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AMENDED RECORD ON APPEAL

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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SC Court of Appeals

Case No. 9832206

Stella Mae Richardson,

Appellant,

v.

Yuasa Exide, Inc., Employer, and Great American Insurance Company of
NY, Carrier,

Defendants,

Of which Yuasa Exide, Inc., Employer, is

Respondent.

AMENDED RECORD ON APPEAL

Stella Richardson
915 Jubilee Drive
Apartment 203
Sumter SC 29150

Mr. Robert Pruitt Gruber, Esquire

P.O Box 993

Charleston SC, 29402

Attorney for Respondent

Mr. Stephen Lynwood Brown, Esquire

P.O Box 993

Charleston SC, 29402

Attorney for Respondent

Ms. Catherine Holland Chase, Esquire

P. O Box 993

Charleston SC, 29402

Attorney for Respondent

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SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
W.C.C. FILE NO: 9832206

STELLA MAE RICHARDSON,

Employee,

Claimant,

vs.

YUASA EXIDE, INC.,

Employer,

AND

ARROWPOINT CAPITAL CORP,

Carrier,

Defendants.

DECISION AND ORDER

DATE OF HEARING:

Hearing held in Sumter, S.C. on February 25, 2014.

APPEARANCES:

Claimant appeared *pro se*.

Defendants represented by Vernon F. Dunbar, Esquire
of McAngus Goudelock & Courie, L.L.C. of Greenville,
South Carolina.

PURPOSE OF THE HEARING:

To determine all issues as set forth in Forms 50 and
51 and to address Defendant, Arrowood Indemnity
Company/ Arrowpoint Capital Corporation's Motion to
Add a Party.

COMMISSIONER:

The Honorable Thomas Scott Beck

FILED:

April 3, 2014

STIPULATIONS

1. The purpose of the hearing is to determine the issues as set forth in the Forms 50 and 51. Specifically, to determine the compensability of Claimant's alleged work-related injury or occupational disease claim and to determine the proper workers' compensation insurance carrier.
2. Proper venue is in Sumter County.
3. Notice was timely and properly provided to all parties of interest.

STATEMENT OF THE CASE

Stella Mae Richardson, Claimant, filed a Form 50 alleging the occurrence of a work-related accident on or about October 1997, allegedly arising out of and in the course of her employment with Yuasa-Exide. Specifically, Claimant alleges that her employment duties exposed her to an excessive amount of lead which resulted in either an occupational disease or a work-related injury. Claimant further alleged that as a result of occupational exposure to lead, she suffered injuries to her brain, heart and joints.

Finally, Claimant alleges that injuries to the brain and heart has manifested into hypertension and memory loss.

Yuasa-Exide, Inc., Employer, and its workers' compensation insurance carrier, Arrowood Indemnity Company/Arrowpoint Capital Corporation [hereinafter "Defendants"], first argued that because the personnel records and medical evidence reflect Claimant last worked in October 1997 or prior to June 10, 1998, the proper carrier is Great American Insurance Company as opposed to Arrowood Indemnity Company/Arrowpoint Capital Corporation. Defendants submit that the Commission's Coverage and Compliance records reflect that as of June 10, 1998, Great American

Insurance Company provided coverage to Yuasa-Exide, Inc., and therefore, is the proper Carrier.

Accordingly, Defendants, by and through its attorney requested that Arrowood Indemnity Company be dismissed from this proceeding. In the alternative, Defendants move to add Great American Insurance Company as a party if its request to be dismissed from this action was not granted.

The Undersigned Commissioner first explained to Claimant her right to counsel at this proceeding and at the Appellate level. Claimant indicated that she understood her right to counsel and wished to proceed and represent herself. At this juncture, the undersigned explained that if the hearing proceeded and an Order was issued addressing compensability and disability, Claimant would have fourteen (14) days in which to appeal the Decision and Order to the Full Commission. Again, Claimant expressed her understanding of her right to counsel and indicated her desire to proceed with the scheduled hearing.

EVIDENCE OF THE CASE

An extensive Pre-Trial Conference was undertaken. During the Pre-Trial Conference, Claimant acknowledged that she last worked for Yuasa-Exide in October 1997. Claimant had been placed on disability and was unable to work due to severe depression and schizophrenia. Claimant acknowledged that she did not work for Yuasa-Exide after 1997, but did receive severance pay in 1998. Claimant confirmed that she was last physically in the plant in October 1997, and never returned to regular full-time gainful employment at Yuasa-Exide prior to or after June 1998.

Defendants advised the Court that personnel documents recently discovered corroborated the fact that Claimant last worked at Yuasa-Exide in October 1997. More importantly, Defendants pointed to medical evidence it had in its possession declaring

Claimant was unable to work as of October/November 1997. Last, Defendants asserted that it had Social Security disability documents reflecting Claimant was totally disabled from gainful employment and had not worked since October 1997.

Despite the uncontradicted evidence Claimant last worked at Yuasa-Exide in October 1997, the undersigned Commissioner elected not to dismiss Arrowood Indemnity Company/ Arrowpoint Capital Corporation at this juncture, but elected to grant Defendant's Motion to Add Great American Insurance Company as a party to this action.

Specifically, the undersigned believes that it would be in Claimant's best interest to only proceed to litigate this matter on one occasion as opposed to having to litigate this matter on two separate occasions with respect to coverage and compensability. Thus, in the interest of judicial economy and in all fairness to Claimant, Great American Insurance Company is hereby added as a party to this proceeding. To this end, the hearing was postponed and Claimant was admonished to obtain legal counsel prior to the next scheduled hearing.

Once payroll, medical and personnel records have been provided to Great American Insurance Company, as directed by the undersigned, the insurance companies will be able to ascertain the proper carrier and will likely consent the non-responsible carrier be dismissed from this action.

FINDINGS OF FACT

1. Arrowood Indemnity Company/Arrowpoint Capital Corporation's Motion to Add Great American Insurance Company as a party to this action is hereby granted.

2. The Commission's records reflect that Robert Pruitt Gruber, Esquire, Young Clement Rivers, LLP, serves as counsel for Great American Insurance Company. To this end, this Order adding Great American Insurance Company shall be served on

Mr. Gruber at Post Office Box 993, Charleston, SC 29402, telephone number (843) 720-5482.

3. This matter is hereby postponed and shall be rescheduled at a later date after Great American Insurance Company has had an opportunity to complete any needed and necessary discovery and obtained a copy of the Commission's file, if it so elects to request the Commission's file.

CONCLUSIONS OF LAW

1. *S.C. Code Ann. §42-1-160 (2014)* governs injuries by accident.
2. *S.C. Code Ann. §42-11-10 et seq. (2014)* governs occupational diseases and illnesses.
3. *S.C. Code Ann. §42-1-60 (2014)* governs proper carrier.

ORDER

IT IS HEREBY ORDERED that the above-referenced matter shall be postponed and that Great American Insurance Company shall be added as a party defendant to this action.

IT IS FURTHER ORDERED that this Order shall be served upon Great American's counsel of record, Robert P. Gruber, Esquire.

IT IS FURTHER ORDERED that this matter shall be rescheduled after sufficient time has been given for Great American Insurance Company to conduct discovery and obtain a copy of the Commission's file.

AND IT IS SO ORDERED.

SOUTH CAROLINA WORKERS'
COMPENSATION COMMISSION



T. Scott Beck, Commissioner

CERTIFICATE OF SERVICE

This is to certify the undersigned has this date served this order in the above entitled action upon all parties to this cause by sending an electronic copy hereof by electronic mail addressed to the attorney or attorneys for said parties or by depositing a copy hereof, postage paid, in the United States certified mail addressed to any unrepresented party.
April 3, 2014

By: Amy Bracy, Administrative Assistant to Commissioner Beck

BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

WCC FILE NO. 9832206

Stella Richardson,		)	
	Claimant,	)	
	vs.	)	
		)	
Yuasa Battery		)	
		)	
	Employer,	)	
		)	
Great American Insurance Co.,		)	
		)	
	Carrier,	)	
	Defendants	)	
		)	

A Motion regarding the following issue(s) has been received.

- ☐ Discovery or Subpoena
- ☐ Appointment of guardian Ad Litem
- ☐ Attorney's appearance before the Commission
- ☐ Withdrawal of Representation
- ☐ Attorney's Fee
- ☐ Claim Pending Commission Review
- ☐ Postpone
- ☐ Adjourned the Scheduled Hearing
- ☐ Self Insurance Privileges
- ☐ Penalties and Interest
- ☐ Third Party Practice
- ☒ Other: Motion to be Relieved of Counsel: Charles T. Brooks, III

The following disposition has been made: ☒ Granted ☐ Denied

- ☐ Set for Hearing
- ☐ Have Attorneys brief the Issue

Reasons:

Columbia, SC


T. Scott Beck, Commissioner

CERTIFICATE OF SERVICE

This is to certify the undersigned has this date served this order in the above entitled action upon all parties to this cause by sending an electronic copy hereof by electronic mail addressed to the attorney or attorneys for said parties or by depositing a copy hereof, postage paid, in the United States certified mail addressed to any unrepresented party.
June 3, 2015

By: Shawn DeBruhl, Administrative Assistant to Commissioner Beck

CC: Stella Richardson
5150 Ridge Street
Dalzell, SC 29040

Charles T. Brooks
Attorney at Law
PO Box 3512
Sumter, SC 29151

Robert Gruber
Young Clement Rivers, LLP
PO Box 993
Charleston, SC 29402

BEFORE THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC FILE NUMBER 9832206

Stella Mae Richardson,)
)
 Claimant,)
)
 vs.)
)
 Yuasa Exide, Inc.,)
 Employer,)
)
 Great American Insurance Company of)
 NY,)
 Carrier,)
 Defendants.)

DECISION AND ORDER

STATEMENT OF THE CASE AND OF THE FACTS

The parties appeared before honorable R. Michael Cambell III on August 10, 2015 pursuant to claimant's Form 50. The claimant, Ms. Stella Mae Richardson, represented herself and the employer and insurance carrier, Yuasa Exide, Inc., Enersys, Great American Insurance Company of NY and Mitsui Sumitomo Insurance, was represented by Robert Gruber.

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.

The parties attended mediation before H. Mills Gallivan on October 31, 2014 and settled this case on a clincher for \$20,000.00. Mr. Gallivan submitted his Form 70 Mediation Report on 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. On June 30, 2015, the Workers' Compensation Commission scheduled a hearing before Honorable Mike Campbell for August 10, 2015 in Sumter, South Carolina.

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.

The claimant testified that she was informed by her attorney at the time, Mr. Charles Brooks, the clincher agreement that she signed in December of 2014 could close out any further entitlement to benefits that the claimant may otherwise have. She also testified that she was not aware in December of 2014 that she may have breast cancer. The claimant did not present any evidence (medical or otherwise) of any causal connection between alleged lead exposure and breast cancer.

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

FINDINGS OF FACT

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.

CONCLUSIONS OF LAW

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.

ORDER

Based upon the forgoing findings of fact and conclusions of law, the claimant's request for further benefits is denied, her request for hearing is dismissed and no further benefits are owed for this matter.

AND IT IS SO ORDERED!

Columbia, South Carolina

Date: December 7, 2015


Commissioner Mike Campbell

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 Barbara Cheeseboro on December 7, 2015

STATE OF SOUTH CAROLINA
BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
W.C.C. File No. 9832206

STELLA MAE RICHARDSON

Employee,
Claimant

APPROVED

ORDER APPROVING

-versus-

DEC 10 2014

SETTLEMENT AGREEMENT

YUASA EXIDE, INC.,
Employer, and

S. C. Workers' Comp. Comm.

GREAT AMERICAN INSURANCE COMPANY OF NY,
Carrier.
Defendants.

Upon due consideration of the annexed Petition for approval of settlement agreement filed by Stella Mae Richardson, employee, and Yuasa Exide, Inc., employer, and Great American Insurance Company of NY, insurance carrier, and it appearing to the South Carolina Workers' Compensation Commission that the attorneys for both parties are of the opinion that the settlement agreement between the said parties therein set forth is fair and proper, and that the same should be confirmed and approved by the Commission, and the parties thereto should be authorized by the Commission to consummate and conclude the said settlement.

IT IS ORDERED that the said settlement be, and the same is hereby approved and confirmed, and the employee and employer and insurance carrier are hereby authorized and empowered to consummate and conclude the said settlement, and that the payment of the said sum of TWENTY THOUSAND & 00/100 (\$20,000.00) Dollars in cash by the employer and insurance carrier to the employee thereunder shall be in full and final payment, settlement, extinguishment and discharge of all rights of the said employee, Stella Mae Richardson, and of all liabilities of the employer, Yuasa Exide, Inc., its respective predecessors, successors, assigns, parent companies, subsidiaries and/or related companies, and its insurance carrier, Great American Insurance Company of NY, its respective predecessors, successors, assigns, parent companies, subsidiaries

[Signature]

and/or related companies under the South Carolina Workers' Compensation Law for compensation of any and every kind under said law for disability, temporary and permanent, total and partial, past, present and future, and all claims for compensation for disfigurement, and any change of condition, and for all medical, surgical, hospital, and nursing treatment and expenses which heretofore have been or may hereafter be incurred by the said employee as a result or in consequence of said accident and injuries which allegedly occurred on 10/31/1997 in Sumter County, South Carolina, any and all injuries sustained as a result thereof by the said employee, Stella Mae Richardson, under said Workers' Compensation Law, so that the said employee shall no longer have any right or claim against the said employer and the said insurance carrier of any kind under the South Carolina Workers' Compensation Law based upon the said accident and any and all injuries and expenses, medical or other expenses, heretofore or hereafter suffered, sustained and incurred by the said employee in consequence of said accident and injury. The employee acknowledges that this agreement and release discharges the employer/carrier from any and all alleged work related injuries which may have occurred during her employment with the employer and that this agreement and release shall not be construed or considered to be an admission by Yuasa Exide, Inc. or Great American Insurance Co. of guilt or noncompliance with any federal, state or local statute, public policy, tort law, contract law, common law, or any other wrongdoing. Finally, Claimant agrees not to publicize or disclose the existence of or the terms of this agreement, and to keep said terms confidential, unless otherwise required by law or court order. This provision precludes Claimant from making any such disclosure to present or former employees of Yuasa Exide, Inc., its predecessor or successor companies, or any other member of the public other than her attorneys. The parties further agree that this agreement may only be used as evidence in a subsequent proceeding in which any of the parties allege a breach of this agreement or in which the employer carrier seeks reimbursement for monies paid to employee/claimant as part of this agreement and release. In the event Claimant is subpoenaed or otherwise is required to provide

information by any agency or by lawful process, issued by a court of competent jurisdiction, Claimant shall provide notice to Yuasa Exide, Inc. / EnerSys of such subpoena or order prior to compliance with said subpoena or order.

The Employer/Carrier agrees to negotiate and, to the extent necessary following negotiations, be financially responsible for any conditional payment liens asserted by Medicare which are causally related to this injury and pursuant to the Medicare Secondary Payer Act and its corresponding Federal Regulations, including but not limited to 42 C.F.R. Sec. 411.37(b), et seq, and any liens asserted by the S.C. Department of Health and Human Services (S.C. Medicaid) which are alleged causally related to this injury. The Employer/Carrier reserves the right to defend these liens in any way it chooses.

It is not the intention of the Employer/Insurer or Claimant in this case to shift the responsibility for paying future medical expenses related to the Claimant's injuries to the Federal Government. The parties have considered and protected Medicare's interests in this case, but this settlement does not meet CMS' current threshold of review. No money is being set aside for future care related to the injuries described herein as these claims are completely denied and, until this settlement, no medical or indemnity payments have been made to, or on behalf of, the claimant; and, this case does not meet the current MSA review criteria used by CMS.

Should Medicare later determine that funds should have been allocated to pay for future medical expenses which Medicare would otherwise cover, the Claimant agrees to pay such money and be solely responsible for the same. The Claimant agrees to be responsible for and to pay any and all claims asserted by any entity seeking reimbursement of medical or prescription expenses paid by Medicare, a Medicare Advantage Plan, or a Medicare Prescription Drug Plan.

The Claimant agrees to hold harmless, indemnify and defend the Employer/Insurer from any and all claims asserted by any entity seeking reimbursement of medical or prescription expenses paid by Medicare, a Medicare Advantage Plan, or a Medicare Prescription Drug Plan.

The Claimant hereby waives any and all private causes of action which may exist against the Employer/Insurer under the Medicare Secondary Payor Act related to the injuries alleged in connection with this claim.

THE SOUTH CAROLINA WORKERS'
COMPENSATION COMMISSION

BY: _____

Haydon

Date

I certify this to be a true and correct copy.

[Signature]

SEE SUBJECT TO FORM 61.

**STATE OF SOUTH CAROLINA
BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
W.C.C. File No. 9832206**

STELLA MAE RICHARDSON,
Employee,
Claimant

**PETITION FOR APPROVAL OF
COMPROMISE SETTLEMENT**

-versus-

AGREEMENT

YUASA EXIDE, INC.,
Employer, and

GREAT AMERICAN INSURANCE COMPANY OF NY,
Carrier,
Defendants.

TO THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION:

The Petition of Stella Mae Richardson, employee, and Yuasa Exide, Inc., employer, and Great American Insurance Company of NY, insurance carrier, respectfully shows:

1. That the employee, Stella Mae Richardson, allegedly sustained an injury by accident arising out of and in the course of her employment by the employer on or about 10/31/1997. the said accident occurring in Sumter County, South Carolina.
2. That an actual bona fide disagreement exists between the employee on the one hand and the employer and insurance carrier on the other as to the extent of residual disability, if any, and the amount of compensation for disability, temporary and permanent, partial and total, and compensation for any disfigurement to which the employee might be due and for which the employer and insurance carrier may be liable under the South Carolina Workers' Compensation Law based upon the aforesaid accident and injury.
3. That an agreement has been reached between the employee on the one hand, and the employer and insurance carrier on the other, whereunder the employer and insurance carrier will

pay, and the employee, Stella Mae Richardson, will accept the sum of **TWENTY THOUSAND & 00/100 (\$20,000.00) Dollars** in full payment and compromise settlement of all rights and claims of the employee under the South Carolina Workers' Compensation Law based upon and by reason of the aforesaid accident and injuries, including, without limiting the generality of said agreement, all claims of the said employee for compensation of any and every kind under said law for disability, temporary and permanent, total and partial, present and future, and all claims for compensation under said law for disfigurement and for any change of condition, and all claims under said law for any medical, hospital, surgical, and nursing and any other expenses to which the said employee may heretofore have been or hereafter may be put, so that the said employee shall have no further right or claim and the said employer and insurance carrier shall have no further liability under the said Workers' Compensation Law based upon said accident and injuries after the payment and receipt of said sum of **TWENTY THOUSAND & 00/100 (\$20,000.00) Dollars**.

4. The Employee/Claimant acknowledges that this agreement and release discharges the employer/carrier from any and all alleged work related injuries which may have occurred during her employment with the employer and that this agreement and release shall not be construed or considered to be an admission by Yuasa-Exide, Inc. or Great American Insurance Co. of guilt or noncompliance with any federal, state or local statute, public policy, tort law, contract law, common law, or any other wrongdoing.

5. Claimant agrees not to publicize or disclose the existence of or the terms of this agreement, and to keep said terms confidential, unless otherwise required by law or court order. This provision precludes Claimant from making any such disclosure to present or former employees of Yuasa-Exide, its predecessor or successor companies, or any other member of the public other than her attorneys. The parties further agree that this agreement may only be used as evidence in a subsequent proceeding in which any of the parties allege a breach of this agreement or in which the employer carrier seeks reimbursement for monies paid to

employee/claimant as part of this agreement and release. In the event Claimant is subpoenaed or otherwise is required to provide information by any agency or by lawful process, issued by a court of competent jurisdiction. Claimant shall provide notice to Yuasa-Exide/EnerSys of such subpoena or order prior to compliance with said subpoena or order.

6. The Employer/Carrier agrees to negotiate and, to the extent necessary following negotiations, be financially responsible for any conditional payment liens asserted by Medicare which are causally related to this injury and pursuant to the Medicare Secondary Payer Act and its corresponding Federal Regulations, including but not limited to 42 C.F.R. Sec. 411.37(b), et seq, and any liens asserted by the S.C. Department of Health and Human Services (S.C. Medicaid) which are alleged causally related to this injury. The Employer/Carrier reserves the right to defend these liens in any way it chooses.

7. It is not the intention of the Employer/Insurer or Claimant in this case to shift the responsibility for paying future medical expenses related to the Claimant's injuries to the Federal Government. The parties have considered and protected Medicare's interests in this case, but this settlement does not meet CMS' current threshold of review. No money is being set aside for future care related to the injuries described herein as these claims are completely denied and, until this settlement, no medical or indemnity payments have been made to, or on behalf of, the claimant; and, this case does not meet the current MSA review criteria used by CMS.

Should Medicare later determine that funds should have been allocated to pay for future medical expenses which Medicare would otherwise cover; the Claimant agrees to pay such money and be solely responsible for same. The Claimant agrees to be responsible for and to pay any and all claims asserted by any entity seeking reimbursement of medical or prescription expenses paid by Medicare, a Medicare Advantage Plan, or a Medicare Prescription Drug Plan.

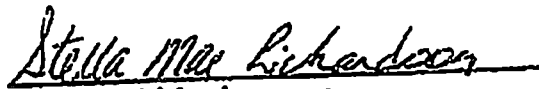
The Claimant agrees to hold harmless, indemnify and defend the Employer/Insurer from any and all claims asserted by any entity seeking reimbursement of medical or prescription

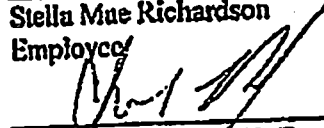
expenses paid by Medicare, a Medicare Advantage Plan, or a Medicare Prescription Drug Plan.

The Claimant hereby waives any and all private causes of action which may exist against the Employer/Insurer under the Medicare Secondary Payer Act related to the injuries alleged in connection with this claim.

8. The Claimant hereby represents that she has been fully advised of her rights under the South Carolina Workers' Compensation Act and that she is of the opinion that the proposed settlement is reasonable and fair. Claimant's counsel represents that he concurs in the opinion that the settlement is reasonable and fair. Each of them requests the South Carolina Workers' Compensation Commission approve this settlement as set forth in this agreement. The parties acknowledge that the Commission relies upon the representation of counsel for the Claimant that the Claimant has been fully apprised of her rights under the laws of the South Carolina Workers' Compensation Act.

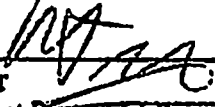
WHEREFORE, the Petitioners each pray that the South Carolina Workers' Compensation Commission do consider the said compromise settlement agreement, and do make and enter an Order confirming and approving the same and authorizing the parties hereto to carry the said compromise settlement agreement out and make and receive the aforesaid payment in full settlement, acquittance and discharge of all of the rights of the said employee and of all the liabilities of the said employer and insurance carrier based upon the aforesaid accident and injuries, and all disability and expenses resulting or hereafter to result therefrom.


Stella Mae Richardson
Employee


Charles T. Brooks, III, Esquire
The Brooks Law Office, LLC
Attorney for the Employee

YUASA EXIDE, INC.
Employer, and

GREAT AMERICAN INS. CO. OF NY
Insurance Carrier

By: 
Robert Gruber
Young Clement Rivers, LLP
Attorney for the Employer/Insurance Carrier

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
JUDICIAL CONFERENCE DECISION AND ORDER

Stella Mae Richardson v Yuasa Battery
SCWCC: 9832206
Commissioner: Campbell

This matter was heard before the South Carolina Workers' Compensation Full Commission in Judicial Conference on a **Motion to Admit Newly Discovered Evidence**. The Commissioners considered the matter and ordered the matter handled in the following manner:

IT IS, THEREFORE, ORDERED the pending appeal of the Administrative Order of the Commission is hereby;

_____ Dismissed as Interlocutory. _____ Set for Oral Argument.

IT IS, THEREFORE, ORDERED the pending motion be, and hereby is;
_____ Granted. ☒ Denied. _____ Dismissed _____ Set for Hearing.

BEFORE THE;
_____ Hearing Comm. _____ Jurisdictional Comm. _____ Full Commission.

IT IS, THEREFORE, ORDERED this matter be, and hereby is; remanded to take such action and enter an Order consistent with the Court's directive.

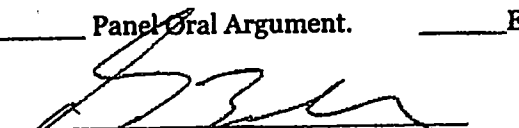
_____ Remand to Panel as indicated below.
_____ Barden _____ James _____ Taylor
_____ Beck _____ Campbell _____ Wilkerson
_____ McCaskill

_____ Remand for Order consistent with the Order of the Court.
_____ Remand to the Hearing Commissioner.
_____ Remand to the Jurisdictional Commissioner.

_____ Other: _____

_____ Remand: _____ Panel Oral Argument. _____ En Banc Oral Argument.

AND IT IS SO ORDERED.


T. Scott Beck, Chair
For the Commission

Columbia, South Carolina

3/21/2016

CONCURRING:

Commissioner Susan S. Barden
Commissioner Melody James
Commissioner Aisha Taylor
Commissioner Avery Wilkerson
Commissioner Michael Campbell
Commissioner Gene McCaskill

NOT PARTICIPATING:

DISSENTING:

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 Kim Falls on March 21, 2016

**DECISION AND ORDER
OF THE
APPELLATE PANEL
OF THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION**

**COMMISSION PANEL: THE HONORABLE MELODY L. JAMES, CHAIR; THE
HONORABLE GENE MCCASKILL; THE HONORABLE AISHA TAYLOR**

SCWCC FILE NO.: 9832206

Stella Mae Richardson,
Employee/Claimant/Appellant,

v.

Yuasa Exide, Inc.,
Employer, and
Great American Insurance Company of NY,
Carrier/Defendants/Respondents.

Hearing held in Columbia, South Carolina
on April 18, 2016
Per notice timely and properly served upon all Parties of Interest.

Appearances: Stella Mae Richardson, *pro se*, for Claimant
 Robert Gruber, Esquire, for Defendants

Filed:

June 29, 2016

STATEMENT OF THE CASE

The Claimant in this case filed a claim only Form 50 on November 16, 2010 alleging that she suffered injury to the brain, kidneys, liver, musculoskeletal system, cognitive system, pulmonary system, and neuropathic system due to exposure to lead and other toxic chemicals during her employment with Yuasa-Exide, Incorporated on or before November 10, 1997. The Claimant later filed a Form 50 on December 6, 2013 requesting a hearing to address her alleged lead exposure and subsequently hired Charles Brooks to represent her.

The Defendants denied the Claimant sustained a compensable work related injury, illness and/or occupational disease arising out of and in the course of her employment on or about the date set forth in the Form 50. The parties attended a hearing on April 3, 2014 at which time Great American Insurance was added as the Carrier to the file and given an opportunity to complete any needed and necessary discovery. The remaining issues in the matter were postponed and rescheduled for a later date.

A rescheduled hearing on the remaining issues in the matter was not held. The parties instead attended mediation on October 31, 2014 before H. Mills Gallivan and settled the case on a Clincher for \$20,000.00. Mr. Gallivan submitted his Form 70 Mediation Report on November 3, 2014 and the parties entered a Clincher agreement which was approved by the Commission on December 10, 2014.

Mr. Brooks submitted a Motion to be relieved as Counsel in this matter which was granted on June 3, 2015. The Claimant subsequently filed a Form 50 *pro se* on June 18, 2015 alleging 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 Claimant's breast cancer was not causally related to her alleged injury/exposure and also pled affirmative and other available defenses under the Act. The Employer/Carrier also asserted that the Claimant had Clinchered her case on December 10, 2014 and the Claimant therefore was not entitled to any further benefits pursuant to the terms of the Clincher agreement.

A hearing on the merits was scheduled for August 10, 2015 in Sumter, South Carolina. It appears that a pre-trial was held in the matter. The Employer's position is that the Claimant's claim was closed as a result of the December 10, 2014 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 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.

The Claimant's position was that she was informed by her attorney at the time, Mr. Brooks that the Clincher Agreement that she signed in December of 2014 could close out any further entitlement to benefits that the Claimant may otherwise have. She also contends that she was not aware in December of 2014 that she may have breast cancer. The Claimant did not present any evidence (medical or otherwise) of any causal connection between alleged lead exposure and breast cancer.

Following the Pre-hearing, the Single Commissioner issued a Decision and Order which was filed on December 7, 2015. A record of the pre-trial or any subsequent hearing was never opened. The Single Commissioner's Decision and Order contained the following findings of fact and conclusions of law:

FINDINGS OF FACT

- 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 first filed her 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.*

CONCLUSIONS OF LAW

1. *Pursuant to Reg. 67-810E (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.*

ORDER AND AWARD

Based upon the foregoing findings of fact and conclusions of law, the Claimant's request for further benefits is denied, her request for hearing is dismissed, and no further benefits are owed for this matter.

ISSUES ON APPEAL

The Claimant filed a Form 30 Request for Commission Review on December 21, 2015. The Claimant requested the Commission review the Single Commissioner's Decision and Order to address whether the Claimant was mentally competent to enter into an agreement to Clincher the claim and whether the Claimant received adequate assistance of legal counsel. The Claimant subsequently submitted a Form 59 Appellant's Informal Brief dated February 1, 2016 which contained 5 additional questions of fact or law regarding the Commissioner's findings as grounds for appeal. The Form 30 and parties' respective Pre-Hearing Briefs are contained in the Commission's file.

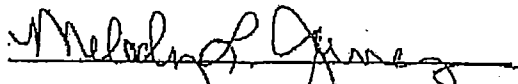
FINDINGS OF THE FULL COMMISSION

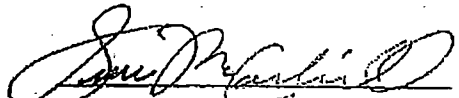
This matter was reviewed by the Full Commission Appellate Panel. As there was no transcript or record of a hearing on the matter; the Commissioners considered the matter and have issued a **REMAND** of the Single Commissioner's Decision and Order. The matter is remanded to the Hearing Commissioner to open the record, take testimony, and make findings of fact and conclusions of law consistent with evidence submitted.

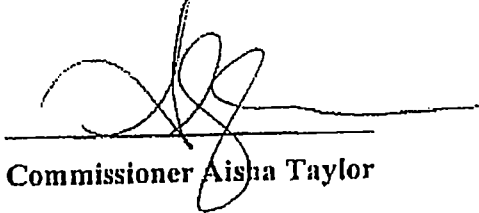
ORDER

IT IS THEREFORE ORDERED that this matter is **REMANDED** to the Hearing Commissioner.

AND SO IT IS ORDERED!


Commissioner Melody L. James, Chair


Commissioner Gene McCaskill



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 Hollmon on June 29, 2016

BEFORE THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC FILE NUMBER 9832206

Stella Mae Richardson,
Claimant,

vs.

Yuasa Exide, Inc.,
Employer,

Great American Insurance Company of
NY,
Carrier,
Defendants.

**DECISION AND ORDER OF FULL
COMMISSION**

STATEMENT OF THE CASE AND OF THE FACTS

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.

The parties attended mediation before H. Mills Gallivan on October 31, 2014 and settled this case on a clincher for \$20,000.00. Mr. Gallivan submitted his Form 70 Mediation Report on

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, Ins. 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, Ins. 1-15; pg. 9, Ins. 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 (Cl. App. 2005), [a]

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!

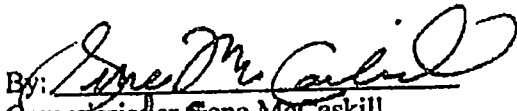
AND IT IS SO ORDERED!

