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THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

Opinion No. 5906 (S.C. Ct. App. filed April 27, 2022,
Withdrawn, Substituted, and Refiled November 2, 2022)

Issac D. Brailey, Claimant .....Respondent,

v.

Michelin North America, Inc. (US7), Employer
And Safety National Casualty Corp., Carrier, ... Petitioners.

APPENDIX - AMENDED VOL. 1

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THE STATE OF SOUTH CAROLINA

In The Court of Appeals

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SC Court of Appeals

APPEAL FROM SOUTH CAROLINA

Workers' Compensation Commission

Appellate Case No.: 2019 000556

Isaac D. Brailey, Claimant, Appellant,

v.

Michelin North America, Inc. , (US7), Employer, and Safety National Casualty Corp. , Carrier, Respondents.

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA
BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
W.C.C. FILE NO.: 1708221

Isaac Brailey, Claimant, v. Michelin North America, Inc.(US7), Employer, and Safety National Casualty Corp., Carrier, Defendants.	ADMINISTRATIVE ORDER

This matter was scheduled to be heard by the undersigned on Monday, February 5, 2017. During a pre-hearing conference, the parties discussed Defendants' pending Motion to Compel the claimant to execute a release of records from his prior workers' compensation claim, specifically what had been represented to defendants to be computer screen shots of the prior claim. Defendants argued they should be allowed to review the claimant's prior workers' compensation claim as it is reasonably calculated to lead to the discovery of admissible evidence and may specifically impact the nature of the current claim. Claimant argued the request was not timely and that the Motion should be denied. I agree with the defendants and order the claimant to execute the release to allow the defendants to review the claimant's prior workers' compensation file, SCWCC file number 9727973. Once the defendants have the opportunity to review the items, we will determine whether the Hearing that was reset for February 28, 2018, needs to be adjusted.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED, the claimant shall execute the release authorizing the Workers' Compensation Commission to provide the defendants with a copy of the electronic print out screen shots of his prior workers' compensation claim, SCWCC file number 9727973.

AND IT IS SO ORDERED.

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

By: _____

Honorable Avery B. Wilkerson, Jr., Commissioner

CERTIFICATE OF SERVICE

This is to certify that the undersigned has on this date served a copy of this order in the above entitled action upon all parties to this case by sending an electronic copy hereof by electronic mail addressed to the attorneys for said parties; or if there is an unrepresented party(ies), by depositing a copy hereof, postage paid in the United States mail, first class, addressed to the unrepresented party(ies) and to the attorney(s) for the represented party(ies).

By Deborah Hutto on February 9, 2018

STATE OF SOUTH CAROLINA
BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC FILE NO.: 1708221

Isaac Brailey, Claimant, v. Michelin North America, Inc.(US7), Employer, and Safety National Casualty Corp., Carrier, Defendants.	)	DECISION AND ORDER

HEARING:	Hearing held in Columbia, South Carolina on March 23, 2018.
APPEARANCES:	Claimant represented by Samuels Law Firm with Stephen B. Samuels, Esquire appearing. Defendants represented by Sowell Gray Robinson Stepp & Laffitte, L.L.C. with Grady L. Beard, Esquire appearing.
PURPOSE OF HEARING:	To determine issues as set forth on Forms 50 and 51
DECISION AND ORDER:	By Avery B. Wilkerson Jr., Commissioner
FILED:	July 10, 2018

APA SUBMISSIONS

Pursuant to the Administrative Procedures Act, the claimant submitted records, reports, and correspondence from the following into evidence:

	Physician	Practice	Dates of Service	Page Numbers
1.	Eric Marom, MD	Palmetto Health Richland - Internal Medicine	1/03/17 – 6/13/17	1 - 2
2.		Lexington Medical Center - Lexington	6/11/17	13 - 15
3.		Lexington Medical Center - Emergency Dept.	6/24/17	16 - 25
4.		Palmetto Health - HealthWorks	6/26/17	26 - 32
5.		Lexington Medical Center - Emergency Dept.	6/27/17	33 - 42
6.		Doctors Care	6/30/17	43 - 51
7.		Lexington Brain and Spine Institute	7/24/17 – 11/29/17	52 - 71
8.		Lexington Physical Therapy	7/27/17 – 10/13/17	72 - 80

	Exhibits	Date of Reports	Page Numbers
A.	Denial Letter and Form 19 from Carrier	7/13/17	81 - 82
B.	Disciplinary Action Form	7/9/17	83
C.	Payroll Summary	4/17/17 – 7/9/17	84
D.	Employment Application	2/27/17	85 - 86
E.	First Report of Injury or Illness	6/27/17	87
F.	Michelin's Progress Notes for A Particular Case	6/24/17 – 6/28/17	88

Pursuant to the Administrative Procedures Act, the defendants submitted records, reports, and correspondence from the following into evidence:

	Physician	Practice	Dates of Service	Page Numbers
1.	G. Thomas Norris, III, MD	Springwood Lake Family Practice	12/04/97 – 12/11/97	1 - 2
2.	Scott Boyd, M.D.		1/15/18	Deposition

	Exhibits	Date of Reports	Page Numbers
A.	Claimant's deposition for impeachment purposes	9/25/17	Deposition
B.	Portions of records provided to Mr. Samuels in response to Subpoena for Michelin records	8/24/17	
D.	1997 WC claim computer screen shots		6 - 15
E.	Michelin Post-Offer Medical Questionnaire	3/21/17	16
F.	Westinghouse Personnel Records		17 - 21

STIPULATIONS

At the call of the claim, the parties stipulated to the following issues:

1. The South Carolina Workers' Compensation Commission has jurisdiction over this claim;
2. Venue in the County of Richland is consented to by the parties for this claim;
3. The claimant alleges he sustained a compensable injury by accident to his back on June 24, 2017;
4. The claimant's average weekly wage and compensation rate are $753.13 and $502.11, respectively; and
5. Except for any self-serving statements or unstipulated medical reports, the Commission file was made part of the record.

STATEMENT OF THE CASE

The undersigned held a hearing in this matter at the date and location referenced above. All parties of interest were timely and properly notified of the hearing, and the parties or their representatives appeared at the hearing. The claimant appeared and was represented by Stephen B. Samuels, Esquire. Grady L. Beard, Esquire represented the employer.

This claim was before the South Carolina Workers' Compensation Commission pursuant to the Form 50 filed by the claimant on October 4, 2017. It is the position of the claimant that he sustained an injury by accident to his back which effects one of his legs, out of and in the course of his employment with defendant-employer on June 24, 2017. He alleges he had a "new job, not an injury kind of pain" when he went to the doctor on June 11, 2017, and June 13, 2017. The claimant contends he has not reached maximum medical improvement. Accordingly, the claimant now seeks a finding of compensability; compensation for temporary total disability; past, present, and future medical care related to his low back injury and left leg; and designation of Dr. Boyd as the authorized treating physician.

The defendants deny the claimant sustained any compensable injuries, as alleged. the defendants take the position that the claimant's back condition is unrelated to any work accident. Rather, the defendants maintain the wealth of evidence fails to support the existence a work-related accident. Moreover, the medical evidence supports the claimant was complaining of problems prior to June 24, 2017, and the claimant has a longstanding history of pre-existing back problems including evidence he was previously restricted from doing

the type of work he claims caused his injury until seen by a surgeon and withheld this information from his employer. Further, the defendants assert the defenses of Notice and Fraud in the Application for Employment. Therefore, the defendants assert the claimant is not entitled to benefits under the Act.

Accordingly, the primary issues for determination are whether the claimant: (1) sustained a compensable injury by accident as alleged on 6/24/17; (2) gave proper notice of accident; (3) is entitled to any benefits claimed; (4) has submitted any medical evidence causally-relating his alleged condition to his alleged accident on 6/24/17, to within a reasonable degree of medical certainty; (5) is barred from pursuing a workers' compensation claim pursuant to ***Capers v. Flautt***, Section 42-9-60 of the Act, and due to the fraud in the application for employment defense.

Prior to the hearing, the defendants moved to reconvene the deposition of Dr. Scott Boyd. However, during the hearing, the defendants withdrew their motion to reconvene the deposition. (H.T. 307, 435). The claimant then moved to reconvene the deposition after initially requesting the undersign to deny the defendants' motion. (H.T. 308-15, 435). Following the hearing, the undersigned denied the claimant's motion. (H.T. 436).

EVIDENCE OF THE CASE

The undersigned has carefully considered all the evidence presented by the parties in this claim, including the hearing testimony of the claimant, Jermaine Lemon, Troy Lowman, Nurse Christie Sirois, and Mark Gross, the deposition testimony of Scott B. Boyd, MD, and the medical records and exhibits submitted through the APA. From this evidence, the following is specifically noted:

A. HEARING TESTIMONY

1. Claimant

The claimant was [redacted] years old at the time of the hearing. (H.T. 38). He stated he was separated from his wife and had one dependent child. (H.T. 38-39). He attended two semesters of college at South Carolina State University. (H.T. 39). He previously worked for Richtex, South Carolina Department

of Juvenile Justice, United Parcel Service, Lutheran Family Services, The Babcock Center, Dupont, and Inland Container Company. (H.T. 39). He began working at Richtex in 1997. (H.T. 39). In his position at Richtex, he lifted bricks and loaded them on a monorail. (H.T. 40). The position at Richtex caused him pain in the middle of his back, which he reported to his supervisor who sent him for medical treatment. (H.T. 40-41). He attended physical therapy and was told he possibly had a muscle sprain. (H.T. 42). He settled the workers' compensation claim with Richtex for $2,500.00. (H.T. 43). He never returned to work at Richtex following the claim and denied any recurring pain in the middle of his back. (H.T. 43). He alleged he no longer experienced pain in the middle of his back; instead, the pain was now located on the left side of his back above his hip. (H.T. 41).

After Richtex, he worked at Westinghouse. (H.T. 43). When shown Defendants' APA, p. 17—the "Medical History and Examination Form (Post-Offer/Pre-Placement)" for Westinghouse—he denied ever seeing the document before the hearing, but admitted his name and address were on the form. (H.T. 44). He conceded the document is dated May 16, 2001, around the time he began working for Westinghouse. (H.T. 44). He denied having any back pain at the time the form was completed. (H.T. 44). He admitted he checked the box for "no" when asked if he had any recurrent low back pain. (H.T. 44). While at Westinghouse, he worked in the steels department, rod area, pellet area, and quality control departments. (H.T. 45). The position required lifting containers and pushing carts up to 800 pounds. (H.T. 45). He denied any workers' compensation claims during the time he worked for Westinghouse. (H.T. 46).

When shown the questionnaire in Defendants' APA p. 20-21—the "HealthWorks Questionnaire and Physical Form"—the claimant averred he completed the document in a "pencil whip" or "routine" fashion. (H.T. 47). However, he admitted he included hypertension; high blood pressure; pain, numbness, limit of motion, injury or surgery of the hip, knee, leg, ankle, foot; and "knee pain with weather." (H.T. 47). He admitted that he denied any prior workers' compensation claims on the form. (H.T. 48). He testified that he

falsely stated he never had a workers' compensation claim because he forgot about the prior claim with Richtex. (H.T. 48).

He was laid off from Westinghouse for three months before he began working at Michelin. (H.T. 49). He stated his plan was to retire from Michelin. (H.T. 50). When he began at Michelin, he completed training, a physical exam, and a questionnaire. (H.T. 51). When asked about the questionnaire on Defendants' APA, p. 16, he alleged he filled it in as "quickly as possible." (H.T. 52). He admitted that on the form, he denied having any problems with or ever having treated for back injuries, back ache, or back pain. (H.T. 52-53). He testified that he denied prior issues because he had worked for a "long period" of time without any issue, he had to finish the paperwork, and he interpreted the question as asking if he currently had back issues. (H.T. 54). He claimed Michelin would have hired him even if they knew of his prior back problems. (H.T. 54).

He testified that his position at Michelin involved making "big" tires. (H.T. 55). He stated stretching the rubber in the tires could cause sharp pain in a person's back. (H.T. 59). He eventually felt a "nudge" in his back. (H.T. 64). He admitted he went to the doctor on June 11, 2017, and June 13, 2017, complaining of back pain. He testified he told Jermaine, his trainer, that his back hurt and Jermaine responded that the back pain was something that he would have to get used to and that Jermaine had also experienced back pain. (H.T. 62). The claimant went to the emergency room after he experienced the pain. (H.T. 64). He testified that he did not report to Michelin that he went to the doctor for his back from working because he did not think it was a "big thing as far as it was minor." (H.T. 66). He stated that he reported to his family doctor that he had minor back pain from working, lifting, and stretching. (H.T. 68-69). He claimed he did not recall telling the doctor that his pain was ten out of ten. (H.T. 69).

He stated that on June 24, 2017, he felt a sharp pain in his back as he stretched the rubber on the tires. (H.T. 71). Thereafter, he went to the emergency room. He testified that he arrived at the emergency room at around 9:00 a.m. and before he treated with a doctor, he called Michelin. (H.T. 274). He described conversations he had with Nurse Christie Sirois, Troy Lowman, and Derrick Gibson. (H.T. 73-78, 275). He

testified that before he went to the ER, he reported the issue to Jermaine, who told him "yeah, I know that hurt you." (H.T. 71). He alleged he went to the nurse's station and family health center, but could not get assistance; therefore, he went to the emergency room. (H.T. 72-80). However, on redirect, he claimed he originally reported the injury to Troy Lowman. (H.T. 279). He testified Nurse Christy Sirois told him "those doctors over exaggerate, just relax, take Aleve and you can come see Dr. Izard Monday morning." (H.T. 80). He eventually met with Dr. Izard at Michelin, but claimed he was "not comfortable" with what Dr. Izard told him. (H.T. 82). He stated he did not return to Dr. Izard two days later as requested because he could not drive and there was no person who could have given him a ride to the follow-up appointment. (H.T. 85).

On cross-examination, he admitted that he lied on and falsely completed the post-hire health questionnaire for Michelin. (H.T. 93, 233-37). Further, he admitted that he falsely completed the medical history form when he began working for Westinghouse in 2001, only three and a half years after his back injury at Richtex in 1997. (H.T. 238-42, 245-56). As to Michelin, he admitted that he did not report the prior back issue, any prior heart conditions, or that he was seeing a cardiologist. (H.T. 109, 125). He did not report his prior gout issues, prior right knee issues, or being on disability. (H.T. 126-129, 141). He also admitted that he did not list Richtex Bricks on his employment application for Michelin. (H.T. 136-38).

He admitted he went to Lexington Medical Center and his family doctor, Dr. Marom, complaining of back pain only five weeks after he began working at Michelin and the first two weeks of the job had been classroom training. (H.T. 94-95). He admitted he did not report the pain that he thought was coming from doing heavy work at Michelin or the fact that he received prescription medication for the issue to any of his bosses or management. (H.T. 96-97, 101-03, 106, 122-24, 250, 270, 282). He admitted he went through training on safety, injuries, and reporting workers' compensation claims. (H.T 97, 101). He claimed he went to the doctor on June 11, 2017, and June 13, 2017, for "minor" pain in his back. (H.T. 104-05, 254). However, he conceded ten out of ten level pain is not minor and is actually the worst pain one could have. (H.T. 255, 272). He admitted that he did not file a workers' compensation claim when his pain was reportedly ten out

of ten, yet he filed a claim when the pain was only three out of ten. (H.T. 281). He acknowledged the medical reports from the June 13, 2017 office visit state he complained of lower back pain for the prior two weeks. (H.T. 115-17). He claimed he did not recall reporting ten out of ten pain to the doctor. (H.T. 117). Yet, he later admitted he reported ten out of ten pains to the doctor. (H.T. 123). He admitted that he falsely told his family doctor that he never had prior back pain. (H.T. 118).

As to his visit to the hospital on June 24, 2017, the claimant disputed the testimony of Nurse Sirois and Troy Lowman. (H.T. 148-53, 194-95, 200, 283). He admitted that he did not tell any person at Michelin that he was injured, and he was going to the hospital. (H.T. 255). He admitted that when he met with Dr. Izard on June 26, 2017, he falsely stated he had never had any prior back problems or prior knee surgery. (H.T. 154-56). He admitted that instead of returning to Dr. Izard as requested, the claimant went to the emergency room on his own on June 27, 2017. (H.T. 157-60). He admitted he did not return to Dr. Izard because he did not want to go to Dr. Izard. (H.T. 202). He admitted he was offered transportation to the appointment with Dr. Izard, but he refused. (H.T. 209).

He claimed he told Michelin he could not return to work and was going to the emergency room on June 27, 2017. (H.T. 160-61). He did not return to work when his restrictions ended three days after the emergency room visit; instead, he went to Doctors' Care. (H.T. 169). He did not report to Doctors' Care that this was a workers' compensation injury or that he had previously met with Michelin's doctor, Dr. Izard. (H.T. 171-72). He did not return to any doctor between June 30, 2017, and July 24, 2017. (H.T. 177-78). He saw Dr. Boyd on July 24, 2017, where he reported the prior back pain from "twenty-five" years prior. (H.T. 183-84). He did not answer the question on the Lexington Physical Therapy (PT) form asking if the injury was work-related. (H.T. 186-87). He disagreed with the PT note discharging him from care and stating he had significantly improved and his potential for further improvement was excellent. (H.T. 188-89).

He disputed that similarly to the current claim, he was injured shortly after he began physical work at Richtex. (H.T. 210-12, 221-24). When confronted with the medical report from his workers' compensation

claim with Richtex which stated, "I also discussed with this gentleman in no uncertain terms, if he has been having back pain for three weeks, the entire time he has been working for Richtex, if he does not respond very well and very fast to some conservative treatment, it might be in his and Richtex's best interest for him to find new employment," the claimant alleged that was the first time he was aware of that doctor's opinion. (H.T. 218-19). He claimed he could not recall if he went to an orthopedic surgeon in 1997 either though the doctor noted, "I believe it certainly would be prudent for both myself and Richtex Bricks to send him to an orthopedic surgeon." (H.T. 228, 250). He disputed the doctor's opinions and report. (H.T. 228-29). He admitted that he did not tell any of his subsequent employers about his restriction of no heavy lifting following Richtex. (H.T. 230). He admitted he did not tell Dr. Scott Boyd about being placed under restrictions or his prior back injury. (H.T. 231).

2. Jermaine Ante Lemon

Lemon was thirty-seven years old and had worked at Michelin for ten years at the time of the hearing. (H.T. 289). At the time of the hearing, he worked in "Confin," but he previously worked in "PAP" until December 2017. (H.T. 289). He stated PAP was difficult work and takes time to get use to performing. (H.T. 291-94). When he first began at Michelin, he would have aches and pains but denied ever taking any over-the-counter medication such as aspirin or Advil. (H.T. 291). He trained the claimant to work at Michelin. (H.T. 295). He acknowledged the claimant was a hard worker and did well in training. (H.T. 295). He stated the claimant had difficulty doing the job in terms of the steps for how to complete the job. (H.T. 295). Lemon did not believe or think the claimant was injured as Lemon stated the claimant never reported any injuries to him or speak with him about any aches or pains he experienced. (H.T. 295, 301). Further, he never saw the claimant have any aches or pains. (H.T. 295). He did not know if the claimant worked on June 24, 2017. (H.T. 296).

