



Court of Appeals of Georgia

August 18, 2015

TO: Mr. Michel Thomas, 7923 thorn Croft Manor Lane, Richmond, Texas 77407

RE: **A15A2259. Michel Thomas v. Rollins, Inc. d/b/a Orkin, Inc., et al.**

CHECK RETURN

- Your check number _____ in the amount of _____ written on the account of your firm for the filing fee in _____ is enclosed. Please be advised that this Court is returning your check since the filing fee was already paid by _____.

CASE STATUS - DISPOSED

- The referenced appeal was _____ on _____. The remittitur issued on _____, divesting this Court of any further jurisdiction of your case. The case is therefore, final.

CASE STATUS - PENDING

- The Appellant's Brief that was filed with the Supreme Court was transferred to the Court of Appeals and docketed in this Court on July 29, 2015.**

APPLICATION FOR PERMISSION TO APPEAL A PROBATION REVOCATION

- To appeal a probation revocation, you will need to file a Discretionary Application with this Court. Rule 31 of the Rules of the Court of Appeals of Georgia describes a Discretionary Application and the items you would need to include with your application.

A Discretionary Application must be filed within 30 days of the stamped filed date on the order that you are appealing and the application must be accompanied by a proper Certificate of Service and a pauper's affidavit or the \$80.00 filing fee. You must also comply with all the other applicable rules of Court regarding filing with the Court of Appeals of Georgia.

Enclosed, please find a copy of the Rules of the Court of Appeals for your review.



Michel Thomas
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in Lane
Mud TX 777409

A15A2259. Michel Thomas v. Rollins, Inc d.b.a.
Orkin, Inc, et al

NT Brief filed w/ Supreme Court transferred to
CoA on 7.29.15.

docketed in SEP 2015 Term
Jan 2016 Term
APR 14 2016

47 Penn Ave
Albino, CA 36

Original

COURT OF APPEALS
IN STATE OF GEORGIA

Michel Thomas
Appellant,

v.

Rollins, Inc., db/a Orkin, Inc., et al
Appellee

)
) APPEAL CASE NUMBER: A15A2259
)
)
) LOWER CASE NUMBER: 2013-444-4
)
)

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Appellant's Brief from Notice of Appeal
Of Final Judgment from the Newton County
Superior Court Civil Action 2013-444-4

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Appellant's Brief

Michel Thomas

7923 Thorn Croft Manor Lane Richmond Texas 77407

770-255-8917

Pro Se

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3. O C G A 9-11-60(a)
4. O C G A 9-11-60(f)

IN THE SUPERIOR COURT OF NEWTON COUNTY
STATE OF GEORGIA

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FILED IN OFFICE
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NEWTON COUNTY, GEORGIA

MICHEL THOMAS,

Appellant,

v.

ROLLINS, INC., d/b/a ORKIN INC.,

Appellee,

SEDGWICK CMS, INC.,

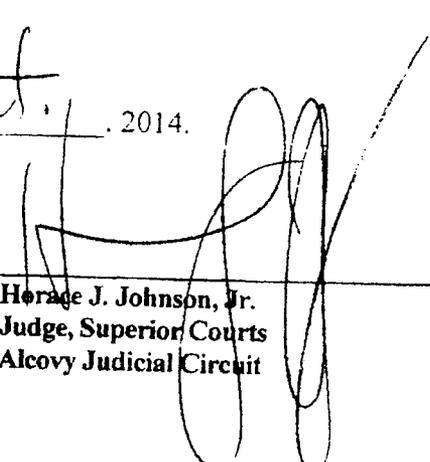
Third Party Administrator
Appellee.

CIVIL ACTION
FILE NO.: 2013-444-4

ORDER

The above-styled matter comes before the Court on Appellant's Motion to Void and Set Aside Judgment, Motion to Void Judgment, and Motion to Set Aside Judgment. The Appellant having filed appeals with the appellate courts, all of which have been denied. Having filed a Motion to Void and Set Aside Judgment on May 9, 2014, a Motion to Void Judgment on June 2, 2014, and a Motion to Set Aside Judgment on June 2, 2014, and the Court having considered the same the motions are DENIED.

SO ORDERED this 22nd day of Oct., 2014.



Horace J. Johnson, Jr.
Judge, Superior Courts
Alcovy Judicial Circuit

GEORGIA NEWTON COUNTY
I HEREBY CERTIFY THAT THE
above and foregoing is a
true copy of the original
filed in this office.

