

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

Appeal No. 2018-001535

RECEIVED
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SC Court of Appeals

Ex Parte: Christine Bradley, Surviving Spouse,Appellant.

In re: Albert Bradley, Employee,

v.

Southern Industrial Constructors, Inc., Employer,
and Zurich American Insurance Company

c/o Zurich North America, Carrier, Respondents.

**AMENDED MOTION TO STRIKE AND/OR CLARIFY APPELLANT'S
SECOND AMENDED DESIGNATION OF MATTER
AND/OR TO DISMISS APPEAL**

Pursuant to Rules 209, 210, 240 and 260, SCACR, Respondents Southern Industrial Constructors, Inc. and Zurich American Insurance Company c/o Zurich North America hereby amend their prior Motion to Strike and/or Clarify Appellant's Amended Designation of Matter and/or to Dismiss Appeal, filed with this Court on February 21, 2020.

In response to this Court's February 7, 2020 Order, Appellant Christine Bradley filed and served an amended Designation of Matter to be Included in the Record on Appeal on February 17, 2020 ("Amended Designation"). On February 21, 2020, Respondents filed the above-referenced Motion to correct the Amended Designation and/or to dismiss the appeal. On February 25, 2020, Appellant served Respondents with

a further amended Designation of Matter that includes typed categories of “documents and dates” with numerous handwritten notations. (“Second Amended Designation”)

Respondents have spent hours combing through the prior Orders, correspondence and Administrative Procedure Act submissions filed with the Commission over the nine-year life of this claim in a good-faith attempt to decipher and confirm what portions of the Commission file Appellant is attempting to designate. At some point, and Respondents believe that point has been reached and passed, either Appellant must comply fully with the South Carolina Appellate Court Rules, or this Court should dismiss her appeal for her repeated failure to do so.

As an initial matter, and as Respondents have pointed out before, much of the material designated by Appellant is irrelevant to any of the issues that are before this Court. Appellant appealed the July 26, 2018 Decision and Order of the Appellate Panel of the Full Commission wherein she was awarded, as Decedent Albert Bradley’s surviving spouse, the unpaid balance of compensation and benefits, as well as funeral expenses. (*See* Decision and Order of the Commission, attached to Appellant’s August 20 2018 Notice of Appeal). Many of the items listed on the Amended Designation simply are not relevant to any issue that legitimately can be raised in this appeal. “A party *shall not* include any matter in his Designation *which is not relevant* to the appeal.” Rule 209(b), SCACR (emphasis added). Respondents have not contested they owe the amounts awarded by the Commission to Appellant and remain ready and willing to comply with the Commission Decision. On Appellant’s most recent submission, the irrelevant designations include:

1. Most if not all of the medical records designated by Appellant. The issue on appeal is to whom the remaining benefits should be paid and in what amount. Issues and concerns regarding Mr. Bradley's medical treatment were raised and addressed in prior Orders in this case, which are attached hereto for the Court's information. With the exception of Commissioner Beck's January 22, 2018 Decision and Order, none of these prior Orders were appealed to the Full Commission and are, therefore, the law of the case. *See, e.g., Transportation Ins. Co. v. South Carolina Second Injury Fund*, 389 S.C. 422, 431, 699 S.E.2d 687, 692 (2010) (where a party fails to appeal a decision by a single commissioner to the full commission, the single commissioner's decision becomes "the law of the case"); *Brunson v. American Koyo Bearings*, 367 S.C. 161, 165-66, 623 S.E.2d 870, 872 (Ct. App. 2005) ("[t]he findings of fact and law by the hearing commissioner become and are the law of the case, unless within the scope of the appellant's exception to the full commission"). The attached orders include:

- A. Order Appointing Guardian Ad Litem, dated June 8, 2011;
- B. Administrative Order, filed December 7, 2011;
- C. Decision and Order, filed April 6, 2012;
- D. Decision and Order, filed August 16, 2012;
- E. Order Relieving Counsel, filed September 28, 2012;
- F. Decision and Order, filed February 11, 2013;
- G. Decision and Order, filed October 10, 2013;
- H. Decision and Order, filed February 12, 2015¹;

¹ Amended per Decision and Order filed June 5, 2015.

- I. Amended Decision and Order, filed June 5, 2015;
- J. Order, filed August 21, 2015;
- K. Decision and Order, filed December 18, 2015; and,
- L. Decision and Order, filed January 18, 2018.

2. All wage information. On February 11, 2013, Commissioner T. Scott Beck issued a Decision and Order awarding Decedent “disability benefits based on a compensation rate of Seven Hundred Four Dollars (\$704.92) and 92/100. The issue of the Claimant’s entitlement to payment for any back due temporary disability benefits is held in abeyance pending provision, by the Claimant’s family to the Defendants, of wage records from the Claimant’s concurrent Employer, or, in the alternative, a W-2 from the Claimant’s concurrent Employer.” (Exh. F, Decision & Order, filed Feb. 11, 2013, p. 5). That Decision was not appealed. On June 5, 2015, Commissioner Beck issued an Amended Decision and Order stating a stipulated average weekly wage of “One Thousand Two Hundred Eight Seven Dollars (\$1,287.34) and 34/100 with a corresponding compensation rate of Seven Hundred Four Dollars (\$704.92) and 92/100.” (Exh. I, Decision & Order, filed June 5, 2015, pp. 2, 14). That Decision was not appealed and, therefore, is the law of this case. *See* Transportation Ins. Co., 389 S.C. at 431, 699 S.E.2d at 692; Brunson, 367 S.C. at 165-66, 623 S.E.2d at 872.
3. Rent. Whatever issues Appellant has with rent paid during Mr. Bradley’s lifetime are not relevant to the issues currently on appeal. Furthermore, Commissioner Beck’s June 6, 2015 Decision and Order addressed this issue, (Exh. I, Decision & Order, filed June 5, 2015, pp. 15-16, 21), and that Decision was not appealed. *See*

Transportation Ins. Co., 389 S.C. at 431, 699 S.E.2d at 692; Brunson, 367 S.C. at 165-66, 623 S.E.2d at 872.

A number of the items listed on Appellant's "Documents and Dates" remain unclear and/or insufficiently identified for Respondents to ascertain what is being designated. Both this Court's February 7, 2020 Order and the South Carolina Appellate Court Rules require that the designation of matter "set forth *with specificity* those parts of the transcript, pleadings, orders, exhibits, or other materials which [a party] proposes to include in the record on appeal." Rule 209(a), SCACR (emphasis added); *see also* Rule 209(b) ("[t]he Designation must *clearly* identify what the party desires to have included in the Record on Appeal). These insufficiently identified items include:

1. "Receipts Drug/store personal needs";
2. "S. H. Plan";
3. "Letters/Files";
4. "Arthurs & Foltz";
5. "A. Walkins/Hiser";
6. "Caromuont";
7. "Dr. DJBJr.";
8. "DHHS";
9. "SCWC";
10. "Attachments (4 pgs)";
11. "Guardianship Papers"; and,
12. "Lavare Seltun & Christine Bradley, NC state."

While some of the above-listed items have handwritten dates following or underneath them, they do not correspond to documents/correspondence/material in Respondents' files. For example, under the notation "A. Walkins/Hiser" are three dates, 05-01-19, 03/27/19, and 01-12-19. While the undersigned received a letter from Appellant dated May 1, 2019, (Exh. M, hereto), that document was not presented to the Commission and, therefore, cannot be designated to be included in the Record on Appeal.² "The Record shall not ... include matter which was not presented to the lower court or tribunal." Rule 210(c). In addition, the undersigned was copied on a March 26, 2019 letter from Appellant to Tereasa Osborne and Victoria Lichtenberger, requesting copies of various documents. Again, however, this document was never presented to the Commission and, therefore, cannot be included in the Record on Appeal. *See* Rule 210(c). Finally, the undersigned is unable to locate any correspondence addressed or copied to her dated January 12, 2019 and, in any event, given the date, it would not have been something presented to the Commission while this matter was pending before that administrative agency. *See* Rule 210(c).

The "South Carolina Appellate Court Rules are not mere technicalities but provide the parties and this Court with an orderly mechanism through which to guide appeals in this State." Henning v. Kaye, 307 S.C. 436, 415 S.E.2d 794 (1992). Where a party refuses to comply with this Court's Appellate Court Rules and, moreover, fails to comply with an Order of this Court, the appeal can and should be dismissed. *See, e.g., Diamond v. Powell*, 271 S.C. 183, 184, 246 S.E.2d 233, 234 (1978) (dismissing appeal

² One of the attachments to Appellant's May 1, 2019 letter, pages 6-12, were submitted to the Commission and are appropriate for designation to the Record on Appeal. Although Appellant does not appear to have designated her Form 30 filed with the Commission for inclusion in the Record, Respondents have no objection to these specific pages.

due to appellant's failure to comply with appellate court rules). This appeal initially was filed on August 20, 2018. Eighteen months later, initial briefing still has not been completed primarily due to Appellant's repeated failure to comply with this Court's Appellate Court Rules and, now, its February 7, 2020 Order. Patently, a *pro se* litigant "who knowingly elects to represent himself assumes full responsibility for complying with substantive and procedural requirements of the law." State v. Burton, 356 S.C. 259, 265 n.5, 589 S.E.2d 6 n.5, 9 (2003); Goodson v. American Bankers Ins. Co. of Fla., 295 S.C. 400, 403, 368 S.E.2d 687, 689 (Ct. App. 1998) (*pro se* litigants held to the same standard as attorneys). As a result of Appellant's repeated failure to comply with this Court's Rules and Orders, Respondents request this Court to dismiss Appellant's appeal pursuant to Rule 260, SCACR.

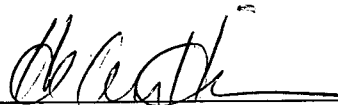
CONCLUSION

For the reasons stated herein, Respondents move this Court to strike any material from Appellant's Amended Designation and Second Amended Designation that is not relevant to this appeal and/or that was not presented to the Commission, as noted herein, and to order Appellant to clarify her Amended Designation and Second Amended Designation regarding items that are insufficiently identified therein. In the alternative, Respondents move this Court to dismiss Appellant's appeal for failure to comply with this Court's Rules and its February 7, 2020 Order.

Respectfully submitted,

McANGUS GOUDELOCK & COURIE, LLC

February 28, 2020



Helen F. Hiser, S.C. Bar No.: 76124

P.O. Box 650007
Mount Pleasant, South Carolina 29465
(843) 576-2900

*Attorneys for Respondents Southern Industrial
Constructors, Inc., Employer, and Zurich American
Insurance Company c/o Zurich North America,
Carrier*

STATE OF SOUTH CAROLINA)
)
COUNTY OF KERSHAW)

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION
WCC FILE NO.: 1105628

Albert Bradley, a mentally)
incapacitated person)

Christine Bradley,)
)
Petitioner.)

IN RE:)

Albert Bradley,)
)
Claimant,)

vs.)

Southern Industrial)
Constructors,)

Employer,)

and)

Zurich American Insurance)
Company,)

Carrier,)

Defendants.)

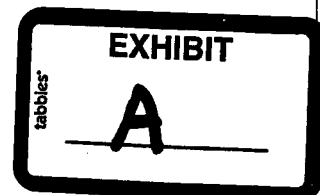
ORDER APPOINTING
GUARDIAN AD LITEM

RECEIVED

MAY 31 2011

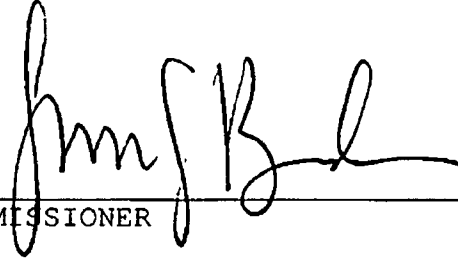
(FRONT DESK)
SC Workers' Comp Comm

After due and proper consideration of the Petition for the Appointment of Guardian ad Litem requesting that Christine Bradley be appointed as the Guardian ad Litem for her husband, Mr. Albert Bradley, and finding that Mr. Albert Bradley according to his doctors due to his medical condition is incompetent to handle his own affairs,



IT IS THEREFORE ORDERED that Christine Bradley, the wife of Mr. Albert Bradley, be and hereby is appointed Guardian ad Litem for Albert Bradley.

AND IT IS SO ORDERED.



COMMISSIONER

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

Columbia, South Carolina

June 8, 2011

PMC
EAL
AB

CERTIFICATE OF SERVICE
This is to certify that the undersigned has this date served this order in the above entitled action upon all parties to this cause by depositing a copy herof, postage paid in the United States mail addressed to the attorney or attorneys for said parties.

This 8th day of June, 2011

By FRISTI LOVE
Administrative Assistant to the Commissioner

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO: 1105628

RECEIVED

APR 09 2012

Per _____

ALBERT BRADLEY,

Employee,

Claimant,

vs.

SOUTHERN INDUSTRIAL
CONSTRUCTORS, INC.,

Employer,

AND

ZURICH AMERICAN INSURANCE
COMPANY,

Carrier,

Defendants.

DECISION AND ORDER

DATE OF HEARING:

Hearing held in Columbia, South Carolina on March 14, 2012.

APPEARANCES:

Claimant's Guardian ad Litem, Christine Bradley, did not appear.

Defendants represented by Jason W. Lockhart, Esquire of McAngus Goudelock & Courie, L.L.C. of Columbia, South Carolina.

PURPOSE OF THE HEARING:

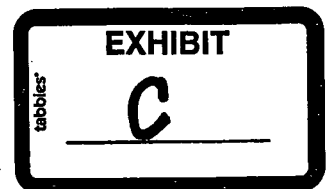
To determine the issues as set forth in the Defendants' Motion to Compel Guardian ad Litem to cooperate with the administration of causally related medical treatment.

COMMISSIONER:

Commissioner T. Scott Beck

FILED:

April 6, 2012



STIPULATIONS

The parties stipulate to the following:

1. Notice of the Hearing was timely and properly served on all parties of interest.
2. The South Carolina Workers' Compensation Commission has jurisdiction over the parties and subject matter of the claim.
3. Venue is proper in Richland County.

STATEMENT OF THE CASE

The Claimant was involved in a work-related accident on May 16, 2011 that resulted in the Claimant sustaining a traumatic brain injury that arose out of and occurred within the course and scope of the Claimant's employment with the Defendants. As a result of the accident, the Claimant has sustained, among other injuries, a physical brain injury. The Claimant's wife, Christine Bradley, was appointed to serve as Guardian ad Litem pursuant to the signed Decision & Order of Commissioner Susan S. Barden. The Claimant currently resides in North Carolina, and is receiving authorized causally related medical treatment, including professional in-home nursing services, which are being provided with the assistance of Bright Star Care of Gastonia. Previously, the Claimant received authorized causally-related medical treatment at the Sheppard Center in Georgia, Nexus Specialty Hospital in Texas, and Intermedical Hospital of South Carolina in South Carolina.

Based upon information and belief, the Defendants maintained that, the Claimant's wife, Christine Bradley, is interfering with the administration of authorized causally related medical treatment, which is being provided to the Claimant by Bright Star Care of Gastonia pursuant to the recommendation of the Claimant's authorized treating providers. The Defendants maintained that they are providing the Claimant with authorized causally related medical treatment, pursuant

to the recommendation of the Claimant's authorized treating physicians, and the Defendants are requesting an Order of the Commission that the Claimant's wife and/or family not interfere with the administration of authorized causally-related medical treatment, which is necessary in light of the Claimant's work-related injuries. Due to the nature and seriousness of the Claimant's injuries, the Defendants maintained that it is necessary that the Claimant receive care, which is being provided by the Defendants.

FINDINGS OF FACT

Based upon Exhibits submitted, the undersigned Commissioner makes the following Findings of Fact:

1. The parties hereto are subject to and bound by the South Carolina Workers' Compensation Act.
2. This is an admitted claim involving a traumatic brain injury arising out of and in the course of the Claimant's employment on May 16, 2011.
3. As a result of the accident, the Claimant has sustained, among other injuries, a physical brain injury.
4. Claimant's wife, Christine Bradley, has been appointed to serve as Guardian ad Litem.
5. Claimant currently resides at 108 South Main Street, Apt 157, Mt. Holly, North Carolina 28120. Claimant is currently receiving authorized causally related medical treatment, including professional in-home nursing services, which are being provided by the Defendants.
6. Previously, the Claimant received authorized causally related medical treatment at Sheppard Center in Georgia, Nexus Specialty Hospital in Texas, and

Intermedical Hospital of South Carolina in South Carolina.

7. Based upon information provided by the Defendants, the Claimant's wife, Christine Bradley, is interfering with the administration of authorized causally related medical treatment, which is being provided to the Claimant pursuant to the recommendation of the Claimant's authorized medical providers.
8. Section 42-15-60 of the Act provides that a Claimant "shall accept an attending physician and any medical care or treatment that is considered necessary by the attending physician, unless otherwise ordered by the Commission for good cause shown. The refusal of an employee to accept any medical, hospital, surgical, or other treatment or evaluation when provided by the Employer or ordered by the Commission bars the employee from further compensation until the refusal ceases." The Defendants are providing the Claimant with authorized causally related medical treatment, pursuant to the recommendation of the Claimant's authorized treating physicians, and the undersigned Commissioner orders that the Claimant's wife not interfere with the administration of medical treatment, which is necessary in light of the Claimant's work-related injuries.
9. Section 42-15-80 of the Act provides that "after an injury or so long as the claims compensation, the employee, if so requested by his Employer or ordered by the Commission, shall submit himself to examination, at reasonable time and places, by a qualified physician or surgeon designated and paid by the Employer or the Commission." Pursuant to Section 42-15-80 of the Act, the Claimant's Guardian ad Litem, Christine Bradley, is statutorily required to acquiesce in and not interfere with the administration of causally related medical treatment.

10. Due to the nature and seriousness of the Claimant's injuries, it is necessary that the Claimant receive the care, which is being provided by the Defendants.

CONCLUSIONS OF LAW

It is concluded under the South Carolina Workers' Compensation Act in Section 42-1-10 S.C. Code of Laws, et. seq., that:

1. Section 42-1-160 governs any injuries by accident arising out of and in the course of employment.
2. Section 42-15-60 governs the provision of medical treatment.
3. Section 42-15-80 governs the submission to physical examinations.
4. Regulation 67-215(5) provides that a party may file a Motion when a form is not applicable. The Commission will accept Motions including, but not limited to, a Motion related to the administration of authorized medical treatment.
5. Based upon information provided by the Defendants, the Claimant's wife, Christine Bradley, is interfering with the administration of authorized causally related medical treatment, which is being provided to the Claimant by Bright Star Care of Gastonia pursuant to the recommendation of the Claimant's authorized medical providers.
6. Section 42-15-60 of the Act provides that a Claimant "shall accept an attending physician and any medical care or treatment that is considered necessary by the attending physician, unless otherwise ordered by the Commission for good cause shown. The refusal of an employee to accept any medical, hospital, surgical, or other treatment or evaluation when provided by the Employer or ordered by the Commission bars the employee from further compensation until the refusal

ceases.”

7. Pursuant to Section 42-15-60, the Defendants are providing the Claimant with authorized causally related medical treatment, pursuant to the recommendation of the Claimant’s authorized treating physicians, and the Claimant’s Guardian ad Litem, Christine Bradley, shall not interfere with the administration of medical treatment, which is necessary in light of the Claimant’s work-related injuries.
8. Section 42-15-80 of the Act provides that “after an injury or so long as the claims compensation, the employee, if so requested by his Employer or ordered by the Commission, shall submit himself to examination, at reasonable time and places, by a qualified physician or surgeon designated and paid by the Employer or the Commission.”
9. Pursuant to Section 42-15-80 of the Act, the Claimant’s Guardian ad Litem, Christine Bradley, is statutorily required to acquiesce in and not interfere with the administration of causally related medical treatment.
10. Due to the nature and seriousness of the Claimant’s injuries, it is necessary that the Claimant receive the care, which is being provided by the Defendants.

ORDER

IT IS HEREBY ORDERED, that the Defendants' Motion compelling the Claimant's Guardian ad Litem to cooperate with the provision of authorized causally related medical treatment is granted.

AND IT IS SO ORDERED.

S.C. Workers' Compensation Commission



T. Scott Beck, Commissioner

CERTIFICATE OF SERVICE

This is to certify the undersigned has this date served this order in the above entitled action upon all parties to this cause by sending an electronic copy hereof by electronic mail addressed to the attorney or attorneys for said parties or by depositing a copy hereof, postage paid, in the United States certified mail addressed to any unrepresented party.

April 6, 2012

By: Amy Bracy, Administrative Assistant to Commissioner Beck

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO: 1105628

ALBERT BRADLEY,

Employee,

Claimant,

vs.

SOUTHERN INDUSTRIAL
CONSTRUCTORS, INC.,

Employer,

AND

ZURICH AMERICAN INSURANCE
COMPANY,

Carrier,

Defendants.

DECISION AND ORDER

DATE OF HEARING: Hearing held in Columbia, South Carolina on July 18, 2012

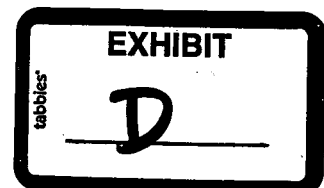
APPEARANCES: Claimant and Claimant's Guardian ad Litem, Christine Bradley, represented by J. Olin McDougall, II, Esquire, Esquire of McDougall Law Firm of Beaufort, South Carolina.

Defendants represented by Jason W. Lockhart, Esquire of McAngus Goudelock & Courie, L.L.C. of Columbia, South Carolina.

PURPOSE OF THE HEARING: To determine all issues as set forth in the Defendants' Motion to Remove Guardian ad Litem and Request for Commission Appointment of Guardian ad Litem.

COMMISSIONER: Commissioner T. Scott Beck

FILED: August 16, 2012



STIPULATIONS

The parties stipulate to the following:

1. Notice of the Hearing was timely and properly served on all parties of interest.
2. The South Carolina Workers' Compensation Commission has jurisdiction over the parties and subject matter of the claim.
3. Venue is proper in Richland County.

STATEMENT OF THE CASE

The Defendants filed a Motion on March 23, 2012 requesting the removal of Christine Bradley as Guardian ad Litem for the Claimant, and are requesting that the Commission appoint a Guardian ad Litem pursuant to Section 42-15-55 of the Act. The Defendants' request is based on medical evidence, which the Defendants maintain support their contention that Christine Bradley has interfered with the administration of authorized causally related medical treatment, which was being provided to the Claimant pursuant to the recommendation of the Claimant's authorized medical providers. More specifically, the Defendants maintain that the Claimant was discharged from the care of The Shepherd Center, Nexus Specialty Hospital, Intermedical Hospital of South Carolina, and Lakeside Family Practice due to the behavior of Christine Bradley. The Defendants maintain that, in light of the fact that the Defendants have accepted liability for the Claimant's injuries, which arose out of the Claimant's May 16, 2011 work-related accident, the Defendants possess the right to direct medical treatment pursuant to Section 42-15-60 of the Act. The Defendants maintain that the right to direct medical treatment, pursuant to Section 42-15-60 of the Act, is being undermined by the actions of the Guardian ad Litem. More importantly, the Defendants maintain that, due to the nature and seriousness of the behavior of the Guardian ad Litem, it would be necessary for the Commission to remove

Christine Bradley as Guardian ad Litem and appoint an attorney to serve as Guardian ad Litem pursuant to Section 42-15-55 and Regulation 67-216 of the Act.

