

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF RICHLAND )  
 )  
 Deborah G. Duggans, )  
 )  
 Employee/Claimant, )  
 )  
 vs. )  
 )  
 South Carolina Department of )  
 Mental Health, )  
 )  
 Employer, )  
 )  
 and )  
 )  
 State Accident Fund, )  
 )  
 Carrier/Defendants. )  
 )  
 \_\_\_\_\_ )

BEFORE THE  
 SOUTH CAROLINA  
 WORKERS' COMPENSATION COMMISSION  
 W.C.C. FILE NUMBERS: 0725221 & 0921225

**CONSENT ORDER**

**RECEIVED**  
**Sep 24 2020**  
**SC Court of Appeals**

On December 7, 2009, Claimant, Deborah G. Duggans, sustained compensable spinal (back and neck) injuries while performing her job duties for Defendant, South Carolina Department of Mental Health, in Richland County, South Carolina. As this employer and its carrier, State Accident Fund, acknowledged liability for these compensable injuries, they: (a) commenced the payment of temporary total disability compensation effective May 3, 2010; and (b) authorized her receipt of treatment for her respective spinal injury components through Dr. Ezra B. Riber of Palmetto Pain Management, LLC.

By Order dated April 25, 2018, the Honorable Avery B. Wilkerson, Jr. determined: (a) Ms. Duggans had "sustained a 50% (+) permanent partial disability to (loss of use of) her back within the meaning of S.C. Code Ann. Section 42-9-30 (21) (2005) as a result of her December

7, 2009 compensable accident”; (b) “this degree of residual disability to the back per Section 42-9-30 (21) exceeds 50% regardless of the presence of her neck injury component”; (c) “she has likewise been rendered permanently and totally disabled within the meaning of Section 42-9-10 by the combined consequences of her December 7, 2009 compensable injuries, particularly the back and right leg symptoms”; and (d) “the nature/degree of the back (lumbar) injury component resulting from this injury (affecting both her back and right leg) are sufficient to, in and of themselves, produce a total loss of earning capacity warranting an award of permanent and total disability compensation per Section 42-9-10”. This Order further awarded Ms. Duggans: (a) the lump sum payment of her permanent and total disability compensation award; and (b) lifetime medical benefits for her causally related injury components per the provisions of S.C. Code Ann. Section 42-15-60 (2015).

Pursuant to a May 9, 2018 Form 30 Request for Commission Review, Defendants appealed the April 28, 2018 Order, arguing Commissioner Wilkerson erred in: (a) “failing to take into account a credit or offset for benefits paid on a prior claim against Defendants (W.C.C. Claim #0725221)”; and (b) “awarding Claimant greater than 500 weeks of benefits for successive claims within the same employment”.

Following receipt of legal memoranda and oral arguments, the Appellate Panel, by Order dated February 5, 2019, affirmed Commissioner Wilkerson’s findings/conclusions as to the basis for Ms. Duggans’ permanent and total disability compensation award and associated entitlement to lifetime medical benefits, while granting Defendants a credit of 17.57 weeks (amounting to \$5,171.37) for temporary total disability compensation paid in connection with her 2007 claim.

Although Ms. Duggans sought reconsideration of this ruling on both factual and legal grounds, the Panel denied her Motion per Order dated July 16, 2019. Shortly thereafter, Ms. Duggans sought review of the Appellate Panel's determination by the South Carolina Court of Appeals. This process has thus far involved the filing of Final Briefs by the respective parties on January \_\_\_\_, 2020 and January 27, 2020, respectively.

Pending adjudication by the Court of Appeals, the parties have engaged in extensive negotiations, which have now resulted in their amicable resolution of the disputed issue, while: (a) maintaining Ms. Duggans' entitlement to all medical benefits awarded by the April 25, 2018 Order; and (b) recognizing the contents of Commissioner Wilkerson's Order, unless otherwise specified herein, remain the law of this case.

Specifically, the parties agree: (a) Ms. Duggans has been rendered permanently and totally disabled exclusively by the consequences of her December 7, 2009 compensable accident; (b) her 2007 and 2009 claims were simply consolidated for hearing purposes and have never been merged into a single claim; (c) W.C.C. File #'s 0725221 and 0921225, as well as any associated rights/obligations, remain separate/distinct; (d) Ms. Duggans remains entitled to receipt of lifetime reasonable and necessary causally related medical benefits for both the lumbar and cervical injury components produced by her December 7, 2009 compensable accident per Section 42-15-60; and (e) she similarly remains entitled any medical benefits for the July 16, 2007 claim awarded by the April 25, 2018 Order.

