

95334

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 DISMISS**

M. Stephen Stublely  
Speed, Seta, Martin, Trivett & Stublely, LLC  
Post Office Box 11669  
Columbia, SC 29211  
803-748-2259  
[ssublely@speed-seta.com](mailto:ssublely@speed-seta.com)  
Attorney for Respondents

**RECEIVED**  
JAN 06 2022  
SC Court of Appeals

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

**RESPONDENTS' MOTION TO DISMISS IS BASED ON THE FOLLOWING GROUNDS:**

1. Pursuant to an Order of this Court dated November 17, 2021, Appellant's initial record on appeal was stricken and Appellant was ordered to compile an amended record on appeal within thirty (30) days. See Exhibit A.
2. Respondents received Appellant's revised index to the amended record on appeal via U.S. Mail on December 3, 2021. See Exhibit B.
3. Upon further review, Respondents realize that Appellant failed to serve the actual amended record on appeal; therefore, submission of the index to the record on appeal to the Court, without more, is improper.
4. Respondents received a copy of Appellant's undated Final Brief on December 29, 2021.
5. Pursuant to SCACR 211, Respondents' Final Brief will be due twenty (20) days after receipt of the record on appeal.
6. Respondents cannot cite appropriately to the amended record on appeal to their final brief in accordance with the SCACR without the actual amended record on appeal from Appellant.
7. On December 3, 2021, Respondents filed a Motion for Extension<sup>1</sup> in which to file their Final Brief based Appellant's failure to serve an amended record on appeal in accordance with the above Order.
8. To date, Respondents have not received an actual amended record on appeal.
9. Therefore, Respondents respectfully request the Court dismiss Appellant's appeal in its entirety for the continual failure of Appellant to respect and abide by this Court's ruling.
10. Alternatively, counsel for Respondent respectfully requests an extension of time to file the Respondents' Final Brief until they are in receipt of an amended record on appeal from Appellant;
11. This motion is not being made for purposes of delay; rather scheduling conflicts have necessitated this request.

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<sup>1</sup> Respondents rely on all previously proffered arguments in its motion for extension of time filed December 3, 2021.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'M. Stephen Stubley', written over a horizontal line.

M. Stephen Stubley, Esquire  
Counsel for Respondents

Columbia, SC  
January 4, 2022

# EXHIBIT A

# The South Carolina Court of Appeals

Dana Dixon, Employee, Appellant,

v.

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

Appellate Case No: 2021-000696

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## ORDER

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After careful consideration, Respondents' motion to strike is granted. The record on appeal filed by Appellant is stricken. Within thirty days of the date of this order, Appellant shall serve and file an amended record on appeal that includes only those matters that were designated by the parties and were presented to the lower court. *See* Rule 210, SCACR. Furthermore, the matters contained in the record on appeal shall not include any extraneous markings or annotations.

  
FOR THE COURT 

Columbia, South Carolina

cc:  
Dana Dixon  
M. Stephen Stubley, Esquire  
Amy Bracy

**FILED**  
**Nov 17 2021**

# EXHIBIT B

Amended Record DN Appeal

The State of South Carolina  
In The Court of Appeals

Appeal From Richland County  
S.C. Workers Compensation Commission

Commissioners: Taylor, I. Scott, Dick, King, & McKeown

Case No. 2021-000696

S.C. Department of Mental Health

Employer and State Medicaid Fund

Carrier

vs.

Appellant

Dana L. Dixon

Employer

Amended Record DN Appeal

I Certify that I have served Amended Record DN  
Stephen Shikley by depositing a copy of it in  
the United States Mail, postage prepaid on  
11-30-2021, addressed to attorney of record  
M. Stephen Shikley at his address at 1122  
Lady St. Suite 1000 Columbia, S.C. 29211  
On November 30, 2021

Dana L Dixon  
181 Stabler Farm Rd  
St. Matthews, SC 29135  
(470) 499-2591

# I N D E X

1 Decision and Order of June-Comm. Issues -  
12th Septo Hearing. Dated November 03, 2020

11 Order Instructions of Commissioner James

12 Consent Order, Signed by Commissioner Gordon

14 Request for a Proposed Order  
dated March 28, 2021

15 Motion Order, dated February 28, 2020

14 Judicial Conference Decision and Order  
dated January 25, 2021

18 Form 101 (Status Report & Compensation Receipt  
dated February 26, 2018, for denied W.E. claim (1623303)

19 Page 23 of Respondent ISO Report  
they submitted as their APR. On June 19, 2020.

Transcript of June 12, 2020

20

Transcript of February 22, 2021

72

Physician Discharge Summary,  
dated December 23, 2016

79

Medical Excuse of December 23, 2014  
with Supervisor Signature when she received it.

