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Sep 24 2021

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE WORKERS' COMPENSATION COMMISSION

Appellate Case No.: 2021-000696

Dana L. Dixon, Appellant

v.

S.C. Department of Mental Health,
Employer and State Accident Fund,
Carrier, Respondents.

**RESPONDENTS' MOTION TO STRIKE PORTIONS OF APPELLANT'S PROPOSED
RECORD ON APPEAL**

M. Stephen Stubley
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Attorney for Respondents

Dana Dixon
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St. Matthews, SC 29135
470-422-0591
Appellant, *Pro Se*

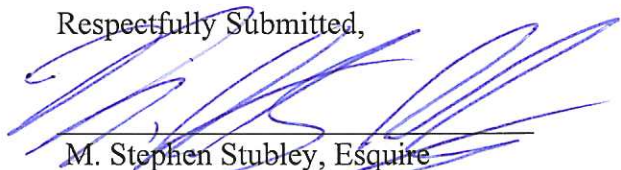
RESPONDENTS' MOTION TO STRIKE PORTIONS OF APPELLANT'S PROPOSED RECORD ON APPEAL IS BASED ON THE FOLLOWING GROUNDS:

1. Appellant, who is appearing in this matter *pro se*, hand delivered her proposed Record on Appeal to Respondents counsel's office on or about September 22, 2021.
2. Upon further review of the proposed Record on Appeal, Respondents submit that it contains documents/records and/or other information **not** contained in the record below before the Workers Compensation Commission; therefore, submission of this proposed Record on Appeal to the Court is improper.
3. Specifically, Respondents request an Order from the Court striking the following portions of Appellant's proposed Record on Appeal, including the supporting reasoning:
 - a) The transcript of Appellant's discovery deposition conducted February 22, 2019- proposed Record pp. 20-93- on the grounds that the deposition was not entered into evidence by the Commission;
 - b) Proposed Record pp. 94-99- consisting of exhibits to the discovery deposition;
 - c) Proposed Record p. 171 & 180- consisting of tables of Medical Payments from Respondents that were not entered into evidence by the Commission;
 - d) Proposed Records pp. 190-201- consisting of various documents carrying the WCC number for a different claim currently before the Court, Appellate Case No.: 2021-000121;
 - e) Proposed Record pp. 211-214- consisting correspondences serving Notice of Witnesses and APAs and the NOWs for an different claim currently before the Court, Appellate Case No.: 2021-000121;
 - f) Proposed Record p.231-233- consisting of correspondence serving a WCC Form 50 and the WCC Form 50 from a different claim currently before the Court, Appellate Case No.: 2021-000121;
 - g) Proposed Record pp. 236- consisting of email correspondence between Appellant's former attorney and a representative of the Respondents regarding settlement;
 - h) Proposed Record p. 275-276- consisting of a Subpoena Duces Tecum and corresponding serving same in a different claim currently before the Court, Appellate Case No.: 2021-000121;
 - i) Proposed Record pp. 294-295- consisting of a table of Medical Payments from Respondents regarding a different claim currently before the Court, Appellate Case No.: 2021-000121;

- j) Proposed Record pp. 296-300- consisting of email correspondence between Respondent and Respondents' counsel;
 - k) Proposed Record pp. 301-302- consisting of correspondence serving a WCC Form 51 and the WCC Form 51 from a different claim currently before the Court, Appellate Case No.: 2021-000121;
 - l) Proposed Record pp. 312-313- consisting of a handwritten document alleging to be transcribed emails between the Parties and the Commission;
 - m) Proposed Record p. 355- consisting of a single page document that is illegible and therefore unable to be confirmed as evidence that was before the Commission;
 - n) Proposed Record pp. 333¹ & 471- consisting of two (2) copies of a single page correspondence from Respondents' counsel serving a copy of Respondents' Final Brief in an different claim currently before the Court, Appellate Case No.: 2021-000121.
4. Further, Respondents move to strike from the Proposed Record on Appeal any additional notations, emphasis, or other alteration made by Appellant to documents that are not original to the document itself. Specifically, Respondents move to strike the handwritten notes on any medical document as Appellant is not a licensed medical provider and cannot attest to the veracity of her handwritten opinions and explanations of same. Moreover, Respondents move to strike any handwritten note on Orders, Motions, filed by Respondents or decided by the Commission as such items are irrelevant, inappropriate, and never introduced into evidence by the Commission.
5. Respondents agree that all other proposed submissions into the Record on Appeal were properly admitted into evidence by the Commission, are already incorporated by reference as part of the Commission's file on this matter, including Orders, pleadings, and briefs, and/or are otherwise not objectionable to the Respondents.

WHEREFORE Respondents pray for an Order from the Court granting the Motion to Strike for the reasons set forth herein.

Respectfully Submitted,



M. Stephen Stubley, Esquire
Counsel for Respondents

September 24, 2021
Columbia, South Carolina

¹ Respondents note that there are two (2) documents paginated "333." For clarity, Respondents are referring to the first "333" in numerical order.

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v.

S.C. Department of Mental Health,
Employer and State Accident Fund,

Carrier, Respondents.

PROOF OF SERVICE

I certify that I have served the Respondents' Motion to Strike Portions of Appellant's Proposed Record on Appeal by depositing a copy of it in the United States Mail, postage prepaid, **on September 24, 2021**, addressed to Appellant, Dana L. Dixon, 181 Stabler Farm Road, St. Matthews, SC 29135.



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LILY D. WILKERSON (GA & FL)

September 24, 2021

∞
GEORGE D. GALLAGHER (SC), of counsel

VIA EMAIL: CTAPPFILINGS@SCCOURTS.ORG
The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

RECEIVED
Sep 24 2021
SC Court of Appeals

RE: *Dana Dixon v. SC Department of Mental Health*
WCC No.: 1623303
Appellate Case No.: 2021-000696
Claim No.: 2016-4177
DOA: 12/22/2016
Our File No.: 1200-0178

Dear Ms. Kitchings:

Please find enclosed our Respondents' Motion to Strike Portions of Appellant's Proposed Record on Appeal in the above-referenced case. Also enclosed please find our filing fee of \$50.00.

By copy of this letter to the Pro se Appellant, Dana Dixon, I am serving her with a copy of the Motion to Strike Portions of Appellant's Proposed Record on Appeal.

Sincerely,



M. Stephen Stubley
MSS/bej

Enclosures

cc: Dana Dixon (via certified and regular mail)
Shannon Bedell (w/encl)
Erin Farthing