LINDA D. HAYS, CLERK

Date 9/23/15 By Bebecca H. Hays
Chief Deputy Clerk

Claimant/Appellant suffered a stroke. (2). February 2th, 2010, Claimant/Appellant suffered a hand and wrist injury. Ten days later on February 12th, 2010, Claimant/Appellant was terminated. (3). In February 2011, Claimant/Appellant also suffered mental and emotional injuries due to the two previously sustained physical injuries (stroke and wrist and hand injury). Claimant filed WC-14s on around November 15th, 2011 for the stroke and hand and wrist injuries for income benefits and medical treatment, as well as payment of medical bills after Claimant/Appellant went to the emergency room for the stroke, and on January 30th, 2012 Claimant filed another WC-14 with the board for a hearing to determine if Appellant sustained a compensable injury and was due income benefits and mental and emotional treatment.

The Administrative Law Judge (ALJ) conducted a hearing on around August 9th, 2012 and denied Claimant/Appellants' claims (all three), and the Appellate Division held the application review hearing on December 4th, 2012, where the ALJ's award was upheld by the Appellate division.

Claimant/Appellant filed a timely notice of Appeal to the Newton County Superior Court where the trial court affirmed the award of the Appellate Division and the ALJ, after a hearing was conducted on April 17th, 2013. Claimant/Appellant then filed a timely notice of appeal with the Honorable Georgia Supreme Court for violations of Claimant/Appellant's constitutional rights.

JURISDICTION

The Court of Appeals of Georgia has jurisdiction of this case under O C G A 9-11-60(a) and (f), also under the Georgia Constitution, Article VI, Section I, Paragraph VIII and Article VI, Section V, Paragraph III.

Claimant/Appellant's constitutional rights were

violated under the Georgia Constitution, Article I, Section I, Paragraphs I and II.

PART I.

MATERIAL FACTS

Administrative Law Judge/Hearing of August 9th, 2012

The Employer/Appellee did not file a notice to controvert with the board (see Index of Record, Appellant's Appendix of Record tab #1) on any of Claimant/Appellant's three claims as mandated under O C G A 34-9-221(d), it states, " If the employer controverts the right to compensation, it shall file with the board." "Stating the grounds upon which the right to compensate is controverted."

Claimant/Appellant raised this issue in Claimant/Michel Thomas' Brief, filed on September 4th, 2012, see page 7, first paragraph, (see Appellant's Appendix of Record tab #2). Therefore the Administrative Law Judge did not have subject matter jurisdiction to deprive Appellant's of his income benefits and treatment. The award handed down by the Administrative Law Judge on September 19th, 2012 was illegal.

Appellate Division/Hearing of December 4th, 2012

The Appellate Division violated Appellant's constitutional rights under the Georgia Constitution, Article I, Section I, Paragraphs I and II, when the Appellee never filed a notice to controvert (see Index of the Record in Appellant's Appendix of Record tab #1) as mandated by O C G A 34-9-221(d). Appellant raised this issue with the Appellate Division, see Appellant's Appendix of Record, tab #6, #7, and #9, Application for Review (tab #6). Claimant/Appellant's Brief (tab #7), and Claimant/Appellant's motion to reconsider (tab #9).

The Appellate Division deprive Appellant of his income benefits and treatment when it did not have subject matter jurisdiction to do so, when the Appellee/Employer never filed a notice to controvert with the board, (see Appellant's Appendix of Record tab #1, Index of the Record) as mandated by O C G A 34-9-221(d).

Newton County Superior Court/April 17th, 2013 Hearing

The trial court permitted the Employer/Appellees' attorney to write the order and e-mail it to the trial judge, (see Appellant's Appendix of Record tab #15), the order that the Appellee/Employer's attorney wrote was used by the trial judge, (see Appellant's Appendix of Record tab #16, at the bottom of trial court's Order of May 3rd, 2013) was never filed with the Newton County Superior Court Clerk, (see Appellant's Appendix of Record tab #18, Index of Record of Newton County Superior Court of Georgia), therefore the trial court did not have subject matter jurisdiction to use the order written by Andrew (Drew) Haeberle of Drew, Eckl, and Farnham, also there is no statute in the state of Georgia that permit a party's attorney in the case to write the order and/or proposed order of a notice of appeal. The trial court did not adhere to O.C.G.A. 34-9-105, due to the trial court not having all the documents and papers in my case prior to conducting the April 17th, 2013 hearing and Appellant raise that issue with the trial court (see Appellant's Appendix tab #12 (Submission of Additional Documents), and #13(Notice of Sabotage and Fraud), and tab #17(motion to reconsider to trial court, page 4, item #6.) they were not sent to the trial court as mandated, prior to the hearing being conducted, instead the hearing was held without a complete record. Therefore the trial court did not have subject matter jurisdiction to conduct the hearing and deny Appellant's income benefits and treatment when all documents and papers were not sent over to the trial court as mandated by O C G A 34-9-105.

