

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM MARLBORO COUNTY
Court of Common Pleas

J. Derham Cole, Circuit Court Judge

Appellate Case No. 2019-000872

RECEIVED
Sep 29 2020
SC Court of Appeals

Sharon Thompson,.....Appellant,

v.

Sprint Food Store #728..... Respondent.

CONSENT FOR VOLUNTARY DISMISSAL OF APPEAL

TO: THE HONORABLE JUDGES OF THE COURT OF APPEALS OF SOUTH
CAROLINA:

Pursuant to Rule 260(b), SCACR, Appellant Sharon Thompson with
consent of Respondent Sprint Food Store #728, voluntarily dismisses the above
referenced appeal, and respectfully request for this Court to enter an Order of
Dismissal in this matter. The parties have also agreed to bear their own
respective costs of the appeal.

[SIGNATURE PAGE TO FOLLOW]

WE SO MOVE:

WEAVER LAW FIRM, LLC



MARSHALL S. WEAVER
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Florence, SC 29502
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ATTORNEY FOR APPELLANT

September 28, 2020

WE SO CONSENT:

COLLINS & LACY, P.C.

KELSEY J. BRUDVIG
SC Bar No. 101680
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Post Office Box 12487
Columbia, SC 29211
(803) 256-2660 (main)

ATTORNEYS FOR RESPONDENT

_____, 2020

STATE OF SOUTH CAROLINA

COUNTY OF MARLBORO

Sharon Thompson,

Plaintiff,

vs.

Sprint Food Stores #728,

Defendant.

IN THE COURT OF COMMON PLEAS

FOURTH JUDICIAL CIRCUIT

Civil Action No.: 2017-CP-34-00367

**RECEIPT AND GENERAL
RELEASE IN FULL**

KNOW ALL MEN BY THESE PRESENTS that the undersigned parties, *Sharon Thompson* (“Plaintiff”) for and in consideration of the sum of TEN THOUSAND and 00/100 (\$10,000.00) DOLLARS, paid to her by *Sprint Food Stores #728, Sprint Food Stores, Inc., M.B. Jones Oil Co., Inc., and Philadelphia Insurance Companies*, the receipt and sufficiency whereof is hereby acknowledged, does for herself and her heirs, assigns, executors and administrators, hereby remise, release, acquit, and forever discharge *Sprint Food Stores #728, Sprint Food Stores, Inc., M.B. Jones Oil Co., Inc., and Philadelphia Insurance Companies*, their agents, servants, employees, insurers, sureties, re-insurers, predecessors, successors and assigns, and all other persons, firms, affiliates, corporations, and associations or partnerships, whether herein named, who may be jointly or severally liable to the undersigned, of and from any and all claims, including but not limited to, cross-claims, demands, debts, rights, actions, causes of action, costs, interest, emotional distress, fees, expenses and compensation of any nature, now existing or which may hereinafter accrue, and all known and unknown, foreseen and unforeseen injuries or damages and the consequences thereof resulting which heretofore have been, or which hereinafter may be, sustained by the undersigned as a result of any matter arising out of the incident alleged to have occurred on or about July 28, 2016 at Sprint Food Store #728, located in Marlboro County, South

Carolina, as set forth in the Complaint on file with the Court of Common Pleas, Marlboro County, South Carolina, entitled Sharon Thompson v. Sprint Food Stores #728, C.A. No. 2017-CP-34-00367 (and subsequent Appellate Case No. 2019-000872).

This Release represents the total and complete settlement of all claims, known or unknown, arising out of the incident alleged to have occurred on or about July 28, 2016 at Sprint Food Store #728, located in Marlboro County, South Carolina, including but not limited to expenses or damages actually incurred by Plaintiff or paid on behalf of Plaintiff or any future expenses anticipated to be incurred as a result of this claim, if any.

In reaching agreement on the terms of this Release, the parties acknowledge Plaintiff's possible entitlement to Social Security disability benefits pursuant to 42 U.S.C. § 423, and receipt of Medicare or Medicaid benefits under 42 U.S.C § 1395y, as well as the entitlement of the Centers for Medicare and Medicaid Services ("CMS") to subrogation and intervention, pursuant to 42 U.S.C. § 1395y(b)(2) to recover any overpayment made by CMS. The parties to this Release agree this Release is not intended to shift to CMS the responsibility for payment of medical expenses for the treatment of injury related conditions. Accordingly, it is hereby stipulated the parties have sought to protect the interest of Medicare, and therefore it is not the purpose of this Release to shift responsibility of medical care in this matter to the Medicare program. Instead, this Release is intended to resolve a dispute among the Plaintiff and *Sprint Food Stores #728, Sprint Food Stores, Inc., M.B. Jones Oil Co., Inc., and Philadelphia Insurance Companies*, and the other Releasees as a result of the incident on July 28, 2016. The parties agree this Release is intended to provide Plaintiff a lump sum payment that will foreclose the responsibility of *Sprint Food Stores #728, Sprint Food Stores, Inc., M.B. Jones Oil Co., Inc., and Philadelphia Insurance Companies*, and

the other Releasees for future payment of all injury related medical expenses. Therefore, the parties make the following representations/averments:

- (a) the parties have carefully and appropriately considered Medicare's interest and have concluded that no funds should be set aside based on
 - i. the disputed nature of the claim; and
 - ii. the lack of anticipated future medical care for Plaintiff in connection to the alleged injuries/damages she purportedly sustained as a result of the occurrence or incident alleged to have occurred on or about July 28, 2016 at Sprint Food Store #728, located in Marlboro County, South Carolina, that is the subject of the instant suit, as evinced by the testimony and other discovery propounded in the litigation of this matter.

This Release is based upon a good faith determination of the parties in order to resolve a questionable claim. The parties have attempted to resolve this matter in compliance with both state and federal law and it is believed that the settlement terms adequately consider Medicare's interest and do not reflect any attempt to shift responsibility of treatment to Medicare pursuant to 42 U.S.C. § 1395y(b). The parties acknowledge and understand that any present or future action or decision by CMS on this settlement, or on the Plaintiff's eligibility or entitlement to Medicare or Medicare payments, will not render this release void or ineffective, or in any way affect the finality of this liability settlement.

THE UNDERSIGNED agrees that she is responsible for satisfying any and all outstanding Medicare lien related to this matter.

THE UNDERSIGNED hereby acknowledges and assumes all risk, chance, or hazard that said damages may be or become permanent, progressive, greater, or more extensive than is now known, anticipated or expected.

THE UNDERSIGNED agrees to indemnify, defend and hold *Sprint Food Stores #728, Sprint Food Stores, Inc., M.B. Jones Oil Co., Inc., and Philadelphia Insurance Companies*, and the other Releasees harmless from any action by any lien holder seeking payment of past, current, or future validated related expenses for the Undersigned. The Undersigned also agrees to indemnify and hold harmless *Sprint Food Stores #728, Sprint Food Stores, Inc., M.B. Jones Oil Co., Inc., and Philadelphia Insurance Companies*, and the other Releasees for and from any and all claims, expenses, and attorney fees relating thereto or relating to any expenses related to the damages which are the subject of this claim. The Undersigned shall further hold *Sprint Food Stores #728, Sprint Food Stores, Inc., M.B. Jones Oil Co., Inc., and Philadelphia Insurance Companies*, and the other Releasees harmless from any and all adverse consequences in the event this settlement results in the loss of right to Social Security, Medicare, and/or other benefits to the extent The Undersigned would have been entitled to those benefits in the absence of this Release.

The parties to this Release understand that many common medical expenses are not payable or reimbursable under the Medicare program. These medical expenses, not covered by Medicare, but necessary in the treatment of Plaintiff's injury, and without an admission of liability on the part of *Sprint Food Stores #728, Sprint Food Stores, Inc., M.B. Jones Oil Co., Inc., and Philadelphia Insurance Companies*, and the other Releasees, have been taken into consideration in the calculation and settlement of Plaintiff's future medical expenses, if any. Funds for these non-Medicare covered medical expenses have been included in the lump sum settlement amount and shall not be paid from any Medicare allocation amount.

THE UNDERSIGNED acknowledges that any decision regarding entitlement to Social Security benefits or Medicare or Medicaid benefits, including the amount and duration of payments and offset reimbursement for prior payments is exclusively within the jurisdiction of the

Social Security Administration, the United States Government, and the federal courts, and is determined by Federal law and regulations. As such, the United States Government is not bound by any of the terms of this Release.

THE UNDERSIGNED has been apprised of her right to seek assistance from legal counsel of her choosing or directly from the Social Security Administration or other government agencies regarding the impact this Release may have on Plaintiff's current or future entitlement to Social Security or other governmental benefits. Plaintiff acknowledges that acceptance of these settlement funds may affect Plaintiff's rights to other governmental benefits, insurance benefits, disability benefits, or pension benefits. Notwithstanding this possibility, Plaintiff desires to enter into this Release to settle her injury claim according to the terms set forth herein.

