



**IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA**

SALTER JAMES E,	)	
Plaintiff,	)	
	)	
V.	)	Case No.: CV-1998-000274.00
	)	
SUMMIT CONSTRUCTION COMPANY,	)	
INC,	)	
Defendant.	)	

**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

Pending before this Court is Defendant’s Motion for Declaratory Judgment and after considered the evidence and arguments regarding same, the Court makes the following findings of fact and conclusions of law:

**I. FINDINGS OF FACT**

**A. Defendant’s Motion for Declaratory Judgment**

1. On December 2, 1999 this Court entered an order approving a Joint Petition for Approval of Compromise Lump Sum Settlement for Workers’ Compensation Benefits in the above-styled cause based on disputed allegations of an accident and injury occurring on March 18, 1997. Claims for future medical expenses were left open.

2. On May 20, 2014, Defendant filed its Motion for Declaratory Judgment. Service was attempted on Plaintiff through his prior attorney of record, by certified mail at all known addresses, and by private process server. Ultimately, service was obtained via publication.

3. Defendant has provided Plaintiff with reasonably necessary medical treatment for the condition arising from the work accident pursuant to *Code of Alabama* (1975) § 25-5-77 continuously since 1999.

4. At Plaintiff’s request, Defendant provided a list of four physicians from which plaintiff selected Dr. Rony Lee as his authorized treating physician.

5. On August 30, 2013, Dr. Lee concluded based on the results of a drug test that Plaintiff was obtaining narcotics from another source and Dr. Lee declined further treatment to Plaintiff as a result of Plaintiff’s failure to comply with reasonably necessary medical treatment.

6. On August 10, 2013, Plaintiff was treated at the South Baldwin Regional Medical Center Emergency Room complaining of back pain resulting from a twisting injury when he “moved wrong.”

7. On August 18, 2013, Plaintiff was again treated at the South Baldwin Regional Medical Center Emergency Room after being involved in a single vehicle automobile accident. Medical records reflect that Plaintiff was incoherent and possibly intoxicated at the time of said motor vehicle accident.

8. Plaintiff has advised that he is receiving treatment from an unnamed physician in Birmingham, Alabama. Despite requests from Defendant’s workers’ compensation provider, Plaintiff has refused to provide the name of any treating physician and/or to provide consent allowing Defendant to obtain medical records from any treating physician.

9. At all times relevant hereto, Plaintiff has had an authorized treating physician designated by Defendant and/or its workers’ compensation carrier in accordance with the Alabama Workers’ Compensation Act. Plaintiff has not requested a treating physician since being discharged from the care of Dr. Lee as a result of Plaintiff’s non-compliance with treatment.

10. None of the statutory exceptions to employer approval of a treating physician are present.

## II. CONCLUSIONS OF LAW

1. Plaintiff, having been duly served with Defendant’s motion for declaratory judgment and written discovery and not being an infant or an unrepresented incompetent person, has failed to plead or otherwise defend against Defendant’s request for affirmative relief.

2. To date, Defendant has fulfilled its obligations to provide Plaintiff with reasonable medical care for the injuries caused in the March 18, 1997 work accident.

3. Plaintiff has failed to comply with reasonably necessary medical care as required by the Alabama Workers’ Compensation Act by failing to follow reasonable instructions from his authorized treating physician and by taking medications, legal and/or illegal, from sources other than his authorized treating physician.

4. Plaintiff has been involved in at least two accidents involving injuries following the subject work accident. Plaintiff has failed to act in a reasonable manner by refusing to identify any medical provider, other than the authorized treating physician, from whom Plaintiff has sought medical treatment.

## III. ORDER

It is **Ordered** and **Adjudged** that:

(1) Defendant has complied with the Alabama Workers' Compensation Act by providing an authorized treating physician to provide medical treatment for injuries sustained in the work accident of March 18, 1997.

(2) The Alabama Workers' Compensation Act does not require Defendant to provide medical treatment for Plaintiff by any physician other than Dr. Lee as he was Plaintiff's panel selection.

(3) Expenses of treatment sought and/or obtained by Plaintiff from physicians or medical providers unauthorized by Defendant are not the responsibility of Defendant pursuant to the Alabama Workers' Compensation Act.

(4) In light of Plaintiff's failure to comply with reasonable medical treatment by authorized treating physicians, Defendant has no further obligation to provide medical treatment to Plaintiff pursuant to the Alabama Workers' Compensation Act as a result of the March 18, 1997 accident.

**DONE this 3<sup>rd</sup> day of December, 2014.**

**/s/ JODY W. BISHOP**  
**CIRCUIT JUDGE**