

# WILLSON JONES CARTER & BAXLEY, P.A.

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March 4, 2013

Jenny Abbott Kitchings, Clerk  
South Carolina Court of Appeals  
1015 Sumter Street  
P.O. Box 11629  
Columbia, SC 29211

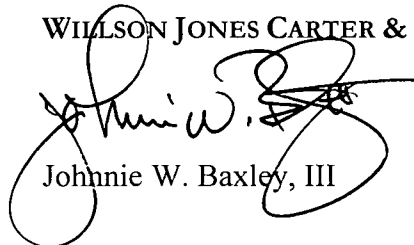
Re: Georgia Broach vs. Wal-Mart Stores, Inc.  
WCC File No.: 0901198 DOI: 2/12/2009  
Carrier: American Home Assurance - Claim No.: 5749168  
WJC&B File No.: 0170.01519

Dear Ms. Kitchings:

Per your letter dated February 28, 2013, I am writing to advise you that the settlement between the parties has been consummated, and the settlement paperwork was approved by the South Carolina Workers' Compensation Commission. I have enclosed a copy of the approved paperwork for your file. Although the Court's Order states that Appellant must advise the Court of the status of the settlement, and I represent the Respondent, I still wanted to make sure you had a copy of the approved settlement.

With kindest regards,

WILLSON JONES CARTER & BAXLEY, P.A.



Johnnie W. Baxley, III

JWB/

Enclosure

cc: Mr. Preston F. McDaniel

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SC Court of Appeals

STATE OF SOUTH CAROLINA )  
COUNTY OF FLORENCE )  
Georgia Broach, )  
Employee, )  
Claimant, )  
-vs- )  
Wal-Mart Stores, Inc., )  
Employer, )  
and American Home Assurance, )  
Carrier, )  
Defendants. )

**BEFORE THE SOUTH CAROLINA  
WORKERS' COMPENSATION COMMISSION**

**ORDER**

W.C.C. FILE NO. 0612515 & 0901198

**APPROVED**

**JAN 30 2013**

S. C. Workers' Comp. Comm.

These matters now come before the South Carolina Workers' Compensation Commission upon the petition of the claimant, Georgia Broach. The claimant is represented by Preston F. McDaniel, Esquire, and the defendants, Wal-Mart Stores, Inc. and American Home Assurance, are represented by Johnnie W. Baxley, III, Esquire of Willson Jones Carter & Baxley, P.A. The South Carolina Workers' Compensation Commission has jurisdiction.

It appears that the claimant was an employee of Wal-Mart Stores, Inc. and that on July 3, 2006, when the claimant injured her neck, with radiculopathy and residual problems in the claimant's right shoulder and right upper extremity. Both the neck and right shoulder/right upper extremity injuries were accepted as compensable by the defendants, and appropriate medical treatment was provided. The claimant underwent a cervical fusion with Dr. Victoria Samuels and was released at maximum medical improvement by Dr. Samuels on July 27, 2008. Dr. Samuels assigned the claimant a 25% impairment rating to the spine as a result of her cervical spine injuries. Dr. Samuels also placed the claimant on permanent light duty work restrictions based upon the functional capacity evaluation that was performed in this matter. Additionally, the claimant received medical treatment for her right arm and right

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shoulder with Dr. James Bethea, and was ultimately released with a 0% rating to the right shoulder from Dr. Bethea dated April 8, 2008. Dr. Bethea did not place any restrictions on the claimant with regard to her right shoulder or right upper extremity. That claim was resolved by way of Consent Order, with the parties agreeing to certain amounts of temporary compensation and that Claimant had sustained 40% disability to her spine and 15% to her right upper extremity as a result of her injuries in this matter.

Subsequently, the Claimant filed a Form 50 alleging a change of condition for the worse from the 2006 claim, and she also filed a Form 50 alleging a new injury on February 12, 2009, when she sustained an aggravation of her pre-existing conditions to the neck and right shoulder and alleged additional injuries to the left shoulder, left arm, and back. These issues were adjudicated in an Order dated August 11, 2010. The Order found that the low back injury was compensable for the 2009 accident, that the left shoulder and left arm injuries were not compensable, that there was no change of condition for the worse on the 2006 injury, and that the Defendants must provide ongoing medical treatment for the low back, neck, right shoulder, right arm, and psychological problems. This Order was appealed by Claimant and that appeal is pending before the South Carolina Court of Appeals.

Another hearing was held on these claims on March 14, 2012, and an Order was issued on August 17, 2012. In that Order, the Claimant was found to be totally and permanently disabled, and she was awarded lifetime medical treatment for her neck, right shoulder, right arm, back, and psychological injuries. That part of the order was not appealed. The Order also gave the Defendants credit for all weeks of compensation paid on both the 2006 and 2009 claims, and used the updated commuted value chart to determine the commuted value of the claim. The Claimant appealed this Order, and the appeal is pending before the Appellate Panel of the Workers' Compensation Commission.

A Supplemental Order was issued on October 9, 2012, calculating the exact amount of money due to the Claimant under the previous award. This Order gave the Defendants credit for all weeks of compensation paid on both the 2006 and 2009 claims, and used the updated

commuted value chart to determine the commuted value of the claim. The Claimant appealed this Order, and the appeal is pending before the Appellate Panel of the Workers' Compensation Commission.