The trial court did not have subject matter jurisdiction to deprive Appellant of his income benefits and treatment, when the Appellee/Employer never filed a notice to controvert with the

board, (see Appellant's Appendix of Record, tab #1, Index of the Record) as mandated by O C G A 34-9-221(d). Appellant raised this issue with the trial court (see Appellant's Appendix of Record, tab #11, (Notice of Appeal to Newton County Superior Court), and tab #14, (Appellant's Response to Brief of Appellee)) This violated Appellant's constitutional rights under the Georgia Constitutional, Article I, Section I, Paragraph I and II, also under the United States Constitution, amendments five and fourteen.

PART II. ENUMERATION OF ERRORS

- 1. The trial court erred when the trial court fail to void and/ or vacate the trial court's order, the Appellate Division's and the Administrative Law Judge's awards which deprived Appellant of his income benefits and treatment, when no subject matter jurisdiction existed for the trial court, Appellant Division, and Administrative Law Judge to deprive Appellant of his income benefits and treatment.**
- 2. The trial court erred when it fail to adhere to O C G A 34-9-60(a) and (f) and erred when no law was used to deny Appellant's Motion to Void, the trial court erred when there was no legal basis for the trial court to deny Appellant's Motion to Void.**

PART III. Citation and Argument

- 1. The trial court, Appellate Division, and Administrative Law Judge did not have subject matter jurisdiction to deprive Appellant of his income benefits and medical treatment when the Appellee/Employer never filed a notice to controvert with the board as required under O.C.G.A. 34-9-221(d),(see Appellant's Appendix of Record tab #1, Index of the Record), this is an undisputed and indisputable fact. The notice to controvert is required to be filed with the board by the Appellee/Employer, without it being filed no subject matter jurisdiction exist with the trial court, Appellate Division and Administrative Law Judge that permitted them to deprive**

Appellant of his income benefits and treatment. Appellant made the ALJ aware in my brief, (see Appellant's Appendix of Record tab #2, Claimant, Michel Thomas' brief, page 7, first paragraph). Therefore Appellant was not given "fair notice" of the fact that the Appellee/Employer was controverting the three claims and on what grounds. This violates Appellant's constitutional rights under the Georgia Constitution, Article I, Section I, Paragraph I and II, and the United States Constitution, amendment five and fourteen. The ALJ also acted with out subject matter jurisdiction, discretion or legal authority to deny Appellant's three claims. O.C.G.A 34-9-221(d) states, "If the Employer controverts the right to compensation, it shall file with the board." "Stating the ground upon which the right to compensate is controverted". The Appellees clearly could not controvert the claim without filing a notice to controvert with the board and the Appellees failure to do so prohibits the Appellees from controverting Appellant's three claims and the ALJ, Appellate Division, and trial court had absolutely no subject matter jurisdiction, discretion or legal authority to deny Appellants' claims. Therefore the ALJ , Appellate Division and the trial court denied Appellant's three claims illegally and violates Appellant's constitutional rights under the Georgia Constitution Article I, Section I, paragraph I and II, and the United States Constitution amendments five and fourteen. Appellant was not given a "fair notice" violating Appellants' due process rights and equal protection rights, without the notice to controvert being file with the board. The notice to controvert must be filed with the board in order to controvert a claim, therefore Appellant was not afforded equal protection under paragraph II of the Georgia Constitution.

The Newton County Superior Court violated Appellant's due process and equal protection rights under the Georgia Constitution, Article I, Section I, Paragraph I and II when it denied Appellant's notice of appeal affirming the illegal award of the Appellate Division , but the trial court did not have subject matter jurisdiction to do so, when the Appellee/Employer never

filed a notice to controvert with the board, (see Appellant's Appendix of Record, tab #1, Index of the Record). The Newton County Superior Court violated Appellant constitution rights in not adhering to O.C.G.A 34-9-221(d) which requires a notice to controvert be filed with the board that notice to controvert was never filed by the Appellee/Employer, (see Appellant's Appendix of Record, tab #1, Index of te Record therefore the Newton County Superior Court did not have subject matter jurisdiction to deprive Appellant of his income benefits and treatment. The Appellees failed to give Appellant "fair notice" as required by O.C.G.A. 34-9- 221(d) to file a notice to controvert with the Board before a claim can be controverted and the Newton Superior Court violated Appellants' constitutional rights under the Georgia Constitution, Article I, Section I, Paragraph I and II and the United States Constitution amendment five and fourteen.

