

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

Mazie Palmer,

Employee,

Claimant,

-vs-

South Carolina Department of Corrections,

Employer,

and State Accident Fund ,

Carrier ,

Defendants.

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

AGREEMENT AND FINAL RELEASE

W.C.C. FILE NO. 1413781

CARRIER FILE NO. 2014-3028

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JUN 27 2019

SC Court of Appeals

SETTLEMENT
DIVISION OF CLAIMS
SERVICE

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This matter now comes before the South Carolina Workers' Compensation Commission upon the petition of Mazie Palmer ("Claimant"). Claimant is represented by John K. Koon, Esquire, and Defendants, South Carolina Department of Corrections and State Accident Fund, are represented by John Gabriel Coggiola, Esquire of Willson Jones Carter & Baxley, P.A. The South Carolina Workers' Compensation Commission has jurisdiction. The parties agree that venue is proper in Richland County, South Carolina.

Claimant was an employee of South Carolina Department of Corrections and on or about September 16, 2014, she sustained an injury by accident arising out of and in the course of said employment when she was knocked down while trying to stabilize a patient, causing injuries to her head, back, and neck. As a result of this work accident, Claimant sought and received medical treatment from Dr. Joseph Healy and Dr. Nancy Lembo. Disputes have now arisen concerning Claimant's entitlement to further medical care and treatment, further temporary total disability compensation and the extent of causally related permanent disability, if any. Claimant's compensation rate is Six Hundred Fourteen and 18/100 Dollars (\$614.18). Claimant was rated as having thirty percent (30 %) impairment to the whole person by Dr. Joseph Healy on September 20, 2017.

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The parties hereto now advise that in their opinion the matter is in bona fide dispute and in view of such dispute an agreement has been reached to settle this matter in its entirety, subject to the approval of the South Carolina Workers' Compensation Commission.

Under the proposed settlement, Defendants have agreed to pay and Claimant has agreed to accept the total final settlement sum of Five Hundred Thousand Dollars (\$500,000.00) in full settlement and satisfaction of every liability of whatsoever nature or kind under the South Carolina Workers' Compensation Act growing out of, or in any way connected with, said work accident occurring on or about September 16, 2014, while Claimant was an employee of South Carolina Department of Corrections. As an integral part of this settlement agreement, it is expressly understood and agreed that Defendants shall be responsible for all causally related medical expenses paid as of the date settlement is approved and as approved by this Commission pursuant to the South Carolina Worker's Compensation Fee Schedule, but any and all further medical expenses of whatsoever nature or kind shall be the express liability of Claimant, and Defendants shall have no liability therefore. Claimant fully understands and acknowledges that the payment of the sum of Five Hundred Thousand Dollars (\$500,000.00) represents permanent and total disability, plus resolution of any and all other benefits available to claimant under South Carolina Workers' Compensation Act.

It is hereby agreed between the parties, and the South Carolina Workers' Compensation Commission hereby approves, the settlement amount of \$500,00.00, which shall be allocated as follows: \$166,666 for attorney fees, and \$3,585 for legal cost and expenses. \$329,749 in comprehensive settlement of disputed future compensation, which shall be calculated under South Carolina Code § 19-1-150 commencing June 15, 2019 over the Claimant's life expectancy of 35.43 years, which is 425.16 months based on Claimant's date of birth of June 24, 1972 as follows: \$775.59 per month for Claimant's life expectancy (calculated by dividing \$329,749 by 425.16). This \$775.59 per month compares with the Claimant's average current earnings of \$921.00 per week (\$3,947 per month) at the time of the accident on September 16, 2014. The above is pursuant to POMS D1 52101; 52001.555, *Sciarotta v. Bowen*, 837 F2d 135,140-142 (3 Cir. 1988); Utica-Mohawk Mills v. Orr, 227 SC 226,87 S.E. 2d 589 (1955), POMS §52001.555 (c) (4); as well as the

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provisions of the South Carolina Worker's Compensation Act as interpreted by the Courts of South Carolina.

It is expressly understood Defendants take no position and make no representation as to the requested allocation of the settlement sum as set forth above and that the proposed allocation in no way affects the absolute release of Defendants.