On cross-examination, he confirmed he never lied on his application for employment at Michelin, truthfully completed the post-hire questionnaire, expected Michelin needed to know whether he could perform

his duties, and believed it was important to be truthful in his answers. (H.T. 297-98). He believed a person who was told by a surgeon that he could not perform heavy lifting, could not perform the job of the PAP. (H.T. 298-99). He testified the claimant never told him he had to leave a job in 1997 because of his back issues or that the doctor told him to meet with a surgeon before he could perform any heavy lifting. (H.T. 298). He stated he would want to have known if a co-worker was physically capable of performing the PAP job because if they were not, he could get injured as well. (H.T. 298). He testified Michelin asked questions on the questionnaire and rely on truthful answers to prevent other employees from getting injured. (H.T. 298-301).

3. Troy Alton Lowman

Lowman was a Training Manager who had been employed by Michelin for thirty-six years. (H.T. 329). He was responsible for on-boarding new employees and insuring training occurs and is properly conducted. (H.T. 329). He stated he had authority over new hires up until they reach "validation." (H.T. 329). Validation means the employee can do the job safely with good quality while developing speed. (H.T. 329). He stated the claimant never successfully completed validation. (H.T. 329). He explained the training at Michelin includes a discussion on workers' compensation and reporting claims. (H.T. 331).

He testified that the proper protocol for if an accident occurs at Michelin was to notify the shift manager and safety spoke and complete an accident investigation. (H.T. 332). The employees were trained that if the medical department was not open, they were to go directly to security because Michelin's security officers are trained Emergency Medical Technicians. (H.T. 332). The employees were instructed not to go to the family health center for work-related injuries. (H.T. 332).

He first became aware the claimant was filing a workers' compensation claim on June 24, 2017, around lunchtime. (H.T. 333). The claimant called him and told him he was at hospital for a work injury. (H.T. 334, 347). Lowman believed the claimant had already been seen by a doctor when the claimant called Lowman. (H.T. 334). He stated he was not aware that the claimant attended Lexington Medical Center on June 11, 2017, and his personal doctor on June 13, 2017, claiming he was injured at work. (H.T. 336, 338,

352). Lowman stated the proper procedure would have been for the claimant to report those injuries to the manager or safety spoke. (H.T. 336-37). He testified the claimant had ample opportunity to notify him of the alleged injury but failed to do so. (H.T. 337-38). He stated he would have wanted to know of the claimant's back pain because of its impact on the safety of Michelin, the claimant's co-workers, and other members of the claimant's team. (H.T. 338).

On cross-examination, he confirmed that the claimant should have reported any back pain that hindered his ability to do his job. (H.T. 343). He testified that when the claimant called Lowman from the hospital on June 24, 2017, the claimant was asked to report the accident to security, which in turn would generate an accident investigation. The claimant was asked to report back to Michelin Security to let them know of his issue, which would have initiated the accident report and investigation. (H.T. 349). He testified that the claimant never returned to Michelin; however, if he had returned, they would have completed an accident report. (H.T. 351). Lowman testified the claimant never returned Lowman's phone calls after that initial call in the hospital. (H.T. 352, 356). He reiterated that he would have wanted to know of the claimant's reports of back pain on June 11 and June 13, 2017. (H.T. 353-54). He testified that had he known of the back issues, he would have secured medical treatment for the claimant and determined whether he was capable of performing the job. (H.T. 353-55).

4. Nurse Christie Sirois

Sirois is employed by Palmetto Health, Healthworks and physically works at Michelin as the plant nurse for five years. (H.T. 363). On Saturday, June 24, 2017, she received a call from the shop manager, Tyrone Gilmore, asking her if she knew anything about the claimant and his alleged injury and she did not. (H.T. 364). She contacted the claimant and asked him about the incident. (H.T. 365). She stated she told him he did not follow the proper protocol in seeking treatment. (H.T. 367). Further, she testified he was "vague" in describing how the accident allegedly occurred. (H.T. 367, 373).

Similarly to Lowman and Lemon, she confirmed that if a Michelin employee goes to the doctor or the hospital or anywhere and claims to be having back pain to the point that it is ten out of ten back pain and he or she relates the pain to the job that they do out at Michelin, that is something that should have been reported to Sirois, the BUL (Business Unit Leader), the safety spoke, the manager, or someone else on staff. (H.T. 369). She testified that the claimant's alleged pain was not reported before June 24, 2017. (H.T. 368). She opined it was not safe for the claimant to continue his job if he had ten out of ten pains in his back. (H.T. 368). She stated that if the claimant had reported the prior back pain, she would have brought him in for an assessment and referred him to Dr. Izard for further evaluation. (H.T. 369). When the claimant finally contacted her on June 24, 2017, she scheduled him an appointment with Dr. Izard for the following business day. (H.T. 369). She attended the visit with the claimant. (H.T. 370). The claimant was supposed to return to Dr. Izard two days later but did not return. (H.T. 370). She testified that if an applicant wanted a job at Michelin bad enough, they could provide false information in order to pass the initial medical examination. (H.T. 385-90).

5. Mark Stephen Gross

Gross testified that he had been employed with Michelin for thirty-seven years. (H.T. 397). He was the Safety Manager at the time the claimant was employed with the company. (H.T. 398). As Safety Manager, Gross was notified of any actual or potential workers' compensation claims. (H.T. 398). He described the safety training provided to all new employee. (H.T. 398-99). He stated no person in management at Michelin had any idea the claimant was claiming to have back problems since around the end of May 2017. (H.T. 399). They were not notified that the claimant went to the doctor on June 11 or June 13, 2017. (H.T. 399-400). He confirmed the prior appointments should have been reported to Michelin. (H.T. 400). He would have needed to know that information to make sure the claimant did not hurt himself or anyone else further. (H.T. 414).

He recited the proper procedure for when an injury is reported. (H.T. 400-03). He stated he was informed of the claimant's alleged injury late in the afternoon on June 24, 2017. (H.T. 402). He then explained the proper procedure for filing a workers' compensation claim. (H.T. 403). He stated the claimant never returned to the plant to complete the investigation. (H.T. 404). When the claimant told Gross he could not return for the appointment with Dr. Izard or complete the report or investigation because he did not have transportation, Gross offered to provide the claimant with transportation. (H.T. 404). He testified the claimant responded, "you need to talk to my lawyer" and hung up the phone. (H.T. 405).

Gross outlined the post-offer health questionnaire Michelin requires of every newly-hired employee. (H.T. 406). He stated they rely on the information provided by the employees in the questionnaire. (H.T. 407). He testified that because the claimant did not note he had prior back issues and a prior workers' compensation claim, the company and its doctor were not able to investigate the extent of the prior injury. (H.T. 407). He explained that if he had known about the claimant's prior issues, he would have been concerned. (H.T. 408).

He stated he does not believe any of the claimant's allegations in this claim. (H.T. 417). He relies on the employees to be truthful in completing the post-offer health questionnaire for the safety of all employees. (H.T. 418). Further, he explained it is impossible for the plant doctors to conduct thorough investigations and examinations if an employee lies on the questionnaire. (H.T. 419). He testified the claimant lied on his questionnaire in contrast to Lemon who truthfully completed his questionnaire. (H.T. 422-23, 428-29).

B. APA SUBMISSIONS:

1. Medical Evidence

After his injury while working for Richtex, the claimant began treatment with Thomas Norris, III, MD. (Defendants' APA #1, p. 1-2). On December 4, 1997, Dr. Norris, noted the claimant had been "working for Richtex for three weeks and of note he has had back pain for three weeks. This has been worsening over

the past couple of days since a possible injury while lifting some bricks on Tuesday of this week." (*Id.*). Dr. Norris instructed the claimant not to complete any heavy lifting and to return to the clinic in one week. Further, the medical record from the visit states as follows:

> I also discussed with [the claimant] in no uncertain terms if he has been having back pain for three weeks, the entire time he has been working for Ric[h]tex, if he does not respond very well and very fast to some conservative treatment it might be in his and Ric[h]tex's best interest for him to find new employment.

The claimant met with Dr. Norris again on December 11, 1997. Dr. Norris's medical notes from that appointment states as follows:

> He had noted back pain and soreness for three weeks. Then he reported this vague episode of lifting some bricks and he felt that he may have injured himself at that time although he denied any significant change at the time of this incident. Of note, three days after he saw me, he was at Doctors Care wanting a second opinion, although he was not following my instructions.

Further, Dr. Norris stated as follows:

> [The claimant] mentions that he knows something is wrong with his back and he wants to go to a back specialist. It seems today that [the claimant] and I have a very difficult time communicating and I certainly feel that with him having only been an employee three weeks at Richtex, and mentioning a back specialist after he had been improving on the therapy I had recommended, he may very well be in a litigation thought process.... I believe it certainly would be prudent for both myself and Richtex bricks to send him to an orthopaedic surgeon.

Finally, Dr. Norris stated the following:

> [I]t seems he wants to be evaluated by a back specialist. I feel like Dr. Bethea at Moore Clinic would certainly put this to rest most expediently, however, as stated above, I don't feel that Richtex nor myself need to undertake any liability with this young man who, in my opinion, is unable to perform the job required at Richtex and he was even told this the very first day. I restated that today. I will place him on no heavy lifting until he sees the surgeon.

(*Id.*).

On January 3, 2017, the claimant went to his primary care physician, Dr. Eric Marom for an exam regarding essential hypertension, obesity, gout, screening for colorectal cancer, and erectile dysfunction. (Claimant's APA #1, p. 1). Under history of present illness, the medical record notes, "thinks [he] has had 2 periods of gout, had significant foot pains, R foot, could not walk on it, diagnosed at drs care, pains near first toe." (Claimant's APA #1, p. 1). The record notes a history of right knee arthroscopy and that he was currently employed in quality control at Westinghouse. (Claimant's APA #1, p. 3).

On June 11, 2017, the claimant visited Lexington Medical Center complaining of "back pain after lifting at work." (Claimant's APA #2, p. 13). He complained the low back pain had persisted for the past several days. (Claimant's APA #2, p. 13). He reported that he was doing heavy lifting at work prior to the onset of the pain. (Claimant's APA #2, p. 13). The doctor prescribed cyclobenzaprine and tramadol. (Claimant's APA #2, p. 14).

On June 13, 2017, the claimant returned to Dr. Marom complaining of lower back pains for the past two weeks. (Claimant's APA #1, p. 7). The record notes, "has had new job at Michelin, moving heavy stuff-there now for about 2 weeks, pain is 10/10 w/certain movements, says feels sharp, no radiation into legs." (Claimant's APA #1, p. 7). Further, the record provides that the claimant reported he had never had pain there in the past and had suffered no recent injury or trauma. (Claimant's APA #1, p. 7). He was taking cyclobenzaprine, hydrochlorothiazide, and tramadol, among other medications. (Claimant's APA #1, p. 7).

On June 24, 2017, at 9:07 a.m., the claimant reported to Lexington Medical Center Emergency Room. (Claimant's APA #3, p. 16). He complained of lower back pain "since he was working last night, states does a lot of lifting/pulling and started hurting then." (Claimant's APA #3, p. 16). In consultation with the social worker, the claimant had questions about a possible workers' compensation claim. (Claimant's APA #3, p. 17, 22). The physician determined he was negative for gait problems and had a normal range of motion. (Claimant's APA #3, p. 19). The physician advised him to follow-up with Dr. Brett Gunter the next

day to make an appointment. (Claimant's APA #3, p. 19). The doctor excused him from work for three days and advised he could return to work on June 28, 2017. (Claimant's APA #3, p. 25).

The claimant completed a "HealthWorks Post-Injury Questionnaire" on June 26, 2017, before meeting with Dr. Stephen Izard at Michelin. (Claimant's APA #4, p. 26-30). On the form, the claimant reported the injury occurred on June 24, 2017, while he was stretching rubber and moving bobbins. (Claimant's APA #4, p. 26-30). He denied ever injuring this part of his body. (Claimant's APA #4, p. 26). Following an evaluation, Dr. Izard opined the claimant presented a significant degree of symptom amplification and magnification. (Claimant's APA #4, p. 30). Dr. Izard returned the claimant to regular duty and ordered the claimant to follow-up with him two days later on June 28, 2017. (Claimant's APA #4, p. 30).

On the following day, June 27, 2017, the claimant went to Lexington Medical Center Emergency Room complaining of back pain and urinary retention. (Claimant's APA #5, pp. 34-35). The doctor noted he had a normal gait. (Claimant's APA #5, p. 35). An X-ray of the lumbar spine showed no fracture subluxation. (Claimant's APA #5, p. 37).

The claimant did not return to Dr. Izard on June 28, 2017, as instructed. On June 30, 2017, the claimant went to Doctors Care, complaining of back pain. (Claimant's APA #6). He did not answer the questions on the intake form addressing whether the injury was a workers' compensation claim. (Claimant's APA #6, p. 44). The doctor told him he "really didn't have much to offer" the claimant as the claimant was already taking NSAIDs, muscle relaxers, and pain medications. (Claimant's APA #6, p. 45). The doctor referred him to an orthopedic specialist.

On July 24, 2017, the claimant met with Dr. Scott Boyd's physician assistant, Luis Valdes, PA, at Lexington Brain and Spine Institute. Valdes ordered an MRI and physical therapy. (Claimant's APA #7, p. 55). The claimant reported to Dr. Boyd that he "hasn't had previous back problems except maybe 25 years ago he had an episode that resolved without any treatment." (Claimant's APA #7, p. 58). Dr. Boyd gave him an injection, ordered physical therapy, and placed him out of work. (Claimant's APA #7, p. 60-71). The

claimant did not answer the question on the physical therapy intake form asking whether the injury was related to a work accident. (Claimant's APA #8, p. 73).

In a medical questionnaire dated November 29, 2017, Dr. Boyd opined the claimant injured his lumbar spine at Michelin on June 24, 2017, the injury resulted in radiculopathy down the claimant's left leg, the claimant should remain out of work pending further treatment, and the claimant had not reached maximum medical improvement. (Claimant's APA #7, p. 71).

2. Deposition of Scott Boyd, MD

Dr. Boyd testified Valdes is his physician's assistant whom the claimant met with during the claimant's visits at the office. (Boyd Depo p. 5). Dr. Boyd supervised Valdes' work. Dr. Boyd testified the claimant presented for evaluation of an injury he stated occurred at work when he was lifting some heavy materials. The claimant reported to Dr. Boyd's office that he felt a sharp pain in his low back. He was seen at urgent care and then the emergency room, prescribed medications and told to follow up with Dr. Boyd. (*Id.*). Dr. Boyd testified the claimant told Mr. Valdes he was injured on June 24, 2017. (Boyd Depo p. 6). Dr. Boyd stated the later conducted MRI showed a herniated disk, but there was no way to tell from looking at the MRI scan how long the issue had been present. (Boyd Depo p. 9, 25-26). Dr. Boyd testified that as of September 14, 2017, the claimant was improving, and his pain level was down to a three out of ten. (Boyd Depo p.12). Dr. Boyd stated that all of his responses on the questionnaire he completed for the claimant were based in part on the history given to him by the claimant. (Boyd Depo p.16-17). Dr. Boyd admitted the history of accident given to him was different than that given to Internal Medicine. (Boyd Depo p. 20). On 6/13/17, claimant had the worst pain someone could experience. There was no recent trauma causing back problems per the 6/13/17, report. (Boyd Depo p. 21). The 6/24/17, hospital ER report makes no mention of radiating pain per Dr. Boyd. (Boyd Depo p. 24). He testified he cannot be certain as to when the current injury occurred. (Boyd Depo p. 27). Dr. Boyd opined the claimant began having back problems with pain because of increased physical exertion with his position at Michelin started in April 2017. Dr. Boyd believed

the claimant got progressively worse and "at some point, somewhere around June 24th, something changed where he began having a slightly different set of symptoms . . . ." (Boyd Depo p. 43). Dr. Boyd opined that more likely than not, the claimant injured his lumbar spine at Michelin, including "some episode on June 24th." (Boyd Depo p. 44). Finally, Dr. Boyd testified it was his impression when he first saw claimant that the problems had begun on 6/24/17, and claimant had no issues before then. (Boyd Depo p. 54).

3. Exhibits

The claimant had a workers' compensation claim for a low back injury that occurred on December 4, 1997, while he worked for Jannock LTD D/B/A Richtex Brick. (Claimant's Exhibit G, p. 89; Defendant's Exhibit D, p. 8).

On May 16, 2001, the claimant completed the "Medical History and Examination Form (Post-Offer/Pre-Placement)" for Westinghouse Electric Corporation. (Defendant's Exhibit F, p. 17-21). The claimant denied ever having had a work-related injury or illness. (Defendant's Exhibit F, p. 19). He denied ever being restricted medically from doing any part of his job. (*Id.*). He stated he never had any pain, numbness, limited motion, or injury of the back. (*Id.* at 20.). He denied ever having a work injury, workers' compensation claim, or receiving a settlement for any injury. (*Id.*). He denied any permanent restrictions or limitations. (*Id.*). He also denied having had a previous job with similar physical demands. (*Id.*).

Similarly, on March 21, 2017, the claimant executed the "Michelin Confidential Health Questionnaire for Post-Offer Examination." (Defendant's Exhibit E, p. 16). He denied any prior back injury, backache, back pain. (*Id.*). He denied ever experiencing a medical problem that affected his ability to perform work. (*Id.*).

In her work notes, Nurse Christie Sirois noted the claimant stated that on June 24, 2017, around 5:30 am, he was working on PAP when his back started to ache. (Claimant's Exhibit F, p. 88). He stated the back pain worsened as he continued to work. The claimant stated he left work and went to Michelin Family Health, but they were closed. He then went to Lexington Medical Center Emergency Room (LMC). Nurse Sirois noted the claimant did not report the injury to anyone at Michelin until after being released from LMC. She

stated LMC diagnosed the claimant with lumbar strain and prescribed Percocet and Flexeril but did not complete diagnostic testing. Shop manager, Tyrone Gilmore, contacted Nurse Sirois to see if she spoke with the claimant. (Claimant's Exhibit F, p. 88).

She called the claimant on June 24, 2017, around 3:57 pm. The claimant told her he was seen at LMC for lower left back pain that started on June 24, 2017, while stretching and pulling rubber. The claimant rated pain at a ten and denied any numbness, tingling, radiating pain, or other symptoms. The claimant also denied anything specific that started the pain at work and denied anything personal outside of work. She scheduled the claimant an appointment with Dr. Izard at Healthworks on June 26, 2017, at 8:00 am for further evaluation. Nurse Sirois noted that during the June 26, 2017 visit with Dr. Izard, Dr. Izard opined there seems to be a significant degree of symptoms amplification and magnification by the claimant. (Claimant's Exhibit F, p. 88).

After the claimant contacted Nurse Sirois on June 28, 2017 and told her he went back to LMC on June 27, 2017, and would not attend his appointment with Dr. Izard, Nurse Sirois explained to the claimant the workers' compensation process and that he had not properly notified medical of any of his appointments. The claimant angrily stated that he did notify medical and "he did not have to get into this with" her. She advised him to speak with his supervisor immediately, but he would not let her talk and disconnected the call. (Claimant's Exhibit F, p. 88).