In response, the attorney for the Claimant maintains that the Guardian ad Litem has not interfered with the administration of authorized causally related medical treatment since the Order, issued by the undersigned Commissioner on April 6, 2012, granting the Defendants' Motion to Compel Guardian ad Litem to Cooperate with the Administration of Causally Related Medical Treatment. The Claimant's attorney maintained that, based on the medical records of the Claimant's current authorized treating physician, as well as the observations of the current nurse case manager, the Claimant's family should be provided with the opportunity to serve as the Guardian ad Litem for the Claimant. More specifically, the Claimant's attorney was requesting that Christine Bradley remain as Guardian ad Litem, but, in the alternative, the Claimant's attorney requested that Lavare Seltun, who is the Claimant's daughter and also a Registered Nurse, be appointed to serve as the Claimant's Guardian ad Litem.

FINDINGS OF FACT

Based upon the APA Submissions as well as the statement of the attorneys for the parties and the testimony of Lavare Seltun, the undersigned Commissioner makes the following Findings of Fact:

1. The parties hereto are subject to and bound by the South Carolina Workers' Compensation Act.
2. This is an admitted claim involving a physical brain injury arising out of and in the course of the Claimant's employment on May 16, 2011.
3. As a result of the accident, the Claimant has sustained, among other injuries, a physical brain injury, and is in need of a Guardian ad Litem.

4. Claimant currently resides at 108 South Main Street, Apt. 157, Mount Holly, North Carolina 28120. The Claimant is currently receiving authorized causally related medical treatment, including professional in-home nursing services, which are being provided by the Defendants.
5. Based on the substantial evidence, including the medical records and testimony, the Claimant's wife, Christine Bradley, was previously appointed to serve as Guardian ad Litem, but is hereby being removed as Guardian ad Litem.
6. Based on the substantial evidence, including the medical records and testimony, the undersigned Commissioner is reluctant to divest the Claimant's family of guardianship, despite the previous behavior of Christine Bradley, and hereby appoints Lavare Seltun to serve as the Claimant's Guardian ad Litem.
7. Based on the substantial evidence, including the medical records and testimony, the undersigned Commissioner compels Ms. Sulton to cooperate with the administration of authorized causally related medical treatment, provided by the Defendants, and to insure that the best interest of the Claimant are preserved through cooperation with the Defendants, who possess the right to direct authorized causally related medical treatment.
8. Based on the substantial evidence, including the medical records and testimony, the Defendants are providing the Claimant with authorized causally related medical treatment, pursuant to the recommendation of the Claimant's authorized treating physicians, and the undersigned Commissioner orders that the Guardian ad Litem not interfere with the administration of medical treatment, which is necessary in light of the Claimant's work-related injuries.

9. Based on the substantial evidence, including the medical records and testimony, any non-cooperation between the Claimant's family, including the Guardian ad Litem, and the Defendants regarding the administration of authorized causally related medical treatment could potentially be the responsibility of the now appointed Guardian ad Litem.
10. Based on the substantial evidence, including the medical records and testimony, the undersigned Commissioner also finds that any perceived violation by the Guardian ad Litem of the Defendants right to direct medical treatment will be remedied by the Defendants being provided with the opportunity to request a hearing, and such hearing will be scheduled before the undersigned Commissioner with ten (10) days notice.
11. The Claimant also filed a Motion to Compel Production of Information, previously requested pursuant to subpoena. The parties have informed the undersigned Commissioner that the issues, raised pursuant to the Claimant's Motion to Compel, will be resolved pursuant to a Consent Order.
12. The undersigned Commissioner will retain jurisdiction of this matter.

CONCLUSIONS OF LAW

It is concluded under the South Carolina Workers' Compensation Act in Section 42-1-10 S.C. Code of Laws, et. seq., that:

1. Section 42-1-160 governs any injury by accident arising out of and in the course of employment.
2. Section 42-15-55 governs the appointment of Guardian ad Litem for minors or mentally incompetent persons.

3. Section 42-15-60 governs the provision of medical treatment.
4. Section 42-15-80 governs the submission to physical examinations.
5. Regulation 67-215(A) provides that a party may file a Motion when a Form is not applicable.
6. Regulation 67-215(A)(2) states that the Commission “will accept Motions including, but not limited to, a motion...[r]elating to the appointment of a Guardian ad Litem.”
7. Regulation 67-216 governs the appointment of a Guardian ad Litem, and states that “[w]hen a minor or a mentally incompetent person is a party, a Guardian ad Litem shall represent the minor or mentally incompetent.”
8. Based on the substantial evidence, including the medical records of the Claimant and information provided by the parties, the Defendants’ Motion to Remove Christine Bradley as Guardian ad Litem is granted.
9. Based on the substantial evidence, including the medical records and information provided by the parties, the undersigned Commissioner appoints Lavare Seltun as Guardian ad Litem pursuant to Section 42-15-55 of the Act.
10. Based on the substantial evidence, including the medical records and information provided by the parties, the Defendants are providing the Claimant with authorized causally related medical treatment, pursuant to the recommendation of the Claimant’s authorized treating physicians, and the Claimant’s Guardian ad Litem, Lavare Seltun, shall not interfere with the administration of medical treatment, which is necessary in light of the Claimant’s work-related injuries and being provided pursuant to Section 42-15-60.

11. Pursuant to Section 42-15-80 of the Act, the Claimant's Guardian ad Litem, Lavare Seltun, is statutorily required not to interfere with the administration of causally related medical treatment to the Claimant. Should the Claimant's Guardian ad Litem, Lavare Seltun, upon information and belief of the Defendants, violate the tenants of the Order of the undersigned Commissioner, the Defendants will have the right to request a hearing before the undersigned Commissioner, and such hearing would be scheduled with ten (10) days notice to the parties.
12. The undersigned Commissioner will retain jurisdiction of this matter.

ORDER

IT IS HEREBY ORDERED that the Defendants' Motion to Remove Christine Bradley as the Claimant's Guardian ad Litem is granted.

IT IS HEREBY ORDERED that the Claimant's daughter, Lavare Seltun, is appointed as Guardian ad Litem.

IT IS HEREBY ORDERED that the Claimant's Guardian ad Litem, Lavare Seltun, shall not interfere with the administration of medical treatment, which is necessary in light of the Claimant's work-related injuries, and shall not interfere with the administration of the Claimant's causally related medical treatment.

IT IS HEREBY ORDERED that the undersigned Commissioner will retain jurisdiction of this matter.

IT IS SO ORDERED.

S.C. WORKERS' COMPENSATION COMMISSION



T. Scott Beck, Commissioner

CERTIFICATE OF SERVICE

This is to certify the undersigned has this date served this order in the above entitled action upon all parties to this cause by sending an electronic copy hereof by electronic mail addressed to the attorney or attorneys for said parties or by depositing a copy hereof, postage paid, in the United States certified mail addressed to any unrepresented party.

August 16, 2012

By: Amy Bracy, Administrative Assistant to Commissioner Beck

BEFORE THE SOUTH CAROLINA WORKERS' COMPENSATION
COMMISSION

WCC FILE NO: 1105628

ALBERT BRADLEY, :
Employee/Claimant, :
v :
SOUTHERN INDUSTRIAL CONSTRUCTORS, :
Employer, :
and :
ZURCIH AMERICAN INSURANCE COMPANY, :
Carrier, :

ORDER RELIEVING COUNSEL

Currently, Counsel of record for the Claimant is J. Olin McDougall, II, Esquire and Scott W. Roberts, Esquire. As set forth more fully in the Affidavit in Support of the Motion to be Relieved as Counsel, Mr. McDougall and Mr. Roberts do not wish to continue in the Attorney-Client relationship with the Claimant in the above referenced matter.

Mr. McDougall and Mr. Roberts respectfully requests that they be given leave to withdraw as counsel concerning the claim referenced above.

Based on the above-referenced Affidavit, and for good cause shown, IT IS ORDERED that J. Olin McDougall, II, Esquire and Scott W. Roberts, Esquire, be given leave to withdraw as counsel for the Claimant in this matter.

AND IT IS SO ORDERED.

SC WORKERS' COMPENSATION COMMISSION



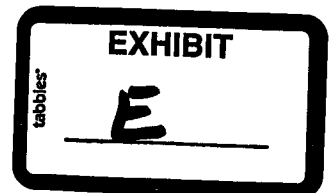
T. Scott Beck, Commissioner

CERTIFICATE OF SERVICE

September 28, 2012

This is to certify the undersigned has this date served this order in the above entitled action upon all parties to this cause by sending an electronic copy hereof by electronic mail addressed to the attorney or attorneys for said parties or by depositing a copy hereof, postage paid, in the United States mail addressed to any unrepresented party.

By Amy Bracy on September 28, 2012



SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO: 1105628

ALBERT BRADLEY,

Employee,

Claimant,

vs.

SOUTHERN INDUSTRIAL
CONSTRUCTORS, INC.,

Employer,

AND

ZURICH NORTH AMERICAN
INSURANCE,

Carrier,

Defendants.

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DECISION AND ORDER

DATE OF HEARING: Hearing held in Columbia, South Carolina on January 25, 2013.

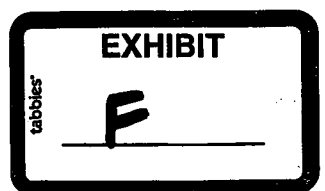
APPEARANCES: Claimant appeared and represented by Lavare Seltun, Guardian ad Litum.

Defendants represented by Jason W. Lockhart, Esquire of McAngus Goudelock & Courie, L.L.C. of Columbia, South Carolina.

PURPOSE OF THE HEARING: To determine all issues as set forth in Forms 50 and 51.

COMMISSIONER: Commissioner T. Scott Beck

FILED: February 11, 2013



STIPULATIONS

The parties stipulate to the following:

1. Notice of the Hearing was timely and properly served on all parties of interest.
2. The South Carolina Workers' Compensation Commission has jurisdiction over the parties and subject matter of the claim.
3. Venue is proper in Richland County.

APA SUBMISSIONS

Pursuant to the South Carolina Administrative Procedures Act and Regulations of the South Carolina Workers' Compensation Commission, the following records were submitted into evidence.

Claimant's APA submissions:

APA#		PAGES
1.	Various correspondence regarding provision of medical treatment.	1-4
2.	Provider Note	5
3.	Attendant Care Claim	6-9
4.	Prescription Denials	10-26
5.	Unfiling of Claims Notifications	27-31
6.	Unpaid Bills	32-112
7.	Wage Records	113
8.	Discharge Summary	114-116
9.	Operative Report	117-159
10.	Medical Supplies and Concerns	160-167
11.	Medical Notes/Case Management	168-195

Defendants' APA submissions:

APA#	DATES	PAGES	
1.	Health Insurance Claim Form	11/5/12	1
2.	Health Insurance Claim Form	11/5/12	2
3.	Corvel Progress Report #3	8/9/12	3-11
4.	Corvel Progress Report #4	9/10/12	12-19

5. Corvel Progress Report #5	10/10/12	20-26
6. Corvel Progress Report #6	11/9/12	27-32
7. Corvel Progress Report #7	12/10/12	33-36
8. Corvel Progress Report #8	1/10/13	37-44
9. Statement from Robin Mason, R.N. BSN M.Ed.	10/9/12	45-46
10. Unifour Nursing Employee Counseling/Disciplinary Action	10/9/12	47
11. Correspondence to Mrs. Christine Bradley from James P. Hutcherson	12/17/12	48
12. Email correspondence from Blanche Parnell to Mark Thomas	10/22/12	49
13. Email correspondence from Trinity Infusion, Inc.	9/18/12	50-51
14. Hunter Woods Nursing & Rehabilitation Center	2/23/12-4/27/12	52-61
15. Carolinas Medical Center	10/9/12- 10/11/12	62-80
16. Barry J. Hanger, M.D.	8/23/12- 10/22/12	81-90

STATEMENT OF THE CASE

The hearing was scheduled pursuant to a Form 50 filed by the Guardian ad Litem on October 26, 2012. The Guardian ad Litem maintained that the Defendants had failed to provide the Claimant with appropriate causally related medical treatment and had also failed to make payment of the Claimant's outstanding causally related medical bills. The Guardian ad Litem was also requesting that venue, in the above-referenced case, be transferred to the State of North Carolina in light of the fact that the Claimant currently resides in North Carolina. The hearing was also scheduled pursuant to correspondence, provided by the Defendants to the undersigned Commissioner, expressing concern that the Guardian ad Litem and the Claimant's family were interfering with the administration of authorized medical treatment, which was being provided by the Defendants pursuant to Section 42-15-60 of the Act.

The undersigned Commissioner conducted a lengthy Pre-Hearing Conference with the Guardian ad Litem and the attorney for the Defendants. During the course of the Pre-Hearing

Conference, the Defendants informed the undersigned Commissioner that the Defendants had every intention of making payment of the Claimant's outstanding causally related medical bills, and would take the appropriate steps to ensure that the medical bills, which remained outstanding, would be placed in line for payment.

Furthermore, the Defendants informed the undersigned Commissioner that the Defendants had become aware that the Claimant's average weekly wage and compensation rate would be need to be adjusted based on wages earned by the Claimant in concurrent employment, which the Claimant possessed on the date of his May 2011 work-related accident. The undersigned Commissioner instructed the Claimant's Guardian ad Litem to obtain wage records from the Claimant's concurrent Employer, or in the alternative, a W-2, and to provide this information to the Defendants in order that the Claimant's average weekly wage and compensation rate could be appropriately modified. Based on a review of the incomplete information, provided by the Guardian ad Litem regarding the Claimant's concurrent employment, the Claimant's compensation rate would need to be modified reflecting a compensation rate of \$704.92, which was the maximum compensation rate for 2011.

During the Pre-Hearing Conference, the Defendants also informed the undersigned Commissioner that the Defendants were continuing to attempt to provide the Claimant with attendant care, but that those attempts had been prevented by the actions of the Claimant's family. The undersigned Commissioner also informed the Guardian ad Litem that he would not, at this point in time, adjudicate the issue of the Guardian ad Litem's request that both she and the Claimant's wife, Christine Bradley, be provided with payment for attendant care previously provided to the Claimant. Following the lengthy Pre-Hearing Conference, the undersigned

Commissioner indicated that he was removing the Claimant's daughter as Guardian ad Litem for the Claimant, and would be appointing Mike Farry as Guardian ad Litem for the Claimant.

FINDINGS OF FACT

Based upon the APA Submissions as well as the statement of the attorneys for the parties, the undersigned Commissioner makes the following Findings of Fact:

1. The parties hereto are subject to and bound by the South Carolina Workers' Compensation Act.
2. Based on the substantial evidence, including the medical records and information provided by the parties, the Claimant is entitled to disability benefits based on a compensation rate of Seven Hundred Four Dollars (\$704.92) and 92/100. The issue of the Claimant's entitlement to payment for any back due temporary disability benefits is held in abeyance pending provision, by the Claimant's family to the Defendants, of wage records from the Claimant's concurrent Employer, or, in the alternative, a W-2 from the Claimant's concurrent Employer.
3. This is an admitted claim involving a physical brain injury arising out of and in the course of the Claimant's employment on May 16, 2011.
4. As a result of the accident, the Claimant has sustained, among other injuries, a physical brain injury, and is in need of a Guardian ad Litem.
5. Claimant currently resides at 108 South Main Street, Apt. 157, Mount Holly, North Carolina 28120. The Claimant is currently receiving authorized causally related medical treatment, which is being provided by the Defendants.
6. Based on the substantial evidence, including the medical records and information provided by the parties, the Claimant's daughter, Lavare Seltun, was previously

appointed to serve as Guardian ad Litem, but is hereby being removed as Guardian ad Litem.

7. Based on the substantial evidence, including the medical records and information provided by the parties, the undersigned Commissioner appoints Michael A. Farry, Esquire as Guardian ad Litem for the Claimant.
8. Based on the substantial evidence, including the medical records and information provided by the parties, Defendants are instructed to take the appropriate steps to ensure that the Claimant's causally-related medical bills, which remain outstanding, will be placed in line for payment and, subsequently, paid within a reasonable period of time. The undersigned Commissioner notes that the Defendants failure to take the appropriate steps to ensure that the Claimant's causally-related medical bills, which remain outstanding, will be placed in line for payment and, subsequently, to pay the Claimant's outstanding causally-related medical bills within a reasonable period of time could subject the Defendants to fines and/or penalties.
9. The undersigned Commissioner will not, at this time, address the request of Lavare Seltun, regarding possible payment to Lavare Seltun and Christine Bradley for attendant care provided to the Claimant, as this issue was not properly before the undersigned Commissioner based on the Form 50 dated October 26, 2012.
10. The undersigned Commissioner will retain jurisdiction of this matter.

CONCLUSIONS OF LAW

It is concluded under the South Carolina Workers' Compensation Act in Section 42-1-10 S.C. Code of Laws, et. seq., that:

1. Section 42-1-160 governs any injury by accident arising out of and in the course of employment.
2. Section 42-15-55 governs the appointment of Guardian ad Litem for minors or mentally incompetent persons.
3. Section 42-15-60 governs the provision of medical treatment.
4. Section 42-15-80 governs the submission to physical examinations.
5. Section 42-1-40 governs average weekly wage.
6. Regulation 67-215(A) provides that a party may file a Motion when a Form is not applicable.
7. Regulation 67-215(A)(2) states that the Commission "will accept Motions including, but not limited to, a motion...[r]elating to the appointment of a Guardian ad Litem."
8. Regulation 67-216 governs the appointment of a Guardian ad Litem, and states that "[w]hen a minor or a mentally incompetent person is a party, a Guardian ad Litem shall represent the minor or mentally incompetent."
9. Based on the substantial evidence, including the medical records of the Claimant and information provided by the parties, the undersigned Commissioner hereby removes Lavare Seltun as Guardian ad Litem for the Claimant.
10. Based on the substantial evidence, including the medical records and information provided by the parties, the undersigned Commissioner appoints Michael A. Farry, Esquire as Guardian ad Litem pursuant to Section 42-15-55 of the Act.

11. Regulation 67-216 of the Workers' Compensation Act indicates that the Defendants may pay the Guardian ad Litem directly as provided by an approved Form 61. The Defendants, through their representative, have indicated that the Defendants will be responsible for payment of services rendered by Michael A. Farry, Esquire as Guardian ad Litem for the Claimant
11. Based on the substantial evidence, including the medical records and information provided by the parties, Defendants are instructed to take the appropriate steps to ensure that the Claimant's causally-related medical bills, which remain outstanding, will be placed in line for payment and, subsequently, paid within a reasonable period of time pursuant to Section 42-15-60. The undersigned Commissioner notes that the Defendants failure to take the appropriate steps to ensure that the Claimant's causally-related medical bills, which remain outstanding, will be placed in line for payment and, subsequently, to pay the Claimant's outstanding causally-related medical bills within a reasonable period of time could subject the Defendants to fines and/or penalties pursuant to Section 42-3-175.
12. Pursuant to Section 42-1-40, the Claimant is entitled to disability benefits based on a compensation rate of Seven Hundred Four Dollars (\$704.92) and 92/100.
13. The undersigned Commissioner will retain jurisdiction of this matter.

ORDER

IT IS HEREBY ORDERED that the Defendants are instructed to take the appropriate steps to ensure that the Claimant's causally-related medical bills, which remained outstanding, will be placed in line for payment and, subsequently, paid within a reasonable period of time.

IT IS HEREBY ORDERED that Claimant is entitled to disability benefits based on a compensation rate of Seven Hundred Four Dollars (\$704.92) and 92/100.

IT IS HEREBY ORDERED that the Claimant's daughter, Lavare Seltun, is hereby removed as the Claimant's Guardian ad Litem.

IT IS HEREBY ORDERED that Michael A. Farry, Esquire is appointed as the Claimant's Guardian ad Litem.

IT IS HEREBY ORDERED that the undersigned Commissioner will retain jurisdiction of this matter.

IT IS SO ORDERED.

S.C. WORKERS' COMPENSATION COMMISSION



T. Scott Beck, Commissioner

CERTIFICATE OF SERVICE

This is to certify the undersigned has this date served this order in the above entitled action upon all parties to this cause by sending an electronic copy hereof by electronic mail addressed to the attorney or attorneys for said parties or by depositing a copy hereof, postage paid, in the United States certified mail addressed to any unrepresented party.

February 11, 2013

By: Amy Bracy, Administrative Assistant to Commissioner Beck

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO: 1105628

ALBERT BRADLEY,
Employee,

Claimant,
vs.
SOUTHERN INDUSTRIAL
CONSTRUCTORS, INC.,
Employer,

AND
ZURICH NORTH AMERICAN
INSURANCE,
Carrier,

Defendants.

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DECISION AND ORDER

DATE OF HEARING: Telephone Conference conducted on September 23, 2013.

APPEARANCES: Claimant appeared and represented by *Guardian ad Litem*, Michael A. Farry, Esquire of Greenville, South Carolina.

Defendants represented by Jason W. Lockhart, Esquire of McAngus Goudelock & Courie, L.L.C. of Columbia, South Carolina.

PURPOSE OF THE HEARING: To determine all issues as set forth in Defendants Motion to Compel Claimant's Wife and Daughter to Cooperate with Administration of Causally-Related Medical Treatment.

COMMISSIONER: Commissioner T. Scott Beck

FILED: October 10, 2013



STIPULATIONS

The parties stipulate to the following:

1. Notice of the Telephone Conference was timely and proper based on e-mail communication with parties of interest.
2. The South Carolina Workers' Compensation Commission has jurisdiction over the parties and subject matter of the claim.
3. Venue is proper in Richland County.

STATEMENT OF THE CASE

The hearing was requested pursuant to a Motion to Compel Claimant's Wife and Daughter to Cooperate with Administration of Causally-Related Medical Treatment filed by the Defendants on September 9, 2013. In lieu of hearing and in the interest of judicial economy, the undersigned Commissioner conducted a telephone conference with the Claimant's *Guardian ad Litem* and the attorney for the Defendants.

FINDINGS OF FACT

Based upon the pleadings, the undersigned Commissioner makes the following Findings of Fact:

1. The parties hereto are subject to and bound by the South Carolina Workers' Compensation Act.
2. This is an admitted claim involving a physical brain injury arising out of and in the course of the Claimant's employment on May 16, 2011.
3. As a result of the accident, the Claimant has sustained, among other injuries, a physical brain injury, and Michael A. Farry, Esquire of Greenville, South Carolina has been appointed as the Claimant's *Guardian ad Litem*.

4. Claimant currently resides at 108 South Main Street, Apt. 157, Mount Holly, North Carolina 28120. The Claimant is currently receiving authorized causally related medical treatment, which is being provided by the Defendants.
5. Based on information provided by the parties, the undersigned Commissioner is aware of and sensitive to the Defendants' concerns that the behavior of the Claimant's wife, Christine Bradley, is interfering with the administration of authorized causally-related medical treatment. The behavior, brought to the attention of the undersigned Commissioner by the Defendants, included, but was not limited to, Claimant's family's levying of accusations against Unifour Nursing of physical injury to the Claimant, perpetrated by representatives of Unifour Nursing, that were later determined to be false accusations against Unifour Nursing.
6. Based on the substantial evidence, including the medical records and testimony, the undersigned Commissioner compels the Claimant's family to cooperate with the administration of authorized causally related medical treatment, provided by the Defendants, and to insure that the best interest of the Claimant are preserved through cooperation with the Defendants, who possess the right to direct authorized causally related medical treatment.
7. Based on information provided by the parties, the undersigned Commissioner is of the opinion that, if the behavior of the Claimant's wife, Christine Bradley, continues to interfere with the administration of authorized causally-related medical treatment, then such interference may result in consideration of placement of the Claimant in a residential facility.