In this regard, Defendants have: (a) consented to tender Ms. Duggans a lump sum payment in the amount of Four Thousand and No/100 (\$4,000.00) Dollars, a compromised

figure, in full satisfaction of her permanent and total disability compensation entitlement per the South Carolina Workers' Compensation Act as a result of the December 7, 2009 compensable accident; (b) further stipulated she is and shall remain entitled to receipt of lifetime reasonable and necessary medical benefits for all causally related symptoms/pathology/conditions attributable to the consequences of her December 7, 2009 compensable accident per Section 42-15-60; and (c) agree any entitlement to medical benefits resulting from the consequences of her July 16, 2007 compensable injury shall be governed by the unappealed determinations contained in Commissioner Wilkerson's April 25, 2018 Order.

The parties also stipulate/agree: (a) Ms. Duggans will continue to receive treatment for her causally related injury components through Dr. Riber in accordance with the unappealed provisions of the April 25, 2018 Order; (b) her receipt of the causally related treatment modalities provided/prescribed by Dr. Riber remains reasonable and medically necessary; (c) upon payment of the Four Thousand and No/100 (\$4,000.00) Dollar lump sum figure, Defendants will have fully satisfied their statutory obligation to provide disability compensation in connection with the December 7, 2009 compensable accident; (d) they will likewise have no further liability to her for the payment of any form of compensation pursuant to the South Carolina Workers' Compensation Act as a result of the July 16, 2007 compensable injury; and (e) Ms. Duggans shall remain eligible for all other relief to which she is currently or may hereafter become entitled per the provisions of the South Carolina Workers' Compensation Act, with the exception of disability compensation beyond the sum specified herein.

Ms. Duggans specifically recognizes her consent to and the Commission's approval/adoption of this Order constitutes a final adjudication of her rights/entitlements to any additional disability compensation per the South Carolina Workers' Compensation Act as a result of the December 7, 2009 compensable accident. She likewise understands she maintains no entitlement to receipt of any additional disability compensation as a result of the July 16, 2007 compensable injury.

Ms. Duggans further certifies she has been fully advised by her counsel relative to: (a) all rights she possesses under the Act; (b) the legal implications of the parties' agreement, including, but not limited to, its impact on her entitlement to further disability compensation; (c) the fact Defendants, upon tendering the Four Thousand and No/100 (\$4,000.00) Dollars lump sum payment, shall have no further liability to her for compensation in connection with the December 7, 2009 compensable accident; and (d) she shall remain entitled to receipt of lifetime reasonable and necessary causally related medical benefits.

The parties also acknowledge the South Carolina Workers' Compensation Commission relies upon Ms. Duggans' certification, as verified by her signing this Order, that she fully understands all of her rights under the South Carolina Workers' Compensation Act and has voluntarily chosen to enter this settlement agreement, with complete awareness: (a) upon payment of the above-referenced lump sum in the amount of Four Thousand and No/100 (\$4,000.00) Dollars, Defendants shall not be responsible for the payment of any additional forms of compensation pursuant the South Carolina Workers' Compensation Act under any circumstances; (b) she is entitled to receipt of lifetime reasonable and necessary causally related

medical benefits for the consequences of her December 7, 2009 accident per Section 42-15-60 in accordance with the terms of the April 25, 2018 Order; and (c) any entitlement to medical benefits relative to the July 16, 2007 compensable injury shall likewise be governed by the terms of the April 25, 2018 Order.

Ms. Duggans hereby reiterates that she has been fully advised by her counsel of all rights under the South Carolina Workers' Compensation Act. This fact, as well as her knowing and voluntary decision and desire to enter into this agreement, are verified through her signing this Order.

This signature also acknowledges that her attorney has fully answered all of questions posed as to the nature and impact of this settlement and satisfied her wishes during the course of his representation relative to this claim, including: (a) pursuing the appeal from the Appellate Panel's February 5, 2019 Order to the Court of Appeals; and (b) negotiating the terms of this settlement in accordance with her stated wishes. She respectfully requests that the Commission approve the parties' settlement of the issue currently pending before the Court of Appeals as embodied in this Order.