FINDINGS OF FACT

After careful review of the evidence presented by the parties, including the hearing testimony of the claimant; the medical records and exhibits submitted by the defendants through the APA; the medical records and exhibits submitted by the claimant at the hearing; as well as my personal observations of the claimant at the hearing, IT IS FOUND AS A FACT THAT:

1. The undersigned sent the Order Instructions to the parties on April 17, 2018, via email. The Hearing Transcript was not completed until June 5, 2018, per Certificate of the court reporter.

2. I find the claimant is not credible. This Finding is based upon the greater weight of the evidence in the record, the testimony of the claimant, the testimony of representatives from Michelin, as well as my observations of the claimant at the hearing. Specifically, the greater weight of the evidence shows that a couple of weeks after he began working for Richtex in 1997, the claimant had a very similar incident. In that claim, the claimant alleged back pain after he began physical work with the company. At Richtex, as in the current claim, instead of following the treating doctor's orders, the claimant sought treatment at Doctor's Care.

   As further evidence of the claimant's lack of credibility, the claimant omitted information about a former employer—an employer for which he had a workers' compensation claim for a back injury—from his employment application for Michelin. The claimant also denied any prior workers' compensation claims, which is untrue. Moreover, he repeatedly attempted to justify his answers during his hearing testimony. I find that while testifying, the claimant gave confusing answers when asked direct questions by his attorney. As noted by the undersigned throughout the proceeding, the claimant provided vague responses when questioned by defense counsel. He would not answer defense counsel's questions, rambling through responses. (H.T. 227).

3. I find the claimant was unclear as to the actual date of accident or incident and his reasons for waiting to file a claim. (H.T. 265-69). He believes the alleged accident could have occurred on June 24, 2017; however, the medical records are inconsistent with his testimony. This Finding is based upon the greater weight of the evidence in the record and the testimony of the claimant.

4. I find that on June 11, 2017, the claimant reported ten out of ten pain; however, he did not file a workers' compensation for any date but June 24, 2017. (H.T. 259-60). The medical records are not consistent with his testimony. Moreover, claimant never notified anyone at Michelin he had ten out of ten pain in his back which he felt was caused by his work, but instead he returned to the same work he felt was causing his problems unbeknownst to Michelin. This Finding is based upon the greater weight of the evidence in the record and the testimony of the claimant.

5. I find Dr. Boyd provided restrictions of no heavy lifting. However, I find causation is not provided in the medical records because Dr. Boyd had no knowledge of the extent of claimant's prior back issues. This Finding is based upon the greater weight of the evidence in the record, the deposition testimony of Dr. Boyd, and the testimony of the claimant.

6. I find the medical records; records from Richtex Brick and Westinghouse; along with the testimony of Mark Gross; the evidence supports the defense of fraud in the application for employment. (Claimant's Exhibit G, p. 89; Defendant's Exhibit D, p. 8; Defendant's Exhibit E, p. 16; Claimant's APA #4, p. 26).

7. I find based on the greater weight of the evidence there is clearly fraud in the application. The claimant completed the post-hire medical questionnaire for Michelin on March 21, 2017. The claimant with knowledge falsely stated he never had prior back issues. The employer would not have hired the claimant for the position in which he was working had the claimant provided truthful information. This finding is based upon the greater weight of the evidence in the record, including but not limited to the post-hire medical questionnaire, the medical records, the testimony of the claimant, Jermaine Lemon, Troy Lowman, and Mark Gross.

8. I find the claimant understood all questions on the post-hire questionnaire and authenticated his signature. Claimant understood the cautionary language and understood that false answers could result in his loss of workers' compensation benefits and employment. This finding is based upon the greater weight of the evidence in the record, including but not limited to the post-hire medical questionnaire, the medical records, and the testimony of the claimant.

9. I find the claimant knowingly and willfully made a false misrepresentation as to his prior back condition. I find the defendant-employer relied on the claimant's misrepresentations on his post-hire medical questionnaire. I find a causal relationship exists between claimant's prior back problems and the subsequent back problems arising from his alleged work-related accident. This finding is based upon the testimony of all witnesses and the medical evidence in the record.

10. This claim is denied in its entirety based on evidence of numerous issues relating back to 1997 through 2017. The claimant has failed to carry his burden of proof of an accident being sustained on June 24, 2017, due to his lack of credibility, the lack of sufficient medical evidence to support his allegations, and, moreover, due to medical evidence to the contrary. I find the claimant was unable to return to work after June 24, 2017, due to a separate incident. I find the June 24, 2017, incident is not compensable based upon the greater weight of the evidence and the other reasons stated within this finding.

11. I find that prior to the hearing, defense counsel Grady Beard prepared a motion to reconvene the deposition of Dr. Scott B. Boyd. Defense counsel sought to have this motion granted prior to the hearing, stating counsel for the claimant, Stephen Samuels, noted reasons not to grant the motion. At the end of the hearing, Attorney Beard sought to withdraw the motion and Attorney Samuels requested to have the motion granted. At the end of the hearing, I found the motion is denied.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, and as provided by the Code of Laws of South Carolina, §42-17-40, it is the determination of this Commissioner that:

1. Under §42-1-130, claimant was a covered employee at the time in question; however, pursuant to §42-1-130 and *Cooper v. McDevitt & Street Co.*, 260 S.C. 463, 196 S.E.2d 833 (1973), the claimant committed fraud in the application for employment, vitiating the employer-employee relationship and barring him from benefits under the South Carolina Workers' Compensation Act.

2. Under §42-1-140, defendant-employer was a covered employer under the Act.

3. Pursuant to *Cooper*, the following three factors must be present before a false statement in an employment application will vitiate the employer-employee relationship and bar an employee from benefits: (1) the employee must have knowingly and willfully made a false representation as to his physical condition; (2) the employer must have relied upon the false representation and this reliance must have been a substantial factor in the hiring; (3) there must have been a causal connection between the false representation and the injury. All three elements were met in this case.

4. Under §42-1-160, the claimant did not sustain compensable injury to his low back while under the employ of the defendant-employer on June 24, 2017, as alleged. Claimant failed to meet his

burden of proof that he injured his low back on June 24, 2017, under the evidence presented. Moreover, the claim would be barred under ***Capers v. Flautt***.

5. Under §42-9-60, assuming claimant actually sustained an injury by accident on June 24, 2017, to his low back, as alleged, the claimant intentionally and willfully did so by failing to alert or notify his employer he was allegedly suffering from ten out of ten low back pain for at least 4 weeks prior to that date and seeking medical treatment on his own without any knowledge by his employer due to his failure to provide same.

6. Under §42-9-30, the claimant did not sustain permanent partial disability with regard to his low back.

7. Under §42-15-60, the claimant is not entitled to medical treatment.

ORDER

IT IS THEREFORE ORDERED that claimant failed to prove he sustained a compensable injury to his back of left leg on June 24, 2017. Moreover, even if he had met his burden of proof, his claim would be barred by ***Capers v. Flautt***, §42-9-60, and the fraud in the application for employment defense.

IT IS FURTHER ORDERED that the claimant is not entitled to benefits under the Act.

No hearing costs are assessed in this matter.

CLAIM DENIED.

IT IS SO ORDERED.

BY: _____
Honorable Avery B. Wilkerson Jr., Commissioner
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

CERTIFICATE OF SERVICE

This is to certify that the undersigned has on this date served a copy of this order in the above entitled action upon all parties to this case by sending an electronic copy hereof by electronic mail addressed to the attorneys for said parties; or if there is an unrepresented party(ies), by depositing a copy hereof, postage paid in the United States mail, first class, addressed to the unrepresented party(ies) and to the attorney(s) for the represented party(ies).

By Deborah Hutto on July 10, 2018

APPELLATE PANEL
DECISION AND ORDER
OF THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
W.C.C. FILE NO.: 1708221

ISAAC BRAILEY, EMPLOYEE..... CLAIMANT/APPELLANT

VS.

MICHELIN NORTH AMERICA, INC. (US7)
AND SAFETY NATIONAL CASUALTY CORP..... DEFENDANT/RESPONDENT.

Appellate Panel Review Hearing
held in Columbia, South Carolina,
on October 22, 2018, per notices
timely and properly served upon
all parties of interest.

Appellate Panel Decision and Order
filed, February 28, 2019

APPEARANCES: CLAIMANT/APPELLANT represented by Stephen B. Samuels, Esquire, of Columbia, South Carolina; and

DEFENDANT/RESPONDENT represented by Grady L. Beard, Esquire, of Columbia, South Carolina.

STATEMENT OF THE CASE

This is an appeal by Isaac Brailey ("Appellant" or "Claimant") from the Decision and Order of Commissioner Avery B. Wilkerson, Jr., filed on July 10, 2018.

This claim was before the South Carolina Workers' Compensation Commission pursuant to the Form 50 filed by the claimant on October 4, 2017. It is the position of the claimant that he sustained an injury by accident to his back which affects one of his legs, out of and in the course of his employment with defendant-employer on June 24, 2017. He alleges he had a "new job, not an injury kind of pain" when he went to the doctor on June 11, 2017, and June 13, 2017. The claimant contends he has not reached maximum medical improvement. Accordingly, the claimant now seeks a finding of compensability; compensation for temporary total disability; past, present, and future medical care related to his low back injury and left leg; and designation of Dr. Boyd as the authorized treating physician.

The defendants deny the claimant sustained any compensable injuries, as alleged. The defendants take the position that the claimant's back condition is unrelated to any work accident. Rather the defendants maintain the wealth of evidence fails to support the existence of a work-related accident. Moreover, the medical evidence supports the claimant was complaining of problems prior to June 24, 2017, and the claimant has a longstanding history of pre-existing back problems including evidence he was previously restricted from doing the type of work he claims caused his injury until seen by a surgeon and withheld this information from his employer. Further, the defendants assert the defenses of Notice and Fraud in the Application for Employment. Therefore, defendants assert the claimant is not entitled to any benefits under the Act.

The Hearing in this matter was held before Commissioner Avery B. Wilkerson, Jr. ("Hearing Commissioner") in Columbia, South Carolina, on March 23, 2018. By way of Decision and Order filed on July 10, 2018, the Hearing Commissioner determined (1) the claimant failed to meet his burden of proving he sustained a compensable injury to his back and left leg on June 24, 2017; (2) the defendants successfully proved the claim was barred by the fraud in the application for employment defense as articulated by *Cooper*

v. McDevitt & Street Co.; (3) Defendants successfully proved the elements of *Capers v. Flautt*; and (4) the claimant intentionally and willfully caused injury to himself. The claimant was therefore denied any benefits under the Act.

Within the statutory period, the claimant filed an Application for Review in the case setting forth his reasons, copies of which were furnished to all interested parties, prior to oral argument presented before the Full Commission Appellate Panel ("Appellate Panel") on October 22, 2018. All proffered testimony has been taken. Such, together with all documentary evidence, has been delivered by oral argument to the undersigned members of the Appellate Panel and has since been under study and consideration. Specifically, the claimant respectfully requests the Appellate Panel to reverse the Decision and Order of the Hearing Commissioner in its entirety based upon the following grounds:

1. Whether the Single Commissioner erred as a matter of fact and law in finding Claimant did not sustain an injury by accident arising out of and in the course of his employment at Michelin.

2. Whether the Single Commissioner erred as a matter of fact and law in finding Claimant's testimony was not credible.

3. Whether the Single Commissioner erred as a matter of fact and law in finding Claimant was unclear as to the date of the accident when his testimony, confirmed by medical records and employer records, confirmed that after some back pain from his work at Michelin, he suffered an acute injury by accident on June 24, 2017.

4. Whether the Single Commissioner erred as a matter of fact and law in finding Claimant did not report back pain from his work to Michelin prior to his work accident.

5. Whether the Single Commissioner erred as a matter of fact and law in finding Dr. Boyd did not provide causation when Dr. Boyd's opinion was explicit as to causation to a reasonable degree of medical certainty.

6. Whether the Single Commissioner erred as a matter of fact and law in finding Defendants proved the elements of the *Cooper v. McDevitt and Street* defense, as Claimant did not make a material misrepresentation on his application for employment; that Employer relied on the physical examination clearing Claimant for work (confirmed later by Dr. Izard); and there is no evidence of a causal connection between any alleged misrepresentation and the ultimate work-related injury.

7. Whether the Single Commissioner erred as a matter of fact and law in finding "The claimant has failed to carry his burden of proof of an accident being sustained on June 24, 2017."

8. Whether the Single Commissioner erred as a matter of fact and law in finding that the separate incident occurring on June 24, 2017 after which Claimant was unable to return to work was not compensable.

9. Whether the Single Commissioner erred as a matter of law in finding this claim was barred by *Capers v. Flautt* when no factual findings were made to support such a defense and when the defense does not apply to this case in that there was no evidence that Claimant knew or could have known that he would injure his back at Michelin.

10. Whether the Single Commissioner erred as a matter of fact and law in finding stale medical records of a minor injury to a different part of Claimant's back from 25 years ago could support any defense or denial of this claim.

11. Whether the Single Commissioner erred as a matter of fact and law in finding this claim was barred by "the claimant intentionaly and willfully did so by failing to alert or notify his employer he was allegedly suffering from ten out of ten low back pain for at least 4 weeks prior to that date and seeking medical treatment on his own without any knowledge by his employer due to his failure to provide same."

EVIDENCE OF THE CASE

The members of the Appellate Panel have carefully considered all the evidence presented by the parties in this claim, including the hearing testimony of the claimant, Jermaine Lemon, Troy Lowman, Nurse Christie Strois, and Mark Gross, the deposition testimony of Scott B. Boyd, MD, and the medical records and exhibits submitted through the APA. From this evidence, the following is specifically noted:

A. HEARING TESTIMONY

1. Claimant

The claimant was [redacted] years old at the time of the hearing. (H.T. 38). He stated he was separated from his wife and had one dependent child. (H.T. 38-39). He attended two semesters of college at South Carolina State University. (H.T. 39). He previously worked for Richtex, South Carolina Department of Juvenile Justice, United Parcel Service, Lutheran Family Services, The Babcock Center, Dupont, and Inland Container Company. (H.T. 39). He began working at Richtex in 1997. (H.T. 39). In his position at Richtex, he lifted bricks and loaded them on a monorail. (H.T. 40). The position at Richtex caused him pain in the middle of his back, which he reported to his supervisor who sent him for medical treatment. (H.T. 40-

41). He attended physical therapy and was told he possibly had a muscle sprain. (H.T. 42). He settled the workers' compensation claim with Richtex for $2,500.00. (H.T. 43). He never returned to work at Richtex following the claim and denied any recurring pain in the middle of his back. (H.T. 43). He alleged he no longer experienced pain in the middle of his back; instead, the pain was now located on the left side of his back above his hip. (H.T. 41).

After Richtex, he worked at Westinghouse. (H.T. 43). When shown Defendants' APA, p. 17—the "Medical History and Examination Form (Post-Offer/Pre-Placement)" for Westinghouse—he denied ever seeing the document before the hearing, but admitted his name and address were on the form. (H.T. 44). He conceded the document is dated May 16, 2001, around the time he began working for Westinghouse. (H.T. 44). He denied having any back pain at the time the form was completed. (H.T. 44). He admitted he checked the box for "no" when asked if he had any recurrent low back pain. (H.T. 44). While at Westinghouse, he worked in the steels department, rod area, pellet area, and quality control departments. (H.T. 45). The position required lifting containers and pushing carts up to 800 pounds. (H.T. 45). He denied any workers' compensation claims during the time he worked for Westinghouse. (H.T. 46).

When shown the questionnaire in Defendants' APA p. 20-21—the "HealthWorks Questionnaire and Physical Form"—the claimant averred he completed the document in a "pencil whip" or "routine" fashion. (H.T. 47). However, he admitted he included hypertension; high blood pressure; pain, numbness, limit of motion, injury or surgery of the hip, knee, leg, ankle, foot; and "knee pain with weather." (H.T. 47). He admitted that he denied any prior workers' compensation claims on the form. (H.T. 48). He testified that he falsely stated he never had a workers' compensation claim because he forgot about the prior claim with Richtex. (H.T. 48).

He was laid off from Westinghouse for three months before he began working at Michelin. (H.T. 49). He stated his plan was to retire from Michelin. (H.T. 50). When he began at Michelin, he completed training, a physical exam, and a questionnaire. (H.T. 51). When asked about the questionnaire on Defendants' APA,

p. 16, he alleged he filled it in as "quickly as possible." (H.T. 52). He admitted that on the form, he denied having any problems with or ever having treated for back injuries, back ache, or back pain. (H.T. 52-53). He testified that he denied prior issues because he had worked for a "long period" of time without any issue, he had to finish the paperwork, and he interpreted the question as asking if he currently had back issues. (H.T. 54). He claimed Michelin would have hired him even if they knew of his prior back problems. (H.T. 54).

He testified that his position at Michelin involved making "big" tires. (H.T. 55). He stated stretching the rubber in the tires could cause sharp pain in a person's back. (H.T. 59). He eventually felt a "nudge" in his back. (H.T. 64). He admitted he went to the doctor on June 11, 2017, and June 13, 2017, complaining of back pain. He testified he told Jermaine, his trainer, that his back hurt and Jermaine responded that the back pain was something that he would have to get used to and that Jermaine had also experienced back pain. (H.T. 62). The claimant went to the emergency room after he experienced the pain. (H.T. 64). He testified that he did not report to Michelin that he went to the doctor for his back from working because he did not think it was a "big thing as far as it was minor." (H.T. 66). He stated that he reported to his family doctor that he had minor back pain from working, lifting, and stretching. (H.T. 68-69). He claimed he did not recall telling the doctor that his pain was ten out of ten. (H.T. 69).

He stated that on June 24, 2017, he felt a sharp pain in his back as he stretched the rubber on the tires. (H.T. 71). Thereafter, he went to the emergency room. He testified that he arrived at the emergency room at around 9:00 a.m. and before he treated with a doctor, he called Michelin. (H.T. 274). He described conversations he had with Nurse Christie Sirois, Troy Lowman, and Derrick Gibson. (H.T. 73-78, 275). He testified that before he went to the ER, he reported the issue to Jermaine, who told him "yeah, I know that hurt you." (H.T. 71). He alleged he went to the nurse's station and family health center, but could not get assistance; therefore, he went to the emergency room. (H.T. 72-80). However, on redirect, he claimed he originally reported the injury to Troy Lowman. (H.T. 279). He testified Nurse Christy Sirois told him "those doctors over exaggerate, just relax, take Aleve and you can come see Dr. Izard Monday morning." (H.T. 80).

He eventually met with Dr. Izard at Michelin, but claimed he was "not comfortable" with what Dr. Izard told him. (H.T. 82). He stated he did not return to Dr. Izard two days later as requested because he could not drive and there was no person who could have given him a ride to the follow-up appointment. (H.T. 85).

