

92355

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE WORKERS' COMPENSATION COMMISSION

RECEIVED

Appellate Case No. 2017-002396

MAR 08 2020

SC Court of Appeals

Gennette Sowell, Employee, Respondent-Movant.

v.

Piggly Wiggly, Employer, and
Auto Owners Insurance, Inc., Carrier, Appellants.

MOTION FOR A
RULE TO SHOW CAUSE HEARING BEFORE A JUDGE OF THIS
COURT OR A JUDGE OR THE FOURTH JUDICIAL CIRCUIT
PURSUANT TO SOUTH CAROLINA CODE §42-17-60 AND 70;
§14-8-280; §42-5-520; AND §15-35-180 AND OTHER
APPLICABLE LAW FOR AN ORDER FINDING THE RESPONDENTS
IN CONTEMPT FOR FAILURE TO PROVIDE MEDICAL CARE PURSUANT TO THE
AWARD OF THE COMMISSION DURING THE PENDENCY OF THE
APPEAL AND FOR AN ORDER OF THE COURT REQUIRING
IMMEDIATE COMPLIANCE WITH AND THE PROVISION OF MEDICAL
CARE DURING THE PENDENCY OF THE APPEAL AS PROVIDED FOR IN
SOUTH CAROLINA CODE §42-17-60 AND FOR SUCH PENALTIES, FINES,
INTEREST AND ATTORNEYS FEES AND SUCH OTHER REMEDIES
AS THE COURT DEEMS JUST AND APPROPRIATE PURSUANT TO
THE SOUTH CAROLINA CODE OF LAWS

TO: KENYA CARVER MILLER, ESQUIRE and KRISTIAN CROSS BELL,
ESQUIRE, ATTORNEYS FOR THE APPELLANTS:

YOU WILL PLEASE TAKE NOTICE that pursuant to Rule 240,
SCACR, and pursuant to South Carolina Code §42-17-60 and 70;
§14-8-280; §42-5-520; and §15-35-180 and other applicable law,

for an Order finding the Respondents in contempt for failure to provide medical care pursuant to the Award of the Commission during the pendency of the Appeal and for an Order of the Court requiring immediate compliance with, and the provision of, medical care during the pendency of the appeal as provided for in S.C. Code §42-17-60 and for such penalties, fines, interest and attorneys' fees and such other relief as the Court deems just and appropriate pursuant to the South Carolina Code of laws

WE SO MOVE.

Respectfully submitted,



Preston F. McDaniel, Esquire
SC Bar No. 3770
MCDANIEL LAW FIRM
1315 Elmwood Avenue
Columbia, SC 29201
(803) 771-7211

and

Gerald Malloy, Esquire
SC Bar No. 12033
MALLOY LAW FIRM
108 Cargill Way
Hartsville, SC 29551
(843) 339-3000

Attorneys for Respondent-Movant

March 6, 2020

RECEIVED

MAR 06 2020

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE WORKERS' COMPENSATION COMMISSION

Appellate Case No. 2017-002396

Gennette Sowell, Employee, Respondent-Movant.

Piggly Wiggly, Employer, and
Auto Owners Insurance, Inc., Carrier, Appellants.

MEMORANDUM IN SUPPORT OF MOTION FOR A
RULE TO SHOW CAUSE HEARING BEFORE A JUDGE OF THIS
COURT OR A JUDGE OR THE FOURTH JUDICIAL CIRCUIT
PURSUANT TO SOUTH CAROLINA CODE §42-17-60 AND 70;
§14-8-280; §42-5-520; AND §15-35-180 AND OTHER
APPLICABLE LAW FOR AN ORDER FINDING THE RESPONDENTS
IN CONTEMPT FOR FAILURE TO PROVIDE MEDICAL CARE PURSUANT TO THE
AWARD OF THE COMMISSION DURING THE PENDENCY OF THE
APPEAL AND FOR AN ORDER OF THE COURT REQUIRING
IMMEDIATE COMPLIANCE WITH AND THE PROVISION OF MEDICAL
CARE DURING THE PENDENCY OF THE APPEAL AS PROVIDED FOR IN
SOUTH CAROLINA CODE §42-17-60 AND FOR SUCH PENALTIES, FINES,
INTEREST AND ATTORNEYS FEES AND SUCH OTHER REMEDIES
AS THE COURT DEEMS JUST AND APPROPRIATE PURSUANT TO
THE SOUTH CAROLINA CODE OF LAWS

The Respondent would respectfully show unto the Court:

1. That the South Carolina Workers' Compensation Commission filed an Award for total and permanent disability with accompanying lifetime medical benefits in the above-referenced

matter on October 17, 2017. A Notice of Appeal was filed in that matter with this Court on November 16, 2017.

2. That the provisions of SC Code §42-17-60 require that 30-days after the Final Award is filed by the South Carolina Workers' Compensation Commission that the Defendants are required to make payment of weekly compensation benefits and all medical care as awarded during the pendency of the Appeal. The Final Award of the South Carolina Workers' Compensation Commission was filed on October 17, 2017.