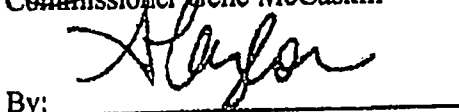
No hearing costs are assessed in this matter.

S.C. WORKERS' COMPENSATION COMMISSION

By: Melody James
Honorable Melody James

CONCURRING:

By: 
Commissioner Eugene 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

South Carolina Workers' Compensation Commission
1333 Main Street, Suite 500
Post Office Box 1715
Columbia, South Carolina 29202-1715
803-737-5723



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

Claimant's Name: Stella Mae Richardson SSN: 248-43-3371 Employer's Name: Yuasa-Exide, Inc.
Address: 5150 Ridge Street Address: c/o Enersys, Inc.
1990 Corporate Way
City: Dalzell State: SC Zip: 29040 City: Sumter State: SC Zip: 29150
Home Phone: (803) 406-8580 Work Phone: _____ Insurance Carrier: _____
Preparer's Name: Malcolm M. Crosland, Jr., Esquire Law Firm: The Steinberg Law Firm Preparer's Phone #: (843) 720-2800

Complete each information blank. To request a hearing, check Box 13b, indicate the kinds of benefits claimed by checking the box(es) at Lines 6, 7, 8, and 9, and file this form in duplicate.

A claim for workers' compensation benefits is made based on the following grounds:

Date of Injury or Illness: August 5, 1998

☒ Injury

☐ Illness

☐ Repetitive Trauma

- 1a. The claimant sustained an injury to the brain; kidneys; liver; musculoskeletal system; cognitive system; pulmonary system; neuropathic system (Part(s) of Body Injured) on August 5, 1998 in Sumter County, State of South Carolina.
- 1b. Body part(s) affected are: brain; kidneys; liver; musculoskeletal system; cognitive system; pulmonary system; neuropathic system
Briefly describe how the accident occurred. The Claimant experienced an exposure to lead and other toxic chemicals on the job.
2. Both the claimant and the employer were subject to the South Carolina Workers' Compensation Act at the time of the injury.
3. The relationship of employer and employee existed at the time of the injury.
4. At the time of the injury the claimant was performing services arising out of and in the course of employment.
5. Notice of the accidental injury was given to the Employer on August 5, 1998 in the following manner: verbally to supervisor
- ☒ 6. Due to injury, the claimant is in need of (check one):
☐ (a) medical examination and treatment for: _____
☒ (b) additional medical examination and treatment for: injuries listed above.
- ☒ 7. Due to injury, the claimant requests temporary disability benefits because of lost compensable time from work and wages for the period of: To be determined.
- ☒ 8. Due to the injury, the Claimant has permanent disability of the following nature and extent (check one):
☒ (1) General Disability: ☒ Total ☐ (2) Specific Disability: ☒ Total
☐ (3) Wage Loss ☐ Partial ☐ Partial
- ☒ 9. Due to the injury, the Claimant has a serious bodily disfigurement consisting of: None known at this time
- 10a. At the time of the injury, the Claimant was paid weekly wages of \$Form 20 requested, and demands accounting of days worked and wages earned as provided by law.
- 10b. Give names and addresses of all employers for whom the Claimant has worked since the date of the accident:
Employer herein; and/or to be determined.
- 11a. Further grounds or unusual aspects of claim: To provide all benefits under the Act.
- 11b. List names and addresses of all physicians or other medical specialists who have seen or treated the Claimant as a result of the accident: _____
- 11c. To the best of your knowledge, did you have any prior permanent disability? No.
If yes, describe: _____
12. Appropriate benefits as provided in the Act for the above grounds and other relief as the Workers' Compensation Commission may direct as just and proper.
- ☒ 13a. I am filing a claim. I am not requesting a hearing at this time.
- ☐ 13b. I am requesting a hearing. A \$25 fee is required.
14. Estimated time needed for hearing: 45 minutes.

I verify the contents of this form are accurate and true to the best of my knowledge.

Malcolm M. Crosland, Jr. Attorney for Claimant mcrosland@steinberglawfirm.com 11/14/10
Preparer's Signature Title E-Mail Date

Refer to R.67-204 through R.67-210 and R.67-601 through R.67-615. Questions about the use of this form may be directed to the Commission's Claims Department.

WCC Form # 50
Revised 9/07

50

Employee's Notice of Claim and/or
Request for Hearing

South Carolina Workers' Compensation Commission
1333 Main Street, Suite 500 • Post Office Box 1715
Columbia, South Carolina 29202-1715
(803) 737-5723 www.wcc.sc.gov



WCC File #: 983020L
Carrier File #: 715001281800
Carrier Code #: _____
Employer FEIN #: _____

Claimant's Name: Stella Mae Richardson SSN: 248-45-3371 Employer's Name: Wash-Exide, Inc.
Address: 5150 Ridge Rd Address: 1990 Corporate Blvd.
City: Dalzell State: S.C Zip: 29040 City: Sumter State: S.C Zip: 29150
Home Phone: (803) 406-8580 Work Phone: (803) 406-1539 Insurance Carrier: Arrowpoint Capital
Preparer's Name: Vernon E. Duplex, Esq. Law Firm: Turner Pedge & Graham P.A. Preparer's Phone #: (803) 552-4601

A claim for workers' compensation benefits is made based on the following grounds:

☒ Injury ☒ Illness ☐ Repetitive Trauma ☐ Occupational Disease ☐ Physical Brain Injury ☐ Concurrent Jurisdiction

Date of Injury or Illness: July 1997 (Month/Day/Year) In (Part(s) of Body Injured) or Brain Injury & Heart Disease; joint problems & hyperextension

1. The claimant sustained an injury to Sumter county, state of S.C. Body part(s) affected are: Being exposed to lead and working in the hazardous conditions cause by death at work with these problems.

2. Briefly describe how the accident occurred. Being exposed to lead and working in the hazardous conditions cause by death at work with these problems.

3. Both the claimant and the employer were subject to the South Carolina Workers' Compensation Act at the time of injury.

4. The relationship of employer and employee existed at the time of injury.

5. At the time of the injury the claimant was performing services arising out of and in the course of employment.

6. Notice of the accidental injury was given to the Employer on Oct. 1997 (Month/Day/Year) in the following manner: Special Mgr. Supervisor Multiple phone to inform her of my situation and also being caught was policy by phone call and also

☐ 7. Due to injury, the claimant is in need of (check one):
☐ (a) medical examination and treatment for: _____
☒ (b) additional medical examination and treatment for: Hyperextension; joint problems, mainly problems

☐ 8. Due to injury, the claimant requests temporary total disability benefits because of lost compensable time from work and wages for the period of: Oct 1997 - Present

☐ 9. Due to the injury, the Claimant has permanent disability of the following nature and extent (check one):
☒ (1) General Disability: ☒ Total ☐ Partial ☐ (2) Specific Disability: ☐ Total ☐ Partial ☐ (3) Wage Loss

☐ 9a. ☐ A determination of permanent disability is premature at this time.

☐ 10. Due to the injury, the Claimant has a serious bodily disfigurement consisting of:

10a. At the time of the injury, the Claimant was paid weekly wages of \$_____, and demands accounting of days worked and wages earned as provided by law.

10b. Give names and addresses of all employers for whom the Claimant has worked since the date of the accident:

11. Further grounds or unusual aspects of claim:

11a. List names and addresses of all physicians or other medical specialists who have seen or treated the Claimant as a result of the accident:

11b. To the best of your knowledge, did you have any prior permanent disability?
If yes, describe: NO

12. Appropriate benefits as provided in the Act for the above grounds and other relief as the Workers' Compensation Commission may direct as just and proper.

☐ 13a. I am filing a claim. I am not requesting a hearing at this time.

☒ 13b. I am requesting a hearing. A \$25 fee is required.

14. Estimated time needed for hearing: 3 months

☐ Mediation

☐ a. Mediation is requested to be ordered pursuant to Reg. 67-1801 B.

☐ b. Mediation is required pursuant to Reg. 67-1802.

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

☒ d. Mediation has been conducted by a duly qualified mediator and resulted in an impasse.

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 _____
address _____ on the _____ day of _____ 20____ by ☐ first class postage ☐ certified mail ☐ personal service.

I verify the contents of this form are accurate and true to the best of my knowledge.

Stella Mae Richardson

Title

Email

Date _____

Questions about the use of this form should be directed to the Claims Department at 803.737.5723. Refer to Regulations 67-204 through 67-211 and Regulations

Questions about the use of this form should be directed to the Department of Social Services, 67-601 through 67-615 as well as Reg. 67-1801.

Employee's Notice of Claim and/or Request for Hearing



Carrier File #: 506547478
Carrier Code #: _____
Employer FEIN #: _____

Claimant's Name: Stella White Richardson SSN: 248-42-3311
Address: 5150 Ridge Pt
City: Dalzell State: SC Zip: 29040
Home Phone: (803) 406-8580 Work Phone: () - _____

Employer's Name: Yusco-Exide Inc
Address: 1990 Corporate Blvd.
City: Sumter State: SC Zip: 29154
Insurance Carrier: Great American Insurance Company of NY

Preparer's Name: Stella M. Richardson Law Firm: _____ Preparer's Phone #: (803) 418-5708
A claim for workers' compensation benefits is made based on the following grounds: _____ Date of Injury or Illness: 10/19/98

- ☐ Injury ☒ Illness ☐ Repetitive Trauma ☐ Occupational Disease ☐ Physical Brain Injury ☐ Concurrent Jurisdiction
1. The claimant sustained an injury to _____ (Part(s) of Body Injured) on 01/24/95 (Month/Day/Year) in Wm. Lee (County, state of S.C.)
2. Body part(s) affected are: Breasts
Briefly describe how the accident occurred: Being exposed to lead and working in hazardous conditions cause by health declination with health problems.
3. Both the claimant and the employer were subject to the South Carolina Workers' Compensation Act at the time of injury.
4. The relationship of employer and employee existed at the time of injury.
5. At the time of the injury the claimant was performing services arising out of and in the course of employment.
6. Notice of the accidental injury was given to the Employer on 10/19/98 (Month/Day/Year) in the following manner:
Supervisor was notified

- ☐ 7. Due to injury, the claimant is in need of (check one):
☒ (a) medical examination and treatment for: Invasive Ductal Carcinoma Breast Cancer
☐ (b) additional medical examination and treatment for: _____
☐ 8. Due to injury, the claimant requests temporary total disability benefits because of lost compensable time from work and wages for the period of:
Aug 5, 1998 - Present
☐ 9. Due to the injury, the Claimant has permanent disability of the following nature and extent (check one):
☒ (1) General Disability: ☐ Total ☐ Partial ☐ (2) Specific Disability: ☐ Total ☐ Partial ☐ (3) Wage Loss
9a. ☐ A determination of permanent disability is premature at this time.
☐ 10. Due to the injury, the Claimant has a serious bodily disfigurement consisting of:

- 10a. At the time of the injury, the Claimant was paid weekly wages of \$_____, and demands accounting of days worked and wages earned as provided by law.
10b. Give names and addresses of all employers for whom the Claimant has worked since the date of the accident:
11. Further grounds or unusual aspects of claim:

- 11a. List names and addresses of all physicians or other medical specialists who have seen or treated the Claimant as a result of the accident:
11b. To the best of your knowledge, did you have any prior permanent disability? NO
If yes, describe: _____
12. Appropriate benefits as provided in the Act for the above grounds and other relief as the Workers' Compensation Commission may direct as just and proper.

- ☐ 13a. I am filing a claim. I am not requesting a hearing at this time. 14. Estimated time needed for hearing: 1 hr
☒ 13b. I am requesting a hearing. A \$25 fee is required.

- ☐ Mediation
☐ a. Mediation is requested to be ordered pursuant to Reg. 67-1801 B.
☐ b. Mediation is required pursuant to Reg. 67-1802.
☐ c. Mediation is requested by consent of the Parties pursuant to Reg. 67-1803.
☒ d. Mediation has been conducted by a duly qualified mediator and resulted in an impasse.

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 _____
address _____ on the _____ day of _____ 20____ by ☐ first class postage ☐ certified mail ☐ personal service.

I verify the contents of this form are accurate and true to the best of my knowledge.
Stella Mae Richardson
Preparer's Signature _____ Title _____ Email _____ Date 10-9-2015

Questions about the use of this form should be directed to the Claims Department at 803.737.5723. Refer to Regulations 67-204 through 67-211 and Regulations 67-601 through 67-615 as well as Reg. 67-1801.

WCC Form # 50
Revised 7/13

Employee's Notice of Claim and/or
Request for Hearing

Dr. Billy Clawney
(1) Santee Hematology Oncology In.
1105 North Lafayette Drive
Sumter, S.C. 29150-2913
803-934-8833

(2) Dr. Moses Henry P.
129 North Washington Street
Sumter S.C. 29150
803-774-1550

SCWCC
JUN 1 2 2018
JUDICIAL

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
W.C.C. FILE NUMBER: 9832206

Stella Mae Richardson,

Employee,

Claimant,

vs.

Yuasa Exide, Inc.,

Employer,

and

Great American Insurance Company of
NY,

Carrier,

Defendants.

DEPOSITION OF
STELLA MAE RICHARDSON

July 29, 2015

Deposition of STELLA MAE RICHARDSON, taken by
Doris Tompkins Brown, Certified Verbatim Reporter
and Notary Public in and for the State of South
Carolina, commencing at 10:58 A.M. on July 29, 2015,
at the offices of Lee, Erter, Wilson, Smith and Holler,
126 North Main Street, Sumter, South Carolina.

APPEARANCES

PRO SE:

Stella Mae Richardson

FOR THE CARRIER/DEFENDANTS:

Robert P. Gruber
Young Clement Rivers, LLP
Post Office Box 993
Charleston, South Carolina

Doris Tompkins Brown

COPY

Certified Verbatim Reporter
Post Office Box 853
Sumter, South Carolina 29151
(803) 499-2434

COPY

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* * * * *

(No exhibits introduced into deposition)

* * * * *

(COURT REPORTER'S NOTE: --- INDICATES INTERRUPTION,
INCOMPLETE PHRASE, TRAILING OFF, INCOMPLETE SENTENCE)

1 The deposition of Stella Mae Richardson is being taken
2 pursuant to Notice and in accordance with the South
3 Carolina Rules of Civil Procedure and Amendments as adopted
4 by the Supreme Court which shall control the taking of said
5 deposition and its use thereof.

6 Counsel, with the specific consent of the witness,
7 waives the reading and signing of the deposition prior to
8 the time it is filed with the Court.

9 (Stella Mae Richardson, having been duly sworn, testifies
10 as follows:)

11 EXAMINATION BY MR. GRUBER:

12 Q. Ms. Richardson, my name is Robert Gruber. We met a
13 few minutes ago, and I represent Exide -- Yuasa Exide
14 EnerSys in a Workers' Compensation claim that you have
15 with them.

16 A. Uh-huh.

17 Q. And I am here to ask you some questions about your
18 claim.

19 A. Uh-huh.

20 Q. We settled your case back in December of 2014, and
21 recently, you filed a Form 50 requesting a Hearing
22 alleging that you are entitled to some additional
23 benefits as part of that case. And so, I am here
24 today to really ask you questions about that, about
25 the new claim filing that you made and what your claim

STELLA MAE RICHARDSON VS. YUASA EXIDE, INC. AND
GREAT AMERICAN INSURANCE COMPANY OF NY

1 Q. In other words, you don't have any reason to
2 believe that they haven't?

3 A. No.

4 Q. Okay. We have a Hearing coming up, not this
5 coming Monday but the next Monday. You will
6 please let me know if you change your mind and
7 decide that you do want an attorney?

8 A. Okay.

9 Q. Okay. That way, we just keep everything straight.
10 Now, Ms. Richardson, as I mentioned before, we settled
11 your case back in December of 2014; do you recall
12 that?

13 A. Yes, I remember.

14 Q. And that was for Twenty-five Thousand Dollars
15 (\$25,000); is that right?

16 A. No. I think it was like Twenty Thousand
17 (\$20,000).

18 Q. Okay. What was your understanding at that time
19 as to exactly what was being settled; in other
20 words, what the settlement encompassed or
21 included?

22 A. Well, the settlement included working at Yuasa
23 Exide and the lead poisoning that everybody
24 accumulated, different causes.

25 Q. Okay.

1 A. Health issues.

2 Q. Was it your understanding that the settlement back in
3 December settled the entire case; in other words, it
4 ended your Workers' Compensation case forever, for
5 good?

6 A. I mean, he told me that it's a possibility that I
7 couldn't go back and get anything.

8 Q. Okay.

9 A. But I said to myself that I was going to write to the
10 Commission Office and see if I could get this case
11 resolved with this breast cancer that I came up with
12 a couple -- really, a month after settling the case.
13 Basically, I had low white blood cells when I spoke to
14 you all in 2012 and 2014.

15 Q. Okay.

16 A. And I told ya'll about my low white blood count.

17 Q. Okay.

18 A. And they didn't come up with the cancer until --
19 the initial cancer didn't show up until January
20 26th of 2015.

21 Q. Okay. And I am glad you mentioned that date
22 because I am going to ask you about those dates
23 in just a couple of minutes. But back to your
24 understanding of the settlement, it was your
25 understanding, and I just want to quote you

1 correctly, that there was a possibility that you
2 would not be able to go back later on?

3 A. Right. That was what my attorney told me, yes.

4 Q. Okay. Now, back in December of 2014, this is before
5 you were diagnosed with breast cancer, did you have
6 any intention at that time of reopening the case; in
7 other words, did you have any reason to believe you
8 may have to try to come back later on?

9 A. Well, I spoke to him at his office, and I told him
10 about I had thyroid issues and I mentioned that to you
11 all, and so, that there was a possibility they was
12 looking at the thyroid, and that it might be cancerous
13 with the thyroid ---

14 Q. Okay.

15 A. -- because the white blood cell count was low. But it
16 wasn't the thyroid that was cancerous; it came up
17 breast cancer.

18 Q. Okay. And did you speak with him back in
19 December of ---

20 A. Well, I spoke to him, but he told me that it was
21 best for me to go ahead and sign the papers.

22 Q. Okay.

23 A. But I told him that I really didn't want to sign the
24 papers, but he told me to go ahead and sign them, that
25 it was in my best.

1 Q. Okay.

2 A. And so, by him being my attorney, I listened to what
3 he said.

4 Q. Okay. And when you say you really didn't want to
5 sign, why was it that you really didn't want to
6 sign?

7 A. Because I didn't get the results back from Dr.
8 Brennan stating that it was cancerous or not.
9 Dr. Bauknight went in and did the surgery; she
10 found no cancer. But that was before -- I didn't
11 have the surgery -- I signed the papers, and then
12 after that, I had the surgery. But I was
13 hesitant with signing the papers because I didn't
14 know if it would have been throat cancer or not.

15 Q. Okay.

16 A. And so, that's why I was so hesitant about signing the
17 papers.

18 Q. So, in other words, you, and again, just correct me if
19 I am wrong; you didn't sign them because you didn't
20 know the outcome?

21 A. I didn't know if it was cancer or not. I didn't
22 know if it was cancerous or not, because I know
23 my white blood cell count was low.

24 Q. Okay. Now, you said earlier you were diagnosed
25 with breast cancer -- it was January the 26th,

STELLA MAE RICHARDSON VS. YUASA EXIDE, INC. AND
GREAT AMERICAN INSURANCE COMPANY OF NY



Claimant's Name: Stella Mae Richardson SSN: _____ Employer's Name: Yuasa Exide, Inc.
Address: _____ Address: _____
City: _____ State: _____ Zip: _____ City: _____ State: _____ Zip: _____
Home Phone: _____ Work Phone: _____ Insurance Carrier: Great American Insurance Company of NY

Claimant's Attorney: Charles T. Brooks, III Employer Carrier Attorney: Robert P. Gruber
Phone: (803) 418-5708 Email: cbrooks@ctbrooks.com Phone: (843) 720-5482 Email: rgruber@yccrlaw.com

Preparer's Signature - H. Mills Gallivan Attorney, Gallivan, White, & Boyd, P.A. mgallivan@gwblawfirm.com 11/03/2014
Title Email Date

Pursuant to Reg. 67-1803 A. and 67-1809, the undersigned duly qualified Mediator reports the following results of the mediation held on 10/31/2014 (m/d/yyyy):

The following issues mediated and are settled or contested as indicated below:

ISSUE	SETTLED	CONTESTED
	X	
Settled on a clincher.		

Per agreement of the Parties the matter is to be:

- ☐ Rescheduled pursuant to Reg. 67-1804 C. on _____.
- ☐ Set for hearing to determine all issues.
- ☐ Set for hearing to determine remaining issues pursuant to the Forms 58.
- ☐ Returned to General Files pending request for hearing from either Party.

The ☐ Claimant ☐ Defendants shall submit the Final Agreement & Release, Consent Order, Form 16A, or other appropriate documentation regarding the agreement to the Commission.

The cost of the mediation is: \$ 1,850.00
The cost was shared equally by the Parties.
The total cost was paid by the ☒ Claimant ☒ Defense.
The cost was paid pursuant to an Order of the Commission pursuant to Reg. 67-1807.

Mediator: H. Mills Gallivan Address: 55 Beattie Place, Suite 1200, P.O. Box 10589 (29603) Greenville, SC 29601
Phone: (854) 271-9580 Email: mgallivan@gwblawfirm.com

This report is to be returned to the Commission in all cases, whatever the mediation results. This form is used solely for tracking purposes and does not become a part of the Commission file.

Questions about the use of this form should be directed to the Judicial Department at 803-737-5675, or mediation@wcc.sc.gov. Refer to Regulation 67-1801.

**STATE OF SOUTH CAROLINA
BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
W.C.C. File No. 9832206**

**STELLA MAE RICHARDSON,
Employee,
Claimant**

-versus-

**YUASA EXIDE, INC.,
Employer, and**

**GREAT AMERICAN INSURANCE COMPANY OF NY,
Carrier,
Defendants.**

**PETITION FOR APPROVAL OF
COMPROMISE SETTLEMENT
AGREEMENT**

TO THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION:

The Petition of Stella Mae Richardson, employee, and Yuasa Exide, Inc., employer, and Great American Insurance Company of NY, insurance carrier, respectfully shows:

1. That the employee, Stella Mae Richardson, allegedly sustained an injury by accident arising out of and in the course of her employment by the employer on or about 10/31/1997, the said accident occurring in Sumter County, South Carolina.
2. That an actual bona fide disagreement exists between the employee on the one hand and the employer and insurance carrier on the other as to the extent of residual disability, if any, and the amount of compensation for disability, temporary and permanent, partial and total, and compensation for any disfigurement to which the employee might be due and for which the employer and insurance carrier may be liable under the South Carolina Workers' Compensation Law based upon the aforesaid accident and injury.
3. That an agreement has been reached between the employee on the one hand, and the employer and insurance carrier on the other, whereunder the employer and insurance carrier will

pay, and the employee, Stella Mae Richardson, will accept the sum of **TWENTY THOUSAND & 00/100 (\$20,000.00) Dollars** in full payment and compromise settlement of all rights and claims of the employee under the South Carolina Workers' Compensation Law based upon and by reason of the aforesaid accident and injuries, including, without limiting the generality of said agreement, all claims of the said employee for compensation of any and every kind under said law for disability, temporary and permanent, total and partial, present and future, and all claims for compensation under said law for disfigurement and for any change of condition, and all claims under said law for any medical, hospital, surgical, and nursing and any other expenses to which the said employee may heretofore have been or hereafter may be put, so that the said employee shall have no further right or claim and the said employer and insurance carrier shall have no further liability under the said Workers' Compensation Law based upon said accident and injuries after the payment and receipt of said sum of **TWENTY THOUSAND & 00/100 (\$20,000.00) Dollars**.

4. The Employee/Claimant acknowledges that this agreement and release discharges the employer/carrier from any and all alleged work related injuries which may have occurred during her employment with the employer and that this agreement and release shall not be construed or considered to be an admission by Yuasa-Exide, Inc. or Great American Insurance Co. of guilt or noncompliance with any federal, state or local statute, public policy, tort law, contract law, common law, or any other wrongdoing.

5. Claimant agrees not to publicize or disclose the existence of or the terms of this agreement, and to keep said terms confidential, unless otherwise required by law or court order. This provision precludes Claimant from making any such disclosure to present or former employees of Yuasa-Exide, its predecessor or successor companies, or any other member of the public other than her attorneys. The parties further agree that this agreement may only be used as evidence in a subsequent proceeding in which any of the parties allege a breach of this agreement or in which the employer carrier seeks reimbursement for monies paid to

employee/claimant as part of this agreement and release. In the event Claimant is subpoenaed or otherwise is required to provide information by any agency or by lawful process, issued by a court of competent jurisdiction. Claimant shall provide notice to Yuasa-Exide/EnerSys of such subpoena or order prior to compliance with said subpoena or order.

6. The Employer/Carrier agrees to negotiate and, to the extent necessary following negotiations, be financially responsible for any conditional payment liens asserted by Medicare which are causally related to this injury and pursuant to the Medicare Secondary Payer Act and its corresponding Federal Regulations, including but not limited to 42 C.F.R. Sec. 411.37(b), et seq, and any liens asserted by the S.C. Department of Health and Human Services (S.C. Medicaid) which are alleged causally related to this injury. The Employer/Carrier reserves the right to defend these liens in any way it chooses.

7. It is not the intention of the Employer/Insurer or Claimant in this case to shift the responsibility for paying future medical expenses related to the Claimant's injuries to the Federal Government. The parties have considered and protected Medicare's interests in this case, but this settlement does not meet CMS' current threshold of review. No money is being set aside for future care related to the injuries described herein as these claims are completely denied and, until this settlement, no medical or indemnity payments have been made to, or on behalf of, the claimant; and, this case does not meet the current MSA review criteria used by CMS.

Should Medicare later determine that funds should have been allocated to pay for future medical expenses which Medicare would otherwise cover; the Claimant agrees to pay such money and be solely responsible for same. The Claimant agrees to be responsible for and to pay any and all claims asserted by any entity seeking reimbursement of medical or prescription expenses paid by Medicare, a Medicare Advantage Plan, or a Medicare Prescription Drug Plan.

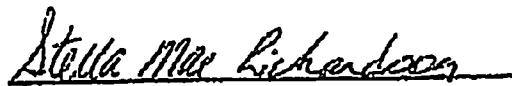
The Claimant agrees to hold harmless, indemnify and defend the Employer/Insurer from any and all claims asserted by any entity seeking reimbursement of medical or prescription

expenses paid by Medicare, a Medicare Advantage Plan, or a Medicare Prescription Drug Plan.

The Claimant hereby waives any and all private causes of action which may exist against the Employer/Insurer under the Medicare Secondary Payer Act related to the injuries alleged in connection with this claim.

8. The Claimant hereby represents that she has been fully advised of her rights under the South Carolina Workers' Compensation Act and that she is of the opinion that the proposed settlement is reasonable and fair. Claimant's counsel represents that he concurs in the opinion that the settlement is reasonable and fair. Each of them requests the South Carolina Workers' Compensation Commission approve this settlement as set forth in this agreement. The parties acknowledge that the Commission relies upon the representation of counsel for the Claimant that the Claimant has been fully apprised of her rights under the laws of the South Carolina Workers' Compensation Act.

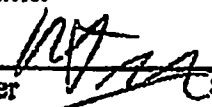
WHEREFORE, the Petitioners each pray that the South Carolina Workers' Compensation Commission do consider the said compromise settlement agreement, and do make and enter an Order confirming and approving the same and authorizing the parties hereto to carry the said compromise settlement agreement out and make and receive the aforesaid payment in full settlement, acquittance and discharge of all of the rights of the said employee and of all the liabilities of the said employer and insurance carrier based upon the aforesaid accident and injuries and all disability and expenses resulting or hereafter to result therefrom.


Stella Mae Richardson
Employee


Charles T. Brooks III, Esquire
The Brooks Law Office, LLC
Attorney for the Employee

YUASA EXIDE, INC.
Employer, and

GREAT AMERICAN INS. CO. OF NY
Insurance Carrier

By: 
Robert Gruber
Young Clement Rivers, LLP
Attorney for the Employer/Insurance Carrier

South Carolina Workers' Compensation Commission
1333 Main Street, Suite 500
P. O. Box 1715
Columbia, SC 29202-1715
(803) 737-5739 www.wcc.sc.gov

PRE-HEARING BRIEF
WCC File No.: 9832206

Claimant's Name: Stella Mae Richardson

Employer's Name: Yuasa Exide, Inc.

Address: 5150 Ridge Street
Dalzell, SC 29040

Address: P. O. Box 1797
Sumter, SC 29150

Home Phone: _____

Work Phone: _____

Carrier: Great American Insurance Company of NY

Preparer's Name: Robert Gruber

Preparer's Phone # (843) 720-5482

A claim for workers' compensation benefits is made based on the following grounds:

☒ Injury ☐ Illness ☐ Repetitive Trauma

1. Comp. Rate: \$ TBD

2. AWW: \$ TBD

Date of Injury: 10/31/1997

3. Type of Injury and body part(s): Breast Cancer

4. Facts in controversy: Whether or not claimant can re-open claim following clincher of her claim on December 10, 2014?
Whether or not claimant is entitled to additional benefits assuming she is able to re-open her claim

5. Legal Issues Involved: Res Judicata; commission's authority to re-open claim; finality of clincher agreements

6. Unusual aspects: None

7. Witnesses (designate if expert)* Ms. Stella Mae Richardson

8. Exhibits: Clincher agreement approved by Commission on December 10, 2014.

9. Medical evidence: (Indicate report pursuant to R.67-612; deposition or appearance):

1. Dr. Edward Baker
2. Dr. Unwood Bradford
3. Diagnostic & Interventional Cardiology Associates
4. Excelsior Medical Clinic
5. Dr. James Gee
6. Laurel Endocrine & Thyroid Specialists
7. Lexington Endocrinology
8. Lexington Medical Center
9. Lexington Oncology Associates
10. Lexington Women's Care
11. Dr. Michael Mancina
12. Dr. R.E. McDowell
13. Palmetto Adult Medicine
14. Providence Hospital
15. Santee Wateree Mental Health Center
16. South East Neurology
17. SC Endoscopy Center
18. SC Heart Center
19. Dr. H. Randolph Scott
20. Sumter Psychiatry Associates
21. Sumter Eye Center
22. Sumter OB/GYN
23. Sumter Surgical Associates
24. Tuomey Regional Medical Center
25. West Columbia Internal Medicine
26. Yuasa Exide

10. Name, address, and specialty, if any, of the treating physician: None, claim was denied

11. Impairment rating(s); body part(s); physician and date of opinion: None, claim was denied

12. I am amending my Form 50/51 in the following manner: _____

☐ **Mediation**

- ☐ a. Mediation is requested to be ordered pursuant to Reg. 67-1801 B.
☐ b. Mediation is required pursuant to Reg. 67-1801.
☐ c. Mediation is requested by consent of the Parties pursuant to Reg. 67-1803.
☐ d. Mediation has been conducted by a duly qualified mediator and resulted in an impasse.

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

I verify the contents of this form are accurate and true to the best of my knowledge.

I certify I have served this document pursuant to Reg. 67-211 by delivering a copy to Stella Mae Richardson

Address 5150 Ridge Street, Dalzell, SC 29040 on the 3rd day of August 2015

By ☒ first class postage ☒ certified mail ☐ personal service.