On cross-examination, he admitted that he lied on and falsely completed the post-hire health questionnaire for Michelin. (H.T. 93, 233-37). Further, he admitted that he falsely completed the medical history form when he began working for Westinghouse in 2001, only three and a half years after his back injury at Richtex in 1997. (H.T. 238-42, 245-56). As to Michelin, he admitted that he did not report the prior back issue, any prior heart conditions, or that he was seeing a cardiologist. (H.T. 109, 125). He did not report his prior gout issues, prior right knee issues, or being on disability. (H.T. 126-129, 141). He also admitted that he did not list Richtex Bricks on his employment application for Michelin. (H.T. 136-38).

He admitted he went to Lexington Medical Center and his family doctor, Dr. Marom, complaining of back pain only five weeks after he began working at Michelin and the first two weeks of the job had been classroom training. (H.T. 94-95). He admitted he did not report the pain that he thought was coming from doing heavy work at Michelin or the fact that he received prescription medication for the issue to any of his bosses or management. (H.T. 96-97, 101-03, 106, 122-24, 250, 270, 282). He admitted he went through training on safety, injuries, and reporting workers' compensation claims. (H.T 97, 101). He claimed he went to the doctor on June 11, 2017, and June 13, 2017, for "minor" pain in his back. (H.T. 104-05, 254). However, he conceded ten out of ten level pain is not minor and is actually the worst pain one could have. (H.T. 255, 272). He admitted that he did not file a workers' compensation claim when his pain was reportedly ten out of ten, yet he filed a claim when the pain was only three out of ten. (H.T. 281). He acknowledged the medical reports from the June 13, 2017 office visit state he complained of lower back pain for the prior two weeks. (H.T. 115-17). He claimed he did not recall reporting ten out of ten pain to the doctor. (H.T. 117). Yet, he later admitted he reported ten out of ten pains to the doctor. (H.T. 123). He admitted that he falsely told his family doctor that he never had prior back pain. (H.T. 118).

As to his visit to the hospital on June 24, 2017, the claimant disputed the testimony of Nurse Sirois and Troy Lowman. (H.T. 148-53, 194-95, 200, 283). He admitted that he did not tell any person at Michelin that he was injured, and he was going to the hospital. (H.T. 255). He admitted that when he met with Dr. Izard on June 26, 2017, he falsely stated he had never had any prior back problems or prior knee surgery. (H.T. 154-56). He admitted that instead of returning to Dr. Izard as requested, the claimant went to the emergency room on his own on June 27, 2017. (H.T. 157-60). He admitted he did not return to Dr. Izard because he did not want to go to Dr. Izard. (H.T. 202). He admitted he was offered transportation to the appointment with Dr. Izard, but he refused. (H.T. 209).

He claimed he told Michelin he could not return to work and was going to the emergency room on June 27, 2017. (H.T. 160-61). He did not return to work when his restrictions ended three days after the emergency room visit; instead, he went to Doctors Care. (H.T. 169). He did not report to Doctors Care that this was a workers' compensation injury or that he had previously met with Michelin's doctor, Dr. Izard. (H.T. 171-72). He did not return to any doctor between June 30, 2017, and July 24, 2017. (H.T. 177-78). He saw Dr. Boyd on July 24, 2017, where he reported the prior back pain from "twenty-five" years prior. (H.T. 183-84). He did not answer the question on the Lexington Physical Therapy (PT) form asking if the injury was work-related. (H.T. 186-87). He disagreed with the PT note discharging him from care and stating he had significantly improved and his potential for further improvement was excellent. (H.T. 188-89).

He disputed that similarly to the current claim, he was injured shortly after he began physical work at Richtex. (H.T. 210-12, 221-24). When confronted with the medical report from his workers' compensation claim with Richtex which stated, "I also discussed with this gentleman in no uncertain terms, if he has been having back pain for three weeks, the entire time he has been working for Richtex, if he does not respond very well and very fast to some conservative treatment, it might be in his and Richtex's best interest for him to find new employment," the claimant alleged that was the first time he was aware of that doctor's opinion. (H.T. 218-19). He claimed he could not recall if he went to an orthopedic surgeon in 1997 either though the

doctor noted, "I believe it certainly would be prudent for both myself and Richtex Bricks to send him to an orthopedic surgeon." (H.T. 228, 250). He disputed the doctor's opinions and report. (H.T. 228-29). He admitted that he did not tell any of his subsequent employers about his restriction of no heavy lifting following Richtex. (H.T. 230). He admitted he did not tell Dr. Scott Boyd about being placed under restrictions or his prior back injury. (H.T. 231).

2. Jermaine Ante Lemon

Lemon was thirty-seven years old and had worked at Michelin for ten years at the time of the hearing. (H.T. 289). At the time of the hearing, he worked in "Confin," but he previously worked in "PAP" until December 2017. (H.T. 289). He stated PAP was difficult work and takes time to get use to performing. (H.T. 291-94). When he first began at Michelin, he would have aches and pains but denied ever taking any over-the-counter medication such as aspirin or Advil. (H.T. 291). He trained the claimant to work at Michelin. (H.T. 295). He acknowledged the claimant was a hard worker and did well in training. (H.T. 295). He stated the claimant had difficulty doing the job in terms of the steps for how to complete the job. (H.T. 295). Lemon did not believe or think the claimant was injured as Lemon stated the claimant never reported any injuries to him or spoke with him about any aches or pains he experienced. (H.T. 295, 301). Further, he never saw the claimant have any aches or pains. (H.T. 295). He did not know if the claimant worked on June 24, 2017. (H.T. 296).

On cross-examination, he confirmed he never lied on his application for employment at Michelin, truthfully completed the post-hire questionnaire, expected Michelin needed to know whether he could perform his duties, and believed it was important to be truthful in his answers. (H.T. 297-98). He believed a person who was told by a surgeon that he could not perform heavy lifting, could not perform the job of the PAP. (H.T. 298-99). He testified the claimant never told him he had to leave a job in 1997 because of his back issues or that the doctor told him to meet with a surgeon before he could perform any heavy lifting. (H.T. 298). He stated he would want to have known if a co-worker was physically capable of performing the PAP job because

if they were not, he could get injured as well. (H.T. 298). He testified Michelin asked questions on the questionnaire and rely on truthful answers to prevent other employees from getting injured. (H.T. 298-301).

3. Troy Alton Lowman

Lowman was a Training Manager who had been employed by Michelin for thirty-six years. (H.T. 329). He was responsible for on-boarding new employees and insuring training occurs and is properly conducted. (H.T. 329). He stated he had authority over new hires up until they reach "validation." (H.T. 329). Validation means the employee can do the job safely with good quality while developing speed. (H.T. 329). He stated the claimant never successfully completed validation. (H.T. 329). He explained the training at Michelin includes a discussion on workers' compensation and reporting claims. (H.T. 331).

He testified that the proper protocol for if an accident occurs at Michelin was to notify the shift manager and safety spoke and complete an accident investigation. (H.T. 332). The employees were trained that if the medical department was not open, they were to go directly to security because Michelin's security officers are trained Emergency Medical Technicians. (H.T. 332). The employees were instructed not to go to the family health center for work-related injuries. (H.T. 332).

He first became aware the claimant was filing a workers' compensation claim on June 24, 2017, around lunchtime. (H.T. 333). The claimant called him and told him he was at hospital for a work injury. (H.T. 334, 347). Lowman believed the claimant had already been seen by a doctor when the claimant called Lowman. (H.T. 334). He stated he was not aware that the claimant attended Lexington Medical Center on June 11, 2017, and his personal doctor on June 13, 2017, claiming he was injured at work. (H.T. 336, 338, 352). Lowman stated the proper procedure would have been for the claimant to report those injuries to the manager or safety spoke. (H.T. 336-37). He testified the claimant had ample opportunity to notify him of the alleged injury but failed to do so. (H.T. 337-38). He stated he would have wanted to know of the claimant's back pain because of its impact on the safety of Michelin, the claimant's co-workers, and other members of the claimant's team. (H.T. 338).

On cross-examination, he confirmed that the claimant should have reported any back pain that hindered his ability to do his job. (H.T. 343). He testified that when the claimant called Lowman from the hospital on June 24, 2017, the claimant was asked to report the accident to security, which in turn would generate an accident investigation. The claimant was asked to report back to Michelin Security to let them know of his issue, which would have initiated the accident report and investigation. (H.T. 349). He testified that the claimant never returned to Michelin; however, if he had returned, they would have completed an accident report. (H.T. 351). Lowman testified the claimant never returned Lowman's phone calls after that initial call in the hospital. (H.T. 352, 356). He reiterated that he would have wanted to know of the claimant's reports of back pain on June 11 and June 13, 2017. (H.T. 353-54). He testified that had he known of the back issues, he would have secured medical treatment for the claimant and determined whether he was capable of performing the job. (H.T. 353-55).

4. Nurse Christie Sirois

Sirois is employed by Palmetto Health, Healthworks and physically works at Michelin as the plant nurse for five years. (H.T. 363). On Saturday, June 24, 2017, she received a call from the shop manager, Tyrone Gilmore, asking her if she knew anything about the claimant and his alleged injury and she did not. (H.T. 364). She contacted the claimant and asked him about the incident. (H.T. 365). She stated she told him he did not follow the proper protocol in seeking treatment. (H.T. 367). Further, she testified he was "vague" in describing how the accident allegedly occurred. (H.T. 367, 373).

Similarly to Lowman and Lemon, she confirmed that if a Michelin employee goes to the doctor or the hospital or anywhere and claims to be having back pain to the point that it is ten out of ten back pain and he or she relates the pain to the job that they do out at Michelin, that is something that should have been reported to Sirois, the BUL (Business Unit Leader), the safety spoke, the manager, or someone else on staff. (H.T. 369). She testified that the claimant's alleged pain was not reported before June 24, 2017. (H.T. 368). She opined it was not safe for the claimant to continue his job if he had ten out of ten pains in his back. (H.T.

368). She stated that if the claimant had reported the prior back pain, she would have brought him in for an assessment and referred him to Dr. Izard for further evaluation. (H.T. 369). When the claimant finally contacted her on June 24, 2017, she scheduled him an appointment with Dr. Izard for the following business day. (H.T. 369). She attended the visit with the claimant. (H.T. 370). The claimant was supposed to return to Dr. Izard two days later but did not return. (H.T. 370). She testified that if an applicant wanted a job at Michelin bad enough, they could provide false information in order to pass the initial medical examination. (H.T. 385-90).

5. Mark Stephen Gross

Gross testified that he had been employed with Michelin for thirty-seven years. (H.T. 397). He was the Safety Manager at the time the claimant was employed with the company. (H.T. 398). As Safety Manager, Gross was notified of any actual or potential workers' compensation claims. (H.T. 398). He described the safety training provided to all new employee. (H.T. 398-99). He stated no person in management at Michelin had any idea the claimant was claiming to have back problems since around the end of May 2017. (H.T. 399). They were not notified that the claimant went to the doctor on June 11 or June 13, 2017. (H.T. 399-400). He confirmed the prior appointments should have been reported to Michelin. (H.T. 400). He would have needed to know that information to make sure the claimant did not hurt himself or anyone else further. (H.T. 414).

He recited the proper procedure for when an injury is reported. (H.T. 400-03). He stated he was informed of the claimant's alleged injury late in the afternoon on June 24, 2017. (H.T. 402). He then explained the proper procedure for filing a workers' compensation claim. (H.T. 403). He stated the claimant never returned to the plant to complete the investigation. (H.T. 404). When the claimant told Gross he could not return for the appointment with Dr. Izard or complete the report or investigation because he did not have transportation, Gross offered to provide the claimant with transportation. (H.T. 404). He testified the claimant responded, "you need to talk to my lawyer" and hung up the phone. (H.T. 405).

Gross outlined the post-offer health questionnaire Michelin requires of every newly-hired employee. (H.T. 406). He stated they rely on the information provided by the employees in the questionnaire. (H.T. 407). He testified that because the claimant did not note he had prior back issues and a prior workers' compensation claim, the company and its doctor were not able to investigate the extent of the prior injury. (H.T. 407). He explained that if he had known about the claimant's prior issues, he would have been concerned. (H.T. 408).

He stated he does not believe any of the claimant's allegations in this claim. (H.T. 417). He relies on the employees to be truthful in completing the post-offer health questionnaire for the safety of all employees. (H.T. 418). Further, he explained it is impossible for the plant doctors to conduct thorough investigations and examinations if an employee lies on the questionnaire. (H.T. 419). He testified the claimant lied on his questionnaire in contrast to Lemon who truthfully completed his questionnaire. (H.T. 422-23, 428-29).

B. APA SUBMISSIONS:

1. Medical Evidence

After his injury while working for Richtex, the claimant began treatment with Thomas Norris, III, MD. (Defendants' APA #1, p. 1-2). On December 4, 1997, Dr. Norris, noted the claimant had been "working for Richtex for three weeks and of note he has had back pain for three weeks. This has been worsening over the past couple of days since a possible injury while lifting some bricks on Tuesday of this week." (*Id.*). Dr. Norris instructed the claimant not to complete any heavy lifting and to return to the clinic in one week. Further, the medical record from the visit states as follows:

> I also discussed with [the claimant] in no uncertain terms if he has been having back pain for three weeks, the entire time he has been working for Ric[h]tex, if he does not respond very well and very fast to some conservative treatment it might be in his and Ric[h]tex's best interest for him to find new employment.

The claimant met with Dr. Norris again on December 11, 1997. Dr. Norris's medical notes from that appointment states as follows:

> He had noted back pain and soreness for three weeks. Then he reported this vague episode of lifting some bricks and he felt that he may have injured himself at that time although he denied any significant change at the time of this incident. Of note, three days after he saw me, he was at Doctors Care wanting a second opinion, although he was not following my instructions.

Further, Dr. Norris stated as follows:

> [The claimant] mentions that he knows something is wrong with his back and he wants to go to a back specialist. It seems today that [the claimant] and I have a very difficult time communicating and I certainly feel that with him having only been an employee three weeks at Richtex, and mentioning a back specialist after he had been improving on the therapy I had recommended, he may very well be in a litigation thought process.... I believe it certainly would be prudent for both myself and Richtex bricks to send him to an orthopaedic surgeon.

Finally, Dr. Norris stated the following:

> [I]t seems he wants to be evaluated by a back specialist. I feel like Dr. Bethea at Moore Clinic would certainly put this to rest most expediently, however, as stated above, I don't feel that Richtex nor myself need to undertake any liability with this young man who, in my opinion, is unable to perform the job required at Richtex and he was even told this the very first day. I restated that today. I will place him on no heavy lifting until he sees the surgeon.

(*Id.*).

On January 3, 2017, the claimant went to his primary care physician, Dr. Eric Marom for an exam regarding essential hypertension, obesity, gout, screening for colorectal cancer, and erectile dysfunction. (Claimant's APA #1, p. 1). Under history of present illness, the medical record notes, "thinks [he] has had 2 periods of gout, had significant foot pains, R foot, could not walk on it, diagnosed at drs care, pains near first toe." (Claimant's APA #1, p. 1). The record notes a history of right knee arthroscopy and that he was currently employed in quality control at Westinghouse. (Claimant's APA #1, p. 3).

On June 11, 2017, the claimant visited Lexington Medical Center complaining of "back pain after lifting at work." (Claimant's APA #2, p. 13). He complained the low back pain had persisted for the past several days. (Claimant's APA #2, p. 13). He reported that he was doing heavy lifting at work prior to the onset of the pain. (Claimant's APA #2, p. 13). The doctor prescribed cyclobenzaprine and tramadol. (Claimant's APA #2, p. 14).

On June 13, 2017, the claimant returned to Dr. Marom complaining of lower back pains for the past two weeks. (Claimant's APA #1, p. 7). The record notes, "has had new job at Michelin, moving heavy stuff-there now for about 2 weeks, pain is 10/10 w/certain movements, says feels sharp, no radiation into legs." (Claimant's APA #1, p. 7). Further, the record provides that the claimant reported he had never had pain there in the past and had suffered no recent injury or trauma. (Claimant's APA #1, p. 7). He was taking cyclobenzaprine, hydrochlorothiazide, and tramadol, among other medications. (Claimant's APA #1, p. 7).

On June 24, 2017, at 9:07 a.m., the claimant reported to Lexington Medical Center Emergency Room. (Claimant's APA #3, p. 16). He complained of lower back pain "since he was working last night, states does a lot of lifting/pulling and started hurting then." (Claimant's APA #3, p. 16). In consultation with the social worker, the claimant had questions about a possible workers' compensation claim. (Claimant's APA #3, p. 17, 22). The physician determined he was negative for gait problems and had a normal range of motion. (Claimant's APA #3, p. 19). The physician advised him to follow-up with Dr. Brett Gunter the next day to make an appointment. (Claimant's APA #3, p. 19). The doctor excused him from work for three days and advised he could return to work on June 28, 2017. (Claimant's APA #3, p. 25).

The claimant completed a "HealthWorks Post-Injury Questionnaire" on June 26, 2017, before meeting with Dr. Stephen Izard at Michelin. (Claimant's APA #4, p. 26-30). On the form, the claimant reported the injury occurred on June 24, 2017, while he was stretching rubber and moving bobbins. (Claimant's APA #4, p. 26-30). He denied ever injuring this part of his body. (Claimant's APA #4, p. 26). Following an evaluation, Dr. Izard opined the claimant presented a significant degree of symptom

amplification and magnification. (Claimant's APA #4, p. 30). Dr. Izard returned the claimant to regular duty and ordered the claimant to follow-up with him two days later on June 28, 2017. (Claimant's APA #4, p. 30).

On the following day, June 27, 2017, the claimant went to Lexington Medical Center Emergency Room complaining of back pain and urinary retention. (Claimant's APA #5, pp. 34-35). The doctor noted he had a normal gait. (Claimant's APA #5, p. 35). An X-ray of the lumbar spine showed no fracture subluxation. (Claimant's APA #5, p. 37).

The claimant did not return to Dr. Izard on June 28, 2017, as instructed. On June 30, 2017, the claimant went to Doctors Care, complaining of back pain. (Claimant's APA #6). He did not answer the questions on the intake form addressing whether the injury was a workers' compensation claim. (Claimant's APA #6, p. 44). The doctor told him he "really didn't have much to offer" the claimant as the claimant was already taking NSAIDs, muscle relaxers, and pain medications. (Claimant's APA #6, p. 45). The doctor referred him to an orthopedic specialist.

On July 24, 2017, the claimant met with Dr. Scott Boyd's physician assistant, Luis Valdes, PA, at Lexington Brain and Spine Institute. Valdes ordered an MRI and physical therapy. (Claimant's APA #7, p. 55). The claimant reported to Dr. Boyd that he "hasn't had previous back problems except maybe 25 years ago he had an episode that resolved without any treatment." (Claimant's APA #7, p. 58). Dr. Boyd gave him an injection, ordered physical therapy, and placed him out of work. (Claimant's APA #7, p. 60-71). The claimant did not answer the question on the physical therapy intake form asking whether the injury was related to a work accident. (Claimant's APA #8, p. 73).

