

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM THE WORKERS' COMPENSATION COMMISSION

**RECEIVED**

Appellate Case No.: 2017-002396

MAR 06 2020

SC Court of Appeals

Gennette Sowell, Employee, ..... Respondent-Movant.

v.

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

**AFFIDAVIT OF PRESTON McDANIEL,  
CO-COUNSEL FOR RESPONDENT**

Having been duly and properly sworn, I do depose and state that I am co-counsel for the Respondent in the above-referenced matter.

Subsequent to the agreement to provide medical care, 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 during 2018 and the months that followed the agreement to voluntarily 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 medical care was paid for with and/or provided through any of these 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 not being paid for and in fact was being 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

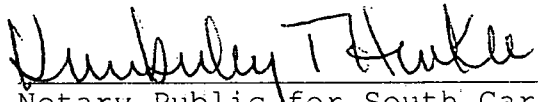
appeal during which time the Respondent specifically advised her counsel that none of her medical bills were being paid and that she was having to pay co-pays with all of her authorized medical providers under the Award of the Commission. As of the date of the filing of this Motion, upon information and belief, the medical providers are still not being paid by the Appellants.

FURTHER THE AFFIANT SAYETH NOT.



Preston F. McDaniel, Esquire  
SC Bar No. 3770  
Attorney for Respondent-Movant

SWORN TO BEFORE ME this 6th  
day of March 2020.



(L.S.)  
Notary Public for South Carolina  
My Commission Expires: 4-26-20

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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

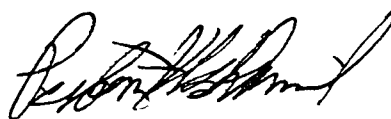
RE: Gennette Sowell v. Piggly Wiggly  
Lower Court Case No. 1408826  
Appellate Case No. 2017-002396

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

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