____

Impairment Rating given and/or **Settlement amount** offered prior to date attorney hired: _____

Impairment Rating given and/or **Settlement amount** offered after date attorney hired: _____

Authorized Health Care Provider's Name: _____

C. Admitted Death Claim - \$2,500.

D. Admitted Lifetime Compensation Claim - \$2,500.

I certify that this form and the attached Statement of Costs are accurate.

Attorney for the Claimant

Date

Summary	
Total Amount of Compensation	<u>\$339,711.47</u>
Attorney's Fee	<u>\$73,094.45 (Final Award)</u>
Costs	<u>Reimbursed from 1st Award</u>
Total Fees and Costs	<u>\$73,094.45</u>
Client Will Receive	<u>\$105,982.69</u>

I agree to pay my attorney the fee and costs stated. I understand the fee and costs are paid out of my compensation and I understand how much money I will receive after I pay my attorney.

Client

Date

A Statement of Costs must be attached before costs may be approved. File this form in duplicate with the Claims Department. Enclose a self-addressed, stamped envelope. For further information, refer to R.67-1203, R.67-1204, R.67-1205, R.67-1206 and Rule 1.5(a), RPC Rule 407, SCACR.



Claimant's Name: Pamela Cartee Employer's Name: SC Judicial Department
Address: 1825 Woodbine Drive Address: 1015 Sumter Street
City: Hartsville State: SC Zip: 292550 City: Columbia State: SC Zip: 29201
Home Phone: _____ Work Phone: _____ Insurance Carrier: State Accident Fund
Preparer's Name: Preston F. McDaniel Law Firm: McDaniel Law Firm Preparer's Phone #: 803.771.7211

Please address the following factors in requesting attorney fee approval.

- (A) The time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly:
We represented Ms. Pam Cartee since before March 2014, when Mr. McDaniel was associated by John Milling to continue representation of Ms. Cartee. This is a contingency fee case and these subsections under the Rules concerning determining a reasonable fee do not apply. However, hundreds of hours have been spent on this case by the attorneys and staffs over the 3 & 3/4 years that we have represented Ms. Cartee. The results indicate the skill necessary to properly set this case up to obtain the benefits now and in the future for Ms. Cartee including the award for total and permanent disability with accompanied lifetime medical benefits for all casually related problems under the highly contested right to such care by local treating physicians.
- (B) The likelihood that the acceptance of this particular employment precluded other employment by the lawyer:
As to Mr. McDaniel this section does not apply as the Claimant's attorney practices almost exclusively in representing injured workers in workers' compensation cases. However Mr. Milling is a trial litigator and this case has interfered with his practice in reference to other litigation for his other clients.
- (C) The fee customarily charged in the locality for similar legal services:
The fee is in accordance with the customary fee charged in the area which is a 1/3 contingency fee plus costs and is subject to the contract entered into between the Claimant and the attorney(s).
- (D) The amount involved and the results obtained:
While this subsection does not apply to contingency fee contracts, see attached Disbursement Statement wherein the claimant's increased the claimant's compensation rate by almost \$300 and then obtained her an award for total and permanent disability with entire compensation value of over \$336,000. The fee request is only based on the value of total and permanent disability at the time that the claimant was determined to be entitled to PTD award and MMI.
- (E) The time limitations imposed by the client or by the circumstances:
Not applicable and no time limits were imposed by either the client or the circumstances.
- (F) The nature and the length of the professional relationship with the client:
We have represented Ms. Cartee as noted above for 3 & 3/4 years.
- (G) The experience, reputation, and ability of the lawyer or lawyers performing the services; and
While this section does not apply since this is a contingency fee contract based on the customary charge in the locality. Mr. McDaniel and Mr. Milling have been practicing law for over 41 years and Mr. McDaniel has more Decisions in the SC Court of Appeals and the SC Supreme Court in the area of workers' compensation than any other single practicing lawyer. Mr. McDaniel is a past President of the SC Trial Lawyers Association and is past Officer and continuing Board Member of the IWA (F/K/A – SC Claimant Lawyer Association). Mr. Milling is a former Circuit Court Judge and trial litigator who has resided over hundreds of trials. Mr. McDaniel and Mr. Milling have represented thousands of people in workers' compensation matters and our reputations in workers' compensation and civil litigation speaks for itself.

(H) Whether the fee is fixed or contingent:

This is a contingency fee of 1/3 plus costs, which is in accordance with the customary charge for representation of an injured worker in workers' compensation matters and is pursuant to the Regulation.

