

**RECEIVED**

**Jan 18 2022**

**SC Court of Appeals**

**FORM 13**

**BRIEF OF APPELLATE\* AMENDED**

THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

[IN THE SUPREME COURT]

---

APPEAL FROM SOUTH CAROLINA

WORKERS' COMPENSATION COMMISSION

Commissioner Aisha Taylor

Commissioner Susan Barden

Commissioner Gene McCaskill

---

Appellate Case No. 2021-000517

---

Shelia Hutchins, Employee,

Appellate,

V.

Security Group, Inc., Employer, and Hartford Accident and Indemnity Co.,

Carrier,

Respondents.

---

[INITIAL] BRIEF OF APPELLATE AMENDED

---

Shelia F. Hutchins

*Shelia F Hutchins*

1391 Wilcox Ave

Gaffney, S.C. 29341

864-490-2367

January 16, 2022

## TABLE OF CONTENTS

Table of Authorities.....	ii
Statement of Issues on Appeal.....	1
Statment of the case.....	1
Standard of Review.....	1
Facts .....	1

### Arguments

1. Because appellate was under psychiatrist care and couldnt make a good sound judgement. Which the appellate ask to see the doctor before the mediation due to mental state and was denied. Appellate counsel and respondent and also the medaitor all new of appellate mental state. Appellate was not aware of any mediation nor did the appeallate ask for mediation. Appellate had no process of this mediation nor knowledge until received letter stated mediation was happening. Mediation is required with a mental menta claim but, I was still under a doctor and mediation paperwork only had my knee claim on it. I was denied mental treatment for

9 months until a form 50 was filed for both claims due to non treatment after respondents Doctor said I needed more treatment. I started receiving treatment after the form 50 was filed on mental claim. .... 2

2. Because appellate had counsel that lied and not advising appeallate of her rights. Appellate counsel was incompetend and was not acting in favor of appellate. Appellate counsel acted recklessly or intentionally acting without competence. By failing to respond to the motion to compel and form 21. Failing to respond to breif of motion to compel on my knee claim. Failing to commucate with appellate about mediation, mental state. Failing to tell the appeallate the truth about the mediation. Failing to do what appellate ask repeatly for him to do. Setting up mediation without appellate knowledge or being a part of the process in mediation. Sending appellate into mediation knowing the mental state and falsly telling appellate incorrect information about mediation. .... 2

3. Because Mackey v. Kerr-McGee Chemical Co., 280 SC 265, 312 S.E.2d 565. Which was required approval by commission to be binding. Which in the settlement it states this is subject to approval by the commission. No Edvience of the settlement being mailed to the commission, or the commission ever recevied them. I asked for proof of this and never received an response. The rules states that form 21 to stop payment is required to have a hearing within 60 days. I have yet to have a hearing for Form 21. My benefits were stopped without a hearing and was not able to tell my story present my Evidence to a commissioner. I sent all of my evidence into Amy Bracy but apparently it didn't get filed into the commissioner file.As I also kept repeatly asking for time. I communicated with Amy Bracy at Worker's Compensation about when a hearing was going to be set and kept getting different answers. I was also not given 5 days to respond back to the reply for appeal to the Full Commission. I also was not allow to respond to motion to compel and the form 21 after an order was

sent out for 30 days to retain new counsel but decided to represent myself. .... 2

4. Because appellate feels this is one sided. Because my benefits were cut off with no hearing. appellant wrote the commissioner to explain that when the form 21 was filed and the motions that appellate counsel never advise the appellate of the need to respond to it within ten days nor did counsel. Appellate did find out later that she needed to and wrote the commissioner to hold a hearing or to atleast tell my side and that didn't happen. Appellate also filed a motion to compel for medical treatment which is in a previous settlement that was made just a few months before the mediation. Which by the way I was unaware of the mediation and don't know who filed for mediation. Appellate was lied to about mediation by both sides. One sided is we had settlement of where Hartford was to provide hardware surgery to appellate within responsible amount of time for surgery. Which my counsel didn't respond to the reply of the respondent. Appellate was denied medical treatment for over a year and half due to hardware issues. Commissioner denied appellate motion to compel but, granted their's. The agreement of hardware surgery was approved by workers comp. The motion to compel settlement of mediation was not ever approved by workers comp before, I withdrew. Which is like saying I am going to hold you to your settlement along with not even giving me a chance to tell my side. (Due process). But, I am not going to hold them the respondents to their settlement agreement settlement..... 2

5. Because the form 70 was incorrect with the wrong body part on it. Name spelled incorrectly on it..... 2

6. Because how does the commissioners' go by laws in a different state and not S.C. laws..... 2

Conclusion..... 2

**TABLE OF AUTHORITIES\***

CASES

Mackey v. Kerr-McGee Chemical Co., 280 S.C. 265, 312S.E.2d 565 (ct. App. 1984) ..... 2

Mackey , citing Singleton v. Young Lumber Co. 236 S.C. 454,114 S E.2d 837 (1960)..... 2

