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SC Court of Appeals

PROOF OF SERVICE OF A NOTICE OF APPEAL

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Administrative Law Court

S. Phillip Lenki, Administrative Law Judge

Docket No. 21-ALJ-30-0222-AP

South Carolina Public Employee
Benefit Authority, Employee
Insurance Program,

Respondent.

v.

Jerry Arnette,

Appellant.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on South Carolina Public Employee Benefit Authority, Employee Insurance Program by depositing a copy of it in the United States Mail, postage prepaid, on February 21, 2022, addressed to the attorney of record, Michael T. Brittingham, Nexsen Pruet, LLC, 1230 Main Street Suite 700 (29201), Post Office Drawer 2426, Columbia, South Carolina 29202 and James T. Hedgepath, Nexsen Pruet, LLC, 104 South Main Street Suite 900, Post Office Drawer 10648, Greenville South Carolina 29603.

February 21, 2022

s/ Jerry Arnette
Jerry Arnette
546 Pearlie Road
Dillon, South Carolina 29536
(843) 506-5967
Appellant, *pro se*

**LETTER TO THE APPELLATE COURT CLERK
FILING THE NOTICE OF APPEAL**

February 21, 2022

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

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RE: Michael T. Brittingham and James T. Hedgepath, Attorneys for South Carolina Public Employee Benefit Authority, Employee Insurance Program, Respondent, v. Jerry Arnette, Appellant,
Docket No. 21-ALJ-30-0222-AB

Dear Ms. Kitchings:

Enclosed for filing is a notice of appeal in the above case. Also enclosed are the following:

- (1) Proof of service of the notice of appeal on the respondent.
- (2) A copy of the order which is to be challenged on appeal.
- (3) A filing fee of \$250.
- (4) This appeal is being filed with the South Carolina Court of appeals because PEBA's decision to deny Appellant's benefits is clearly erroneous in the view of the reliable, probative and substantive evidence in the entire record. PEBA relied on a flawed reviewing physician opinion that did not adequately consider Appellant's medical conditions and the symptoms that he suffers from. Appellant's physicians have consistently and unequivocally opined that Appellant is completely and totally disabled due to lumbar radiculopathy, a non-limited condition. This condition and subjective symptoms cause him to be completely and totally disabled from performing any occupation from May 19, 2019 to the present and ongoing into the future. As a result, PEBA's denial of Appellant's claims for basic long term disability benefits was "clearly erroneous in the view of the reliable, probative and substantial evidence on the whole record." (McCraw, 565 S.E.2d at 289). The previous briefs and Orders have also failed to take into consideration the medications for lumbar radiculopathy and the side effects of those medications on the Appellant's ability to perform and maintain a full-time job.

Sincerely,
s/ Jerry Arnette
Jerry Arnette
546 Pearlie Road
Dillon, South Carolina 29536
(843) 506-5967
Appellant, *pro se*

cc: Michael T. Brittingham
Nexsen Pruet, LLC
1230 Main Street suite 700
(29201)
Post Office Drawer 2426
Columbia, South Carolina 29202

James T. Hedgepath
Nexsen Pruet, LLC
104 South Main Street, Suite 900
Post Office Drawer 10648
Greenville, South Carolina 29603