See R.67-1205 and Rule 1.5(a) of the Rules of Professional Conduct, South Carolina Appellate Court Rule 407.

WCC Form # 61A

Revised 10/07

61A

**ATTORNEY FEE PETITION
SUPPLEMENTAL INFORMATION**

DISBURSEMENT STATEMENT

RE: Pamela Cartee v. SC Judicial Dept.
WCC File No. 1307922

I. Receipts:

Total Compensation Paid: \$339,771.44
Check #_1037482-Commuted Value 12/1/17 \$179,077.14

II. Attorney's fees, costs and disbursements:

Attorney's Fees: Preston F. McDaniel (\$73,094.45)
John Millings

[Fee Based on Award PTD/MMI Date 10/12/16]
[TTD paid from 10/12/16 to]
[12/1/17= Approx 59 weeks x \$698.41/CR=]
[\$41,206.19; Commuted Value(12/1)=]
[\$179,077.14 + \$41,206.19= \$220,283.33]
[Total Value of PTD Award=\$220,283.33]
[Actual Fees =\$73,427.78]
[Requested =\$73,094.45]

Advanced Costs: Preston F. McDaniel:

Previously Reimbursed/Approved from Lump Sum (Reimbursed)
Of TTD Underpayment

III. Net Proceeds to Client after disbursements: \$105,982.69

Reviewed and submitted by:

PRESTON F. MCDANIEL

Client certification and statement:

I hereby certify that I have received a copy of the Statement of Disbursements and that I have reviewed and understand the same. I further understand that any other outstanding costs and non-authorized medical expenses are my sole responsibility.

Pamela Cartee

Dated this ____ day of _____, 2017

McDANIEL LAW FIRM
ATTORNEYS AND COUNSELORS AT LAW
1315 ELMWOOD AVENUE
COLUMBIA, SOUTH CAROLINA 29201

Proudly representing injured workers
for over 30 years.

Preston F. McDaniel

Telephone (803) 771-7211

Matthew Robertson

Facsimile (803) 252-0709

June 25, 2018

VIA EMAIL - abracy@wcc.sc.gov
AND US MAIL

Ms. Amy Bracy
Judicial Director
SC Workers' Compensation Commission
Post Office Box 1715
Columbia, South Carolina 29202

RE: Pamela Cartee v. SC Judicial Department
WCC File No. 1307922

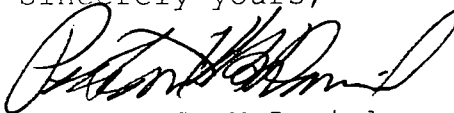
Dear Amy:

Although we have not been properly served pursuant to S.C. Code §42-17-60, we are going ahead and filing a Motion to Rehearing to the Order entered by the Full Commission in the above-referenced matter. You will please take notice that on May 31st, 2018, I previously filed notice of our intent to file a Petition for Rehearing and my request that the Order be redrafted so that it was properly captioned and notice that it had not been properly served on my co-counsel.

Enclosed is the required number of copies pursuant to the Commission Regulations and the required \$25.00 filing fee. Upon proper service of an Amended Order, properly served on the parties to this action involving a request of the approval for attorneys fees, I will be glad to file an Amended Motion for Rehearing.

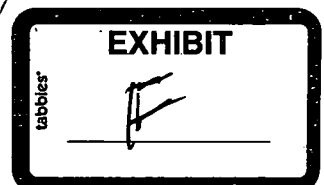
I am including an Affidavit of Service on Ms. Cartee who is the only other party to the action which as noted by the Full Commission waived appearance and has no objection to the fee as requested being approved by the Commission.

Sincerely yours,



Preston F. McDaniel

PFM/abh
Enclosure



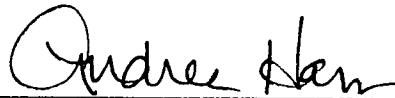
cc: John Milling, Esquire (via email johnmilling@bellsouth.net)
Pamela O. Cartee

CERTIFICATE OF SERVICE

WCC File No.: 1307922

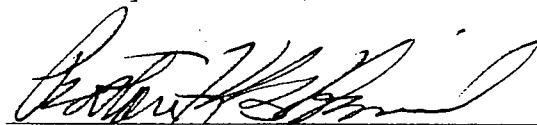
I hereby certify that I have on June 25, 2018 served the following in the matter of Pamela O. Cartee v. SC Judicial Department with a copy of the **MOTION FOR REHEARING CONCERNING THE FULL COMMISSION ORDER NOT PROPERLY SERVED AS OF THIS DATE PURSUANT TO §42-17-60** by depositing the same in the United States Mail, with adequate postage thereon, addressed as follows:

Pamela Cartee
1825 Woodbine Drive
Hartsville, SC 29550



Andrea Ham, Legal Assistant

SWORN TO BEFORE ME this
25th day of June, 2018.