Statutes

S.C. Code Ann. 42-9-390 (1984)..... 2

## STATEMENT OF ISSUES ON APPEAL

1. Did the Full Commission feel to see the appellate was still under psychiatrist and couldn't make a good sound judgement? Did the Full Commission feel to see is mediation required only if claimant is released from doctor's care or if claimant wants to go to mediation. Mediation only had my knee claim on it.
2. Did the Full Commission feel to see were former lawyer was not acting in favor of his client? Did the Full Commission feel to see were appellate lawyer fell to respond to motion to compel and form 21 nor did he tell appellate advised his client which he was still representing her at this time? Did the Full Commission feel to see the emails stating to Amy Bracy, that Thomas Phillips was filing to be removed of counsel. Did the Full Commission feel to see were Thomas Phillips filed 3 different times to be removed? Not allowing me time to find new counsel in time to respond to motion to compel AND form 21? Did Full Commission feel to see that Thomas Phillips should have never allowed his client to go to mediation while still under a psychiatrist? Especially after telling his client she had to go and it was only for the mental claim, which was a lie. Is this a competent counsel?
3. Did the Full Commission feel to see the S.C. law? Did the Full Commission feel to see no evidence of were the settlements were mailed in or received by the commission? Did the Full Commission feel to see in the settlement papers it states subject to Worker's Compensation Commission approval? Did the Full commission feel to see no hearing was reset for form 21? Did the Full Commission feel to see where appellate communicated with the commission on many many times. One time was told the worker's comp

can't approve the settlement cause nothing was sent in and claimant was withdrawing.

4. Did the Full Commission fell to see this is one sided? Did the Full Commission fell to see the appellant never got due process? Did the Full Commission fell to see the Appellant ask for a chance of a hearing to tell my side due to appellant counsel not advising her of her rights? Did full commission fell to see that appellant's motion to compel for medical treatment was denied while it was approved by Worker's Comp Commission. The respondent motion to compel was granted and wasn't approved by Worker's comp Commission?

5. Did the Full Commission fell to see that the information on the form 70 was incorrect? Did the full commission fell to see were, all of my edvindce of my case was not handled correctly therefore, now it's excluded. Did the Full commission fell to see the respondents delayed and delayed medical treatment cause I would never settle? Did the Full Commission fell to I wasn't given 5 days to respond to the reply of appellate? Did the Full Commission fell to see I was misinformed by Amy Bracy at Worker's Compenstation?

### **STATEMENT OF THE CASE**

In January, 2020 I had not received any medical treatment since April, 2019. So, Thomas Phillips my former counsel sent in a form 50 for treatment. The next thing I knew I was getting a telling me that there would be a hearing on April 29,2020. I was unaware of this mediation process and didn't understand it cause it had my knee claim on it. So, I talked to Thomas Phillips my counsel at the time what was going on. I had just signed a settlement for my knee claim that Hartford ins was going to pay for hardware surgery. Thomas Phillips states that it's only for the mental claim and the Commissioner kicked it back saying we had to go to mediation. I told him that I wasn't signing for this mediation cause I didn't agree with it. I ask for were the commissioner signed saying we had to go to mediation

and Thomas Phillips told me it's the law look it up. As soon As Thomas Phillips filed form 50. The denfense got me into a Forensic phisicist within a month away. I only seen this doctor a total of 3 times before I was forced into mediation. Thomas Phillips kept telling me that I had to go or I couldn't go in front of a commissioner. I made aware the nurse case manager that I was being forced to go to mediation and that I needed to see a doctor asap. She told me that the phisicist had left the practice and they don't have another one yet. I told her I was having panic attacks and anxiety attacks. I also let Thomas Phillips the day before to let him know, I wasn't in a mental shape to go to mediation. He then called while I put him on speaker again with Joe wilson and myself. Thomas said well we can't go in front of a commissioner until you go to this mediation. Well, I felt I had no choice but to go to mediation. I was still confused on why we had to go to mediation and kept being told it's only for the mental claim. I spoke with Thomas Phillips that moring before the mediation to let him know that I was having panic attacks and anxiety attacks that I was in no mental shape to be here. I was diagnosed with PTSD, anxiety attacks, panic attacks, depression due to the mental claim. I was in no shape to be making a life decision only seeing a doctor 3 times with her changing my medcation all 3 times. Then the next morning woke up in a panic attack. I called Thomas Philliips and told him that I was revoking my employee agreement. Thomas said if you do that they may not honor you settlement. I then revoked my employee agreement which I had 7 days to do. I then voiced that I no longer wanted to go ahead with the agreement. I emailed Worker's comp commission Amy Bracy and was told it had not been recevied that they couldn't process the paperwork. Due to I am withdrawing and the paperwork wasnt there. Tracy Tiddy then states that she wants to file a motion to compel. Thomas Phillips mailed off paperwork on three different dates to be relived of conusel. He final was release of my conusel on May 22,2020 for knee case and May 28,2020 for the knee claim. Meanwhile, before he was released of consuel Tracy Tiddy filed form 21 and motion to compel. Thomas just sent it to me without advising me of my right to respond within ten days. Nor did