8. The undersigned Commissioner will retain jurisdiction of this matter.

CONCLUSIONS OF LAW

It is concluded under the South Carolina Workers' Compensation Act in Section 42-1-10 S.C. Code of Laws, et. seq., that:

1. Section 42-1-160 governs any injury by accident arising out of and in the course of employment.
2. Section 42-15-55 governs the appointment of Guardian ad Litem for minors or mentally incompetent persons.
3. Section 42-15-60 governs the provision of medical treatment.
4. Pursuant to Section 42-15-60, the Claimant remains entitled to authorized causally-related medical treatment.
5. Section 42-15-80 governs the submission to physical examinations.
6. Pursuant to Section 42-15-60 and Section 42-15-80, the undersigned Commissioner compels the Claimant's family to cooperate with the administration of authorized causally related medical treatment, provided by the Defendants, and to insure that the best interest of the Claimant are preserved through cooperation with the Defendants, who possess the right to direct authorized causally related medical treatment.
7. Regulation 67-215(A) provides that a party may file a Motion when a Form is not applicable.
8. Regulation 67-215(A)(2) states that the Commission "will accept Motions including, but not limited to, a motion...[r]elating to the appointment of a Guardian ad Litem."

9. Regulation 67-216 governs the appointment of a Guardian ad Litem, and states that “[w]hen a minor or a mentally incompetent person is a party, a Guardian ad Litem shall represent the minor or mentally incompetent.”
10. Pursuant to Section 42-1-40, the Claimant remains entitled to disability benefits based on a compensation rate of Seven Hundred Four Dollars (\$704.92) and 92/100.
11. The undersigned Commissioner will retain jurisdiction of this matter.

ORDER

IT IS HEREBY ORDERED that the undersigned Commissioner compels the Claimant’s family to cooperate with the administration of authorized causally related medical treatment, provided by the Defendants, and to insure that the best interest of the Claimant are preserved through cooperation with the Defendants, who possess the right to direct authorized causally related medical treatment.

IT IS HEREBY ORDERED that the undersigned Commissioner will retain jurisdiction of this matter.

AND IT IS SO ORDERED.



T. Scott Beck, Commissioner

CERTIFICATE OF SERVICE

This is to certify the undersigned has this date served this order in the above entitled action upon all parties to this cause by sending an electronic copy hereof by electronic mail addressed to the attorney or attorneys for said parties or by depositing a copy hereof, postage paid, in the United States certified mail addressed to any unrepresented party.
October 10, 2013

By: Amy Bracy, Administrative Assistant to Commissioner Beck

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO: 1105628

ALBERT BRADLEY,

Employee,

Claimant,

vs.

SOUTHERN INDUSTRIAL
CONSTRUCTORS, INC.,

Employer,

AND

ZURICH NORTH AMERICAN
INSURANCE,

Carrier,

Defendants.

DECISION AND ORDER

DATE OF HEARING:

Hearing held in Columbia, South Carolina on October 8, 2014.

APPEARANCES:

Claimant appeared and represented by Guardian ad Litum Michael A. Farry, Esquire of Horton, Drawdy, Ward, Mullinax, & Farry, P.A. of Greenville, South Carolina.

Defendants represented by Jason W. Lockhart, Esquire of McAngus Goudelock & Courie, L.L.C. of Columbia, South Carolina.

PURPOSE OF THE HEARING:

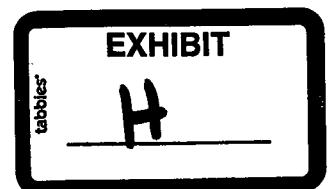
To determine all issues as set forth in Forms 50 and 51.

COMMISSIONER:

Commissioner T. Scott Beck

FILED:

February 12, 2015



STIPULATIONS

1. Jurisdiction is proper with the South Carolina Workers' Compensation Commission.
2. Venue is proper in Richland County, South Carolina.
3. Claimant's average weekly wage is One Thousand Two Hundred Eighty Seven Dollars (\$1,287.34) and 34/100 with a corresponding compensation rate of Seven Hundred Four Dollars (\$704.92) and 92/100.
4. The Claimant sustained compensable physical brain damage while in the course and scope of his employment with the Defendants on May 16, 2011 and is entitled to lifetime causally-related medical treatment and lifetime compensation.

APA SUBMISSIONS

Claimant submitted the following:

1. Report from David Corey Company, Inc., 07/09/11, pages 1-22;
2. Report from David Corey Company, Inc., 05/31/13, pages 23-37;
3. Estimate from Absolute Restoration for "modifications" in the amount of \$53,700.81, 08/05/13, pages 38-48;
4. Estimate from Absolute Restoration for "repairs" in the amount of \$256,273.11, 07/08/13, pages 49-90;
5. Southwood Realty Residential Lease Agreement Face Sheet for property at 801 S. Main Street, Mt. Holly, NC, showing total monthly rent of \$742.00, 12/31/13, page 91;
6. Lease Agreement for property at 864 Hawley Avenue, Belmont, NC, showing total rent of \$675.00, 03/31/14, pages 92-100;
7. Care Schedule and Time Chart for Albert Bradley, pages 101-102;
8. Albert Bradley Medication Schedule, 09/2014, pages 103-104;

9. Letter from Debra Morehead, BS, RN, CLC, LNCP-C, 09/15/14, pages 105-106;
10. Information Sheet for Dodge Caravan handicap accessible van with copy of canceled check and vehicle expenditures and repairs, pages 107-118;
11. Copies of emails advising Defendants would not provide transportation for Claimant's medical visits, it not authorized or causally related to Claimant's admitted accident, 04/02/13-08/15/14, pages 119-124;
12. Dr. Barry Hangar, Carolina HealthCare Systems, 08/23/12-06/09/14, pages 125-189;
13. McLeod Hospital, 03/01/14, pages 190-199;
14. Carolina Medical Center, 03/23/14-08/15/14, pages 200-339; and
15. Dr. Clayton R. Lowder, Colonial Family Practice, 02/16/11-04/20/11, pages 340-345.

Defendants' submitted the following:

16. Email correspondence from Jennifer Burton to Vivian Harden, 08/14/14, page 346;
17. Correspondence from Robin Mason, 10/09/12, pages 347-349;
18. Corvel Progress Report, 10/10/12, pages 350-356;
19. Correspondence of Unifour Nursing, 10/15/12, page 357;
20. Corvel Progress Report, 11/09/12, pages 358-363;
21. Corvel Progress Report, 04/11/13, pages 364-370;
22. Signature Case Management, 07/18/13, pages 371-375;
23. Email correspondence from Jennifer Burton, 07/24/14, page 376;
24. Unifour Nursing Adult Comprehensive Assessment, 08/05/13, pages 377-383;
25. Email correspondence from Jennifer Burton, 08/30/13, pages 384-385;
26. Email correspondence from Jennifer Burton, 09/04/13, page 386;
27. Email correspondence from Michael Farr, 12/23/13, page 387;

28. Email correspondence from Jennifer Burton, 01/08/14, pages 388-391;
29. Email correspondence from Jennifer Burton, 02/28/14, page 392;
30. Email correspondence from Jennifer Burton, 04/07/14, page 393;
31. Email correspondence from Jennifer Burton, 04/08/14, page 394;
32. Email correspondence from Jennifer Burton, 04/16/14, pages 395-396;
33. Email correspondence from Jennifer Burton, 04/28/14, page 397;
34. Email correspondence from Jason Lockhart, 04/20/14, pages 398-399;
35. Email correspondence from Greg Hawkins, 05/22/14, pages 400-402;
36. Email correspondence from Greg Hawkins, 05/23/14, pages 403-406;
37. Report of David Corey Co., Inc., 07/09/11, pages 407-428;
38. Robert W. Zollinger, M.D., 01/10/13, pages 429-430;
39. Dana Lynn Martini, DO, 07/17/13, page 431;
40. McLeod Emergency Department, 03/01/14; pages 432-438;
41. Carolinas Medical Center, 03/24/14, pages 439-448;
42. Carolinas Medical Center, 03/23/14-03/24/14, pages 449-457;
43. Carolinas Medical Center, 06/06/14, pages 458-465;
44. Carolinas Healthcare System, 06/09/14, pages 466-470;
45. Carolinas Medical Center, 07/28/14-08/01/14, pages 471-494;
46. Carolinas Medical Center, 08/01/14, pages 495-497;
47. Carolinas Medical Center, 08/10/14, pages 498-500;
48. Carolinas Medical Center, 08/10/14, pages 501-509;
49. Carolinas Healthcare System, 08/21/13-08/22/14, pages 510-515; and
50. Richard W. Zollinger, M.D., 01/11/13, pages 516-517.

STATEMENT OF THE CASE

This matter came to be heard before the undersigned Commissioner upon the filing of a Form 50 by the Claimant's Guardian ad Litem on August 14, 2014. The Claimant's Guardian ad Litem was requesting relief regarding a variety of issues, including whether the Defendants were responsible for the payment for and/or provision of modification and repair to the Claimant's home in Bishopville, South Carolina; whether Claimant's home in Bishopville, South Carolina can be modified or renovated due to the current state of the Claimant's home; whether the Defendants are responsible for the provision of living expenses incurred by the Claimant from the date of accident to the present; whether Defendants should be found responsible for the payment of attendant care provided by the Claimant's wife.

In response, the Defendants admitted that the Claimant sustained permanent physical brain damage and was entitled to authorized causally-related medical treatment and lifetime compensation benefits. The Defendants maintained that they were not responsible for the payment for and/or provision of modification and repair to the Claimant's home in Bishopville, South Carolina; the Defendants took the position that the Claimant's home in Bishopville, South Carolina cannot be rendered handicap-accessible due to the current state of the Claimant's home; the Defendants maintained that they are not responsible for the provision of living expenses incurred by the Claimant from the date of accident to the present where the Defendants have consistently extended an offer to place the Claimant in a long-term health care facility where the Claimant's family has rejected Defendants' offer; the Defendants took the position that they should not be found responsible for the payment of attendant care provided by the Claimant's wife where the Claimant's wife has explicitly and/or implicitly refused to cooperate with the provision of attendant care.

EVIDENCE OF THE CASE

Claimant's Family's Request for Modification of Home in South Carolina

Testimony

Mrs. Bradley testified that her and the Claimant's permanent residence is located at 475 Lower Lee School Road in Bishopville, South Carolina, but that no one is residing at the above-referenced residence at the present time. Mrs. Bradley stated that it is possible to reside in only the first floor of the above-referenced residence, which was being renovated by the Claimant prior to his May, 2011, work-related accident. (Hrg. Tr. p. 12, ll. 22-13, ll. 1-11). Ms. Bradley indicated that the home in Bishopville, South Carolina, is not handicap accessible, and that additional work on the home would be necessary in order for the Claimant to live at the residence in Bishopville, South Carolina, on a permanent basis. (Hrg. Tr. p. 59, ll. 1-19; p. 60, ll. 22-p. 61, ll. 1).

Lavare Seltun, the Claimant's daughter, testified that no one is residing at 475 Lower Lee School Road in Bishopville, South Carolina at the present time. (Hrg. Tr. p. 113, ll. 12-14). Ms. Seltun stated that only the top floor of the residence is habitable. (Hrg. Tr. p. 113, ll. 20-p. 114, ll. 114). Ms. Seltun indicated that the residence is not handicapped-accessible in that it does not have a wheelchair ramp nor does it possess a handicapped-accessible bathroom. (Hrg. Tr. p. 114, ll. 6-10). Ms. Seltun testified that the Claimant could not reside at the 475 Lower Lee School residence at the present time.

APA Submissions

The David Corey Company, Inc. (hereinafter "DCC") was contacted by Zurich to conduct a site visit of the Claimant's home in Bishopville, South Carolina to evaluate the feasibility of home modifications of the Claimant's home. The site visit was completed on July

6, 2011, and Mrs. Bradley was present for a portion of the assessment. (Defendant's APA, p. 407). DCC stated that "[a]lthough it is difficult to determine with certainty, the project appears to be approximately 50% complete. During the assessment, Mrs. Bradley advised that they have no formal plans or drawings and that the design was 'in their heads.' It appears that they have been creating the plan on an 'as you go' basis. This presents significant issues from the prospective that it will be difficult for a general contractor to come in and complete work without formal drawings." (Defendants' APA, p. 407). DCC also noted, in their report, that no verification exists that the project, which the Claimant was performing prior to his work-related accident, was in compliance with local and/or state building codes. (Claimant's APA, p. 25). DCC stated that "[a]t this time, nearly the entire interior of the first floor is merely framed in and no drywall has been applied." (Defendants' APA, p. 408). DCC also noted "[i]n order for this house to be inhabited by anyone, there will need to be a 'Certificate of Occupancy' issued by the county. In order to receive the 'CO,' the project will need to be fully completed. Without initial permits being pulled, the 'CO' can't even be applied for and the project could be in jeopardy of fines and considerable demo and rebuilding could be required." (Defendants' APA, p. 408). DCC stated that the entrances to the residence are not wheelchair accessible. (Defendants' APA, p. 409, 411-412).

Claimant's Family's Request for Provision of Living Expenses

Testimony

Mrs. Bradley testified that she is currently 61 years of age, and resides in Belmont, North Carolina, with the Claimant in a handicapped-accessible apartment. Mrs. Bradley stated that the Claimant currently receives temporary total disability (TTD) benefits in the amount of \$704.92 and as well as Social Security disability benefits in the amount of approximately \$1,700.00 per

month. (Hrg. Tr. p. 61, ll. 9-21). Mrs. Bradley stated that she and the Claimant have a one year lease on the apartment in Belmont, North Carolina.

Claimant's Family's Request for Payment of Attendant Care Provided by Family

Testimony

Mrs. Bradley testified that she primarily provides attendant care to the Claimant in conjunction with Ms. Seltun, who provides attendant care both in the evening and on weekends. Mrs. Bradley provided a detailed explanation of the daily attendant care provided, and testified that she provides attendant care from approximately 6:00 a.m. to 9:00 p.m. on a daily basis. (Hrg. Tr. p. 21, ll. 22-p. 22, ll. 1-13). Mrs. Bradley provided a chronology of the activities, which she performs on a daily basis, that are necessitated by the Claimant's current condition. (Hrg. Tr. p. 23, ll. 15-p. 24, ll. 1-28, ll. 1-12). Mrs. Bradley testified that she utilizes the Hoyer lift on a daily basis and has also made a request for a portable lift, which would be necessary in light of out-of-town visits taken by the Claimant and Mrs. Bradley. Mrs. Bradley acknowledged that there have been issues with the PEG tube, which is present, on multiple occasions, but that there has not been a problem with the PEG tube in approximately three months. (Hrg. Tr. p. 39, ll. 5-21). Mrs. Bradley stated that she would accept professional attendant care if such care was provided by the Employer/Carrier. (Hrg. Tr. p. 41, ll. 3-18).

Ms. Seltun provided a detailed summary of the daily schedule of attendant care provided by both she and Christine Bradley, and Ms. Seltun's testimony, regarding the above-referenced schedule, was consistent with the testimony of Mrs. Bradley. Mrs. Bradley indicated that the Claimant is no longer experiencing problems with this PEG tube following a recent procedure to place a permanent PEG tube. (Hrg. Tr. p. 39, ll. 5-21). Ms. Seltun testified that the Claimant would benefit from professional attendant care, if provided by the Employer/Carrier, and that

Christine Bradley would accept such services if the services were offered. With regards to the issue of whether the Claimant has developed seizures, Ms. Seltun stated that she had only observed approximately two to three seizure-like events within the last four months, and that the first of the above-referenced seizures occurred approximately four months ago. Ms. Seltun testified that the Claimant had been hospitalized on multiple occasions within the last eight to twelve months, and that when the Claimant is hospitalized, both she and Christine Bradley communicate primarily with the Claimant's physicians. Mrs. Bradley stated that she communicates with the Claimant's physicians, but that she does not make specific requests of the Claimant's physicians for specific treatment. (Hrg. Tr. p. 53, ll. 3-15).

Mrs. Bradley testified that she attends the Claimant's medical examinations, and that both she and Ms. Seltun carry out instructions provided by physicians with regard to the treatment of the Claimant. Ms. Bradley stated that she does not make decisions on behalf of the Claimant during medical examinations as a result of being divested of her rights as guardian ad litem pursuant to the signed Decision and Order of Commissioner Beck. (Hrg. Tr. p. 53, ll. 12-21). Ms. Bradley indicated that the guardian ad litem has attended none of the Claimant's medical examinations. (Hrg. Tr. p. 70, ll. 5-7). Ms. Bradley testified that she has very limited, if any, communication with the nurse case manager. (Hrg. Tr. p. 75, ll. 1-16).

Ms. Seltun testified that she visits the Claimant's home on a daily basis, and regularly assists Christine Bradley with the provision of attendant care necessitated by the Claimant's work-related injuries. (Hrg. Tr. p. 85, ll. 2-22; p. 101, ll. 9-21). With regards to the Claimant's scheduled medical examinations, Ms. Seltun testified that she attends approximately 40% of the Claimant's scheduled examinations. (Hrg. Tr. p. 109, ll. 4-14). Ms. Seltun stated that both she and Christine Bradley will communicate with the Claimant's physicians, and that she has no

concerns regarding the manner or method by which Christine Bradley communicates with the Claimant's treating physicians. Ms. Seltun indicated that she will provide updated information to the Claimant's Guardian ad Litem within approximately 24 hours following a scheduled examination. Ms. Seltun testified that, with regards to transportation requests, her efforts to make requests for transportation as far out in advance as possible, and stated that the previous requests for transportation were necessitated primarily by the absence of a handicap accessible vehicle for use by the Claimant's family.

APA Submissions

The record is replete with continual interference by the Claimant's family with providers and even instances in which the family refused acceptance of in-home attendant care. (Defendants' APA, p. 347-349, 356-357, 360, 363, 376, 384, 386, 393, 397, 492). In addition, the Claimant's family levied accusations of wrongdoing against previous professional providers of attendant care that were later deemed false. (Defendants' APA, p. 347-349, 357). The monthly progress reports, submitted by Jennifer Burton, who is the nurse case manager, document the Claimant's wife's constructive refusal of the provision of professional attendant care manifested in the form of her treatment of the professional providers of attendant care. (Defendants' APA, p. 356, 360, 363, 393). The record also reflects at least one occasion where the Claimant's family maintained that they were not in need of professional attendant care. (Defendants' APA, p. 492).

Claimant's Family's Request for Purchase of Handicapped Modified Vehicle

Testimony

Mrs. Bradley, who transported to the Claimant to her deposition and to the hearing before the undersigned Commissioner, testified that she takes the Claimant outside of his home on a

regular basis to engage in activities such as visiting family, attending church, and going to local shopping centers. (Hrg. Tr. p. 33, ll. 4-11; p. 63, ll. 4-11). Mrs. Bradley indicated that she transports the Claimant with a handicap accessible van, which was purchased by Mrs. Bradley in July 2013. (Hrg. Tr. p. 31, ll. 6-17). Mrs. Bradley testified that an incident occurred in June 2014, wherein the above-referenced vehicle malfunctioned, and necessitated the Claimant being removed from the vehicle by family members. (Hrg. Tr. p. 34, ll. 8-p. 35, ll. 25). Mrs. Bradley adamantly maintained that the Claimant was not injured in the above-referenced incident. The medical records indicate that the Claimant was taken to Carolinas Medical Center on June 6, 2014 “for evaluation of perceived left shoulder pain.” The diagnostic report of Carolinas Medical Center notes “[p]atient was being assisted by people or not his usual caretakers in transitioning into a van and patient’s family is concerned it could have been the inciting incident [of left shoulder pain].” (Defendants’ APA, p. 460).

Mrs. Bradley indicated that she has no concern, regarding the Claimant’s well-being, as it relates to her taking the Claimant outside of the home, and that the Claimant has not acquired an illness as a result of being taken outside of the home. (Hrg. Tr. p. 63, ll. 12-19; p. 65, ll. 1-4). Mrs. Bradley testified that the Defendants provide the Claimant with transportation to scheduled examinations with the Claimant’s authorized treating physicians.

Ms. Seltun was questioned regarding the incident of June 2, 2014, and testified that, while the Claimant was removed from the above-referenced van due to a malfunction of the van itself, the Claimant did not sustain any injuries as a result of being removed from the van. Ms. Seltun stated that a decision was made to take the Claimant to Carolina’s Medical Center Main, soon thereafter, based on the Claimant audibly moaning, but that there was no conclusion reached by the above-referenced medical facility that the Claimant had sustained any injuries.

(Hrg. Tr. p. 107, ll. 11-24). Ms. Seltun testified that the Claimant was seen by Dr. Hanger, following the incident of June 2, 2014, and that Dr. Hanger was informed of the Claimant's shoulder injury despite the diagnostic report of Dr. Hanger making no mention of the incident. (Hrg. Tr. p. 108, ll. 8-25). Ms. Seltun stated that she was aware that Christine Bradley frequently takes the Claimant outside of his home, but that she has no concerns regarding the Claimant's safety as a result of being taken outside of the home. Mrs. Seltun indicated that the Defendants provide the Claimant with transportation to scheduled examinations with the Claimant's authorized treating physicians.

Testimony of Nurse Case Manager

Jennifer Burton testified on behalf of the Defendants. Ms. Burton testified that she is currently employed with Signature Case Management as a "filed or nurse case manager," and has been the nurse case manager on the Claimant's case for "almost two and a half years." (Hrg. Tr. p. 152, ll. 16-24; p. 153, ll. 11-16).

Ms. Burton testified that the Claimant has a PEG tube, which has had to be addressed and/or replaced several times over the past 12 months, and the issues associated with the Claimant's PEG tube have necessitated "multiple" visits to the emergency room. (Hrg. Tr. p. 157, ll. 15-25). Ms. Burton stated that the Claimant has wound care issues, which necessitated a purchase of an airflow mattress, which is not being used by the Claimant, as well as the purchase of an air cushion, which is not being used by the Claimant. (Hrg. Tr. p. 159, ll. 7-p. 160, ll. 4). The air cushion is not being used because the Claimant's wife "didn't want to use it." (Hrg. Tr. p. 173, ll. 1-7).

Ms. Burton testified that she has been asked to facilitate the provision of professional attendant care to the Claimant including locating service providers, who are retained to come in

and deliver attendant care services in the Claimant's home (Hrg. Tr. p. 162, ll. 12-22). Ms. Burton stated that problems have arisen due to "issues with the nurses that visited being accused of things like stealing and harming Mr. Bradley or providing treatment that wasn't ordered for him or authorized." (Hrg. Tr. p. 163, ll. 11-25). Ms. Burton indicated that many of the providers in question resigned and "would not agree to go back to the [Claimant's] home." (Hrg. Tr. p. 164, ll. 1-3). Ms. Burton testified that the Claimant is currently in need of attendant care, and that provision of attendant care to the Claimant is dependent upon the cooperation of the Claimant's family with the provider. (Hrg. Tr. p. 164, ll. 10-p. 165, ll. 1).

Ms. Burton testified that she has been to the Claimant's home in Mayesville, South Carolina. (Hrg. Tr. p. 166, ll. 7-11). Ms. Burton stated that, based on her personal observations, the home is not habitable at the present time nor is the home handicap ready or handicap accessible. (Hrg. Tr. p. 166, ll. 19-p. 167, ll. 1).

Testimony of Guardian ad Litem's Expert

Debra Morehead testified on behalf of the Claimant. Mrs. Morehead testified that she holds a registered nurses license in the State of South Carolina that is multi-state recognized. (Hrg. Tr. p. 124, ll. 4-6). Mrs. Morehead stated that she is currently self-employed and prepares life care plans. (Hrg. Tr. p. 125, ll. 4-5). Mrs. Morehead indicated that she visited the Claimant, at his home, on October 3, 2014. (Hrg. Tr. p. 125, ll. 20-25). Mrs. Morehead testified that she observed Mrs. Bradley provide attendant care to the Claimant during the little over two hours that she spent in the Claimant's home. (Hrg. Tr. p. 127, ll. 15-p. 128, ll. 8). Mrs. Morehead stated that she also spoke by phone with Lavare Seltun. (Hrg. Tr. p. 130, ll. 1-13). Mrs. Morehead indicated that she was of the opinion that the Claimant was receiving excellent care. (Hrg. Tr. p. 133, ll. 2-8). Mrs. Morehead testified that Mrs. Bradley would benefit from

receiving assistance with the provision of in-home attendant care to the Claimant. (Hrg. Tr. p. 138, ll. 15-25). On cross-examination, Mrs. Morehead testified that she spoke by phone with Lavare Seltun for approximately 30 minutes. (Hrg. Tr. p. 141, ll. 12-14). Mrs. Morehead stated that she had not communicated with either the nurse case manager or the Carrier in order to obtain information regarding the medical care received by the Claimant. (Hrg. Tr. p. 144, ll. 7-23). The undersigned questioned Mrs. Morehead, who indicated that the hourly rates, outlined in her report, for the CNA and for the LPN are rates that a company would charge for a service and not necessarily what the care giver would earn. (Hrg. Tr. p. 149, ll. 3-9).