(L.S.)

Notary Public for South Carolina

My Commission Expires:

10/08/18

STATE OF SOUTH CAROLINA
COUNTY OF
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2018 CP- 16 - 334

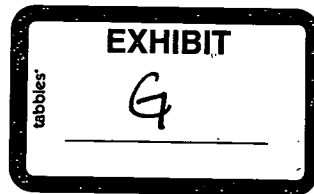
Prinston F. Mc Daniel, Esq.
et al.
PLAINTIFF(S)

S.C. Workers Compensation
Commission
DEFENDANT(S)

Submitted by:	Attorney for : <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant
	or <input type="checkbox"/> Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRCP; Rule 41(a), SCRCP (Vol. Nonsuit); Rule 43(k), SCRCP (Settled); Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRCP; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other



NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

This order ends does not end the case.
Additional Information for the Clerk :

Matter is stayed for 60 days.

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order.

TRUE COPY
JUN 27 PM 12:00
CLERK OF COURT/FMC
DARLINGTON, SC

Just B. Suggs

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

[Signature] 2048 6/27/2018
Circuit Court Judge Judge Code Date

STATE OF SOUTH CAROLINA)
)
COUNTY OF DARLINGTON)

IN THE COURT OF COMMON PLEAS
FOR THE FOURTH JUDICIAL CIRCUIT

PRESTON F. MCDANIEL, ESQUIRE)
AND)
JOHN MILLING, ESQUIRE,)

C/A No. 18-CP-16-0334

Plaintiffs,)

v.)

SOUTH CAROLINA WORKERS')
COMPENSATION COMMISSION,)

Defendant.)

IN RE:)

South Carolina Workers)
Compensation Commission)
WCC File No.: 1307922)

ORDER

PAMELA CARTEE,)
Employee-Claimant,)

v.)

SOUTH CAROLINA JUDICIAL DEPT.,)
Employer, and)

STATE ACCIDENT FUND,)
As Carrier,)

Defendants.)

This matter came before me for hearing on Motions on June 27, 2018. The Plaintiffs, Preston F. McDaniel, Esquire and John M. Milling, Esquire appeared and represented themselves. Mr.


McDaniel is a member of the Richland County Bar and Mr. Milling is a member of the Darlington County Bar. The Defendant was represented by the Attorney General's Office and Assistant Attorney General, Kevin Desmond Maroney.

A previous hearing was held in this matter at which time the Temporary Restraining Order issued without Notice was allowed to lapse thus allowing the Full Commission to take further action on the Appeal that had been stayed by the Temporary Restraining Order without Notice, which in the opinion of the Court, may have resolved the issues between the parties. This matter was scheduled on the Docket today on the original Motion to Dismiss filed by Defendant on April 26th, 2018 as to the Complaint as originally filed with the Court. A Motion was served June 25th and filed by the Plaintiffs noticing their intent to amend the Complaint (no responsive pleading has been filed) and moving to supplement the Complaint and for a stay of 60 days staying further action in this matter and to allow for amending and supplementing the Complaint.

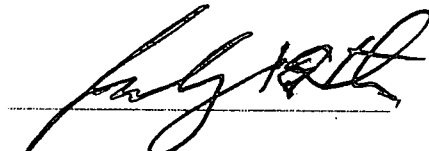
Various other issues were argued but after due and proper consideration of the arguments, memorandums, regulations, statutes and Case Law cited to the Court, it is the Court's decision to stay this matter for a period of 60 days of this date, June 27th, 2018. A Form 4 Order was entered thus confirming the Order of this Court with this Order constituting

the Order of the Court in this matter staying all proceedings and actions in this matter for a period of 60 days. After the 60-day stay, this matter will be rescheduled for hearing on all motions and pleadings as amended and supplemented.

AND IT IS SO ORDERED.