In a medical questionnaire dated November 29, 2017, Dr. Boyd opined the claimant injured his lumbar spine at Michelin on June 24, 2017, the injury resulted in radiculopathy down the claimant's left leg, the claimant should remain out of work pending further treatment, and the claimant had not reached maximum medical improvement. (Claimant's APA #7, p. 71).

2. Deposition of Scott Boyd, MD

Dr. Boyd testified Valdes is his physician's assistant whom the claimant met with during the claimant's visits at the office. (Boyd Depo p. 5). Dr. Boyd supervised Valdes' work. Dr. Boyd testified the claimant presented for evaluation of an injury he stated occurred at work when he was lifting some heavy materials. The claimant reported to Dr. Boyd's office that he felt a sharp pain in his low back. He was seen at urgent care and then the emergency room, prescribed medications and told to follow up with Dr. Boyd. (*Id.*). Dr. Boyd testified the claimant told Mr. Valdes he was injured on June 24, 2017. (Boyd Depo p. 6). Dr. Boyd stated the later conducted MRI showed a herniated disk, but there was no way to tell from looking at the MRI scan how long the issue had been present. (Boyd Depo p. 9, 25-26). Dr. Boyd testified that as of September 14, 2017, the claimant was improving, and his pain level was down to a three out of ten. (Boyd Depo p.12). Dr. Boyd stated that all of his responses on the questionnaire he completed for the claimant were based in part on the history given to him by the claimant. (Boyd Depo p.16-17). Dr. Boyd admitted the history of accident given to him was different than that given to Internal Medicine. (Boyd Depo p. 20). On 6/13/17, claimant had the worst pain someone could experience. There was no recent trauma causing back problems per the 6/13/17, report. (Boyd Depo p. 21). The 6/24/17, hospital ER report makes no mention of radiating pain per Dr. Boyd. (Boyd Depo p. 24). He testified he cannot be certain as to when the current injury occurred. (Boyd Depo p. 27). Dr. Boyd opined the claimant began having back problems with pain because of increased physical exertion with his position at Michelin started in April 2017. Dr. Boyd believed the claimant got progressively worse and "at some point, somewhere around June 24th, something changed where he began having a slightly different set of symptoms . . . ." (Boyd Depo p. 43). Dr. Boyd opined that more likely than not, the claimant injured his lumbar spine at Michelin, including "some episode on June 24th." (Boyd Depo p. 44). Finally, Dr. Boyd testified it was his impression when he first saw claimant that the problems had begun on 6/24/17, and claimant had no issues before then. (Boyd Depo p. 54).

3. Exhibits

The claimant had a workers' compensation claim for a low back injury that occurred on December 4, 1997, while he worked for Jannock LTD D/B/A Richtex Brick. (Claimant's Exhibit G, p. 89; Defendant's Exhibit D, p. 8).

On May 16, 2001, the claimant completed the "Medical History and Examination Form (Post-Offer/Pre-Placement)" for Westinghouse Electric Corporation. (Defendant's Exhibit F, p. 17-21). The claimant denied ever having had a work-related injury or illness. (Defendant's Exhibit F, p. 19). He denied ever being restricted medically from doing any part of his job. (*Id.*). He stated he never had any pain, numbness, limited motion, or injury of the back. (*Id.* at 20.). He denied ever having a work injury, workers' compensation claim, or receiving a settlement for any injury. (*Id.*). He denied any permanent restrictions or limitations. (*Id.*). He also denied having had a previous job with similar physical demands. (*Id.*).

Similarly, on March 21, 2017, the claimant executed the "Michelin Confidential Health Questionnaire for Post-Offer Examination." (Defendant's Exhibit E, p. 16). He denied any prior back injury, backache, back pain. (*Id.*). He denied ever experiencing a medical problem that affected his ability to perform work. (*Id.*).

In her work notes, Nurse Christie Sirois noted the claimant stated that on June 24, 2017, around 5:30 am, he was working on PAP when his back started to ache. (Claimant's Exhibit F, p. 88). He stated the back pain worsened as he continued to work. The claimant stated he left work and went to Michelin Family Health, but they were closed. He then went to Lexington Medical Center Emergency Room (LMC). Nurse Sirois noted the claimant did not report the injury to anyone at Michelin until after being released from LMC. She stated LMC diagnosed the claimant with lumbar strain and prescribed Percocet and Flexeril but did not complete diagnostic testing. Shop manager, Tyrone Gilmore, contacted Nurse Sirois to see if she spoke with the claimant. (Claimant's Exhibit F, p. 88).

She called the claimant on June 24, 2017, around 3:57 pm. The claimant told her he was seen at LMC for lower left back pain that started on June 24, 2017, while stretching and pulling rubber. The claimant rated pain at a ten and denied any numbness, tingling, radiating pain, or other symptoms. The claimant also

denied anything specific that started the pain at work and denied anything personal outside of work. She scheduled the claimant an appointment with Dr. Izard at Healthworks on June 26, 2017, at 8:00 am for further evaluation. Nurse Sirois noted that during the June 26, 2017 visit with Dr. Izard, Dr. Izard opined there seems to be a significant degree of symptoms amplification and magnification by the claimant. (Claimant's Exhibit F, p. 88).

After the claimant contacted Nurse Sirois on June 28, 2017 and told her he went back to LMC on June 27, 2017, and would not attend his appointment with Dr. Izard, Nurse Sirois explained to the claimant the workers' compensation process and that he had not properly notified medical of any of his appointments. The claimant angrily stated that he did notify medical and "he did not have to get into this with" her. She advised him to speak with his supervisor immediately, but he would not let her talk and disconnected the call. (Claimant's Exhibit F, p. 88).

After careful review in the instant case of all grounds raised, the evidence in the record, and oral arguments from both counsel, the Commission finds that, by unanimous vote, the Decision and Order of the Hearing Commissioner is Affirmed in its entirety with minor Amendments.

FINDINGS OF FACT

After careful review of the evidence presented by the parties, including the hearing testimony of the claimant, Jermaine Lemon, Troy Lowman, Nurse Christie Sirios, and Mark Gross, the deposition testimony of Scott B. Boyd, MD, and the medical records and exhibits submitted through the APA, WE FIND AS A FACT THAT:

1. The Hearing Commissioner sent the Order instructions to the parties on April 17, 2018, via email. The Hearing Transcript was not completed until June 5, 2018, per Certificate of the court reporter.

2. We find the claimant is not credible. This Finding is based upon the greater weight of the evidence in the record, the testimony of the claimant, the testimony of representatives from Michelin, as well as the Hearing Commissioner's observations of the claimant at the hearing. Specifically, the greater weight of the evidence shows that a couple of weeks after he began working for Richtex in 1997, the claimant had a very similar incident. In that claim, the claimant alleged back pain after he began

physical work with the company. At Richtex, as in the current claim, instead of following the treating doctor's orders, the claimant sought treatment at Doctors Care.

As further evidence of the claimant's lack of credibility, the claimant omitted information about a former employer – an employer for which he had a workers' compensation claim for a back injury – from his employment application for Michelin. The claimant also denied any prior workers' compensation claims, which is untrue. Moreover, he repeatedly attempted to justify his answers during his testimony. We find that while testifying, the claimant gave confusing answers when asked direct questions by his attorney. As noted by the Hearing Commissioner throughout the proceeding, the claimant provided vague responses when questioned by defense counsel. He would not answer defense counsel's questions, rambling through responses. (H.T. 227).

3. We find the claimant was unclear as to the actual date of the alleged accident or incident and his reasons for waiting to file a claim. (H.T. 265-69). He believes the alleged accident could have occurred on June 24, 2017; however, the medical records are inconsistent with his testimony. This Finding is based upon the greater weight of the evidence in the record and the testimony of the claimant.

4. We find that on June 11, 2017, the claimant reported ten out of ten pain; however, he did not file a workers' compensation claim for any date but June 24, 2017. (H.T. 259-60). The medical records are not consistent with his testimony. Moreover, claimant never notified anyone at Michelin he had ten out of ten pain in his back which he felt was caused by his work, but instead he returned to the same work he felt was causing his problems unbeknownst to Michelin. This Finding is based upon the greater weight of the evidence in the record and the testimony of the claimant.

5. We find Dr. Boyd provided restrictions of no heavy lifting. However, we find causation is not provided in the medical records because Dr. Boyd had no knowledge of the extent of claimant's prior back issues. This Finding is based upon the greater weight of the evidence in the record, the deposition testimony of Dr. Boyd, and the testimony of the claimant.

6. We find the medical records; records from Richtex Brick and Westinghouse; along with the testimony of Mark Gross; the evidence supports the defense of fraud in the application for employment. (Claimant's Exhibit G, p. 89; Defendants' Exhibit D, p. 8; Defendants' Exhibit E, p. 16; Claimant's APA #4, p. 26).

7. We find based on the greater weight of the evidence there is clearly fraud in the application. The claimant completed the post-hire medical questionnaire for Michelin on March 21, 2017. The claimant with knowledge falsely stated he never had prior back issues. The employer would not have hired the claimant for the position in which he was working had the claimant provided truthful information. This finding is based upon the greater weight of the evidence in the record, including but not limited to the post-hire medical questionnaire, the medical records, the testimony of the claimant, Jermaine Lemon, Troy Lowman, and Mark Gross.

8. We find the claimant understood all questions on the post-hire questionnaire and authenticated his signature. Claimant understood the cautionary language and understood that false answers could result in his loss of workers' compensation benefits and employment. This finding is based upon the

greater weight of the evidence in the record, including but not limited to the post-hire medical questionnaire, the medical records, and the testimony of the claimant.

9. We find the claimant knowingly and willfully made a false misrepresentation as to his prior back condition. We find the defendant-employer relied on the claimant's misrepresentations on his post-hire medical questionnaire. We find a causal relationship exists between claimant's prior back problems and the subsequent back problems arising from his alleged work-related accident. This finding is based upon the testimony of all witnesses and the medical evidence in the record.

10. This claim is denied in its entirety based on evidence of numerous issues relating back to 1997 through 2017. The claimant has failed to carry his burden of proof of an accident being sustained on June 24, 2017, due to his lack of credibility, the lack of sufficient medical evidence to support his allegations, and, moreover, due to medical evidence to the contrary. We find the claimant was unable to return to work after June 24, 2017, due to a previous incident. We find the June 24, 2017, incident is not compensable based upon the greater weight of the evidence and the other reasons stated within this Finding.

11. We find that prior to the Hearing, defense counsel Grady Beard prepared to a motion to reconvene the deposition of Dr. Scott B. Boyd. Defense counsel sought to have this motion granted prior to the Hearing, stating counsel for the claimant, Stephen Samuels, noted reasons not to grant the motion. At the end of the hearing, Attorney Beard sought to withdraw the motion and Attorney Samuels requested to have the motion granted. At the end of the hearing, the Hearing Commissioner found the motion is denied.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, and as provided by the Code of Laws of South Carolina, § 42-17-40, it is the determination of this Appellate Panel that:

1. Under §42-1-130, claimant was a covered employee at the time in question; however, pursuant to §42-1-130 and *Cooper v. McDevitt & Street Co.*, 260 S.C. 463, 196 S.E.2d 833 (1973), the claimant committed fraud in the application for employment, vitiating the employer-employee relationship and barring him from benefits under the South Carolina Workers' Compensation Act.

2. Under §42-1-140, defendant-employer was a covered employer under the Act.

3. Pursuant to *Cooper*, the following three factors must be present before a false statement in an employment application will vitiate the employer-employee relationship and bar an employee from benefits: (1) the employee must have knowingly and willfully made a false representation as to his physical condition; (2) the employer must have relied upon the false representation and this reliance must have been a substantial factor in the hiring; (3) there must have been a causal connection between the false representation and the injury. All three elements were met in this case.

4. Under §42-1-160, the claimant did not sustain compensable injury to his low back while under the employ of the defendant-employer on June 24, 2017, as alleged. Claimant failed to meet his burden of proof that he injured his low back on June 24, 2017, under the evidence presented. Moreover, the claim would be barred under ***Capers v. Flautt.***

5. Under §42-9-60, assuming claimant actually sustained an injury by accident on June 24, 2017, to his low back, as alleged, the claimant intentionally and willfully did so by failing to alert or notify his employer he was allegedly suffering from ten out of ten low back pain for at least 4 weeks prior to that date and seeking medical treatment on his own without any knowledge by his employer due to his failure to provide same.

6. Under §42-9-30, the claimant did not sustain permanent partial disability with regard to his low back.

7. Under §42-15-60, the claimant is not entitled to medical treatment.

ORDER

IT IS, THEREFORE, ORDERED, that the Decision and Order of the Hearing Commissioner filed in the above-captioned matters on January 18, 2018, is hereby **UNANIMOUSLY AFFIRMED WITH AMENDMENTS.**

AND IT IS SO ORDERED.

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

Commissioner Gene McCaskill
For the Appellate Panel

Commissioner Susan S. Barden

Commissioner T. Scott Beck

CERTIFICATE OF SERVICE

This is to certify that the undersigned has on this date served a copy of this order in the above entitled action upon all parties to this case by sending an electronic copy hereof by electronic mail addressed to the attorneys for said parties; or if there is an unrepresented party(ies), by depositing a copy hereof, postage paid in the United States mail, first class, addressed to the unrepresented party(ies) and to the attorney(s) for the represented party(ies).

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By Eugenia Hollmon on February 27, 2019

South Carolina Workers' Compensation Commission
1333 Main Street, Suite 500 • Post Office Box 1715
Columbia, South Carolina 29202-1715
(803) 737-5723 www.wcc.sc.gov

WCC File #: 1708221
Carrier File #: 002550-080240-WC-01
Carrier Code #: 1026
Employer FEIN #:

Claimant's Name: Isaac D. Brailey SSN: --
Address:
City: State: Zip:
Home Phone: ( ) - Work Phone: ( ) -

Employer's Name: Michelin North America, Inc.
Address: 2420 Two Notch Road
City: Lexington State: SC Zip: 29071
Insurance Carrier: Gallagher Bassett Services

Preparer's Name: Stephen B. Samuels Law Firm: Samuels Law Firm Preparer's Phone #: (803) 779-4000

A claim for workers' compensation benefits is made based on the following grounds: **Date of Injury or Illness: 06/24/2017**

☒Injury ☐ Illness ☐ Repetitive Trauma ☐Occupational Disease ☐Physical Brain Injury ☐Concurrent Jurisdiction

1. The claimant sustained an injury to back and left leg (Part(s) of Body Injured) on 06/24/2017 (Month/Day/Year) in Lexington county, state of SC.
2. Body part(s) affected are: back and left leg
   Briefly describe how the accident occurred. Stretching rubber for a tire
3. Both the claimant and the employer were subject to the South Carolina Workers' Compensation Act at the time of injury.
4. The relationship of employer and employee existed at the time of injury.
5. At the time of the injury the claimant was performing services arising out of and in the course of employment.
6. Notice of the accidental injury was given to the Employer on 06/24/2017 (Month/Day/Year) in the following manner:
   Via telephone to Tyrone Gilmore

☒7. Due to injury, the claimant is in need of (check one):

☐(a) medical examination and treatment for: ____

☒(b) additional medical examination and treatment for: back and left leg

☒8. Due to injury, the claimant requests temporary total disability benefits because of lost compensable time from work and wages for the period of:
06/25/2017 and continuing

☐9. Due to the injury, the Claimant has permanent disability of the following nature and extent (check one):

☐(1) General Disability: ☐Total ☐ Partial ☐(2) Specific Disability: ☐Total ☐ Partial ☐ (3) Wage Loss

9a. ☒A determination of permanent disability is premature at this time.

☐10. Due to the injury, the Claimant has a serious bodily disfigurement consisting of:

10a. At the time of the injury, the Claimant was paid weekly wages of $Form 20 Needed, and demands accounting of days worked and wages earned as provided by law.

10b. Give names and addresses of all employers for whom the Claimant has worked since the date of the accident:
None

11. Further grounds or unusual aspects of claim:
Claimant reserves the right to amend "Employee's Request for Hearing, WCC Form #50" as additional information becomes available.

11a. List names and addresses of all physicians or other medical specialists who have seen or treated the Claimant as a result of the accident:

11b. To the best of your knowledge, did you have any prior permanent disability? ____
If yes, describe: ____

12. Appropriate benefits as provided in the Act for the above grounds and other relief as the Workers' Compensation Commission may direct as just and proper.

☐13a. **I am filing a claim. I am not requesting a hearing at this time.**

14. Estimated time needed for hearing: 45 minutes

☒13b. **I am requesting a hearing. A $25 fee is required.**

☐ **Mediation**

☐a. Mediation is requested to be ordered pursuant to Reg. 67-1801 B.
☐b. Mediation is required pursuant to Reg. 67-1802.
☐c. Mediation is requested by consent of the Parties pursuant to Reg. 67-1803.
☐d. Mediation has been conducted by a duly qualified mediator and resulted in an impasse.

Questions regarding mediation may be submitted to mediation@wcc.sc.gov.

I certify I have served this document pursuant to Reg. 67-211 by delivering a copy to B. Gibbs Leaphart, Jr., Sowell Gray Robinson Stepp & Laffitte, PO Box 11449, Columbia SC 29211 on the 4th day of October, 2017, by ☒ first class postage ☐certified mail ☐personal service.

I verify the contents of this form are accurate and true to the best of my knowledge.

Preparer's Signature	Attorney for Claimant (Title)	stephen@samuelslawfirm.net (Email)	October 4, 2017 (Date)

Questions about the use of this form should be directed to the Claims Department at 803.737.5723. Refer to Regulations 67-204 through 67-211 and Regulations 67-601 through 67-615 as well as Reg. 67-1801.

WCC Form # 50
Revised 7/13

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Employee's Notice of Claim and/or Request for Hearing

ATTACHMENT TO EMPLOYEE'S REQUEST FOR HEARING, WCC FORM # 50

Isaac D. Brailey v. Michelin North America, Inc.