FINDINGS OF FACT

Based upon the pleadings, the undersigned Commissioner makes the following Findings of Fact:

1. The parties hereto are subject to and bound by the South Carolina Workers' Compensation Act.
2. Claimant's average weekly wage is One Thousand Two Hundred Eighty Seven Dollars (\$1,287.34) and 34/100 with a corresponding compensation rate of Seven Hundred Four Dollars (\$704.92) and 92/100.
3. Based on the substantial evidence, including the medical records and testimony, this is an admitted claim involving a permanent physical brain damage arising out of and in the course of the Claimant's employment on May 16, 2011.
4. Based on the substantial evidence, including the medical records and testimony, as a result of the accident, the Claimant has sustained, among other injuries, permanent physical brain damage, and Michael A. Farry, Esquire of Greenville, South Carolina has been appointed as the Claimant's *Guardian ad Litem*.

5. Based on the substantial evidence, including the medical records and testimony, Claimant's request for full modification and/or completion of a home located at 475 Lower Lee School Road, Mayesville, SC 29104 is denied for the following reasons:
 - a. Based on the substantial evidence, including the medical records and testimony, the home is not habitable now, nor was it at the time of the injury. (Claimant's APA, p. 25; Defendants' APA, p. 407-409, 411-412)
 - b. Based on the substantial evidence, including the medical records and testimony, the proper mechanism to obtain funds to complete the residence would have been a lump sum request (to be deducted from the back side of the lifetime award).
 - c. Based on the substantial evidence, including the medical records and testimony, only when the residence is habitable would the Defendants be responsible for any modifications to the Claimant's home.
 - d. Based on the substantial evidence, including the medical records and testimony, the Defendants are not responsible for construction or completion of construction of the Claimant's home; they are only responsible for modifications to accommodate the Claimant's needs resulting from the work injury.
6. Based on the substantial evidence, including the medical records and testimony, Claimant's request for reimbursement for past rent in the amount of \$24,495.00 and ongoing rent in the amount of \$675.00 per month is denied. The Claimant currently receives temporary total disability (TTD) benefits in the amount of

\$704.92 and as well as Social Security disability benefits in the amount of approximately \$1,700.00 per month. While not specifically addressed at the hearing, the Defendants would be responsible for any difference in rent, at the same facility where the Claimant is currently residing in Belmont, North Carolina, between a handicap apartment and a non-handicap apartment.

7. Based on the substantial evidence, including the medical records and testimony, Claimant's request for payment to Claimant's wife and daughter for past in-home attendant care is denied.
8. Based on the substantial evidence, including the medical records and testimony, the record is replete with continual interference by the Claimant's family with providers and even instances in which the family refused acceptance of in-home attendant care. (Defendants' APA, p. 347-349, 356-357, 360, 363, 376, 384, 386, 393, 397, 492).
9. Based on the substantial evidence, including the medical records and testimony, to now have the Claimant's family be reimbursed for services that have continually been offered by the Defendants is disingenuous and self-serving. (Defendants' APA, p. 347-349, 356-357, 360, 363, 376, 384, 386, 393, 397, 492)
10. Based on the substantial evidence, including the medical records and testimony, Claimant's request for future attendant care is approved in part and denied in part. Based on the substantial evidence, including the medical records and testimony, it is clear to the undersigned Commissioner that attendant care is in the best interest of the Claimant.

11. Based on the substantial evidence, including the medical records and testimony, it is also abundantly clear that the Defendants have been willing to provide in-home care throughout the course of this claim. Therefore, I am ordering the Defendants to provide in-home attendant care, with a provider of their choice, for 4 hours per day. It is further clear to me that Claimant's wife plays an active role in the care of claimant and I am ordering the Defendants to pay the Claimant's wife for 4 hours per day of attendant care at a rate of \$10.00 per hour.
12. Based on the substantial evidence, including the medical records and testimony, I find the rate of \$17.80 (Claimant's APA, p. 105) is excessive and includes profit and overhead cost that claimant's wife is not entitled to be compensated. (Hrg. Tr. p. 149, ll. 1-22).
13. Based on the substantial evidence, including the medical records and testimony, proper in-home attendant care and protocol is to be directed by the Defendants' providers.
14. Based on the substantial evidence, including the medical records and testimony, Claimant request for prospective payments to Claimant's daughter for provision of in-home attendant care is denied.
15. Based on the substantial evidence, including the medical records and testimony, Claimant request for reimbursement (\$8,800.00) and repairs (\$1,620.00) to a handicap accessible van is granted with the following stipulation:
 - a. The undersigned Commissioner orders that the Claimant's family must arrange all medical transportation and arrange for Claimant to be promptly delivered to said appointments.

- b. The undersigned Commissioner orders that the Defendants are relieved of any further transportation responsibilities.
 - c. This decision is not a predisposition to a request for a new van in the future.
 - d. The undersigned Commissioner orders that any incident of not providing Claimant to scheduled, causally related medical appointments will be deemed interference with medical care.
16. Based on the substantial evidence, including the medical records and testimony, Defendant's request to place Claimant in a long term residential placement is denied at this time based upon the following edicts:
- a. The undersigned Commissioner is of the opinion that it is in Claimant's best interest to be with his family so long as it does not interfere with the proper application of medical care.
 - b. The undersigned Commissioner is of the opinion that the appointment of a competent Guardian ad Litem has minimized conflict and facilitated care and communication with the Defendants.
 - c. The undersigned Commissioner orders that the Claimant's family members must be cooperative, responsive and communicative.
 - d. The undersigned Commissioner orders that the Defendants are to provide prompt, professional and timely care to the Claimant.
 - e. The undersigned Commissioner finds that there does not appear to be any significant, recent issues between Defendants and Claimant's family. However, the undersigned Commissioner is growing weary of unnecessary conflict as it only impedes medical progress for treatment.

- f. It is clear to the undersigned Commissioner that the personalities of the Claimant's family members have been conducive to conflict and that must stop.
 - g. The undersigned Commissioner finds that any further verifiable interference with medical providers by the Claimant's family, however slight, will not be condoned by the undersigned Commissioner and will be grounds to re-address the Defendants' request for long term residential placement.
17. Based on the substantial evidence, including the medical records and testimony, Claimant's objections to Defendants' APA, p. 347-348 is overruled.

CONCLUSIONS OF LAW

It is concluded under the South Carolina Workers' Compensation Act in Section 42-1-10 S.C. Code of Laws, et. seq., that:

1. Pursuant to S.C. Code Ann. § 42-15-10 and § 42-17-20, jurisdiction and venue are proper.
2. Pursuant to South Carolina Workers' Compensation Commission Rules and Regulations, Rule 67-210(B) and Rule 67-213(C), the parties were properly served with Notice of the Hearing.
3. Workers' Compensation awards may not be based upon surmise, conjecture, or speculation, but must be founded on evidence of sufficient substance to afford a reasonable basis for it. Tiller v. Nat'l Health Care Ctr. of Sumter, 334 S.C. 333, 339, 513 S.E.2d 843, 845 (1999) ; Sharpe v. Case Produce Co., 329 S.C. 534, 543, 495 S.E.2d 790, 794 (Ct.App.1997) rev'd on other grounds.

4. Section 42-1-160 governs any injury by accident arising out of and in the course of employment.
5. Section 42-15-55 governs the appointment of Guardian ad Litem for minors or mentally incompetent persons.
6. Section 42-15-60 governs the provision of medical treatment.
7. Pursuant to Section 42-15-60, the Claimant remains entitled to authorized causally-related medical treatment.
8. Section 42-15-80 governs the submission to physical examinations.
9. Pursuant to Section 42-15-60 and based on the substantial evidence, including the medical records and testimony, Claimant's request for full modification and/or completion of a home located at 475 Lower Lee School Road, Mayesville, SC 29104 is denied for the following reasons:
 - a. Based on the substantial evidence, including the medical records and testimony, the home is not habitable now, nor was it at the time of the injury. (Claimant's APA, p. 25; Defendants' APA, p. 407-408)
 - b. Based on the substantial evidence, including the medical records and testimony, the proper mechanism to obtain funds to complete the residence would have been a lump sum request (to be deducted from the back side of the lifetime award).
 - c. Based on the substantial evidence, including the medical records and testimony, only when the residence is habitable would the Defendants be responsible for any modifications to the Claimant's home. See

Thompson v. South Carolina Steel Erectors, 369 S.C. 606, 632 S.E.2d 874 (Ct. App. 2006).

- d. Based on the substantial evidence, including the medical records and testimony, the Defendants are not responsible for construction or completion of construction of the home; they are only responsible for modifications to accommodate the claimant needs resulting from the work injury. See Pressley v. REA Constr. Co., Inc., 648 S.E.2d 301, 304 (S.C. Ct. App. 2007). (Section 42-15-60 does not permit the Commission to require the employer to pay the base cost of a wheelchair accessible mobile home).
10. Pursuant to Section 42-15-60 and based on the substantial evidence, including the medical records and testimony, Claimant's request for reimbursement for past rent in the amount of \$24,495.00 and ongoing rent in the amount of \$675.00 per month is denied. The base cost of providing the Claimant housing is an ordinary necessity of life which the statutory substitute for wages should be utilized by the Claimant to obtain. See Pressley v. REA Constr. Co., Inc., 648 S.E.2d 301 (S.C. Ct. App. 2007). While not specifically addressed at the hearing, the Defendants would be responsible for any difference in rent, at the same facility, between a handicap apartment and a non-handicap apartment.
11. Pursuant to Section 42-15-60 and based on the substantial evidence, including the medical records and testimony, Claimant's request for payment to claimant's wife and daughter for past in-home attendant care is denied. Based on the substantial evidence, including the medical records and testimony, the record is replete with

continual interference by the family with providers and even instances in which the family refuses acceptance of in-home attendant care. (Defendants' APA, p. 347-349, 356-357, 360, 363, 376, 384, 386, 393, 397, 492). Based on the substantial evidence, including the medical records and testimony, to now have the family be reimbursed for services that have continually been offered by the defendant is disingenuous and self-serving. (Defendants' APA, p. 347-349, 356-357, 360, 363, 376, 384, 386, 393, 397, 492).

12. Pursuant to Section 42-15-60 and based on the substantial evidence, including the medical records and testimony, Claimant's request for future attendant care is approved in part and denied in part. Based on the substantial evidence, it is clear to the undersigned that attendant care is in the best interest of the Claimant. Based on the substantial evidence, including the medical records and testimony, it is also abundantly clear that the Defendant have been willing to provide in-home care throughout the course of this claim.
13. Pursuant to Section 42-15-60 and based on the substantial evidence, I am ordering the Defendants to provide in home attendant care, with a provider of their choice, for 4 hours per day. Based on the substantial evidence, it is further clear to me that Claimant's wife plays an active role in the care of Claimant and the undersigned Commissioner is ordering the Defendants to pay the Claimant's wife for provision of 4 hours per day of in-home attendant care at a rate of \$10.00 per hour.
14. Based on the substantial evidence, including the medical records and testimony, I find the rate of \$17.80 (Claimant's APA, p. 105) is excessive and includes profit

and overhead cost that claimant's wife is not entitled to be compensated. (Hrg. Tr. p. 149, ll. 1-22).

15. Based on the substantial evidence, including the medical records and testimony, Claimant request for prospective payments to Claimant's daughter for provision of in-home attendant care is denied.
16. Pursuant to Section 42-15-60 and based on the substantial evidence, including the medical records and testimony, Claimant request for reimbursement (\$8,800.00) and repairs (\$1,620.00) to a handicap accessible van is granted with the following stipulation:
 - a. Pursuant to the Decision and Order of the undersigned Commissioner, family must arrange all medical transportation and arrange for Claimant to be promptly delivered to said appointments.
 - b. Pursuant to the Decision and Order of the undersigned Commissioner, Defendants are relieved of any further transportation responsibilities.
 - c. Pursuant to the Decision and Order of the undersigned Commissioner, this decision is not a predisposition to a request for a new van in the future.
 - d. Pursuant to the Decision and Order of the undersigned Commissioner, any incident of Claimant's family not providing Claimant with transportation to scheduled, causally related medical appointments will be deemed interference with medical care.
17. Pursuant to Section 42-15-60, Section 42-15-80 and based on the substantial evidence, including the medical records and testimony, Defendant's request to

place Claimant in a long term residential placement is denied at this time based upon the following edicts:

- e. The undersigned Commissioner is of the opinion that it is in Claimant's best interest to be with his family so long as it does not interfere with the proper application of medical care.
- f. The undersigned Commissioner is of the opinion that the appointment of a competent Guardian ad Litum has minimized conflict and facilitated care and communication with the Defendants.
- g. The undersigned Commissioner orders that the Claimant's family members must be cooperative, responsive and communicative.
- h. The undersigned Commissioner orders that the Defendants are to provide prompt, professional and timely care to the Claimant.
- i. The undersigned Commissioner finds that there does not appear to be any significant, recent issues between Defendants and Claimant's family. However, the undersigned Commissioner is growing weary of unnecessary conflict as it only impedes medical progress for treatment.
- j. It is clear to the undersigned Commissioner that the personalities of the Claimant's family members have been conducive to conflict and that must stop.
- k. The undersigned Commissioner finds that any further verifiable interference with medical providers by the Claimant's family, however slight, will not be condoned by the undersigned Commissioner and will be grounds to re-address the Defendants' request for long term residential placement.

18. Based on the substantial evidence, including the medical records and testimony, Claimant's objections to Defendants' APA, p. 347-348 is overruled.

ORDER

IT IS HEREBY ORDERED THAT pursuant to Section 42-15-60 and based on the substantial evidence, including the medical records and testimony, Claimant's request for full modification and/or completion of Claimant's home located at 475 Lower Lee School Road, Mayesville, SC 29104 is denied.

IT IS HEREBY ORDERED THAT pursuant to Section 42-15-60 and based on the substantial evidence, including the medical records and testimony, Claimant's request for reimbursement for past rent in the amount of \$24,495.00 and ongoing rent in the amount of \$675.00 per month is denied.

IT IS HEREBY ORDERED THAT pursuant to Section 42-15-60 and based on the substantial evidence, including the medical records and testimony, Claimant's request for payment to Claimant's wife and daughter for past in-home attendant care is denied.

IT IS HEREBY ORDERED THAT pursuant to Section 42-15-60 and based on the substantial evidence, including the medical records and testimony, Claimant's request for future attendant care is approved in part and denied in part. Therefore, pursuant to Section 42-15-60 and based on the substantial evidence, the undersigned Commissioner is ordering the Defendant to provide in-home attendant care, with a provider of their choice, for 4 hours per day.

IT IS HEREBY ORDERED THAT pursuant to Section 42-15-60 and based on the substantial evidence, it is further clear that Claimant's wife plays an active role in the care of Claimant and the undersigned Commissioner is ordering the Defendant to pay the Claimant's wife for 4 hours per day of in-home attendant care at a rate of \$10.00 per hour.

IT IS HEREBY ORDERED THAT pursuant to Section 42-15-60 and based on the substantial evidence, including the medical records and testimony, Claimant's family's request for reimbursement (\$8,800.00) and repairs (\$1,620.00) to a handicap accessible van is granted with stipulations.

IT IS HEREBY ORDERED THAT pursuant to Section 42-15-60 and based on the substantial evidence, including the medical records and testimony, Defendants' request to place claimant in a long term residential placement is denied at this time.

IT IS HEREBY ORDERED THAT Claimant's family members must be cooperative, responsive and communicative.

IT IS HEREBY ORDERED THAT the Defendants are to provide prompt, professional and timely care to the claimant.

IT IS HEREBY ORDERED THAT pursuant to the Decision and Order of the undersigned Commissioner, any further verifiable interference with medical providers by the Claimant's family, however slight, will not be condoned by the undersigned and will be grounds to re-address the Defendants' request for long term residential placement.

AND IT IS SO ORDERED.



T. Scott Beck, Commissioner

CERTIFICATE OF SERVICE

This is to certify the undersigned has this date served this order in the above entitled action upon all parties to this cause by sending an electronic copy hereof by electronic mail addressed to the attorney or attorneys for said parties or by depositing a copy hereof, postage paid, in the United States certified mail addressed to any unrepresented party.
February 12, 2015

By: Shawn DeBruhl, Administrative Assistant to Commissioner Beck

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO: 1105628

ALBERT BRADLEY,

Employee,

Claimant,

vs.

SOUTHERN INDUSTRIAL
CONSTRUCTORS, INC.,

Employer,

AND

ZURICH NORTH AMERICAN
INSURANCE,

Carrier,

Defendants.

**AMENDED
DECISION AND ORDER**

DATE OF HEARING:

Hearing held in Columbia, South Carolina on October 8, 2014.

APPEARANCES:

Claimant appeared and represented by Guardian ad Litum Michael A. Farry, Esquire of Horton, Drawdy, Ward, Mullinax, & Farry, P.A. of Greenville, South Carolina.

Defendants represented by Jason W. Lockhart, Esquire of McAngus Goudelock & Courie, L.L.C. of Columbia, South Carolina.

PURPOSE OF THE HEARING:

To determine all issues as set forth in Forms 50 and 51.

COMMISSIONER:

Commissioner T. Scott Beck

FILED:

June 5, 2015



STIPULATIONS

1. Jurisdiction is proper with the South Carolina Workers' Compensation Commission.
2. Venue is proper in Richland County, South Carolina.
3. Claimant's average weekly wage is One Thousand Two Hundred Eighty Seven Dollars (\$1,287.34) and 34/100 with a corresponding compensation rate of Seven Hundred Four Dollars (\$704.92) and 92/100.
4. The Claimant sustained compensable physical brain damage while in the course and scope of his employment with the Defendants on May 16, 2011 and is entitled to lifetime causally-related medical treatment and lifetime compensation.

APA SUBMISSIONS

Claimant submitted the following:

1. Report from David Corey Company, Inc., 07/09/11, pages 1-22;
2. Report from David Corey Company, Inc., 05/31/13, pages 23-37;
3. Estimate from Absolute Restoration for "modifications" in the amount of \$53,700.81, 08/05/13, pages 38-48;
4. Estimate from Absolute Restoration for "repairs" in the amount of \$256,273.11, 07/08/13, pages 49-90;
5. Southwood Realty Residential Lease Agreement Face Sheet for property at 801 S. Main Street, Mt. Holly, NC, showing total monthly rent of \$742.00, 12/31/13, page 91;
6. Lease Agreement for property at 864 Hawley Avenue, Belmont, NC, showing total rent of \$675.00, 03/31/14, pages 92-100;
7. Care Schedule and Time Chart for Albert Bradley, pages 101-102;
8. Albert Bradley Medication Schedule, 09/2014, pages 103-104;

9. Letter from Debra Morehead, BS, RN, CLC, LNCP-C, 09/15/14, pages 105-106;
10. Information Sheet for Dodge Caravan handicap accessible van with copy of canceled check and vehicle expenditures and repairs, pages 107-118;
11. Copies of emails advising Defendants would not provide transportation for Claimant's medical visits, it not authorized or causally related to Claimant's admitted accident, 04/02/13-08/15/14, pages 119-124;
12. Dr. Barry Hangar, Carolina HealthCare Systems, 08/23/12-06/09/14, pages 125-189;
13. McLeod Hospital, 03/01/14, pages 190-199;
14. Carolina Medical Center, 03/23/14-08/15/14, pages 200-339; and
15. Dr. Clayton R. Lowder, Colonial Family Practice, 02/16/11-04/20/11, pages 340-345.

Defendants' submitted the following:

16. Email correspondence from Jennifer Burton to Vivian Harden, 08/14/14, page 346;
17. Correspondence from Robin Mason, 10/09/12, pages 347-349;
18. Corvel Progress Report, 10/10/12, pages 350-356;
19. Correspondence of Unifour Nursing, 10/15/12, page 357;
20. Corvel Progress Report, 11/09/12, pages 358-363;
21. Corvel Progress Report, 04/11/13, pages 364-370;
22. Signature Case Management, 07/18/13, pages 371-375;
23. Email correspondence from Jennifer Burton, 07/24/14, page 376;
24. Unifour Nursing Adult Comprehensive Assessment, 08/05/13, pages 377-383;
25. Email correspondence from Jennifer Burton, 08/30/13, pages 384-385;
26. Email correspondence from Jennifer Burton, 09/04/13, page 386;
27. Email correspondence from Michael Farr, 12/23/13, page 387;

28. Email correspondence from Jennifer Burton, 01/08/14, pages 388-391;
29. Email correspondence from Jennifer Burton, 02/28/14, page 392;
30. Email correspondence from Jennifer Burton, 04/07/14, page 393;
31. Email correspondence from Jennifer Burton, 04/08/14, page 394;
32. Email correspondence from Jennifer Burton, 04/16/14, pages 395-396;
33. Email correspondence from Jennifer Burton, 04/28/14, page 397;
34. Email correspondence from Jason Lockhart, 04/20/14, pages 398-399;
35. Email correspondence from Greg Hawkins, 05/22/14, pages 400-402;
36. Email correspondence from Greg Hawkins, 05/23/14, pages 403-406;
37. Report of David Corey Co., Inc., 07/09/11, pages 407-428;
38. Robert W. Zollinger, M.D., 01/10/13, pages 429-430;
39. Dana Lynn Martini, DO, 07/17/13, page 431;
40. McLeod Emergency Department, 03/01/14; pages 432-438;
41. Carolinas Medical Center, 03/24/14, pages 439-448;
42. Carolinas Medical Center, 03/23/14-03/24/14, pages 449-457;
43. Carolinas Medical Center, 06/06/14, pages 458-465;
44. Carolinas Healthcare System, 06/09/14, pages 466-470;
45. Carolinas Medical Center, 07/28/14-08/01/14, pages 471-494;
46. Carolinas Medical Center, 08/01/14, pages 495-497;
47. Carolinas Medical Center, 08/10/14, pages 498-500;
48. Carolinas Medical Center, 08/10/14, pages 501-509;
49. Carolinas Healthcare System, 08/21/13-08/22/14, pages 510-515; and
50. Richard W. Zollinger, M.D., 01/11/13, pages 516-517.

STATEMENT OF THE CASE

This matter came to be heard before the undersigned Commissioner upon the filing of a Form 50 by the Claimant's Guardian ad Litum on August 14, 2014. The Claimant's Guardian ad Litum was requesting relief regarding a variety of issues, including whether the Defendants were responsible for the payment for and/or provision of modification and repair to the Claimant's home in Bishopville, South Carolina; whether Claimant's home in Bishopville, South Carolina can be modified or renovated due to the current state of the Claimant's home; whether the Defendants are responsible for the provision of living expenses incurred by the Claimant from the date of accident to the present; whether Defendants should be found responsible for the payment of attendant care provided by the Claimant's wife.

In response, the Defendants admitted that the Claimant sustained permanent physical brain damage and was entitled to authorized causally-related medical treatment and lifetime compensation benefits. The Defendants maintained that they were not responsible for the payment for and/or provision of modification and repair to the Claimant's home in Bishopville, South Carolina; the Defendants took the position that the Claimant's home in Bishopville, South Carolina cannot be rendered handicap-accessible due to the current state of the Claimant's home; the Defendants maintained that they are not responsible for the provision of living expenses incurred by the Claimant from the date of accident to the present where the Defendants have consistently extended an offer to place the Claimant in a long-term health care facility where the Claimant's family has rejected Defendants' offer; the Defendants took the position that they should not be found responsible for the payment of attendant care provided by the Claimant's wife where the Claimant's wife has explicitly and/or implicitly refused to cooperate with the provision of attendant care.