Administrative Law Judge/Hearing of August 9th, 2012

The Administrative Law Judge deprive Appellant of his income benefits and treatment, (see Appellant's Appendix of Record, tab #4) without subject matter jurisdiction to do so.

The Administrative Law Judge (ALJ) violated Appellant constitutional rights under Article I, Section I, Paragraph I and II of the Georgia Constitution and Appellant constitutional rights as previously mention the ALJ had no subject matter jurisdiction, discretion or legal authority to hear the Appellees' notice to controvert when no notice to controvert was ever filed with the board, (see Appellant's Appendix of Record tab #1, Index of the Record) as mandated under O.C.G.A. 34-9-221(d), therefore the award was illegal by the ALJ when he denied Appellant's three claims. Appellant's constitutional rights were violated when the hearing was conducted. The ALJ did not have the subject matter jurisdiction to deprive Appellant of his income benefits and treatment when the Appellee/Employer never filed a notice to controvert as mandated by O C G A 34-9-221(d),(see Appellants's Appendix of Record tab #1, Index of Record). This also violated Appellant's constitutional rights under the United States Constitution

amendments five and fourteen.

Appellate Division/Hearing December 4th, 2013

The Appellees never filed a notice to controvert, (see Appellants's Appendix of Record tab #1, Index of the Record,) as mandated by O C G A 34-9-221(d) therefore Appellant did not receive "fair notice" and the Appellate Division denied Appellant's award illegally, when they had no subject matter jurisdiction to deprive Appellant of his income benefits and treatment when the Appellee/Employer never filed a notice to controvert as mandated by O C G A 34-9-221(d), see Appellant's Appendix of Record tab#1, the Index of the Record. The Appellate Division deprived Appellant of his income benefits,(see Appellant's Appendix of Record, tab #8.), without subject matter jurisdiction to do so.

This blatantly violates Appellant's constitutional rights under the Georgia Constitution, Article I, Section I, Paragraph I and II and under the United Constitution amendments five and fourteen.

Undisputed and Uncontested Facts of April 17th, 2013/Trial Court

The trial court denied Appellant's notice of appeal, (see Appellant's Appendix of Record, tab #16) with out the subject matter jurisdiction to deprive Appellant's of his income benefits and treatment. The Appellee never filed a notice to controvert as mandated under OCGA 34-9-221(d)

Appellant's constitutional rights were violated by the trial court from the hearing conducted on April 17th, 2013. The trial court did not conduct a hearing with all the documents and papers from the record of the previous hearings (from August 9th, 2012 and December 4th, 2012,) which was mandated under O.C.G.A. 34-9-105 and Appellant made the trial court aware of this fact, see Notice of Sabotage and Fraud ,see Appellant's Appendix of Record tab #13 and Submission of Additional Documents and Papers, (see Appellant's Appendix of Record tab #12), therefore the trial court did not have subject matter jurisdiction to conduct that hearing on April 17th, 2013 when all documents and papers were not sent over to the trial court as mandated by

O C G A 34-9-105. Also the trial court did not have subject matter jurisdiction to deprive Appellant of his income benefits and treatment when no notice to controvert was ever filed by the Appellee/Employer, see Appellant's Appendix of Record, tab #1, Index of the Record.

The trial court's actions and/or non-action violated Appellant's constitutional rights under Article I, Section I, Paragraph I and II of the Georgia Constitution, this also violated Appellant's constitutional rights under the United Constitution, amendments five and fourteen.

The final order in Appellant's notice of appeal was written by The Appellees'/Employer's attorney, (see Appellant's Appendix of Record, tab #15), but this was not a motion or motion hearing and the trial court never made a ruling on the notice of appeal prior to the Appellees writing the order and e-mailing it to the trial judge, (see Appellant's Appendix of Record tab #15.) the order the trial judge used from the Appellees' attorney was never filed with the Newton County Superior Court Clerk and was therefore not part of the record, (see Appellant's Appendix of Record tab #18, Index of Record of Newton County Superior Court of Georgia), but was used by the trial judge to deprive Appellant of his income benefits and treatment,(see Appellant's Appendix of Record tab#16, at the bottom of trial judge's Order), but the trial court judge did not have subject matter jurisdiction over the order written by Andrew (Drew) Haeberle, Appellee/Employer's attorney, when there is no Georgia statute that permits an attorney whom is representing a party in the case to write the order and the fact it was never filed with the Newton County Superior Court Clerk, see Appellant's Appendix of Record tab #18, Index of Record of Newton County Superior Court of Georgia.