In light of the controversies surrounding the credit issue, the commuted value chart, and the three pending appeals, the parties have reached an agreement to settle all of these outstanding issues. The parties hereto now advise that in their opinion the matter is in bona fide dispute and in view of such dispute an agreement has been reached to settle this matter in its entirety, subject to the approval of the South Carolina Workers' Compensation Commission.

Under the proposed settlement the defendants have agreed to pay and the claimant has agreed to accept the additional sum of Fifteen Thousand and 00/100 Dollars (\$15,000.00) in full settlement and satisfaction of every liability for any type of indemnity or compensation to which Claimant may be entitled under the South Carolina Workers' Compensation Act growing out of, or in any way connected with, said injuries by accident occurring on or about July 3, 2006, and February 12, 2009, while the claimant was an employee of Wal-Mart Stores, Inc. The parties specifically agree that this is a full and final settlement of all indemnity or compensation benefits to which Claimant may be entitled, and that Claimant shall not be entitled to any additional payments, compensation, indemnity or other monetary benefits for either claim 0612515 or 0901198. This settlement also fully and finally resolves the pending issues on appeal for all three pending appeals, and all of the pending appeals shall be dismissed with prejudice as part of this settlement agreement.

As an integral part of this settlement agreement, it is expressly understood and agreed that the defendants shall continue to be responsible for lifetime medical treatment for the neck, right shoulder, right arm, back, and psychological injuries as specifically set forth in the prior orders of the Commission.

The claimant hereby asserts that she has been fully advised by her attorney of record of all her rights under the South Carolina Workers' Compensation Act, and that the claimant is of the opinion that the proposed settlement is reasonable and fair and in this opinion the claimant's

attorney concurs and asserts that he has fully advised the claimant of all her rights under the South Carolina Workers' Compensation Act, and they respectfully request that this Commission approve the settlement as set forth above. The claimant hereby asserts that she recognizes that her consent to, and the approval of, this Order is a final determination and adjudication of all compensation and indemnity benefits under the South Carolina Workers' Compensation Act growing out of, or in any way connected with, the aforesaid injuries by accident occurring on or about July 3, 2006, and February 12, 2009, while the claimant was an employee of Wal-Mart Stores, Inc.

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

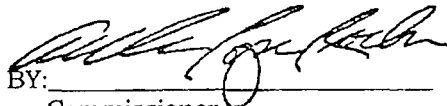
The parties acknowledge that the opinions stated by the physicians regarding the nature and extent of the employee's medical condition and disability are opinions, not facts, and that, to the extent they are relying on those opinions, they are doing so with the knowledge that such opinions may be incorrect. Accordingly, employee, employer and carrier and/or servicing agent agree that this settlement agreement cannot be voided in the future on the basis that either or both parties relied on statements or opinions from physicians, or other medical providers, in entering into this agreement.

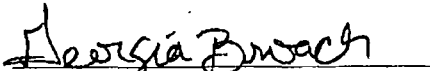
NOW, THEREFORE, IT IS ORDERED that upon the payment of the additional sum of Fifteen Thousand and 00/100 Dollars (\$15,000.00) by the defendants, and the acceptance of said sum by the claimant, the defendants be, and they hereby are, fully and forever discharged of all liability for any type of indemnity or compensation benefits to which claimant may be entitled under the South Carolina Workers' Compensation Act growing out of, or in any way connected with, the aforesaid injuries by accident occurring on or about July 3, 2006, and February 12, 2009, while the claimant was an employee of Wal-Mart Stores, Inc., so that upon such payment and the acceptance as aforesaid, the indemnity/compensation part of these claims are res judicata and not subject to review under any conditions. However, the Claimant's right to

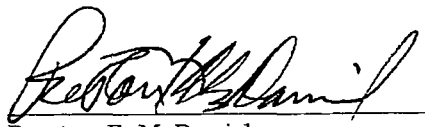
medical benefits is not affected by this settlement, and she shall be entitled to lifetime medical treatment for the neck, right shoulder, right arm, back, and psychological injuries as specifically set forth in the prior orders of the Commission.

SOUTH CAROLINA WORKERS'  
COMPENSATION COMMISSION

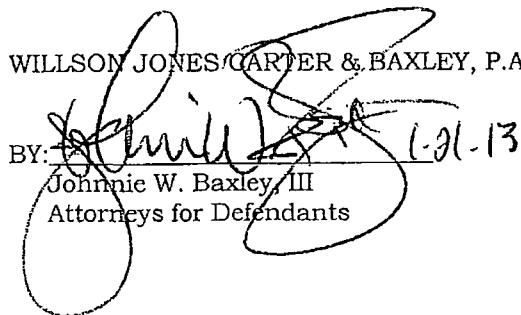
WE CONSENT TO THE  
FOREGOING ORDER:

  
BY: \_\_\_\_\_  
Commissioner

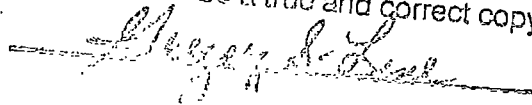
  
Georgia Broach, Claimant  
Dated: 1-15-13

  
Preston F. McDaniel  
Attorney for Claimant

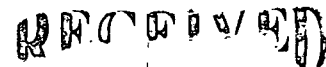
WILSON JONES CARTER & BAXLEY, P.A.

BY:  1-21-13  
Johnnie W. Baxley, III  
Attorneys for Defendants

I certify this to be a true and correct copy.



FEE SUBJECT TO FORM 61



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