EVIDENCE OF THE CASE

Claimant's Family's Request for Modification of Home in South Carolina

Testimony

Mrs. Bradley testified that her and the Claimant's permanent residence is located at 475 Lower Lee School Road in Bishopville, South Carolina, but that no one is residing at the above-referenced residence at the present time. Mrs. Bradley stated that it is possible to reside in only the first floor of the above-referenced residence, which was being renovated by the Claimant prior to his May, 2011, work-related accident. (Hrg. Tr. p. 12, ll. 22-13, ll. 1-11). Ms. Bradley indicated that the home in Bishopville, South Carolina, is not handicap accessible, and that additional work on the home would be necessary in order for the Claimant to live at the residence in Bishopville, South Carolina, on a permanent basis. (Hrg. Tr. p. 59, ll. 1-19; p. 60, ll. 22-p. 61, ll. 1).

Lavare Seltun, the Claimant's daughter, testified that no one is residing at 475 Lower Lee School Road in Bishopville, South Carolina at the present time. (Hrg. Tr. p. 113, ll. 12-14). Ms. Seltun stated that only the top floor of the residence is habitable. (Hrg. Tr. p. 113, ll. 20-p. 114, ll. 114). Ms. Seltun indicated that the residence is not handicapped-accessible in that it does not have a wheelchair ramp nor does it possess a handicapped-accessible bathroom. (Hrg. Tr. p. 114, ll. 6-10). Ms. Seltun testified that the Claimant could not reside at the 475 Lower Lee School residence at the present time.

APA Submissions

The David Corey Company, Inc. (hereinafter "DCC") was contacted by Zurich to conduct a site visit of the Claimant's home in Bishopville, South Carolina to evaluate the feasibility of home modifications of the Claimant's home. The site visit was completed on July

6, 2011, and Mrs. Bradley was present for a portion of the assessment. (Defendant's APA, p. 407). DCC stated that "[a]lthough it is difficult to determine with certainty, the project appears to be approximately 50% complete. During the assessment, Mrs. Bradley advised that they have no formal plans or drawings and that the design was 'in their heads.' It appears that they have been creating the plan on an 'as you go' basis. This presents significant issues from the prospective that it will be difficult for a general contractor to come in and complete work without formal drawings." (Defendants' APA, p. 407). DCC also noted, in their report, that no verification exists that the project, which the Claimant was performing prior to his work-related accident, was in compliance with local and/or state building codes. (Claimant's APA, p. 25). DCC stated that "[a]t this time, nearly the entire interior of the first floor is merely framed in and no drywall has been applied." (Defendants' APA, p. 408). DCC also noted "[i]n order for this house to be inhabited by anyone, there will need to be a 'Certificate of Occupancy' issued by the county. In order to receive the 'CO,' the project will need to be fully completed. Without initial permits being pulled, the 'CO' can't even be applied for and the project could be in jeopardy of fines and considerable demo and rebuilding could be required." (Defendants' APA, p. 408). DCC stated that the entrances to the residence are not wheelchair accessible. (Defendants' APA, p. 409, 411-412).

Claimant's Family's Request for Provision of Living Expenses

Testimony

Mrs. Bradley testified that she is currently 61 years of age, and resides in Belmont, North Carolina, with the Claimant in a handicapped-accessible apartment. Mrs. Bradley stated that the Claimant currently receives temporary total disability (TTD) benefits in the amount of \$704.92 and as well as Social Security disability benefits in the amount of approximately \$1,700.00 per

month. (Hrg. Tr. p. 61, ll. 9-21). Mrs. Bradley stated that she and the Claimant have a one year lease on the apartment in Belmont, North Carolina.

Claimant's Family's Request for Payment of Attendant Care Provided by Family

Testimony

Mrs. Bradley testified that she primarily provides attendant care to the Claimant in conjunction with Ms. Seltun, who provides attendant care both in the evening and on weekends. Mrs. Bradley provided a detailed explanation of the daily attendant care provided, and testified that she provides attendant care from approximately 6:00 a.m. to 9:00 p.m. on a daily basis. (Hrg. Tr. p. 21, ll. 22-p. 22, ll. 1-13). Mrs. Bradley provided a chronology of the activities, which she performs on a daily basis, that are necessitated by the Claimant's current condition. (Hrg. Tr. p. 23, ll. 15-p. 24, ll. 1-28, ll. 1-12). Mrs. Bradley testified that she utilizes the Hoyer lift on a daily basis and has also made a request for a portable lift, which would be necessary in light of out-of-town visits taken by the Claimant and Mrs. Bradley. Mrs. Bradley acknowledged that there have been issues with the PEG tube, which is present, on multiple occasions, but that there has not been a problem with the PEG tube in approximately three months. (Hrg. Tr. p. 39, ll. 5-21). Mrs. Bradley stated that she would accept professional attendant care if such care was provided by the Employer/Carrier. (Hrg. Tr. p. 41, ll. 3-18).

Ms. Seltun provided a detailed summary of the daily schedule of attendant care provided by both she and Christine Bradley, and Ms. Seltun's testimony, regarding the above-referenced schedule, was consistent with the testimony of Mrs. Bradley. Mrs. Bradley indicated that the Claimant is no longer experiencing problems with this PEG tube following a recent procedure to place a permanent PEG tube. (Hrg. Tr. p. 39, ll. 5-21). Ms. Seltun testified that the Claimant would benefit from professional attendant care, if provided by the Employer/Carrier, and that

Christine Bradley would accept such services if the services were offered. With regards to the issue of whether the Claimant has developed seizures, Ms. Seltun stated that she had only observed approximately two to three seizure-like events within the last four months, and that the first of the above-referenced seizures occurred approximately four months ago. Ms. Seltun testified that the Claimant had been hospitalized on multiple occasions within the last eight to twelve months, and that when the Claimant is hospitalized, both she and Christine Bradley communicate primarily with the Claimant's physicians. Mrs. Bradley stated that she communicates with the Claimant's physicians, but that she does not make specific requests of the Claimant's physicians for specific treatment. (Hrg. Tr. p. 53, ll. 3-15).

Mrs. Bradley testified that she attends the Claimant's medical examinations, and that both she and Ms. Seltun carry out instructions provided by physicians with regard to the treatment of the Claimant. Ms. Bradley stated that she does not make decisions on behalf of the Claimant during medical examinations as a result of being divested of her rights as guardian ad litem pursuant to the signed Decision and Order of Commissioner Beck. (Hrg. Tr. p. 53, ll. 12-21). Ms. Bradley indicated that the guardian ad litem has attended none of the Claimant's medical examinations. (Hrg. Tr. p. 70, ll. 5-7). Ms. Bradley testified that she has very limited, if any, communication with the nurse case manager. (Hrg. Tr. p. 75, ll. 1-16).

Ms. Seltun testified that she visits the Claimant's home on a daily basis, and regularly assists Christine Bradley with the provision of attendant care necessitated by the Claimant's work-related injuries. (Hrg. Tr. p. 85, ll. 2-22; p. 101, ll. 9-21). With regards to the Claimant's scheduled medical examinations, Ms. Seltun testified that she attends approximately 40% of the Claimant's scheduled examinations. (Hrg. Tr. p. 109, ll. 4-14). Ms. Seltun stated that both she and Christine Bradley will communicate with the Claimant's physicians, and that she has no

concerns regarding the manner or method by which Christine Bradley communicates with the Claimant's treating physicians. Ms. Seltun indicated that she will provide updated information to the Claimant's Guardian ad Litem within approximately 24 hours following a scheduled examination. Ms. Seltun testified that, with regards to transportation requests, her efforts to make requests for transportation as far out in advance as possible, and stated that the previous requests for transportation were necessitated primarily by the absence of a handicap accessible vehicle for use by the Claimant's family.

APA Submissions

The record is replete with continual interference by the Claimant's family with providers and even instances in which the family refused acceptance of in-home attendant care. (Defendants' APA, p. 347-349, 356-357, 360, 363, 376, 384, 386, 393, 397, 492). In addition, the Claimant's family levied accusations of wrongdoing against previous professional providers of attendant care that were later deemed false. (Defendants' APA, p. 347-349, 357). The monthly progress reports, submitted by Jennifer Burton, who is the nurse case manager, document the Claimant's wife's constructive refusal of the provision of professional attendant care manifested in the form of her treatment of the professional providers of attendant care. (Defendants' APA, p. 356, 360, 363, 393). The record also reflects at least one occasion where the Claimant's family maintained that they were not in need of professional attendant care. (Defendants' APA, p. 492).

Claimant's Family's Request for Purchase of Handicapped Modified Vehicle

Testimony

Mrs. Bradley, who transported to the Claimant to her deposition and to the hearing before the undersigned Commissioner, testified that she takes the Claimant outside of his home on a

regular basis to engage in activities such as visiting family, attending church, and going to local shopping centers. (Hrg. Tr. p. 33, ll. 4-11; p. 63, ll. 4-11). Mrs. Bradley indicated that she transports the Claimant with a handicap accessible van, which was purchased by Mrs. Bradley in July 2013. (Hrg. Tr. p. 31, ll. 6-17). Mrs. Bradley testified that an incident occurred in June 2014, wherein the above-referenced vehicle malfunctioned, and necessitated the Claimant being removed from the vehicle by family members. (Hrg. Tr. p. 34, ll. 8-p. 35, ll. 25). Mrs. Bradley adamantly maintained that the Claimant was not injured in the above-referenced incident. The medical records indicate that the Claimant was taken to Carolinas Medical Center on June 6, 2014 “for evaluation of perceived left shoulder pain.” The diagnostic report of Carolinas Medical Center notes “[p]atient was being assisted by people or not his usual caretakers in transitioning into a van and patient’s family is concerned it could have been the inciting incident [of left shoulder pain].” (Defendants’ APA, p. 460).

Mrs. Bradley indicated that she has no concern, regarding the Claimant’s well-being, as it relates to her taking the Claimant outside of the home, and that the Claimant has not acquired an illness as a result of being taken outside of the home. (Hrg. Tr. p. 63, ll. 12-19; p. 65, ll. 1-4). Mrs. Bradley testified that the Defendants provide the Claimant with transportation to scheduled examinations with the Claimant’s authorized treating physicians.

Ms. Seltun was questioned regarding the incident of June 2, 2014, and testified that, while the Claimant was removed from the above-referenced van due to a malfunction of the van itself, the Claimant did not sustain any injuries as a result of being removed from the van. Ms. Seltun stated that a decision was made to take the Claimant to Carolina’s Medical Center Main, soon thereafter, based on the Claimant audibly moaning, but that there was no conclusion reached by the above-referenced medical facility that the Claimant had sustained any injuries.

(Hrg. Tr. p. 107, ll. 11-24). Ms. Seltun testified that the Claimant was seen by Dr. Hanger, following the incident of June 2, 2014, and that Dr. Hanger was informed of the Claimant's shoulder injury despite the diagnostic report of Dr. Hanger making no mention of the incident. (Hrg. Tr. p. 108, ll. 8-25). Ms. Seltun stated that she was aware that Christine Bradley frequently takes the Claimant outside of his home, but that she has no concerns regarding the Claimant's safety as a result of being taken outside of the home. Mrs. Seltun indicated that the Defendants provide the Claimant with transportation to scheduled examinations with the Claimant's authorized treating physicians.

Testimony of Nurse Case Manager

Jennifer Burton testified on behalf of the Defendants. Ms. Burton testified that she is currently employed with Signature Case Management as a "filed or nurse case manager," and has been the nurse case manager on the Claimant's case for "almost two and a half years." (Hrg. Tr. p. 152, ll. 16-24; p. 153, ll. 11-16).

Ms. Burton testified that the Claimant has a PEG tube, which has had to be addressed and/or replaced several times over the past 12 months, and the issues associated with the Claimant's PEG tube have necessitated "multiple" visits to the emergency room. (Hrg. Tr. p. 157, ll. 15-25). Ms. Burton stated that the Claimant has wound care issues, which necessitated a purchase of an airflow mattress, which is not being used by the Claimant, as well as the purchase of an air cushion, which is not being used by the Claimant. (Hrg. Tr. p. 159, ll. 7-p. 160, ll. 4). The air cushion is not being used because the Claimant's wife "didn't want to use it." (Hrg. Tr. p. 173, ll. 1-7).

Ms. Burton testified that she has been asked to facilitate the provision of professional attendant care to the Claimant including locating service providers, who are retained to come in

and deliver attendant care services in the Claimant's home (Hrg. Tr. p. 162, ll. 12-22). Ms. Burton stated that problems have arisen due to "issues with the nurses that visited being accused of things like stealing and harming Mr. Bradley or providing treatment that wasn't ordered for him or authorized." (Hrg. Tr. p. 163, ll. 11-25). Ms. Burton indicated that many of the providers in question resigned and "would not agree to go back to the [Claimant's] home." (Hrg. Tr. p. 164, ll. 1-3). Ms. Burton testified that the Claimant is currently in need of attendant care, and that provision of attendant care to the Claimant is dependent upon the cooperation of the Claimant's family with the provider. (Hrg. Tr. p. 164, ll. 10-p. 165, ll. 1).

Ms. Burton testified that she has been to the Claimant's home in Mayesville, South Carolina. (Hrg. Tr. p. 166, ll. 7-11). Ms. Burton stated that, based on her personal observations, the home is not habitable at the present time nor is the home handicap ready or handicap accessible. (Hrg. Tr. p. 166, ll. 19-p. 167, ll. 1).

Testimony of Guardian ad Litem's Expert

Debra Morehead testified on behalf of the Claimant. Mrs. Morehead testified that she holds a registered nurses license in the State of South Carolina that is multi-state recognized. (Hrg. Tr. p. 124, ll. 4-6). Mrs. Morehead stated that she is currently self-employed and prepares life care plans. (Hrg. Tr. p. 125, ll. 4-5). Mrs. Morehead indicated that she visited the Claimant, at his home, on October 3, 2014. (Hrg. Tr. p. 125, ll. 20-25). Mrs. Morehead testified that she observed Mrs. Bradley provide attendant care to the Claimant during the little over two hours that she spent in the Claimant's home. (Hrg. Tr. p. 127, ll. 15-p. 128, ll. 8). Mrs. Morehead stated that she also spoke by phone with Lavare Seltun. (Hrg. Tr. p. 130, ll. 1-13). Mrs. Morehead indicated that she was of the opinion that the Claimant was receiving excellent care. (Hrg. Tr. p. 133, ll. 2-8). Mrs. Morehead testified that Mrs. Bradley would benefit from

receiving assistance with the provision of in-home attendant care to the Claimant. (Hrg. Tr. p. 138, ll. 15-25). On cross-examination, Mrs. Morehead testified that she spoke by phone with Lavare Seltun for approximately 30 minutes. (Hrg. Tr. p. 141, ll. 12-14). Mrs. Morehead stated that she had not communicated with either the nurse case manager or the Carrier in order to obtain information regarding the medical care received by the Claimant. (Hrg. Tr. p. 144, ll. 7-23). The undersigned questioned Mrs. Morehead, who indicated that the hourly rates, outlined in her report, for the CNA and for the LPN are rates that a company would charge for a service and not necessarily what the care giver would earn. (Hrg. Tr. p. 149, ll. 3-9).

FINDINGS OF FACT

Based upon the pleadings, the undersigned Commissioner makes the following Findings of Fact:

1. The parties hereto are subject to and bound by the South Carolina Workers' Compensation Act.
2. Claimant's average weekly wage is One Thousand Two Hundred Eighty Seven Dollars (\$1,287.34) and 34/100 with a corresponding compensation rate of Seven Hundred Four Dollars (\$704.92) and 92/100.
3. Based on the substantial evidence, including the medical records and testimony, this is an admitted claim involving a permanent physical brain damage arising out of and in the course of the Claimant's employment on May 16, 2011.
4. Based on the substantial evidence, including the medical records and testimony, as a result of the accident, the Claimant has sustained, among other injuries, permanent physical brain damage, and Michael A. Farry, Esquire of Greenville, South Carolina has been appointed as the Claimant's *Guardian ad Litem*.

5. Based on the substantial evidence, including the medical records and testimony, Claimant's request for full modification and/or completion of a home located at 475 Lower Lee School Road, Mayesville, SC 29104 is denied for the following reasons:
 - a. Based on the substantial evidence, including the medical records and testimony, the home is not habitable now, nor was it at the time of the injury. (Claimant's APA, p. 25; Defendants' APA, p. 407-409, 411-412)
 - b. Based on the substantial evidence, including the medical records and testimony, the proper mechanism to obtain funds to complete the residence would have been a lump sum request (to be deducted from the back side of the lifetime award).
 - c. Based on the substantial evidence, including the medical records and testimony, only when the residence is habitable would the Defendants be responsible for any modifications to the Claimant's home.
 - d. Based on the substantial evidence, including the medical records and testimony, the Defendants are not responsible for construction or completion of construction of the Claimant's home; they are only responsible for modifications to accommodate the Claimant's needs resulting from the work injury.
6. Based on the substantial evidence, including the medical records and testimony, Claimant's request for reimbursement for past rent in the amount of \$24,495.00 and ongoing rent in the amount of \$675.00 per month is denied. The Claimant currently receives temporary total disability (TTD) benefits in the amount of

\$704.92 and as well as Social Security disability benefits in the amount of approximately \$1,700.00 per month. While not specifically addressed at the hearing, the Defendants would be responsible for any difference in rent, at the same facility where the Claimant is currently residing in Belmont, North Carolina, between a handicap apartment and a non-handicap apartment.

7. Based on the substantial evidence, including the medical records and testimony, Claimant's request for payment to Claimant's wife and daughter for past in-home attendant care is denied.
8. Based on the substantial evidence, including the medical records and testimony, the record is replete with continual interference by the Claimant's family with providers and even instances in which the family refused acceptance of in-home attendant care. (Defendants' APA, p. 347-349, 356-357, 360, 363, 376, 384, 386, 393, 397, 492).
9. Based on the substantial evidence, including the medical records and testimony, to now have the Claimant's family be reimbursed for services that have continually been offered by the Defendants is disingenuous and self-serving. (Defendants' APA, p. 347-349, 356-357, 360, 363, 376, 384, 386, 393, 397, 492)
10. Based on the substantial evidence, including the medical records and testimony, Claimant's request for future attendant care is approved in part and denied in part. Based on the substantial evidence, including the medical records and testimony, it is clear to the undersigned Commissioner that attendant care is in the best interest of the Claimant.

11. Based on the substantial evidence, including the medical records and testimony, it is also abundantly clear that the Defendants have been willing to provide in-home care throughout the course of this claim. Therefore, I am ordering the Defendants to provide in-home attendant care, with a provider of their choice, for 4 hours per day. It is further clear to me that Claimant's wife plays an active role in the care of claimant and I am ordering the Defendants to pay the Claimant's wife for 4 hours per day of attendant care at a rate of \$10.00 per hour.
12. Based on the substantial evidence, including the medical records and testimony, I find the rate of \$17.80 (Claimant's APA, p. 105) is excessive and includes profit and overhead cost that claimant's wife is not entitled to be compensated. (Hrg. Tr. p. 149, ll. 1-22).
13. Based on the substantial evidence, including the medical records and testimony, proper in-home attendant care and protocol is to be directed by the Defendants' providers.
14. Based on the substantial evidence, including the medical records and testimony, Claimant request for prospective payments to Claimant's daughter for provision of in-home attendant care is denied.
15. Based on the substantial evidence, including the medical records and testimony, Claimant request for reimbursement (\$8,800.00) and repairs (\$1,620.00) to a handicap accessible van is granted with the following stipulation:
 - a. The undersigned Commissioner orders that the Claimant's family shall have primary responsibility for arranging all medical transportation for Claimant to be promptly delivered to said appointments.

- b. The undersigned Commissioner orders that the Defendants are relieved of primary transportation responsibilities.
 - c. This decision is not a predisposition to a request for a new van in the future.
 - d. The undersigned Commissioner orders that any unreasonable failure to provide Claimant with transportation to scheduled, causally related medical appointments may be considered as evidence of interference with medical care at a hearing before the Commission.
16. Based on the substantial evidence, including the medical records and testimony, Defendant's request to place Claimant in a long term residential placement is denied at this time based upon the following edicts:
- a. The undersigned Commissioner is of the opinion that it is in Claimant's best interest to be with his family so long as it does not interfere with the proper application of medical care.
 - b. The undersigned Commissioner is of the opinion that the appointment of a competent Guardian ad Litem has minimized conflict and facilitated care and communication with the Defendants.
 - c. The undersigned Commissioner orders that the Claimant's family members must be cooperative, responsive and communicative.
 - d. The undersigned Commissioner orders that the Defendants are to provide prompt, professional and timely care to the Claimant.
 - e. The undersigned Commissioner finds that there does not appear to be any significant, recent issues between Defendants and Claimant's family.

However, the undersigned Commissioner is growing weary of unnecessary conflict as it only impedes medical progress for treatment.

f. It is clear to the undersigned Commissioner that the personalities of the Claimant's family members have been conducive to conflict and that must stop.

g. The undersigned Commissioner finds that any further verifiable interference with medical providers by the Claimant's family, however slight, will not be condoned by the undersigned Commissioner and will be grounds to re-address the Defendants' request for long term residential placement.

17. Based on the substantial evidence, including the medical records and testimony, Claimant's objections to Defendants' APA, p. 347-348 is overruled.

CONCLUSIONS OF LAW

It is concluded under the South Carolina Workers' Compensation Act in Section 42-1-10 S.C. Code of Laws, et. seq., that:

1. Pursuant to S.C. Code Ann. § 42-15-10 and § 42-17-20, jurisdiction and venue are proper.
2. Pursuant to South Carolina Workers' Compensation Commission Rules and Regulations, Rule 67-210(B) and Rule 67-213(C), the parties were properly served with Notice of the Hearing.
3. Workers' Compensation awards may not be based upon surmise, conjecture, or speculation, but must be founded on evidence of sufficient substance to afford a reasonable basis for it. Tiller v. Nat'l Health Care Ctr. of Sumter, 334 S.C. 333,

339, 513 S.E.2d 843, 845 (1999) ; Sharpe v. Case Produce Co., 329 S.C. 534, 543, 495 S.E.2d 790, 794 (Ct.App.1997) rev'd on other grounds.

4. Section 42-1-160 governs any injury by accident arising out of and in the course of employment.
5. Section 42-15-55 governs the appointment of Guardian ad Litem for minors or mentally incompetent persons.
6. Section 42-15-60 governs the provision of medical treatment.
7. Pursuant to Section 42-15-60, the Claimant remains entitled to authorized causally-related medical treatment.
8. Section 42-15-80 governs the submission to physical examinations.
9. Pursuant to Section 42-15-60 and based on the substantial evidence, including the medical records and testimony, Claimant's request for full modification and/or completion of a home located at 475 Lower Lee School Road, Mayesville, SC 29104 is denied for the following reasons:
 - a. Based on the substantial evidence, including the medical records and testimony, the home is not habitable now, nor was it at the time of the injury. (Claimant's APA, p. 25; Defendants' APA, p. 407-408)
 - b. Based on the substantial evidence, including the medical records and testimony, the proper mechanism to obtain funds to complete the residence would have been a lump sum request (to be deducted from the back side of the lifetime award).
 - c. Based on the substantial evidence, including the medical records and testimony, only when the residence is habitable would the Defendants

be responsible for any modifications to the Claimant's home. See Thompson v. South Carolina Steel Erectors, 369 S.C. 606, 632 S.E.2d 874 (Ct. App. 2006).

