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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SOUTH CAROLINA
Workers' Compensation Commission
Appellate Panel

Appellate Case No. 2018-001234

Pamela Cartee, Claimant,

v.

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

IN RE: Preston F. McDaniel, Esquire,
and John M. Milling, Esquire, Appellants,

v.

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

APPELLANTS' MOTION FOR WITHDRAWAL
AND DISMISSAL PURSUANT TO RULE 260(c), SCACR JUN 11 2019

RECEIVED
SC Court of Appeals

TO: T. PARKIN C. HUNTER, ESQUIRE and HARLEY L. KIRKLAND,
ATTORNEY AT LAW, ATTORNEYS FOR RESPONDENT:

Pursuant to Rule 240 and 260(c), SCACR, the Appellants
hereby withdraw the appeal in the above-referenced matter and
move for an Order of Dismissal after review of the Motion upon
such terms as may be fixed by the Court. Because of: health
reasons; the best interests of all of the clients of the Lead
Appellant, Preston F. McDaniel; the best interest of the

Appellant's client in the underlying workers' compensation claim who is not a party to this appeal, and to avoid ethical and violations of law on behalf of the Appellants due in part to the re-captioning of the appeal; and because the Appellants were unable to obtain discovery as part of the appeal process to narrow the issues in reference to the numerous possible legal and ethical violations not appearing in the Record, the Appellants withdraw the appeal and move for an Order of the Court dismissing the appeal. The Appellants would request that the Court take into consideration the following in determining the terms to be fixed by the Court in reference to the Order of dismissal:

1. That this matter arises out of the refusal of Respondent to approve part of the attorneys' fees requested by the Appellants in representation of the Claimant in the underlying workers' compensation claim.

2. That the parties to the underlying workers' compensation claim, the Claimant, the Employer, and the Employer's Insurance carrier, are not parties to this appeal and since the re-captioned appeal lists specifically the Claimant by name, her Employer by name, and the insurance carrier by name even if the Record on Appeal and Briefs were redacted, any party viewing the Decision of Court or the Record on Appeal, which is a public record, would have access to this private and/or

confidential information concerning the relationships and facts involved in the underlying workers' compensation claim as to the parties to that claim, that being again the Claimant, the Employer and the Insurance Carrier.

3. That under S.C. Code §42-19-40 all records in an underlying workers' compensation case are confidential and not subject to public access. Under the Opinions of the S.C. Supreme Court applying that statute and others specifically in the case of Blue Cross and Blue Shield v. S.C. Industrial Commission, 274 S.C. 204, 262 S.E.2nd 35 (1980) and under the Opinions of the S.C. Attorney General's Office including such Opinions as S.C. Op. Atty. Gen. (Jan. 12, 2010), 2010 W.L. 440992 and others, the only records that are subject to disclosure are after hearing the Awards of a S.C. Workers' Compensation Commission Hearing Commissioner and the Full Commission Orders and also the Transcripts and evidence placed into evidence at any hearing. Again, this is not an appeal from the underlying workers' compensation claim and the parties to that claim are not parties to this action including specifically the Claimant, the Employer, and the Insurance Carrier, and the disclosure and exposure of such private and confidential information would violate statutory law.

4. That as currently captioned under Order of the Court the Appellants would be required to reveal information relating

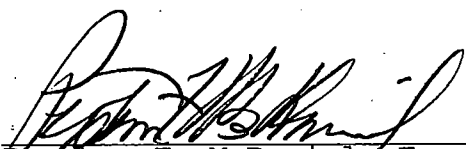
to the relationship of the Client and expose her confidential information contained within the Commission file thus resulting in the Appellants' potential violation of Rule 407, and Rule 1.6, SCACR, concerning disclosure without consent. (But see in conjunction with whether or not an Ethics Violation, Rule 1.6(b)(6)).

5. That the confidential nature of and the attorney/client privilege are owned by the Client, but the Client has not given consent to the disclosure of her confidential information.

Wherefore, the Appellants hereby withdraw their appeal and move for an Order dismissing the appeal but would request the Court's consideration of the above-referenced considerations in setting the terms of the dismissal of this action.

WE SO MOVE.

Respectfully submitted,



Preston F. McDaniel, Esquire
MCDANIEL LAW FIRM
1315 Elmwood Avenue
Columbia, South Carolina 29201
(803) 771-7211

and

John M. Milling, Esquire
MILLING LAW FIRM
Post Office Box 519
Darlington, South Carolina 29532
(843) 393-4083

Appellants

June 11, 2019

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PROOF OF SERVICE

I certify that I have served the APPELLANTS' MOTION FOR WITHDRAWAL AND DISMISSAL PURSUANT TO RULE 260(c), SCACR by depositing a copy of same in the United States Mail, postage prepaid, on June 11, 2019 addressed to:

T. Parkin C. Hunter, Esquire
Harley Littleton Kirkland, Esquire
Post Office Box 11549
Columbia, South Carolina 29211


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June 11, 2019

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Proudly representing injured workers
for over 30 years.

Preston F. McDaniel

Matthew Robertson

Telephone (803) 771-7211

Facsimile (803) 252-0709

June 11, 2019

VIA HAND DELIVERY

Jenny Abbott Kitchings
Clerk of Court
SC Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RE: Pamela Cartee v. SCJD (Preston F. McDaniel)
Appellate Case No. 2018-001234

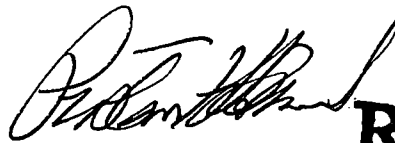
Dear Ms. Kitchings:

Please find enclosed the original and seven (7) copies of **APPELLANTS' MOTION FOR WITHDRAWAL AND DISMISSAL PURSUANT TO RULE 260(c), SCACR** along with the required filing fee. I would appreciate your returning a clocked-in copy to me via the courier.

By copy of this letter I am notifying and serving Counsel for the Respondent with a copy of the Motion.

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

Sincerely yours,


Preston F. McDaniel

PFM/kth
Enclosures

cc: John M. Milling, Esquire
T. Parkin C. Hunter, Esquire
Harley L. Kirkland, Attorney

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