

State of South Carolina
Executive Department



FILED

OCT 24 2007

Mark Hammond
SECRETARY OF STATE

Office of the Governor

EXECUTIVE ORDER NO.

2007-20

WHEREAS, it is the policy of the Governor and of this State that injured workers receive the largest portion of workers' compensation awards to which they are entitled; and

WHEREAS, Section 42-15-90 of the South Carolina Code of Laws provides that "fees for attorneys . . . shall be subject to the approval of the [Workers' Compensation] Commission" and S.C. Code Ann. Reg. 67-1205 requires that all attorneys' fees approved by the Commission comply with Rule 1.5 of the South Carolina Rules of Professional Conduct, and

WHEREAS, Rule 1.5 of the South Carolina Rules of Professional Conduct governs attorneys' fees and provides that "[a] lawyer shall not make an agreement for, charge, or collect an unreasonable fee or an unreasonable amount for expenses" and Comment Number 3 to Rule 1.5 provides that "contingent fees, like any other fees, are subject to the reasonableness standard of paragraph (a) of this Rule"; and

WHEREAS, the practices of the South Carolina Workers' Compensation Commission, the entity charged with ensuring that the public is protected from unnecessary and excessive legal fees, and the current Form 61, the form used by the Commission to approve attorneys' fees, provide inadequate protection to claimants from excessive attorneys' fees; and

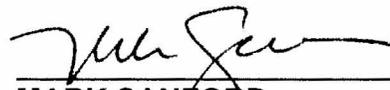
WHEREAS, Form 61 does not provide the Workers' Compensation Commission with sufficient information to ensure that requested attorneys' fees comply with S.C. Code Ann. Reg. 67-1205 and Rule 1.5 of the South Carolina Rules of Professional Conduct, as required by S.C. Code Ann. Reg. 67-1204(D).

NOW THEREFORE, in accordance with the statutes, regulations, and rules of this State, I hereby direct the South Carolina Workers' Compensation Commission and each of its members to:

- (1) confirm that all attorneys' fees approved pursuant to S.C. Code Ann. § 42-15-90 and S.C. Code Ann. Reg. 67-1204 and 67-1205 are reasonable under the factors enumerated in Rule 1.5(a) of the Rules of Professional Conduct, which are as follows:
 - (a) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;
 - (b) the likelihood that the acceptance of the particular employment will preclude other employment by the lawyer;
 - (c) the fee customarily charged in the locality for similar legal services;
 - (d) the amount involved and the results obtained;
 - (e) the time limitations imposed by the client or by the circumstances;
 - (f) the nature and length of the professional relationship with the client;
 - (g) the experience, reputation, and ability of the lawyer or lawyers performing the services; and
 - (h) whether the fee is fixed or contingent.

- (2) in cases in which the attorneys' fee is approved, issue a written order approving the attorneys' fee portion of the workers' compensation award that satisfies the ethical and reasonableness requirements of Rule 1.5(a) of the Rules of Professional Conduct.

GIVEN UNDER MY HAND AND
THE GREAT SEAL OF THE
STATE OF SOUTH CAROLINA
ON OCTOBER 24th, 2007.



MARK SANFORD
Governor

ATTEST:



MARK HAMMOND
Secretary Of State