IN CONSIDERATION OF THE ABOVE PAYMENT, the undersigned also agreed that this settlement is the compromise of a disputed claim, including all known and unknown injuries of any party, and that the consideration paid is adequate and sufficient, and that payment made in settlement thereof is not to be construed as an admission of liability on the part of the party or parties or any of them hereby released, and that *Sprint Food Stores #728, Sprint Food Stores, Inc., M.B. Jones Oil Co., Inc., and Philadelphia Insurance Companies*, and the other Releasees specifically deny liability of any nature or kind to any person for the aforementioned incident or for any injuries arising from same.

THE UNDERSIGNED FURTHER AGREES as a further consideration and inducement for this compromise settlement that the settlement shall apply to all unknown and unanticipated injuries and damages resulting from the above-described incident as well as to those now disclosed and/or presently known by the undersigned.

THE UNDERSIGNED FURTHER AGREES that this Release is CONFIDENTIAL, and that no particulars of the settlement, including the amount, are to be revealed or communicated to any person, firm or corporation, except for purposes of obtaining legal, financial, or tax advice or as otherwise required by law. It is further understood and agreed that this provision, commonly known as a “confidentiality clause,” is part of the consideration of the within Release, that a breach of this provision is to be considered as a material breach of the entire agreement, and that the terms of this paragraph are contractual and not a mere recital. One Hundred and No/100 Dollars (\$100.00) out of the total settlement payment is consideration for the inclusion of the confidentiality clause in this agreement.

THE UNDERSIGNED FURTHER AGREES, as a further consideration and inducement for this compromise settlement, that the settlement shall apply to unknown and unanticipated injuries and damages resulting from the above-described incident, including property damage and death, as well as to those now disclosed.

THE UNDERSIGNED FURTHER DECLARES and represents that no promise, inducement or agreement except as herein expressed has been made to the undersigned and this Release contains the entire agreement between the parties hereto, and the terms of this Release are contractual and not a mere recital.

THE UNDERSIGNED FURTHER AGREES that the consideration paid in this compromise and Release is and shall be a complete bar to any subsequent action or proceeding to set aside or vacate this instrument because of a mistake in fact or otherwise.

THE UNDERSIGNED FURTHER AGREES that there are no collateral or outside agreements of any kind between the parties hereto and payment is in accord and satisfaction of the disputed claims.

THE UNDERSIGNED DOES hereby grant unto her attorneys, full and complete authority to consent to such Order or Orders as may be necessary to dismiss and forever end the above-entitled action with prejudice.

This release contains the ENTIRE AGREEMENT between the parties hereto, and the terms of this release are contractual and not a mere recital.

THE UNDERSIGNED further states she has carefully read the foregoing release, knows the contents thereof, and signs the same as her own free act.

YOU ARE MAKING A FINAL SETTLEMENT. READ BEFORE SIGNING.

I HAVE READ THE FOREGOING RELEASE. I ACCEPT THESE TERMS AND AGREE TO ABIDE BY THEM.

WITNESSES:



SHARON THOMPSON



ACKNOWLEDGMENT

BEFORE ME, the undersigned Notary Public, on this day personally appeared **Sharon Thompson**, who being duly sworn, deposed and said that she is the Plaintiff in the foregoing matter, that she has read the foregoing instrument and is familiar with the contents thereof, that she executed the foregoing instrument for the purposes and consideration therein expressed, and that the recitations and representations contained in said instrument are true and correct.

SWORN TO AND SUBSCRIBED before me this

20th day of September, 2020



Notary Public for South Carolina

My Commission expires: 10/24/21

STATE OF SOUTH CAROLINA

ATTORNEY'S CERTIFICATE

COUNTY OF SPARTANBURG

As attorney for **Sharon Thompson** in the foregoing matter, and as a member of the South Carolina Bar, I hereby certify that the execution of this Release has been performed properly, and that I have explained the terms of the Release to **Sharon Thompson**.

Florence, South Carolina

September 28, 2020



MARSHALL S. WEAVER, ESQUIRE

WEAVER LAW FIRM
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Office: (843) 407-4203
Fax: (843) 407-4297

Marshall Solomon Weaver

September 28, 2020

VIA U.S. FIRST-CLASS MAIL

Kelsey J. Brudvig, Esq.
Collins & Lacy, PC
Post Office Box 12487
Columbia, SC 29211

RECEIVED

Sep 29 2020

SC Court of Appeals

SETTLEMENT DOCUMENTS

Re: Sharon Thompson vs. Sprint Food Stores #728
Docket No.: 2017-CP-34-00367

Dear Attorney Brudvig:

Enclosed please find the executed Receipt and General Release in Full, Stipulation of Dismissal and Voluntary Dismissal of Appeal on the above referenced case.

If you have any questions or concerns, please do not hesitate to contact my office.

With kind regards,



Marshall S. Weaver, Esq.

MSW/gcr