Signature: _____

Email: rgruber@vcrlaw.com

Date of hearing: 8/10/2015

Time needed for hearing: 30-45 minutes

Questions about the use of this form should be directed to the Jurisdictional Commissioner. Refer to Regulations 67-204 through 67-211 and Regulations 67-601 through 67-15; as well as Regulation 67-1801. File this form and proof of service on the opposing party according to R.67-611 and R.67-212. Do not send medical reports. * Commissioners reserve the right to admit expert witnesses at hearings.

WCC Form # 58
Rev. 7/13

58

PRE-HEARING BRIEF

Stella Mae Richardson
5150 Ridge St
Dalzell, S.C. 29040

2-9-2016

Attention Appeals

South Carolina Worker Compensation Commission
1333 Main Street Suite 500
Post Office Box 1715
Columbia, S.C. 29202-1715

SCWCC

FEB 16 2018

JUDICIAL

RE: Stella Mae Richardson
WCC File No. 9932206

Dear, Sir /Madam

Enclosed you find motion evidence, Dr. Gray letter, \$5.00 check Filing Fee
And Form 32 waive appeal and form 30 as request when filing form 32.
And WCC form #58 Pre Hearing Brief Notice of Evidence Reports and
Medicals from Physicians.

I am Filing Motion evidence from Dr. Austin Gray Psychiatry Associates.
And WCC form #58 Pre Hearing Brief Notice of Evidence Reports and medicals
record from Physician.

Why I didn't submit this evidence before? Since I was poorly represented by
my attorney Charles Thomas Brooks III. I need to send in more proof of documents.
I was taking advantage by my attorney Charles Thomas Brooks III of my weakness
not being able to comprehend well. He was not acting on my best interest, he
gave bad advice and interpreted information. On the Specific Power of attorney
to deposit and endorse settlement check He said I don't reside in South
Carolina at all. So that could give him Power of attorney Cash sign, endorse
deposit check settlement. I ask Attorney Charles Thomas Brooks III for the
original check. He won't give me a copy of settlement check nor my
file with documents He said he paid for from South Carolina Worker Compensation
Commission. I spoke to his Paralegal she promise have copy of settlement
check. But I went to Charles Brooks III Law office She got upset with me
and said she not in move for me get copy of settlement check. No one
from law office Charles Brooks didn't return my calls. And spoke to Mitchell
of Bar Associate lawyer SE in Columbia she promise me try get original copy
settlement check. And spoke to Mitchell supervisor also. She said get back
with me but she never call. I feel that I need be compensated for my attorney
fee from Attorney Charles Thomas Brooks III. And Ask him break down
all fee charges he just ignore me.

Sincerely,
Stella Richardson
Stella Richardson



NORTHEAST PSYCHIATRY ASSOCIATES
1040-B Wildewood Centre Drive
Columbia, SC 29229
(803) 699-4679 Phone
(803) 699-3011 Fax

SUMTER PSYCHIATRY ASSOCIATES
560 Constitution Drive
Sumter, SC 29154
Phone (803) 905-5650
Fax (803) 905-5653

Date 1/29/16

To Whom It May Concern:

Re: _____

Stella Richardson is currently being treated for
Patient's Name
Moderate Major Depression Disorder (F33.1), General Anxiety (F41.1),
Diagnosis
(His/Her treatment consists of medication management and/or psychotherapy.
and, Schizoaffective Disorder.

Sincerely,

☒ Auston H. Gray, MD
☐ Pressley Warrick, MD
☐ Meredith Stanton, MD
☐ Sara K. McClam, LISW, MSW

SUMTER PSYCHIATRY ASSOCIATES
560 CONSTITUTION DR
SUMTER, SC 29154-8175

PHONE #: 803-905-5650
FED ID#: 562141996
DOCTOR
1 AUSTON H GRAY MD

ID#
56-2141996

MS STELLA RICHARDSON
5150 RIDGE ST
DALZELL, SC 29040

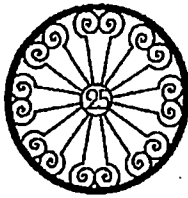
00-86-61 .00 01/29/16 1
ACCOUNT# AMT DUE DATE PG

DATE	DIAG	CPT/MOD	SERVICE/PROCEDURE	DR NAME	LOC	AMOUNT	BALANCE
07/21/15	296.32	99214	DETAILED 25' MODERATE	1 STELLA	11	110.00	110.00
		300.02,295.60					
07/21/15	296.32	90833	PSYCHOTHERAPY W/ EM/	1 STELLA	11	64.00	174.00
		300.02,295.60					
07/23/15		*P-INS. FILED	WITH HUMANA GOLD CHOICE				
08/12/15			HUMANA GOLD CHOICE	1 STELLA	11	-147.71	26.29
08/12/15			ADJ/HUMANA GOLD-WRITE	1 STELLA	11	-26.29	.00
09/30/15		*P-INS. FILED	WITH HUMANA GOLD CHOICE				
09/30/15	296.32	99214	DETAILED 25' MODERATE	1 STELLA	11	110.00	110.00
		300.02,295.60					
09/30/15	296.32	90833	PSYCHOTHERAPY W/ EM/	1 STELLA	11	64.00	174.00
		300.02,295.60					
10/21/15			HUMANA GOLD CHOICE	1 STELLA	11	-147.70	26.30
10/21/15			ADJ/HUMANA GOLD-WRITE	1 STELLA	11	-26.30	.00
12/30/15	F33.1	99214	DETAILED 25' MODERATE	1 STELLA	11	110.00	110.00
	F41.1, F25.1						
12/30/15	F33.1	90833	PSYCHOTHERAPY W/ EM/	1 STELLA	11	64.00	174.00
	F41.1, F25.1						
01/02/16		*E-INS. FILED	WITH HUMANA GOLD CHOICE				
01/14/16			HUMANA GOLD CHOICE	1 STELLA	11	-147.70	26.30
01/14/16			ADJ/HUMANA GOLD-WRITE	1 STELLA	11	-26.30	.00

.00	.00	.00	.00	.00	.00	.00
CURRENT	OVER 30	OVER 60	OVER 90	OVER 120		AMT DUE

PAYMENT IS NOW DUE ON YOUR ACCOUNT. PLEASE CALL WITH ANY QUESTIONS.

YOUR NEXT APPOINTMENT IS WITH AUSTON H GRAY MD
AT 10:40 A.M. ON THU FEB. 04, 2016 AT SUMTER PSYCHIATRY ASSOCIATES



YCR LAW
Young Clement Rivers, LLP
CELEBRATING 50 YEARS OF LEGAL SERVICE

Robert Gruber

Direct Dial: (843) 720-5482
Direct Fax: (843) 579-2933
E-mail: rgruber@ycrlaw.com

August 3, 2015

Attn: Custodian of Medical Records
Dr. Kevin R. Hanz
Sumter Plastic Reconstructive Surgery
115 N Sumter St Ste 115
Sumter, SC 29150

Re: Stella Mae Richardson v. Yuasa Exide, Inc.
WCC File No.: 9832206
Claim No.: 506547478
YCR File: 11016-20091251

Dear Sir/Madam:

I represent the employer and workers' compensation carrier in the above-referenced matter. I enclose herewith a Subpoena which requires your office to provide me with a copy of the following records:

Patient: Stella Mae Richardson DOB: 10/5/1964 SSN: 248-43-3371

All narrative medical reports and office notes, return to work forms, diagnostic reports, new patient information sheet and correspondence to include any correspondence issued by your office to any third party including but not limited to counsel for the claimant.

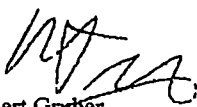
These records are to be presented within the next ten (10) days.

Please note the workers' compensation exception to the newly implemented HIPAA law, 45 CFR Part 164.512 (l). The requested medical records will be used exclusively for purposes of a workers' compensation claim initiated by the above-referenced patient. By copy of this letter to the patient or his/her attorney, I hereby notify the patient that these records are to be released to my attention. If you have any questions on this matter, please see the attachment to this letter, or contact our office, the patient's attorney listed below, or the patient.

With kindest regards, I am

Sincerely,

YOUNG CLEMENT RIVERS, LLP


Robert Gruber

RPG/iog
Enclosures
cc: ☒ Stella Mae Richardson

25 CALHOUN STREET, SUITE 400, P.O. Box 993, CHARLESTON, SC 29402 • (843) 577-4000 • www.ycrlaw.com

Charleston • Columbia

South Carolina Workers' Compensation Commission

P.O. Box 1715 • 1612 Marion Street
Columbia, South Carolina 29202-1715
(803) 737-5700

WCC File # 9832206
Carrier File # 506547478
Carrier Code #
Employer FEIN

Stella Mae Richardson		248-43-3371		Yuasa Exide, Inc.	
Claimant's Name		SSN		Employer's Name	
5150 Ridge Street				P. O. Box 1797	
Dalzell, SC 29040				Sumter, SC 29150	
Address	City	State	Zip	Address	City
0		0		Great American Insurance Company of NY	State
Home Phone		Work Phone		Insurance Carrier	Zip

Robert Gruber	P.O. Box 993, Charleston, SC 29402	(843) 720-5482
Preparer's Name	Address	Phone #

THE CUSTODIAN OF MEDICAL RECORDS FROM THE OFFICE OF
To: DR. KEVIN R. HANZ SUMTER PLASTIC RECONSTRUCTIVE SURGERY

☐ YOU ARE COMMANDED to appear before the above named Commission at the place, date and time specified below to testify in the above case.

PLACE OF TESTIMONY: _____ ROOM: _____
DATE AND TIME: _____

☐ YOU ARE COMMANDED to appear at the place, date and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION: _____ DATE AND TIME: _____

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents or objects):

Please provide a copy of the following documents concerning:

PATIENT: Stella Mae Richardson
DOB: 10/5/1964

All narrative medical reports and office notes, return to work forms, diagnostic reports, new patient information sheet and correspondence to include any correspondence issued by your office to any third party including but not limited to counsel for the claimant.

Robert Gruber, Esquire
YOUNG CLEMENT RIVERS, LLP

PLACE: P.O. Box 993, Charleston, SC 29402 DATE AND TIME: August 13, 2015 @ 9:00 AM

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES: _____ DATE AND TIME: _____

THIS SUBPOENA SHALL REMAIN IN EFFECT UNTIL YOU ARE GRANTED PERMISSION TO DEPART BY THE COMMISSIONER OR AN OFFICER ACTING ON BEHALF OF THE COMMISSIONER. QUESTIONS CONCERNING THIS SUBPOENA SHOULD BE ADDRESSED TO THE ISSUING OFFICER.

	Attorney for Employer/Carrier	(843) 720-5482	August 3, 2015
ISSUING OFFICER'S SIGNATURE AND TITLE		PHONE#	DATE

Serve this form according to R.67-212B. Refer to R.67-212 and R.67-214 for additional information. Procedural questions may be addressed to the Judicial Department (803/737-5675).

Below is the HIPAA provision that provides an exception for the administration of state workers' compensation programs. This exception allows entities covered under HIPAA to release information as authorized under established state law governing workers' compensation. Relevant sections from the South Carolina Rules of Civil Procedure Annotated and the South Carolina Workers' Compensation Law, relating to subpoenas and the release of medical records, are also listed below.

HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (HIPAA)

45 CFR Part 164.512 (l) – Disclosures for Worker's Compensation reads:

(l) **Standard: Disclosures for workers' compensation.** A covered entity may disclose protected health information as authorized by and to the extent necessary to comply with laws relating to workers' compensation or other similar programs, established by law, that provide benefits for work-related injuries or illness without regard to fault.

STATE LAW GOVERNING SUBPOENA POWER UNDER THE WORKERS' COMPENSATION ACT

South Carolina Workers' Compensation Law Annotated § 42-15-80. Physical examinations; facts learned by doctors are not privileged; refusal to submit to examination; autopsy.

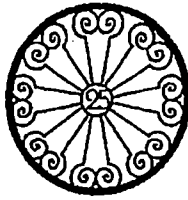
No fact communicated to or otherwise learned by any physician or surgeon who may have attended or examined the employee, or who may have been present at any examination, shall be privileged, either in hearings provided for by this Title or any action at law brought to recover damages against any employer who may have accepted the compensation provisions of this Title.

South Carolina Workers' Compensation Law Annotated §42-15-95 and the Medical Services Provider Manual, binding on providers pursuant to §42-15-95 - Disclosure of Existing Information

All existing information compiled by a health care facility, as defined in Section 44-7-130, or a health care provider licensed pursuant to Title 40 pertaining directly to a workers' compensation claim must be provided to the insurance carrier, the employer, the employee, their attorneys, or the South Carolina Workers' Compensation Commission, within fourteen days after receipt of written request. A health care facility and a health care provider may charge a fee for the search and duplication of a medical record. Pursuant to §42-15-95 and the Medical Services Provider Manual, photocopying charges are sixty-five cents per page for the first thirty pages and fifty cents per page for all other pages thereafter, plus a clerical fee and handling fee of \$15.00, plus tax and actual postage costs.... for searching and handling not to exceed fifteen dollars per request plus actual postage and applicable sales tax...If a treatment facility or physician fails to send the requested information within forty-five days after receipt of the request, the person or entity making the request may apply to the commission for an appropriate penalty payable to the commission, not to exceed two hundred dollars.

South Carolina Rules of Civil Procedure- Rule 45 (d) Duties in Responding to Subpoena

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.



YCR LAW

Young Clement Rivers, LLP

CELEBRATING 50 YEARS OF LEGAL SERVICE

50 YEARS

Robert Gruber

Direct Dial: (843) 720-5482
Direct Fax: (843) 579-2933
E-mail: rgruber@ycrlaw.com

August 3, 2015

Attn: Custodian of Medical Records
Billy W. Clowney, M.D.
Santee Hematology/Oncology
1105 North Lafayette Drive, Suite A
Sumter, SC 29150

Re: Stella Mae Richardson v. Yuasa Exide, Inc.
WCC File No.: 9832206
Claim No.: 506547478
YCR File: 11016-20091251

Dear Sir/Madam:

I represent the employer and workers' compensation carrier in the above-referenced matter. I enclose herewith a Subpoena which requires your office to provide me with a copy of the following records:

Patient: Stella Mae Richardson DOB: 10/5/1964 SSN: 248-43-3371

All narrative medical reports and office notes, return to work forms, diagnostic reports, new patient information sheet and correspondence to include any correspondence issued by your office to any third party including but not limited to counsel for the claimant.

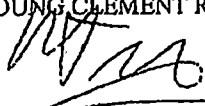
These records are to be presented within the next ten (10) days.

Please note the workers' compensation exception to the newly implemented HIPAA law, 45 CFR Part 164.512 (l). The requested medical records will be used exclusively for purposes of a workers' compensation claim initiated by the above-referenced patient. By copy of this letter to the patient or his/her attorney, I hereby notify the patient that these records are to be released to my attention. If you have any questions on this matter, please see the attachment to this letter, or contact our office, the patient's attorney listed below, or the patient.

With kindest regards, I am

Sincerely,

YOUNG CLEMENT RIVERS, LLP


Robert Gruber

RPG/iog
Enclosures
cc: ✓ Stella Mae Richardson

25 CALHOUN STREET, SUITE 400, P.O. BOX 993, CHARLESTON, SC 29402 • (843) 577-4000 • www.ycrlaw.com

Charleston • Columbia

South Carolina Workers' Compensation Commission
P.O. Box 1715 • 1612 Marion Street
Columbia, South Carolina 29202-1715
(803) 737-5700

WCC File # 9832206
Carrier File # 506547478
Carrier Code #
Employer FEIN

Stella Mae Richardson		248-43-3371		Yuasa Exide, Inc.			
Claimant's Name		SSN		Employer's Name			
5150 Ridge Street				P. O. Box 1797			
Dalzell, SC 29040				Sumter, SC 29150			
Address	City	State	Zip	Address	City	State	Zip
0		0					
Home Phone		Work Phone		Great American Insurance Company of NY			
				Insurance Carrier			

Robert Gruber	P.O. Box 993, Charleston, SC 29402	(843) 720-5482
Preparer's Name	Address	Phone #

THE CUSTODIAN OF MEDICAL RECORDS FROM THE OFFICE OF
To: **BILLY W. CLOWNEY, M.D. SANTEE HEMATOLOGY/ONCOLOGY**

☐ YOU ARE COMMANDED to appear before the above named Commission at the place, date and time specified below to testify in the above case.

PLACE OF TESTIMONY: _____ ROOM: _____
DATE AND TIME: _____

☐ YOU ARE COMMANDED to appear at the place, date and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION: _____ DATE AND TIME: _____

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents or objects):

Please provide a copy of the following documents concerning:

PATIENT: **Stella Mae Richardson**
DOB: **10/5/1964**

All narrative medical reports and office notes, return to work forms, diagnostic reports, new patient information sheet and correspondence to include any correspondence issued by your office to any third party including but not limited to counsel for the claimant.

Robert Gruber, Esquire
YOUNG CLEMENT RIVERS, LLP

PLACE: **P.O. Box 993, Charleston, SC 29402** DATE AND TIME: **August 13, 2015 @ 9:00 AM**

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES: _____ DATE AND TIME: _____

THIS SUBPOENA SHALL REMAIN IN EFFECT UNTIL YOU ARE GRANTED PERMISSION TO DEPART BY THE COMMISSIONER OR AN OFFICER ACTING ON BEHALF OF THE COMMISSIONER. QUESTIONS CONCERNING THIS SUBPOENA SHOULD BE ADDRESSED TO THE ISSUING OFFICER.


ISSUING OFFICER'S SIGNATURE AND TITLE _____ Attorney for Employer/Carrier (843) 720-5482 August 3, 2015
PHONE# _____ DATE

Serve this form according to R.67-212B. Refer to R.67-212 and R.67-214 for additional information. Procedural questions may be addressed to the Judicial Department (803/737-5675).

WCC FORM # 27 REV. DATE 3/96

27

SUBPOENA

Below is the HIPAA provision that provides an exception for the administration of state workers' compensation programs. This exception allows entities covered under HIPAA to release information as authorized under established state law governing workers' compensation. Relevant sections from the South Carolina Rules of Civil Procedure Annotated and the South Carolina Workers' Compensation Law, relating to subpoenas and the release of medical records, are also listed below.

HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (HIPAA)

45 CFR Part 164.512 (I) – Disclosures for Worker's Compensation reads:

(I) Standard: Disclosures for workers' compensation. A covered entity may disclose protected health information as authorized by and to the extent necessary to comply with laws relating to workers' compensation or other similar programs, established by law, that provide benefits for work-related injuries or illness without regard to fault.

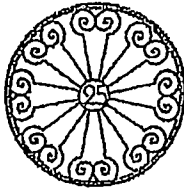
STATE LAW GOVERNING SUBPOENA POWER UNDER THE WORKERS' COMPENSATION ACT

South Carolina Workers' Compensation Law Annotated § 42-15-80. Physical examinations; facts learned by doctors are not privileged; refusal to submit to examination; autopsy. No fact communicated to or otherwise learned by any physician or surgeon who may have attended or examined the employee, or who may have been present at any examination, shall be privileged, either in hearings provided for by this Title or any action at law brought to recover damages against any employer who may have accepted the compensation provisions of this Title.

South Carolina Workers' Compensation Law Annotated §42-15-95 and the Medical Services Provider Manual, binding on providers pursuant to §42-15-95 - Disclosure of Existing Information
All existing information compiled by a health care facility, as defined in Section 44-7-130, or a health care provider licensed pursuant to Title 40 pertaining directly to a workers' compensation claim must be provided to the insurance carrier, the employer, the employee, their attorneys, or the South Carolina Workers' Compensation Commission, within fourteen days after receipt of written request. A health care facility and a health care provider may charge a fee for the search and duplication of a medical record. Pursuant to §42-15-95 and the Medical Services Provider Manual, photocopying charges are sixty-five cents per page for the first thirty pages and fifty cents per page for all other pages thereafter, plus a clerical fee and handling fee of \$15.00, plus tax and actual postage costs.... for searching and handling not to exceed fifteen dollars per request plus actual postage and applicable sales tax...If a treatment facility or physician fails to send the requested information within forty-five days after receipt of the request, the person or entity making the request may apply to the commission for an appropriate penalty payable to the commission, not to exceed two hundred dollars.

South Carolina Rules of Civil Procedure- Rule 45 (d) Duties in Responding to Subpoena

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.



YCR LAW

Young Clement Rivers, LLP

CELEBRATING 50 YEARS OF LEGAL SERVICE

50 YEARS

Robert Gruber

Direct Dial: (843) 720-5482
Direct Fax: (843) 579-2933
E-mail: rgruber@ycrlaw.com

August 3, 2015

Via WCC eCase Upload

Honorable R. Michael Campbell, II
S.C. Workers' Compensation Commission
P. O. Box 1715
Columbia, SC 29202-1715

Re: Stella Mae Richardson v. Yuasa Exide, Inc.
WCC File Number: 9832206
Claim Number: 506547478
Date/Accident: 10/31/1997
YCR File: 11016-20091251

Dear Commissioner Campbell:

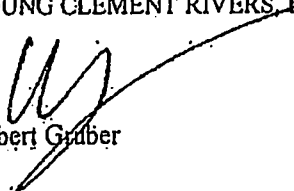
The above-referenced matter is scheduled for a hearing before you on August 10, 2015. Accordingly, please find enclosed the original Pre-Hearing Brief and Notice of Witnesses/Evidence on behalf of the employer/carrier.

I am, by copy of this letter, providing the claimant with a copy of the Pre-Hearing Brief, Notice of Witnesses/Evidence and all submissions pursuant to the Administrative Procedures Act.

With kindest regards, I am

Sincerely,

YOUNG CLEMENT RIVERS, LLP


Robert Gruber

RPG/ig:
Enclosures

cc: Stella Mae Richardson (via Certified mail and 1st Class Mail)
Pat Easterwood, Mitsui Sumitomo Insurance Group (via email)
Kathy Robbins, Mitsui Sumitomo Insurance Group (via email)

23 CALHOUN STREET, SUITE 400, P.O. BOX 993, CHARLESTON, SC 29402 • (843) 577-4000 • www.ycrlaw.com

Charleston - Columbia

STATE OF SOUTH CAROLINA)
COUNTY OF SUMTER)
STELLA MAE RICHARDSON,)
Claimant,)
vs.)
YUASA EXIDE, INC.,)
Employer,)
GREAT AMERICAN INSURANCE COMPANY OF)
NY,)
Carrier,)
Defendants.)

BEFORE THE
SOUTH CAROLINA WORKERS'
COMPENSATION COMMISSION

WCC FILE NO. 9832206

NOTICE OF WITNESSES AND WRITTEN
REPORT(S)/PHYSICIAN OR OTHER
EVIDENCE TO BE INTRODUCED ON BEHALF
OF DEFENDANTS

To: South Carolina Workers' Compensation Commission
Stella Mae Richardson

YOU ARE HEREBY NOTIFIED that the Defendants, pursuant to the provisions of the South Carolina Workers' Compensation Act and S.C. Code Ann. §1-23-330, (1985), herewith submits the following reports/physician or other evidence on behalf of the Defendants, to wit:

<u>Name Of Report/Physician or Other Evidence</u>	<u>Date of Report(s)</u>	<u>Pages</u>
1. Dr. Edward Baker		
2. Dr. Linwood Bradford		
3. Diagnostic & Interventional Cardiology Associates		
4. Excelsior Medical Clinic		
5. Dr. James Gee		
6. Laurel Endocrine & Thyroid Specialists		
7. Lexington Endocrinology		
8. Lexington Medical Center		
9. Lexington Oncology Associates		
10. Lexington Women's Care		
11. Dr. Michael Mandina		
12. Dr. R.E. McDowell		
13. Palmetto Adult Medicine		
14. Providence Hospital		
15. Santee Wateree Mental Health Center		
16. South East Neurology		
17. SC Endoscopy Center		
18. SC Heart Center		
19. Dr. H. Randolph Scott		
20. Sumter Psychiatry Associates		
21. Sumter Eye Center		
22. Sumter OB/GYN		
23. Sumter Surgical Associates		
24. Tuomey Regional Medical Center		
25. West Columbia Internal Medicine		
26. Yuasa Exide		

Exhibits:

A. Clincher agreement approved by WCC

12/10/2014

South Carolina Workers' Compensation Commission
1333 Main Street, Suite 500
P. O. Box 1715
Columbia, SC 29202-1715
(803) 737-5739 www.WCC.SC.gov

PRE-HEARING BRIEF
WCC File No.: 9832206

Claimant's Name: Stella Mae Richardson

Employer's Name: Yuasa Exide, Inc.

Address: 5150 Ridge Street
Dalzell, SC 29040

Address: P. O. Box 1797
Sumter, SC 29150

Home Phone:

Work Phone:

Carrier: Great American Insurance Company of NY

Preparer's Name: Robert Gruber

Preparer's Phone # (843) 720-5482

A claim for workers' compensation benefits is made based on the following grounds:

☒ Injury ☐ Illness ☐ Repetitive Trauma

1. Comp. Rate: \$ TBD
2. AWW: \$ TBD
- Date of Injury: 10/31/1997
3. Type of Injury and body part(s) Breast Cancer
4. Facts in controversy: Whether or not claimant can re-open claim following clincher of her claim on December 10, 2014? Whether or not claimant is entitled to additional benefits assuming she is able to re-open her claim
5. Legal Issues Involved: Res Judicata; commission's authority to re-open claim; finality of clincher agreements
6. Unusual aspects: None
7. Witnesses (designate if expert)* Ms. Stella Mae Richardson
8. Exhibits: Clincher agreement approved by Commission on December 10, 2014.
9. Medical evidence: (Indicate report pursuant to R.67-612; deposition or appearance):
 1. Dr. Edward Baker
 2. Dr. Linwood Bradford
 3. Diagnostic & Interventional Cardiology Associates
 4. Excelsior Medical Clinic
 5. Dr. James Gee
 6. Laurel Endocrine & Thyroid Specialists
 7. Lexington Endocrinology
 8. Lexington Medical Center
 9. Lexington Oncology Associates
 10. Lexington Women's Care
 11. Dr. Michael Mancina
 12. Dr. R.E. McDowell
 13. Palmetto Adult Medicine
 14. Providence Hospital
 15. Santee Wateree Mental Health Center
 16. South East Neurology
 17. SC Endoscopy Center
 18. SC Heart Center
 19. Dr. H. Randolph Scott
 20. Sumter Psychiatry Associates
 21. Sumter Eye Center
 22. Sumter OB/GYN
 23. Sumter Surgical Associates
 24. Tuomey Regional Medical Center
 25. West Columbia Internal Medicine
 26. Yuasa Exide
10. Name, address, and specialty, if any, of the treating physician: None, claim was denied
11. Impairment rating(s); body part(s); physician and date of opinion: None, claim was denied

12. I am amending my Form 50/51 in the following manner: _____

☐ **Mediation**

- ☐ a. Mediation is requested to be ordered pursuant to Reg. 67-1801.B.
☐ b. Mediation is requested pursuant to Reg. 67-1801.
☐ c. Mediation is requested by consent of the Parties pursuant to Reg. 67-1803.
☐ d. Mediation has been conducted by a duly qualified mediator and resulted in an impasse.
Questions regarding mediation may be submitted to mediation@wcc.sc.gov.

I verify the contents of this form are accurate and true to the best of my knowledge.

I certify I have served this document pursuant to Reg. 67-211 by delivering a copy to Stella Mae Richardson

Address 5150 Ridge Street, Dalzell, SC 29040 on the 3rd day of August 2015

By ☒ first class postage ☒ certified mail ☐ personal service.

Signature: _____

Email: rryber@vclaw.com

Date of hearing: 8/10/2015

Time needed for hearing: 30-45 minutes

Questions about the use of this form should be directed to the Jurisdictional Commissioner. Refer to Regulations 67-204 through 67-211 and Regulations 67-601 through 67-15; as well as Regulation 67-1801. File this form and proof of service on the opposing party according to R.67-611 and R.67-212. Do not send medical reports. * Commissioners reserve the right to admit expert witnesses at hearings.

WCC Form # 58
Rev. 7/13

58

PRE-HEARING BRIEF



WCC File #: 9832206
Carrier File #: 506547478
Carrier Code #: _____
Employer FEIN #: _____

Claimant's Name: Stella Mae Richardson SSN: 248 - 43 - 3371 Employer's Name: Yuasa Exide, Inc.
Address: 5150 Ridge Street Address: 1990 Corporate Blvd
City: Dalzell State: SC Zip: 29040 City: Sumter State: SC Zip: 29154
Home Phone: (803) 406-8580 Work Phone: () Insurance Carrier: Great American Insurance Company of NY
Preparer's Name: Stella Mae Richardson Law Firm: _____ Preparer's Phone #: ()

REQUEST FOR COMMISSION REVIEW

Request for Commission Review by ☒ Claimant ☐ Employer (check one) Date of Injury or Illness: 10/31/1997
(m/d/yyyy)

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).

Was the Claimant mentally competent to enter into an agreement to clincher the claim?

Did the Claimant receive adequate assistance of legal counsel?

(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 Worker's Compensation Commission
Address Post Office Box 1715, Columbia, SC 29202-1715 on the 21st day of December, 2015, by first class postage ☒ certified
mail ☐ personal service.

Stella Mae Richardson Claimant
Preparer's Signature Title

law-jrl@hotmail.com 12-21-2015
Email Date

Check this box if you are not represented by an attorney ☒

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.

SOCIAL SECURITY ADMINISTRATION

Date: January 29, 2016
Claim Number: XXX-XX-3371A

SAS 1/29/2016
Social Security Admin.
240 Bultman Drive
Sumter, SC 29150

STELLA M RICHARDSON
5150 RIDGE ST
DALZELL SC 29040-8771

You asked us for information from your record. The information that you requested is shown below. If you want anyone else to have this information, you may send them this letter.

Information About Current Social Security Benefits

Beginning December 2014, the full monthly
Social Security benefit before any deductions is.....\$ 1181.00

We deduct \$0.00 for medical insurance premiums each month.

The regular monthly Social Security payment is.....\$ 1181.00
(We must round down to the whole dollar.)

Social Security benefits for a given month are paid the following month. (For example, Social Security benefits for March are paid in April.)

Your Social Security benefits are paid on or about the third of each month.

There was no cost of living adjustment in Social Security benefits in December 2015. The benefit amount shown is current as of the date on this letter.

Medicare Information

You are entitled to hospital insurance under Medicare beginning May 2000.

You are entitled to medical insurance under Medicare beginning May 2000.

Type of Social Security Benefit Information

You are entitled to monthly disability benefits.

SUSPECT SOCIAL SECURITY FRAUD?

Please visit <http://oig.ssa.gov/r> or call the Inspector General's Fraud Hotline at 1-800-269-0271 (TTY 1-866-501-2101).

IF YOU HAVE QUESTIONS

We invite you to visit our web site at www.socialsecurity.gov on the Internet to find general information about Social Security. If you have any specific questions, you may call us toll-free at 1-800-772-1213, or call your local office at 877-531-1174. We can answer most questions over the phone. If you are deaf or hard of hearing, you may call our TTY number, 1-800-325-0778. You can also write or visit any Social Security office. The office that serves your area is located at:

SOCIAL SECURITY
240 BULTMAN DR
SUMTER, SC 29150

If you do call or visit an office, please have this letter with you. It will help us answer your questions. Also, if you plan to visit an office, you may call ahead to make an appointment. This will help us serve you more quickly when you arrive at the office.