Additionally, per Ms. Duggans' request and with Defendants' consent, the disability compensation, which amounts to Four Thousand and No/100 (\$4,000.00) shall be allocated in the following fashion:

- 1) the sum of Five Hundred and No/100 (\$500.00) Dollars to Andrew N. Safran, Esquire as attorney fees pursuant to 8 S.C. Code Ann. Regs. 67-1205 (C) (2012);

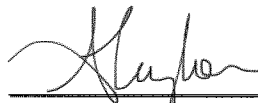
2) the sum of Six Hundred Sixty-Three and 90/100 (\$663.90) Dollars to this attorney as reimbursement for litigation expenses pursuant to 8 S.C. Code Ann. Regs. 67-1206 (2012);

3) the sum of Two Thousand Eight Hundred Thirty-Six and 10/100 (\$2,836.10) to Ms. Duggans as payment for disability for a period of 1,093.56 weeks, at the rate of Two and 59/100 (\$2.59) Dollars per week, commencing on the date of this Order, pursuant to the provisions of S.C. Code Ann. Sections 19-1-150 (2014) and 42-9-240 (2015), as well as the decisions of the South Carolina Supreme Court in James v. Anne's, Inc., 309 S.C. 188, 701 S.E. 2d 730 (2010) and the Third Circuit Court of Appeals in Sciarotta v. Bowen, 837 F.2d 135 (3<sup>rd</sup> Cir. 1988).

**ACCORDINGLY IT IS HEREBY ORDERED** that Defendants shall: (a) expeditiously tender Ms. Duggans, through counsel, a check in the amount of Four Thousand and No/100 (\$4,000.00) in full satisfaction of her permanent disability compensation entitlement per the South Carolina Workers' Compensation Act as a result of her December 7, 2009 compensable accident; (b) accept financial responsibility for her receipt of lifetime causally related medical benefits for the consequences of her December 7, 2009 compensable accident in compliance with the April 25, 2018 Order; and (c) comply with the terms of the April 25, 2018 Order in connection with her entitlement to any medical benefits attributable to the July 16, 2007 injury.

**IT IS FURTHER ORDERED** that Ms. Duggans shall remain eligible for any further relief to which she is currently or may hereafter become entitled per the provisions of the South Carolina Workers' Compensation Act, with the exception of disability compensation beyond the sums specified herein.

**IT IS SO ORDERED.**



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**Commissioner  
South Carolina Workers' Compensation  
Commission**

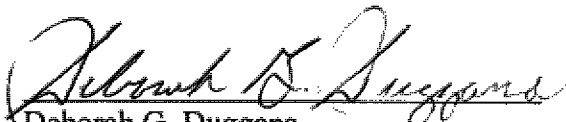
\_\_\_\_\_, September 11, 2020

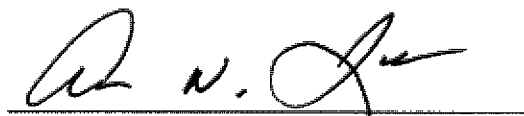
**CERTIFICATE OF SERVICE**

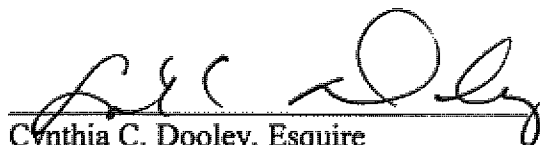
This is to certify that the undersigned has on this date served a copy of this order in the above entitled action upon all parties to this case by sending an electronic copy hereof by electronic mail addressed to the attorneys for said parties; or if there is an unrepresented party(ies), by depositing a copy hereof, postage paid in the United States mail, first class, addressed to the unrepresented party(ies) and to the attorney(s) for the represented party(ies).

*By Renee Smith on September 15, 2020*

**WE CONSENT:**

  
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**Deborah G. Duggans  
Employee/Claimant**

  
\_\_\_\_\_  
**Andrew N. Safran, Esquire  
Post Office Box 12089  
Columbia, South Carolina 29211  
Attorney for Employee/Claimant**

  
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**Cynthia C. Dooley, Esquire  
Turner, Padgett, Graham & Laney, P.A.  
P.O. Box 1473  
Columbia, South Carolina 29202  
Attorney for Defendants**

**Order Served via Email 9-15-20:**

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