3. That originally the Appellants did not make timely payment of the weekly payments under the Award of the Commission nor did they provide medical care as Awarded to the Claimant under the Award of the Commission and the Respondent filed a Motion on November 30th, 2017 with the Court of Appeals to compel the payment of both compensation and medical care as awarded to the Claimant, Ms. Gennette Sowell by the South Carolina Workers' Compensation Commission pursuant to its Final Award. A Return was filed by the Appellants and a Reply to the Return was filed by the Respondents.

4. That as is set forth in the Record of the Court, on December 21st, 2017 Respondent notified the Court that counsel for the Appellants had notified the Respondent that the Appellants,

"have decided to voluntarily comply with the provisions of §42-17-60 ... and are in the process of notifying the doctors for the provision of medical care."

Pursuant to the Award of the Commission, the following physicians were specifically designated as the authorized treating physicians to include as a family doctor the Medical Group and Dr. Yolanda Mendez; Dr. Angelo deDios an pulmonologist also with the Medical Group; and Dr. Orville Dyce of Hartsville ENT/Black Creek Medical Consultants and,

5. That as set forth in the Affidavit of Counsel for the Respondent as attached hereto and incorporated herein by reference subsequent thereto, the Appellants made initial contact verbal and written with the medical providers including subpoenas for medical records which, upon information and belief, was aimed at complying with the provision of medical care pursuant to the Award of the Commission which efforts and contacts were taken in 2018 during the months that followed the agreement to voluntary comply with the Award. On multiple occasions, the Respondent attempted to assist the Appellants. The Respondent lacks sufficient information to advise the Court as to whether or not any or to what extent any medical care was paid for with and/or provided through any of these authorized providers by the Appellants versus payment being made through her private health insurance and federal assistance programs

such as Medicare. At some point, one of the authorized medical providers, Dr. Orville Dyce made a referral of Ms. Sowell to the Medical University of South Carolina and to Dr. Cox. The Respondent notified the Appellants that that medical treatment was not being authorized or being paid and upon information and belief, they have not paid for or authorized it as of this date. Attached to this Motion and Affidavit are records received by and which are maintained in the records of counsel for the Respondent from Dr. Cox, medical records from Medical University of South Carolina and correspondence from Respondent's counsel indicating that the medical care that was thought to be being authorized and provided was in fact being not being paid for and was varied because of her inability to pay for it. Counsel has confirmed with their client, the Respondent that she continues to make co-pays to ensure the provision of her expensive medical care at and with all of the various medical providers that were authorized to treat her under the Award of the Commission. In the Fall of 2019, discussions were being had concerning the appeal during which time the Respondent specifically advised her counsel that none of her medical bills were being paid and that she was having to pay co-pays with all of her authorized medical providers under the Award of the Commission. As of the date of the filing of this Motion, the medical providers are still not

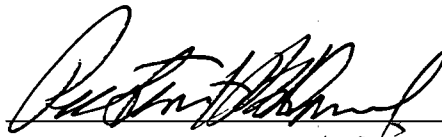
being paid by the Appellants. The Affidavit is attached hereto and incorporated herein by reference.

WHEREFORE the Respondent would pray for an Order of the Court for a hearing before a Judge of the Court or for a Remand by the Court to a Judge of the Fourth Judicial Circuit to hold a hearing on the facts as to what has not been paid and what, if anything, has been paid pursuant to the Award of the Commission and since this is a Commission Award that is subject to payment during the Appeal under the provisions of South Carolina Code §42-17-60 to enforce the Award. In the event a finding is made that the Appellants have failed to comply with the Award of the Commission in reference to the provision of medical care and pursuant to the voluntary agreement to comply with the provisions of South Carolina Code §42-17-60 as agreed to in December, 2017, for an Order of the Court either finding the Appellants in contempt or issuing a Rule to Show Cause for them to appear after thirty (30) days' notice to show just cause or excuse before the Court as to why they should not be found in contempt for failure to comply with the Award of the Commission under the provisions of §42-17-60.

For an Order of the Court ordering the Appellants to appear before the Court thirty (30) days' after the issuance of the Order of Compliance to establish full compliance with the provision of medical care as awarded by the South Carolina

Workers' Compensation Commission under the provision of South Carolina Code §42-17-60; and awarding the Respondent such penalties and fines, attorneys fees and costs for the failure of the Appellants to comply with the Award of the Commission during the pendency of the appeal under the provisions of the South Carolina Code §42-17-60 as provided for under South Carolina Code §42-3-175 and for such other and further relief as the Court deems just and appropriate; and for the cost of this action.

Respectfully submitted,



Preston F. McDaniel Esquire
SC Bar No. 3770
MCDANIEL LAW FIRM
1315 Elmwood Avenue
Columbia, SC 29201
(803)771-7211

and

Gerald Malloy, Esquire
SC Bar No. 12033
MALLOY LAW FIRM
108 Cargill Way
Hartsville, SC 29551
(843) 339-3000

Attorneys for Respondent-Movant

March 6, 2020

kim@pfmcdlaw.com

From: Cox, John <coxjoh@musc.edu>
Sent: Monday, December 16, 2019 4:59 PM
To: kim@pfmcdlaw.com
Cc: gmalloy@bellsouth.net; 'Greta Elliotte'; 'Miller, Kenya'; 'Carver, Tamra'; Andrea Ham ; Rose Thiekle; Fairbairn, Vivian
Subject: RE: Genette Sowell;

Ms. Winkle,

Thank you for forwarding the information. The patient has an appointment to see me on January 21, 2020. We will re-evaluate her situation and be certain that she receives the appropriate care.