OFFICE MANAGER

South Carolina Workers' Compensation Commission

1333 Main Street, Suite 500

P. O. Box 1715

Columbia, SC 29202-1715

(803) 737-5739 www.WCC.SC.GOV**PRE-HEARING BRIEF****WCC File No.: 9832206**Claimant's Name: Stella Mae RichardsonEmployer's Name: Yuasa Exide, Inc.Address: 5150 Ridge Street
Dalzell, SC 29040Address: P. O. Box 1797
Sumter, SC 29150

Home Phone: _____

Work Phone: _____

Carrier: Great American Insurance Company of NYPreparer's Name: Robert GruberPreparer's Phone # (843) 720-5482**A claim for workers' compensation benefits is made based on the following grounds:**☒ Injury ☐ Illness ☐ Repetitive Trauma

1. Comp. Rate: \$ TBD 2. AWW: \$ TBD Date of Injury: 10/31/1997
3. Type of injury and body part(s) Breast Cancer
4. Facts in controversy: Whether or not claimant can re-open claim following clincher of her claim on December 10, 2014? Whether or not claimant is entitled to additional benefits assuming she is able to re-open her claim
5. Legal issues involved: Res Judicata; Commission's authority to re-open claim; finality of clincher agreements
6. Unusual aspects: None
7. Witnesses (designate if expert)* Ms. Stella Mae Richardson
8. Exhibits: Clincher agreement approved by Commission on December 10, 2014.

Medical evidence: (indicate report pursuant to R.67-612; deposition or appearance):

1. Dr. Edward Baker
2. Dr. Linwood Bradford
3. Diagnostic & Interventional Cardiology Associates
4. Excelsior Medical Clinic
5. Dr. James Gee
6. Laurel Endocrine & Thyroid Specialists
7. Lexington Endocrinology
8. Lexington Medical Center
9. Lexington Oncology Associates
10. Lexington Women's Care
11. Dr. Michael Mancina
12. Dr. R.E. McDowell
13. Palmetto Adult Medicine
14. Providence Hospital
15. Santee Wateree Mental Health Center
16. South East Neurology
17. SC Endoscopy Center
18. SC Heart Center
19. Dr. H. Randolph Scott
20. Sumter Psychiatry Associates
21. Sumter Eye Center
22. Sumter OB/GYN
23. Sumter Surgical Associates
24. Tuomey Regional Medical Center
25. West Columbia Internal Medicine
26. Yuasa Exide

9. Name, address, and specialty, if any, of the treating physician: None, claim was denied11. Impairment rating(s); body part(s); physician and date of opinion: None, claim was denied

12. I am amending my Form 50/51 in the following manner: _____

☐ **Mediation**

- ☐ a. Mediation is requested to be ordered pursuant to Reg. 67-1801 B.
☐ b. Mediation is required pursuant to Reg. 67-1801.
☐ c. Mediation is requested by consent of the Parties pursuant to Reg. 67-1803.
☐ d. Mediation has been conducted by a duly qualified mediator and resulted in an impasse.

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

I verify the contents of this form are accurate and true to the best of my knowledge.

I certify I have served this document pursuant to Reg. 67-211 by delivering a copy to Stella Mae Richardson

Address 5150 Ridge Street, Dalzell, SC 29040 on the 17th day of August 2016

By ☒ first class postage ☒ certified mail ☐ personal service.

Signature: _____

Email: rgruber@ycrlaw.com

Date of hearing: 8/17/2016

Time needed for hearing: 30-45 minutes

Questions about the use of this form should be directed to the Jurisdictional Commissioner. Refer to Regulations 67-204 through 67-211 and Regulations 67-601 through 67-15; as well as Regulation 67-1801. File this form and proof of service on the opposing party according to R.67-611 and R.67-212. Do not send medical reports. * Commissioners reserve the right to admit expert witnesses at hearings.

WCC Form # 58
Rev. 7/13

58

PRE-HEARING BRIEF

South Carolina Workers' Compensation Commission
1333 Main Street, Suite 500
P. O. Box 1715
Columbia, SC 29202-1715
(803) 737-5739 www.wcc.sc.gov

AMENDED PRE-HEARING BRIEF
WCC File No.: 9832206

Claimant's Name: Stella Mae Richardson

Employer's Name: Yuasa Exide, Inc.

Address: 14 South Washington Street, Apt. A1, Sumter, SC 29150

Address: P. O. Box 1797, Sumter, SC 29150

Home Phone:

Work Phone:

Carrier: Great American Insurance Company of NY

Preparer's Name: Robert Gruber

Preparer's Phone # (843) 720-5482

A claim for workers' compensation benefits is made based on the following grounds:

☒ Injury ☐ Illness ☐ Repetitive Trauma

1. Comp. Rate: \$ TBD
2. AWW: \$ TBD
- Date of Injury: 10/31/1997
3. Type of injury and body part(s) Breast Cancer
4. Facts in controversy: Whether or not claimant can re-open claim following clincher of her claim on December 10, 2014? Whether or not claimant is entitled to additional benefits assuming she is able to re-open her claim
5. Legal issues involved: Res Judicata; commission's authority to re-open claim; finality of clincher agreements
6. Unusual aspects: None
7. Witnesses (designate if expert)* Ms. Stella Mae Richardson
8. Exhibits: A. Clincher agreement approved by Commission on December 10, 2014; B. ISO Claim Search; C. Lowes Employer Records; D. Allstate Insurance Company; E. Deposition of Dr. Charles Brooks; ~~F. Bristol West Insurance~~ (Amended Filing)
9. Medical evidence: (indicate report pursuant to R.67-612; deposition or appearance):
 1. Dr. Edward Baker
 2. Dr. Linwood Bradford
 3. Diagnostic & Interventional Cardiology Associates
 4. Excelsior Medical Clinic
 5. Dr. James Gee
 6. Laurel Endocrine & Thyroid Specialists
 7. Lexington Endocrinology
 8. Lexington Medical Center
 9. Lexington Oncology Associates
 10. Lexington Women's Care
 11. Dr. Michael Mancina
 12. Dr. R.E. McDowell
 13. Palmetto Adult Medicine
 14. Providence Hospital
 15. Santee Wateree Mental Health Center
 16. South East Neurology
 17. SC Endoscopy Center
 18. SC Heart Center
 19. Dr. H. Randolph Scott
 20. Sumter Psychiatry Associates
 21. Sumter Eye Center
 22. Sumter OB/GYN
 23. Sumter Surgical Associates
 24. Tuomey Regional Medical Center
 25. West Columbia Internal Medicine
 26. Yuasa Exide
10. Name, address, and specialty, if any, of the treating physician: None, claim was denied
11. Impairment rating(s); body part(s); physician and date of opinion: None, claim was denied

12. I am amending my Form 50/51 in the following manner: N/A

☐ **Mediation**

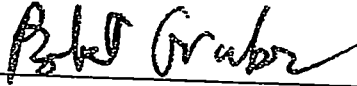
- ☐ a. Mediation is requested to be ordered pursuant to Reg. 67-1801 B.
☐ b. Mediation is required pursuant to Reg. 67-1801.
☐ c. Mediation is requested by consent of the Parties pursuant to Reg. 67-1803.
☐ d. Mediation has been conducted by a duly qualified mediator and resulted in an impasse.

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 Stella Mae Richardson
Address 14 South Washington Street, Apt. A1, Sumter, SC 29150 on the 4th day of November 2016

By ☒ first class postage ☒ certified mail ☐ personal service ☐ electronic service

I verify the contents of this form are accurate and true to the best of my knowledge.

Signature: 

Email: rgruber@vcrlaw.com

Date of hearing: 11/10/2016

Time needed for hearing: 1 hr.

Questions about the use of this form should be directed to the Jurisdictional Commissioner. Refer to Regulations 67-204 through 67-211 and Regulations 67-601 through 67-15; as well as Regulation 67-1801. File this form and proof of service on the opposing party according to R.67-611 and R.67-212. Do not send medical reports. * Commissioners reserve the right to admit expert witnesses at hearings.

WCC Form # 58
Rev. 7/15

AMENDED 58

PRE-HEARING BRIEF

STATE OF SOUTH CAROLINA)
COUNTY OF SUMTER)
STELLA MAE RICHARDSON,)
Claimant,)
vs.)
YUASA EXIDE, INC.,)
Employer,)
GREAT AMERICAN INSURANCE COMPANY OF)
NY,)
Carrier,)
Defendants.)

BEFORE THE
SOUTH CAROLINA WORKERS'
COMPENSATION COMMISSION

WCC FILE NO. 9832206

AMENDED NOTICE OF WITNESSES AND
WRITTEN REPORT(S)/PHYSICIAN OR
OTHER EVIDENCE TO BE INTRODUCED ON
BEHALF OF DEFENDANTS

To: South Carolina Workers' Compensation Commission
Stella Mae Richardson

YOU ARE HEREBY NOTIFIED that the Defendants, pursuant to the provisions of the South Carolina Workers' Compensation Act and S.C. Code Ann. §1-23-330, (1985), herewith submits the following reports/physician or other evidence on behalf of the Defendants, to wit:

<u>Name Of Report/Physician or Other Evidence</u>	<u>Date of Report(s)</u>	<u>Pages</u>
1. Dr. Edward Baker		Pages 1-3
2. Dr. Linwood Bradford		Page 4
3. Diagnostic & Interventional Cardiology Associates		Pages 5-7
4. Excelsior Medical Clinic		Pages 8-124
5. Dr. James Gee		Page 125
6. Laurel Endocrine & Thyroid Specialists		Pages 126-135
7. Lexington Endocrinology		Pages 136-146
8. Lexington Medical Center		Pages 147-167
9. Lexington Oncology Associates		Pages 168-175
10. Lexington Women's Care		Pages 176-184
11. Dr. Michael Mancina		Pages 185-186
12. Dr. R.E. McDowell		Page 187
13. Palmetto Adult Medicine		Pages 188-199
14. Providence Hospital		Pages 200-203
15. Santee Wateree Mental Health Center		Pages 204-493
16. South East Neurology		Pages 494-498
17. SC Endoscopy Center		Pages 499-500
18. SC Heart Center		Pages 501-512
19. Dr. H. Randolph Scott		Pages 513-529
20. Sumter Psychiatry Associates		Pages 530-586
21. Sumter Eye Center		Page 587
22. Sumter OB/GYN		Pages 588-646
23. Sumter Surgical Associates		Pages 647-661
24. Tuomey Regional Medical Center		Pages 662-886
25. West Columbia Internal Medicine		Pages 887-951
26. Yuasa Exide		Pages 952-1050

Exhibits:

- A. Clincher agreement approved by Commission on December 10, 2014
- B. ISO Claim Search
- C. Lowes Employer Records
- D. Allstate Insurance Company
- E. Deposition of Dr. Charles Brooks

Pages 1051-1059
Pages 1060-1084
Pages 1085-1110
Pages 1111-1133
Pages 1134-1153

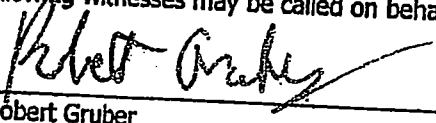
Amended Filing 11/4/2016:
F. Bristol West Insurance

Pages 1154-1177

YOU ARE FURTHER HEREBY NOTIFIED that you have the right of cross-examination; and, should you desire to exercise said right, you are to forthwith schedule the deposition(s) of any of the physicians or other person(s) whose reports are submitted, for the purposes of cross-examination.

YOU ARE FURTHER HEREBY NOTIFIED that the originals of the documents referred to herein, or photocopies received from said physicians/others, will be submitted at the Hearing before the South Carolina Workers' Compensation Commission, for insertion in the file of the South Carolina Workers' Compensation Commission and inclusion into evidence on behalf of the Defendant.

YOU ARE FURTHER HEREBY NOTIFIED that the following witnesses may be called on behalf of the Defendants. Ms. Stella Mae Richardson


Robert Gruber
Attorney for Employer/Carrier

November 4, 2016



Claimant's Name: Stella Mae Richardson SSN: 048-43-3371 Employer's Name: Yuasa Exide Inc.
Address: 14 South Washington Street Apt. A1 Address: _____
City: Sumter State: SC Zip: 29150 City: Sumter State: SC Zip: 29150
Home Phone: (803) 406-8580 Work Phone: () Insurance Carrier: Loret American Insurance Company
Preparer's Name: Stella Mae Richardson Law Firm: _____ Preparer's Phone #: ()

REQUEST FOR COMMISSION REVIEW

Request for Commission Review by ☒ Claimant ☐ Employer (check one) Date of Injury or Illness: Nov 1997

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).

Did the Claimant receive Settlement Check from legal counsel before order?
Did Claimant Mental Illness caused her make poor judgement?
Was Claimant advise to take Cognitive test?
Did Claimant legal Counsel explain CMS Review threshold for an MSP?
Was Claimant legal counsel was aware of admitted Outpatient psychiatric facility?

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 Worker Compensation Commission
address Post office, Box 1715 Columbia, SC 29202 on the 28 day of Jan 2017, by first class postage ☒ certified mail ☐ personal service.

Preparer's Signature: Stella Mae Richardson Title: Claimant Email: stl-jrl@hotmail.com Date: 1-28-2017

Check this box if you are not represented by an attorney ☐

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. 67-05 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.



WCC File #: 98302206
Carrier File #: 715 00128 1800
Carrier Code #: _____
Employer FEIN #: _____

Claimant's Name: Stella Mae Richardson SSN: 24843-3371

Employer's Name: Yuasa Evide Inc.

Address: 5070 Ridge Street

Address: _____

City: Dalzell State: SC Zip: 29040

City: Sumter State: SC Zip: 29150

Home Phone: 803-406-8590 Work Phone: _____

Insurance Carrier: Great American Insurance Company

Preparer's Name: Stella Mae Richardson Law Firm: _____

Preparer's Phone #: _____

DIRECTIONS: Please print or type. Answer the following questions about your claim to the best of your ability. If you cannot answer a question, leave it blank. Use additional sheets of paper, if necessary. Please use short statements.

Questions

Did the Commissioner fail to consider important reasons for award of compensation? If so, what reasons?

Clincher Agreement were neither fair nor just. That Plaintiff did not understand, that Plaintiff did not intend to release Defendants from any claims. So Clincher Agreement not valid, based upon a unilateral mistake. Attorney gave me settlement check before I sign Clincher.

Did the Commissioner incorrectly decide the facts? If so, what facts?

There are no findings of facts that support commissioner conclusion. That Clincher agreement were neither fair nor just. That Industrial Commission shall not approve a settlement unless it deem by Commission to be fair and just. That interests of Plaintiff in sufficient find.

Do you think the Commissioner applied the wrong law? If so, what law?

Mythe, 170 N.C. App. at 364 612 S.E. 2d at 348. Because we find there are in sufficient finding of fact to support the Commission's conclusion and award, we reverse and remand to the Commission for further action.

Do you feel there are any other reasons why the Commissioner's judgment was wrong? If so, what?

That My Medical record indicate that I am still seeing psychiatric doctor and was inpatient at mental Health Center and inpatient at Richland Spring Hospital in Columbia. And my attorney wasn't aware my medical history. And will be treated for remainder of life. Occupational Disease

What action do you want the Commission to take in this case?

To reversed Clincher agreement. Should be approved and Remanded. Conduct that Clincher Agreement is enforceable. All going to need help with medical expenses along with cancer medication 900.00 monthly.

Stella Mae Richardson
Signature

3-5-2017
Date

MAR 08 2017

JUDICIAL
IMPORTANT: A copy of this Brief and any attachments must be filed with the Commission within 10 days of receipt of the Review Hearing Notice, Form 52. The Commission will serve your Brief on the employer's representative. Questions about the use of this form may be directed to the Commission's Judicial Department.

BEFORE THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC FILE NUMBER 9832206

Stella Mae Richardson,
Claimant,
vs.
Yuasa Exide, Inc.,
Employer,
Great American Insurance Company of
NY,
Carrier,
Defendants.

RESPONDENT'S BRIEF

STATEMENT OF THE CASE AND FACTS

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.

The parties attended mediation before H. Mills Gallivan on October 31, 2014 and settled this case on a clincher for \$20,000.00. Mr. Gallivan submitted his Form 70 Mediation

Report on 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.

The claimant testified that she was informed by her attorney at the time, Mr. Charles Brooks, the clincher agreement that she signed in December of 2014 could close out any further entitlement to benefits that the claimant may otherwise have. She also testified that she was not aware in December of 2014 that she may have breast cancer. The claimant did not present any evidence (medical or otherwise) of any causal connection between alleged lead exposure and breast cancer. Commissioner Campbell issued his order on December 7, 2015 and made the following findings of fact and conclusions of law:

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.

Commissioner Campbell made the following Conclusions of Law as part of his 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 his 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 clincher 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. Brook's 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, Ins. 1-25; pg 49, Ins 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, Ins. 15-25; pg. 66, Ins. 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, Ins. 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, Ins. 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, Ins 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, Ins. 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, Ins. 15-25). Finally, Ms. Richardson testified that she did not remember signing the formal Clincher agreement (Hearing Transcript, pg. 22, Ins. 9-22), and she restated her positions as outlined in the August 17, 2016 hearing.

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, lns. 1-3). Her having signed the clincher agreement in December 2014 (December 5, 2014) is consistent with other evidence presented at the hearing and during Mr. Brooks'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. Mr. 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). Mrs. 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.

**CLAIMANT'S CURRENT APPEAL TO THE SOUTH CAROLINA WORKERS'
COMPENSATION COMMISSION**

Claimant filed a F30 requesting full Commission review on January 28, 2017, and she filed her Appellant's brief on March 5, 2017, which was served on the employer/carrier on March 9, 2017. Claimant essentially argues that because of her own mental defect, she did not understand the mediation process and that she did not know that her clincher agreement would end her entitlement to future medical care or disability payments. Finally, the claimant has alleged that Commissioner Campbell's Order is unsupported by the evidence presented and that his Order itself does not contain factual findings sufficient to support its ultimate holding that claimant is not entitled to any further benefits.

ARGUMENTS PRESENTED

I. THERE IS NO LEGAL OR FACTUAL BASIS UPON WHICH THE COMMISSION CAN "REVERSE" THE CLINCHER AGREEMENT THE CLAIMANT MADE ON OCTOBER 31, 2014

1. The claimant's settlement of her case was negotiated with counsel, under the aegis of mediation and was entirely voluntary

Under South Carolina Workers' Compensation Law, employees and employers are permitted to voluntarily settle an existing workers' compensation claim "so long as the time and manner of payment are in accordance with the provisions of this title." S.C. Code Ann §42-9-390. 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). Once a clincher is approved by the Commission, "the claimant does not have the right to ask for additional payments in the future even if the claimant's medical condition worsens, unless otherwise specifically provided in the document." Id.

The facts as reflected in the Commission's file prove unequivocally that the claimant voluntarily settled her claim, and that she did so with ample time and the benefit of counsel. The body of the clincher agreement states that the claimant, in exchange for the sum of Twenty Thousand and no/100s (\$20,000.00) Dollars gives up her rights to any additional benefits provided by the S.C. Workers Compensation Act, including those for indemnity or medical care and treatment, past present and future. Finally, the clincher agreement states that the claimant had been advised of her rights, that she entered into the clincher agreement freely and that she understood that the agreement would end any rights she had to further benefits from this claim or any other workers' compensation claim she may have against the employee. The claimant did not appeal the clincher of this case; hence, the clincher is the law of the case. Finally, the claimant filed a F50 requesting additional benefits on June 18, 2015—almost eight (8) months post clincher. None of these facts are in dispute and the claimant has at no time alleged that her settlement was not voluntary. Therefore, the clincher agreement is the law of this case and the claimant cannot receive additional benefits beyond the Twenty Thousand and no/100s (\$20,000.00) Dollars that she received.

2. **The claimant's allegation that she did not understand the clincher agreement, or did not understand what she was signing is not supported by the evidence in the record.**

A Single Commissioner's award may not rest on "surmise, conjecture, or speculation; it must be founded on evidence of sufficient substance to afford it a reasonable basis."

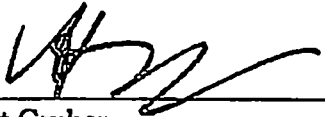
Linen v. Ruscon Construction Co., 286 S.C. 67, 70, 332 S.E. 2d 211, 212 (1985). In the present case, the Single Commissioner's decision is clearly founded on and supported by the great weight of the substantial evidence in the record and, accordingly, must be affirmed. Factual findings will be upheld on appeal where there is substantial evidence to support them. Jones v. BMG Distribution, Inc., 318 S.C. 359, 458 S.E.2d 35 (1995). Substantial evidence is the evidence that will allow reasonable minds to reach the same conclusion the commission reached when considering the record as a whole. Id. Substantial evidence clearly exists in the present case to support the Single Commissioner's findings and, thus, the decision must be affirmed. More importantly, it is only logical for the Full Commission to give weight to the Single Commissioner's decision based upon the fact that it does not have the opportunity or benefit of observing the witnesses, as does the Single Commissioner. Green v. Raybestos - Manhattan, Inc., 250 S.C. 58, 156 S.E.2d 318 (1967). In the present case, the Hearing Commissioner's decision is supported by the great weight of the medical and other evidence in the record, and must be affirmed in its entirety.

The claimant attended mediation on October 31, 2014 and agreed to settle her claim for \$20,000.00 on a full and final clincher, and signed a handwritten document memorializing the settlement terms on that day at the conclusion of the mediation (Hearing Transcript, November 10, 2016, pg. 35, lns. 18-21). Mr. 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). Mrs. 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

understand the clincher agreement or that she lacked the capacity to enter into a contract or settlement. Therefore, the Commission should affirm Commissioner Campbell's Order and enforce the parties clincher agreement.

Respectfully submitted,

YOUNG CLEMENT RIVERS, LLP

By: 

Robert Gruber

P. O. Box 993

Charleston, South Carolina 29401-0993

Phone: (843) 720-5482

Fax: (843) 579-2933

Email: rgruber@ycrlaw.com

Charleston, South Carolina

Date: Mar 23, 2017

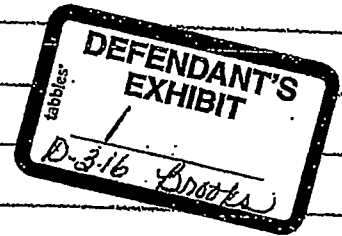
October 31, 2014

Stella Mae Richardson

VS.

Yuson Exch, Inc

WCC Jct # 9832206



The parties in the above matter, agree and consent that this matter is fully and finally settled on a doubtful and disputed basis for the sum of Twenty thousand and no/100s (\$20,000.00). A formal Clerk agreement which sets forth the complete terms of the settlement is forthcoming.

Stella Mae Richardson
Stella Mae Richardson
plaintiff

Charles Brooks
Charles Brooks
plaintiff attorney

Robert Grober
Employer attorney

FILE

H. Randolph Scott, II, M.D.

Diplomate, American Board of Psychiatry & Neurology
1919 Gadsden Street
Columbia, South Carolina 29201-2346

Telephone
(803) 779-5356

April 1, 1998

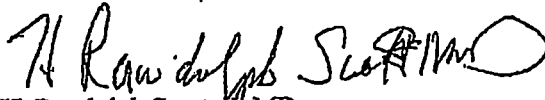
Yuasa Exide
Hwy. 15 South
Sumter, South Carolina 29150

RE: Stella Richardson
SS# 248-43-3371

Dear Sir or Madama:

Stella Richardson has been under the care of IMHOTEP from the period of March 19, 1998 through April 1, 1998. She will be able to resume her normal work duties on April 6, 1998.

Sincerely,


H. Randolph Scott, II, MD



TRANS-GENERAL
LIFE INSURANCE COMPANY

A MEMBER OF THE TRANS-GENERAL GROUP

Continued Life Insurance
Attending Physician's Statement

Any person who knowingly and with intent to defraud or deceive any insurance company files a statement of claim containing any false, incomplete or misleading information may be subject to civil or criminal penalties, depending upon state law

Please type or print. The patient is responsible for the completion of this form without expense to Trans-General Life Insurance Company.

PART A: TO BE COMPLETED BY PATIENT

Full Name Stella Mae Richardson
Address 2022 Gion St.
City Sumter State S.C. Zip Code 29150
Area Code 803 Telephone No. 778-0052 Birthdate 10.05.64 Patient No. _____
Occupation Finisher Social Security No. 248-43-3371
Employer Yuasa Exide Group Policy No. _____
I returned to work _____ I expect to return to work _____

PART B: TO BE COMPLETED BY PHYSICIAN

1. Information

Diagnosis Depression with Psychotic Features
ICDA Classification _____
Symptoms Mrs. Richardson has had delusions
hallucinations. She has also been extremely
depressed
Height 5'6" Weight 173 lbs

2. History

When did symptoms appear or accident happen? 11.01.97
Has patient ever had same or similar condition? ☐ Yes ☒ No
If Yes, indicate when _____ Describe: _____
Date patient first consulted you for this condition 11.03.97
Dates of subsequent treatment _____
If patient was hospitalized, please state reason: _____
Name of Hospital _____
Address _____ City _____ State _____ Zip Code _____
Date Admitted _____ Date Discharged _____

Please complete reverse side.

3. Assessment

Date you recommended patient should stop working: 5/08/98 Why? (5/8/98)

Cardiac (if applicable)

- a. Functional capacity (American Heart Ass'n.) ☒ Class 1 (no limitation) ☐ Class 2 (slight limitation) ☐ Class 3 (marked limitation) ☐ Class 4 (complete limitation)
- b. Blood pressure (last visit) 130/90 Systolic / Diastolic

Physical Impairment

- ☐ Class 1—No limitation of functional capacity; capable of heavy work. No restrictions (0-10%)
- ☒ Class 2—Medium manual activity. (15-30%)
- ☐ Class 3—Slight limitation of functional capacity; capable of light work. (35-55%)
- ☐ Class 4—Moderate limitation of functional capacity; capable of clerical/administrative (sedentary) activity. (60-70%)
- ☐ Class 5—Severe limitation of functional capacity; incapable of minimal (sedentary) activity. (75-100%)

*as defined in Federal Dictionary of Occupational Titles

Mental/Nervous Impairment (if applicable)

- ☐ Class 1—Patient is able to function under stress and engage in interpersonal relations. (no limitations)
- ☐ Class 2—Patient is able to function in most stress situations and engage in most interpersonal relations. (slight limitations)
- ☐ Class 3—Patient is able to engage in only limited stress limitations and engage only in limited interpersonal relations. (moderate limitations)
- ☒ Class 4—Patient is unable to engage in stress situations or engage in interpersonal relations. (marked limitations)
- ☐ Class 5—Patient has significant loss of psychological, physiological, personal and social adjustment. (severe limitations)

Describe the patient's physical and mental limitations and work activity restrictions by indicating below:

- ☐ Standing ☐ Climbing ☐ Bending ☐ Use of hands ☐ Sitting
- ☐ Walking ☐ Stopping ☐ Lifting ☐ Pushing ☐ Pulling
- ☒ Psychological ☐ Other

How long will the described limitations impair the patient? 2-3 years possibly permanently

4. Treatment

Planned course of treatment (please include expected duration, surgeries, therapy, etc.): Antidepressants, anti-anxiety, and anti-psychotics

Medications prescribed and dates of prescription: Serzone, Axit, Klonazepam

List other treating or referring physicians: (continue on separate page, if necessary)

- | NAME | ADDRESS | City | State | Zip code |
|--------------------------------------|--------------|------|-------|----------|
| 1. Dr. Randolph Scott (Psychiatrist) | Columbia, SC | | | |
| 2. | | | | |

5. Prognosis

Describe patient's condition since onset of symptoms:

Check one: ☐ Recovered ☒ Improved ☐ Unchanged ☐ Retrogressed

When do you expect a fundamental or marked change in patient's condition?

Check one: ☐ Never ☐ Condition expected to regress ☒ Condition expected to improve

State anticipated date: 5/1/2001 or, Unable to determine, follow-up in 12 months

When do you anticipate the patient can return to work?

State anticipated date: 5/1/2001 or, Unable to determine, follow-up in 12 months

Remarks:

Name of physician completing this form: Joseph C. Walling, MD Specialty: Internal Med

Address: 448 N. Main St. City: Summerville State: SC Zip Code: 29150

Area Code: 803 Telephone No.: 778-2429 Taxpayer Identification No.: 252-84-1592

Signature: Joseph C. Walling Date: 12/22/98

INPATIENT
ADMISSION
FORMRichland
Memorial Hospital

FIVE RICHLAND MEDICAL PARK, COLUMBIA, SC 29203

UNIT RECORD NO. 00-69-75-49-8		ADMITTING PHYSICIAN SCOTT, H RANDOLPH		REFERRING PHYSICIAN		ADMISSION NO. RSI9800200563		
ROOM NO. R52 0110-01		ACCOM. SP RM PSY		ADMITTING DATE 01/02/98 14:55		SERVICE PSY		
PATIENT	NAME ADDRESS RICHARDSON STELLA 1045 MANCHESTER CIRCLE SUMTER SC 29154 248-43-3371		RELATION NAME, PHONE, SOC. SEC. SELF (803) 778-0052		BIRTH DATE AGE PLACE OF BIRTH 10/05/64 33Y		SEX MAR. STAT. F M R	
	OCCUPATION, TRADE, PHONE YUASA EXIDE HWY 15 SOUTH SUMTER SC 29150 (803) 481-6249		PREV. ADL. VERSION TYPE SMOKE PRENO. PRECLIN. LAB 09/03/95 1 LINK 02		JAH PHYS REF/NORMAL DEL			
	NAME ADDRESS RICHARDSON STELLA 1045 MANCHESTER CIRCLE SUMTER SC 29154 248-43-3371		RELATION NAME, PHONE, SOC. SEC. SELF (803) 778-0052		BIRTH DATE AGE PLACE OF BIRTH 10/05/64 33Y		SEX MAR. STAT. F M R	
GUAR.	NAME ADDRESS ROBERTSON, VALERIE 1045 RODNEY DR SUMTER SC 29154		RELATION NAME, PHONE, SOC. SEC. SISTER (803) 773-6856		BIRTH DATE AGE PLACE OF BIRTH 10/05/64 33Y		SEX MAR. STAT. F M R	
	NAME ADDRESS ROBERTSON, VALERIE 1045 RODNEY DR SUMTER SC 29154		RELATION NAME, PHONE, SOC. SEC. SISTER (803) 773-6856		BIRTH DATE AGE PLACE OF BIRTH 10/05/64 33Y		SEX MAR. STAT. F M R	
REL.	NAME ADDRESS ROBERTSON, VALERIE 1045 RODNEY DR SUMTER SC 29154		RELATION NAME, PHONE, SOC. SEC. SISTER (803) 773-6856		BIRTH DATE AGE PLACE OF BIRTH 10/05/64 33Y		SEX MAR. STAT. F M R	
	NAME ADDRESS ROBERTSON, VALERIE 1045 RODNEY DR SUMTER SC 29154		RELATION NAME, PHONE, SOC. SEC. SISTER (803) 773-6856		BIRTH DATE AGE PLACE OF BIRTH 10/05/64 33Y		SEX MAR. STAT. F M R	
INSURANCE	NAME ADDRESS BOBS OF PENNSYLVANIA - CAPITRICHARDSON, JOHN 1500 BLUE CROSS BLUE SHTELDRICHARDSON, JOHN		POLICY NO. USC247333584		GROUP NO. USC247333584		BY DATE	
	NAME ADDRESS BOBS OF PENNSYLVANIA - CAPITRICHARDSON, JOHN 1500 BLUE CROSS BLUE SHTELDRICHARDSON, JOHN		POLICY NO. USC247333584		GROUP NO. USC247333584		BY DATE	
ADMITTING PHYSICIAN DISSOCIATIVE REACTION								
DISCHARGE DIAGNOSIS ① Dissociative Reaction ② Obsessive Compulsive Disorder								
PROCEDURES/DATE								
OTHERS SIGNATURE(S)								
SIGNATURE OF ADOPTING PHYSICIAN								
M.D.								
M.D.								