Appellant's constitutional rights under Article I, Section I, Paragraph I and II of the Georgia Constitution and of the United States Constitution amendments five and fourteen. Appellant was not given an opportunity to review the order written by the Appellee's/Employer attorney Andrew(Drew) Haeberle, see Appellant's Appendix of Record tab #15,. Please see the order of the trial judge, at bottom of page first page, see Appellant's Appendix of Record tab #16.

The Appellee's attorney was not elected as Superior Court Judge for Newton County as required under the Georgia Constitution, Article VI, Section VII, Paragraph I.

The trial court further violated Appellant's constitutional rights under Georgia Constitution, Article I, Section I, Paragraph I and II, and the United States Constitution amendments five and fourteen, when no notice to controvert was ever filed by the Appellee/Employer. (see Appellant's Appendix of Record, tab #1, the Index of Record) therefore the trial court did not have subject matter jurisdiction to deprive Appellant of his income benefits and treatment.

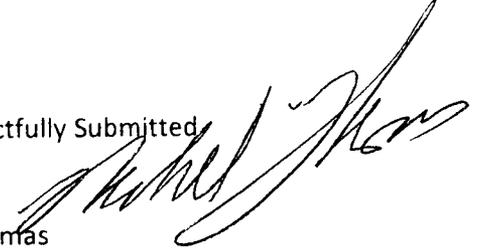
2. The trial court erred when it did not adhere to O C G A 9-11-60 (a) and (f), Appellant is permitted to file a motion to void in any court at any time when no subject matter jurisdiction exist by the trier of fact. There is no statute of limitations or any other restrictions that prevent Appellant from filing a motion to void with the trial court, whether Appellant filed an appeal with the Georgia Court of Appeals is irrelevant and the trial court erred when he used it as the basis to deny Appellant's motion to void.

In Conclusion

Appellant ask the Georgia Court of Appeals to reverse the decision of the trial from the order of October 22nd, 2014, and void the trial court's Order of May 3rd, 2013, the Appellate Division award of January 31st, 2013, and the ALJ award of September 19th, 2012, for all the reason stated within. Because neither the trial court, Appellate Division, or Administrative Law Judge had the subject matter jurisdiction to deprive Appellant of his income benefits and treatment, when the Appellee/Employer never filed a notice to controvert with the board, (see Appellant's Appendix of Record tab#1, the Index of Record). Also the trial court did not have subject matter jurisdiction to use an order written by the Appellee's Employer's attorney, Andrew Haeberle, (see Appellant's Appendix of Record tabs #15 and #16), the trial court Order of May 3rd, 2013 at the bottom of first page, when it was never filed with the Newton County Superior Court Clerk, see Appellant's Appendix of

Record tab #18, and the trial court did not have subject matter jurisdiction to conduct a hearing on April 17th, 2013 that was used to deprive Appellant of his income benefits and treatment when all the documents and papers were not sent over to the trial court prior to the hearing,(see Appellant's Appendix of Record tabs #12 and #13), as mandated by O C G A 34-9-105.

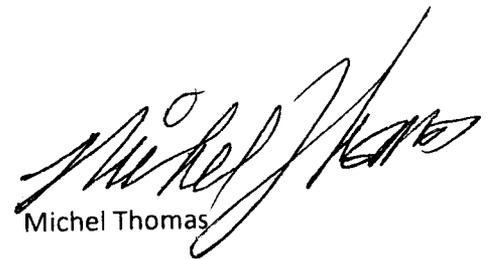
Humbly and Respectfully Submitted


Michel Thomas

Date: August 14th, 2015/ 770-255-8917/ 7923 Thorn Croft Manor Lane Richmond, Texas 77407

Certificate of Service

I hereby certify that a true and correct copy of Appellant's Brief and Appellant's motion to void were sent to Appellee's attorney, James P. Anderson at 880 West Peachtree Street Atlanta, Georgia, 30309 by way of United States Postal Service First Class Mail on August 14th, 2015.


Michel Thomas