- d. Based on the substantial evidence, including the medical records and testimony, the Defendants are not responsible for construction or completion of construction of the home; they are only responsible for modifications to accommodate the claimant needs resulting from the work injury. See Pressley v. REA Constr. Co., Inc., 648 S.E.2d 301, 304 (S.C. Ct. App. 2007). (Section 42-15-60 does not permit the Commission to require the employer to pay the base cost of a wheelchair accessible mobile home).
10. Pursuant to Section 42-15-60 and based on the substantial evidence, including the medical records and testimony, Claimant's request for reimbursement for past rent in the amount of \$24,495.00 and ongoing rent in the amount of \$675.00 per month is denied. The base cost of providing the Claimant housing is an ordinary necessity of life which the statutory substitute for wages should be utilized by the Claimant to obtain. See Pressley v. REA Constr. Co., Inc., 648 S.E.2d 301 (S.C. Ct. App. 2007). While not specifically addressed at the hearing, the Defendants would be responsible for any difference in rent, at the same facility, between a handicap apartment and a non-handicap apartment.
11. Pursuant to Section 42-15-60 and based on the substantial evidence, including the medical records and testimony, Claimant's request for payment to claimant's wife and daughter for past in-home attendant care is denied. Based on the substantial

evidence, including the medical records and testimony, the record is replete with continual interference by the family with providers and even instances in which the family refuses acceptance of in-home attendant care. (Defendants' APA, p. 347-349, 356-357, 360, 363, 376, 384, 386, 393, 397, 492). Based on the substantial evidence, including the medical records and testimony, to now have the family be reimbursed for services that have continually been offered by the defendant is disingenuous and self-serving. (Defendants' APA, p. 347-349, 356-357, 360, 363, 376, 384, 386, 393, 397, 492).

12. Pursuant to Section 42-15-60 and based on the substantial evidence, including the medical records and testimony, Claimant's request for future attendant care is approved in part and denied in part. Based on the substantial evidence, it is clear to the undersigned that attendant care is in the best interest of the Claimant. Based on the substantial evidence, including the medical records and testimony, it is also abundantly clear that the Defendant have been willing to provide in-home care throughout the course of this claim.
13. Pursuant to Section 42-15-60 and based on the substantial evidence, I am ordering the Defendants to provide in home attendant care, with a provider of their choice, for 4 hours per day. Based on the substantial evidence, it is further clear to me that Claimant's wife plays an active role in the care of Claimant and the undersigned Commissioner is ordering the Defendants to pay the Claimant's wife for provision of 4 hours per day of in-home attendant care at a rate of \$10.00 per hour.

14. Based on the substantial evidence, including the medical records and testimony, I find the rate of \$17.80 (Claimant's APA, p. 105) is excessive and includes profit and overhead cost that claimant's wife is not entitled to be compensated. (Hrg. Tr. p. 149, ll. 1-22).
15. Based on the substantial evidence, including the medical records and testimony, Claimant request for prospective payments to Claimant's daughter for provision of in-home attendant care is denied.
16. Pursuant to Section 42-15-60 and based on the substantial evidence, including the medical records and testimony, Claimant request for reimbursement (\$8,800.00) and repairs (\$1,620.00) to a handicap accessible van is granted with the following stipulation:
 - a. Pursuant to the Decision and Order of the undersigned Commissioner, family must arrange all medical transportation and arrange for Claimant to be promptly delivered to said appointments.
 - b. Pursuant to the Decision and Order of the undersigned Commissioner, Defendants are relieved of any further transportation responsibilities.
 - c. Pursuant to the Decision and Order of the undersigned Commissioner, this decision is not a predisposition to a request for a new van in the future.
 - d. Pursuant to the Decision and Order of the undersigned Commissioner, any incident of Claimant's family not providing Claimant with transportation to scheduled, causally related medical appointments will be deemed interference with medical care.

17. Pursuant to Section 42-15-60, Section 42-15-80 and based on the substantial evidence, including the medical records and testimony, Defendant's request to place Claimant in a long term residential placement is denied at this time based upon the following edicts:
- e. The undersigned Commissioner is of the opinion that it is in Claimant's best interest to be with his family so long as it does not interfere with the proper application of medical care.
 - f. The undersigned Commissioner is of the opinion that the appointment of a competent Guardian ad Litum has minimized conflict and facilitated care and communication with the Defendants.
 - g. The undersigned Commissioner orders that the Claimant's family members must be cooperative, responsive and communicative.
 - h. The undersigned Commissioner orders that the Defendants are to provide prompt, professional and timely care to the Claimant.
 - i. The undersigned Commissioner finds that there does not appear to be any significant, recent issues between Defendants and Claimant's family. However, the undersigned Commissioner is growing weary of unnecessary conflict as it only impedes medical progress for treatment.
 - j. It is clear to the undersigned Commissioner that the personalities of the Claimant's family members have been conducive to conflict and that must stop.
 - k. The undersigned Commissioner finds that any further verifiable interference with medical providers by the Claimant's family, however slight, will not be

condoned by the undersigned Commissioner and will be grounds to re-address the Defendants' request for long term residential placement.

18. Based on the substantial evidence, including the medical records and testimony, Claimant's objections to Defendants' APA, p. 347-348 is overruled.

ORDER

IT IS HEREBY ORDERED THAT pursuant to Section 42-15-60 and based on the substantial evidence, including the medical records and testimony, Claimant's request for full modification and/or completion of Claimant's home located at 475 Lower Lee School Road, Mayesville, SC 29104 is denied.

IT IS HEREBY ORDERED THAT pursuant to Section 42-15-60 and based on the substantial evidence, including the medical records and testimony, Claimant's request for reimbursement for past rent in the amount of \$24,495.00 and ongoing rent in the amount of \$675.00 per month is denied.

IT IS HEREBY ORDERED THAT pursuant to Section 42-15-60 and based on the substantial evidence, including the medical records and testimony, Claimant's request for payment to Claimant's wife and daughter for past in-home attendant care is denied.

IT IS HEREBY ORDERED THAT pursuant to Section 42-15-60 and based on the substantial evidence, including the medical records and testimony, Claimant's request for future attendant care is approved in part and denied in part. Therefore, pursuant to Section 42-15-60 and based on the substantial evidence, the undersigned Commissioner is ordering the Defendant to provide in-home attendant care, with a provider of their choice, for 4 hours per day.

IT IS HEREBY ORDERED THAT pursuant to Section 42-15-60 and based on the substantial evidence, it is further clear that Claimant's wife plays an active role in the care of

Claimant and the undersigned Commissioner is ordering the Defendant to pay the Claimant's wife for 4 hours per day of in-home attendant care at a rate of \$10.00 per hour.

IT IS HEREBY ORDERED THAT pursuant to Section 42-15-60 and based on the substantial evidence, including the medical records and testimony, Claimant's family's request for reimbursement (\$8,800.00) and repairs (\$1,620.00) to a handicap accessible van is granted with stipulations.

IT IS HEREBY ORDERED THAT pursuant to Section 42-15-60 and based on the substantial evidence, including the medical records and testimony, Defendants' request to place claimant in a long term residential placement is denied at this time.

IT IS HEREBY ORDERED THAT Claimant's family members must be cooperative, responsive and communicative.

IT IS HEREBY ORDERED THAT the Defendants are to provide prompt, professional and timely care to the claimant.

IT IS HEREBY ORDERED THAT pursuant to the Decision and Order of the undersigned Commissioner, any further verifiable interference with medical providers by the Claimant's family, however slight, will not be condoned by the undersigned and will be grounds to re-address the Defendants' request for long term residential placement.

AND IT IS SO ORDERED.



T. Scott Beck, Commissioner

CERTIFICATE OF SERVICE

This is to certify the undersigned has this date served this order in the above entitled action upon all parties to this cause by sending an electronic copy hereof by electronic mail addressed to the attorney or attorneys for said parties or by depositing a copy hereof, postage paid, in the United States certified mail addressed to any unrepresented party.

June 5, 2015

By: Shawn DeBruhl, Administrative Assistant to Commissioner Beck

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO: 1105628

ALBERT BRADLEY,

Employee,

Claimant,

vs.

SOUTHERN INDUSTRIAL
CONSTRUCTORS, INC.,

Employer,

AND

ZURICH NORTH AMERICA,

Carrier,

Defendants.

ORDER

DATE OF CONFERENCE:

Conference held in Columbia, South Carolina on August 18, 2015.

APPEARANCES:

Guardian ad Litem for Claimant, Michael A. Farry, Esquire of Horton, Drawdy, Ward, Mullinax, & Farry, P.A. of Greenville, South Carolina.

Defendants represented by Jason W. Lockhart, Esquire of McAngus Goudelock & Courie, L.L.C. of Columbia, South Carolina.

**PURPOSE OF THE
CONFERENCE:**

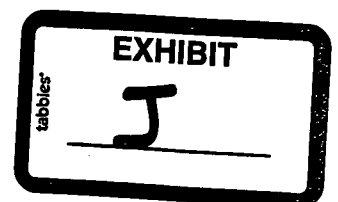
To address letters received by the Commission from Christine Bradley

COMMISSIONER:

Commissioner T. Scott Beck

FILED:

August 21, 2015



STATEMENT OF THE CASE

The undersigned Commissioner has received letters from Christine Bradley, Claimant's wife and primary caregiver, dated January 30, 2015; April 15, 2015; June 9, 2015; July 9, 2015; and July 27, 2015. These letters raise concerns by the undersigned Commissioner as to whether Claimant is receiving the most appropriate and best treatment and causally related medical care possible to which Claimant is entitled under the Workers' Compensation Act. In order for this Commissioner to be in a position to determine what is in the absolute best interest of Claimant, the undersigned Commissioner is appointing a dispassionate third party expert to conduct a detailed assessment of the medical needs of Claimant, as well as the issues raised in the letters from Christine Bradley referenced above with respect to the care and treatment of Claimant.

FINDINGS OF FACT

Based upon the pleadings, the undersigned Commissioner makes the following Findings of Fact:

1. The parties hereto are subject to and bound by the South Carolina Workers' Compensation Act.
2. Based on the substantial evidence, including the medical records and Commission's file, this is an admitted claim involving a permanent physical brain damage arising out of and in the course of the Claimant's employment on May 16, 2011.
3. Jennifer Browning of Browning Geriatric Consultants is a Licensed Certified Geriatric Case Manager, a Licensed Independent Social Worker in Clinical Practice, a Licensed Master Social Worker, Clinically Certified Forensic Counselor, and certified as an Advanced Social Worker Case Manager, and thus is a third party qualified to make a full and complete detailed assessment of the medical needs of Claimant as well as the issues

raised in the letters from Christine Bradley referenced above with respect to the care and treatment of Claimant.

CONCLUSIONS OF LAW

Accordingly, as provided in Section 42-1-10 S.C. Code of Laws, et. seq., it is the determination of this Commissioner:

1. Pursuant to Section 42-15-60, the Claimant remains entitled to medical treatment causally-related to his admitted accident of May 16, 2011 for the remainder of his life.
2. Section 42-15-80 governs the submission to physical examinations.
3. Section 42-17-30 governs the Commission's ability to appointment a doctor to examine Claimant.
4. Pursuant to 42-17-30 and as set forth hereinabove, the undersigned Commissioner orders that Jennifer Browning of Browning Geriatric Consulting conduct a full and complete detailed assessment of the medical needs of Claimant as well as the issues raised in the letters from Christine Bradley referenced above with respect to the care and treatment of Claimant.
5. Pursuant to Section 42-17-30, the undersigned Commissioner orders that upon completion of a detailed assessment as set forth hereinabove, Jennifer Browning shall submit to the undersigned Commissioner a detailed written report and recommendations.
6. Pursuant to Section 42-15-80 and Section 42-17-30, Claimant's family members must be cooperative, responsive and communicative with Jennifer Browning of Browning Geriatric Consulting and/or other representatives of Browning Geriatric Consulting during the scheduling and/or completion of the detailed assessment of the Claimant as set forth hereinabove.

ORDER

IT IS HEREBY ORDERED THAT pursuant to Section 42-17-30, the undersigned Commissioner orders that Jennifer Browning of Browning Geriatric Consulting conduct a detailed assessment as set forth hereinabove.

IT IS HEREBY ORDERED THAT pursuant to Section 42-17-30, the undersigned Commissioner orders that Jennifer Browning of Browning Geriatric Consulting, upon completion of the detailed assessment as set forth hereinabove, submit to the undersigned Commissioner a detailed written report and recommendations.

IT IS HEREBY ORDERED THAT Claimant's family members must be cooperative, responsive and communicative with Jennifer Browning of Browning Geriatric Consulting and/or other representatives of Browning Geriatric Consulting during the scheduling and/or completion of the detailed assessment as set forth hereinabove.

AND IT IS SO ORDERED.



T. Scott Beck, Commissioner

CERTIFICATE OF SERVICE

This is to certify the undersigned has this date served this order in the above entitled action upon all parties to this cause by sending an electronic copy hereof by electronic mail addressed to the attorney or attorneys for said parties or by depositing a copy hereof, postage paid, in the United States certified mail addressed to any unrepresented party.

August 21, 2015

By: Shawn DeBruhl, Administrative Assistant to Commissioner Beck

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO: 1105628

ALBERT BRADLEY,

Employee,

Claimant,

vs.

SOUTHERN INDUSTRIAL
CONSTRUCTORS, INC.,

Employer,

AND

ZURICH NORTH AMERICA,

Carrier,

Defendants.

DECISION AND ORDER

DATE OF HEARING:

Hearing held in Columbia, South Carolina on December 7, 2015.

APPEARANCES:

Claimant appeared and represented by Guardian ad Litum Michael A. Farry, Esquire of Horton, Drawdy, Ward, Mullinax, & Farry, P.A. of Greenville, South Carolina.

Defendants represented by Jason W. Lockhart, Esquire of McAngus Goudelock & Courie, L.L.C. of Columbia, South Carolina.

PURPOSE OF THE HEARING:

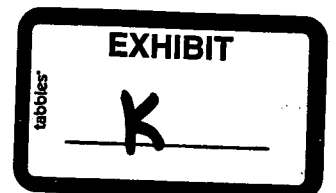
To determine all issues pursuant to Regulation 67-601.

COMMISSIONER:

Commissioner T. Scott Beck

FILED:

December 18, 2015



STIPULATIONS

The parties stipulate to the following:

1. Notice of the Hearing was timely and properly served on all parties of interest.
2. The South Carolina Workers' Compensation Commission has jurisdiction over the parties and subject matter of the claim.
3. Venue is proper in Richland County.

APA SUBMISSIONS

Pursuant to the South Carolina Administrative Procedures Act and Regulations of the South Carolina Workers' Compensation Commission, the following records were submitted into evidence.

Claimant's APA submissions:

APA#	PAGES
1. Summary of Findings and Recommendations by Browning Geriatric	1-17
2. Addendum to Summary of Findings and Recommendations by Browning Geriatric	18-20
3. Outstanding Invoice of Michael A. Farry, Esquire for Services as Guardian ad Litem	

Defendants' APA submissions:

None

STATEMENT OF THE CASE

The undersigned Commissioner received letters from Christine Bradley, Claimant's wife and primary caregiver, dated January 30, 2015; April 15, 2015; June 9, 2015; July 9, 2015; and July 27, 2015. These letters raised concerns by the undersigned Commissioner as to whether Claimant is receiving the most appropriate and best treatment and causally-related medical care possible to which Claimant is entitled under the Workers' Compensation Act. In order for this Commissioner to be in a position to determine what is in the absolute best interest of Claimant

and pursuant to Section 42-17-30 of the Act, the undersigned Commissioner appointed a dispassionate third party expert to conduct a detailed assessment of the medical needs of Claimant, as well as the issues raised in the letters from Christine Bradley referenced above with respect to the care and treatment of the Claimant.

Jennifer Browning of Browning Geriatric Consultants is a Licensed Certified Geriatric Case Manager, a Licensed Independent Social Worker in Clinical Practice, a Licensed Master Social Worker, Clinically Certified Forensic Counselor, and certified as an Advanced Social Worker Case Manager, and was a third party qualified to make a full and complete detailed assessment of the medical needs of Claimant as well as the issues raised in the letters from Christine Bradley referenced above with respect to the care and treatment of Claimant. Pursuant to the directive of the undersigned Commissioner and in accordance with Section 42-17-30 of the Act, Ms. Browning prepared a Summary of Findings and Recommendations Report that was submitted to the undersigned Commissioner and the parties on November 2, 2015.

The hearing was scheduled pursuant to the undersigned Commissioner pursuant to Regulation 67-601 in order to address the Summary of Findings and Recommendations Report of Browning Geriatric Consulting. The Defendants maintained that it was in the best interest of the Claimant to be placed in a long-term residential care facility in accordance with the Summary of Findings and Recommendations Report of Browning Geriatric Consulting.

EVIDENCE OF THE CASE

Jennifer Browning of Browning Geriatric Consultants testified on behalf of the Defendants. Mrs. Browning stated that she is a Licensed Certified Geriatric Case Manager, a Licensed Independent Social Worker in Clinical Practice, a Licensed Master Social Worker, Clinically Certified Forensic Counselor, and certified as an Advanced Social Worker Case

Manager. Mrs. Browning indicated that she was the third party, who was identified in the prior Decision and Order of the undersigned Commissioner, qualified to make a full and complete detailed assessment of the medical needs of Claimant as well as the issues raised in the letters from Christine Bradley referenced above with respect to the care and treatment of Claimant. Mrs. Browning testified that she prepared a Summary of Findings and Recommendations Report that was submitted to the parties and to the undersigned Commissioner on November 2, 2015. Mrs. Browning stated that information for the Summary of Findings and Recommendations Report was acquired from personal interviews with Mr. Bradley's spouse, Mrs. Christine Bradley, and daughter, Mrs. Lavare Seltun; telephone interviews with Medical Case Manager, Ms. Jennifer Burton, RN, BSN, CCM, Marsue Davidson, RN and Emily Mashauri, RN, both with Unifour Nursing, and Dr. Barry Hangar, primary care physician for Mr. Bradley. Mrs. Browning indicated that documentation reviewed for this report included the Claimant's medical records (2011-2015), court filings, case management services, home health and nursing services, and letters from the Claimant's family to Commissioner Beck.

Mrs. Browning testified that the Claimant requires 24/7 care due to the effects of his work-related accident, which resulted in his traumatic brain injury. Mrs. Browning stated that Claimant is totally dependent with all care. Mrs. Browning indicated that Claimant has difficulty swallowing his secretions and requires close supervision due to nausea with emesis and a need for suctioning after his bolus tube feedings. The Claimant's wife currently provides all care with the support of their daughter. Upon telephone interview with Unifour Nursing Services, Mrs. Browning learned that Unifour Nursing Services are providing two professionals (RN/LPN) during each shift due to past difficulties and negative experience with the Claimant's wife. The Claimant is not able to verbalize but does moan when he has discomfort. Due to past conflicts

with the Claimant's wife being extremely uncooperative, insisting on non-standard protocols of care, being resistive to medical recommendation and education, and making accusations of abuse by service providers, Mrs. Browning stated that the option of 24/7 home health care services would not be an option for the long-term care of the Claimant.

Mrs. Browning testified that a certified and licensed geriatric care manager with experience in long-term care needs and family mediation should serve as the Claimant's Guardian Ad Litem. Mrs. Browning stated that she would recommend that Victoria Lichtenberger, MPS, CMC, who is a geriatric care manager in the Charlotte area, provide this service to the Claimant. Mrs. Browning indicated that it is recommended that the Claimant be transitioned to a long-term care facility for 24/7 care and continuity of care. Mrs. Browning testified that, due to the past conflicts, non-compliance, and disruptions to the Claimant's care by the Claimant's wife, some level of supervised and structured visitation would be recommended.

Victoria Lichtenberger of Elder Source LLC testified on behalf of the Defendants. Mrs. Lichtenberger stated that she is currently employed with Elder Source LLC in Charlotte, North Carolina as a geriatric care manager. Mrs. Lichtenberger indicated that, prior to testifying at the hearing before the undersigned Commissioner, she both spoke with Mrs. Browning and reviewed the Summary of Findings and Recommendations Report prepared by Browning Geriatric Consulting. Mrs. Lichtenberger testified that she is willing to serve as Guardian ad Litem for the Claimant, and is capable of serving as Guardian ad Litem for the Claimant based on her professional experience and expertise. Mrs. Lichtenberger stated that she is aware that, as Guardian ad Litem for the Claimant, she is primarily responsible for making medical decisions on behalf of the Claimant, necessitated by the Claimant's work-related accident, even should those decisions be in conflict with to the desires of the Claimant's family members.

FINDINGS OF FACT

Based upon the APA Submissions as well as the statement of the attorneys for the parties, the undersigned Commissioner makes the following Findings of Fact:

1. The parties hereto are subject to and bound by the South Carolina Workers' Compensation Act.
2. Based on the substantial evidence, including the medical records and information provided by the parties, the Claimant is entitled to disability benefits based on a compensation rate of Seven Hundred Four Dollars (\$704.92) and 92/100.
3. This is an admitted claim involving a physical brain injury arising out of and in the course of the Claimant's employment on May 16, 2011.
4. As a result of the accident, the Claimant has sustained, among other injuries, a physical brain injury, and is in need of a Guardian ad Litem.
5. Claimant currently resides at 864 Hawley Avenue, Apartment 222, Belmont, North Carolina 28012. The Claimant is currently receiving authorized causally related medical treatment, which is being provided by the Defendants.
6. Based on the substantial evidence, including the medical records and information provided by the parties, Michael A. Farry, Esquire was previously appointed to serve as Guardian ad Litem, but is hereby removed as Guardian ad Litem.
7. Based on the substantial evidence, including the medical records and information provided by the parties, the Defendants are responsible for the payment of the professional fees of Michael A. Farry, Esquire, arising out of his service as Claimant's Guardian ad Litem, with payment to be made within thirty (30) days of the date of the Order of the undersigned Commissioner.

8. Based on the substantial evidence, including the medical records and information provided by the parties, the undersigned Commissioner appoints Victoria Lichtenberger as Guardian ad Litem for the Claimant. The Defendants shall be responsible for the payment of the professional fees of Ms. Lichtenberger arising out of her service as Claimant's Guardian ad Litem.
9. Based on the substantial evidence, including the medical records and information provided by the parties, it is in the best interest of the Claimant to be placed in a long-term residential care facility in accordance with the Summary of Findings and Recommendations Report of Jennifer Browning, MSW, LISW-CP, CMC, ACCFC.
10. Based on the substantial evidence, including the medical records and information provided by the parties, the Claimant shall be transitioned into a long-term residential care facility, located in the State of North Carolina, in accordance with the Summary of Findings and Recommendations Report of Jennifer Browning, MSW, LISW-CP, CMC, ACCFC, within fifteen (15 days) of the date of the Order of the undersigned Commissioner.
11. Based on the substantial evidence, including the medical records and information provided by the parties, the Claimant's family members are prohibited from interfering with the transition of the Claimant into a long-term residential care facility, located in the State of North Carolina, in accordance with the Summary of Findings and Recommendations Report of Jennifer Browning, MSW, LISW-CP, CMC, ACCFC.

12. Based on the substantial evidence, including the medical records and information provided by the parties, the Defendants are responsible for the provision of a pre-placement physical examination of the Claimant that will occur prior to the transition of the Claimant into a long-term residential care facility, located in the State of North Carolina, and the examination will be conducted by a medical provider chosen by the Defendants with consultation, if necessary, with the Claimant's Guardian ad Litem.
13. Based on the substantial evidence, including the medical records and information provided by the parties, Defendants are to provide the Claimant with a professional care giver during the Claimant's first thirty (30) days of residence at a long-term residential care facility located in the State of North Carolina.
14. Based on the substantial evidence, including the medical records and information provided by the parties, Defendants are to provide Claimant's weekly temporary total disability (TTD) benefits checks to Victoria Lichtenberger as Guardian ad Litem for the Claimant. Victoria Lichtenberger, as Guardian ad Litem for the Claimant, shall maintain an account into which the Claimant's weekly temporary total disability (TTD) benefits checks will be deposited and out of which funds will be distributed, if necessary.
15. Based on the substantial evidence, including the medical records and information provided by the parties, the Guardian ad Litem will file a report with the Commission thirty (30) days after placement of the Claimant in a long-term residential care facility and annually thereafter.
16. The undersigned Commissioner will retain jurisdiction of this matter.