Stella Mae Richardson v. Yuasa - P518

RICHLAND MEMORIAL HOSPITAL

5 RICHLAND MEDICAL PARK DRIVE, COLUMBIA, SC 29203

RICHLAND SPRINGS
CONSULTATION REPORT

PHONE: (803) 434-7000

RS2

PATIENT: **RICHARDSON, STELLA**
MR #: **00-69-75-49-8**
ADMITTED: **1/2/98**
DISCHARGED:

DICT: **Jalprakash N. Patel, MD ***
ATT:

HISTORY OF PRESENT ILLNESS: Ms. Richardson is a 33-year-old African-American female who was admitted to Richland Springs affective disorder unit with diagnosis of obsessive-compulsive disorder with dissociative reaction. Presently she is without any complaints except for occasional nausea without emesis. She reports she has had this for several weeks to months; however, it does not happen after each meal. She denies any reflux symptoms. She denies any abdominal pain, any diarrhea or constipation. She denies any known history of peptic ulcer disease. She denies any melena, hematemesis, bright red blood per rectum, and/or hematochezia.

She also had complaint of occasional urinary hesitancy which she reports has been going on for "awhile." She denies any dysuria or flank pain. No fever or chills. The patient is otherwise without any other physical complaints. She is without any neurologic, musculoskeletal, respiratory or cardiovascular complaints.

REVIEW OF SYSTEMS: See above.

PAST MEDICAL HISTORY: The patient denies.

ALLERGIES: There are no known drug allergies.

PAST SURGICAL HISTORY: Significant for hysterectomy, C-section, and cholecystectomy in the past. The patient is gravida II, para II, AB 0.

SOCIAL HISTORY: She denies ethanol, tobacco use and/or alcohol.

PRESENT MEDICATIONS: Includes Zyprexa 10 mg q.h.s., 10 mg 1 mg q.i.d., Cogentin 1 mg q.a.m., Paxil 10 mg q.a.m. times 3 days, plan to increase to 20 mg p.o. q.a.m., Halcion 0.25 mg q.h.s. p.r.n. insomnia, p.r.n. Compazine.

FAMILY HISTORY: Data unavailable.

PHYSICAL EXAMINATION:

General: This is a well-developed, well-nourished female, alert and oriented times 4 in no acute distress. She appears to have some psychomotor retardation.

PT: **RICHARDSON, STELLA**
DD: **01/03/98**
DT: **01/03/98**

MR#: **00-69-75-49-8**

CONSULTATION REPORT
PAGE 1

RICHLAND MEMORIAL HOSPITAL

5 RICHLAND MEDICAL PARK DRIVE, COLUMBIA, SC 29203

CONSULTATION REPORT

PHONE (803) 434-7000

Vital Signs: Temperature 98.1. Pulse 82. Respirations 18 by my examination. Blood pressure 137/82.

HEENT: Oropharynx: Unremarkable exam.

Neck: Is supple with full range of motion without thyromegaly and no lymphadenopathy. No bruits. No jugular venous distention.

Lungs: Are clear to auscultation in all fields.

Cardiovascular: Has a regular rate and rhythm without murmurs, rubs or gallops or rubs.

Abdomen: Soft, non-tender, non-distended with normoactive bowel sounds without hepatosplenomegaly. No abdominal bruits. No postoperative masses noted. There is no cerebrovascular accident tenderness.

GYN and Breasts: Exam is deferred secondary to her psychiatric diagnosis and condition and lack of symptoms.

Extremities: Without clubbing, cyanosis or edema.

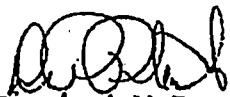
Neurological: Cranial nerves II-XII grossly intact. Deep tendon reflexes are 2+ bilaterally in the upper and lower extremities. Musculoskeletal strength is 5/5 bilaterally in the upper and lower extremities and symmetrical. Sensory to fine touch is grossly intact. Gait grossly intact, finger-to-nose grossly intact.

LABORATORY DATA: Pending at the present time.

ASSESSMENT AND PLAN:

1. Obsessive-compulsive disorder with dissociative reaction. Will defer to attending, Dr. Scott.
2. Nausea, etiology unclear. However, physical examination is totally unremarkable. Consider gastroesophageal reflux disease, questionable gastritis. She has no known history of peptic ulcer disease. She has also had cholecystectomy in the remote past. Will try an H2 blocker empirically. Pepcid 20 mg b.i.d. and monitor symptoms. She is also on p.r.n. Compazine. Would recommend follow-up with her primary care MD or GI consultation after discharge for continuity of care. Presently, she is without complaints of nausea.
3. Urinary hesitancy - will check a urinalysis to rule out urinary tract infection. Continue to monitor for symptoms.
4. Incomplete data base.
5. Preventive medicine. Recommend follow-up with primary care physician after discharge for continuity of care and follow-up.

Drs. Peterson, Plante, Ford, Desai, Cavanaugh and I thank you for allowing us to participate in the care of Mrs. Richardson.


Jaiprakash N. Patel, MD *
Attending

bm/9281

PT: RICHARDSON, STELLA
OD: 01/03/88
DT: 01/03/88

MR#: 00-69-75-48-8

CONSULTATION REPORT
PAGE 2

Stella Mae Richardson v. Yuasa - P520

Richland Memorial Hospital

FIVE RICHLAND MEDICAL PARK
COLUMBIA, SC 29203

RS2 110-01

RADIOLOGY SERVICES

DATE/TIME TO BE DONE 01/02/98 1820		PATIENT'S NAME RICHARDSON, STELLA		MEDICAL REC. NO. R006975498	
CHECK-IN DATE/TIME 01/05/98 0838	DOB 10/05/64	AGE 33Y	SEX F	RM NO./SOURCE RS2-0110-01	PATIENT TYPE RS1
CHECK-IN 1731005	ADMITTING SCOTT, H RANDOLPH 1919 GADSDEN STREET COLUMBIA, SC 29201			BILLING NO. R9800200583	
ORDERING SCOTT, H RANDOLPH 1919 GADSDEN STREET COLUMBIA, SC 29201				REPORT RELEASED 01/05/98 1409	

Exam: 00714 XR CHEST PA
Ord Diag: DIAG.

Technologist : Bryan K Duke

CHEST PORTABLE 1-5-98:

The visualized lungs are clear. The heart is normal in size and shape. No abnormality is seen in the diaphragm, pleura, bony thorax, mediastinum, or pulmonary vessels.

IMPRESSION: NORMAL CHEST. THERE ARE NO PREVIOUS FILMS AVAILABLE FOR COMPARISON.

AA
01/05/98 1409

/Read By/ PARESH SHAH MD
/Released By/ PARESH SHAH MD

RICHLAND MEMORIAL HOSPITAL

5 RICHLAND MEDICAL PARK DRIVE, COLUMBIA, SC 29203

RICHLAND SPRINGS

CONSULTATION REPORT

PHONE: (803) 434-7000

PATIENT: RICHARDSON, STELLA
MR #: 00-69-75-49-8
ADMITTED: 1/2/98
DISCHARGED:

DICT: John M. Taylor, PhD
ATT:

PSYCHOLOGICAL EVALUATION NOTE

DATE OF EVALUATION: 01/07/98

REFERRING PHYSICIAN: H. Randolph Scott, II, MD

HISTORY: Ms. Richardson is a 33-year-old right-handed white female with 13 years of education. She was admitted to the service of Dr. Scott who has been treating the patient for obsessive compulsive disorder with dissociative reaction. She has been experiencing multiple somatic complaints, including chest pain, sinus and respiratory difficulties, and nausea. Dr. Scott's admitting diagnosis was the obsessive compulsive disorder.

The patient was seen in medical consultation with Dr. Patel. His admitting physical examination was unremarkable. The neurologic examination revealed unremarkable cranial nerves, normal reflexes, normal muscle strength, and normal sensory functioning.

The patient's past medical history is significant for a hysterectomy in 1995, and she is also status post a cholecystectomy. Other than this, the past medical history is unremarkable. The patient denies any previous psychiatric history.

EXAMINATION: At the time of the examination, Ms. Richardson was alert and oriented to personal information and place. Her temporal orientation was normal. She provided an accurate history. Insight was not well demonstrated. Affect was normal. Response latencies were normal. She demonstrated normal attention and concentration. She did not demonstrate motor impulsiveness. She performed normally on Mesulam's Cancellation Test for symbols. She did not demonstrate imitation/utilization behavior, preservation or difficulty in achieving or maintaining task set. Trail Making was normal (Trails A = 28 seconds, Trails B = 75 seconds). Spontaneous speech was fluent, grammatic and free of paraphasia. She did demonstrate normal paucity and kinetics. Her copy of the Rey Complex Figure was impaired. She demonstrated a general appreciation for detailed and configural components, although her drawing was poorly organized. There was no significant difference between the left and right side of the drawing.

During the interview, the patient was noted to be logical and goal directed. She denied any evident symptoms associated with disorder and thought process or content. She is reporting

PT: RICHARDSON, STELLA
DD: 01/07/98
DT: 01/07/98

MR#: 00-69-75-49-8

CONSULTATION REPORT
PAGE 1

Stella Mae Richardson v. Yuasa - P522

RICHLAND MEMORIAL HOSPITAL

5 RICHLAND MEDICAL PARK DRIVE, COLUMBIA, SC 29203

CONSULTATION REPORT

PHONE (803) 434-7000

several symptoms of depression, including dysphoria, social withdrawal, low self-esteem and passive suicidal ideation. The suicidal ideation have been in the past, and she is not experiencing these now. She denies homicidal ideation. The patient is experiencing some symptoms of anxiety which are predominantly cognitive in nature, although she did have the aforementioned somatic complaints with chest pain. She does report changes in her voice. She said that she has 3 different sounds to her voice, one is the normal voice which she produced today, and then she has 2 other voices which sound differently. She realizes that these are her voice, and does not feel they belong to anyone else.

She was administered the MMPI-II. She produced a valid profile. The patient's code type demonstrate a chronic level of schizoid adjustment. They have difficulty with close, emotional relationships, they distrust others and are socially withdrawn. They are satisfied with their relationships with other people. They have difficulty in modulating and expressing their anger of resentful qualities. They see the world as dangerous and other people as rejecting and unreliable. They are moody and emotional inappropriate.

The patient was administered the MCMI. She produced a valid profile. She is indicating long-standing depression and anxiety. She is also reporting somatic complaints. She endorsed 1/4 items pertaining to suicide on the scale.

IMPRESSIONS:

1. The patient's performance on neuropsychological screen was variable. There was no behavioral evidence of acute disorder that would account for changes in her voice. Her paucity was noted to be normal today.
2. Testing was not strongly indicative of a current psychotic process.
3. Testing indicates long-standing and depressed mood and anxiety.
4. Testing indicates a schizoid level of adjustment with social and emotional alienation noted.

Thank you for referring this patient for evaluation. If I can be of further help in the management of this case, please do not hesitate to contact me.


John M. Taylor, PhD

eb/0018

cc: H. Randolph Scott II, MD

PT: RICHARDSON, STELLA
DD: 01/07/88
DT: 01/07/88

MR#: 00-89-75-49-8

CONSULTATION REPORT
PAGE 2

Stella Mae Richardson v. Yuasa - P523

RICHLAND MEMORIAL HOSPITAL

6 RICHLAND MEDICAL PARK DRIVE, COLUMBIA, SC 29203

R21
0110-01**GROUP THERAPY NOTE**

PHONE (803) 434-7000

PATIENT: RICHARDSON, STELLA
MR #: 00-69-75-49-8
ADMITTED: 1/2/98
DISCHARGED:

DICT: Ben Geise
ATT:

AFFECTIVE DISORDERS UNIT AT RICHLAND SPRINGS PSYCHIATRIC HOSPITAL:

DATE OF SESSION: 01/09/98

According to the treatment plan, the patients attended a 50-minute group psychotherapy session which focused on analyzing thoughts and beliefs using Rational Emotive Therapy. The session began with a warm-up exercise designed to promote appropriate self-disclosure and interaction among group members. Each group member was asked to introduce themselves to the group and to talk about their plans for the weekend. Following the warm-up, the patients were encouraged to participate in a discussion about utilizing principles of RET to avoid relapse and readmission to the hospital. The session concluded with a warm-down exercise in which each patient was asked to give a small goal they hoped to accomplish over the next few days.

Ms. Richardson was alert and attentive during group today. Her affect was flat throughout the session. She participated well in the group discussion.

Ben Geise
Psychometrist

John M. Taylor, PhD
Psychological Services

BW/ 1055

PT: RICHARDSON, STELLA
DD: 01/12/98
DT: 01/12/98

MR#: 00-69-75-49-8

GROUP THERAPY NOTE
PAGE 1

Stella Mae Richardson v. Yuasa - P524

R21
0110-01

RICHLAND MEMORIAL HOSPITAL

5 RICHLAND MEDICAL PARK DRIVE, COLUMBIA, SC 29203

GROUP THERAPY NOTE

PHONE: (803) 434-7000

PATIENT: **RICHARDSON, STELLA**
MR #: **00-69-75-49-8**
ADMITTED: **1/2/88**
DISCHARGED:

DICT: **Ben Geise**
ATT:

AFFECTIVE DISORDERS UNIT AT RICHLAND SPRINGS PSYCHIATRIC HOSPITAL:

DATE OF SESSION: **01/12/88**

According to the treatment plan, the patients attended a 50-minute group psychotherapy session which focused on analyzing thoughts and beliefs using Rational Emotive Therapy. The session began with a warm-up exercise designed to promote appropriate self-disclosure and interaction among group members. Each group member was asked to introduce themselves to the group and to talk about what their plans for the future are. Following the warm-up, the patients were encouraged to participate in a discussion about utilizing principles of RET to avoid relapse and readmission to the hospital. The session concluded with a warm-down exercise in which each patient was asked to give a small goal they hoped to accomplish over the next few days.

Mrs. Richardson was alert and attentive during group today. She participated well throughout the session. She was supportive of other group members.

Ben Geise
Psychometrist

John M. Taylor, PhD
Psychological Services

aw/1019

PT: **RICHARDSON, STELLA**
DD: **01/12/88**
DT: **01/12/88**

MR#: **00-69-75-49-8**

GROUP THERAPY NOTE
PAGE 1

Stella Mae Richardson v. Yuasa - P525

RICHLAND SPRINGS

RICHLAND MEMORIAL HOSPITAL

DISCHARGE SUMMARY

5 RICHLAND MEDICAL PARK DRIVE, COLUMBIA, SC 29203

PHONE: (803) 434-7000

PATIENT: RICHARDSON, STELLA
MR #: 00-69-75-49-8
ADMITTED: 1/2/98
DISCHARGED: 1/12/98

DICT: H. Randolph Scott II, MD *
ATT:

ADMISSION DIAGNOSES:

AXIS I Psychosis, not otherwise specified.
AXIS II A. Obsessive compulsive disorder.
B. Dissociative reaction.
AXIS III No diagnosis.
AXIS IV Severe.
AXIS V Seventy-five (75) and 45.

FINAL DIAGNOSES:

AXIS I Psychosis, not otherwise specified.
AXIS II Obsessive compulsive disorder.

HISTORY OF PRESENT ILLNESS: This is the first Richland Springs Psychiatric Hospital admission for this 33-year-old married African-American female from Sumter, South Carolina, who I have seen on a number of outpatient visits due to a relatively strange presentation of not being able to control the voice tone and accent of her voice. The patient was speaking as if she was from the Caribbean Islands, however she was born and raised in the Southern United States. The patient also had the delusion that she was a very wealthy Caribbean woman. This had some elements of psychosis and some elements of obsessions, in that the patient was intellectually able to be aware that she was neither from the Caribbean, nor was she wealthy, but she felt compelled to act these things out. While acting these things out, she conducted herself and carried herself with further amount of "airs". This became increasingly distressful to her company. Her job suggested that she take a leave of absence due to her inability to function as a worker. Her family members, sisters, brothers and children found it more and more difficult to relate to her, as well as her husband. The patient was initially seen and placed on an SSRI on an outpatient basis to help reduce her depression and obsessions, as well as placed on low doses of neuroleptics in the form of Haldol. She continued to improve briefly, but then decompensated approximately 3 days prior to this compensation, which she felt this inability to switch from voice to voice, left her feeling suicidal. The patient was by this time, on Zyprexa 10 mg at bedtime and 10 mg in the morning, Cogentin 1 mg at bedtime, Paxil 10 mg 3 time a day and Halcion 0.5 mg. The patient has some complaints of urinary flank pain, possibly a urinary tract infection.

PT: RICHARDSON, STELLA
DD: 02/05/98
DT: 02/05/98

MR#: 00-69-75-49-8

DISCHARGE SUMMARY
PAGE 1

Stella Mae Richardson v. Yuasa - P526

Claimant's Name: Ma Mac Richardson
 Address: 3150 Ridge Street, Dalzell, SC 29040
 Home Phone: () City State Zip
 Date of Injury: 10/31/1997

248-43-3371

SSN

Yuasa Exide, Inc.

Employer's Name

P. O. Box 1797, Sumter, SC 29150

Address

Great American Insurance Company of NY

City

State

Zip

Insurance Carrier

Robert Gruber

Preparer's Name:

Young Clement Rivers, LLP

Law Firm:

(843) 720-5482

Phone #

Date of Injury or Illness: 10/31/1997Estimated time for hearing: 30-45 minutes

Complete each information blank. Specify clearly when contentions are admitted in part and denied in part. The employer/carrier in answer to the claim, respectfully shows:

1. It is **ADMITTED/DENIED** the employee sustained an injury or illness on or about the date set forth in the Form 50. The reasons for denial are:
The investigation of the employer/carrier does not reveal an injury by accident arising out of and in the course and scope of employment; employer/carrier asserts the notice defense; employer/carrier asserts the statute of limitations defense; employer/carrier denies medical causation; employer/carrier also denies claimant had an occupational disease (see attached list of defenses). This claim was fully and finally settled on a clincher agreement dated 12/10/2014 in which the claimant accepted \$20,000.00 for release of any and all claims against the employer and carrier (attached).
2. It is **ADMITTED/DENIED** both the employer and employee were subject to the Workers' Compensation Act at the time in question. The reasons for denial are:
See number 1.
3. It is **ADMITTED/DENIED** the relationship of employer and employee existed at the time in question. The reasons for denial are:
See number 1.
4. It is **ADMITTED/DENIED** at the time in question the employee was performing services arising out of and in the course of employment. The reasons for denial are:
See number 1.
5. It is **ADMITTED/DENIED** notice of injury was given the employer. The reasons for denial are:
See number 1.
6. It is **ADMITTED/DENIED** the employee Needs / Is Entitled to Additional medical care as a result of injury or illness. The reasons for denial are:
No medical evidence.
7. It is **ADMITTED/DENIED** the employee is entitled to temporary total disability for the period(s) of :
No medical evidence.
8. It is **ADMITTED/DENIED** the employee is permanently disabled. The reasons for denial are:
No medical evidence.
9. It is **ADMITTED/DENIED** the employee has serious disfigurement.
10. It is contended that an average weekly wage of \$ Form 20 to be provided applies, according to attached Form 20 as provided by law.
11. Further contentions, grounds of defense, or unusual aspects are:
All defenses, affirmative or otherwise, as provided by the South Carolina Workers' Compensation Act; reserve right to amend. Employer/Carrier denies notice of injury pursuant to §42-15-20.

Mediation

- ☐ a. Mediation is requested to be ordered pursuant to Reg. 67-1801 B.
☐ b. Mediation is required pursuant to Reg. 67-1802.
☐ c. Mediation is requested by consent of the Parties pursuant to Reg. 67-1803.
☐ d. Mediation has been conducted by a duly qualified mediator and resulted in an impasse.

Questions regarding mediation may be submitted to mediation@wcc.sc.gov.
 I certify the contents of this form are accurate and true to the best of my knowledge.

Preparer's Signature

 Attorney for Employer/Carrier
 Title

rgruber@ycrlaw.com

Email

June 19, 2015

Date

R.67-204 through R.67-210 and R.67-601 through R.67-615 for mediation. Questions about the use of this form may be directed to the Commission's Department at 803.737.5675 or jud@wcc.sc.gov or mediation@wcc.sc.gov. Pursuant to R.67-606, a Form 20 must be filed with the Claims Department 2 days from the date of filing this form.

Form # 51

7/13

51

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Employer's Answer to Request for Hearing

Stella Mae Richardson 248-43-3371
Claimant's Name SSN
5150 Ridge Street
Dalzell, SC 29040
Address City State Zip
0 0
Home Phone Work Phone

Yuasa Exide, Inc.
Employer's Name
P. O. Box 1797
Sumter, SC 29150
Address City State Zip
Great American Insurance Company of NY
Insurance Carrier

Robert Gruber
Preparer's Name

P.O. Box 993, Charleston, SC 29402
Address

(843) 720-5482
Phone #

Compensation Paid

Number of Weeks

From

To

Amount

1. Number of weeks T.T. \$
2. Number of weeks T.P. \$
3. Number of weeks P.P. \$
4. Disfigurement \$
5. Agreement and Final Release \$ 20,000.00
Total Compensation Paid \$ 20,000.00
6. Total Medical Benefits* Paid \$
7. Funeral Benefits \$

☒ Case Denied

Date of Injury: 10/31/1997
month day year

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

By: Stella Mae Richardson
Claimant

By: [Signature]
Employer's Representative

Date: 12-24-14

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 sixteen days of final payment of compensation. Form 19 must be filed when a claim is denied.



Claimant's Name: Stella Mae Richardson Employer's Name: Yuasa-Exide, Inc.
Address: 5150 Ridge Street Address: 1990 Corporate Blvd.
City Dazell State: SC Zip: 29040 City Sumter State: SC Zip: 29154
Home Phone: (803) 469-9641 Work Phone: _____ Carrier: Arrowood Indemnity Company
Preparer's Name: Vernon F. Dunbar, Esq. Preparer's Phone #: (864) 552-4601

A claim for workers' compensation benefits is made based on the following grounds:

☐ Injury ☐ Illness ☐ Repetitive Trauma

1. Compensation Rate: \$211.24 2. AWW: \$316.84 Date of Injury: October 1997
3. Type of injury and body part(s): Brain, heart, and joints.
4. Facts in controversy: Whether or not Claimant suffered a compensable work related injury and/or occupational disease arising out of And in the course of her employment on or before October, 1997. If date of accident alleged is accurate, Great American would be the proper carrier responsible as opposed to Arrowpoint.
5. Legal issues involved: §42-11-20, §42-11-40, §42-11-70, §42-11-100, §42-15-20, §42-15-40 and Laches. Determine proper employer and and-carrier. Also, to determine if Guardian Ad Litem required to adjudicate case.
6. Unusual aspects: None known to Defendants
7. Witnesses (designate if expert):* Ron Whetsell. Defendants reserve right to call additional witnesses.

Exhibits: Literature Review Lead and Health Effects by David Lukco and OSHA & Yuasa-Exide Regulations on Lead

9. Medical evidence (indicate report pursuant to R.67-612; deposition or appearance):
See APA submissions
10. Name, address, and specialty, if any, of the treating physician: None.
11. Impairment rating(s); body part(s); physician and date of opinion: N/A
12. I am amending my Form 50/51 in the following manner: N/A

Mediation

- ☐ a. Mediation is requested to be ordered pursuant to Reg. 67-1801 B.
☐ b. Mediation is required pursuant to Reg. 67-1802.
☐ c. Mediation is requested by consent of the Parties pursuant to Reg. 67-1803.
☒ d. Mediation has been conducted by a duly qualified mediator and resulted in an impasse.

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

I verify the contents of this form are accurate and true to the best of my knowledge.

I certify I have served this document pursuant to Reg. 67-211 by delivering a copy via first class mail to Commissioner T. Scott Beck, Post Office Box 1715, 1333 Main Street, Suite 500, Columbia, SC 29202 and via certified mail to Stella Mae Richardson, 5150 Ridge Street, Dazell, SC 29040 on the 10th day of February 2014 by: ☒ first class postage ☒ certified mail ☐ personal service.

Signature: Vernon F. Dunbar Email: VDunbar@TurnerPadgett.com
Date of hearing: February 25, 2014 Time needed for hearing: 45 Mins.

Questions about the use of this form should be directed to the Jurisdictional Commissioner. Refer to Regulations 67-204 through 67-211 and Regulations 67-601 through 67-615; as well as Regulation 67-1801. File this form and proof of service on the opposing party according to R.67-611 and R.67-212. Do not send medical reports. * Commissioners reserve the right to admit expert witnesses at hearings.

South Carolina Workers' Compensation Commission
1612 Marion St.
P.O. BOX 1715
Columbia, SC 29202-1715
(803) 737-5723



WCC File #: 9832206

Carrier File #: 715001281800

Carrier Code #: _____

Employer FEIN #: _____

Claimant's Name: Stella Mae Richardson SSN: 248-43-3371 Employer's Name: Yuasa-Exide, Inc.
Address: 5150 Ridge Street Address: 1990 Corporate Blvd.
City: Dazell State: SC Zip: 29040 City: Sumter State: SC Zip: 29150
Home Phone: (803) 469-9641 Work Phone: _____ Insurance Carrier: Arrowpoint Capital
Preparer's Name: Vernon F. Dunbar, Esq. Preparer's Phone #: (864) 552-4601

Date of Injury: August 5, 1998
month day year

A. Total Wages Paid

1. Check Applicable Method:

- ☐ Report of earnings of injured employee based on four completed quarters.
☒ Report of earnings of injured employee who did not complete four quarters based on actual time worked.
☐ Report of earnings of similar employee. Injured employee did not work sufficient time before alleged injury. Hire date:
☐ Report of earnings of injured employee based on alternative method because Form 20 results in a compensation rate that is not fair and just (attach documentation to show how average weekly wage and compensation rate were calculated).

2. List total wages paid as reported to the Employment Security Commission on the Employer Quarterly Contribution and Age Reports during the four quarters immediately preceding the quarter in which the injury occurred. Do not include the quarter during which the injury occurred.

Quarter	Ending Date	Total Wages Paid
1st	09/30/1997	\$ _____
2nd	12/31/1997	\$ _____
3rd	03/31/1998	\$ _____
4th	06/30/1998	\$ <u>4,118.95</u>

Total Paid 2. \$ 4,118.95

3. List total value of other allowances of any character made in lieu of wages during four quarters above.

3. \$ _____

4. Add lines 2 and 3.

TOTAL WAGES PAID:

4. \$ 4,118.95

5. List total number of weeks paid to employee during the four quarters immediately preceding the quarter in which the injury occurred.

5. 13

B. Average Weekly Wage

6. To calculate average weekly wage, divide total wages (line 4) by total weeks paid (line 5).

AVERAGE WEEKLY WAGE: 6. \$ 316.84

C. Compensation Rate

7. The general rule for calculating the compensation rate is to multiply average weekly wage (line 6) by .6667. Estimate compensation rate by multiplying average weekly wage (line 6) by .6667. See part 8 below to determine the actual compensation rate.

7. \$ 211.24

8. The compensation rate is as follows (choose one):

- ☐ When average weekly wage (line 6) is less than \$75.00, the compensation rate is the average weekly wage. Enter average weekly wage on line 8.
☐ When the estimated compensation rate (line 7) is less than \$75.00 and average weekly wage (line 6) is more than \$75.00, the compensation rate is \$75.00. Enter \$75.00 on line 8.
☐ When the estimated compensation rate (line 7) is more than the maximum compensation rate for the year in which the injury occurred, enter the maximum compensation rate for the year in which the injury occurred on line 8.
☐ Employee is within the exceptions listed in S.C. Code Ann. Section 42-7-65. List applicable exception here and enter appropriate compensation rate on line 8.

WEEKLY COMPENSATION RATE: 8. \$ 211.24

Employer's representative shall prepare a Form 20 and serve per R.67-211 a copy on the claimant within thirty days of beginning temporary compensation. See R.67-1603 when no temporary compensation is paid. NOTE: Average weekly wage represents average gross pay before taxes and other deductions. WHEN THE CLAIMANT DOES NOT AGREE WITH THE COMPENSATION RATE ON LINE 8, HE OR SHE SHOULD CONTACT THE EMPLOYER'S REPRESENTATIVE TO TRY TO REACH AN AGREEMENT AS TO THE COMPENSATION RATE. IF NO AGREEMENT CAN BE REACHED, THE CLAIMANT SHOULD CONTACT THE CLAIMS DEPARTMENT AT (803) 737-5723.

WCC Form # 20
Rev. Date 3/97

20
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STATEMENT OF EARNINGS
OF INJURED EMPLOYEE

South Carolina Workers' Compensation Commission
1333 Main Street, Suite 500
Post Office Box 1715
Columbia, South Carolina 29202-1715
803-737-5723



WCC File #:	9832206
Carrier File #:	
Carrier Code #:	
Employer FEIN #:	

Claimant's Name: Stella White Richardson

Employer's Name: Yuasa-Exide Inc.

Address: 5150 Ridge Street

Address: 1990 Corporate Blvd.

City:	Dalzell	State:	SC	Zip:	29040
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City:	Sumter	State:	SC	Zip:	29154
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Home Phone: () - Work Phone: () -

Insurance Carrier: Great American Ins. Co. of NY

Preparer's Name: Charles T. Brooks, III

Law Firm: _____

Preparer's Phone #: (803) 418 - 5708

Date Attorney Was Hired: 04/01/2014

Date of Injury: October 1997

Compensation Rate: \$211.24

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 1/3 % 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.

CPK RJ
Attorney for the Claimant

12/5
Date

Summary

Total Amount of Compensation \$ 20,000.00

Attorney's Fee \$ 6,666.66

Costs \$ 1,307.00

Total Fees and Costs \$ 7,973.66

Client Will Receive \$ 12,026.34

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.

Stella White Richardson
Client

12-5-2014
Date

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.



WCC File #: 98 3 2206
Carrier File #: 715 00 1281800
Carrier Code #: _____
Employer FEIN #: _____

Claimant's Name: Stella Richardson SSN: 248-43-3371 Employer's Name: Yucas a Exide
Address: 5070 Ridge St Address: 1415 South, 1990 Corporate Blvd
City: Dalzell State: SC Zip: 29040 City: Sumter State: SC Zip: 29150
Home Phone: 803-406-8580 Work Phone: _____ Insurance Carrier: Great American / Mitsui Sumit. Insurance
Preparer's Name: Stella Richardson Law Firm: NA Preparer's Phone #: _____

A claim for workers' compensation benefits is made based on the following grounds:

- ☒ Injury ☐ Illness ☐ Repetitive Trauma ☐ Occupational Disease ☐ Physical Brain Injury ☐ Concurrent Jurisdiction Date of Injury or Illness: Oct. 97
1. The claimant sustained an injury to Brain, Heart, Joint (Part(s) of Body Injured) on Oct. 97 (Month/Day/Year) in Sumter county, state of SC. Body part(s) affected are: Brain, Heart, Joint, Breasts
2. Briefly describe how the accident occurred. Occupational Disease arising out of and course of other employment
3. Both the claimant and the employer were subject to the South Carolina Workers' Compensation Act at the time of injury. Oct. 97
4. The relationship of employer and employee existed at the time of injury.
5. At the time of the injury the claimant was performing services arising out of and in the course of employment.
6. Notice of the accidental injury was given to the Employer on Oct 97 (Month/Day/Year) in the following manner: Alleged Chemical Exposure

- ☐ 7. Due to injury, the claimant is in need of (check one):
☐ (a) medical examination and treatment for: _____
☒ (b) additional medical examination and treatment for: Breasts; joint, Brain, Memory, Mental Issues
- ☐ 8. Due to injury, the claimant requests temporary total disability benefits because of lost compensable time from work and wages for the period of: Oct. 97
- ☐ 9. Due to the injury, the claimant has permanent disability of the following nature and extent (check one):
☐ (1) General Disability: ☒ Total ☐ Partial ☐ (2) Specific Disability: ☐ Total ☐ Partial ☐ (3) Wage Loss
- ☐ 9a. A determination of permanent disability is premature at this time.
- ☒ 10. Due to the injury, the claimant has a serious bodily disfigurement consisting of: Both Breasts and Chest, Neck, leg, Neck

10a. At the time of the injury, the claimant was paid weekly wages of \$500.00 and demands accounting of days worked and wages earned as provided by law.