Yours,
Dr. Cox

John B. Cox, M.D.
Clinical Professor of Medicine
Pulmonary, Critical Care, Allergy and
Sleep Medicine
Medical University of South Carolina
96 Jonathan Lucas Street – CSB Suite 816
MSC 630
Charleston, SC 29425-1007
(843) 792-7369 Phone
(843) 876-2057 Fax

From: kim@pfmcdlaw.com <kim@pfmcdlaw.com>
Sent: Tuesday, December 10, 2019 5:20 PM
To: Cox, John <coxjoh@musc.edu>
Cc: gmalloy@bellsouth.net; 'Greta Elliotte' <gelliotte@bellsouth.net>; 'Miller, Kenya' <kmiller@dmclaw.com>; 'Carver, Tamra' <tcarver@dmclaw.com>; Andrea Ham <aham@pfmcdlaw.com>; Rose Thiekle <rose@pfmcdlaw.com>; Fairbairn, Vivian <fairbaiv@musc.edu>
Subject: Genette Sowell;

CAUTION: External

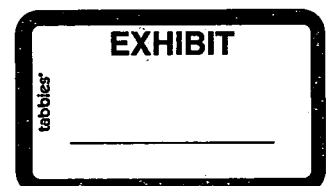
The attached is being sent to you at the request of Preston F. McDaniel, Esquire.

Thanks!

Kimberley T. Hinkle
McDANIEL LAW FIRM
Senior Paralegal

(803) 771-7211 - Telephone
(803) 252-0709 - Fax
kim@pfmcdlaw.com

1315 Elmwood Avenue
Columbia, SC 29201



McDANIEL LAW FIRM
ATTORNEYS AND COUNSELORS AT LAW
1315 ELMWOOD AVENUE
COLUMBIA, SOUTH CAROLINA 29201

Proudly representing injured workers
for over 30 years

Preston F. McDaniel

Telephone (803) 771-7211

Matthew Robertson

Facsimile (803) 252-0709

December 10, 2019

VIA EMAIL ONLY - coxjoh@musc.edu

John B. Cox M.D.
MUSC Health
Rutledge Tower
135 Rutledge Avenue
Charleston, South Carolina 29425

RE: Genette Sowell
Account # ---
DOB:
Medical care for Occupational Asthma

Dear Dr. Cox

The purpose of this letter is to let you know that the South Carolina Workers Compensation Commission has awarded all of Ms. Sowell's medical care for her "Occupational Asthma" stemming from her work at Piggly Wiggly.

All you need to do is forward this letter to the Billing Department for MUSC to get paid and this care authorized. I will set out below the contact and adjuster information that we have at this time to get authorization and for payment of this medical care.

Senator Gerald Malloy and I represent Ms. Sowell and obtained the Award for her Occupational Asthma and I was literally sick to my stomach when I read the first page of your note of July 17th 2019 and found out that apparently the insurance company who is responsible for paying 100% of her medical care in reference to her Occupational Asthma is not paying for that care and she could not get the care she needs because of the \$500.00 co-pay.

Please pass along to the Billing Department that we will make sure the insurance company pays for this care.

John B. Cox, MD
December 10, 2019
Page 2

The contact information for the Adjuster and the Defense Attorney who is also coordinating the care is as follows:

Defense Attorney:

Kenya C. Miller, Esquire
Dickie McCamey
Post Office Box 2046
Lancaster, South Carolina 29721-2046
DD: (803) 285-0004
kmiller@dmclaw.com

Claims Adjuster:

Melody Harris
Auto Owners Insurance Co.
Post Office Box 211909
Columbia South Carolina 29221
T: (803) 354-9022
Claim #: 036-0000639-2014

Thank you for your excellent care of Ms. Sowell and hopefully you can find something to give her quality life.

Sincerely yours,



Preston F. McDaniel

PFM/waj/kth

cc: Gerald Malloy, Esquire (Via email only)
Kenya C. Miller, Esquire (Via email only)
Vivian Fairbairn, Esquire (Via email only)

kim@pfmcdlaw.com

From: kim@pfmcdlaw.com
Sent: Tuesday, December 10, 2019 5:20 PM
To: 'coxjoh@musc.edu'
Cc: 'gmalloy@bellsouth.net'; 'Greta Elliott'; 'Miller, Kenya'; 'Carver, Tamra'; Andrea Ham ; Rose Thiekle; 'Counsel Vivian Fairbairn'
Subject: Genette Sowell;
Attachments: SCAN19121018230.pdf

The attached is being sent to you at the request of Preston F. McDaniel, Esquire.

Thanks!

Kimberley T. Hinkle
McDANIEL LAW FIRM
Senior Paralegal

(803) 771-7211 - Telephone
(803) 252-0709 - Fax
kim@pfmcdlaw.com

1315 Elmwood Avenue
Columbia, SC 29201

Please "reply to all" when responding.