Claimant hereby asserts that she has been fully advised by her attorney of record of all of her rights under the South Carolina Workers' Compensation Act, and that Claimant is of the opinion that the proposed settlement is reasonable and fair and in this opinion Claimant's attorney concurs and asserts that he has fully advised Claimant of all her rights under the South Carolina Workers' Compensation Act, and they respectfully request that this Commission approve the settlement as set forth above. Claimant hereby asserts that she recognizes that her consent to, and the approval of, this Agreement and Final Release is a final determination and adjudication of all benefits under the South Carolina Workers' Compensation Act growing out of, or in any way connected with, the aforesaid work accident occurring on or about September 16, 2014, while Claimant was an employee of South Carolina Department of Corrections.

Claimant hereby affirms that she has not applied for and is not receiving Social Security disability, is not on Medicare, is not enrolled in Medicare Advantage, and is not aware of any Medicare liens. The parties expressly agree that Claimant does not have a reasonable expectation of Medicare eligibility within 30 months from the date of this settlement. The parties have taken into consideration Medicare's potential interest in the resolution of this claim and believe Medicare has no interest.

Claimant also expressly represents and agrees that she sustained no work accidents or work injuries while employed by South Carolina Department of Corrections other than the work accident and resulting injury occurring on or about September 16, 2014.

The parties hereto acknowledge that the South Carolina Workers' Compensation Commission relies upon the representation of the attorney for Claimant that Claimant has been fully apprised of her rights under the South Carolina Workers' Compensation Act.

The parties acknowledge that the opinions stated by the physicians regarding the nature

and extent of the Claimant's medical condition and disability are opinions, not facts, and that, to the extent they are relying on those opinions, they are doing so with the knowledge that such opinions may be incorrect. Accordingly, Claimant and Defendant (Employer, Carrier and/or servicing agent) agree that this settlement agreement cannot be voided in the future for any reason, including on the basis that either or both parties relied on statements or opinions from physicians, or other medical providers, in entering into this agreement.

NOW, THEREFORE, IT IS AGREED, SETTLED, APPROVED, and ORDERED that upon the payment of the sum of Five Hundred Thousand Dollars (\$500,000.00) by Defendants, and the acceptance of said sum by Claimant, and the payment of the medical expenses as specifically set forth hereinabove, Defendants be, and they hereby are, fully and forever discharged of all liability, obligations and/or responsibilities of whatsoever nature and kind under the South Carolina Workers' Compensation Act growing out of, or in any way connected with, the aforesaid work accident occurring on or about September 16, 2014, while Claimant was an employee of South Carolina Department of Corrections, so that upon such payment and the acceptance as aforesaid, this matter be, and it hereby is, res judicata and not subject to review under any conditions. Claimant enters into this Agreement and Final Release freely and voluntarily, without undue influence, coercion, or duress of any kind.

WE CONSENT TO THE FOREGOING AGREEMENT:

Mazie Palmer
Mazie Palmer, Claimant

Dated: 10/14/2019

John K. Koon
John K. Koon
Attorney for Claimant


J. Leeds Barroll, IV
J. Leeds Barroll, IV
Attorney for Claimant

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WILLSON JONES CARTER & BAXLEY, P.A.

BY:


John Gabriel Coggiola
Attorneys for Defendants

WILLSON JONES CARTER & BAXLEY, P.A.

ATTORNEYS AT LAW

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June 26, 2019

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JUN 27 2019

SC Court of Appeals

The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

Re: Mazie Palmer v. SC Dept. of Corrections
Appellate Case No: 2019-001277

Dear Ms. Kitchings:

I am in receipt of this Court's order dated June 6, 2019, wherein the above captioned case was dismissed and remanded to the Workers' Compensation Commission for approval following settlement reached by the parties (see enclosed Order). The Order states that if the Workers' Compensation Commission approves the settlement, the parties shall notify this Court, and this Court will send a remittitur upon approval of the settlement. Pursuant to this Court's instructions, please find enclosed a copy of the Settlement Agreement and Final Release approved by the Workers' Compensation Commission.

If you have any questions or concerns, or if you need anything further from my office, please do not hesitate to contact me. I appreciate your attention on this matter.

With kindest regards,

WILLSON JONES CARTER & BAXLEY, P.A.



John Gabriel Coggiola

JGC/jgc

Enclosure

cc: Mr. John K. Koon
J. Leeds Barroll, IV
Ms. Melanie Rouse (via email)

nrj

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SC Court of Appeals

THE HONORABLE JENNY ABBOTT KITCHINGS
SOUTH CAROLINA COURT OF APPEALS
P.O. BOX 11629
COLUMBIA, SC 29211