The Honorable Paul H. Burch
Resident and Presiding Judge
For the Fourth Judicial Circuit



2018
Darlington, South Carolina

State of South Carolina

1333 Main St, Suite 500
P.O. Box 1715
Columbia, S.C. 29202-1715



Tel: (803) 737-5700
Fax: (803) 737-1281
www.wcc.sc.gov

Workers' Compensation Commission

June 26, 2018

Preston F. McDaniel
McDaniel Law Firm
1315 Elmwood Ave.
Columbia, SC 29201

Carrier Code No. 00500

Carrier File No. 2013001614

Re: WCC File No. 1307922
Pamela Cartee v. SC JUDICIAL DEPT.
Date of Injury: 03/01/2013

The enclosed Motion is being returned for the following reason(s):

The attached motion is being returned to you because it has been received untimely. Any motion for reconsideration must be made within five (5) days of the date that the order, opinion, or award is served. S.C. Code Ann. Regs. 67-215(B) (2018 Supp.); S.C. Document Number 4735, effective February 23, 2018. The final Decision and Order of the Full Commission was served electronically on you May 30, 2018 making the due date for the Motion June 4, 2018.

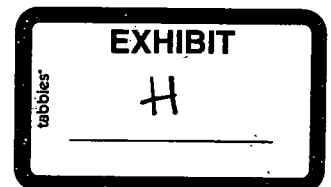
Once the hard copy is received the Motion and the filing fee will be returned promptly. Please let me know if you have any additional questions or concerns.

Sincerely,

Eugenia C. Hollmon
Judicial Docketing Director
803-737-5737

c:
Pamela O Cartee
1825 Woodbine Dr
Hartsville, SC 29550

JOHN M MILLING, Esquire
ATTORNEY AT LAW
PO Box 519
DARLINGTON, SC 29532-3216



THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SOUTH CAROLINA
Workers' Compensation Commission
Appellate Panel

Appellate Case No. 2018-001234

RECEIVED
JUL 20 2018
SC Court of Appeals

Ex Parte: Preston F. McDaniel, Esquire,
and John M. Milling, Esquire,Appellants,

v.

SC Workers' Compensation Commission.....Respondents.

IN RE:

Pamela Cartee, Claimant,

v.

SC Judicial Department, Employer,
and State Accident Fund, Carrier, Defendants.

AFFIDAVIT OF PRESTON F. MCDANIEL

I, PRESTON F. MCDANIEL, having been duly and properly
sworn do depose and state:

1. That I am one of the Appellants in the above-referenced
matter.

2. That I was initially associated by the Honorable John
M. Milling to represent Mrs. Pamela Cartee in her workers'
compensation claim before the SC Workers' Compensation Commission.
Per our agreement with Mrs. Cartee, and per the Rules of

Professional Responsibility and the SC Supreme Court Rules, we both remain totally responsible for her representation throughout the litigation, and Mr. Milling attended all depositions and hearings, and is listed as co-counsel with the SC Workers' Compensation Commission.

3. That the Fee Petition filed in December 2017 was filed on behalf of Mr. Milling and myself as Counsel for the Claimant, Pamela Cartee.

4. That further all of the documents as referred to in the Motion and attached thereto as Exhibits are part of my records, and are part of the records of John M. Milling, Esquire, maintained in our offices as part of the normal course of business in our practice and in our representation of Mrs. Cartee, and/or in reference to our request for approval of attorneys' fees as filed with the SC Workers' Compensation Commission. All documents as set forth in the Exhibits are also a part of the Record at the Commission.

5. That although Mr. Milling is listed on all documentation, including the initial Fee Petition, Request for Commission review, Briefs, and all Hearing Notices as co-counsel for the Claimant in reference to the denial of the approval of a portion of the requested attorneys' fees; and although we have requested that Mr. Milling be added as party as co-counsel requesting approval of attorneys' fees, to my knowledge Mr. Milling has never been served in any fashion, whether that be by electronic mail, regular US mail, certified mail, or in person

with a copy of the Full Commission Order issued on May 30, 2018,
and that subsequent thereto we have respectfully and repeatedly
again asked that Mr. Milling be listed and served, and both of us
be properly served with a copy of the Order pursuant to statute.

FURTHER THE AFFIANT SAYETH NOT.


PRESTON F. MCDANIEL, Affiant

SWORN TO BEFORE ME this
20th day of July, 2018.

Hubert T. Hinkle L.S.
Notary Public for South Carolina

My Commission Expires: 4-26-20

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SOUTH CAROLINA
Workers' Compensation Commission
Appellate Panel

Appellate Case No. 2018-001234

RECEIVED
JUL 20 2018
SC Court of Appeals

Ex Parte: Preston F. McDaniel, Esquire,
and John M. Milling, Esquire, Appellants,

v.