CSN
1124874261

Progress Notes by John B. Cox, MD at 7/17/2019 3:20 PM

Author: John B. Cox, MD
Filed: 7/17/2019 1:41 PM
Status: Signed

Service: —
Creation Time: 7/17/2019 11:13 AM
Editor: John B. Cox, MD (Physician)

Author Type: Physician
Note Type: Progress Notes

HPI:

I had the pleasure of seeing Genette Sowell in the MUSC Comprehensive Asthma Center/Pulmonary Clinic today. The patient presents for follow-up evaluation and management of severe persistent asthma and reactive airway disease.

The patient has no known history of childhood asthma and is a never smoker. She began having asthma symptoms in 2011 after working at a Piggly Wiggly. While she was working there are drain backed up putting grease and other materials including possible sewage on the floor the kitchen. Daily for 6–8 months she cleaned the backup with various chemicals including bleach, Mr. muscle, chemicals and ammonia. She intermittently wore a mask. Over the time, she had increasing itching of her throat, cough and shortness of breath.

Her symptoms worsened and she was eventually hospitalized for shortness of breath and was placed on bronchodilators. Following that she underwent pulmonary function testing that showed airway obstruction consistent with asthma. Allergy testing apparently showed positive response to dust, mold, ragweed and cockroaches. She was placed on bronchodilators and eventually placed on Xolair because of worsening symptoms.

Despite escalating therapy and Xolair, she continued to have exacerbations. She did require another hospitalization in September 2018 because of worsening asthma. She has required several courses of tapering prednisone. She has now received 5 years of Xolair injections but continues to have breakthrough symptoms. She does have some mild reflux disease which is controlled with omeprazole.

Her pulmonary history is also significant for obstructive sleep apnea treated with CPAP.

The patient was initially evaluated for complaints of severe asthma in October 2018. She was advised to continue Symbicort 160–4.5 twice daily, Singulair and Flonase. Budesonide 0.5 mg was added via nebulizer twice daily. Laboratory testing showed a peripheral eosinophil count of 600 cells per cubic milliliter.

When reevaluated in November 2018, the patient had continued evidence of moderate airway obstruction and severe hyperreactivity to methacholine. She was recovering from another exacerbation. Lab testing did show significant peripheral eosinophilia and she was advised to begin treatment with Mepolizumab. Arrangements were made for Mepolizumab injections, however her co-pay was more than \$500 per month and she was not able to start the injections. She continues to struggle with her asthma despite the addition of higher dose inhaled steroids with nebulized budesonide. She continued to require prednisone 20 mg daily.

Arrangements were made to reduce her co-pays through patient assistant program and in March 2019 she started Mepolizumab injections on a monthly basis. She reports within several weeks she felt markedly improved. She was able to discontinue prednisone in May 2019. She is rarely needing a rescue bronchodilator. She was able to discontinue Singulair and inhaled budesonide but remains compliant with Symbicort twice daily. Her exercise tolerance has improved. She has no nocturnal awakenings related to asthma. Tolerating the medication without side effects.

Progress Notes by John B. Cox, MD at 7/17/2019 3:20 PM (continued)

Past Medical History:

Diagnosis	Date
• Asthma	
• GERD (gastroesophageal reflux disease)	
• Hypertension	
• Reactive airway disease with acute exacerbation	11/6/2018
• Severe persistent asthma without complication	10/1/2018
• Sleep apnea	

Past Surgical History:

Procedure	Laterality	Date
• none		

Outpatient Medications Marked as Taking for the 7/17/19 encounter (Office Visit) with John B. Cox, MD

Medication	Sig	Dispense	Refill
• benazepril-hydrochlorothiazide (LOTENSIN HCT) 10-12.5 mg per tablet	Take 1 tablet by mouth daily.		
• budesonide-formoterol (SYMBICORT) 160-4.5 mcg/actuation inhaler	Inhale 2 puffs into the lungs 2 times daily.	10.2 g	11
• fluticasone propionate (FLONASE) 50 mcg/actuation nasal spray	Use 2 sprays in each nostril daily as needed for allergies.		
• mepolizumab (NUCALA) 100mg/mL subcutaneous injection	Inject 1 mL (100 mg total) under the skin every 28 days.	1 vial	11
• omeprazole (PRILOSEC) 40 mg delayed release capsule	Take 40 mg by mouth each morning before breakfast. Take 30 min-1 hr before eating.		
• rosuvastatin (CRESTOR) 10 mg tablet	Take 10 mg by mouth daily.		
• [DISCONTINUED] ALBUTEROL INHL	Inhale 2 puffs into the lungs 4 times daily as needed.		
• [DISCONTINUED] budesonide (PULMICORT) 0.5 mg/2 mL nebulizer suspension	Inhale 2 mL into the lungs 2 times daily.	60 ampule	11
• [DISCONTINUED] budesonide-formoterol (SYMBICORT) 160-4.5	Inhale 2 puffs into the lungs 2 times daily.		

