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Dec 16 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' RETURN TO APPELLANT'S MOTION TO QUASH

M. Stephen Stubley
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Attorney for Respondents

Dana Dixon
181 Stabler Farm Road
St. Matthews, SC 29135
470-422-0591

Appellant, *Pro Se*

Pursuant to SCACR 240, Respondents hereby offer the following Return to Appellant's Motion to Quash.

Prior to addressing the substance of Appellant's motion, Respondents respectfully bring to the Court's attention to procedural inconsistency created Appellant's filing of a Motion to Quash in Response to Respondents' Motion to Consolidate. Specifically, Respondents filed a Motion to Consolidate Appellate Case Nos. 2021-000696 and 2021-000121 with the Court on December 3, 2021. Thereafter, Appellant filed a Motion to Quash which Respondents received via USPS Mail on December 9, 2021. Ostensibly, Appellant is attempting through her Motion to Quash to seek the Court's denial of Respondents' Motion to Consolidate. However, pursuant to SCACR 240(e), the appropriate response to a motion is a Return, not the filing of an additional motion. Appellant's Motion to Quash is an improper response to Respondents' Motion to Consolidate and therefore, should not be considered by the Court.

Notwithstanding the above, Respondents respectfully and briefly respond to Appellant's Motion to Quash as follows:

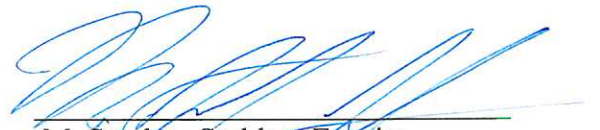
Respondents concede that Appellant suffered two separate injuries that were handled as separate claims before the Commission. However, Appellant's argument that the two (2) claims that are now before this Court are not intertwined is misplaced. This argument ignores the overlapping medical records involved in both cases. In fact, Appellant admittedly, over the life of both claims, has made a point to state her dissatisfaction with Respondents obtaining medical records via a properly served subpoena and utilizing those records in both claims. Both parties have used records from overlapping timeframes to bolster their respective positions. Respondents contend that the parties require the use of records relevant to both claims to establish their positions and as such, filed the Motion to Consolidate currently pending consideration before the

Court. Respondents argue it would be unreasonable to expect the Court to deliver consistent decisions without the ability to review the cases, and the evidence contained in the records as a whole.

Finally, Appellant argues that Respondents could have moved to consolidate the claims while they were before the Commission. While doing so is certainly within the purview of a lower tribunal, there is nothing in the South Carolina Rules of Appellate Procedure which would indicate that cases must be consolidated at the trial level or that not doing so prevents a party from filing a Motion to Consolidate at the appellate level. *See* SCACR 214.

WHEREFORE, Respondents pray that the Court DENY Appellant's Motion to Quash and grant Respondents' Motion to Consolidate Appellate Case Nos. 2021-000696 and 2021-000121.

Respectfully Submitted,



M. Stephen Stublely, Esquire
Counsel for Respondents

December 16, 2021
Columbia, South Carolina

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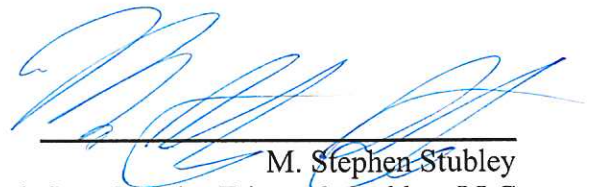
Dana L. Dixon, Appellant

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' Return to Appellant's Motion to Quash by depositing a copy of it in the United States Mail, postage prepaid, on **December 16, 2021**, addressed to Appellant, Dana L. Dixon, 181 Stabler Farm Road, St. Matthews, SC 29135.



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∞
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December 16, 2021

VIA EMAIL: CTAPPFILINGS@SCCOURTS.ORG
The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
P.O. Box 11629
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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' Return to Appellant's Motion to Quash 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 Return to Appellant's Motion to Quash.

Sincerely,



M. Stephen Stubley
MSS/bej

Enclosures

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