10b. Give names and addresses of all employers for whom the claimant has worked since the date of the accident: NA

11. Further grounds or unusual aspects of claim: 506 547 478 - File Number 71002701192 Alleged Chemical Exposure

11a. List names and addresses of all physicians or other medical specialists who have seen or treated the claimant as a result of the accident: Dr. Healy, Dr. Moises, Dr. Clainey, Dr. Hanz, Dr. Gray

11b. To the best of your knowledge, did you have any prior permanent disability? If yes, describe:

12. Appropriate benefits as provided in the Act for the above grounds and other relief as the Workers' Compensation Commission may direct as just and proper.

☒ 13a. I am filing a claim. I am not requesting a hearing at this time.

14. Estimated time needed for hearing: _____

☒ 13b. I am requesting a hearing. A \$25 fee is required.

☐ Mediation

- ☒ a. Mediation is requested to be ordered pursuant to Reg. 67-1801 B.
☒ b. Mediation is required pursuant to Reg. 67-1802.
☐ c. Mediation is requested by consent of the Parties pursuant to Reg. 67-1803.
☐ d. Mediation has been conducted by a duly qualified mediator and resulted in an impasse.

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 Mitsui Sumitomo Insurance Company of America address P.O. Box 1797 on the 8 day of 8 20 17 by ☐ first class postage ☐ certified mail ☐ personal service.

I verify the contents of this form are accurate and true to the best of my knowledge.

Preparer's Signature: Stella Richardson Title: Accident Occupational and Disease Fund Email: sw-jrl@hotmail.com Date: 8-8-2017

Questions about the use of this form should be directed to the Claims Department at 803.737.5723. Refer to Regulations 67-204 through 67-211 and Regulations 67-601 through 67-615 as well as Reg. 67-1801.



Claimant's Name: Stella Mae Richardson SSN: 248 - 43 - 3371 Employer's Name: Yuasa Exide, Inc.
Address: 5150 Ridge Street Address: 1990 Corporate Blvd
City: Dalzell State: SC Zip: 29040 City: Sumter State: SC Zip: 29154
Home Phone: (803) 406 - 8580 Work Phone: () - Insurance Carrier: Great American Insurance Company of NY
Preparer's Name: Stella Mae Richardson Law Firm: Preparer's Phone #: () -

REQUEST FOR COMMISSION REVIEW

Request for Commission Review by ☒ Claimant ☐ Employer (check one) Date of Injury or Illness: 10/31/1997 (m/d/yyyy)

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).

Is the Claimant mentally competent to enter into an agreement to clinch the claim?
Did the Claimant receive adequate assistance of legal counsel?

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 have served this document pursuant to Reg. 67-211 by delivering a copy to Worker's Compensation Commission at Post Office Box 1715, Columbia, SC 29202-1715 on the 21st day of December, 2015, by first class postage ☒ certified personal service.

Signature: Stella Mae Richardson Title: Claimant Email: jrl@hotmail.com Date: 12-21-2015

Check this box if you are not represented by an attorney ☒
Information about the use of this form should be directed to the Judicial Department at 803.737.5675 or appeals@wcc.sc.gov.

If a 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. 67-701, 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.



WCC File #: 9832206

Carrier File #: 506547478

Carrier Code #:

Employer FEIN #:

Claimant's Name: Stella Mae Richardson SSN: 248-43-3371

Address: 5150 Ridge St

City: Dalzell

State: SC

Zip: 29040

Home Phone: 803-406-8580

Work Phone:

Preparer's Name: Stella Mae Richardson

Law Firm:

Employer's Name: Yuasa Oxide, Inc

Address: 1990 Corporate Blvd.

City: Sumter

State: SC

Zip: 29154

Insurance Carrier: Great American Insurance Company of NY

Preparer's Phone #:

DIRECTIONS: Please print or type. Answer the following questions about your claim to the best of your ability. If you cannot answer a question, leave it blank. Use additional sheets of paper, if necessary. Please use short statements.

Questions

Did the Commissioner fail to consider important reasons for award of compensation? If so, what reasons? That I was lack of sufficient understanding of outcome. And my mental illness disorder Schizophrenia, affected my thoughts at making concise decision. And I am still receiving psychiatric treatment under care Dr Austin Gray, And Receiving Social Security Disability.

Did the Commissioner incorrectly decide the facts? If so, what facts? I can not concentrate for extended time, And easy to be confused. And I don't comprehend that well, It hard to focus on my ideas or thoughts.

Do you think the Commissioner applied the wrong law? If so, what law? South Carolina Code Ann 9 42-17-90 30 years change of - Section 42-9-10 allow compensation total disability. And Section 42-9-20.

Do you feel there are any other reasons why the Commissioner's judgment was wrong? If so, what? That don't think on level of my peers, My thoughts not always clearly. And Grammar and reading skill is poorly. And don't have ability to get full understanding when I am reading any documents. I didn't have effective assistance from my attorney.

What action do you want the Commission to take in this case? My medical records remain open for life. And my doctor compensation wages for life including back payment. All my medical bills, testing, All medication Anastrozole it for cancer cost \$800.00 month have take it for 6 years, Health, Medical Dental Insurance life. for future, Past and present. Disfigurement, body scars, Two Breasts. Uterus, Breast damage, Prostate, Heart, Hypertension, under amputations, Teeth.

Stella Mae Richardson

Signature

2-1-2016

Date

NOTE: A copy of this Brief and any attachments must be filed with the Commission within 10 days of receipt of the Review Hearing Notice, Form 31. The Commission will serve your Brief on the employer's representative. Questions about the use of this form may be directed to the Commission's Judicial.



Claimant's Name: Stella Mae Richardson SSN: 248-43-3371 Employer's Name: Yuasa-Exide, Inc.
Address: 5150 Ridge Street Address: 1990 Corporate Blvd.
City: Dazell State: SC Zip: 29040 City: Sumter State: SC Zip: 29150
Home Phone: (803) 469-9641 Work Phone: Insurance Carrier: Arrowpoint Capital
Preparer's Name: Vernon F. Dunbar, Esq. Law Firm: Turner Padgett Graham & Laney P.A. Preparer's Phone #: (864) 552-4601

SUBPOENA

To: Auston H. Gray M.D. of Sumter Psychiatry Associates, PA

☐ YOU ARE COMMANDED to appear before the above-named Commission at the place, date and time specified below to testify in the above case.

PLACE OF TESTIMONY:

ROOM:

DATE AND TIME:

☐ YOU ARE COMMANDED to appear at the place, date and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION:

DATE AND TIME:

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below.

LIST OF DOCUMENTS:

Copies of all medical records, including but not limited to, correspondence (regardless of format, including electronic, from any source, including claimant attorney's office) questionnaires (regardless of who requested completion), history forms, intake sheets, medical bills and insurance claim forms, hospital admission records and summaries narrative notes, medical records and/or the narrative reports of any diagnostic studies including x-rays, CT scans, MRI's, Myelograms, EMG's, nerve conduction studies patient information sheet, physicians notes, nurses notes, counseling records, physical therapy records, other physicians records, results of any and all testing, etc. pertaining to the treatment of *Stella Mae Richardson, SSN# 248-43-3371, DOB: 10/05/1964.*

PLACE: Mail Records To: Turner Padgett Graham & Laney P.A.
Att: Tierney N. Rimmel
Post Office Box 1509
Greenville, SC 29602

DATE AND TIME: 08/17/12 @ 5 pm

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES:

DATE AND TIME:

THIS SUBPOENA SHALL REMAIN IN EFFECT UNTIL YOU ARE GRANTED PERMISSION TO DEPART BY THE COMMISSIONER OR AN OFFICER ACTING ON BEHALF OF THE COMMISSIONER. QUESTIONS CONCERNING THIS SUBPOENA SHOULD BE ADDRESSED TO THE FOLLOWING ISSUING OFFICER.

Vernon F. Dunbar, Esq.

ISSUING OFFICER'S SIGNATURE AND TITLE

(864) 552-4601

PHONE NUMBER

August 7, 2012

DATE

Serve this form according to R.67-212B. Refer to R.67-212 and R.67-214 for additional information. Procedural questions may be addressed to the Judicial Department at 803-737-5765.



Carrier Code #:

Employer FEIN #:

Claimant's Name: Stella White RichardsonAddress: 5150 Ridge StreetCity: DalzellState: SCZip: 29040

Home Phone: _____

Work Phone: _____

Employer's Name: Yuasa-ExideAddress: 1990 Corporate BoulevardCity: SumterState: SCZip: 291Insurance Carrier: Great American Ins. Co. of NYPreparer's Name: Charles T. Brooks, III

Law Firm: _____

Preparer's Phone #: 803-418-5708

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:
Attorney actively worked on the case since April 2014 through present day, has reviewed voluminous medical records for Claimant, scheduled and appeared for mediation in this matter which was successful.
- (B) The likelihood that the acceptance of this particular employment precluded other employment by the lawyer:
Not applicable [see Rule 1.5(a), RPC Rule 407, SCACR comments 1 and 3]
- (C) The fee customarily charged in the locality for similar legal services:
33 1/3 %
- (D) The amount involved and the results obtained:
Claimant was awarded a monetary settlement and permanent benefits under Section 42-9-390 and 42-17-10
- (E) The time limitations imposed by the client or by the circumstances:
Claimant's attorney has represented the Claimant for more than six months.
- (F) The nature and the length of the professional relationship with the client:
From April 2014 through present
- (G) The experience, reputation, and ability of the lawyer or lawyers performing the services; and
Claimant's attorney devotes a large portion of his practice to representing Claimants before the SCWCC. In 15 years of practice, Claimant's attorney estimates that he has tried at least 250 Workers' Compensation Cases.
- (H) Whether the fee is fixed or contingent:
Contingent fee of 33 1/3% of award or settlement obtained. Contingent fee arrangements are both ethical and proper under the Rules of Professional Conduct as promulgated and enforced by the SC Supreme Court. Furthermore, contingent fee arrangements align the interests of Claimants and their attorney (i.e., it is the Claimant's desire to obtain the greatest result in the shortest possible time.) Unlike the Employer/Carrier, without contingent fees most Claimants could not afford to hire an attorney on retainer and pay on an hourly basis during the case. Therefore, contingent fee arrangements allow attorneys to serve those who otherwise would be forced to bow to the wishes of their adversaries or represent themselves *pro se*.

2.67-1205 and Rule 1.5(a) of the Rules of Professional Conduct, South Carolina Appellate Court Rule 407.

CC Form # 61A

Revised 10/07

61A

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**ATTORNEY FEE PETITION
 SUPPLEMENTAL INFORMATION**

COUNTY OF SUMTER

SPECIFIC POWER OF ATTORNEY
TO ENDORSE AND DEPOSIT
SETTLEMENT CHECK

WHEREAS, I, Stella Richardson, have contracted to retain the services of The Brooks Law Office, LLC and Attorney Charles T. Brooks, III for the purposes of representing my interests relative to a Workers' Compensation matter.

WHEREAS, I, Stella Richardson, am no longer residing in Sumter and am unable to personally appear at the Law Offices of Charles T. Brooks, III to execute documents and/or endorse checks.

NOW THEREFORE, I, Stella Richardson, do hereby make, constitute and appoint Charles T. Brooks III, my/our attorney, my true and lawful attorney-in-fact, on my/our behalf, and in my/our name, place and stead to do any and all things required in connection with endorsing and depositing the funds made available to me. Granting to my/our said attorney-in-fact, full power and authority to do and perform all and every act and thing whatsoever necessary to be done and fully to all intents and purposes as I/we might or could do if personally present hereby ratifying and confirming all that my/our said attorney may do pursuant to this power.

The rights, powers and authority of attorney-in-fact granted by this instrument shall commence and be in full force and effect as of the date of this instrument is signed. Such rights, power and authority shall remain in full force until the settlement check has been received and negotiated. This power of attorney shall not be affected by physical disability or mental incompetence of the principal which renders the principal incapable of managing his own estate.

Witness my hand and seal this 5th day of Dec 2014.

Shirley R. Wharton
Witness

Stella Richardson
Stella Richardson

Witness

STATE OF SOUTH CAROLINA)
COUNTY OF SUMTER)

PROBATE

Personally appeared the undersigned witness and made oath that he/she saw the within named, sign, seal and as his/her/their own act and deed deliver the foregoing written Power of Attorney, and he/she with the other witness subscribed above, witnessed the execution thereof.

[Signature]
Notary Public for
My Commission Exp: 6-2-2020

Stella Mae Richardson,
Claimant,

vs.

Yuasa Exide, Inc.,
Employer,

Great American Insurance Company of
NY,
Carrier,
Defendants.

STATEMENT OF THE CASE AND FACTS

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.

The parties attended mediation before H. Mills Gallivan on October 31, 2014 and settled this case on a clincher for \$20,000.00. Mr. Gallivan submitted his Form 70 Mediation

Report on 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 clinched 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.

The claimant testified that she was informed by her attorney at the time, Mr. Charles Brooks, the clincher agreement that she signed in December of 2014 could close out any further entitlement to benefits that the claimant may otherwise have. She also testified that she was not aware in December of 2014 that she may have breast cancer. The claimant did not present any evidence (medical or otherwise) of any causal connection between alleged lead exposure and breast cancer. Commissioner Campbell issued his order on December 7, 2015 and made the following findings of fact and conclusions of law:

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.

Commissioner Campbell made the following Conclusions of Law as part of his 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 clincher 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. Brook's 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.

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, lns. 1-3). Her having signed the clincher agreement in December 2014 (December 5, 2014) is consistent with other evidence presented at the hearing and during Mr. Brooks'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. Mr. 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, Ins. 2-8). Mrs. 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, Ins. 1-15; pg. 9, Ins. 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.

**CLAIMANT'S CURRENT APPEAL TO THE SOUTH CAROLINA WORKERS'
COMPENSATION COMMISSION**

Claimant filed a F30 requesting full Commission review on January 28, 2017, and she filed her Appellant's brief on March 5, 2017, which was served on the employer/carrier on March 9, 2017. Claimant essentially argues that because of her own mental defect, she did not understand the mediation process and that she did not know that her clincher agreement would end her entitlement to future medical care or disability payments. Finally, the claimant has alleged that Commissioner Campbell's Order is unsupported by the evidence presented and that his Order itself does not contain factual findings sufficient to support its ultimate holding that claimant is not entitled to any further benefits.

ARGUMENTS PRESENTED

I. THERE IS NO LEGAL OR FACTUAL BASIS UPON WHICH THE COMMISSION CAN "REVERSE" THE CLINCHER AGREEMENT THE CLAIMANT MADE ON OCTOBER 31, 2014

1. The claimant's settlement of her case was negotiated with counsel, under the aegis of mediation and was entirely voluntary

Under South Carolina Workers' Compensation Law, employees and employers are permitted to voluntarily settle an existing workers' compensation claim "so long as the time and manner of payment are in accordance with the provisions of this title." S.C. Code Ann §42-9-390. 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). Once a clincher is approved by the Commission, "the claimant does not have the right to ask for additional payments in the future even if the claimant's medical condition worsens, unless otherwise specifically provided in the document." Id.

The facts as reflected in the Commission's file prove unequivocally that the claimant voluntarily settled her claim, and that she did so with ample time and the benefit of counsel. The body of the clincher agreement states that the claimant, in exchange for the sum of Twenty Thousand and no/100s (\$20,000.00) Dollars gives up her rights to any additional benefits provided by the S.C. Workers Compensation Act, including those for indemnity or medical care and treatment, past present and future. Finally, the clincher agreement states that the claimant had been advised of her rights, that she entered into the clincher agreement freely and that she understood that the agreement would end any rights she had to further benefits from this claim or any other workers' compensation claim she may have against the employee. The claimant did not appeal the clincher of this case; hence, the clincher is the law of the case. Finally, the claimant filed a F50 requesting additional benefits on June 18, 2015—almost eight (8) months post clincher. None of these facts are in dispute and the claimant has at no time alleged that her settlement was not voluntary. Therefore, the clincher agreement is the law of this case and the claimant cannot receive additional benefits beyond the Twenty Thousand and no/100s (\$20,000.00) Dollars that she received.

2. **The claimant's allegation that she did not understand the clincher agreement, or did not understand what she was signing is not supported by the evidence in the record.**

A Single Commissioner's award may not rest on "surmise, conjecture, or speculation; it must be founded on evidence of sufficient substance to afford it a reasonable basis."

Linen v. Ruscon Construction Co., 286 S.C. 67, 70, 332 S.E. 2d 211, 212 (1985). In the present case, the Single Commissioner's decision is clearly founded on and supported by the great weight of the substantial evidence in the record and, accordingly, must be affirmed. Factual findings will be upheld on appeal where there is substantial evidence to support them. Jones v. BMG Distribution, Inc., 318 S.C. 359, 458 S.E.2d 35 (1995). Substantial evidence is the evidence that will allow reasonable minds to reach the same conclusion the commission reached when considering the record as a whole. Id. Substantial evidence clearly exists in the present case to support the Single Commissioner's findings and, thus, the decision must be affirmed. More importantly, it is only logical for the Full Commission to give weight to the Single Commissioner's decision based upon the fact that it does not have the opportunity or benefit of observing the witnesses, as does the Single Commissioner. Green v. Raybestos - Manhattan, Inc., 250 S.C. 58, 156 S.E.2d 318 (1967). In the present case, the Hearing Commissioner's decision is supported by the great weight of the medical and other evidence in the record, and must be affirmed in its entirety.

The claimant attended mediation on October 31, 2014 and agreed to settle her claim for \$20,000.00 on a full and final clincher, and signed a handwritten document memorializing the settlement terms on that day at the conclusion of the mediation (Hearing Transcript, November 10, 2016, pg. 35, lns. 18-21). Mr. 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). Mrs. 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. Finally, the claimant has represented herself in these appeals proceedings and has raised such issues as unilateral mistake, fraud and sufficiency of evidence—all without the assistance of a lawyer. The record and the facts surrounding her settlement indicate a clear understanding of the settlement and of the Workers' Compensation process.

3. The is no evidence to support the claimant's allegation that she lacked the mental capacity to enter into a settlement of her workers' compensation claim without a Guardian

The claimant has raised this issue on numerous occasions. However, there is no evidence that the claimant was mentally incapacitated at any time approaching the filing or settlement of this 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. Finally, the claimant receives Social Security Disability without the aid or assistance of a Guardian or Conservator; therefore, there is no evidence to support her contention that she lacked the mental capacity to settle her workers' compensation claim.

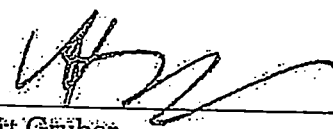
CONCLUSION

The facts in the records and the Commission's file indicate that the claimant entered into a clincher agreement following mediation on October 31, 2014 and that she signed her clincher agreement on December 5, 2014 and that the clincher agreement was approved by the Commission on December 8, 2014. The claimant has produced no evidence that she did not

understand the clincher agreement or that she lacked the capacity to enter into a contract or settlement. Therefore, the Commission should affirm Commissioner Campbell's Order and enforce the parties clincher agreement.

Respectfully submitted,

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Charleston, South Carolina

Date: March 23, 2017

BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC FILE NO. 9832206

STELLA MAE RICHARDSON,	)	
	)	HEARING
CLAIMANT,	)	BEFORE COMMISSIONER
	)	R. MICHAEL CAMPBELL, II
v.	)	
	)	<u>TRANSCRIPT</u>
YUASA BATTERY,	)	
	)	
EMPLOYER,	)	
AND	)	
	)	
GREAT AMERICAN INSSURANCE)	)	
COMPANY,	)	
	)	
CARRIER,	)	
DEFENDANTS.	)	
_____	)	

THE WORKERS' COMPENSATION HEARING, TAKEN
BEFORE CORA ELLIS BRUTON, A NOTARY PUBLIC IN AND FOR
THE STATE OF SOUTH CAROLINA, COMMENCING AT THE HOUR OF
12:10 P.M., WEDNESDAY, AUGUST 17, 2016, SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION, COLUMBIA, SOUTH
CAROLINA 29202.

CORA ELLIS BRUTON
COURT REPORTER
131 BROWNING COURT
LEXINGTON, SOUTH CAROLINA 29073
803-397-0189

APPEARANCES

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REPORTED BY

CORA ELLIS BRUTON
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131 BROWNING COURT
LEXINGTON, SOUTH CAROLINA 29073
803-397-0189

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EXHIBITS

(No Exhibits Proffered)

CORA ELLIS BRUTON - COURT REPORTER
131 BROWNING COURT - LEXINGTON, SOUTH CAROLINA 29073
803-397-0189

1 THE COURT: And Ms. Richardson, I -- a couple of
2 quick things to go through with you. You understand I
3 -- I know that you have had counsel previously so you
4 understand your right to counsel so I know that you --
5 you had counsel previously; that's correct, right?

6 MS. RICHARDSON: No verbal response.

7 THE COURT: Ma'am, you've had -- you've had --
8 you've had attorneys before right?

9 MS. RICHARDSON: Attorney Charles Brooks.

10 THE COURT: Yeah. Okay. But you -- I just
11 wanted to make sure that -- that you -- you -- I was
12 clarifying that you understood your right to an
13 attorney because I know you've had an attorney before?

14 MS. RICHARDSON: I couldn't find one.

15 THE COURT: Okay. Okay. And that's -- that's
16 what I just wanted to -- wanted to clarify that. And
17 we are here today on a remand from the appellate panel
18 basically to -- for y'all to put on the record your
19 positions of this case and to take any testimony.
20 Now, obviously Ms. Richardson, going forward as *pro se*
21 representing yourself Mr. Gruber will have the
22 opportunity to question you and take testimony and
23 then you can introduce any evidence that you have that
24 you want to as long as that has been shared with Mr.
25 Gruber prior to this proceeding. If we move forward

1 and obviously I will issue -- render a decision. Once
2 I render a decision you will receive that as I know
3 that you're aware of; You'll receive that. If you
4 have -- if you do not agree with that decision you
5 have -- certainly have the right to appeal that
6 decision going back before the appellate panel and if
7 they issue a decision that you don't agree with you
8 can appeal that to the State Court of Appeals all the
9 way up to the State Supreme Court; so you understand
10 that, right ma'am?

11 MS. RICHARDSON: Yeah, I understand it.

12 THE COURT: Okay. So you understand. I don't
13 mind your daughter sitting in here.

14 MS. RICHARDSON: They said it was all right for
15 her to come today.

16 THE COURT: But do you know what? I'm telling
17 you what I'm saying, and I'm the one that's in charge
18 here. Okay? Ma'am? You understand?

19 MS. RICHARDSON: I understand what you said.

20 THE COURT: Okay. And so she can be in here.
21 What -- what we can't have is if she's not -- she can
22 assist you but she can't -- I can't have her arguing
23 your case for you because she's not a licensed
24 attorney. You can represent yourself but she -- she
25 can't argue your case for you. Okay?

1 MS. RICHARDSON: Not going to argue my case.

2 THE COURT: All right. You understand that
3 ma'am?

4 DAUGHTER: Yes.

5 THE COURT: Okay. Thank you. I appreciate it.
6 You can assist her with -- with papers and that sort
7 of thing but you can't testify for her or -- or argue
8 her case for her. So what I'm going to do is I'm
9 going to let Mr. Gruber go ahead and put your position
10 on the record if you would, sir.

11 MR. GRUBER: Thank you, Commissioner.

12 THE COURT: And then I'll -- I'll hear from Ms.
13 Richardson. We'll let her put her position.

14 THE COURT: And actually you know what? I'm
15 going go ahead before we put the positions on the
16 record and just as a formality I'm going to go ahead
17 and -- and call the case so we can have that. Cora,
18 are you ready?

19 MADAM COURT REPORTER: Yes, sir.

20 THE COURT: Today's hearing date is August 17th,
21 2016. This is Workers' Compensation Case File Number
22 9832206. This is the case of the Claimant Stella Mae
23 Richardson. The Employer is -- is it Yuasa?

24 MR. GRUBER: Yuasa Exide. Yes, sir.

25 THE COURT: The Carrier is Great American

1 Insurance Company represented by Attorney Robert P.
2 Gruber. The date of accident is August 5th, 1998.
3 And I'll just let you go ahead -- at this point go
4 ahead and put your position on the record.

5 MR. GRUBER: Yes, sir. Commissioner, if I could
6 just briefly state the salient facts. You've already
7 mentioned the parties involved in and the alleged date
8 of injury. Ms. Richardson initially filed this claim
9 in 2009. At that time she was represented by the
10 Steinberg Law Firm. At some point thereafter the
11 Steinberg Law Firm and Ms. Richardson parted ways.
12 Mr. Richardson filed a Form 50 requesting a hearing on
13 December 6th of 2013 and subsequently hired Attorney
14 Charles Brooks to represent her. Based upon the Form
15 -- Form 50 filing the parties attended a hearing on
16 April the 3rd, 2014 and at that time the parties put
17 forth evidence that the Claimant actually worked for
18 her employer in October or November of 1997. And that
19 moved the injury date back essentially to November
20 10th of 1997 which is what brought Great American
21 Insurance Company into the claim. So the September
22 '98 injury date is actually incorrect. So I'd just
23 like to state that -- that for the record.

24 THE COURT: Okay.

25 MR. GRUBER: Her date of injury, the last date

1 of injurious exposure was November 10th, 1997.

2 THE COURT: Okay.

3 MR. GRUBER: Commissioner Beck issued an Order
4 adding Great American Insurance as the Carrier and
5 that is why we're here. The parties, that being Great
6 American, Yuasa and Ms. Richardson attended mediation
7 before Mr. Gallivan -- Mills Gallivan on October 31st
8 of 2014. At that time Ms. Richardson was represented
9 by Mr. Brooks. Great American Insurance was
10 represented by me, and Mills Gallivan was there to
11 mediate. At that mediation the parties settled Ms.
12 Richardson claim -- Ms. Richardson's claim for \$20,000
13 on a doubtful and disputed clincher which is included
14 in the Commission's file. And it was sent in as an --
15 as an APA via email. Mr. Gallivan submitted a Form 70
16 documenting the terms of the settlement that the case
17 was settled on November the 3rd of 2014 and the
18 clincher agreement which is included in the
19 Commission's file which Ms. Richardson signed was
20 approved by the Commission on December the 10th of
21 2014. Ms. Richardson filed a pro se Form 50 on June
22 the 18th of 2015 in which she alleged an injury due to
23 breast cancer and requested compensation for total
24 disability and medical care and treatment. The
25 Employer filed a 51 basically denying the claim upon

1 the fact that it had been clinchered, that the
2 Commission did not have jurisdiction over the case,
3 that Ms. Richardson did not -- that she had
4 essentially voluntarily closed her case via clincher
5 and could not come back for additional benefits. We
6 attended a hearing June 30th, as you know, of 2015 and
7 an Order was issued following that -- well the hearing
8 was actually August 10th of 2015 and the Order issued
9 on December the 7th of 2015 denied the Claimant's
10 request to reopen her case for additional benefits.
11 As you know, the case was appealed and here we are.
12 And essentially the argument boils down to this, Ms.
13 Richardson is interested in reopening the case for
14 additional benefits over and above the \$20,000 for
15 which we settled. Our arguments are essentially --
16 the Defendants' arguments are essentially twofold.
17 First of all as you know parties have the right to
18 settle their cases full and final. They have a right
19 to enter into voluntary clincher agreements. And
20 under South Carolina Code Annotated 42-9-390 they have
21 that -- that ability. A clincher agreement is defined
22 in the Regulations is a full and final settlement
23 agreement that relieves the Employer its
24 representative from any further responsibility for
25 payment of compensation or medical expense and

1 furthermore, once a clincher is approved by the
2 Commission as this one was, the Claimant doesn't have
3 the right to ask for additional payments for the
4 future even if the Claimant's medical condition
5 worsens unless otherwise specifically provided in the
6 document. Well the document that's in the
7 Commission's file does not provide for any of
8 additional benefits or any avenue for reopening the
9 case for any reason. It's a straight up doubtful and
10 disputed clincher of \$20,000; the case is over. So we
11 believe first of all in the four corners of the law
12 and of the clincher agreement that this case cannot go
13 forward and the Commission does not have any
14 jurisdiction to hear it. But second of all if the
15 Commission does exercise jurisdiction, the settlement
16 document speaks for itself. Ms. Richardson had an
17 attorney, she signed the clincher agreement, the
18 clincher has been approved; it is the law of the case
19 essentially. Second of all the Claimant has not
20 alleged any reason to reopen the claim. And in
21 looking through the case law on this if there was some
22 allegation of fraud, for example, that might be a
23 reason -- there's been no allegation. There --
24 there's been no basis to reopen the claim. Basically
25 Ms. Richardson's claim is, I developed breast cancer

1 and I need to be compensated for that. And of course
2 I, you know -- I feel terrible about Ms. Richardson's
3 medical condition. I'm not disputing that. I'm not
4 disputing the diagnosis or any such thing, but the law
5 is the law and -- and she did have an attorney to
6 represent her. She had a right to a hearing. She
7 didn't have to settle the case and she did. And she's
8 made no allegation of any type of estoppel of any lack
9 of capacity or -- or any such thing as that. So we
10 believe that even if you get past the document itself
11 and you look at the claim that's been made for
12 reopening the case, there's just no basis for doing
13 that. And that is essentially the Defendants'
14 position Your Honor. And we would ask that if the
15 Commission does issue an Order reopening this claim we
16 ask that the Commission please grant the
17 Employer/Carrier a credit for the -- the -- the
18 \$20,000 that's already been paid and also to -- to
19 order a merits hearing so that we -- we, the
20 Employer/Carrier and the Claimant can argue the merits
21 of the case, because there's never been a merits
22 hearing in this case. There's never been an
23 adjudication of exactly what she was exposed to and
24 what those exposures may have caused and that sort of
25 thing. We would also ask -- and I hate to ask for

1 this, but this is the second hearing that we've
2 attended, that if the Commission awards -- makes any
3 award in this case that they -- they award the
4 Employer/Carrier costs and fees because we -- we feel
5 like we -- we, the Employer attended mediation in good
6 faith, we settled the case, we paid the money and --
7 and yet we're being brought back before the Commission
8 for no reason essentially. And that is the Employers'
9 case.

10 THE COURT: Okay. Thank you, Mr. Gruber. Okay.
11 Ms. Richardson, now I'm -- and obviously you can stay
12 right where you are and you can just tell me basically
13 your side of the story. Tell me your position and
14 what it is you want me to know. Okay?