Progress Notes by John B. Cox, MD at 7/17/2019 3:20 PM (continued)

- Alcohol use: No
- Drug use: No
- Sexual activity: No

Lifestyle

- Physical activity:
 - Days per week: None
 - Minutes per session: None
- Stress: None

Relationships

- Social connections:
 - Talks on phone: None
 - Gets together: None
 - Attends religious service: None
 - Active member of club or organization: None
 - Attends meetings of clubs or organizations: None
 - Relationship status: None
- Intimate partner violence:
 - Fear of current or ex partner: None
 - Emotionally abused: None
 - Physically abused: None
 - Forced sexual activity: None

Other Topics

- None

Social History Narrative

- None

REVIEW OF SYSTEMS:

Constitutional: negative for: fever, negative for: chills, negative for: diaphoresis, negative for: activity change, positive for: appetite change, negative for: fatigue and negative for: unexpected weight change.

HENT: positive for: congestion, negative for: ear pain, negative for: hearing loss, negative for: nosebleeds, positive for: postnasal drip, negative for: rhinorrhea, negative for: sinus pressure, negative for: sneezing, negative for: sore throat and negative for: trouble swallowing.

Eyes: negative for: pain, negative for: discharge, negative for: redness and negative for: itching.

Respiratory: negative for: apnea, positive for: cough, negative for: choking, negative for: chest tightness, positive for: shortness of breath, positive for: wheezing and negative for: stridor.

Cardiovascular: negative for: chest pain, negative for: palpitations and negative for: leg swelling.

Gastrointestinal: negative for: nausea, negative for: vomiting, negative for: abdominal pain, negative for: diarrhea, negative for: constipation and negative for: blood in stool.

Endocrine: positive for: cold intolerance, negative for: heat intolerance, negative for: polydipsia and negative for: polyuria.

Genitourinary: negative for: dysuria, negative for: urgency, negative for: frequency, negative for: hematuria, negative for: flank pain, negative for: decreased urine volume and negative for: difficulty urinating.

Progress Notes by John B. Cox, MD at 7/17/2019 3:20 PM (continued)

Musculoskeletal: negative for: myalgias, negative for: back pain, negative for: joint swelling, negative for: arthralgias and negative for: neck pain.

Skin: negative for: color change and negative for: rash.

Allergic/Immunologic: positive for: environmental allergies, negative for: food allergies and negative for: immunocompromised state.

Neurological: negative for: dizziness, negative for: tremors, negative for: seizures, negative for: syncope, negative for: light-headedness, negative for: numbness and negative for: headaches.

Hematological: negative for: adenopathy. Does not bruise/bleed easily.

Psychiatric/Behavioral: negative for: sleep disturbance, negative for: dysphoric mood and negative for: agitation. positive anxiety, negative hyperactivity.

PHYSICAL EXAMINATION:

BP 149/81 | Pulse 66 | Temp 36.4 °C (97.6 °F) (Oral) | Resp 18 | Ht 157.5 cm (5' 2") | Wt 62.9 kg (138 lb 9.6 oz) | SpO2 100% | BMI 25.35 kg/m²

Body mass index is 25.35 kg/m².

body surface area is 1.66 meters squared.

General appearance -Well-developed, well nourished female, in no acute distress. **Head**-atraumatic.

Eyes-PERRL, EOM intact, Sclera anicteric.

Nose-Septum straight, normal mucosa, without discharge. Turbinates normal. **Sinuses**-Non-tender to percussion.

Mouth and Throat-normal mucosa, without lesions. Airway Mallampati Class II. Teeth and gums normal.

Neck-supple, trachea midline, no thyromegaly, no jugular venous distension

Lungs-Clear to auscultation and percussion. Symmetric expansion with normal excursions, without accessory muscle use. Intermittent coughing

Cardiovascular-Normal S1 and S2, without S3 or murmur.

Abdomen-Soft, positive bowel sounds, non-tender, without hepatosplenomegaly. **Extremities**-without cyanosis, clubbing or edema.

Musculoskeletal - no joint tenderness, deformity or swelling

Neurological/Mental Status-Alert, oriented X3, Mood and affect normal. CN II-XII intact. Normal muscular tone. Normal gait.

Lymph Nodes- No cervical or supraclavicular adenopathy.

Skin-without eczema, urticaria or rash. Normal coloration and turgor, no rashes, no suspicious skin lesions noted.

ACT: 16.

PULMONARY FUNCTION TESTING RESULTS: 7/17/2019: Baseline spirometry is consistent with mild obstruction with FEV1 of 1.46 L - 88% predicted. When compared to pulmonary function testing from 2/6/2019 there has been a 66% improvement in FEV1.

FeNO: 45 ppb

LABORATORY DATA: Pending

Progress Notes by John B. Cox, MD at 7/17/2019 3:20 PM (continued)

ASSESSMENT/PLAN:

Severe persistent asthma and reactive airway disease: The patient had no prior history of asthma or other respiratory disease until she had exposure to numerous cleaning agents and noxious odors at the workplace. Following that she developed aggressive worsening symptoms.

Over the last 5 years she has been treated with high-dose inhaled steroids with long-acting bronchodilators and omalizumab. Despite this she continued to have exacerbations of symptoms requiring prednisone or emergency room visits. Pulmonary function testing continued to show moderate-severe obstructive disease despite her medications including daily prednisone. Lab testing showed significant eosinophilia. Since she failed Xolair infusions and had significant eosinophilia it was recommended that she start Mepolizumab.