80

S.C. Department of Mental Health Witness  
Statement I wrote on January 13, 2017

81

My Time Sheet of January 02, 2017 through  
January 14, 2017 to Show I was on F.I.S.O.P  
on January 13, 2017

82

Letter from Respondents dated January 18, 2017  
About receiving work injury report of December  
29, 2016. Work injury (5 days AFTER I wrote my report)

83

Letter from Respondent dated February 03, 2017  
for work injury of January 31, 2017. I received  
forms the same morning to complete, and 2 days  
later I received this letter.

84

Respondents APA & Exhibit document

85

Itemized Statement of Charges (Palmetto Rickland)

86

OF December 23, 2016, That Shows  
Total Amount Due \$ 0.<sup>00</sup>.

7 Pages of form 181s with dates  
and amounts that have increased. I went  
to Palmetto Rickland E.R. on 12/23/2016 (once)  
and I NEVER received Compensation.

87

Dates I was given by SCWCC that  
cases were closed by respondents for  
BOTH W.C.C. files 1712829, 1423303

98

My Objections I listed to Respondents  
for proposed Order on April 16, 2021. That  
I copied the Commission. (Judicial, Respondent) 95

Letter from Dr. Jerry Saunders,  
dated July 17, 2019. 97

Letter from Commission to Respondent  
dated September 14, 2017. Informing  
Respondents that they (Comm.) had NOT  
received a First Report of Injury for  
Claim NO. 1623303. 98

Respondent First Report of Injury  
filed on September 25, 2017. 99

My Written Corrections of  
Respondents Report of Injury. 100

Page 4 of Order (2017 Hearing) to show  
Respondent lied about not having received  
Subpoenaed Medical records. 101

A Form from Respondents to  
Palmetto Health Richland Requesting  
my Medical records. Dated January 18, 2012. 102

103 Copy of the form 20 filed January 2020 for S. E. W. E. C. claim number 1693303

104 Respondents First filed Form 51 dated April 02, 2019, for 1623303

106 Respondents pre-hearing Brief dated May 31, 2019. \*

107 Respondents Form 51, dated August 26, 2019

108 Respondents Form 59 # dated October 08, 2019 (Borden)

109 Respondents Form 51 # dated February 07, 2020

110 Respondents Form 58 \* dated March 23, 2020

111 Respondents Form 51 (for form 18's in creases. Dated March 24, 2021

112 Envelope that was certified mailed to me postmarked February 22, 2019, that contained the subpoenaed medical records Postage # 8.20

113 Envelope that contained copies of documents that is listed on R. 166 dated February 27, 2019

Table of Content I Submitted to 114  
S.C.W.C.C. Stamped "Received September 24, 2019."

List of items I motioned to Add 120  
At S.C.W.C.C.

S.C. Commercial Driver's license 127  
With same address listed in (p. 137)  
dated 03/02/2018.

Letter from Respondents dated November 18, 2016. Offer of employment. (Contingent upon me passing my physical) 122

Dates of times 129  
I was employed with Respondents  
Dated December 03, 2019.

Medical Examiner's Certificate 130  
dated January 14, 2016, to show  
I passed my D.O.T. physical

Medical page from Palmetto Health 135  
Richland. Stamped Received February  
22, 2018 by S.C.W.C.C.

Letter from then attorney to Commission (packet) 134  
With Order to be relieved as Counsel, offer  
and my N.E. address. Dated 3/2/2019.

# I N D E X

Correct dates and times 138  
of Hospitals. Doctor's name from  
Continued Medical Records Respondents listed  
as their APAs.

CVS Receipts to Show I 143  
Pain for my prescription On December  
23, 2016.

Copy of December 02, 2016 through December 16, 2016 145  
Pay Stabs and December 17, 2016 through January  
01, 2017 of my overtime.

Exhibits 1-3 of Damage to Car 147  
in m.v.a. on March 05, 2017. 10 weeks 2  
days AFTER my work injury of December  
22, 2016.