WCC File No.: 1708221

11a. Lexington Medical Center
2720 Sunset Boulevard
West Columbia, South Carolina 29169

Doctors Care
815 Highway 378 West
Lexington, South Carolina 29072

Lexington Brain and Spine
146 N. Hospital Drive, Ste 120
West Columbia, South Carolina 29169

Lexington Physical Therapy
1787 South Lake Drive Suite H
Lexington, South Carolina 29073

SC Workers' Compensation Commission
1333 Main Street, Suite 500
P.O. BOX 1715
Columbia, SC 29202-1715
(803) 737-5723

WCC File #: 1708221
Carrier File #: 002550-080240-wc-01
Carrier Code #:
Employer FEIN #:

Isaac Bralley — SSN
Address — City — State — Zip
Home Phone — Work Phone

Michelin North America, Inc.(US7)
Employer's Name
2420 Two Notch Road, Lexington, SC 29071
Address — City — State — Zip
Safety National Casualty Corp.
Insurance Carrier

Preparer's Name: Grady L. Beard, Esquire — Law Firm: Sowell Gray Robinson Stepp & Laffitte, L.L.C. — Preparer's Phone #: (803) 929-1400

Date of Injury or Illness: 06/24/17 (Alleged in Form 50) — Estimated time for hearing: 2 hours as claim denied

Complete each information blank. Specify clearly when contentions are admitted in part and denied in part. The employer/carrier in answer to the claim, respectfully shows:

1. It is denied the employee sustained an injury or illness on or about the date set forth in the Form 50. The reasons for denial are: Claim under investigation. See No. 11.
2. It is denied both the employer and employee were subject to the Workers' Compensation Act at the time in question. The reasons for denial are: Claim under investigation. See No. 1 and No. 11.
3. It is denied the relationship of employer and employee existed at the time in question. The reasons for denial are: Claim under investigation. See No. 1 and No. 11.
4. It is denied at the time in question the employee was performing services arising out of and in the course of employment. The reasons for denial are: Claim under investigation. See No. 1 and No. 11.
5. It is denied notice of injury was given to the employer. The reasons for denial are: See No. 1 and No. 11.
6. It is denied the employee needs / is entitled to additional medical care as a result of injury or illness. The reasons for denial are: Claim under investigation. See No. 1 and No. 11. This is not a compensable claim.
7. It is denied the employee is entitled to temporary total disability for the period(s) of: See No. 1 and No. 11.
8. It is denied the employee is permanently disabled. The reasons for denial are: Not claimed in the Form 50. No evidence of same. Defendants demand strict proof of same. See No. 1 and No. 11.
9. It is denied the employee has a serious disfigurement.
10. It is contented that an average weekly wage of $ Form 20 applies, according to attached Form 20 as provided by law.
11. Further contentions, grounds of defense, or unusual aspects are: Claimant has failed to answer Question 11b on the Form 50; therefore, the SCWCC should not process same until the question has been answered by claimant. As a matter of law. See attached.

☐ Mediation

- ☐ (a) Mediation is requested to be ordered pursuant to Reg. 67-1801 B.
- ☐ (b) Mediation is required pursuant to Reg. 67-1802.
- ☐ (c) Mediation is requested by consent of the parties pursuant to Reg. 67-1803.
- ☐ (d) Mediation has been conducted by a duly qualified mediator and resulted in an impasse.

Questions regarding mediation may be submitted to mediation@wcc.sc.gov

I verify the contents of this form are accurate and true to the best of my knowledge.

Preparer's Signature — Attorney for The Employer/Carrier (Title) — gbeard@sowellgray.com (Email) — November 3, 2017 (Date)

Refer to R. 67-204 through R. 67-210 and R. 67-601 through R. 67-615. Refer to R. 67-1801 for mediation. Questions about the use of this form may be directed to the Commission's Judicial Department at (803) 737-5675 or judicial@wcc.sc.gov or mediation@wcc.sc.gov. Pursuant to R. 67-606, a Form 20 must be filed with the Claims Department at least 30 days from the date of filing this form.

Isaac Bralley v. Michelin North America, Inc.
WCC File No.: 1708221
Date of Accident: 06/24/17
Claim No.: 002550-080240-wc-01
Our File No.: 6555/8068

(Continuation from Form 51)

11. Further contentions or grounds of defense are: All affirmative and specific defenses (see Reg. 67-603), including but not limited to § 42-15-20; fraud in the application for employment; pre-existing disability to allegedly injured members; no compensable injury by accident under § 42-1-160; degree of disability, if any, attributable to this injury speculative; claimant's problems personal in nature and not work-related; claimant refused continued treatment under §42-15-60(A); defendants reserve the right to amend this Answer and plead additional defenses.

SOWELL GRAY ROBINSON STEPP & LAFFITTE, L.L.C.

By: _____

Grady L. Beard
1310 Gadsden Street
Post Office Box 11449
Columbia, SC 29211
(803) 929-1400

Attorneys for Employer/Carrier

Columbia, South Carolina

November 3, 2017

South Carolina Workers' Compensation Commission
1333 Main Street, Suite 500
P.O. BOX 1715
Columbia, SC 29202-1715
(803) 737-5739 www.wcc.sc.gov

AMENDED

PRE-HEARING BRIEF
WCC File No: 1708221

Claimant's Name: Isaac D. Brailey
Address: e
City: State: Zip:
Home Phone: ( ) - Work Phone: ( ) -
Preparer's Name: Stephen B. Samuels

Employer's Name: Michelin North America, Inc.
Address: 2420 Two Notch Road
City: Lexington State: SC Zip: 29071
Carrier: Gallagher Bassett Services
Preparer's Phone #: (803) 779-4000

A claim for workers' compensation benefits is made based on the following grounds:
☒ Injury ☐ Illness ☐ Repetitive Trauma

1. Compensation Rate: See Attachment 2. AWW: See Attachment **Date of Injury:** 06/24/2017
3. Type of injury and body part(s): Please see "Attachment to Pre-Hearing Brief, WCC Form #58"
4. Facts in controversy: Please see "Attachment to Pre-Hearing Brief, WCC Form #58"
5. Legal issues involved: Please see "Attachment to Pre-Hearing Brief, WCC Form #58"
6. Unusual aspects: Please see "Attachment to Pre-Hearing Brief, WCC Form #58"
7. Witnesses (designate if expert):* Isaac Brailey, Troy Lowman and Derrick Gibson. Claimant reserves the right to call any witness(es) Presented on behalf of Defendants.
8. Exhibits: Denial letter and Form 19; Disciplinary Action Form; Payroll Summary; Employment Application; First Report of Injury or Illness; Michelin's Progress Notes for A Particular Case
9. Medical evidence (indicate report pursuant to R.67-612; deposition or appearance): Please see attached Notice of Witnesses and Written Reports of Physicians to be Introduced on Behalf of the Claimant.
10. Name, address, and specialty, if any, of the treating physician: Scott B. Boyd, MD, Lexington Brain and Spine Institute, 146 N. Hospital Drive, Suite 120, West Columbia, SC 29169
11. Impairment rating(s); body part(s); physician and date of opinion: Not applicable. Claimant is not at MMI.
12. I am amending my Form 50/51 in the following manner: Question 11b. Unknown, prior WCC File No. 9727973, settled on Clincher for $2,500.00.

☐ **Mediation**

☐a. Mediation is requested to be ordered pursuant to Reg. 67-1801 B.
☐b. Mediation is required pursuant to Reg. 67-1802.
☐c. Mediation is requested by consent of the Parties pursuant to Reg. 67-1803.
☐d. Mediation has been conducted by a duly qualified mediator and resulted in an impasse.

Questions regarding mediation may be submitted to **mediation@wcc.sc.gov**.

I certify I have served this document pursuant to Reg. 67-211 by delivering a copy to Grady L. Beard, Sowell Gray Robinson, PO Box 11449, Columbia, SC 29211 on the 13th day of February 2018, by: ☒ first class postage ☐ certified mail ☐ personal service ☐ electronic service

I certify the contents of this form are accurate and true to the best of my knowledge.

Signature:
Date of hearing: February 28, 2018
Email: stephen@samuelslawfirm.net
Time needed for hearing: 45 minutes

Questions about the use of this form should be directed to the Jurisdictional Commissioner. Refer to Regulations 67-204 through 67-211 and Regulations 67-601 through 67-615; as well as Regulation 67- 1801. File this form and proof of service on the opposing party according to R.67-611 and R.67-212. Do not send medical reports. * Commissioners reserve the right to admit expert witnesses at hearings.

ATTACHMENT TO PRE-HEARING BRIEF (WCC FORM #58)

Claimant: **Isaac Brailey**
WCC File No.: **1708221**

Procedural History and Statement of the Case:

This hearing is set on a Form 50 filed by the Claimant, Isaac Brailey. Brailey injured his back on June 24, 2017. The Form 51 alleges the reason for denying the claim is: "Claim under investigation." However, the adjuster sent Brailey a letter on July 13, 2017 stating "We have investigated this claim and found no evidence to support your claim for benefits under South Carolina Workers' Compensation provisions." As the Form 51 does not comply with § 42-1-705, the statute mandates that the Form 51 "shall not be considered at a hearing."

Isaac Brailey applied at Michelin on February 27, 2017. He was hired on April 17, 2017.

Brailey worked as a PAP operator in production at Michelin. He started having some back pain from the heavy work. He was told by his coworkers and trainers that this was to be expected and he simply needed to get used to the work.

The pain was bad enough that Brailey went to the Emergency Room on June 11, 2017 and Urgent Care on June 13, 2017. On both visits, he reported back pain from heavy lifting at work. He was prescribed Tramadol and Flexeril.

Early Saturday morning on June 24, 2017, Brailey was stretching rubber on the tire bar. He felt sudden pain in his back. As he was still hurting when his shift ended and the infirmary was closed, he went to the emergency room. At the ED, he was prescribed Osycodone, taken out of work for 3 days and referred to Columbia Brain and Spine for neurosurgical evaluation.

He contacted Derrick Gibson – who was his trainer and one of the "Bulls" – to report his accident.

He also called Troy Lowman. Lowman contacted the company nurse, who called him back later that Saturday. She instructed him to report to the company doctor, Dr. Izard.

Brailey was seen by Dr. Izard on Monday, June 26th. Dr. Izard released him back to full duty without further explanation (to Brailey).

Brailey was still in pain, so he went back to the ED on June 27, 2017. He was again referred to a neurosurgeon and written out of work.

He went to Doctors' Care on June 30, 2017. The record states "he was hurt at Michelin. He says the Michelin doc told him to put ice on it and he had no work restrictions. He has muscle spasm, loss of balance. He has been seen in the ER twice for this problem."

On July 13, 2017, Michelin terminated his employment with no warning, no explanation and no cause.

Brailey was seen by Dr. Scott Boyd and his PA at Lexington Brain and Spine on July 24, 2017. An MRI was ordered, which showed a "left paracentral disc extrusion at L4-5 with a large superiorly migrated extruded disc fragment . . . which results in complete effacement of the left lateral recess, with contact and likely compression of the transiting nerve roots."

Brailey was written out of work. Treatment was ordered. Brailey has been responding to treatment and hopes to avoid surgery.

4. Facts in Controversy:

A. Compensability of Accident.

The medical records and opinions consistently confirm that Brailey suffered a work related injury to his back on June 24, 2017 (possibly arising earlier with the ultimate insult occurring on June 24th). The MRI objectively confirms the disc herniation.

Brailey reported the work-related injury to his doctors and supervisors.

B. Medical Treatment.

Brailey has been treating at his own expense with Dr. Boyd. As Defendants have provided no treatment, Dr. Boyd should be designated as the attending physician per Section 42-15-60. As Brailey is not at MMI, medical treatment should continue.

C. Temporary Total Disability Compensation.

As Brailey has been written out of work since the accident, he should be paid TTD from June 25, 2017 and continuing on a running award.

D. Average Weekly Wage and Compensation Rate.

Michelin has failed to produce payroll records. At the time of his accident, Brailey worked a rotating shift of 36 to 48 hours each two weeks. He was started on a probationary wage of $17.00 per hour and, but for his injury, would have been increased to $19.00 per hour.

His AWW is approximately $836.00 resulting in a compensation rate of $557.36.

E. Permanent Disability.

As Brailey is not at MMI, a determination of permanency is premature.

11. Unusual Problems.

A. Claimant anticipates receiving additional medical records from Lexington Brain and Spine prior to the hearing. Claimant moves pursuant to Reg. 67-613 and Morgan v. JPS Automotives to submit additional evidence of causation, disability and the need for medical treatment to comply with Hartzell.

B. Michelin has responded to Claimant's subpoena, but failed to provide payroll records and timesheets.

General Exam *

Patient: **BRAILEY, ISAAC DOUGLAS** **MRN: 474023** **FIN: B2016112901235**
Age: ; Sex: **Male** DOB:
Associated Diagnoses: **Essential Hypertension, benign; Obesity; Gout; Screening for colorectal cancer; Erectile dysfunction**
Author: **Marom MD, Eric**

Visit Information

Date of Service: 01/03/2017 03:10 pm **Performing Location:** Midlands Internal Medicine **Encounter#:** B2016112901235

Primary Care Provider (PCP): Marom MD, Eric NPI# 1942512173

Chief Complaint
1/3/2017 3:35 PM EST ESC

History of Present Illness

pt is a yo M here to establish medical care. used to be seen by Dr. Chad Millwood. last seen by him about a year ago. in the meantime seeing cards - Dr. Isbell. he has a pmhx significant for htn, obesity, gout, hpl.

currently for htn he is on labetalol 200 mg po bid, hctz 25 mg po qdaily, hydralazine 25 mg po bid, amlodipine/valsartan 10/320 mg daily. has been on this regimen for a few months now. checks bps multiple times daily - has bp machine w/ him today. all bps look good.

trying to lose weight. currently walking 1 mile daily and doing bowflex not daily - maybe every other day.

he is following a strict low carb diet - eating lots of protein.

he is avoiding processed carbs.

weight was as high as 280, now down to 257, wants to get down to 250

thinks has had 2 periods of gout, had significnat foot pains, R foot, could not walk on it, diagnosed at drs care, pains near first toe

uses indomethacin as needed, allopurinol daily, last uric acid level in 9s but only taking uloric for past few weeks

he is concerned about erectile dysfunciton, ongoing ever since on all these meds for htn, gets erections but not maintaining

now he is [redacted] never had c-scope, no fhx, willing to get, currently asymptomatic, w/o melena/ hematochezia

Review of Systems
Constitutional: Negative except as documented in history of present illness.
Eye: Negative except as documented in history of present illness.

Ear/Nose/Mouth/Throat: Negative except as documented in history of present illness.
Respiratory: Negative except as documented in history of present illness.
Cardiovascular: Negative except as documented in history of present illness.
Gastrointestinal: Negative except as documented in history of present illness.
Genitourinary: Negative except as documented in history of present illness.
Hematology/Lymphatics: Negative except as documented in history of present illness.
Endocrine: Negative except as documented in history of present illness.
Immunologic: Negative except as documented in history of present illness.
Musculoskeletal: Negative except as documented in history of present illness.
Integumentary: Negative except as documented in history of present illness.
Neurologic: Negative except as documented in history of present illness.
Psychiatric: Negative except as documented in history of present illness.

Health Status

Allergies:

Allergic Reactions (Selected)

Severity Not Documented

No known drug allergies (No reactions were documented)

Medications: (Selected)

Prescriptions

Prescribed

Exforge 10 mg-320 mg oral tablet: 1 tab(s), po, daily, # 30 tab(s), 11 Refill(s), Type: Maintenance, Pharmacy: Walgreens Drug Store 07399, 1 tab(s) po daily

Forfesta 10 mg/actuation transdermal gel: See Instructions, Instructions: called to walgreen's 957-3071 2 pumps daily Let application site dry before putting on shorts or pants, # 60 g, 3 Refill(s), Type: Maintenance, called to pharmacy (Rx)

allopurinol 100 mg oral tablet: 1 tab(s) (100 mg), po, daily, # 30 tab(s), 0 Refill(s), Type: Maintenance, Pharmacy: Walgreens Drug Store 07399, 1 tab(s) po daily

hydrochlorothiazide 25 mg oral tablet: 1 tab(s) (25 mg), PO, Daily, # 30 tab(s), 11 Refill(s), Type: Maintenance, Pharmacy: Walgreens Drug Store 07399, 1 tab(s) po daily

labetalol 200 mg oral tablet: 2 tab(s) (400 mg), po, bid, # 120 tab(s), 11 Refill(s), Type: Maintenance, Pharmacy: Walgreens Drug Store 07399, 2 tab(s) po bid

Documented Medications

Documented

Culturelle Digestive Health: 0 Refill(s), Type: Maintenance

hydrALAZINE 25 mg oral tablet: 1 tab(s) (25 mg), po, bid, 0 Refill(s), Type: Maintenance

omega-3 polyunsaturated fatty acids 1000 mg oral capsule: 0 Refill(s), Type: Maintenance

Problem list:

All Problems (Selected)

Breast mass / SNOMED CT 508381015 / Confirmed
Coughing / ICD-9-CM 786.2 / Confirmed
Elevated uric acid in blood / ICD-9-CM 790.6 / Confirmed
Erectile Dysfunction / ICD-9-CM 607.84 / Confirmed
Essential Hypertension, Benign / ICD-9-CM 401.1 / Confirmed
Long-Term (Current) Use of Other Medications / ICD-9-CM V58.69
Hypogonadism male / SNOMED CT 81184018 / Confirmed
Obesity / ICD-9-CM 278.00 / Probable
Other Abnormal Glucose / ICD-9-CM 790.29
Other and Unspecified Hyperlipidemia / ICD-9-CM 272.4
POLYURIA / ICD-9-CM 788.42

PROTEINURIA / ICD-9-CM 791.0
Screening for Malignant Neoplasms of Prostate / ICD-9-CM V76.44

Histories

Past Medical History:

Active

Essential Hypertension, Benign (401.1)

Erectile Dysfunction (607.84)

Comments:

3/29/2012 EDT 10:03 AM EDT - Jenkins, Seleana

Followed by Urologist Dr. Sweazy

Family History:

Diabetes

Sister

CVA (Cerebral Vascular Accident)

Grandmother (M): onset at 80

High blood pressure

Mother

CVA (cerebral infarction)

Mother

Father

Procedure history:

Arthroscopy of knee (452850013).

Comments:

1/3/2017 3:56 PM - Marom MD, Eric

right, remote

Social History:

Alcohol Assessment: Current

Current, Beer (12 oz), 6 beers a week, Alcohol use interferes with work or home: No. Drinks more than intended: No. Others hurt by drinking: No.

Current, Beer (12 oz), 1-2 times per week

Tobacco Assessment: Denies Tobacco Use

Never

Substance Abuse Assessment: Denies Substance Abuse

Never

Employment and School Assessment

Employed, Work/School description: Quality Control.

Home and Environment Assessment

Marital status: Married (Living together). Spouse/Partner name: Larissa. Lives with Children, Spouse. 1 children. Living situation: Home/Independent. Alcohol abuse in household: No. Substance abuse in household: No. Smoker in household: No. Injuries/Abuse/Neglect in household: No. Feels unsafe at home: No.

Nutrition and Health Assessment

Diet: Eats Healthy. Type of diet: Regular. Caffeine intake amount: None. Diet restrictions: None.

Exercise Assessment

Exercise frequency: Never.

Sexual Assessment

Sexually active: Yes.

Other Assessment

has signifcant other, 1 adult daughter, lives in columbia, on disability, was working at westin house in quality control

Physical Examination

Vital Signs

1/3/2017 3:35 PM EST

Temperature Oral	98.2 DegF
Peripheral Pulse Rate	85 bpm
Pulse Site	Radial artery
HR Method	Electronic
Respiratory Rate	16 br/min
Systolic Blood Pressure	134 mmHg
Diastolic Blood Pressure	80 mmHg
Mean Arterial Pressure	98 mmHg
BP Site	Left arm
BP Method	Manual
Oxygen Saturation	96 %

Measurements from flowsheet : Measurements

1/3/2017 3:35 PM EST

Height Measured - Standard	71 in
Weight Measured - Standard	258 lb
BSA	2.42 m2
Body Mass Index	35.98 kg/m2

General: Alert and oriented, No acute distress.
Eye: Normal conjunctiva.
HENT: Normocephalic, Oral mucosa is moist, No pharyngeal erythema.
Neck: Supple, No lymphadenopathy.
Respiratory: Lungs are clear to auscultation, Respirations are non-labored, Breath sounds are equal, Symmetrical chest wall expansion.
Cardiovascular: Normal rate, Regular rhythm, No murmur, No gallop, No edema.
Musculoskeletal: No swelling.
Neurologic: Alert, Oriented.
Cognition and Speech: Oriented, Speech clear and coherent.
Psychiatric: Cooperative.