Once financial arrangements were resolved, she began Mepolizumab injections in March 2019. Since starting the injection she has had a marked improvement in her symptom control and pulmonary function. She is tolerating the injections well. She has been able to wean off prednisone and several other medications. Her activity level is markedly improved and she is tolerating the injections without side effects.

Recommendations:

1. Eosinophil count today.
2. Continue monthly Mepolizumab.
3. Continue Symbicort 160-4.5: 2 puffs twice daily with spacer.
4. Albuterol as needed.
5. Return office visit in 6 months with repeat pulmonary function testing and FeNO.

John B. Cox, M.D.
Clinical Professor

Electronically signed by John B. Cox, MD on 7/17/2019 1:41 PM



MEDICAL RECORDS
169 Ashley Ave Suite H102
MSC 250
Charleston SC 29425-3490
HIM ROI Notes Report

Sowell, Geriette M
MRN: [redacted] DOB: [redacted], Sex:
Acct #: [redacted]
Adm: 7/17/2019, D/C: 7/17/2019

CSN: 1124874291

Progress Notes by John B. Cox, MD at 7/17/2019 3:08 PM

Author: John B. Cox, MD
Filed: 7/17/2019 3:08 PM
Status: Signed

Service: MED-PULMONARY&CC
Creation Time: 7/17/2019 3:08 PM
Editor: John B. Cox, MD (Physician)

Author Type: Physician
Note Type: Progress Notes

RESULTS REVIEW - I have reviewed these results and discussed with the patient during the visit.

Electronically signed by John B. Cox, MD on 7/17/2019 3:08 PM

CSN
1127432394

Progress Notes by John B. Cox, MD at 7/17/2019 12:15 PM

Author: John B. Cox, MD
Filed: 7/17/2019 3:08 PM
Status: Signed

Service: —
Creation Time: 7/17/2019 3:08 PM
Editor: John B. Cox, MD (Physician)

Author Type: Physician
Note Type: Progress Notes

RESULTS REVIEW - I have reviewed these results and have sent a letter to the patient.

Electronically signed by John B. Cox, MD on 7/17/2019 3:08 PM



MEDICAL RECORDS
169 Ashley Ave Suite H102
MSC 250
Charleston SC 29425-3490
HIM ROI Notes Report

Sowell, Genette M
MRN: [redacted] DOB: [redacted] Sex: [redacted]
Acct #: [redacted]
Adm: 7/17/2019, D/C: 7/17/2019

CSN: 1127430404

Progress Notes by John B. Cox, MD at 7/18/2019 4:41 PM

Author: John B. Cox, MD
Filed: 7/18/2019 4:41 PM
Status: Signed

Service: MED-PULMONARY&CC
Creation Time: 7/18/2019 4:41 PM
Editor: John B. Cox, MD (Physician)

Author Type: Physician
Note Type: Progress Notes

RESULTS REVIEW - I have reviewed these results and discussed with the patient during the visit.

Electronically signed by John B. Cox, MD on 7/18/2019 4:41 PM



MEDICAL RECORDS
 169 Ashley Ave Suite H102
 MSC 250
 Charleston SC 29425-3490

Sowell, Genette M
 MRN: , Sex: .
 Acct #
 Visit date: 11/6/2018

CSN
 1120295661

Order **EOSINOPHIL COUNT [LAB298] (Order 147560247)**

EOSINOPHIL COUNT [147560247]

Electronically signed by: **John B. Cox, MD on 11/06/18 1633** Status: **Discontinued**
 Ordering user: John B. Cox, MD 11/06/18 1633 Ordering provider: John B. Cox, MD
 Authorized by: John B. Cox, MD
 Frequency: 11/06/18 - Discontinued by: John B. Cox, MD 06/05/19 0835 [No Specimen Received]

Diagnoses
 Severe persistent asthma without complication [J45.50]

Result **EOSINOPHIL COUNT (Order 147560247)**

CSN
 1127432394

Order **CBC AND DIFFERENTIAL [LAB293] (Order 147560265)**

CBC AND DIFFERENTIAL [147560262]

Electronically signed by: **John B. Cox, MD on 07/17/19 1317** Status: **Completed**
 Ordering user: John B. Cox, MD 07/17/19 1317 Ordering provider: John B. Cox, MD
 Authorized by: John B. Cox, MD Ordered during: Office Visit on 07/17/2019
 Frequency: 07/17/19 -

Diagnoses
 Severe persistent asthma without complication [J45.50]
 Severe persistent reactive airway disease without complication [J45.50]

Result **CBC AND DIFFERENTIAL (Order 147560265)**

Resulted: 07/17/19 1352, Result status: Final result

CBC AND DIFFERENTIAL [147560265]

Ordering provider: John B. Cox, MD 07/17/19 1332 Resulting lab: CFC LAB - LABDAQ

Narrative:

1
 MUSC Physician PCP-Lab
 1600 Midtown Avenue
 Suite 2D11
 Charleston, SC 29414
 (843)876-8191
 Christopher Metts, MD

Specimen Information

Type	Source	Collected On
—	Whole Blood-Venous	07/17/19 1333

Components

Component	Value	Reference Range	Flag	Lab
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WHITE BLOOD CELLS	4.3	4.0 - 11.0 K/uL	—	CFCLAB
LYMPHOCYTES - REL (DIFF)	27.3	20.0 - 45.0 %	—	CFCLAB
NEUTROPHILS - REL (DIFF)	62.6	35.0 - 75.0 %	—	CFCLAB
MONOCYTES RELATIVE	8.0	4.0 - 15.5 %	—	CFCLAB
EOSINOPHILS, DIFF	1.2	0.0 - 5.0 %	—	CFCLAB
BASOPHILS - REL (DIFF)	0.9	0.0 - 2.0 %	—	CFCLAB
LYMPHOCYTES ABSOLUTE	1.2	1.1 - 4.4 K/uL	—	CFCLAB
NEUTROPHILS ABSOLUTE	2.7	2.2 - 7.9 K/uL	—	CFCLAB
MONOCYTES ABSOLUTE	0.3	0.0 - 1.6 K/uL	—	CFCLAB
EOSINOPHILS ABSOLUTE	0.10	0.00 - 0.50 K/uL	—	CFCLAB
BASOPHILS ABSOLUTE	0.0	0.0 - 0.2 K/uL	—	CFCLAB
RED BLOOD CELL COUNT	4.23	3.63 - 4.92	—	CFCLAB
		M/uL		
NUCLEATED RED BLOOD CELLS	0.0	/100 WBC	—	CFCLAB
HEMOGLOBIN	11.6	11.0 - 15.0	—	CFCLAB
		gm/dL		
HEMATOCRIT	35.4	33.0 - 47.0 %	—	CFCLAB
MEAN CORPUSCULAR VOLUME	83.7	77.0 - 106.0 fL	—	CFCLAB
MEAN CORPUSCULAR HEMOGLOBIN	27.5	26.0 - 35.0 pg	—	CFCLAB
MEAN CORPUSCULAR HEMOGLOBIN CONC	32.8	32.0 - 36.0 g/dL	—	CFCLAB
RED CELL DISTRIBUTION WIDTH	13.7	11.6 - 16.4 %	—	CFCLAB
PLATELETS	216	140 - 440 K/uL	—	CFCLAB
Comment:	Due to a FDA issued recall of Beckman Coulter hematology analyzers, all platelet counts are being verified by an alternative method			
MEAN PLATELET VOLUME	9.4	7.3 - 10.3 fL	—	CFCLAB

Testing Performed By

Lab - Abbreviation	Name	Director	Address	Valid Date Range
17 - CFCLAB	CFC LAB - LABDAQ	Unknown	Unknown	03/07/12 0826 - Present

Document on 7/17/2019 1:42 PM by John B. Cox, MD: MUSC AMBULATORY AVS (below)

What's Next (continued)

21 OFFICE VISIT with John B. Cole, MD
Tuesday January 21 10:20 AM (Arrive by 10:05 AM)

Pulmonology at MUSC Health East Cooper
1500 Middleton Avenue, 2nd Floor
Mt Pleasant, SC 29464
843.792.3200

Allergies as of 7/17/2019

Zyrtec [cetirizine]

Things For You To Do (These Tests need to be completed between the "Order Opens" and "Order Expires" Dates)

Future Orders	Order Opens	Order Expires	Ordering Dept.
CBC AND DIFFERENTIAL	7/17/2019	7/17/2020	PULM HEC2
FRACTIONAL EXHALED NITRIC OXIDE TESTING	1/17/2020	7/16/2020	PULM HEC2
PULMONARY FUNCTION TEST	1/17/2020		PULM HEC2

Communication to Patients

MUSC Health Virtual Care

When poison ivy or a rash strikes, MUSC Health Virtual Care strikes back. Now offering quick, quality care for summertime complaints, along with dozens of other common conditions - for you and your family! Available 24 hours a day, seven days a week. Visit www.muschealth.org/virtual-care

Changes to Your Medication List

ⓘ Accurate as of 7/17/19 1:42 PM.

Please review the med list below for any possible changes to your current medications. For your safety, it is important that you give a copy of this list of medications to your primary care physician as soon as possible after this visit. Keep your own medication list updated any time your medications are changed, or new ones are added. Please carry an up-to-date medication list with you at all times.

START taking these medications



albuterol 90 mcg/actuation inhaler
PROVENTIL HFA, VENTOLIN HFA, PROAIR HFA

Inhale 2 puffs into the lungs every 6 hours as needed for shortness of breath.

CHANGE how you take these medications



budesonide-formoterol 160-4.5 mcg/actuation inhaler
SYMBICORT

Inhale 2 puffs into the lungs 2 times daily. when to take this

CONTINUE taking these medications

benazepril-hydrochlorothiazide 10-12.5 mg per tablet
LOTENS N HCT

Take 1 tablet by mouth daily.

fluticasone propionate 50 mcg/actuation nasal spray
FLONASE

Use 2 sprays in each nostril daily as needed for allergies.

mepolizumab 100mg/mL subcutaneous injection
MILCALA

Inject 1 mL (100 mg total) under the skin every 28 days.

omeprazole 40 mg delayed release capsule
PRILLOSEC

Take 40 mg by mouth each morning before breakfast. Take 30 min-1 hr before eating.

rosuvastatin 10 mg tablet
CRESTOR

Take 10 mg by mouth daily.