11 Medical pages from Providence Hospital 150  
of March 07, 2017. That states I was  
seen at the E.R. on March 07, 2017 for  
Neck pain.  
\* R. p. 144-154 & 277-299 Entire Medical record  
of Providence Hospital. Respondents D.O.Metter.\*

Palmetto Health Richland 161  
Workers Compensation Information Sheet of  
December 23, 2016. No authorization number  
listed.

# INDEX

2 Medical Pages Of December 142  
23, 2016 to Show type of Medicine  
Given. Stamped 3-7-20.

Form that Shows date of Injury (01/31/2017) 144  
and date of my doctor visit (01/31/2017) and  
the form has an Authorization Number and this  
was for my 2nd Work injury on January 31, 2017.

A Form titled Medical Event for Dana Dixon 145  
for Work injury of January 31, 2017 to Show that  
even when I was sent for Physical Therapy there  
was an Authorization Number.

Document pertaining to my January 31, 2017 144  
Work injury to Show Authorization Number  
for my FIRST doctor visit. From 2017 medical record.

Page from Carolina Occupational Healthcare 147 ?  
for Work injury of January 31, 2017 is stamped  
RECEIVED February 22, 2018 by S.C.W.C.C. To  
Show Respondent had medical record at S.C.W.C.C.  
file number 1712879 BEFORE the hearing  
of March 07, 2019.

# I N D E X

148 Respondent's Brief dated February 10, 2021

180 Form 31, Briefing Schedule and Notice of Appellant Hearing

181 Physicians Order for my 2017 Work Injury Referral/Authorization Form with date firm's person who gave consent.

182 Form from 2017 work injury to show I received different Authorization numbers everytime.

I went to the doctor, or physical therapy

183 Patient Scheduling notification form from my 2017 work injury to show that there was a CLAIM number to have this procedure.

184 Return to Work Status Form for my 2017 work injury, to show that I went to doctor (appointment) that Respondent's

Chose on the form is dated March 06, 2017. To show I was able to leave job (light duty) and go to my Dr. Appointment After my MVA.

Respondents APT page 66 of Medical 185  
record of December 23, 2014. To show  
the Doctor & Resident, Visually evaluated  
me with No X-Rays Or Test.

Medical Page of December 23, 2014, to show 184  
the inaccurate information listed in Chief  
Complaint of present illness

Respondents APT page 36 Showing Cervical 187  
Spine. X-Ray finding of March 07, 2017.

My Appellant's Informal Brief/Form 59 188

Respondents Brief, dated January 27, 2021 204

Full Commission Appellate Order dated: 212  
May 26, 2021

Appellant Motion To Add, dated: December 10, 2020 225  
(These pages was motioned for my 2017  
Claim). Someone at S.C.W.C.C, wrote Wrong File #  
at top right. It was accepted by full  
Commission on February 22, 2021. For this claim

Appellant Form 30 (Request For Commission Review) 228  
Dated: November 19, 2020. (Pertaining to # 7  
Of Order Instructions.)

Respondents Reply Motion to Add 229  
dated: January 06, 2021

Respondents pre-Hearing Brief & APA 234  
Submissions, dated March 23, 2020.

# I N D E X

243 Respondent APR Submissions of: Providence Hospital. Dated: May 08, 2008. Dr. Dena Kawi

255 Respondent APR Submission of: Providence Hospital. Dated: April 10, 2013. Dr. Jose Luis Gonzalez

220 Respondent APR Submission of: Palmetto Health Rivers. 220: Rickard. Dated: Dec. 23, 2016. Dr. Zachary L. Herby

281 \* Respondent APR Submission of: Providence Hospital. Dated: Mar 07, 2019. Dr. Michael Thomas Hayes

294 Respondent APR Submission of: ISO Claim Search by State Accident Fund of S.C. Dated: Jan. 12, 2018.

295 Respondent APR Submission of: ISO Claim Search by State Accident Fund of S.C. Dated: Oct 24, 2019.

296 S.C. Department of Mental Health (Partial) W.C.E. Package

# PROOF OF SERVICE OF Amended Record On Appeal

The State Of South Carolina  
In The Court Of Appeals

Appeal from Richland County  
S.C. Workers' Compensation Commission

Commissioner(s): A. Taylor, I. Scott Beck, Avery Wilkerson

Case NO. 2021-000696

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

Respondents

Dana L. Dixon  
Employee

v

Appellant

I Certify that I have Served the Amended Record On Appeal  
On Stephen Stubleby by depositing a copy of it in  
the United States Mail, postage pre paid On 11-  
30 - 2021, addressed to attorney of record  
M. Stephen Stubleby, at his office at 1122  
Lady St. Suite 1000 Columbia, S.C. 29211  
On November 30, 2021.