CONCLUSIONS OF LAW

It is concluded under the South Carolina Workers' Compensation Act in Section 42-1-10

S.C. Code of Laws, et. seq., that:

1. Section 42-1-160 governs any injury by accident arising out of and in the course of employment.
2. Section 42-15-55 governs the appointment of Guardian ad Litem for minors or mentally incompetent persons.
3. Section 42-15-60 governs the provision of medical treatment.
4. Section 42-15-80 governs the submission to physical examinations.
5. Section 42-1-40 governs average weekly wage.
6. Regulation 67-215(A)(2) states that the Commission "will accept Motions including, but not limited to, a motion...[r]elating to the appointment of a Guardian ad Litem."
7. Regulation 67-216 governs the appointment of a Guardian ad Litem, and states that "[w]hen a minor or a mentally incompetent person is a party, a Guardian ad Litem shall represent the minor or mentally incompetent."
8. Pursuant to Section 42-15-55 and based on the substantial evidence, including the medical records and information provided by the parties, Michael A. Farry, Esquire was previously appointed to serve as Guardian ad Litem, but is hereby removed immediately as Guardian ad Litem.
9. Pursuant to Section 42-15-55 and based on the substantial evidence, including the medical records and information provided by the parties, the Defendants are responsible for the payment of the professional fees of Michael A. Farry, Esquire,

arising out of his service as Claimant's Guardian ad Litem, with payment to be made within thirty (30) days of the date of the Order of the undersigned Commissioner.

10. Pursuant to Section 42-15-55 and based on the substantial evidence, including the medical records and information provided by the parties, the undersigned Commissioner appoints Victoria Lichtenberger as Guardian ad Litem for the Claimant. The Defendants shall be responsible for the payment of the professional fees of Ms. Lichtenberger arising out of her service as Claimant's Guardian ad Litem.
11. Pursuant to Section 42-15-60 and based on the substantial evidence, including the medical records and information provided by the parties, it is in the best interest of the Claimant to be placed in a long-term residential care facility in accordance with the Summary of Findings and Recommendations Report of Jennifer Browning, MSW, LISW-CP, CMC, ACCFC.
12. Pursuant to Section 42-15-60 and based on the substantial evidence, including the medical records and information provided by the parties, the Claimant shall be transitioned into a long-term residential care facility, located in the State of North Carolina, in accordance with the Summary of Findings and Recommendations Report of Jennifer Browning, MSW, LISW-CP, CMC, ACCFC, within fifteen (15 days) of the date of the Order of the undersigned Commissioner.
13. Pursuant to Section 42-15-80 and based on the substantial evidence, including the medical records and information provided by the parties, the Claimant's family members are prohibited from interfering with the transition of the Claimant into a

long-term residential care facility, located in the State of North Carolina, in accordance with the Summary of Findings and Recommendations Report of Jennifer Browning, MSW, LISW-CP, CMC, ACCFC.

14. Pursuant to Section 42-15-80 and based on the substantial evidence, including the medical records and information provided by the parties, the Defendants are responsible for the provision of a pre-placement physical examination of the Claimant that will occur prior to the transition of the Claimant into a long-term residential care facility, located in the State of North Carolina, and the examination will be conducted by a medical provider chosen by the Defendants with consultation, if necessary, with the Claimant's Guardian ad Litem.
15. Pursuant to Section 42-15-60 and based on the substantial evidence, including the medical records and information provided by the parties, Defendants are to provide the Claimant with a professional care giver during the Claimant's first thirty (30) days of residence at a long-term residential care facility located in the State of North Carolina.
16. Pursuant to Section 42-15-55 and based on the substantial evidence, including the medical records and information provided by the parties, Defendants are to provide Claimant's weekly temporary total disability (TTD) benefits checks to Victoria Lichtenberger as Guardian ad Litem for the Claimant. Victoria Lichtenberger, as Guardian ad Litem for the Claimant, shall maintain an account into which the Claimant's weekly temporary total disability (TTD) benefits checks will be deposited and out of which funds will be distributed, if necessary.

17. Pursuant to Section 42-1-40, the Claimant is entitled to disability benefits based on a compensation rate of Seven Hundred Four Dollars (\$704.92) and 92/100.
18. The undersigned Commissioner will retain jurisdiction of this matter.

ORDER

IT IS HEREBY ORDERED that Claimant is entitled to disability benefits based on a compensation rate of Seven Hundred Four Dollars (\$704.92) and 92/100.

IT IS HEREBY ORDERED that Michael A. Farry, Esquire is hereby removed immediately as Guardian ad Litem.

IT IS HEREBY ORDERED that Victoria Lichtenberger is appointed as the Claimant's Guardian ad Litem.

IT IS HEREBY ORDERED that it is in the best interest of the Claimant to be placed in a long-term residential care facility, and the Claimant shall be transitioned into a long-term residential care facility, located in the State of North Carolina, within fifteen (15 days) of the date of the Order of the undersigned Commissioner.

IT IS HEREBY ORDERED that the Claimant's family members are prohibited from interfering with the transition of the Claimant into a long-term residential care facility located in the State of North Carolina.

IT IS HEREBY ORDERED that Defendants are to provide Claimant's weekly temporary total disability (TTD) benefits checks to Victoria Lichtenberger as Guardian ad Litem for the Claimant, and Victoria Lichtenberger, as Guardian ad Litem for the Claimant, shall maintain an account into which the Claimant's weekly temporary total disability (TTD) benefits checks will be deposited and out of which funds will be distributed, if necessary.

IT IS HEREBY ORDERED that the Guardian ad Litem will file a report with the Commission thirty (30) days after placement of the Claimant in a long-term residential care facility and annually thereafter.

IT IS HEREBY ORDERED that the undersigned Commissioner will retain jurisdiction of this matter.



T. Scott Beck, Commissioner

CERTIFICATE OF SERVICE

This is to certify the undersigned has this date served this order in the above entitled action upon all parties to this cause by sending an electronic copy hereof by electronic mail addressed to the attorney or attorneys for said parties or by depositing a copy hereof, postage paid, in the United States certified mail addressed to any unrepresented party.
December 18, 2015

By: Shawn DeBruhl, Administrative Assistant to Commissioner Beck

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE NO: 1105628

ALBERT BRADLEY,

Employee,

Claimant,

vs.

SOUTHERN INDUSTRIAL
CONSTRUCTORS, INC.,

Employer,

AND

ZURICH AMERICAN INSURANCE
COMPANY c/o ZURICH NORTH
AMERICA,

Carrier,

Defendants.

DECISION AND ORDER

DATE OF HEARING: Hearing held in Columbia, South Carolina on December 6, 2017.

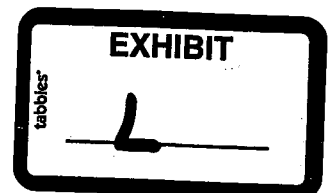
APPEARANCES: Victoria Lichtenberger, Guardian *ad Litem* on behalf of Claimant.

Defendants represented by Jason W. Lockhart, Esquire of McAngus Goudelock & Courie, L.L.C. of Columbia, South Carolina.

PURPOSE OF THE HEARING: To determine to whom benefits are payable and in what amount.

COMMISSIONER: Commissioner T. Scott Beck

FILED: January 22, 2018



STIPULATIONS

The parties stipulate to the following:

1. Venue is proper in Richland County.
2. Notice of the Hearing was timely and properly served on all parties of interest, including Claimant's wife, Christine Bradley, and Claimant's children, Derwin Bradley, Lavare Seltun and Christy James.
3. The South Carolina Workers' Compensation Commission has jurisdiction over the parties and subject matter of the claim.
4. Claimant's average weekly wage is One Thousand Two Hundred Eighty Seven Dollars (\$1,287.34) and 34/100 with a corresponding compensation rate of Seven Hundred Four Dollars (\$704.92) and 92/100.
5. Claimant sustained compensable physical brain damage while in the course and scope of his employment with Defendants on May 16, 2011 and was entitled to lifetime causally-related medical treatment and lifetime compensation at the time of his death.

APA SUBMISSIONS

Defendants' APA Submissions

1. North Carolina Department of Health & Human Services, dated 02/25/17, page 1;
2. Carol J. Weida, MD, dated 03/07/17, pages 2-6;

Defendants' Exhibits

3. Dependency Investigation by Tuten Insurance Services, dated 06/08/17, pages 7-41.

STATEMENT OF THE CASE

A hearing was scheduled on September 13, 2017 before the undersigned Commissioner pursuant to Defendants' Form 21. Claimant sustained compensable physical brain damage while

in the course and scope of his employment with Defendants on May 16, 2011 and was entitled to lifetime causally-related medical treatment and lifetime compensation. Subsequently, on February 5, 2017, Claimant died as a result of complications of diffuse acute bronchopneumonia.

Defendants maintain that they have conducted a good faith dependency investigation and that the proper parties are before the Commission. Defendants requesting that the undersigned Commissioner find that Defendants conducted a good faith investigation and also seek a determination of the dependents entitled to receive benefits pursuant to S.C. Code Ann. §42-9-290.

Defendants request that the undersigned Commissioner verify the accounting from the Guardian ad Litum of funds, which are in the possession of the Guardian ad Litum, that have been utilized by the Guardian ad Litum in the best interests of the Claimant and in accordance with the prior Decision and Order of the undersigned Commissioner. Defendants request that the undersigned Commissioner determine whether the remaining balance of the funds, which are in the possession of the Guardian ad Litum and have been utilized by the Guardian ad Litum in the best interests of the Claimant, should be returned to the Claimant's estate. Defendants request that the undersigned Commissioner discharge the Guardian ad Litum of any and all obligations to the Claimant previously established by the prior Decision and Order of the undersigned Commissioner.

EVIDENCE OF THE CASE

Claimant was pronounced dead on February 5, 2017 at Carolinas Medical Center in Charlotte, North Carolina. (APA#1 p.1). Upon receiving authorization from Claimant's next of kin, Derwin Bradley, Dr. Carol Weida conducted Claimant's autopsy on February 6, 2017 and

concluded that Claimant's cause of death was a result of complications of diffuse acute bronchopneumonia. (APA #2 p. 3).

Upon Claimant's death, Defendants' requested a dependency investigation regarding the allocation of remaining workers' compensation benefits that would have been payable to Claimant. (APA #3). The investigation revealed that Claimant was born in Lee County, South Carolina on October 27, 1949. (APA #3 p.14). Claimant married Christine Bradley and, per the dependency investigation, had three children, Derwin Bradley, Lavare Seltun, and Christy James, all of whom are over the age of eighteen. (APA #3 pp. 7, 14). From February 24, 2017 to April 17, 2017, numerous attempts were made to contact Mrs. Bradley in order to complete the dependency investigation. (APA #3). On February 24, 2017, Mrs. Bradley was contacted, via telephone, to initiate the investigation but she indicated that she did not wish to cooperate with Defendants regarding completion of the investigation and requested further contact via letter. (APA #3 pp. 7-8). A letter, dated March 8, 2017, was mailed to Mrs. Bradley's address explaining the purposes of the investigation and requesting contact. (APA #3 p. 8). No response was received until Mrs. Bradley's April 10, 2017 letter, which requested a full description of all aspects and the nature of the dependency investigation. (APA #3 p. 10). Per her request, a letter, dated April 17, 2017, was mailed to Mrs. Bradley but no response was received.

Further, attempts were made to contact Claimant's three children in order to complete the dependency investigation. (APA #3 p. 8). In April 2017, voicemail messages were left for Derwin Bradley and Lavare Seltun and letters were sent to all three children requesting further contact. (APA #8). Numerous attempts were made to contact Raymond Tillery, Derwin Bradley's attorney, in order to be put in contact with Mr. Bradley. (APA #3 pp. 10-11). Attorney Tillery indicated that he attempted to contact Mr. Bradley, but Mr. Bradley failed to

return his calls. A text message was sent to Mr. Bradley, in which he redirected contact to Attorney Tillery. (APA #3 p. 11). No further communication or response has been received from Mrs. Bradley of any of Claimant's children with regards to the dependency investigation. (APA #3 p. 5).

Courthouse searches for proof of Claimant's marriage license were conducted in Mecklenberg County, North Carolina, Lee, Sumter, and Darlington Counties, South Carolina but proof of a marriage license was not discovered. (APA #3 pp. 8-9). Although proof of a marriage license was not discovered, Mrs. Bradley is listed as Claimant's wife on the March 27, 2017 death certificate and she is listed as Claimant's wife and survivor in Claimant's obituary dated February 11, 2017. (APA #1; APA #3 pp. 14-15).

Pursuant to the request of the undersigned Commissioner, Chris Tuten provided testimony regarding his attempts to conduct a good faith investigation to determine beneficiaries to whom benefits were payable in order that the Defendants may fulfill their obligations pursuant to the South Carolina Workers' Compensation Act. Mr. Tuten stated that he completed a preliminary dependency investigation, but was unable to complete the dependency investigation due to a lack of cooperation provided by the Claimant's wife and children. Pursuant to the request of the undersigned Commissioner, Victoria Lichtenberger provided testimony in her capacity as Guardian ad litem. Ms. Lichtenberger stated that she has maintained an account on behalf of the Claimant, and that the current balance of the above-referenced account is \$10,133.07.

Christine Bradley testified that she was the lawful wife of the Claimant on the date of the Claimant's accident as well the lawful wife of the Claimant on the date of the Claimant's death. Mrs. Bradley stated that she has opened an estate on behalf of the Claimant, and that the estate

was opened with the Lee County Probate Court. The file number of the estate opened with the Lee County Probate Court is 2017-ES-31055. Mrs. Bradley indicated that she had not yet been appointed as personal representative of the Claimant's estate nor had a personal representative of the Claimant's estate been appointed.

FINDINGS OF FACT

Based upon the testimony and exhibits submitted, the undersigned Commissioner makes the following findings of fact:

1. The parties hereto are subject to and bound by the South Carolina Workers' Compensation Act.
2. Claimant's average weekly wage is One Thousand Two Hundred Eighty Seven Dollars (\$1,287.34) and 34/100 with a corresponding compensation rate of Seven Hundred Four Dollars (\$704.92) and 92/100.
3. Based upon the preponderance of the evidence, Claimant was involved in a work-related accident and sustained permanent physical brain damage arising out of and in the course of the Claimant's employment on May 16, 2011. (Commission File).
4. Based upon the preponderance of the evidence, including the death certificate and the autopsy report, Claimant died as a result of complications of diffuse acute bronchopneumonia. (APA #1; #2).
5. Based upon the preponderance of the evidence, at the time of Claimant's death, Claimant continued to receive causally-related medical care. (Commission File).
6. Based upon the preponderance of the evidence, Claimant was married to Christine Bradley and had three non-dependent children at the time of his death. (APA #1; #3).

7. Based upon the preponderance of the evidence, upon Claimant's death, Defendants' requested a dependency investigation regarding the allocation of remaining workers' compensation benefits that would have been payable to Claimant. (APA #3).
8. Based upon the preponderance of the evidence, including the dependency investigation report and testimony, Claimant's wife and three children were uncooperative with regards to completion of the Dependency Investigation. (APA #3).
9. Based upon the preponderance of the evidence, Christine Bradley, Claimant's wife, was wholly dependent upon Claimant at the time of Claimant's death.
10. Based upon the preponderance of the evidence, no others were financially dependent upon Claimant.
11. Based upon the preponderance of the evidence, the Claimant's three non-dependent children, all above the age of eighteen (18) years of age, waive any entitlement to permanent disability benefits in light of Christine Bradley's, the claimant's wife, entitlement to benefits.
12. Based upon the preponderance of the evidence, including the dependency investigation report and testimony, Defendants completed a "good faith" Dependency Investigation in accordance with the Act, to determine whether Claimant had dependents to receive death benefits. (APA #3).
13. Based upon the preponderance of the evidence, including the dependency investigation report and testimony, Claimant's wife, Christine Bradley, is entitled

to receive the balance of unpaid compensation and benefits as the surviving spouse.

14. Based upon the preponderance of the evidence, including testimony, Victoria Lichtenberger, in her capacity as Guardian ad litem for Albert Bradley, has maintained an account on behalf of the Claimant at the direction of the undersigned Commissioner, and that the current balance of the above-referenced account is \$10,133.07.
15. Based upon the preponderance of the evidence, including testimony, Victoria Lichtenberger, in her capacity as Guardian ad litem for Albert Bradley, shall make payment of \$10,133.07 from the account, which she maintained on behalf of the Claimant at the direction of the undersigned Commissioner, to the personal representative of the Claimant's estate, which has been opened in the Lee County Clerk of Court (Case Number 2017-ES-31055).
16. Based upon the preponderance of the evidence, including testimony, Victoria Lichtenberger, in her capacity as Guardian ad litem for Albert Bradley, shall make payment of \$10,133.07 from the account, which she maintained on behalf of the Claimant at the direction of the undersigned Commissioner, to the Lee County Clerk of Court (Case Number 2017-ES-31055) if no personal representative of the Claimant's estate has been appointed.
17. Based upon the preponderance of the evidence, including testimony, Victoria Lichtenberger, in her capacity as Guardian ad litem for Albert Bradley, shall provide certification of her payment of \$10,133.07 from the account, which she maintained on behalf of the Claimant at the direction of the undersigned

Commissioner, to the undersigned Commissioner and shall also provide an accounting to the undersigned Commissioner.

18. Based upon the preponderance of the evidence, including testimony, once Victoria Lichtenberger, in her capacity as Guardian ad litem for Albert Bradley, provides certification of her payment of \$10,133.07 from the account, which she maintained on behalf of the Claimant at the direction of the undersigned Commissioner, to the personal representative of the Claimant's estate or to the Lee County Clerk of Court (Case Number 2017-ES-31055) and provides an accounting to the undersigned Commissioner, then Victoria Lichtenberger is discharged from any and all responsibilities in her capacity as Guardian ad litem for Albert Bradley.
19. Based upon the preponderance of the evidence, including testimony, the Defendants shall make payment of funeral expenses in the amount of \$2,500.00 to Christine Bradley upon provision by Christine Bradley of documentation of funeral expenses.
20. Based upon the preponderance of the evidence, including the dependency investigation report and testimony, Claimant's wife, Christine Bradley, is entitled to and the Defendants shall make payment of the balance of unpaid compensation and benefits as the surviving spouse in the amount of \$136,977.59 representing the present-day value of the remaining 202 weeks of compensation. The Defendants shall make payment of the balance of unpaid compensation and benefits to Christine Bradley, as the surviving spouse, in the amount of

\$136,977.59 through sending payment to Christine Bradley at 475 Lower Lee School Road, Mayesville, South Carolina 29104.

CONCLUSIONS OF LAW

Pursuant to the South Carolina Code of Laws §42-1-10, et seq. and the South Carolina Workers' Compensation Act, it is concluded that:

1. Pursuant to S.C. Code Ann. Section 42-9-280, when an employee dies of causes unrelated to the injury for which he is entitled to compensation, payment of the unpaid balance shall be paid to his next of kin dependent upon him for support.
2. Pursuant to S.C. Code Ann. Section 42-9-290 is applicable and sets forth the amount of compensation due for the death of an employee due to an accident.
3. South Carolina Workers' Compensation Commission Regulation 67-902 is applicable and sets forth the requirements for conducting a "good faith" investigation concerning dependency issues.
4. Pursuant to South Carolina Workers' Compensation Commission Regulation 67-902 and other applicable law, Defendants conducted a "good faith" Dependency Investigation. Defendants identified all possible dependents, and they were all properly notified of the hearing in this matter.
5. Pursuant to S.C. Code Ann. Section 42-9-290, Claimant's dependent is entitled to receive the balance of unpaid compensation and benefits, at the compensation rate of \$704.92.
6. Pursuant to S.C. Code Ann. Section 42-9-110, Christine Bradley is Claimant's surviving spouse and is therefore presumed to be wholly dependent upon

Claimant at the time of Claimant's death. No others were financially dependent upon Claimant.

7. Pursuant to S.C. Code Ann. Section 42-9-290, all benefits are to be paid to Christine Bradley, Claimant's wife.
8. Pursuant to S.C. Code Ann. Section 42-9-301, Mrs. Bradley is entitled to a lump-sum payment of benefits.
9. Pursuant to S.C. Code Ann. Section 42-9-110 and Section 42-9-120, and based upon the preponderance of the evidence, Defendants completed a "good faith" Dependency Investigation in accordance with the Act to determine whether Claimant had dependents to receive death benefits. (APA #3).
10. Pursuant to S.C. Code Ann. Section 42-9-110 and based upon the preponderance of the evidence, including the dependency investigation report and testimony, Claimant's wife, Christine Bradley, is entitled to receive the balance of unpaid compensation and benefits as the surviving spouse conclusively presumed to be wholly dependent for support.
11. Pursuant to S.C. Code Ann. Section 42-15-55 and based upon the preponderance of the evidence, including testimony, Victoria Lichtenberger, in her capacity as Guardian ad litem for Albert Bradley, has maintained an account on behalf of the Claimant at the direction of the undersigned Commissioner, and that the current balance of the above-referenced account is \$10,133.07.
12. Pursuant to S.C. Code Ann. Section 42-15-55 and based upon the preponderance of the evidence, including testimony, Victoria Lichtenberger, in her capacity as Guardian ad litem for Albert Bradley, shall make payment of \$10,133.07 from the

account, which she maintained on behalf of the Claimant at the direction of the undersigned Commissioner, to the personal representative of the Claimant's estate, which has been opened in the Lee County Clerk of Court (Case Number 2017-ES-31055).

13. Pursuant to S.C. Code Ann. Section 42-15-55 and based upon the preponderance of the evidence, including testimony, Victoria Lichtenberger, in her capacity as Guardian ad litem for Albert Bradley, shall make payment of \$10,133.07 from the account, which she maintained on behalf of the Claimant at the direction of the undersigned Commissioner, to the Lee County Clerk of Court if no personal representative of the Claimant's estate has been appointed.
14. Pursuant to S.C. Code Ann. Section 42-15-55 and based upon the preponderance of the evidence, including testimony, Victoria Lichtenberger, in her capacity as Guardian ad litem for Albert Bradley, shall provide certification of her payment of \$10,133.07 from the account, which she maintained on behalf of the Claimant at the direction of the undersigned Commissioner, to the undersigned Commissioner and shall also provide an accounting to the undersigned Commissioner.
15. Pursuant to S.C. Code Ann. Section 42-15-55 and based upon the preponderance of the evidence, including testimony, once Victoria Lichtenberger, in her capacity as Guardian ad litem for Albert Bradley, provides certification of her payment of \$10,133.07 from the account, which she maintained on behalf of the Claimant at the direction of the undersigned Commissioner, to the undersigned Commissioner and provides an accounting to the undersigned Commissioner, then Victoria

Lichtenberger is discharged from any and all responsibilities in her capacity as Guardian ad litem for Albert Bradley.