STOP taking these medications

Changes to Your Medication List (continued)

STOP taking these medications (continued)



ALBUTEROL INHL
ALBUTEROL INHALER



budesonide 0.5 mg/2 mL nebulizer suspension
PULMOCORT
BUDENSONID NEBULIZER



montelukast 10 mg tablet
SINGULAIR
MONTelukast TABLETS



predniSONE 10 mg tablet
DIFLASONIF
PREDNISOLONE TABLETS

END OF REPORT

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE WORKERS' COMPENSATION COMMISSION

Appellate Case No. 2017-002396

RECEIVED
MAR 06 2020
SC Court of Appeals

Gennette Sowell, Employee, Respondent-Movant.

v.

Piggly Wiggly, Employer, and
Auto Owners Insurance, Inc., Carrier, Appellants.

PROOF OF SERVICE

I certify that I have served the MOTION FOR A RULE TO SHOW CAUSE HEARING BEFORE A JUDGE OF THIS COURT OR A JUDGE OR THE FOURTH JUDICIAL CIRCUIT PURSUANT TO SOUTH CAROLINA CODE §42-17-60 AND 70; §14-8-280; §42-5-520; AND §15-35-180 AND OTHER APPLICABLE LAW FOR AN ORDER FINDING THE RESPONDENTS IN CONTEMPT FOR FAILURE TO PROVIDE MEDICAL CARE PURSUANT TO THE AWARD OF THE COMMISSION DURING THE PENDENCY OF THE APPEAL AND FOR AN ORDER OF THE COURT REQUIRING IMMEDIATE COMPLIANCE WITH AND THE PROVISION OF MEDICAL CARE DURING THE PENDENCY OF THE APPEAL AS PROVIDED FOR IN SOUTH CAROLINA CODE §42-17-60 AND FOR SUCH PENALTIES, FINES, INTEREST AND ATTORNEYS FEES AND SUCH OTHER REMEDIES AS THE COURT DEEMS JUST AND APPROPRIATE PURSUANT TO THE SOUTH CAROLINA CODE OF LAWS with MEMORANDUM IN SUPPORT OF and AFFIDAVIT OF PRESTON F. MCDANIEL by depositing a copy of it in the United States Mail, postage prepaid, on March 6, 2020 addressed to:

Kenya C. Miller, Esquire
Kristian C. Bell, Esquire
Dickie, McCamey & Chilcote, PC
P. O. Box 2046
Lancaster, SC 29721



Preston F. McDaniel
SC Bar #3770
MCDANIEL LAW FIRM
1315 Elmwood Avenue
Columbia, South Carolina 29201
(803) 771-7211
Counsel for Appellant

March 6, 2020

McDANIEL LAW FIRM
ATTORNEYS AND COUNSELORS AT LAW
1315 ELMWOOD AVENUE
COLUMBIA, SOUTH CAROLINA 29201

Proudly representing injured workers
For over 35 years.

Preston F. McDaniel

Telephone (803) 771-7211

Matthew Robertson

Facsimile (803) 252-0709

March 6, 2020

HAND DELIVERED

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

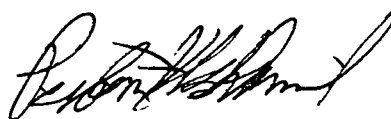
RE: Gennette Sowell v. Piggly Wiggly
Lower Court Case No. 1408826
Appellate Case No. 2017-002396

Dear Ms. Kitchings:

Please find enclosed the original and seven (7) copies of MOTION FOR A RULE TO SHOW CAUSE HEARING BEFORE A JUDGE OF THIS COURT OR A JUDGE OR THE FOURTH JUDICIAL CIRCUIT PURSUANT TO SOUTH CAROLINA CODE §42-17-60 AND 70; §14-8-280; §42-5-520; AND §15-35-180 AND OTHER APPLICABLE LAW FOR AN ORDER FINDING THE RESPONDENTS IN CONTEMPT FOR FAILURE TO PROVIDE MEDICAL CARE PURSUANT TO THE AWARD OF THE COMMISSION DURING THE PENDENCY OF THE APPEAL AND FOR AN ORDER OF THE COURT REQUIRING IMMEDIATE COMPLIANCE WITH AND THE PROVISION OF MEDICAL CARE DURING THE PENDENCY OF THE APPEAL AS PROVIDED FOR IN SOUTH CAROLINA CODE §42-17-60 AND FOR SUCH PENALTIES, FINES, INTEREST AND ATTORNEYS FEES AND SUCH OTHER REMEDIES AS THE COURT DEEMS JUST AND APPROPRIATE PURSUANT TO THE SOUTH CAROLINA CODE OF LAWS with MEMORANDUM IN SUPPORT OF and AFFIDAVIT OF PRESTON F. MCDANIEL in the above referenced matter. I would appreciate you returning the clocked-in copy to me in the enclosed self-addressed, stamped envelope.

By copy of this letter, I am serving Counsel of Record with a copy of same. As always, I appreciate all the courtesies and kindnesses shown to me by the Court.

Sincerely yours,



Preston F. McDaniel

PFM/kth
Enclosure

cc: Gerald Malloy, Esquire
Kenya C. Miller, Esquire
Kristian C. Bell, Esquire

RECEIVED

MAR 06 2020

SC Court of Appeals