15 MS. RICHARDSON: Okay. I -- at the time when the
16 last we spoken you told me that there was based upon
17 two reasons you can reverse the clincher and that was
18 mental illness or -- I was mental institutionalized in
19 the hospital. You told me that if I was mental
20 institutionalized in the hospital or I have been --
21 been seen by a mental doctor. I have been both. And
22 for this Employer right here, my child been ten years
23 old when I went to (inaudible) and they send me there
24 with their partner and they knew I was lead poisoned.
25 The doctor at the plant, Dr. Byrd, the last I seen I

1 got the note and he said -- I didn't know -- how they
2 laugh at me and know I would walk around like a zombie
3 and my neuropathy doctor show proof my body is decline
4 everyday now. Dr. Vicker from Steinberg Law Company
5 they had a report saying that I'm decline steadily.
6 So right now I'm living in a 'mental facility house --
7 house because I'm not able to take care of myself like
8 I used to. And then Mr. Charles Brooks, I asked him
9 to bring me back to court. He threatened to call the
10 police on me and then I --

11 THE COURT: Take your time.

12 MS. RICHARDSON: He lied on the document and say
13 I don't reside in Sumter County anymore and that's a
14 lie, because I just had thyroid cancer -- not thyroid
15 cancer, thyroid surgery and just was undergoing chemo
16 treatment and five different reconstruction surgeries,
17 so I always reside in South Carolina. I live 15 years
18 in Dalzell and that's Sumter County. I live on Lucas
19 Street, all my years on Lucas Street I live in Sumter
20 County all my life. This disease has caused me to
21 lost a lot of things. I lost my family, lost my
22 housing, lost my health, the things I -- I lose my
23 teeth. I couldn't -- I don't have no teeth no more.
24 I don't -- I couldn't drive at night. When I get home
25 I don't even know how I get there at night. And I

1 have to lift my right feet off to stop the brake, you
2 know, to get home. I just built a two story house. I
3 had to crawl up my stairs. I took 20 years away from
4 her. Ten years, 15 -- I mean 15 years from her baby
5 sister. I say on this clincher right here that I
6 deserve lifetime benefits, because furthermore, the
7 Commissioner had no right to sign off on this \$20,000
8 because I'm brain damaged -- by brain damaged and
9 heart damage, ten percent brain -- heart damage and
10 it's getting worse now with the neuropathy so --
11 because when the brain -- the brain is now messing
12 with my muscles and my nerves, well it's been doing
13 that, but I got proof now that it's doing it. I have
14 the -- the nerves into what the communication between
15 my brain and parts of my body now, the muscle movement
16 prevent me for having sensation in my arms, legs and
17 cause pain in my feet. The memory problems been there
18 that's causing a lot of impairment. So if you have
19 brain damage the Commissioner don't supposed to sign
20 off on it. That's 42-9-301, no total lump sum payment
21 may be ordered by no Commissioner. (Inaudible)
22 personally told -- (inaudible), I was disabled since
23 1997. Yuasa Exide fired me because I wasn't capable
24 of doing my work. They fired me. When I left from
25 there I had loss of memory, I was dizzy that night

1 when they put me into that institution, I was
2 vomiting, I was stressed, I had headache, I couldn't
3 think straight, I was talking foreign talk then.
4 Really I was talking in three or four type of
5 languages. I wake up one day, difficult swallowing,
6 my tastes in my mouth. I -- I got a -- a (inaudible)
7 from the lead poisoning with the date of August for
8 (inaudible). I got proof from my doctors. I got
9 proof from the breast cancer doctor from oncology
10 saying that breast cancer -- lead causes breast
11 cancer. We had a lot of people die. Mary was my
12 coworker. Paulette was my coworker side-by-side.
13 Both of those girls dead. I just buried -- we just
14 buried my bother-in-law. He's dead now. And like I
15 say my brother-in-law -- I saw him suffer real bad.
16 So what it did it not only messed my health up, but it
17 took away my family too. (Inaudible), I had
18 everything -- I'm 50 years old (inaudible). But if
19 you want documents I got all the documents you need.
20 And with the attorney he signed all the documents, he
21 didn't need to sign all of them. He was recommended
22 by the (inaudible). After I hire him, he want to get
23 money to help him, that \$6000, he stole that what
24 y'all recommend to him want to pay back. Well, I say
25 it like this, I ain't competent -- I say it like this,

1 a competent person, meaning a person being able to
2 comprehend the nature of a consequence of the
3 procedure, not adequate able to help her attorney
4 with any of his defense. When it's used to describe
5 legal qualification of a person even if a person does
6 not have the legal capacity to enter into a contract.
7 Well, Employer (inaudible) professional duty or
8 obligation, it means that the person have to
9 (inaudible) lack of ability to perform professional
10 functioning. Attorney Charles Brooks said that was
11 what he was supposed to have done. But I have
12 evidence from the neuropathy doctor, I got evidence
13 from Richland Springs, I got evidence from Dr. Gray,
14 the medical doctor. I got evidence from Dr. Kellogg,
15 Dr. Moses and I got documents showing that where I'm
16 living at now, you know, living in (inaudible). I
17 took a loss, a big loss from selling my house and I
18 want it back. I lost my life, I took away from my
19 children. Urinary contraction problems, heart
20 problems, ten percent brain damage, ten percent. Do
21 you have that Dr. Vicker report? Dr. Vicker stated
22 that the condition I was is permanent and will
23 increase in severity over time. And that what it
24 done. And this was in the January of 2013, this is
25 2016, and he's not lying, because ever since then my

1 health has deteriorate. He said, you know, this --
2 and the result of my health that it would deteriorate
3 in the coming months, and she will require continuing
4 medical care like she's now receiving. Her medical
5 care costs will increase over time as her health
6 situation deteriorates. She will experience further
7 deterioration of her ability to perform activities of
8 daily living and may require assistance in performing
9 these activities. Ms. Richardson experienced
10 significant exposure to lead as a result of performing
11 her job duties at Exide Battery. Her blood lead
12 concentration levels would be associated to her health
13 or health problems. Likely become more severe over
14 time as she will require ongoing medical care expense
15 because she was employed at Exide plant.

16 THE COURT: Ma'am, tell me what the date of that
17 document was again?

18 MS. RICHARDSON: January 25th of 2013.

19 THE COURT: Okay.

20 MS. RICHARDSON: He said that my health would
21 decrease more and more and it did. I got documents
22 for 2016 from other doctors also.

23 THE COURT: Okay. Yes, ma'am. And what I want
24 to clarify is there are a couple of points obviously
25 that we need to take a look at. Do you have any

1 medical evidence to support that you were not mentally
2 capable of making the decision to enter into a
3 clincher agreement at the time that you did, ma'am?

4 MS. RICHARDSON: Yes, sir. He told me if I could
5 have showed you that I was in a mental institution or
6 hospital or being mentally -- (inaudible) to take that
7 to him.

8 THE COURT: Mentally incapacitated?

9 MS. RICHARDSON: Yeah. Here -- right here.
10 Mentally -- you said mental hospitalized or I -- or
11 seeing a mental doctor. That go to him if you want to
12 see it, these the evidence right here, if you want to
13 see it.

14 THE COURT: All right. Well let me -- I'm going
15 to let Mr. Gruber have an opportunity to respond to
16 any -- and the other thing is, you know, there are two
17 -- obviously two issues to address. Obviously that is
18 one of the issues, but then the other issue is do you
19 have any evidence other than what you just read me
20 going back to the time that the condition that you're
21 experiencing now, that that's causally related to your
22 job?

23 MS. RICHARDSON: Yes, sir. Dr. --

24 THE COURT: To your job injury?

25 MS. RICHARDSON: Dr. Kellogg, right here, this

1 another --

2 THE COURT: Okay.

3 MS. RICHARDSON: That's another document.

4 THE COURT: Okay well let -- I'm going to stop
5 right there, because I'm going to let Mr. Gruber have
6 an opportunity to respond and then I'll come right
7 back to you. Okay?

8 MS. RICHARDSON: Okay.

9 THE COURT: All right. Mr. Gruber?

10 MR. GRUBER: Thank you, Commissioner. First of
11 all with regard to the evidence that Ms. Richardson
12 was institutionalized, she was not institutionalized
13 at the time that we attended the mediation. I would
14 have to see the documentation of institutionalization
15 just to see when -- when that occurred and what the
16 doctor said. And I would just ask for the opportunity
17 to review that and to be able to respond to it. As
18 for evidence that the condition was causally related
19 to her job, the report from Dr. Ed Baker, first of all
20 was dated January the 25th, 2013. It's -- it's more
21 than a year before we attended mediation, so Ms.
22 Richardson was well aware of what Dr. Baker said
23 before she negotiated the clincher, during the time
24 that she negotiated the clincher and then the several
25 months that followed from the time that the case was

1 settled until the clincher was approved by the
2 Commission. So she obviously had knowledge of that
3 and she -- she decided to settle the case nonetheless.
4 And second of all Commissioner, this sort of goes back
5 to my request or my statement rather that there's been
6 no merits hearing, but we had a report from Dr. Gordon
7 Early that says that the exposure to lead would have
8 been absolutely minimal and that it didn't cause any
9 of her problems. So this is really -- I -- I don't
10 think we're at the point where we can even go back to
11 causal relationship at this point because there's --
12 there's -- there's never been a merits hearing.
13 There's never been a hearing on those issues. None of
14 the doctors have been deposed. The reports that we
15 got are from Drs. Early and Dr. Baker were -- were
16 reports essentially to submit to mediation to see if
17 we could get the case resolved and that's why we ended
18 up at that \$20,000. So we would submit that it's not
19 really proper to go there at this point as to the --
20 to the causal relationship. And finally I would just
21 -- I would like the opportunity to look at whatever
22 evidence Ms. Richardson is referring to. She did not
23 submit APAs. To be totally frank with you I don't
24 expect that she would have done that. But I would
25 simply like the opportunity to review the documents

1 that she's been discussing in her opening so we can
2 respond to them properly. I mean basically our
3 position boils down to this; what she has just told
4 the Commission boils down to a lack of capacity. It's
5 -- it's -- it's that she is not having mental capacity
6 -- physical mental capacity to enter into a settlement
7 of her workers' compensation claim at the time that
8 she made it. The Employer submits to the Commission
9 that that evidence does not exist. Now she may have
10 been institutionalized before. In fact I think she
11 was. She may have been institutionalized since then,
12 but at the time that she was sitting in that
13 conference room at Gallivan, White & Boyd in Columbia,
14 not far from here, she had a lawyer and she had
15 evidence at the time that she's discussed that
16 indicated she might have a claim. She decided to
17 settle it nonetheless, and so we rest on the law of
18 the case.

19 MS. RICHARDSON: Can I say something?

20 THE COURT: Yes, ma'am.

21 MS. RICHARDSON: I wasn't clearly thinking that
22 day because that attorney was pushing me to sign off
23 on the document and saying that if I didn't sign the
24 document there's going to be all kind of problems and
25 issues and on top of that he forged my name. And then

1 he sent him a piece of paper telling the lawyer to
2 make sure I signed my paper. They been working
3 together. Those two right there. And then the man
4 stole money --

5 THE COURT: Well, now you understand that the
6 attorneys have to communicate with each other about
7 the case? They're required to communicate with each
8 other about the case, so if they were communicating
9 with each other that would be proper. That doesn't
10 necessarily mean they were in --

11 MS. RICHARDSON: Yeah, well --

12 THE COURT: -- that doesn't mean they were in
13 cahoots with each other.

14 MS. RICHARDSON: Yeah. But you told -- what I
15 believe the last time we saw each other you said if I
16 -- you -- you will reverse the clincher for me if I
17 could show proof that I was mental institutionalized
18 or having seen by a mental doctor still yet. And I
19 both in that I'm living in a mental facility, plus I
20 have been not represented properly by my attorney so I
21 -- I -- I haven't had a fair -- fair hearing with --
22 with my lawyer representing me. Since he -- he forged
23 my name on the contract and they lied and say I don't
24 reside in Sumter County and I can't sign off on no

1 form. He lied. My daughter know I always lived in
2 Sumter County. I been going through treatment.

3 THE COURT: Well, --

4 MS. RICHARDSON: I have both breasts taken off,
5 five surgeries, 18 rounds of chemo and the Commission
6 didn't suppose to sign off on the \$20,000 no way if I
7 had brain damage. And I got ten percent brain damage
8 and ten percent heart damage.

9 THE COURT: Like I say again, can you -- can
10 y'all share with Mr. Gruber the documents that you've
11 just so you --- since he hasn't had an opportunity to
12 take a look at them before; if he can just take a look
13 at those?

14 MS. RICHARDSON: When -- what you want to look
15 at?

16 THE COURT: The -- what you had just cited to me.

17 MS. RICHARDSON: Right here.

18 THE COURT: The -- yeah.

19 MS. RICHARDSON: No, he don't need -- he need to
20 look at that one.

21 THE COURT: Mr. Gruber, that's what you were
22 referring to -- what she had referred to, correct?

23 MS. RICHARDSON: You talking about the mental
24 hospital?

25 MR. GRUBER: Yes, ma'am.

1 MS. RICHARDSON: You want the mental hospital?

2 How about the -- the oncologist?

3 MR. GRUBER: Yes, ma'am. If you --

4 THE COURT: And, Mr. Gruber, while you're
5 reviewing those I want to step out. Keith do you mind
6 if I -- I have a quick question for her if you don't
7 mind. Can you --

8 (Off the record at 12:42 pm).

9 (On the record at 12:46 pm).

10 THE COURT: We're back on the record. So that we
11 stay focused on what we're here to do today as far as
12 making a determination of your mental capacity at the
13 time that the clincher agreement was entered into. I
14 need to -- I need to focus on any evidence that you
15 may have that you can present to me at that time. If
16 you have something from any doctor at that time that
17 says that you were mentally incapable that's what --

18 MS. RICHARDSON: Yes, sir.

19 THE COURT: Okay. And what we're -- what we're
20 -- because really what's before me today is to
21 determine whether or not the clincher was properly
22 entered into.

23 MS. RICHARSON: Yes, sir.

24 THE COURT: Then if there -- if it's determined
25 after I make a decision about that -- after I look at

1 the evidence if it's determined that you were mentally
2 incapable of understanding what was taking place at
3 the time you entered into that agreement then once we
4 get past that that would be the time that a hearing
5 would be set as far as presenting evidence on your --
6 your health issues. You obviously have had a lot of
7 health issues over the years and so you would have an
8 opportunity to present that evidence. And obviously
9 Mr. -- Mr. Gruber would have an opportunity to -- to
10 do any discovery that he needed to do as far as the
11 case at that point, but right now really what I need
12 to -- what I need to focus in on with you is anything
13 that you have that relates to your mental capacity at
14 the time that the clincher agreement was signed.
15 That's what I really need.

16 MS. RICHARSON: Yes, sir. I got -- I got -- I
17 got -- he got it over there because he -- in 19 -- in
18 2002 when the storm started building they had -- they
19 reevaluate me again in a court area like this. I -- I
20 think his name was McCaslan or something. And he
21 determined that I was disability.

22 THE COURT: Okay.

23 MS. RICHARDSON: And I got disability in '98.

24 THE COURT: Uh-huh.

25 MS. RICHARDSON: I was mental institutionalized

1 in '97 but I got everything.

2 THE COURT: Okay.

3 MS. RICHARDSON: Then I was at the (inaudible) --
4 mental health center in Sumter in outpatient.

5 THE COURT: Okay.

6 MS. RICHARDSON: And I go to Dr. Gray every
7 since.

8 THE COURT: Okay. Well, excuse me, I'm sorry.
9 Like I say, any -- let's just focus on the records
10 that you have that -- that are around the time of the
11 clincher that could be evidence or show me --
12 demonstrate to me that you weren't -- that, you know,
13 anything that took place after that, I really -- it's
14 really not relevant at this point.

15 MS. RICHARDSON: Okay.

16 THE COURT: It's -- what's relevant at this point
17 is -- is what was going on with you at the time of the
18 clincher and showing me that -- that you were mentally
19 incapable of understanding what you were entering
20 into. You understand that, ma'am?

21 MS. RICHARDSON: Right.

22 THE COURT: Okay. And so if you -- I don't know
23 if you have certain doctor records from that period --

24 MS. RICHARDSON: Yes, sir. I got it all --

25 THE COURT: -- that you need to share with me and

1 --

2 MS. RICHARDSON: -- I got it all over there.

3 THE COURT: Okay.

4 MS. RICHARDSON: Yeah.

5 THE COURT: Mr. -- Mr. Gruber, I know you're --
6 you're going through that stuff.

7 MR. GRUBER: Yes, sir. I -- I mean I'm looking
8 through it. The documents she's referring to from the
9 Strom Thurmond Building it looks like is a notice of
10 decision favorable from the Social Security
11 Administration. This is dated April 22nd, 2002. And
12 as far as the mental health admissions she was
13 admitted to Richland Springs it looks January 2nd of
14 1998, discharged January 12th, 1998 with a diagnosis
15 of psychosis not otherwise specified, obsessive
16 compulsive disorder and depression. And it does look
17 like there was a prior admission --

18 MS. RICHARDSON: That say -- that's information
19 of what the doctor say.

20 MR. GRUBER: But I can't find any evidence and
21 I'll let --

22 MS. RICHARDSON: The doctor did --

23 MR. GRUBER: And I'll let Ms. Richardson respond,
24 but I can't find the evidence that she was
25 institutionalized at any time during even - even

1 around the time of the mediation or even around the
2 time that she filed the claim, or that any doctor has
3 said that she's incapable of representing herself. I
4 mean clearly the Social Security Administration found
5 that she was permanently and totally disabled and
6 there's no disputing that.

7 THE COURT: Right.

8 MS. RICHARDSON: And Dr. said --

9 MR. GRUBER: I'm trying to get to the specifics
10 of the award here in the documents.

11 MS. RICHARDSON: And Dr. --

12 MR. GRUBER: The findings of the Social Security
13 Administration -- I'll just read them into the record.
14 "The Claimant is not engaged in substantial gainful
15 activity since November 3rd of 1997. Medical evidence
16 establishes that the Claimant has the following severe
17 impairment; depression with psychosis. Claimant has
18 no impairment that meets or equals a material -- an
19 impairment listed in Appendix One, sub-part B
20 Regulations Number Four and Claimant's assertion
21 concerning her ability to work are credible. Claimant
22 retains a residual functional capacity to less than
23 full range of sedentary work. Claimant is unable to
24 perform the requirements of her past relevant work.
25 Claimant's residual functional capacity for the full

1 range of sedentary work is reduced by additional
2 limitations. On November 3rd, 1997 Claimant was
3 younger than -- was a younger individual age 18 to 44.
4 Claimant has a high school education. Claimant has an
5 unskilled work background. Considering the Claimant's
6 additional limitations she cannot make an adjustment
7 to any work that exists in significant numbers. In
8 the national economy a finding of disabled is
9 therefore reached within the framework of medical
10 vocational Rule 201.008. The Claimant has been under
11 a disability as defined in the Social Security Act
12 since November 3rd of 1997. She was given a fully
13 favorable decision at that time." And again,
14 Commissioner, we would first of all point out that
15 this -- this decision was -- was rendered 12 years
16 before our mediation so -- so everybody was aware,
17 including Ms. Richardson, both of the lawyers,
18 Steinberg and -- and Charles Brooks were aware of the
19 hospital admissions, the social security finding and
20 we -- we do not believe that Ms. Richardson can
21 produced any evidence that she was incapacitated
22 mentally or physically during the time that we
23 negotiated the clincher to the extent that it would
24 render her unable to -- to assist her lawyer in -- in
25 reaching that settlement. I'll let Ms. Richardson

1 respond and I'm going to give her back the information
2 that she gave to me so that she can hand it up to the
3 Commission if she -- if she likes.

4 THE COURT: Okay. Ms. Richardson?

5 MS. RICHARDSON: Well, I would say -- I would say
6 like this. Well, at one time my -- my responsibility
7 to handle Charles Brooks' representations to -- for me
8 to -- that's why I hire him to do the work, because I
9 know I wasn't capable of doing the work myself so
10 that's why I got -- when T. Beck told me to find a
11 lawyer to help me and he know, because Dr. Williams
12 say that -- Dr. Williams say that I wasn't -- the
13 attorney at Yuasa Exide said that I wasn't capable of
14 handling my own case. They say I wasn't handle -- or
15 capable of handling my own case. And that's why they
16 told me that I need to find someone who would be a
17 guardian for me.

18 MR. GRUBER: Are we on the record?

19 THE COURT: We can go off the record.

20 MR. GRUBER: I'm just going to issue an objection
21 for hearsay on that. I --

22 MS. RICHARDSON: It's not hearsay. I got proof.
23 I got proof. It's no hearsay. I got proof saying
24 that -- that Yuasa Exide said that --

25 THE COURT: Do you have documentation --

1 MS. RICHARDSON: I have --

2 THE COURT: -- to reflect that?

3 MS. RICHARDSON: Yes I do. I have -- I have
4 documents to show that. If you'll give me time.

5 THE COURT: Okay. Well if -- if you can locate
6 that please share that with Mr. Gruber if you would.
7 Okay?

8 MS. RICHARDSON: Yes, I will. Would you help me
9 find that (inaudible)? Just look in that black case.
10 Dr. Williams. Now, what I was saying just now?

11 THE COURT: Ma'am, you were just -- you were
12 referring to documentation that -- that you had
13 stating that a guardian needed to be appointed to you?

14 MS. RICHARDSON: Yeah. Yeah. Yuasa Exide. That
15 Yuasa Exide? I have documents saying that Yuasa
16 Exide, and Dr. Williams saying that I needed a
17 guardian by Yuasa Exide. That got me under Yuasa
18 Exide.

19 THE COURT: Well, while Mr. Gruber -- while she's
20 looking through those documents, the documents that
21 she just -- that you just reviewed do you have any
22 objection to her sharing those with me or handing
23 those up to me?

24 MR. GRUBER: None, Your Honor.

25 THE COURT: Okay. All right. And I'll -- I

1 don't know if she still wants to hand those up to me.

2 MS. RICHARDSON: Okay. Her we go. Here go right
3 here. Completely read it. Please read it, please.

4 THE COURT: Well do me -- well do me a favor,
5 before -- before you read it, will you just show it to
6 Mr. Gruber and then I'll let you read it into the
7 record?

8 MS. RICHARDSON: Yeah.

9 MR. GRUBER: I'm just going to read this letter
10 into the record. This is a letter sent from Vernon
11 Dunbar who was then with Turner, Padgett, Graham &
12 Laney. And Vernon represented Arrowpoint Capital
13 which was the Carrier that would have been on risk
14 from September the 11th of 1998 forward. And I think
15 that covers the period ending in 2000 or 2001, but in
16 any event, the letter is dated September 5th of 2012
17 and it's written to Malcolm Crosland and David
18 Pearlman. And it says, "I'm writing to advise that
19 I'm not able to proceed to mediate the case of Stella
20 Mae Richardson, specifically we've been unable to
21 locate a personal and medical file on Ms. Richardson
22 when utilizing her maiden name, her last dates of
23 employment and social security number. We're in the
24 process of attempting to locate her file information.
25 Past employment reports. Without an accurate

1 description of her employment dates and job
2 assignments it's impossible to evaluate the claim.
3 Moreover, because Ms. Richardson suffers from
4 schizophrenia it appears that a guardian ad litem
5 should be appointed. I am concerned that the case if
6 the case is successfully resolved she may not be
7 capable of protecting her monetary award. To this end
8 please ascertain whether your client needs to have a
9 guardian ad litem appointed for purposes of mediating
10 this claim. The case of Nathan Carter can be
11 substituted for Ms. Richardson's claim. As you may
12 recall we were close to resolving this case in class
13 mediation, but we were a few thousand dollars short.
14 I suspect we may be able to get this case resolved at
15 this upcoming mediation, so if there's no objection
16 please be prepared to discuss resolving the workers'
17 compensation claim of Nathan Carter." This letter is
18 copied to the following people -- Virginia Crocker,
19 Mills Gallivan, Dan Gosher, a person named Robert
20 Gonder, who is not me. Ronald M-A-Z-A-R-I-D-G-O-S.
21 I don't know who that is, and Tierny Rimmell. I don't
22 know who that is.

23 THE COURT: So was Vernon serving as the mediator
24 at that time?

25 MR. GRUBER: No. I think what was going on was

1 that he was --

2 THE COURT: You were saying he was representing
3 --

4 MR. GRUBER: He was representing Yuasa Exide,
5 because at that point we were all under the impression
6 that this was a -- an Arrowpoint case and so what he
7 was saying is basically I'm not in a position to make
8 any offers because we don't have any personnel file.
9 We don't know when she worked there and all kind of
10 stuff. I think as far as -- I mean I understand Ms.
11 Richardson's argument that she's making. My response
12 to that would be, it looks like -- first of all that's
13 Vernon's opinion. There still is no medical evidence
14 whatsoever that -- that she needs a guardian. She's
15 handling her own social security award I believe since
16 at least 2002. And it looks like his concern was
17 whether or not she would be able to protect her
18 monetary award should she get one at mediation, not
19 whether or not she would be capable of, you know,
20 taking advice from a lawyer. So that would be our
21 position on that. And again, this is September 5th of
22 2012. I'm not sure -- you know, clearly Ms.
23 Richardson was aware of this letter. It went to her
24 lawyers so she got it. She had it. She had to have
25 it. So that -- that's our position on that is this

1 was information just like the information regarding
2 the hospital admissions, just like the information --

3 MS. RICHARDSON: I just -- I just -- I just ran
4 up on (inaudible). I didn't even know that was on
5 there. But God showed me and I saw it. I (inaudible)
6 the Lord I saw it. And a lot of people (inaudible)
7 with their social security and all this stuff. But
8 you know the - the lawyer responsible for a lot of
9 people deaths and I don't know -- I go over there
10 thinking that Yuasa is not responsible, well, Yuasa is
11 very much responsible and the attorney that I had was
12 very irresponsible because he stole money. Y'all had
13 to recommend him to go to (inaudible), pay back -- I'm
14 surprised he still has his license.

15 THE COURT: Okay. And let me go back just so
16 that we can stay focused on what we're here for today.
17 What is it -- what would you like to hand up to me for
18 me to review as far as I'm assuming you want to hand
19 me this document --

20 MS. RICHARDSON: I want --

21 THE COURT: -- here.

22 MS. RICHARDSON: -- yeah, that document and this
23 -- and the document stating --

24 THE COURT: And Mr. Gruber, do you have any
25 objections to her handing that up?

1 MS. RICHARDSON: No, he shouldn't.

2 MR. GRUBER: I mean that letter was copied to the
3 Commission.

4 MS. RICHARDSON: But it was given to me. It was
5 sent to me so it's mine. Right?

6 THE COURT: Well, I'm going to let it -- I'll let
7 her hand it up and let it in and obviously I will just
8 give it the proper weight that I determine it
9 deserves. And then --

10 MR. GRUBER: I mean I think it would be --

11 MS. RICHARDSON: (Inaudible).

12 MR. GRUBER: -- I think it would be hearsay.

13 MS. RICHARDSON: No.

14 THE COURT: And I -- and certainly your
15 objections are noted on the record as to why you feel
16 that way and we'll have that on the record. I'll just
17 -- I'll allow that in. And then the -- I'm assuming
18 -- was it Dr. Bicker's, was the other --

19 MS. RICHARDSON: Dr. Vicker.

20 THE COURT: Which one, ma'am was the one that you
21 were talking -- you had referred to a doctor, I
22 believe that you'd seen that about your mental
23 capacity. But I'm not talking about the one that --
24 there was one I believe you said was dated 2013. I --
25 that one -- I need one that's -- that was around the

1 time of the clincher. Any evidence that you have
2 pertaining to that around the time of the clincher.

3 MS. RICHARDSON: Okay. Here's another one. I
4 can't read it. It's something else they send. Read
5 it or give it to him to read it. He can read it.

6 MS. RICHARDSON'S DAUGHTER: "I represent Great
7 America Insurance in the above referenced workers'
8 compensation claim. I received a letter dated July
9 30th, 2010 that you sent to my client requesting a
10 Form 12-A. Please note that Claimant's counsel
11 amended the date of injury from October 31st, 1997 to
12 August 5th, 1998. The coverage period for Great
13 American Insurance Company ended on June 10th, 1998.
14 Therefore my client is not a responsible Carrier for
15 this matter. By copy of this letter to Claimant's
16 counsel I'm informing him of my correspondence with
17 the Commission."

18 THE COURT: And who -- who is that from?

19 MR. GRUBER: That's from me.

20 THE COURT: That's from you"

21 MR. GRUBER: That's back when we were fighting
22 over was going to --

23 THE COURT: Okay. Over who was the responsible
24 party?

25 MS. RICHARDSON: So he knew about it. That's

1 showing you that he knew about it.

2 THE COURT: He knew about what?

3 MS. RICHARDSON: The letter right here.

4 THE COURT: The letter from Vernon Dunbar?

5 MS. RICHARDSON: Yeah. Because him and Vernon
6 Dunbar was supposed -- like --

7 THE COURT: I'll let you -- I'll let you respond.

8 MS. RICHARDSON: Communicating.

9 MR. GRUBER: I don't believe I ever had that
10 letter.

11 MS. RICHARDSON: I -- it -- I got proof right
12 here. I got proof right here.

13 THE COURT: You don't recall that letter?

14 MR. GRUBER: I don't because she -- it looks like
15 she showed me a --

16 MS. RICHARDSON: I had conversation -- all y'all
17 conversating together. Right, all that conversation
18 together. All y'all conversating. I got a CD too.

19 THE COURT: Okay. And let -- one thing I do want
20 to clarify for you. And I'm going to let you hand
21 that letter from Mr. Dunbar up but -- and I'll --
22 certainly I'm going to -- I'm going to take a look at
23 everything but Mr. Gruber is -- is correct in the
24 aspect of as far as Mr. -- that being Mr. Dunbar's
25 opinion regarding the guardian ad litem and that's not

1 a medical professional's opinion. And so that doesn't
2 mean that I'm not going to take a look at it and not
3 give it consideration, but just so you understand,
4 what I -- what I'm kind of looking at and would be
5 looking for, would be anything from a medical
6 professional that -- that tells me that you were
7 incapacitated at the time of the clincher agreement
8 being entered into.

9 MS. RICHARDSON: I got something -- I got
10 something from Dr. Gray right here also. Yeah, put
11 that in there. Put that in there (inaudible). But
12 how about the power -- problem with the attorney. Now
13 the attorney signed off document that he shouldn't
14 have signed off on. He forged my name, he lied, say I
15 don't live in Sumter County no more. I mean all that
16 part of everything.

17 THE COURT: And unfortunately if that's -- if
18 those are issues that you have between that -- you and
19 that attorney this would not be the forum for --

20 MS. RICHARDSON: Oh. Okay.

21 THE COURT: -- any kind of disciplinary action or
22 anything like that against that. What -- what we're
23 here for is strictly to determine whether or not you
24 had the mental capacity when you entered that --
25 entered into that clincher agreement.

1 MS. RICHARDSON: No.

2 THE COURT: And then if it's determined that you
3 did and the clincher agreement is, you know, found to
4 not be enforceable, then as I say, then we would move
5 into the phrase of the compensability of your injuries
6 or your alleged injuries. But what I'm focusing on
7 right now is just we've got to determine whether or
8 not that clincher agreement is enforceable.

9 MS. RICHARDSON: Well, furthermore Mr. Gruber
10 should have gave me -- before they put me on the court
11 -- a court hearing I supposed to been evaluated by
12 someone to see if I was capable of going through the
13 hearing. They didn't took me through that.

14 THE COURT: Okay. I'm going to let Mr. Gruber
15 response because I know that he has some things that
16 he wants to tell me so I'm going to let him respond.

