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Proudly representing injured workers
for over 30 years.

Preston F. McDaniel

Telephone (803) 771-7211

Matthew Robertson

Facsimile (803) 252-0709

December 3, 2018

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DEC 04 2018

S.C. SUPREME COURT

**VIA FAX - 734-1499
AND US MAIL**

Honorable Daniel E. Shearouse
Clerk of Court
SC Supreme Court
PO Box 11330
Columbia, South Carolina 29211

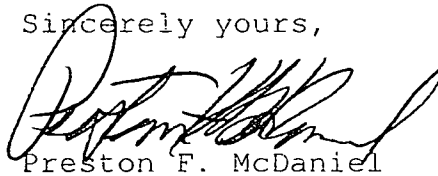
**RE: William Lee Turner v. SAIIA Construction
Appellate Case No. 2017-000699**

Dear Mr. Shearouse:

Please find the original and seven copies of our Return to the Motion for Costs requesting that the same be denied. Also, enclosed is the original and one copy of Proof of Service in this matter. I would appreciate if you could file the originals and return a clocked-in copy in the enclosed self-addressed stamped envelope. To insure this Return is brought to the Court's attention as soon as possible because of when I received the Motion by mail, I am faxing a copy to the Court as well.

As always, I appreciate all the courtesies and kindnesses shown to me by the Court.

Sincerely yours,



Preston F. McDaniel

PFM/abh
Enclosure

cc: Helen F. Hiser, Attorney
John K. Koon, Esquire

THE STATE OF SOUTH CAROLINA
In the Supreme Court

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APPEAL FROM THE APPELLATE PANEL S.C. SUPREME COURT
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

Opinion No. 5458
(filed December 7, 2016)

Appellate Case No.: 2017-000699

William Lee Turner, Employee, Petitioner,

v.

SAIIA Construction, Employer, and
Old Republic General Insurance Corporation
c/o Gallagher Bassett Services, Inc.,
Carrier, Respondents.

RETURN TO MOTION FOR COSTS

Pursuant to 242(j)(1)(4), SCACR, the injured worker,
Appellant before the Court of Appeals and Petitioner before this
Court would respectfully oppose the granting of costs to the
Respondents in this matter and specifically for the reasons as
set forth hereinafter in this Return.

John K. Koon, Esquire of the Law Firm of Koon, Cook and
Walters, tried this case before the South Carolina Workers'

Compensation Commission. After Decision by the Full Commission, the injured worker wanted to appeal the Decision and Preston F. McDaniel, Esquire was associated to handle the appeal. Both attorneys were on a contingency fee basis and while costs were advanced before the Commission, the injured worker, Mr. Turner and his family paid advances to pay the costs of the appeal and the Petition before this Court. (See Affidavit attached hereto and incorporated herein by reference.)

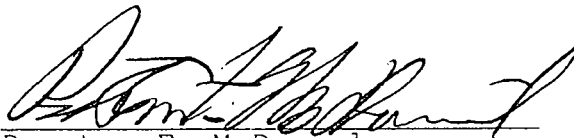
After review of the Petition for a Writ of Certiorari, the Court granted the Writ, it was Briefed and this case was argued before the Court. Subsequent to that, the Court issued an Order finding that the Writ had been improvidently granted.

In 2007, the Legislature changed the appellate process from the local Circuit Court involving only a filing fee directly to the South Carolina Court of Appeals. Mr. Turner would submit that the costs of an appeal alone under the SCACR for a party has had a chilling effect on the right of review by an injured worker. To allow costs to the insurance carrier and the employer in this case, and actually in any case, would have a further chilling effect upon the right of the injured worker to seek judicial review of a decision of the South Carolina Workers' Compensation Commission. In this case, both the South Carolina Court of Appeals and this Court after review of the Record and Briefs thought the issues that were in contention

were sufficient enough under law and fact to where both Courts granted oral arguments in the Appeal. Finally, the Published Opinion of the Court of Appeals which was left to stand was based on a North Carolina Court of Appeals decision and has the effect of changing or at least restricting 80-years of case law in the area of workers' compensation.

WHEREFORE, for all of the foregoing reasons and most importantly because it would have a chilling effect upon an injured worker to seek review of an adverse Commission Decision on issues of law and fact, Mr. Turner would respectfully request that the Motion for Costs be denied.

Respectfully submitted,



Preston F. McDaniel
SC Bar No. 3770
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1315 Elmwood Avenue
Columbia, South Carolina 29201
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And

John K. Koon
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2016 Gadsden Street
Columbia, South Carolina 29201
(803) 256-4082

Attorneys for Petitioner

December 3, 2018

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM THE APPELLATE PANEL
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AFFIDAVIT OF PRESTON F. MCDANIEL

I, Preston F. McDaniel having been duly and properly sworn do depose and state that Mr. John K. Koon, Esquire of the Law Firm of Koon, Cook and Walters, LLC tried this matter before the South Carolina Workers' Compensation Commission. At the request and agreement of Mr. Turner, I was associated to handle the briefing and appeal that Mr. Turner wanted to file in this matter. In my opinion, there substantial issues of law and fact

justifying the appeal. Mr. Turner and his family advanced the costs of the appeal. The Court of Appeals decision was based on a North Carolina Court of Appeals decision and was contrary to the substantive law of this State and the decisions of this Court and a Petition for a Writ of Certiorari was justified. Neither attorney has received any fee from that cost advance and the entire cost advance was used to pay the costs of the printing of the Briefs, filing fees and other costs involved in the appeal. The entire cost advance has been depleted.

Further, to the best of my knowledge, Mr. Turner is no longer working for the employer but has returned to work.

FURTHER THE AFFIANT SAYETH NOT.



Preston F. McDaniel
SC Bar No. 3770
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(803) 771-7211

Attorney for Petitioner

Signed before me this
3rd day of December, 2018.

 (L.S.)
My commission expires: 2-07-24

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In the Supreme Court

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SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION S.C. SUPREME COURT

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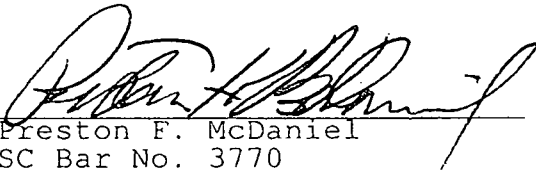
PROOF OF SERVICE

I certify that I have served the **RETURN TO THE MOTION FOR COSTS** on the following persons by depositing a copy of it in the United States Mail, postage prepaid, on December 3, 2018, addressed as follows:

Jason W. Lockhart, Esquire
McAngus, Goudelock & Courie
Post Office Box 12519
Columbia, SC 29211

Helen F. Hiser, Attorney at Law
McAngus, Goudelock & Courie
Post Office Box 650007
Mt. Pleasant, SC 29465

Dated: December 3, 2018


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