Impression and Plan

Diagnosis

Essential Hypertension, Benign (ICD10-CM I10).
Obesity (ICD10-CM E66.9).
Gout (ICD10-CM M10.9).
Screening for colorectal cancer (ICD10-CM Z12.11).
Erectile dysfunction (ICD10-CM N52.9).

1. obesity. seems like doing great job losing weight via diet / exercise, discussed need to continue as such.

2. hypertension. well controlled on current meds. reviewed bps from home and most look good. cont current bp regimen - amlodipine/valsartan 10/320, labetalol 200 mg po bid, hydralazine 25 bid, hctz 25 mg daily. discussed that as weight continues to improve bp will likely improve and he will likely need less bp meds.

3. gout. already on allopurinol and seems to be tolerating well - will cont. discussed low purine diet. on hctz which could be contributing but as bp has been difficult to control will keep ongoing.

4. erectile dysfunction. discussed likely 2/2 bp meds mostly labetalol. will restart viagra 100 mg po prn - discussed how to use and potential complications /side effects /precautions. if bp comes down w/ weight will try to do w/o beta blockade.

5. colorectal ca screen. currently due. asymptomatic. never done. will refer to gi for consideration of endoscopic screening.

check bmp / a1c.

rtc 3-4 mos or earlier as needed.

counseled patient regarding medications, diet, exercise, and patient verbalized understanding.

Signature Line

Signed and Authored by Eric Marom MD on 01/03/2017 08:36 PM EST

Charted Date: January 03, 2017 3:51 PM EST
Subject / Title: General Exam
Performed By: Marom MD, Eric on January 03, 2017 4:04 PM EST
Electronically Signed By: Marom MD, Eric on January 03, 2017 8:36 PM EST
Visit Information: B2016112901235, Midlands Internal Medicine, Outpatient, 1/3/2017 - 1/5/2017

Patient: BRAILEY, ISAAC DOUGLAS
MRN: 403492

Flowsheet Print Request

Date Range: 1/3/2017 12:00 AM EST - 9/4/2017 11:59 PM EDT

Printed by: Cimino , Victoria
Printed on: 8/4/2017 12:31 PM EDT

Lab Flowsheet	1/3/2017 12:00 AM
General Chemistry	
Sodium Level	134 (L)
Potassium Level	4.2
Chloride Level	99
CO2 Level	27
AGAP	8
Glucose Level	91 *
BUN	21 (H)
Creatinine Level	1.4 (H)
eGFR	58 * (L)
eGFR African American	67 * (c)
Calcium Level	10.1
HgB A1c	5.2 *
Est Average Glucose mg/dl	103
U/A Dipstick	
Urine Color	Yellow
Urine Appearance	Clear
Glucose	Negative
Bilirubin	Negative
Ketones	Negative
Specific Gravity	1.015
Blood	Negative
pH	6.5
Protein	Negative
Urobilinogen	0.2 mg/dl
Nitrite	Negative
Leukocyte Esterase	Negative

Page 60 of 1

Result type:	Internal Medicine Office/Clinic Note
Result date:	June 13, 2017 16:49 EDT
Result status:	Auth (Verified)
Result title:	General Exam *
Performed by:	Marom MD, Eric Y on June 13, 2017 17:00 EDT
Verified by:	Marom MD, Eric Y on June 13, 2017 20:31 EDT
Encounter info:	A0000017854, IM Blarney, AMB Office Visit, 06/13/17 - 06/13/17

General Exam *

Patient: **BRAILEY, ISAAC DOUGLAS** **MRN: A00010230** **FIN: A0000017854**
Age: Sex: **Male** DOB:
Associated Diagnoses: **Acute low back pain; Renal insufficiency; Erectile dysfunction**
Author: **Marom MD, Eric Y**

Chief Complaint
06/13/17 16:38 **(I) lower back pain**

History of Present Illness

pt is a yo M w/ a pmhx significant for htn, obesity, gout, hpl. sees cards as well - Dr. Isbell at Columbia Heart Clinic.

[redacted] here for acute appt.

left lower back pains for the past 2 weeks

has had new job at michelin, moving heavy stuff - there now for about past 2 weeks

pain is 10/10 w/ certain movements

says feels sharp

no radiation into legs

no saddle paresthesias or bowel / bladder incontinence

never had pain there in past

no recent injury / trauma

no fevers/ chills/ sweats / nausea/ vomiting

o/w still due initial screening c-scope. referred at last appt. did not make appt - says cousin unexpectedly passed away and he had to help support family.

having issue w/ erectile dysfunction. would like samples of meds if available. has used viagra in the past w/o side effects. not having any cps or sob. not on nitrates.

Review of Systems

Constitutional: Negative except as documented in history of present illness.
Eye: Negative except as documented in history of present illness.
Ear/Nose/Mouth/Throat: Negative except as documented in history of present illness.
Respiratory: Negative except as documented in history of present illness.
Cardiovascular: Negative except as documented in history of present illness.
Gastrointestinal: Negative except as documented in history of present illness.
Genitourinary: Negative except as documented in history of present illness.
Gynecologic: Negative except as documented in history of present illness.
Hematology/Lymphatics: Negative except as documented in history of present illness.
Endocrine: Negative except as documented in history of present illness.
Immunologic: Negative except as documented in history of present illness.
Musculoskeletal: Negative except as documented in history of present illness.
Integumentary: Negative except as documented in history of present illness.
Neurologic: Negative except as documented in history of present illness.
Psychiatric: Negative except as documented in history of present illness.

Health Status

Allergies:

Allergic Reactions (Selected)
No Known Medication Allergies,

Allergies (1) Active	Reaction
No Known Medication Allergies	None Documented

Current medications: (Selected)

Documented Medications

Documented

Exforge 10 mg-320 mg oral tablet: tab, PO, daily, 1 tab(s), po, daily, # 30 tab(s), 11 Refill(s), Type: Maintenance, Pharmacy: Walgreens Drug Store 07399, 1 tab(s) po daily, # 30 tab
cyclobenzaprine 10 mg oral tablet: = 1 tab, PO, 3xdaily, PRN for spasm, 0 Refill(s)
hydrALAZINE 25 mg oral tablet: 1 tab(s) (25 mg), po, bid, 0 Refill(s), Type: Maintenance
hydroCHLOROthiazide 25 mg oral tablet: 1 tab(s) (25 mg), PO, Daily, # 90 tab(s), 1 Refill(s), Type: Maintenance, Pharmacy: Walgreens Drug Store 11362, 1 tab(s) po daily
labetalol 200 mg oral tablet: 1 tab(s) (200 mg), po, bid, # 120 tab(s), 11 Refill(s), Type: Maintenance, Pharmacy: Walgreens Drug Store 07399
omega-3 polyunsaturated fatty acids oral capsule: 0 Refill(s), Type: Maintenance
sildenafil 100 mg oral tablet: 1 tab(s) (100 mg), po, daily, Instructions: 1 hour before sexual activity, # 30 tab(s), 0 Refill(s), Type: Maintenance, Pharmacy: Walgreens Drug Store 11362, 1 tab(s) po daily,Instr:1 hour before sexual activity
traMADol 50 mg oral tablet: = 1 tab, PO, q4hr(s), PRN for pain, 0 Refill(s),

Home Medications (8) Active

cyclobenzaprine 10 mg oral tablet 10 mg = 1 tab, PRN, PO, 3xdaily
Exforge 10 mg-320 mg oral tablet , PO, daily
hydrALAZINE 25 mg oral tablet
hydroCHLOROthiazide 25 mg oral tablet
labetalol 200 mg oral tablet
omega-3 polyunsaturated fatty acids oral capsule

sildenafil 100 mg oral tablet
traMADol 50 mg oral tablet 50 mg = 1 tab, PRN, PO, q4hr(s)

Problem list:
Medical
Breast mass(| Confirmed |) / 147850011 / Confirmed
Coughing(| Confirmed |) / 1230769019 / Confirmed
Elevated uric acid in blood(| Confirmed |) / 81803011 / Confirmed
Erectile dysfunction(| Confirmed |) / 3037887013 / Confirmed
Essential Hypertension, Benign(| Confirmed |) / 3135013 / Confirmed
Gout(| Confirmed |) / 150085018 / Confirmed
Hypogonadism male(| Confirmed |) / 1494758011 / Confirmed
Obesity(| Confirmed |) / 2535065012 / Confirmed,

Active Problems (8)
Breast mass(| Confirmed |)
Coughing(| Confirmed |)
Elevated uric acid in blood(| Confirmed |)
Erectile dysfunction(| Confirmed |)
Essential Hypertension, Benign(| Confirmed |)
Gout(| Confirmed |)
Hypogonadism male(| Confirmed |)
Obesity(| Confirmed |)

Histories
Past Medical History:
Medical
Breast mass(| Confirmed |) / 147850011 / Confirmed
Coughing(| Confirmed |) / 1230769019 / Confirmed
Elevated uric acid in blood(| Confirmed |) / 81803011 / Confirmed
Erectile dysfunction(| Confirmed |) / 3037887013 / Confirmed
Essential Hypertension, Benign(| Confirmed |) / 3135013 / Confirmed
Gout(| Confirmed |) / 150085018 / Confirmed
Hypogonadism male(| Confirmed |) / 1494758011 / Confirmed
Obesity(| Confirmed |) / 2535065012 / Confirmed

Family History:
Cerebral infarction
Mother
Father
Grandmother (M)
High blood pressure
Mother
Diabetes
Sister

Procedure history:
Arthroscopy of knee (SNOMED CT 452650013)
Comments:
4/4/2017 11:35 - Suarez, Nobaleen
right, remote

Body Mass Index Measured	33.87 kg/m2
Height/Length Measured	188 cm
Weight Measured	119.7 kg

General: Alert and oriented, No acute distress.
Eye: Normal conjunctiva.
HENT: Normocephalic, Oral mucosa is moist, No pharyngeal erythema.
Neck: Supple, No lymphadenopathy.
Respiratory: Lungs are clear to auscultation, Respirations are non-labored, Breath sounds are equal, Symmetrical chest wall expansion.
Cardiovascular: Normal rate, Regular rhythm, No murmur, No gallop, No edema.
Musculoskeletal
No swelling.
mild tenderness to palpation of L lower back, no central tenderness or palpable step off deformities, neg leg raise B, LE strength 5/5 and symmetric B, patellar tendon reflexes 2+ and symmetric B.
Neurologic: Alert, Oriented.
Cognition and Speech: Oriented, Speech clear and coherent.
Psychiatric: Cooperative, Appropriate mood & affect.

Review / Management
Results review: Lab results
06/13/17 16:38

BSA Measured	2.5 m2
Ht/Length Measured Inches Conversion	74 in
Weight Measured Pounds Conversion	263 lb
Weight Measured Ounces Conversion	14 oz
Body Mass Index Measured	33.87 kg/m2
Height/Length Measured	188 cm
Weight Measured	119.7 kg
Temperature Oral	98.3 DegF Normal
Peripheral Pulse Rate	92 bpm Normal
Respiratory Rate	22 br/min HIGH
Pulse Ox Sat	97 %
NIBP Systolic	128 mmHg
NIBP Diastolic	70 mmHg
NIBP Mean Calculated	89 mmHg
NIBP Cuff Site	Right arm
NIBP Position	Sitting
NIBP Equipment	Manual
Pain Present	Yes actual or suspected pain
Preferred Pain Tool	Numeric rating scale
Numeric Pain Scale	10 = Worst possible pain
Numeric Pain Score	10
Primary Pain Location	Back
Primary Pain Laterality	Left
Chief Complaint	(l) lower back pain
Contact Information Grid	Contact Information Grid
Previous Visit Information	Previous Visit Information

Allergies Verified?	Yes
Meds Verified	Yes
Ambulatory Comprehensive Intake Form	Ambulatory Comprehensive Intake Form
Ambulatory Comprehensive Intake-Text	Ambulatory Comprehensive Intake

Impression and Plan

Diagnosis

Acute low back pain (ICD10-CM M54.5, Discharge, Medical).
Renal insufficiency (ICD10-CM N28.9, Discharge, Medical).
Erectile dysfunction (ICD10-CM N52.9, Discharge, Medical).

1. acute low back. mostly L parasplnous muscles. no radicular signs/sympotms. discussed likely strained muscles due to heavier work load at new job. no emergent signs/symptoms. discussed ongoing need for diet /exercise to lose weight and need for strengthening up of core muscles and proper lifting techniques. avoid bed rest. given multiple handouts regarding diagnosis / treatment plan and home exercises to pursue. check plain films lumbar spine though suspect will be unrevealing.

2. renal insufficiency. hold off on nsaids. recheck bmp. cont tramadol for pain.

3. erectile dysfunction. try on cialis 20 mg po pm - given samples. discussed how to use and potential complications / side effects/ precautions. no current cardiovascular symptoms. not on nitrates.

rtc 4 mos or earlier as needed.

counseled patient regarding medications, diet, exercise, and patient verbalized understanding.

Completed Action List:

* Perform by Marom MD, Eric Y on June 13, 2017 17:00 EDT
* Modify by Marom MD, Eric Y on June 13, 2017 17:20 EDT
* Sign by Marom MD, Eric Y on June 13, 2017 20:31 EDT
* VERIFY by Marom MD, Eric Y on June 13, 2017 20:31 EDT

Patient: BRAILEY, ISAAC DOUGLAS
MRN: A00010230

Flowsheet Print Request

Date Range: 03/27/17 1231 - 08/05/17 1231

Printed by: Cimino, Victoria
Printed on: 08/04/17 1232

Lab View	06/13/17 17:24
Routine Chemistry	
Sodium	140
Potassium	3.8
Chloride	105
CO2	28
Anion Gap	7
Glucose Level	68 *
BUN	13
Creatinine	1.15
GFR Non-African American	74 *
GFR African American	86
Calcium	9.5

LEXINGTON MEDICAL CENTER LEXINGTON

Lexington Medical Center - Lexington
811West Main Street,
Lexington,SC 29072
(803) 358-6100

DOS:06/11/2017
DOB: [redacted]
Gender: M
MR#: 1376686
Provider: Andrew R. Donato M.D.

Patient: ISAAC BRAILEY
212 SOUTHBROOK DR
LEXINGTON, SC 29073

Chief Complaint
back pain after lifting at work

History of Present Illness
HPI: Patient is a [redacted]-old male presents Urgent Care complaining of low back pain particularly in the left lumbar paraspinal region for the past several days. Patient was doing some heavy lifting at work prior to the onset of his pain. He denies any prior history of back pain. No direct trauma. No incontinence or radiation.

Review of Systems

CONSTITUTION: No fever, no diaphoresis, no unexpected weight loss
RESPIRATORY: No shortness of breath
GI: No abdominal pain, no change in bowel/bladder habits
GU: No dysuria, no hematuria
ENDOCRINE: No polydipsia, no polyphagia, no polyuria
MUSC/SKEL: No joint swelling
SKIN: No rash
ALLERG/IMMUNO: No immunocompromise
NEUROLOGIC: No incontinence
HEMATOLOGIC: No unusual bruising or bleeding.

History
Scanned patient history form reviewed.

Current Meds
- Allopurinol 100 MG Oral Tablet;
  Therapy: 18Apr2016 to Recorded
- Amlodipine Besylate-Valsartan 10-320 MG Oral Tablet;TAKE 1 TABLET DAILY; Last Rx:17Mar2016 Ordered
- Colchicine 0.6 MG Oral Tablet;
  Therapy: 18Apr2016 to Recorded
- HydroCHLOROthiazide 25 MG Oral Tablet; TAKE 1 TABLET DAILY for hypertension;
  Therapy: 21Mar2016 to (Evaluate:17Sep2016) Requested for:21Apr2016; Last Rx:21Mar2016 Ordered
- Labetalol HCl - 200 MG Oral Tablet; TAKE 1 TABLET TWICE DAILY;
  Therapy: (Recorded:21Apr2016) to Recorded

Allergies
- No Known Drug Allergies
  Recorded By: Decker, Michelle H; 5/2/2015 7:07:22 PM

Date of Service: 06/11/2017
Patient Name: ISAAC D. BRAILEY JR.
Patient DOB:
MR#: 1376686
Gender: M
Provider: Andrew R. Donato M.D.

Immunizations
Immunization Status:
Patient states immunizations are up to date. Last Tetanus Shot UTD.

Vitals
Vital Signs [Data Includes: Current Encounter]
Recorded: 11Jun2017 07:29PM
Heart Rate: 68
Temperature: 98.3 F
Pain Scale: 8
O2 Saturation: 98
Height: 6 ft 2 In
Respiration: 20
Blood Pressure: 148 / 85
Weight: 265 lb
BMI Calculated: 34.02
BSA Calculated: 2.45

Physical Exam

CONSTITUTIONAL: Well-developed, well-nourished, in no acute distress
HEENT: NC/AT, MMM
NECK: Supple, no adenopathy
CARDIOVASCULAR: Regular rhythm, intact distal pulses, no bruits
PULMONARY: Normal effort, no respiratory distress
ABDOMINAL: Soft, NT/ND, normal bowel sounds, no pulsatile mass, no guarding
MUSCULOSKEL: TTP diffuse lumbar paraspinal muscles, no midline point tenderness, no soft tissue/skin changes
NEUROLOGIC: AAOx3, no focal deficits, motor 5/5, sensory intact to LT, DTR's 2+ and symmetric, no sx's of CES
SKIN: Warm and dry, no rash

Assessment
- Lumbar strain (847.2) (S39.012A)

Plan
Lumbar strain
- Start: Cyclobenzaprine HCl - 10 MG Oral Tablet; TAKE 1 TABLET 3 TIMES DAILY AS NEEDED
  Rx By: Donato, Andrew R; Dispense: 5 Days ; #:15 Tablet; Refill: 0;For: Lumbar strain; DAW = N; Sent To: WALGREENS DRUG STORE
- Start: TraMADol HCl - 50 MG Oral Tablet; TAKE 1 TABLET 4 TIMES DAILY AS NEEDED FOR PAIN
  Rx By: Donato, Andrew R; Dispense: 5 Days ; #:20 Tablet; Refill: 0;For: Lumbar strain; DAW = N; Print Rx

Follow-up with your doctor if no better the next 3-5 days.

Return if any concerns.

Clinical Decision Making
Clinical Decision Making Form: MEDICAL DECISION-MAKING SUMMARY:

Available old records were reviewed in the management of this patient. Last seen by PCP April 2016 for follow-up of palpitations and hypertension

Date of Service: 06/11/2017
Patient Name: ISAAC D. BRAILEY JR.
Patient DOB:
MR#: 1376686
Gender: M
Provider: Andrew R. Donato M.D.