Dana L. Dixon  
181 Stubleby Farm Rd  
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(478) 422-0591  
Appellant

RECEIVED  
JUN 10 1951  
SC COURT OF APPEALS

November 30, 2021

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1122 Lady St. Suite  
1000, Columbia, S.C. 29211  
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THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM THE WORKERS' COMPENSATION COMMISSION

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Appellate Case No.: 2021-000696

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Dana L. Dixon, ..... Appellant

v.

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

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**PROOF OF SERVICE**

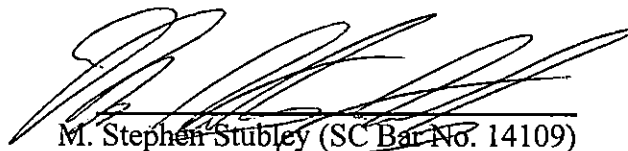
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I certify that I have served the Respondents' Motion for Dismiss by depositing a copy of it in the United States Mail, postage prepaid, on **January 4, 2022**, addressed to Appellant, Dana L. Dixon, 181 Stabler Farm Road, St. Matthews, SC 29135.

**RECEIVED**

JAN 06 2022

SC Court of Appeals



M. Stephen Stubley (SC Bar No. 14109)  
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Attorney for Respondents

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JAN 09 1954  
DEPT OF AGRICULTURE

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ATTORNEYS AT LAW

WALLACE SPEED (1940-2020)  
LESLI R. SETA (GA & FL)  
SETH C. MARTIN (GA & FL)  
ERIC L. TRIVETT (GA)  
M. STEPHEN STUBLEY (SC)  
STEPHANIE A. ROCKWELL (GA & TN)  
JAMES E.L. FICKLING (SC & NC)  
ANDREA S. OWEN (GA)  
HUNTER CHANDLER (GA & TN)

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C. BENTON HILBURN (GA)  
SARA P. MORRIS (SC & NC)  
CALEY A. PITTS (GA)  
KELSIE L. QUEEN (SC & NC)  
JENNIFER S. RAY (GA)  
SARAH V. SNIPES (GA)  
LINDSEY R. STEWART (GA)  
MARK M. STUBLEY, JR. (AL, NC & SC)  
BRIGGS P. TUCKER (SC)  
BRITTANY BELL TURNER (GA & FL)  
LILY D. WILKERSON (GA & FL)  
∞  
GEORGE D. GALLAGHER (SC), of counsel

January 4, 2022

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

**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 Dismiss 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 Dismiss.

Sincerely,

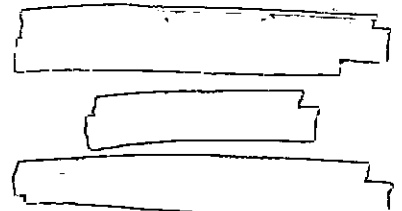


M. Stephen Stubley  
MSS/bej

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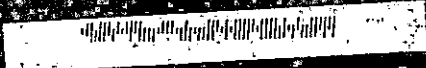
JAN 06 2022

SC Court of Appeals

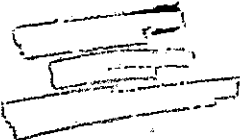


Enclosures

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



SPEED, SETA, MARTIN, TRIVETT & STUBLEY, LLC  
 ATTORNEYS AT LAW  
 P.O. BOX 11669  
 COLUMBIA, SOUTH CAROLINA 29211



FIRST CLASS



US POSTAGE - PETER BOWEN

ZIP 29204 \$ 001.96<sup>0</sup>  
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 0801350905 JAN 04 2022

The Honorable Jenny Abbott Kitchings  
 Clerk, South Carolina Court of Appeals  
 P.O. Box 11629  
 Columbia, SC 29211

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JAN 06 2022  
 SC Court of Appeals