

**IN THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS**

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**APPEAL FROM SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION  
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION**

67486

**FULL COMMISSION REVIEW**

Commissioner Melody James  
Commissioner Andrea Roche  
Commissioner T. Scott Beck

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WCC File No.: 1113278

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Gary Jeter, Jr., Employee.....Respondent

vs.

- and -

Hartford Insurance Company  
of the Midwest, Carrier.....Appellant

In re: All of My Sons Moving & Storage, Inc.

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**APPELLANT'S NOTICE OF INTENT TO APPEAL AND PETITION FOR REVIEW  
OF THE DECISION AND ORDER OF THE  
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION**

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TO: Jenny Abbott Kitchings, Clerk of Court for the South Carolina Court of Appeals; The Honorable Virginia L. Crocker, Judicial Director of the South Carolina Workers' Compensation Commission; and Linda McKenzie, Attorney for Gary Jeter, Jr., Employee:

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APR 16 2013

SC Court of Appeals

YOU WILL PLEASE TAKE NOTICE that the Defendant/Appellant, Hartford Insurance Company of the Midwest, by and through the undersigned attorney, does hereby appeal to the South Carolina Court of Appeals from a Decision and Order of the South Carolina Workers' Compensation Commission's Appellate Panel. The Appellate Panel's Order is dated March 12, 2013, and is hereby appealed on the grounds set forth below:

1. **THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION ERRED IN FINDING AS A FACT AND CONCLUDING AS A MATTER OF LAW THAT GARY JETER SUSTAINED A COMPENSABLE INJURY BY ACCIDENT ARISING OUT OF AND IN THE COURSE AND SCOPE OF HIS EMPLOYMENT WITH DEFENDANT/APPELLANT ON SEPTEMBER 23, 2011.**
2. **THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION ERRED IN FINDING AS A FACT AND CONCLUDING AS A MATTER OF LAW THAT GARY JETER'S INJURIES INCLUDE INJURIES TO THE BACK, NECK, AND LEFT ARM AND THAT SUCH INJURIES ARE THE DIRECT AND PROXIMATE RESULT OF HIS WORK INJURY OF SEPTEMBER 23, 2011.**<sup>1</sup>
3. **THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION ERRED IN FINDING AS A FACT AND CONCLUDING AS A MATTER OF LAW THAT GARY JETER ALSO SUSTAINED INJURIES TO HIS BILATERAL SHOULDERS, LEFT HAND, AND FINGERS AS A RESULT OF HIS WORK INJURY OF SEPTEMBER 23, 2011.**<sup>2</sup>
4. **THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION ERRED IN FINDING AS A FACT AND CONCLUDING AS A MATTER OF LAW THAT GARY JETER IS NOT PRESENTLY ABLE TO WORK.**
5. **THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION ERRED IN FINDING AS A FACT AND CONCLUDING AS A MATTER OF LAW THAT AS A RESULT OF GARY JETER'S INJURIES SUSTAINED IN THE SUBJECT WORK ACCIDENT, GARY JETER HAS BEEN TEMPORARILY**

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<sup>1</sup> Claimant also testified of ongoing headaches that he attributes to his work-related accident. Appellant submits that a finding that Gary Jeter's headaches are compensable constitutes error and abuse of discretion.

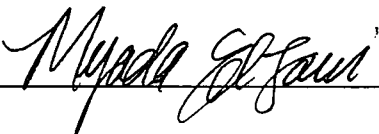
<sup>2</sup> The Orders of the Full Commission, dated February 21, 2013 and March 12, 2013, are inconsistent regarding Gary Jeter's injured body parts.

**TOTALLY DISABLED FROM SEPTEMBER 23, 2011 TO THE PRESENT AND CONTINUING.**

- 6. THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION ERRED IN FINDING AS A FACT AND CONCLUDING AS A MATTER OF LAW THAT GARY JETER IS ENTITLED TO PAST TEMPORARY TOTAL DISABILITY COMPENSATION FOR THE PERIOD 9/23/11 THROUGH 8/1/12, IN THE AMOUNT OF \$7,172.51, REPRESENTING 44 2/7 WEEKS OF COMPENSATION.**
- 7. THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION ERRED IN FINDING AS A FACT AND CONCLUDING AS A MATTER OF LAW THAT GARY JETER IS ENTITLED TO ONGOING TEMPORARY TOTAL DISABILITY COMPENSATION UNTIL HE REACHES "MAXIMUM MEDICAL IMPROVEMENT" WITH RESPECT TO ALL OF HIS WORK INJURIES.**
- 8. THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION ERRED IN FINDING AS A FACT AND CONCLUDING AS A MATTER OF LAW THAT GARY JETER IS NOT PRESENTLY AT "MAXIMUM MEDICAL IMPROVEMENT" WITH RESPECT TO HIS INJURIES.**
- 9. THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION ERRED IN FINDING AS A FACT AND CONCLUDING AS A MATTER OF LAW THAT GARY JETER IS ENTITLED TO PAYMENT OF HIS PAST MEDICAL TREATMENT PROVIDED BY GREENVILLE HOSPITAL SYSTEM (GREENVILLE MEMORIAL HOSPITAL EMERGENCY ROOM), SOUTHEASTERN NEUROSURGICAL & SPINE INSTITUTE, AND ALL DIAGNOSTIC AND THERAPY TREATMENTS REFERRED BY THEM TO THE PRESENT AND CONTINUING UNTIL FURTHER ORDER OF THE COMMISSION.**
- 10. THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION ERRED IN FINDING AS A FACT AND CONCLUDING AS A MATTER OF LAW THAT GARY JETER IS ENTITLED TO FURTHER MEDICAL CARE AT THE DIRECTION AND HANDS OF SOUTHEASTERN NEUROSURGICAL & SPINE INSTITUTE, AND TO ALL OTHER MEDICAL PROVIDERS REFERRED BY THEM FOR CLAIMANT'S TREATMENT.**
- 11. THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION ERRED IN FINDING AS A FACT AND CONCLUDING AS A MATTER OF LAW THAT ADDITIONAL MEDICAL TREATMENT, MOST PROBABLY, WILL TEND TO "LESSEN THE PERIOD OF GARY JETER'S DISABILITIES" AS THAT TERM IS DEFINED UNDER THE SOUTH CAROLINA WORKERS' COMPENSATION ACT.**

12. THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION ERRED AS A MATTER OF LAW AND ABUSED ITS DISCRETION IN FINDING THAT THE HARTFORD INSURANCE COMPANY OF THE MIDWEST IS THE PROPER CARRIER, THE ERROR BEING THAT THERE IS AN ABSENCE OF AN EMPLOYEE AND EMPLOYER RELATIONSHIP BETWEEN GARY JETER AND STRATEGIC OUTSOURCING, INC., A PROFESSIONAL EMPLOYER ORGANIZATION WHICH IS INSURED BY HARTFORD INSURANCE COMPANY OF THE MIDWEST, BECAUSE GARY JETER IS AN EMPLOYEE OF ALL OF MY SONS MOVING & STORAGE, INC., NOT OF STRATEGIC OUTSOURCING, INC.; THEREFORE, THE COMMISSION IS DEPRIVED OF JURISDICTION.

Respectfully submitted,

By: 

Myada O. El-Sawi, Bar No. 100362  
Turner Padgett Graham & Laney P.A.  
Post Office Box 1509  
Greenville, SC 29601  
Telephone No.: 864-552-4611  
Email: mel-sawi@turnerpadgett.com

Greenville, South Carolina

April 5, 2013

STATE OF SOUTH CAROLINA

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) **CERTIFICATE OF SERVICE**

COUNTY OF GREENVILLE

The undersigned employee of the Law Offices of Turner Padgett Graham & Laney P.A 200 East Broad Street, Suite 250, P.O. Box 1509 Greenville, SC 29602 does hereby certify that he or she has served the following named party (or parties) and/or individual(s) with the document(s) indicated below, in accordance with Regulations 67-210, 67-211, 67- 213, 67-214 and 67-215, and such other law as may be applicable, by mailing a copy of the same to the party and/or individual in the United States Mail with sufficient first class postage affixed thereto, and a return address clearly marked on the date stated below:

Gary Jeter, Jr. vs. All My Sons Moving &  
Storage, Inc.

WCC No: Appellate Case No.: 2013-000599

**DOCUMENT(S) SERVED:** Defendant/Appellant's Notice of Intent to Appeal


April 8, 2013

**VIA REGULAR FIRST CLASS MAIL:**

Peter H. Dworjanyn, Esquire  
P.O. Box 12487  
Columbia, SC 29211

Ms. Virginia Crocker, Judicial Director  
S.C. Workers' Compensation Commission  
Post Office Box 1715  
Columbia, South Carolina 29202

Linda McKenzie, Esquire  
Bowen McKenzie & Bowen  
P.O. Box 2547  
Greenville, SC 29602



Staci Elrod,

Paralegal to Myada El-Sawi

April 8, 2013

Myada O. El-Sawi  
Email: MEI-Sawi@TurnerPadget.com  
Writer's Direct Dial: (864) 552-4611

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

RE: Gary Jeter, Jr. v. Hartford Insurance Company of the Midwest  
**WCC File No.: 1113278**

Dear Ms. Kitchings:

Please find enclosed the original and one (1) copy of Defendant/Appellant's Notice of Intent to Appeal, with attached Decision and Order of the South Carolina Workers' Compensation Commission, which is to be challenged on appeal, in the above referenced matter. Also, please find enclosed the original and one copy of the Certificate of Service and our filing fee check in the amount of \$100.00. I am serving the enclosed Notice, with attachments, on Linda B. McKenzie, Esquire, attorney for Gary Jeter, Employee/Respondent and Peter H. Dworjanyn, Esquire, attorney for ULLICO.

A separate appeal has been filed regarding this same matter. It may be most efficient if both appeals are heard on the same day.

Please file the original documents and return a copy to me in the self-addressed stamped envelope I have enclosed. I truly appreciate your assistance in this matter. Please contact me if you have any questions.

With kind and warm regards, I am

Very truly yours,

TURNER PADGET GRAHAM & LANEY P.A.



Myada O. El-Sawi, Esq.

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SC Court of Appeals

# TURNER PADGET

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Re: Gary Jeter, Jr.

April 8, 2013

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MOE/krs

Enclosures: Appellant's Notice of Intent to Appeal / Certificate of Service  
SASE / Filing Fee

cc: The Honorable Virginia L. Crocker (w/enclosures)  
Peter H. Dworjanyn, Esquire (w/enclosures)  
Linda B. McKenzie, Esquire (w/enclosures)  
Ms. Angie Green (w/enclosures)  
Mr. Mark Hicks **SENT VIA EMAIL** (w/o enclosures)  
Peter H. Dworjanyn, Esquire (w/enclosures)

Hasler

04/08/2013

US POSTAGE

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