SC Workers' Compensation Commission Respondent.

IN RE:

Pamela Cartee, Claimant,

v.

SC Judicial Department, Employer,
and State Accident Fund, Carrier, Defendants.

AFFIDAVIT OF JOHN M. MILLING

I, JOHN M. MILLING, having been duly and properly sworn do
depose and state:

1. That I am one of the Appellants in the above-referenced
matter.

2. That I initially associated Preston F. McDaniel,
Esquire to assist and to be co-counsel in representing Mrs. Pamela

Cartee in her workers' compensation claim before the SC Workers' Compensation Commission.

3. That I am listed as co-counsel and have all Notices and documentation from the communications and have attended all mediations, depositions and hearings, and have remained mutually responsible for, and have been continually involved with the representation of Mrs. Cartee before the SC Workers' Compensation.

4. That the Fee Petition filed in December 2017 was filed on behalf of Mr. McDaniel and myself as Counsel for the Claimant, Mrs. Pamela Cartee.

5. That I am listed as Counsel for the Claimant on all documentation filed at with the SC Workers' Compensation Commission. Ever since this claim was instituted and prior to and after the submission of our request for approval of attorneys' fees, and a dispute arose over approval of a portion of those attorneys' fees, I have received all Notices and documentation filed with and/or received from the Commission, and have continued to be listed as co-counsel of Record with the Commission.

6. That I have never, to my knowledge, been served either personally, by electronic mail, regular US mail, or certified mail, with a copy of the May 30, 2018 Full Commission Order. Subsequent thereto, we have made repeated requests that I be listed as a party and properly served, and that we be properly served pursuant to statute with a copy of the Order.

7. That as of the date of this filing, I have not been

served with a copy of any Order.

FURTHER THE AFFIANT SAYETH NOT.



JOHN M. MILLING, Affiant

SWORN TO BEFORE ME this

29 day of July, 2018.

Alvin J. Weston L.S.

Notary Public for South Carolina

My Commission Expires: 1/27/2021

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SOUTH CAROLINA
Workers' Compensation Commission
Appellate Panel

Appellate Case No. 2018-001234

RECEIVED
JUL 20 2018
SC Court of Appeals

Ex Parte: Preston F. McDaniel, Esquire,
and John M. Milling, Esquire,.....Appellants,

v.

SC Workers' Compensation Commission.....Respondent.

IN RE:

Pamela Cartee, Claimant,

v.

SC Judicial Department, Employer,
and State Accident Fund, Carrier, Defendants.

**TEMPORARY ORDER STAYING THE TIME LIMITS
FOR THE APPEAL PURSUANT TO THE APPELLATE COURT
RULES UNTIL THE MOTION FOR A STAY MAY
BE HEARD**

The Appellants in the above-referenced matter have filed as part of a Motion to Stay, a request for a Temporary Order staying the time limits for the appeal until such time as under the Rules of the Court a Hearing and/or decision may be had on their Motion requesting a Stay pending the resolution of the declaratory judgment action, and for a Remand to the SC Workers' Compensation

Commission for further proceedings not inconsistent with the Order of the Court.

After due and proper review and consideration of the Motion and Request, the request for a Temporary Stay until such time as the Motion is heard is hereby **GRANTED** and this matter is **STAYED** pending the outcome of the Motion that has been filed with the Court.

AND IT IS SO ORDERED.

JUDGE, SC COURT OF APPEALS

Columbia, South Carolina

_____, 2018

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SOUTH CAROLINA
Workers' Compensation Commission
Appellate Panel

Appellate Case No. 2018-001234

RECEIVED
JUL 20 2018
SC Court of Appeals

Ex Parte: Preston F. McDaniel, Esquire,
and John M. Milling, Esquire, Appellants,

v.

SC Workers' Compensation Commission.....Respondent.

IN RE:

Pamela Cartee, Claimant,

v.

SC Judicial Department, Employer,
and State Accident Fund, Carrier, Defendants.