17 MR. GRUBER: First of all to Ms. Richardson's
18 point, I don't believe there's any obligation on our
19 part as the Defendant to have the Claimant evaluated
20 for competency for trial. Second of all, there was
21 never a trial. The case went to mediation with Ms.
22 Richardson's knowledge which she obviously had
23 regarding her diagnoses. She did not have to settle
24 the case. We could have gone to the hearing and as
25 you know, we could (inaudible) less or more. You

1 know, as far as the note from Psychiatry Associates
2 from Dr. Gray; this is dated January 29th of 2016, and
3 she's going to hand this up. It says, Stella -
4 "Stella Richardson is currently being treated for
5 moderate to major depression disorder, general anxiety
6 and schizo affective disorder. Basically her
7 treatment consists of medication management and/or
8 psychotherapy." And I guess what we're not seeing
9 here is any indication that she lacked capacity of --
10 of any kind at any time surrounding the settlement of
11 this case and I think as you've seen here today she's
12 far from incompetent. I mean she -- she's -- she's
13 put together a case and I think that speaks to her --
14 to her abilities.

15 MS. RICHARDSON: I have help from my child.

16 THE COURT: Well let's do this just so we can
17 kind of move -- move the process along. The documents
18 -- the documents that you have with you that you want
19 to hand up to me related to your mental capacity or --
20 have you let -- I know you -- you've showed Mr. Gruber
21 or shared with him the letter there from Mr. Dunbar.
22 I think there was -- I know the thing from the --
23 regarding your disability, was that something you were
24 wanting to hand up to me around that time?

25 MS. RICHARDSON: Yeah.

1 THE COURT: And then was there -- was there one
2 other thing I think you that you had maybe mentioned?

3 MS. RICHARDSON: Dr. Gray's?

4 THE COURT: And that was from -- but that's from
5 2016. I'm talking about anything from -- that relates
6 to about the time or to your --

7 MS. RICHARDSON: This -- this right here.

8 THE COURT: -- clincher agreement.

9 MS. RICHARDSON: That he -- that right there.

10 And then --

11 THE COURT: And then Mr. Gruber, I -- are you
12 going to want to take some testimony?

13 MR. GRUBER: Yes, just very briefly.

14 THE COURT: Okay.

15 MS. RICHARDSON: You knew the -- the (inaudible)
16 where I was located, Dr. Vicker report -- is Dr.
17 Vicker report in there?

18 THE COURT: Yeah. It would probably be better if
19 you come up to the microphone please.

20 MS. RICHARDSON: Dr. Vicker report?

21 THE COURT: You can take testimony or do you want
22 to take testimony?

23 MR. GRUBER: The only things I was going to ask
24 her really is just to confirm the factual proceedings,
25 that we went to mediation, she was presented with the

1 clincher, that it was signed. I -- I -- the business
2 about Charles Brooks forging her name I have no idea.

3 THE COURT: Sure.

4 MR. GRUBER: I mean I just -

5 THE COURT: No I -- no I -- yeah I -- and I think
6 to streamline it I think that we can stick like you
7 say, just to the issues before us today regarding the
8 mental capacity at the time of the clincher and that
9 process.

10 MR. GRUBER: Does the Commissioner believe that
11 testimony will be helpful or necessary?

12 THE COURT: It may be for the record to have that
13 testimony as I'm reviewing everything, then I'll have
14 it and I can go back and take a look at that,
15 particularly as it pertains to that timeframe.

16 MR. GRUBER: Yes, sir.

17 MS. RICHARDSON: (Inaudible). What happened?

18 THE COURT: Ma'am, do you have those documents
19 that you want to hand up to me?

20 MS. RICHARDSON: Uh-huh.

21 THE COURT: If you want to hand those up to me --
22 if you want to go ahead and hand those up to me then
23 -- then I'll -- and did you have -- Robert, did you
24 have any APAs that you wanted to hand up to me?

25 MR. GRUBER: We had them emailed this morning.

1 THE COURT: Okay.

2 MR. GRUBER: And if the Commissioner would like I
3 can -- I'm happy to submit my entire medical file if
4 you think -- I don't -- I mean it's probably -- I know
5 we have the Richland Springs records from 1998. We've
6 got that stuff. We don't have the more recent
7 documents that she's submitting today. I just don't
8 -- I don't have those.

9 THE COURT: Okay. Well -- and you know, just
10 kind of as a formality because we've been kind of
11 doing things out of order than the way I normally do
12 it, is since you've submitted the APAs and she's
13 already -- you've sent that stuff over to her that you
14 submitted as far as the APAs?

15 MR. GRUBER: She would have received that prior
16 to the initial hearing.

17 THE COURT: Okay.

18 MR. GRUBER: The APAs that I submitted this
19 morning were the same ones that I submitted for the
20 hearing back in 2000 -- whatever it was, '15 --

21 THE COURT: Okay.

22 MR. GRUBER: -- when we were in Sumter.

23 MS. RICHARDSON: Well, you sent me what?

24 MR. GRUBER: The medical records that I submitted
25 to the Commission.

1 MS. RICHARDSON: You don't send me nothing.

2 THE COURT: Did you -- prior to -- not to --
3 prior to your previous hearing?

4 MS. RICHARDSON: He didn't send me nothing.

5 THE COURT: Okay.

6 MS. RICHARDSON: Not one thing.

7 THE COURT: Okay.

8 MR. GRUBER: Commissioner, I'm -- if Ms.
9 Richardson says that she didn't receive them then I'll
10 just -- I'll take her at her word.

11 THE COURT: Okay.

12 MR. GRUBER: I'm happy -- but the APAs that I've
13 got is medical records that she -- that she -- that
14 she has, it's the clincher and it's the deposition
15 that I took of her, I guess, before that-- that
16 hearing and that -- that's it. I mean our position
17 has always been that the clincher is the law of the
18 case. There's no evidence of any incapacity at the --
19 around the time and that's -- and that's it.

20 THE COURT: Okay.

21 MR. GRUBER: But I'll be happy to submit those
22 and --

23 THE COURT: Well and -- and I just wanted to make
24 sure that there weren't any objections to the APAs,
25 jurisdiction, venue or any other items. And basically

1 what I'm -- what I'm saying there is I just want to
2 make sure that -- that y'all don't have any objection
3 for what's being handed up to me and is being handed
4 in to me. Also, as far as the jurisdiction that --
5 what I'm asking there is that you don't have any
6 problem with the Workers' Compensation Commission that
7 you feel like we have -- that it's proper that -- that
8 what we're here today about is properly before me and
9 also venue, that you don't have any problem where
10 we're holding this proceeding. Does that make any
11 sense?

12 MS. RICHARDSON: (Inaudible).

13 THE COURT: Okay. Well let me go back through it
14 with you one more time. The APAs, we're referring --
15 what you just handed to me this paperwork -- this
16 documentation, that's the APAs. So I've just got to
17 make sure that both sides don't have any problem with
18 anything that's being handed up to me?

19 MS. RICHARDSON: I get that back today?

20 THE COURT: Well, if you -- is this your only
21 copy? This is your only copy?

22 MS. RICHARDSON: I think so.

23 THE COURT: Okay. Well, I hate to take your only
24 copy. You can send copies back in to me or if --

1 MR. ROBERTS: Commissioner, just a point of
2 procedure. I propose that since -- since these are
3 her only copies that when she hands them up what we
4 can do is we can go copy them and then mail her back
5 her originals and that -- that way we'll be able to
6 send Mr. Gruber a copy as well of -- of what's been
7 submitted.

8 THE COURT: This -- this is Keith Roberts who is
9 Chief Counsel for the Commission and he was just
10 saying that he would propose that we would make copies
11 and send you back your originals and then share a copy
12 with Mr. Gruber. Okay?

13 MS. RICHARDSON: Well, can I ask one question?

14 THE COURT: Yes, ma'am.

15 MS. RICARDSON: When you told me that the last
16 time that everybody showed proof of being mental
17 competency -- mental -- I mean --

18 THE COURT: Mentally incapacitated? Yes, ma'am.

19 MS. RICHARSSON: -- that you would reverse the
20 clinger.

21 THE COURT: And that's what I -- that's what I
22 have to make a determination. That determination
23 doesn't get made right here right now. I -- I rarely
24 rule from the bench. That's the reason I need to take
25 in the evidence and that's the reason I was wanting

1 you to show me any medical evidence, any documentation
2 that you have that you can share with me to reflect
3 that that was the case, that that's -- that that was
4 what your mental capacity was at that time. And
5 that's -- that's why I would -- I would --

6 MS. RICHARDSON: Because at that time -- at that
7 time I told Attorney Charles Brooks, I said sign
8 nothing now, because I might have thyroid cancer and
9 not -- go ahead and sign it -- sign it fast. You got
10 no -- you don't get no -- but I even know that on this
11 paper right here, I didn't know that the Commissioner
12 that was supposed to sign off on the paper but I -- my
13 lawyer said that if it was at \$25,000 or more it would
14 have went to social security -- and it didn't went
15 through social security disability. And they didn't
16 have not right to sign off on anything. Attorney --
17 Attorney Brooks signed off on that and then when he
18 turned the Form 19 in that gave him the right to get
19 the check. I never seen the check. I don't know how
20 the check looked. If Robert Gruber sent \$40,000 I
21 wouldn't know. I went by his office, he was going to
22 call the cops on me. I went after (inaudible).
23 Where's the (inaudible)? Get out of my office.

24 THE COURT: Well, and as I say -- like I say that
25 -- that would not be for this forum. Those issues

1 would not be for this forum.

2 MS. RICHARDSON: Yeah. But if they a Form
3 42-9-01 and says that the Commissioner is not able to
4 sign a settlement for anyone. And 47-9-30 Title says
5 -- my daughter looked this up and she said that I am
6 entitled for lifetime benefits.

7 THE COURT: Okay. Well like I said we got to
8 fare through all that, but, you know, I've got to look
9 at what -- what evidence is before me before I can
10 make a decision on that.

11 MS. RICHARDSON: Because -- okay. How long will
12 this take?

13 THE COURT: Well I -- it can take a few days, it
14 can take a few weeks. I mean I have -- I have several
15 cases ahead of you that I have to rule on as well so I
16 -- I will get to it as quickly as I can. Fortunately
17 the issues that are before me are fairly narrow so it
18 shouldn't take me that long to -- to render a decision
19 on that.

20 MS. RICHARDSON: What do you mean by narrow?

21 THE COURT: Because I don't have but this -- the
22 main thing that's before me today is whether or not
23 your clincher agreement can be overturned. That's --
24 that's what's before me is whether you had -- whether
25 you had the mental capacity at the time that you

1 entered into that clincher agreement and whether it's
2 still enforceable or not. That's -- that's all that's
3 before me today. So going back to what I was asking
4 you before regarding the APAs, the jurisdiction and
5 venue, do you object to any of that -- to where we're
6 having this hearing, the fact that you're having it
7 front of the Workers' Compensation Commission, do you
8 object to any of that ma'am?

9 MS. RICHARSON: Or -- I don't object to the
10 hearing we're having today, but you did promise me the
11 last time that if I have been in any mental
12 institution or in -- institutionalized or being
13 treated for mental illness that I could the clincher
14 reversed.

15 THE COURT: And that's what we're here to
16 determine, is whether you have the evidence to support
17 your claims regarding that. And that's -- I can't go
18 just by what you tell me. I've got to have evidence
19 to support it and that's why you're handing me this
20 stuff -- this documentation that you're handing up is
21 for me to be able to make a determination or not --

22 MS. RICHARDSON: Okay.

23 THE COURT: -- regarding that. Okay?

24 MS. RICHARDSON: Okay.

1 THE COURT: And so you don't have an objection to
2 the APAs, the jurisdiction or the venue?

3 MS. RICHARDSON: (Inaudible). Okay. Yeah, I
4 have something against the -- against the clincher
5 agreement because she what happened with the clincher
6 --

7 THE COURT: But that's -- okay, the clincher
8 agreement is not -- doesn't have any -- that doesn't
9 pertain to what I was just asking you there ma'am.

10 MS. RICHARDSON: Oh.

11 THE COURT: That didn't -- I'm just asking about
12 what you -- the APAs that y'all handed me today and
13 the jurisdiction and the venue and all that. That's
14 -- I've just got to make sure you don't object to any
15 of that.

16 MS. RICHARDSON: Right. You mean the
17 information?

18 THE COURT: Yeah.

19 MS. RICHARDSON: No. I don't object to that, but
20 --

21 THE COURT: Anything that you've shared with me?

22 MS. RICHARDSON: -- let me tell you about the
23 clincher. We signed the clincher on October 31st,
24 Halloween day.

25 THE COURT: Uh-huh.

1 MS. RICHARDSON: And guess what? He didn't -- he
2 send -- yeah you -- Robert -- Attorney Robert Gruber
3 send the Order -- he send the Order after I signed the
4 check. He didn't send the Order before I signed the
5 check. He send the Order after I signed the check.
6 So after I went through chemo and me and my daughter
7 was going back through the papers I cried like a baby
8 because my attorney said he had a set amount set aside
9 for me to get for -- if I get sick I wouldn't have to
10 worry because I had money set aside. So that's why I
11 didn't fuss about this. I signed something before I
12 got the Order. I didn't get a Order before I signed
13 the clincher. I didn't get an Order when I signed --
14 or when he give me the \$12,000 check. Now I never
15 seen the \$20,000 check because I think he -- all --
16 altogether it was \$7,000 and something and then I
17 received -- I think I received \$12,000 and some
18 dollars, but I never seen the Order. I never seen the
19 Order until after I signed the check. This clincher
20 right here, I signed this clincher here without a
21 Order. That's not right.

22 MR. GRUBER: Can I see that?

23 THE COURT: Okay. Can you share that with him,
24 what you're referring to?

1 MS. RICHARDSON: Yeah. He want to see the --
2 yes, sir. Oh yeah. I got \$12,000 and \$20 -- \$450.
3 THE COURT: He just wanted to see what you were
4 referring to.
5 MS. RICHARDSON: Yeah. That's it right there.
6 MR. GRUBER: Is that the clincher?
7 MS. RICHARDSON: That the clincher right -- that
8 the clincher right there where I signed.
9 MR. GRUBER: Commissioner, this is a document
10 that we signed on the day of mediation.
11 THE COURT: Okay.
12 MR. GRUBER: Okay? And it was handwritten by me.
13 THE COURT: Okay.
14 MR. GRUBER: And it gives the case caption and
15 says, "The parties in the above matter agree and
16 consent that this matter is fully and finally settled
17 on a doubtful and disputed basis for the sum of Twenty
18 Thousand and No One Hundred Dollars. A formal
19 clincher agreement which sets forth the complete terms
20 of this settlement is forthcoming." It's signed by
21 Ms. Richardson --
22 MS. RICHARDSON: I didn't sign that Order.
23 MR. GRUBER: -- by Mr. Brooks and by me.
24 MS. RICHARDSON: What order?
25 MR. GRUBER: A formal clincher did follow that.

1 THE COURT: Okay.

2 MS. RICHARDSON: I didn't get a Order. I didn't
3 get a Order. And then he forged my name on some
4 documents.

5 THE COURT: And I'm -- I'm going to hand that
6 back to you.

7 MS. RICHARDSON: I didn't get a -- I didn't get a
8 Order, but I signed the clincher. I thought I was
9 supposed to get a Order before I signed the clincher.

10 MR. GRUBER: That's fine. Do you have a copy of
11 the clincher?

12 THE COURT: Of the clincher? Yes.

13 MS. RICHARDSON: Can I ask a question?

14 MR. GRUBER: Yes, ma'am. I'm sorry.

15 MS. RICHARDSON: Didn't -- didn't I supposed to
16 get a Order before I signed the clincher?

17 THE COURT: Well you were -- you were signing in
18 -- you signed into an agreement there that y'all had
19 agreed in principal as to what the clincher was going
20 to be and then he did a formal Order.

21 MS. RICHARDSON: He told me this was concrete
22 right here when I signed this. They told me this was
23 concrete and then they gave me the \$12,000 check.
24 Where the money at? Where this thing at? Where's the
25 check? They gave me the \$12,000 -- \$22,034 check

1 before they write out a Order. I didn't even -- the
2 Order that I received I cried like a baby when I saw
3 what you had in there, because Charles Brooks said
4 that I wasn't qualified for money at social security
5 disability. I know I'm not going to be in the best
6 health five years from now. I know that.

7 THE COURT: Well, let me ask you this, but was
8 that not your -- is that not your signature on that
9 document?

10 MS. RICHARDSON: Which one?

11 THE COURT: The one that you were just showing me
12 that -- the one -- the handwritten clincher?

13 MS. RICHARDSON: Yeah. I -- I signed on top
14 right there? I signed that on top right there.

15 THE COURT: And that --

16 MS. RICHARDSON: But I didn't sign the Form 19.

17 THE COURT: -- doesn't that reflect what y'all
18 agreed to?

19 MS. RICHARDSON: Yeah. Right here. But what I'm
20 saying I thought I supposed to have gotten a Order --
21 a Order before I signed something -- then they told me
22 this was concrete. I didn't -- and then when I went
23 back to him -- he said I'm not taking you back to
24 Court.

25 MR. GRUBER: Do you have a copy of the clincher

1 agreement?

2 MS. RICHARDSON: No. I don't have one.

3 THE COURT: I'm -- I'm actually pulling one up
4 here.

5 MS. RICHARDSON: I don't have it, but when I saw
6 it I cried like a baby because he promised me that I
7 had -- would have something set aside for -- for
8 Medicare.

9 MR. GRUBER: Commissioner, can we go off the
10 record for a minute?

11 THE COURT: Sure

12 (Off the record at 1:28 p.m.)

13 (On the record at 1:38 p.m.)

14 THE COURT: We're back on the record. Can y'all
15 hand up to me if you don't mind the -- the written
16 agreement ma'am, that you -- that you had just a
17 minute ago?

18 MS. RICHARDSON: (Inaudible).

19 THE COURT: Ms. Richardson, for clarification,
20 did you -- this -- the handwritten agreement, is this
21 your signature on the handwritten agreement? Did you
22 sign this one?

23 MS. RICHARDSON: Yeah. I signed that one.

24 THE COURT: Okay.

25 MS. RICHARDSON: And they told -- he told me that

1 that was concrete. Mr. Robert Gruber said it was
2 concrete and he said, now once you sign this this is
3 it. Now later he tells me (inaudible) I could come
4 back to redo the clincher. Now why didn't he bring my
5 attorney back to do the clincher? But my clincher --
6 my attorney won't come back with me to do the
7 clincher.

8 THE COURT: Okay. And you're saying that this is
9 not your signature on this document?

10 MS. RICHARDSON: Which one? Which one?

11 THE COURT: The clincher -- the clincher
12 agreement that we just provided you a copy with that
13 Chief Counsel Roberts just provided you a copy with?

14 MS. RICHARDSON: No, that don't look like my
15 signature.

16 THE COURT: Well, which -- which --

17 MS. RICHARDSON: But, I would put my S -- put my
18 S's like that.

19 THE COURT: Okay. But you were saying -- which
20 documents were you saying that Mr. Brooks forged? You
21 -- you had made an allegation that Mr. Brooks had
22 forged your signature.

23 MS. RICHARDSON: Right here. And it looks the
24 same way.

25 MR. GRUBER: This is a Form 61, Judge. I don't

1 have any --

2 MS. RICHARDSON: That's the 19.

3 MR. GRUBER: I'm sorry, the 19. The 19, she's
4 right.

5 MS. RICHARDSON: So he said I was out of town.

6 THE COURT: Did you give him permission to sign
7 your signature?

8 MS. RICHARDSON: No, sir. He lied. He said I was
9 out of town. He had to sign my signature.

10 MR. GRUBER: Judge, I'm going to have to ask your
11 permission to postpone these proceedings.

12 THE COURT: I think we're going to have to.

13 MR. GRUBER: I -- I -- if this is true we're
14 dealing with a whole different thing.

15 THE COURT: And that's what I'm -- I'm getting at
16 because it -- it obviously does directly impact the
17 enforceability of the clincher if he truly -- if he
18 truly signed this then that I -- I think we're going
19 to have to continue these proceedings, because I know
20 that you're going to have to have a certain amount of
21 discovery that you're going to need to conduct
22 regarding this because I don't see how we can -- how
23 we can continue the proceedings without that.

1 MR. GRUBER: I just -- we -- we -- I think we
2 need to get to the bottom of -- of this, so that's --
3 that's the basis of my request.

4 THE COURT: Yes. Yeah because this -- I mean
5 this -- you know, it directly impacts what we're here
6 about today if this was -- if -- if he entered into an
7 agreement on her behalf that she didn't give him
8 permission to enter into.

9 MS. RICHARDSON: And then I went down to the --
10 my daughter and I went at that place and the lady
11 there -- he's supposed to have bring me down there
12 with him and get a seal for a notary for a power of
13 attorney.

14 THE COURT: Well, and let me -- let me explain to
15 you what we're doing. We're going to continue --
16 we're going to postpone this proceeding because
17 obviously there's some -- there's some things that
18 have come up that directly relate to the -- to the
19 clincher agreement that you entered into with what you
20 have -- the statements that you've made here today and
21 the documents that -- that you've passed up. I'm
22 guessing Mr. Gruber is going to want to go take Mr.
23 Brooks' deposition to -- to see -- you know, so we can
24 kind of know where we are.

25 MS. RICHARDSON: Okay. This -- this right here

1 is something else right here you want to look at too.

2 That thing when I was -- I was -- something tell me
3 he have to sign all my documents. And I don't think
4 --

5 MR. GRUBER: This is -- this specific power of
6 attorney to endorse the settlement check.

7 THE COURT: For the check?

8 MR. GRUBER: Yes, sir.

9 THE COURT: Okay. Would you like this back?
10 Would you like these copies --

11 MS. RICHARDSON: You got a copy of it? Can I
12 have a copy back?

13 THE COURT: Keith, should we make -- could we
14 make copies of all this?

15 MR. ROBERTS: Yes. What we'll do is anything
16 handed up we'll make copies, send a copy to Mr.
17 Gruber, keep a copy in our file and send her back her
18 originals.

19 THE COURT: Okay. And that -- that's -- that's
20 so we have a record of this --

21 MS. RICHARDSON: Yes.

22 THE COURT: -- and you will get your originals
23 back.

24 MS. RICHARDSON: Thank you.

25 THE COURT: We're -- we're going to get that back

1 to you.

2 MS. RICHARDSON: Thank you so much.

3 THE COURT: But I didn't want you to think we
4 were hanging onto it -- to your only copy but that's
5 -- that's the best way.

6 MS. RICHARDSON: Okay.

7 THE COURT: We'll -- we'll make those copies and
8 distribute them to everybody.

9 MS. RICHARDSON: Okay. Thank you.

10 THE COURT: So I guess at this time it probably
11 -- there's no -- there's no reason for us to continue
12 further or to take any testimony at this time.

13 MR. GRUBER: Do you want me to draw an Order?

14 THE COURT: Yeah. Yeah. I'll -- yeah. And you
15 can just --

16 MS. RICHARDSON: What do that mean?

17 THE COURT: He -- he will draft an Order
18 basically saying what all has taken place here and the
19 fact that this hearing will be continued pending
20 further discovery as to the -- the issues that you've
21 raised here today regarding your -- your attorney and,
22 you know, that sort of thing so that we can get to the
23 bottom of -- of what he's done. Okay? Because even
24 though the enforceability issue is a different issue
25 as far as anything that he -- that he may or may have

1 not done that -- that he shouldn't have done, it does
2 directly impact your clincher agreement obviously.

3 And so we need to get to the bottom of that. Okay?

4 MS. RICHARDSON: yeah. And because see I always
5 -- if you want my sister-in-law to come in here she
6 can tell you I never (inaudible).

7 THE COURT: Well we're not going -- we're not
8 going to take anymore testimony or -- or -- we're just
9 going to -- we're going to hop off the proceedings at
10 this point and -- and then we'll just -- we'll
11 continue from -- from there. Okay?

12 MS. RICHARDSON: Okay.

13 THE COURT: All right. Thank everybody for your
14 time and we will get -- we'll get these originals back
15 and we will distribute everything to -- to everybody.
16 Okay?

17 MS. RICHARDSON: Commissioner, can I hand you
18 this right here?

19 THE COURT: What -- I'm -- what is it and let --
20 let Mr. Gruber take a look a look at it real quick. I
21 just -- the reason I let -- I wanted him to have an
22 opportunity to take a look at anything you handed up
23 just like I would do the same for you.

24 MR. GRUBER: This is a public reprimand issued I
25 guess to or against Charles Brooks July 2nd, 2012. I

1 would object to relevance and (inaudible).

2 MS. RICHARDSON: That's irrelevant? And that was
3 - it was two months or eight months. I got some more
4 documents about him.

5 THE COURT: Did -- I'm going -- I'll let it in,
6 but like I say we'll give it the weight, but I want to
7 make sure Cora that we got Mr. Gruber's objection to
8 that coming in on the record.

9 MADAM COURT REPORTER: I did.

10 MS. RICHARDSON: I guess -- I guess. I forgot I
11 had left some more things like that was.

12 THE COURT: Okay.

13 MS. RICHARDSON: That go with that paper.

14 MR. GRUBER: This is the rest of that opinion on
15 the reprimand.

16 MS. RICHARDSON: Yeah. Yeah. That's the
17 paperwork right there on the reprimand.

18 MR. GRUBER: Yeah. It's the same objection.

19 THE COURT: Okay. Cora, did you note his
20 objections to the reprimand?

21 MADAM COURT REPORTER: Yeah. I -- I do. I have
22 it.

23 THE COURT: I appreciate it. I know it's a very
24 sordid issue that kind of materialized into one and I
25 apologize about that to everybody. Thank you for your

1 MS. RICHARDSON: Okay. Because I've got some
2 documents and some (inaudible).

3 THE COURT: I think we have everything we need
4 right now as far as what's been raised here today and
5 -- and then we will get -- and I guess Robert, you're
6 going to -- I guess you'll just communicate with
7 Barbara about --

8 MR. GRUBER: Yes, sir.

9 THE COURT: -- because I know you're going to --
10 you're going to need to schedule things and that sort
11 of thing?

12 MS. RICHARDSON: So we got to come back to court
13 again?

14 THE COURT: Yes, ma'am. But I -- I hate to drag
15 you up here again to do that, but it's important that
16 we get this right and -- and in order for me to get it
17 right I've got to have all the information in front of
18 me. And right now I -- I'm lacking some and -- and we
19 need to have some questions answered and settled and
20 so -- so it can all be presented to me. Okay?

21 MS. RICHARDSON: Okay. What do I need to be
22 looking for? What do I need to be looking for? What
23 type of evidence do I need?

24 THE COURT: Yeah. Well the only thing -- I think
25 you have what -- you have what you have obviously

1 patience everybody. Thank you. So if you would --

2 MS. RICHARDSON: Can I ask you something?

3 THE COURT: Yes, ma'am.

4 MS. RICHARDSON: Okay. Now what are going to be
5 the outcome of this?

6 THE COURT: Okay. The way this will work is Mr.
7 Gruber's going to go back, he's going to draft an
8 Order that -- that he'll -- that will be shared with
9 -- with me and with you. Obviously you'll get a copy
10 of that. Basically saying what took place today and
11 why this hearing was postponed. And pending any
12 further discovery regarding the issues that you --
13 that you have brought. After we will -- after we --
14 after we've gone through that with you we will
15 reconvene this hearing and we'll finish -- we'll
16 finish the hearing so I can make a decision on
17 everything, but I've got to get to the bottom of - we
18 can't continue to go forward with the issues that have
19 been raised here today. There's -- there's
20 information out there that we don't have the answers
21 to right now that I've got to get the answers to
22 before we can make another decision. And so that Mr.
23 Gruber can -- can do his discovery as to what --
24 regarding Mr. Brooks and signing the agreements on
25 your behalf and that sort of thing. Okay?

1 considered here today. This is the first time that he
2 has seen that. He needs to have an opportunity to go
3 respond to -- to -- and I'm not talking about the
4 clincher agreement. But the fact that you've raised
5 this issue of -- of whether he entered into an
6 agreement on your behalf without your -- not -- not
7 Mr. Gruber but I'm talking about with Mr. Brooks --
8 that he's got -- he has the right to go find out about
9 that himself. Okay?

10 MS. RICHARDSON: He know about it.

11 THE COURT: Well, I don't know that he knows
12 about it because he -- I don't think he would need to
13 go do discovery on it.

14 MS. RICHARDSON: He write out -- he write out the
15 Order.

16 THE COURT: Correct. But he -- but -- but he
17 didn't have anything to do with who signed the
18 documents.

19 MS. RICHARDSON: Yes, and he signed off on it.

20 THE COURT: Yeah and -- and that's the way the
21 attorneys do that, but that doesn't necessarily mean
22 that he was there when he signed -- when Mr. Brooks
23 signed your signature to it. He just received what
24 was sent back to him.

25 MR. GRUBER: You're saying that Mr. Brooks signed

1 your name to the official document, the typed up
2 clincher?

3 MS. RICHARDSON: Yes he did, because I had -- he
4 put that I was out of town and I didn't reside in
5 Sumter County anymore. He lied on me.

6 MR. GRUBER: But is your testimony going to be
7 that the -- that the document that's typed up is
8 something that you did not agree to. I guess that's
9 -- that's the issue.

10 MS. RICHARDSON: I didn't sign it.

11 MR. GRUBER: Did you understand the terms, I
12 guess?

13 THE COURT: Yeah. Did you -- did you agree to
14 that -- to the -- did you agree to the terms?

15 MS. RICHARDSON: I wasn't there. I haven't been
16 at the courthouse. She said you wasn't there at the
17 courthouse. I say no, ma'am. She said you supposed
18 to be there in front of us. I told her ma'am, I
19 always stayed in Sumter County. That's a shame for me
20 to have to go through that.

21 THE COURT: Yeah. So if you'll just -- if you can
22 just communicate with Barbara after you've had an
23 opportunity to -- to --

24 MS. RICHARDSON: (Inaudible).

1 THE COURT: -- schedule whatever you need to with
2 them and then we can -- we can -- and we'll get it --
3 we'll get it so you guys don't have to wait any longer
4 on this. As soon as that gets wrapped up and -- and
5 you've done whatever discovery you need to do we'll
6 get this back on the docket as soon as possible. All
7 right. Well, thank y'all. Thank you for being here.
8 Thank you, ma'am. And we'll -- we'll get -- we'll get
9 this resolved and so we can move forward one way or
10 the other. All right?

11 MS. RICHARDSON: How about the breast cancer
12 issue too?

13 THE COURT: Well we -- that's -- that's -- we've
14 got to get past the clincher issue first and then
15 that's another issue for another day. Robert, thank
16 you.

17 That concludes these proceedings.

18 (The hearing concluded at 2:00 p.m.)
19
20
21
22

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)

CERTIFICATE

BE IT KNOWN THAT I TOOK THE FOREGOING WORKERS'
COMPENSATION HEARING;

THAT I WAS THEN AND THERE A NOTARY PUBLIC IN AND
FOR THE STATE OF SOUTH CAROLINA-AT-LARGE;

THE FOREGOING TRANSCRIPT CONSISTING OF 66
TYPEWRITTEN PAGES REPRESENTS A TRUE, ACCURATE AND
COMPLETE TRANSCRIPTION OF THE TESTIMONY SO GIVEN AT
THE TIME AND PLACE AFORESAID TO THE BEST OF MY SKILL
AND ABILITY;

THAT I AM NOT RELATED TO NOR AN EMPLOYEE OF
ANY OF THE PARTIES HERETO, NOR A RELATIVE OR EMPLOYEE
OF ANY ATTORNEY OR COUNSEL EMPLOYED BY THE PARTIES
HERETO, NOR INTERESTED IN THE OUTCOME OF THIS ACTION.

WITNESS MY HAND AND SEAL THIS 29TH DAY OF
DECEMBER, 2016.

CORA ELLIS BRUTON
NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES DECEMBER 31, 2024

CORA ELLIS BRUTON - COURT REPORTER
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