16. Pursuant to S.C. Code Ann. Section 42-9-290 and based upon the preponderance of the evidence, including testimony, the Defendants shall make payment of funeral expenses in the amount of \$2,500.00 to Christine Bradley upon provision by Christine Bradley of documentation of funeral expenses.
17. Pursuant to S.C. Code Ann. Section 42-9-110, Section 42-9-290 and Section 42-9-301, and based upon the preponderance of the evidence, including testimony, Claimant's wife, Christine Bradley, is entitled to and the Defendants shall make payment of the balance of unpaid compensation and benefits as the surviving spouse in the amount of \$136,977.59 representing the present-day value of the remaining 202 weeks of compensation.
18. Pursuant to S.C. Code Ann. Section 42-9-110, Section 42-9-290 and Section 42-9-301, and based upon the preponderance of the evidence, including testimony, Claimant's wife, Christine Bradley, is entitled to and the Defendants shall make payment of the balance of unpaid compensation and benefits as the surviving spouse in the amount of \$136,977.59 representing the present-day value of the remaining 202 weeks of compensation. The Defendants shall make payment of the balance of unpaid compensation and benefits to Christine Bradley, as the surviving spouse, in the amount of \$136,977.59 through sending payment to Christine Bradley at 475 Lower Lee School Road, Mayesville, South Carolina 29104.

ORDER

IT IS HEREBY ORDERED that the Defendants completed a “good faith” Dependency Investigation in accordance with the Act, to determine whether Claimant had dependents to receive death benefits.

IT IS HEREBY ORDERED that Claimant’s surviving spouse, Christine Bradley, is determined to have been wholly dependent upon Claimant at the time of Claimant’s death.

IT IS FURTHER ORDERED that an award of death benefits, pursuant to Section 42-9-110, Section 42-9-290 and Section 42-9-301, shall be paid to Christine Bradley at the compensation rate of \$704.92.

IT IS FURTHER ORDERED that Claimant’s wife, Christine Bradley, is entitled to and the Defendants shall make payment of the balance of unpaid compensation and benefits as the surviving spouse in the amount of \$136,977.59 representing the present-day value of the remaining 202 weeks of compensation.

AND IT IS SO ORDERED.

Order served upon:

Christine Bradley 475 Lower Lee School Road Mayesville, SC 29104	Derwin Bradley 520 Abbeyhill Drive Columbia, SC 29229	Lavare Seltun 4324 Stone Mountain Dr. Gastonia, NC 28054
Christy James 3441 Shadow Burch Road Florence, SC 29505	Jason Lockhart, Esquire McAngus Goudelock & Courie, LLC PO Box 12519 Columbia, SC 29211	Victoria Lichtenberger as Guardian ad Litem 1018 East Boulevard, Ste. 3 Charlotte, NC 28203



T. Scott Beck, Commissioner

CERTIFICATE OF SERVICE

This is to certify the undersigned has this date served this order in the above entitled action upon all parties to this cause by sending an electronic copy hereof by electronic mail addressed to the attorney or attorneys for said parties or by depositing a copy hereof, postage paid, in the United States certified mail addressed to any unrepresented party.

January 22, 2018

By: Shawnee DeBruhl, Administrative Assistant to Commissioner Beck

May 1, 2019

Christine Bradley (Albert Bradley), Pro Se
475 Lower Lee School Rd.
Mayesville, SC 29104

Re: SC Court of Appeals, Case No: 2018001535

RECEIVED

MAY 01 2019

SC Court of Appeals

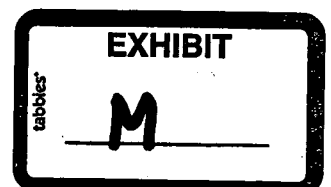
Dear Attorney Helen Hiser:

First, it is important that I remind you that I am Pro Se in this matter. Therefore, I kindly request that you address me as such pertaining to all matters in this appeal. In response to your motion, please review all the correspondence I sent to the court and copied to respective respondents. The files and documents that I have requested have been requested on multiple occasions, and I am still not in receipt of all files by all parties who were involved in the case of Albert Bradley. Decision and Order made by the Commission on December 6, 2017 was requested for review by me, and subsequently went before the Commission Review panel for full review on May 21, 2018. Please see the attached findings of fact which highlight the reason for review and my request for appeal by the SC Court of Appeals. Therefore, my request for subpoenas from the Appellate Court and for hearing before the court are justified, as parties fail to provide me with all files and documentation needed for further investigation into this case. Also, please note my right to appeal per Rule 201 (a)(b) and right for subpoenas, 413.0-Rule 15, Oaths, Subpoena Power, (a)(b)(c)(d)(e) and (f).

Sincerely,


Christine Bradley, Pro Se (Albert Bradley)

Cc: Chief Judge James E. Lockemy



PROOF OF SERVICE

IN THE STATE OF SOUTH CAROLINA

In the Court of Appeals
In the Supreme Court

Appellate Court Judges

Case No: 2018001535

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MAY 01 2019

SC Court of Appeals

Christine Bradley (Albert Bradley), Pro se

Appellant

v.

SC Workers' Compensation Commission,
Southern Industrial Constructors Inc.,
Zurich American Insurance Company %
Zurich North America, Victoria Lichtenberger,
Gaston County DHHS (Tereasa Osborne, Stephanie Stevenson)

Respondents

I certify that I have served the Answer to Counter Motion on the SC Workers' Compensation Commission on May 1, 2019, by depositing a copy of it in the United States Mail to P.O. Box 1715, Columbia, SC 29202-1715, or via hand-delivery 1333 Main St., Suite 500, Columbia, SC, 29202. I certify that I have served the same upon Southern Industrial Constructors and Zurich American Insurance Company on April 22, 2019 by depositing a copy of it in the United States Mail, to the attorney of record, Jason W. Lockhart at P.O. Box 12519, Columbia, SC 29201, and via hand delivery to his office at 1320 Main St., Columbia, SC 29201. I certify that I have served a copy to attorney of record Helen Hiser, by depositing a copy in the U.S. Mail to, 735 Johnnie Dodds Blvd., Suite 200, Mt. Pleasant, SC 29464. I certify that I have served a copy to the Gaston County DHHS, by depositing a copy of it in the United States Mail, to the attorney of record, Tereasa Osborne, at 330 Dr. Martin Luther King, Jr. Way, Gastonia, NC 28052. I certify that I have served a copy to Victoria Lichtenberger, Guardian, by depositing a copy of I in the United States Mail to 1018 East Blvd., Suite 3, Charlotte, NC 28203.

May 1, 2019



Christine Bradley (Albert Bradley), Pro se
475 Lower Lee School Rd.
Mayesville, SC 29104

Did the commissioner fail to consider important reasons for award for compensation? If so, what reasons?

Section 42-9-10(A)(B)(C)(D). Amount of compensation for total disability and what constitutes total disability. During proceedings and order, temporary compensation was applied to a permanent disability claim. Although Commissioner Beck stated that claimant Albert Bradley was declared permanently disabled, law was applied for temporary disability with attempt to settle the claim on that basis.

Section 42-15-60 (C)- Albert Bradley, now deceased claimant, who received total care and medical services in his home by family members 24/7 up until the year he was taken, were never compensated for the services they provided to the claimant even after care plan which was requested was presented to the court to show the care the claimant was receiving in the home. There was a court order which ordered monies which Albert Bradley paid out of his own monies to be reimbursed by the carrier for expenses such as medications and supplies dating back to 2013 which still have not been paid as of this date. Albert Bradley paid for his own transportation to court hearings, doctors' visits, medications, and nursing services, all which no reimbursement was received. Albert Bradley even had to purchase his own wheelchair accessible van for transportation out of his own money and was never reimbursed.

67-902-Dependency investigation. The argument here is that a thorough investigation of benefits on behalf of the claimant for all dependents through his employers should be brought before the court. Christine Bradley stated before the court in a prior hearing and made pleas to the Commission that she was due spousal benefits as she was the beneficiary listed for Albert Bradley through his employer Southern Industrial. Her request for further information and documentation pertaining to the above was not acknowledged.

Section 42-17-60. Christine Bradley, spouse of claimant, has been denied benefits. "In case of appeal from the decision of the commission on questions of law, the appeal does not operate as a supersedeas, and, after that time the employer is required to make weekly payments of compensation."

Sections 42-9-220, 42-9-230. Christine Bradley was separated from her husband on March 17, 2016, and all benefits that Albert Bradley had been receiving had stopped in December 2015.

Did the commissioner incorrectly decide the facts? If so, what facts?

Section 42-9-10(A)(B)(C)(D). Albert Bradley was declared permanently and totally disabled.

Section 42-15-80. It was ordered that Albert Bradley died of acute bronchopneumonia. No medical records including autopsy and toxicology results were submitted to support this diagnosis. No expert witness testified at the hearing to provide expert testimony to support this diagnosis.

Albert Bradley died in the custody of Gaston County DSS/Tereasa Osborne, Stephanie Stevenson and Victoria Lichtenberger, appointed Guardian/Guardian ad Litem through the SC Workers' Compensation Commission. Victoria Lichtenberger is owner of ElderSource, located at 1018 East Blvd., Suite 3, Charlotte, NC, a geriatric care management company that is responsible for the placement of geriatric patients into adult homes and facilities.

Albert Bradley suffered immensely under the hands of Guardian Ad Litem Victoria Lichtenberger and Gaston County DSS/Tereasa Osborne, Stephanie Stevenson. From the time of their acquisition of the claimant, there was a rapid decline in his health evidenced by multiple hospital visits and admissions that ultimately led to his death.

Section 42-15-60- The claimant has medical bills that have not been paid by the carrier. These bills have not been brought before the court to show proof of payment.

67-902, 67-903, 67-904. Tuten testified that he conducted the dependency investigation in good faith when in fact he failed to make contact with all of the claimant's family members and failed to provide documentation to support his findings.

APA submission presented by Attorney Jason Lockhart used as evidence was not provided to all parties prior to hearing or after the hearing and was used as facts for the case.

67-216, 42-15-55. Victoria Lichtenberger, Guardian ad Litem, said representative for the deceased claimant, was speaking on behalf of the insurance company instead of the claimant. Albert Bradley was in the custody of Victoria Lichtenberger, Guardian Ad Litem and Gaston County DSS/Tereasa Osborne/Stephanie Stevenson when he died. Victoria Lichtenberger, Guardian Ad Litem was also documented as dependent of the claimant. Proof of guardianship was never provided during court when requested. Family members, or the claimant himself, Albert Bradley, was not present at any hearing for the appointment of Guardian Ad Litem.

Family members had very limited contact with Albert Bradley during the last year of his life, and visits with him were supervised when they were allowed.

Do you think the Commissioner applied the wrong law? If so, what law?

Section 42-9-20. Temporary compensation, partial disability law cannot be applied to a claimant who has suffered physical brain damage. Albert Bradley sustained physical brain damage on May 16, 2011, and was permanently and totally disabled on the date of his accident.

Do you feel there are any other reasons why the Commissioner's judgment was wrong? If so, what?

42-9-20. Based on the findings and the laws, as highlighted above a temporary compensation and partial disability cannot be applied when an individual has suffered a permanent disability.

Family members were denied their rights to civil proceedings for guardianship for Albert Bradley. Albert Bradley has a living spouse Christine Bradley.

67-902. There was failure to conduct a thorough dependency investigation through the claimant's employer Southern Industrial.

Albert Bradley was in the custody of Victoria Lichtenberger, Guardian Ad Litem, and owner of ElderSource and Gaston County DSS/Tereasa Osborne, Agency Attorney/Stephanie Stevenson, guardianship supervisor. No proof of guardianship was ever provided.

67-1301. Expert physician testimony was not heard on the given diagnosis, acute bronchopneumonia, as to the cause of Albert Bradley's death.

Other documentation which were ordered by the Commissioner to include the complete financial record of the claimant held by the Guardian Ad Litem Victoria Lichtenberger as well as her final accounting, full medical records from the time that Albert Bradley was taken into custody from 3/17/2016 until the date of his death including autopsy and toxicology were not submitted as ordered for review and evidence.

What action do you want the Commission to take in this case?

Apply the laws accordingly, consider the facts in this case, and apply due process to be fair in his decision-making and execution of the laws. Every individual has the right to fair and equal representation.

South Carolina Workers' Compensation Commission

1333 Main Street, Suite 500
P.O. BOX 1715
Columbia, SC 29202-1715
(803) 737-5723

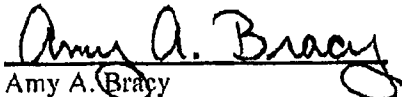


WCC File #: 1105628

Date of Injury: 05/16/2011

ALBERT BRADLEY v. SOUTHERN INDUSTRIAL CONSTRUCTO
WCC File No. 1105628

The Commission is hereby providing you a copy of the Form 30 filed by the unrepresented claimant pursuant to R.67-701 B.


Amy A. Bracy
Judicial Director

Date: April 18, 2018

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MAY 01 2019
SC Court of Appeals

CERTIFICATE OF SERVICE

I hereby certify on April 18, 2018, I served this document on the parties listed below by electronic mail or depositing a copy hercof, postage prepaid, in the United States mail and addressed as follows:

ALBERT BRADLEY
c/o Christine W Bradley
475 Lower Lee School Road
MAYESVILLE, SC 29104

Jason W. Lockhart (5)
McAngus Goudelock & Courie, LLC
PO Box 12519
Columbia, SC 29211

Victoria Lichtenberger
1018 East Boulevard, Suite 3
Charlotte, NC 28203

Derwin Bradley
520 Abbeyhill Drive
Columbia, SC 29229

Lavare Seltun
4324 Stone Mountain Drive
Gastonia, NC 28054

Christy James
3441 Shadow Burch Road
Florence, SC 29505

By: Valerie D. Deller, Judicial Department

What does the SC workers' compensation law state regarding workers who suffer catastrophic injuries resulting in total disability and incapacitation which occurred from a work-related injury?

Section 42-9-5(C)(D); Section 42-15-60

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MAY 01 2019

SC Court of Appeals

Albert Bradley sustained a severe brain injury and several other injuries such as such severe tongue and facial/jaw laceration and inhalation of metal fragments into lung tissue while working for Southern Industrial Constructors of Columbia, SC on May 16, 2011. These injuries left him totally incapacitated. Albert Bradley was deemed permanently and totally disabled because of these injuries by the SC Workers' Compensation Commission (Commissioner T. Scott Beck). He received the maximum weekly benefits allowable under the law.

Attorney Jason Lockhart argues that Albert Bradley died of diffuse acute bronchopneumonia in his submission. What is that? Please provide the official signed medical documentation from the medical provider who diagnosed Albert Bradley with this condition as his cause of death.

What does the law state regarding the appointment of a guardian for an injured worker? What decision-making is factored in to the appointment of a Guardian/Guardian ad litem for an injured worker? What is the role of the appointed Guardian ad litem in relationship to the injured worker (i.e. healthcare, finances, collaboration with other family members)? What does the law state about family members as guardian? What is a guardian? What is Guardian ad litem? Does this law apply in this case? If so, how?

Section 42-15-55; Chapter 67-216

Albert Bradley died in the hands of the court-appointed Guardian ad litem Victoria Lichtenberger who owns and operates an agency that receives federal funds from the government and who is affiliated with and collaborated with the Gaston County DSS/DHHS/Tereasa Osborne, Stephanie Stevenson. He had several hospital admissions while in the custody of Victoria Lichtenberger and Gaston County DSS. No family members were present at the time of appointment of guardianship for Albert Bradley which denied Albert Bradley, and his family their rights to be present, to be heard, and to be represented. Family members were not provided any documentation regarding Albert Bradley's health condition, his hospital visits, multiple tests performed, autopsy results, and toxicology screen, while in the custody of Victoria Lichtenberger and Gaston County DSS/DHHS/Tereasa Osborne, Stephanie Stevenson. Family members had very limited contact with Albert Bradley from 3/17/2016 to 2/05/2017.

What does the law state regarding appointment of an attorney for an individual who is not represented at a hearing?

Chapter 67-216

It was stated in the hearing that Victoria Lichtenberger is Albert Bradley's Guardian ad litem yet the claimant was without legal representation at the hearing which was held on December 6, 2017.

What is a dependency investigation?

Chapter 67-902

There was no good faith effort to conduct any dependency investigation as it was communicated to the commissioner that if in fact if there was such an investigation to be held, it was to be done in the Commissioner's presence in court. (See the attached letter). Also, there is documentation about good faith made to conduct a dependency investigation with all family members. However, there is no documentation of any communication with Christy James. Where is the proof of the letters that Tuten sent to all three of the children to include the date and time stamp?

Several requests were made for all medical records, guardianship court orders and all orders, financial statements, and the entire the SC Workers' Compensation Commission file pertaining to Albert Bradley for his entire claim period. These documents still have not been received to this date.

What does the law state about payment of benefits for the injured worker who had coverage for himself and his spouse? How did you calculate the benefits to paid?

Chapter 67-902

A good faith effort must be made to identify all beneficiaries of the claimant. Albert Bradley was employed by Southern Industrial Constructors of Columbia, SC until the time of his death. Who are his beneficiaries listed with his employer? Did Albert Bradley have any of his children listed as beneficiaries through his employer?

Chapter 67-902

Albert Bradley had benefits for his spouse through his employer that should have been paid from the time of his accident. Where are those benefits?

42-15-60

As previously documented to the SC Workers' Compensation Commission and Commissioner T. Scott Beck, Albert Bradley has medical bills that are the responsibility of Southern Industrial/Zurich Insurance. The Estate of Albert Bradley will not be responsible for any bills that have mounted up and have remained unpaid by the carrier, Zurich Insurance/Victoria Lichtenberger/Gaston County DSS/Tereasa Osborne, Stephanie Stevenson.

(3)

APA submissions provided to court by Attorney Jason Lockhart and used as evidence were not provided to Christine Bradley, Derwin Bradley, Lavare Seltun, and Christy James. The dependents of Albert Bradley have not received any legal documents with supporting evidence.

RECEIVED
MAY 01 2019
SC Court of Appeals

December 7, 2017

Christine W. Bradley
475 Lower Lee School Rd.
Mayesville, SC 29104

Commissioner T. Scott Beck
1333 Main St., Suite 500
Columbia, SC 29201

1105628

Re: Albert Bradley, dependency hearing

RECEIVED

Dear Commissioner Beck:

MAY 01 2019

SC Court of Appeals

I am writing to follow up with you regarding the dependency hearing that was held before your presence on yesterday for claimant Albert Bradley to determine to whom benefits would be paid and in what amounts. After careful attention to the total amount due, it has been determined that monies have been excluded from this calculation to include social security payments for 11 months, SC state retirement benefits for 3 months, and weekly workers' compensation payments from January 2016 until February 5, 2017.

It was also documented at the hearing yesterday that the appointed Guardian Ad Litem Victoria Lichtenberger testified that she did not spend any monies for the care of Albert Bradley and that everything he got was donated to him. Also, because Albert Bradley's injury was deemed permanent and total, and this was a workers' compensation claim, all medical claims and other related expenses are to be paid by workers' compensation. I am requesting that the above items be added to the order to be drafted, as well as the spousal income that I never received during the entire time my husband, Albert Bradley, was injured. Again, as requested on previous letters to you, I am requesting the court orders and records pertaining to Albert Bradley. Refer to letter previously written regarding this request. Also, please make sure payments are calculated using the permanent disability calculation and the appropriate forms are being used. Your corrections and addendum to this will be greatly appreciated. If we need to return to address the issues cited above, please advise as well. Again, thank you for your time and attention.

Sincerely,

Christine W. Bradley

Christine W. Bradley

Cc: Jason Lockhart, Gary Cannon, Keith Roberts

SCWCC

FEB 05 2018

JUDICIAL

RECEIVED

FEB 02 2018

SC WORKERS' COMPENSATION

March 26, 2019

Albert Bradley/Christine Bradley
475 Lower Lee School Road
Mayesville, SC 20104

Ms. Tereasa Osborne
Dept. of Health and Human Services
(D.S.S.)
330 Martin Luther King Way
Gastonia, NC 28052

Ms. Victoria Lichtenberger
(Eldersource)
1018 East Blvd. Suite 3
Charlotte, NC 28203

Reference: Albert Bradley files
W.C.C.Case No. 1105628

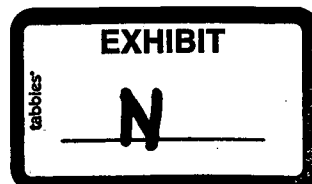
To Whom It May Concern:

Please provide all records (medical, financial, providers, doctors, therapists, nurses, caregivers, aides, medications, DSS records, Eldersource records, guardians record, medications, labs, hospitals, facilities, courts, x-rays, attorneys records and etc...) on Albert Bradley.

Several requests have been made and I have not received any records or heard from your agency.
Please provide this information within ten days of this letter.


Sincerely, Christine Bradley

C/c Attorney Helen Hiser, Attorney Jason Lockhart, SCWCC, Chief Justice James Lockemy, V. Claire Allen and Jenny Kitchings.



RECEIVED
MAR 29 2019
Per 20210.11055?

Albert Bradley/Christine Bradley, pro se
475 Lower Lee School Road
Mayesville, SC 29104

South Carolina State Court of Appeals
1220 Senate Street
Columbia, SC 29101

Reference: Albert Bradley
File No.: 110562
Southern Industrial Constructors, Inc.,
Zurich Insurance Co. c/o Zurich North America
Victoria Lichtenberger
Tereasa Osborne

RECEIVED
MAR 02 2019
SC Court of Appeals

PROOF OF SERVICE

I certify that I have served the notice for all documents and files from Tereasa Osborne, 330 Martin Luther King Jr. Way, Gastonia, NC, 28052 and Victoria Lichtenberger on Albert Bradley by depositing a copy of the letter in the United States Mail, postage prepaid on March 26, 2019 address to Attorney Jason Lockhart, PO Box 12519, Columbia, SC 29201, Victoria Lichtenberger, 1018 E. Blvd. Suite 3, Charlotte, NC., 28203, Tereasa Osborne D.S.S., SCWCC, Attorney Helen Hiser, 735 Johnnie Dobbs Blvd., Mount Pleasant, SC, 29464, Jenny Kitchings, and V. Claire Allen, SC State Court of Appeals.

March 26, 2019

Christine Bradley 03/26/19 Signature

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

MAR 02 2020

SC Court of Appeals

APPEAL FROM SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

Appeal No.

Ex Parte: Christine Bradley, Surviving Spouse,Appellant.

In re: Albert Bradley, Employee,

v.

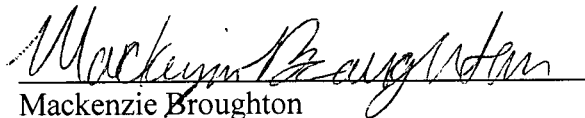
Southern Industrial Constructors, Inc., Employer,
and Zurich American Insurance Company

c/o Zurich North America, Carrier, Respondents.

PROOF OF SERVICE

I certify that on the 28th day of February 2020, I served the Respondents' **Amended Motion to Strike and/or Clarify Appellant's Second Amended Designation of Matter and/or to Dismiss Appeal** on Christine Bradley by depositing a copy of it in the United States Mail, postage prepaid, addressed as follows:

Christine Bradley
475 Lower Lee School Rd.
Mayesville, South Carolina 29104



Mackenzie Broughton
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 Southern
Industrial Constructors, Inc., Employer, and
Zurich American Insurance Company c/o
Zurich North America, Carrier*



Reply To

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

February 28, 2020

RECEIVED

MAR 02 2020

SC Court of Appeals

VIA U.S. MAIL

The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
1220 Senate Street
Columbia, South Carolina 29201

RE: Albert Bradley v. Southern Industrial Constructors and Zurich American
Insurance Company c/o Zurich North America
Date of Accident: May 16, 2011
WCC File No.: 1105628
Our File No.: 20216.11055
Claim No.: 2800074691
Appeal No.: 2018-001535

Dear Ms. Kitchings:

Enclosed please find the original and seven (7) copies of Respondents' Amended Motion to Strike and/or Clarify Appellant's Second Amended Designation of Matter and/or to Dismiss Appeal, 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.

Yours truly,



Helen F. Hiser

Attachments

cc: Christine Bradley, *Pro Se*

McANGUS GOUELOCK & COURIE LLC

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

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