Thomas respond to either. Which at the time he was still representing me. Then the cases got mixed up and assigned to two different commissioners. I did have another counsel Charlie Hodge for the knee claim before Thomas Phillips took over. We were set to go to court for the knee claim and the day before I went to Charlie Hodge's office. I voiced my concern that I wasn't settling and that I wanted a hearing. Well the day of the hearing I go in and was blind sided by Charlie Hodge. I was told this is what is going to happen and I said I don't understand. He got angry and said it;s the law. We went to the hearing and all of the supervisor's, VP, and others' that had been harrasing me at work were let into the court room. I am panic and frozen cause the two main women standing back there whisering and laughing. I stopped the hearing and talk with Charlie he said you not going to get anything else. I did refuse to sign the paperwork but then did after they made some changes to it. I didn't have counsel wiling to do what my wishes were. Both Charlie and Thomas just kept telling me it's the law you have to settle. So, they took advantage of my situation of the panic attacks, anxiety attacks, and PTSD. The only thing that was sent into commission was the form 70 which was incorrect. It had a different body part than what was on the settlement. It also had my name spelled wrong. I never got a hearing for the form 21 which by law it states you are suppose to get a hearing. I never knew that Commissioner Campell had my motion until after he made a decision which he never addressed the form 21 not gave me a hearing yet to have a hearing. I never got 5 days to respond to the reply from the appellant brief to the full commission. Tracy Tiddy was given more than the 10 days to reply to appellate brief. I wasn't allow to ever respond to motion to compel or form 21 due to my lawyer incompetent. I was never given a chance to show my evidence. My lawyer acted unethical by making false statements to me. My lawyer abandoned me by failing to respond to motion to strike and form 21, nor did he make me aware of this. I feel my lawyer was acting in his own interests. Appellate has to follow the rules and laws but, the defendants get by with not following the rules and laws. In the settlement paperwork it states that subject to workers comp

commission approval. Which at the time of the withdrawal it hadn't been received by workers comp commission. I don't think this is a fair settlement because, I now have had a knee replacement. Due to Hartford delaying treatment on my knee. I have been unemployed since April 03, 2019. Security Finance Group terminated my employment. I now have anxiety attacks, panic attacks, and PTSD. I still am suffering from knee issues and mental issues. I have lost health insurance, income, and alot more. I can't work due to all the issues from both cases.

## Arguments

1. Because appellate was under psychiatrist care and couldnt make a good sound judgement. Which the appellate ask to see the doctor before the mediation due to mental state and was denied. Appellates' counsel knew of appellate mental ..... 2

2. Because appellate had counsel that lied and not advising appellate of her rights..Appellate counsel was incompetent and reckless ..... 2

3. Because Mackey v. Kerr-McGee Chemical Co., 280 SC 265, 312 S.E.2d 565. Which was required approval by commission to be binding. Which in the settlement it states this is subject to approval by the commission. No Edvience of the settlement being mailed to the commission, or the commission ever received them. I asked for proof of this and never received an response...It wasn't processed due to settlement not being there at the time of withdrawal..Not given time to respond to the full commission. Not getting a hearing for the form 21 Chapter 67..... 2

4. Because appellate feels this is one sided. Because my benefits were cut off with no hearing. appellate wrote the commissoner to explain that when the form 21 was filed and the motions that appellate counsel never advise the appellate of the need to respond to it within ten days nor did counsel. Appellate did find out later that she needed to. wrote to Worker's comp commission to hold a hearing or to atleast tell my side and that didn't happen. This was sent in to Amy Bracy with a 50.00 money

order. Appellate also filed a motion to compel for medical treatment which is in a previous settlement that was made just a few months before the mediation. Which by the way I was unaware of the mediation and don't know who filed for mediation. Appellate was lied to about mediation by both sides. One sided is when we had settlement of where they were to provide medical treatment to appellate within reasonable amount of time for surgery. Appellate was denied medical treatment for over a year and half due to hardware issues. Commissioner denied appellate motion to compel but, granted their's. which again this agreement was backed by 3 doctor's that I needed surgery. it was also been approved by workers comp settlement. Which is like saying I am going to hold you to your settlement along with not even giving me a chance to tell my side. (Due process). But, I am not going to hold them to their settlement..... 2

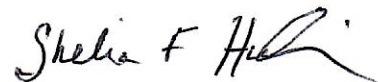
5. Because the form 70 was incorrect...with the wrong body parts on it.....Name spelled wrong..... 2

6. Because how does the commissioners' go by laws in a different state and not S.C. laws..... 2

**Conclusion**

For the Reasons stated, this Court should reverse the judgment of the Worker's Compensation Full Commission court.

Respectfully Submitted,



Shelia F Hutchins

1391 Wilcox Ave

January 16, 2022

Gaffney, S. C. 29341

Appellate