PROOF OF SERVICE

I certify that I have served the: NOTICE OF MOTION AND
MOTION FOR AN ORDER OF A JUDGE OF THE COURT FOR A TEMPORARY STAY
OF THE APPEAL AND TIME LIMITS PURSUANT TO RULE 240(b) AND
240(i), SCACR; THEN AFTER TIME TO FILE A RETURN FOR AN ORDER
STAYING THE APPEAL PURSUANT TO RULE 205 AND 240, SCACR, AND
REMANDING THE MATTER TO THE SC WORKERS' COMPENSATION COMMISSION
FOR COMPLIANCE WITH THE LAW IN REFERENCE TO SERVICE OF ITS ORDER
PURSUANT TO STATUTE, AND RE-CAPTIONING AND REVISING THE CONTENT
OF ITS ORDER AND FOR A STAY OF FURTHER PROCEEDINGS PENDING A

RESOLUTION OF THE DECLARATORY JUDGMENT ACTION; AND FURTHER PROCEEDINGS NOT INCONSISTENT WITH THE ORDER OF THE COURT with MEMORANDUM IN SUPPORT OF, AFFIDAVIT OF PRESTON F. MCDANIEL, AFFIDAVIT OF JOHN M. MILLING, and proposed TEMPORARY ORDER STAYING THE TIME LIMITS FOR THE APPEAL PURSUANT TO THE APPELLATE COURT RULES UNTIL THE MOTION FOR A STAY MAY BE HEARD by depositing a copy of same in the United States Mail, postage prepaid, on July 20, 2018 addressed to:

SC Workers' Compensation Commission
Post Office Box 1715
Columbia, South Carolina 29202

Alan T. Wilson
SC Attorney General
Post Office Box 11549
Columbia, South Carolina 29211-1549

Dated: July 20, 2018



Preston F. McDaniel
SC Bar No.: 3770
MCDANIEL LAW FIRM
1315 Elmwood Avenue
Columbia, South Carolina 29201
(803) 771-7211

and

John M. Milling
SC Bar #: 3994
MILLING LAW FIRM
Post Office Box 519
Darlington, South Carolina 29532
(843) 393-4083

APPELLANTS

McDANIEL LAW FIRM
ATTORNEYS AND COUNSELORS AT LAW
1315 ELMWOOD AVENUE
COLUMBIA, SOUTH CAROLINA 29201

Proudly representing injured workers
for over 30 years.

Preston F. McDaniel

Telephone (803) 771-7211

Matthew Robertson

Facsimile (803) 252-0709

July 20, 2018

HAND DELIVERED

Honorable Jenny Abbott Kitchings
Clerk of Court
SC Court of Appeals
1220 Senate Street
Columbia, South Carolina 29201

RECEIVED
JUL 20 2018
SC Court of Appeals

RE: Preston F. McDaniel, Esquire and John M. Milling,
Esquire v. SCWCC
Appellate Case No. 2018-001234

Dear Ms. Kitchings:

Please find attached a Motion for a Stay of the Time Limits and Appeal pending the resolution of the declaratory judgment action pending in the Circuit Court and a Remand to the SC Workers' Compensation Commission for compliance with proper service and captioning, and other matters related to the Full Commission Order.

Please note: included in this Motion is a request for a Temporary Order Staying the Time Limits in the appeal simply until after the ten (10) day period to file a Return, and the Court rules on the Motion. I have enclosed for the Court's convenience a proposed Temporary Order staying the Appellate Time Limits for consideration by one of the Judges of the Court, again simply staying the time limits until such time as the Respondent has an opportunity to file a Return to the Motion, and the Motion to Stay the appeal can be heard by the Court. We have not received the Transcript of the Full Commission yet, but I would appreciate consideration of the Temporary Order staying the time limits to allow the Court and the parties time to properly file a Return and consider the Motion filed to stay the appeal pending a Remand to the Commission, and also to Stay the appeal pending decision in the declaratory judgment action that is currently pending in the Circuit Court.

Please note: as of this date we still have not received Notice of Representation from any attorney as to the SC Workers' Compensation Commission.

Honorable Jenny Abbott Kitchings

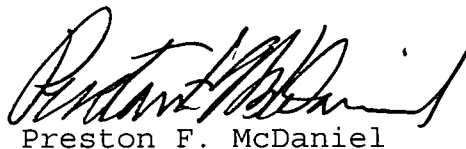
July 20, 2018

Page 2

The Proof of Service on the Respondent, required number of copies, and the required \$25.00 filing fee is enclosed.

I hope this is sufficient for filing with the Court, and as always, I appreciate all the courtesies and kindnesses shown to me by the Court in this and all matters.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Preston F. McDaniel". The signature is fluid and cursive, with the first name "Preston" being the most prominent part.

Preston F. McDaniel

PFM/kth
Enclosures

cc: John M. Milling, Esquire
SC Workers' Compensation Commission
Alan M. Wilson, SC Attorney General