

Reply To
HELEN F. HISER
Direct Dial: (843) 576-2930
helen.hiser@mgclaw.com

RECEIVED

December 6, 2018

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VIA U.S. MAIL & FACSIMILE

The Honorable Daniel E. Shearouse
Supreme Court of South Carolina
P.O. Box 11330
Columbia, SC 29211

S.C. SUPREME COURT

RE: William Lee Turner v. SAIIA Construction and Old Republic General
Insurance Corporation c/o Gallagher Bassett Services, Inc.
Date of Accident: April 19, 2012
WCC File No.: 1204039
Our File No.: 2098.12265
Claim No.: 002979-030511-WC-01
Appeal No.: 2017-000699

Dear Mr. Shearouse:

Enclosed please find the original and seven (7) copies of Respondents' Reply to Return to Motion for Costs, and the original and one copy of the Proof of Service in the above-referenced matter. Please file the originals and return a clocked-in copy in the enclosed self-addressed, stamped envelope.

If you have any questions, please do not hesitate to contact me.

Very truly yours,


Helen F. Hiser

Enclosures

cc: Preston F. McDaniel, Esq.

735 JOHNNIE DODDS BLVD, STE 200
POST OFFICE BOX 650007
MT. PLEASANT, SC 29465

843.576.2900 PHONE
843.534.0605 FAX
WWW.MGCLAW.COM

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

Court of Appeals Opinion No. 5458
(filed December 7, 2016)

William Lee Turner, Employee, Petitioner,

v.

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

**REPLY TO RETURN TO
MOTION FOR COSTS**

Respondents SAIIA Construction and Old Republic General Insurance Corporation c/o Gallagher Bassett Services, Inc. hereby Reply to Petitioner's William Lee Turner's Return to Motion for Costs. While Petitioner's Return attempts to play on this Court's sympathies, his argument is, in essence, that costs should *never* be awarded against the claimant in a workers' compensation case. Petitioner's Return speculates that awarding costs in this and other workers' compensation cases where the claimant appeals but loses might have a "chilling effect on the right of review by an injured worker." He presents no evidence or authority in support his argument that awards of appellate costs should flow in only one direction – to the claimant when the claimant wins, and not as this Court's Rules provide, to the prevailing party.

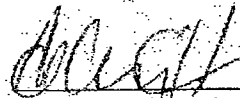
Instead, this Court's Rules provide that, "[u]nless otherwise ordered by the Supreme Court or agreed by the parties, costs shall be taxed against the appellant if the decision of the Supreme Court has the effect of affirming the judgment of the lower court of tribunal which was reviewed by the Court of Appeals." Rule 242(j)(1), SCACR (emphasis added). Rule 222(a), SCACR, provides essentially the same for the Court of Appeals. The Rules do not address, as elements of consideration, whether the losing side believes they should have prevailed, the merits (or lack thereof) of an appeal, or the cost arrangement between a client and counsel. The Rules simply look at whether a party was the prevailing party. Here, that is Respondents.

In this case, Respondents have won at every level – at the Commission (before both the Single Commissioner and the Full Commission), at the Court of Appeals, and at this Court, which dismissed certiorari as having been improvidently granted. At every turn, Petitioner and his counsel have appealed, causing Respondents to incur enormous appellate costs, only a small fraction of which are recoverable under Rules 222 and 242.

As the orders of this Court and the Court of Appeals affirmed the judgment below, Respondents respectfully request that this Court award them appellate costs, as provided in Rules 222 and 242(j), in the amount of \$2,374.55.

Respectfully submitted,

MCANGUS GOUDELOCK & COURIE



Helen F. Hiser, S.C. Bar No.: 76124
735 Johnnie Dodds Blvd., Suite 200 (29464)
P.O. Box 650007
Mount Pleasant, South Carolina 29465
(843) 576-2900

December 6, 2018

*Attorneys for Respondents SAIIA
Construction and Old Republic General
Insurance Corporation c/o Gallagher
Bassett Services, Inc.*

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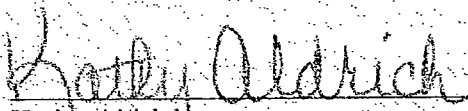
v.

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

PROOF OF SERVICE

I certify that on the 6th day of December 2018, I served the Respondents' **Reply to Return to Motion for Costs** on William Lee Turner by depositing a copy of it in the United States Mail, postage prepaid, addressed to his attorney of record:

Preston F. McDaniel, Esq.
MCDANIEL LAW FIRM
1315 Elmwood Avenue
Columbia, SC 29201



Kathy Aldrich
Legal Assistant to Helen F. Hiser
McAngus, Goudelock & Courie LLC
735 Johnnie Dodds Blvd., Suite 200
P.O. Box 650007
Mount Pleasant, South Carolina 29465
(843) 576-2900

*Attorneys for Respondents SAIIA Construction and
Old Republic General Insurance Corporation c/o
Gallagher Bassett Services, Inc.*