The following diagnostic studies were ordered and reviewed by myself in the management of this patient:
PULSE OXIMETRY: Pulse ox is obtained with no evidence of concerning hypoxia

Patient is evaluated for their presenting complaint with a focused, complaint-specific history and physical exam. Diagnostic evaluation, as documented above, was ordered and reviewed in order to increase diagnostic accuracy and assist in assessing for serious conditions.

In addition, the patient's allergies, medications, and comorbid conditions were reviewed in order to reduce the likelihood of an allergic reaction or adverse event from the medications provided today.

Old records were also reviewed to determine the patient's prior providers to assist in determining the appropriate referral for close outpatient follow-up for the patient's condition.

Signatures
Electronically signed by : Andrew Donato, M.D.; Jun 11 2017 8:41PM EST (Author)

Lexington Medical Center

LCHSD SERVICE AREA
ED Record

BRAILEY,ISAAC DOUGLAS JR.
MRN: M002150817
DOB: Sex: M
Adm: 6/24/2017; D/C: 6/24/2017

ED Arrival Information

Expected	Arrival	Acuity	Means of Arrival	Escorted By	Service	Admission Type
	6/24/2017 09:07	Less Urgent	Car	Self	Emergency Medicine	Emergency

Arrival Complaint
back pain

Chief Complaint History

Date/Time
Graham, Kimberly B, RN — 6/24/2017 9:11 AM

Chief Complaint
Back Pain

Comment: reports lower back pain to left side since he was working last night, states does a lot of lifting/pulling and started hurting then. Worse with movement. denies urinary symptoms.

Diagnosis

Lumbar strain

ED Events

Date/Time	Event	User	Comments
06/24/17 0907	Patient arrived in ED	DELIBERO, ANNEMARIE	
06/24/17 0907	Patient expected	DELIBERO, ANNEMARIE	
06/24/17 0908		DELIBERO, ANNEMARIE	
06/24/17 0908		DELIBERO, ANNEMARIE	
06/24/17 0908		DELIBERO, ANNEMARIE	
06/24/17 0910	Secondary Triage Started	GRAHAM, KIMBERLY B	
06/24/17 0911	Vitals Assessment	GRAHAM, KIMBERLY B	
06/24/17 0911	Pain Assess Complete	GRAHAM, KIMBERLY B	
06/24/17 0911	Vitals Assessment	GRAHAM, KIMBERLY B	
06/24/17 0911	Vitals Assessment	GRAHAM, KIMBERLY B	
06/24/17 0911	Primary Triage Started	GRAHAM, KIMBERLY B	
06/24/17 0912		GRAHAM, KIMBERLY B	
06/24/17 0913		GRAHAM, KIMBERLY B	
06/24/17 0913		GRAHAM, KIMBERLY B	
06/24/17 0914	Secondary Triage Complete	GRAHAM, KIMBERLY B	
06/24/17 0922	Patient roomed in ED	HUGGINS, WILLIAM	To room 34
06/24/17 0922	Main Zone Patient	HUGGINS, WILLIAM	
06/24/17 0922	Patient roomed	HUGGINS, WILLIAM	
06/24/17 0928	Assign Attending	BRUCKER, BRENNA M	Brucker, Brenna M., MD assigned as Attending
06/24/17 0928	Physician Exam Time	BRUCKER, BRENNA M	
06/24/17 0937	Assign Nurse	EASTERLING, JAMIE	Easterling, Jamie L, RN assigned as Registered Nurse
06/24/17 0945	Registration Completed	HUNTER POUNDS, CHRISONTA M	
06/24/17 1000	PMP Access Time	BRUCKER, BRENNA M	
06/24/17 1046		BRUCKER, BRENNA M	
06/24/17 1046		BRUCKER, BRENNA M	
06/24/17 1046		BRUCKER, BRENNA M	
06/24/17 1046		BRUCKER, BRENNA M	

ED Events (continued)

Date/Time	Event	User	Comments
06/24/17 1048	Discharge Disposition Selected	BRUCKER, BRENNA M	
06/24/17 1048	Disposition Selected	BRUCKER, BRENNA M	
06/24/17 1048	Excuse Letter Printed	BRUCKER, BRENNA M	
06/24/17 1050	AVS Printed	EASTERLING, JAMIE	
06/24/17 1050	AVS Printed	EASTERLING, JAMIE	
06/24/17 1050	Excuse Letter Printed	EASTERLING, JAMIE	
06/24/17 1050		EASTERLING, JAMIE	
06/24/17 1050		EASTERLING, JAMIE	
06/24/17 1102	Consult Ordered	BRUCKER, BRENNA M	CONSULT TO SOCIAL WORK
06/24/17 1102	Consult Ordered	BRUCKER, BRENNA M	Consult ordered - Consult to Social Work - Other - [51329344] - Has questions about possible workmans comp
06/24/17 1102	Social Ordered	BRUCKER, BRENNA M	Consult to Social Work - Other - [51329344] - Has questions about possible workmans comp
06/24/17 1219	Patient discharged	EASTERLING, JAMIE	
06/24/17 1219	Patient departed from ED	EASTERLING, JAMIE	
06/24/17 1219		EASTERLING, JAMIE	
06/24/17 1219		EASTERLING, JAMIE	
06/24/17 1219		EASTERLING, JAMIE	
06/24/17 1219		EASTERLING, JAMIE	
06/24/17 1219		EASTERLING, JAMIE	
06/24/17 1219	Charting Complete	BRUCKER, BRENNA M	
06/24/17 1219	Charting Complete	EASTERLING, JAMIE	
06/27/17 0819	Excuse Letter Printed	LIPSCOMB, DEBORAH	
06/27/17 1121	Physician LOS Filed	COLLINS, TERESA I	LOS Code 60000328 filed

ED Treatment Team

Provider	Role	From	To	Phone	Page
Brucker, Brenna M., MD	Attending Provider	06/24/17 0928	06/24/17 1219	412-874-9090	
Easterling, Jamie L, RN	Registered Nurse	06/24/17 0937	–		

Discharge Orders (720h ago through future)

Start	Ordered		Status	Ordering User
06/24/17 0000	06/24/17 1046	polyethylene glycol (GLYCOLAX) powder Daily	Ordered	BRUCKER, BRENNA M
–	06/24/17 0913	labetalol (NORMODYNE) 200 mg tablet 2 times daily	Ordered	GRAHAM, KIMBERLY B
–	06/24/17 0913	hydrochlorothiazide (HYDRODIURIL) 25 mg tablet Daily	Ordered	GRAHAM, KIMBERLY B

ED Provider Notes

ED Provider Notes by Brucker, Brenna M., MD on 06/24/17 1050

Author: Brucker, Brenna M., MD | Service: Emergency Medicine | Author Type: Physician
Filed: 06/24/17 1050 | Date of Service: 06/24/17 1049 | Status: Signed
Editor: Brucker, Brenna M., MD (Physician)

ED Provider Notes (continued)

ED Provider Notes by Brucker, Brenna M., MD on 06/24/17 1050 (continued)

Chief Complaint
Patient presents with
- Back Pain

reports lower back pain to left side since he was working last night, states does a lot of lifting/pulling and started hurting then. Worse with movement. denies urinary symptoms.

Patient is a -- y.o. male.The history is provided by the patient.
Back Pain
Timing/Onset: **Acute**
Episode duration: **1 day**
Frequency: **Constantly**
Pain location: **L paraspinal muscles.**
Radiates to: **Does not radiate**
Quality: **Achy**
Severity of pain: **Moderate**
Progression: **Unchanged**
Relieved by: **Rest**
Exacerbating factors: **Palpation**
Associated symptoms: **no bladder incontinence, no bowel incontinence, no dizziness, no numbness in extremities, no gait problem, no headaches and no tingling**

Past Medical History
Diagnosis Date
- Hypertension

History reviewed. No pertinent past surgical history.

Family History
Problem Relation Age of Onset
- Hypertension Father

Social History

Social History Narrative
Full-time employment
Uses safety equipment

Social History
Substance Use Topics
- Smoking status: Never Smoker
- Smokeless tobacco: None
- Alcohol use Yes

ED Provider Notes (continued)

ED Provider Notes by Brucker, Brenna M., MD on 06/24/17 1050 (continued)

Review of Systems
Constitutional: Negative.
HENT: Negative for congestion, ear pain and facial swelling.
Respiratory: Negative.
Cardiovascular: Negative.
Gastrointestinal: Negative. Negative for bowel incontinence.
Genitourinary: Negative. Negative for bladder incontinence.
Musculoskeletal: Positive for back pain. Negative for gait problem.
Skin: Negative.
Neurological: Negative for dizziness, speech difficulty and headaches.
Psychiatric/Behavioral: Negative for agitation and confusion.
All other systems reviewed and are negative.

Initial ED Vital Signs:
Blood Pressure: (I) 182/97 Heart Rate: 93 Temp: 98.7 °F (37.1 °C) Resp: 18 SpO2: 97 %

Last Documented Vital Signs This Encounter:
Blood Pressure: 157/80

Heart Rate: 93
Temp: 98.7 °F (37.1 °C)
Resp: 18
SpO2: 97 %
Height: 188 cm (6' 2")
Weight: 120.2 kg (265 lb)

height is 1.88 m (6' 2") and weight is 120.2 kg (265 lb). His temperature is 98.7 °F (37.1 °C). His blood pressure is 157/80 and his pulse is 93. His respiration is 18 and oxygen saturation is 97%.

Physical Exam
Constitutional: He is oriented to person, place, and time. He appears well-developed and well-nourished. No distress.
HENT:
Head: Normocephalic and atraumatic.
Eyes: No scleral icterus.
Neck: Normal range of motion. Neck supple. No tracheal deviation present.
Cardiovascular: Normal rate and regular rhythm.
No murmur heard.
Pulmonary/Chest: Effort normal and breath sounds normal. No respiratory distress.
Abdominal: Soft. Bowel sounds are normal. There is no tenderness.
Musculoskeletal: Normal range of motion. He exhibits tenderness.

ED Provider Notes (continued)

ED Provider Notes by Brucker, Brenna M., MD on 06/24/17 1050 (continued)

L parasapinal muscles TTP, no midline c/t/l spine TTP. Normal neuro exam
Neurological: He is alert and oriented to person, place, and time. No cranial nerve deficit.
Skin: Skin is warm and dry. No pallor.
Psychiatric: He has a normal mood and affect. His behavior is normal.
Vitals reviewed.

[redacted]

Procedures

No orders to display

No results found for this visit on 06/24/17.

ED Discharge Orders

None

ED Prescriptions

Medication	Sig	Dispense	Start Date	End Date	Auth. Provider
oxyCODONE-acetaminophen (PERCOCET) 5-325 mg tablet	Take 1 tablet by mouth every 8 (eight) hours as needed for pain for up to 4 days.	20 tablet	6/24/2017	6/28/2017	Brucker, Brenna M., MD
cyclobenzaprine (FLEXERIL) 10 mg tablet	Take 1 tablet (10 mg total) by mouth 3 (three) times daily as needed for muscle spasms for up to 5 days.	15 tablet	6/24/2017	6/29/2017	Brucker, Brenna M., MD
ibuprofen (ADVIL,MOTRIN) 800 mg tablet	Take 1 tablet (800 mg total) by mouth every 8 (eight) hours as needed for pain (take with food) for up to 10 days.	30 tablet	6/24/2017	7/4/2017	Brucker, Brenna M., MD
polyethylene glycol (GLYCOLAX) powder	Take 17 g by mouth daily.	119 g	6/24/2017		Brucker, Brenna M., MD

BRAILEY,ISAAC DOUGLAS JR.
MRN: M002150817
DOB: Sex: M
Adm: 6/24/2017, D/C: 6/24/2017

ED Provider Notes (continued)

ED Provider Notes by Brucker, Brenna M., MD on 06/24/17 1050 (continued)

Diagnosis:
Final diagnoses:
Lumbar strain (Primary)

Follow Up Instructions:

Gunter, Brett C, MD
146 North Hospital Drive
Suite 120
West Columbia SC 29169
803-935-8410

Call in 1 day
set up appointment for next week if possible

PCP

Schedule an appointment as soon as possible for a visit

LMC Emergency Department
2720 Sunset Boulevard
West Columbia South Carolina 29169
803-791-2350
Go to
If: Urine is spilling out, feces is spilling out, numbness or weakness in legs, or fever

Disposition: Discharge

How: Call
Follow Up In: (3)
Days/Weeks/Months: Days

LMC ED MDM NO CC TIME:
Interpretation: Pulse ox
Pulse Ox comment: 100% ra no hypoxia
MDM Comments: I have independently reviewed and interpreted pulse ox for this patient.

I discussed with the patient my clinical impression, my concerns, and my recommendations. We discussed that early in the course of an illness, a workup be falsely reassuring. We discussed what to watch for as well as the need for close monitoring and the need to return if symptoms do not improve.

Brucker, Brenna M.- was the Primary ED Provider for this patient.

ED Provider Notes (continued)

ED Provider Notes by Brucker, Brenna M., MD on 06/24/17 1050 (continued)

In evaluating this patient, I have accessed SCRIPTS (SC Reporting & Identification Prescription Tracking System) and reviewed this patient's prior utilization of controlled substances in an effort to formulate an appropriate plan of care for this patient: Date/Time Stamp (06/24/17 1000)

ED Course

Brucker, Brenna M., MD
06/24/17 1050

Electronically Signed by Brucker, Brenna M., MD on 06/24/17 1050

ED Notes

ED Notes by Easterling, Jamie L, RN on 06/24/17 0937

Author: Easterling, Jamie L, RN | Service: (none) | Author Type: Registered Nurse
Filed: 06/24/17 0937 | Date of Service: 06/24/17 0936 | Status: Signed
Editor: Easterling, Jamie L, RN (Registered Nurse)

Patient sitting on the end of stretcher; appears comfortable at this time.

Electronically Signed by Easterling, Jamie L, RN on 06/24/17 0937

ED Orders

Start	Ordered		Status	Ordering Provider
06/24/17 1105	06/24/17 1102	**Consult to Social Work - Other** Once Comments: Has questions about possible workmans comp Provider: (Not yet assigned)	Completed by DAVE, DISHA on 6/24/2017 at 11:42 AM	BRUCKER, BRENNA M.

All ED Results

No results found

ED Current OP Medications

Medication	Sig	Dispense	Start Date	End Date	Ord. Provider
hydrochlorothiazide (HYDRODIURIL) 25 mg tablet	Take 25 mg by mouth daily.				Provider, Historical, MD
labetalol (NORMODYNE) 200 mg tablet	Take 200 mg by mouth 2 (two) times daily. Reported on 7/24/2017				Provider, Historical, MD

ED Current OP Medications (continued)

Medication	Sig	Dispense	Start Date	End Date	Doc Provider
amLODOPine-benazepril (LOTREL) 10-40 mg per capsule	Take 1 capsule by mouth daily.				Provider, Historical, MD
cyclobenzaprine (FLEXERIL) 5 MG tablet	Take 2 tablets (10 mg total) by mouth 3 (three) times daily as needed for muscle spasms.	30 tablet	10/12/2017		Boyd, Scott B, MD
diazePAM (VALIUM) 5 mg tablet	Take 1 tablet (5 mg total) by mouth as needed for anxiety (Take 1 tab by mouth 30 mins prior to MRI and may repeat if needed) for up to 2 doses. Patient not taking: Reported on 8/7/2017	2 tablet	7/27/2017		Boyd, Scott B, MD
ibuprofen (ADVIL,MOTRIN) 800 mg tablet (Expired)	Take 1 tablet (800 mg total) by mouth every 8 (eight) hours as needed for pain (take with food) for up to 10 days.	30 tablet	7/28/2017	8/7/2017	Boyd, Scott B, MD
oxyCODONE-acetaminophen (PERCOCET) 5-325 mg tablet	Take 1-2 tablets by mouth every 4 (four) hours as needed for pain.	24 tablet	6/27/2017		Grant, Stephen A. D., MD
polyethylene glycol (GLYCOLAX) powder	Take 17 g by mouth daily.	119 g	6/24/2017		Brucker, Brenna M., MD
predniSONE (DELTASONE) 10 mg tablet	4 tabs PO QD x 3 days, then 3 tabs po QD x 3 days, then 2 tabs PO QD x 3 days, then 1 tab po QD x 3 days, then stop	30 tablet	6/27/2017		Grant, Stephen A. D., MD

Last reviewed by Graham, Kimberly B, RN on 06/24/17 0913

Medication Comments

** No Medication Comments Found **

ED Prescriptions

BRAILEY,ISAAC DOUGLAS JR.
MRN: M002150817
DOB:
Sex: M
Adm: 6/24/2017, D/C: 6/24/2017

ED Prescriptions (continued)

Medication	Sig	Dispense	Start Date	End Date	Auth Provider
oxyCODONE-acetaminophen (PERCOCET) 5-325 mg tablet (Expired)	Take 1 tablet by mouth every 6 (six) hours as needed for pain for up to 4 days.	20 tablet	6/24/2017	6/28/2017	Brucker, Brenna M. MD
cyclobenzaprine (FLEXERIL) 10 mg tablet (Expired)	Take 1 tablet (10 mg total) by mouth 3 (three) times daily as needed for muscle spasms for up to 5 days.	15 tablet	6/24/2017	6/29/2017	Brucker, Brenna M., MD
Ibuprofen (ADVIL,MOTRIN) 800 mg tablet (Expired)	Take 1 tablet (800 mg total) by mouth every 8 (eight) hours as needed for pain (take with food) for up to 10 days.	30 tablet	6/24/2017	7/28/2017	Brucker, Brenna M., MD
polyethylene glycol (GLYCOLAX) powder	Take 17 g by mouth daily.	119 g	6/24/2017		Brucker, Brenna M., MD

Allergies (verified on: 09/14/17)

Agent	Severity	Comments
POLLEN EXTRACT		

Follow-up Information

Follow-up With	Details	Comments	Contact Info
Gunter, Brett C, MD	Call in 1 day	set up appointment for next week if possible	146 North Hospital Drive Suite 120 West Columbia SC 29169 803-935-8410
PCP	Schedule an appointment as soon as possible for a visit		
LMC Emergency Department	Go to	if: Urine is spilling out, feces is spilling out, numbness or weakness in legs, or fever	2720 Sunset Boulevard West Columbia South Carolina 29169 803-791-2350

Work/School Excuse Letter

LMC Emergency Department
2720 Sunset Boulevard
West Columbia SC 29169
Phone: 803-791-2350
Fax: 803-939-4578

June 24, 2017

Patient: Isaac Douglas Brailey Jr.
Date of Birth:
Date of Visit: 6/24/2017

To Whom It May Concern:

Isaac Brailey was seen and treated at LMC Emergency Department on 6/24/2017. He has the following restriction(s): no work for three days, no school for three days. (May need work restiction after return (no heavy lifting) until condition healed).

He may return to work or school on 06/28/17.

Sincerely,

Brucker, Brenna M., MD

HealthWorks
Post-Injury Questionnaire

Demographics

Name Isaac N. Brailey SSN _____
Address _____ Phone _____
Date of Birth _____ Gender ☐ Male ☐ Female
Place of employment Michelin Job title Par operator

Date of injury or problem 6-24-17

Chief Complaint

Description of injury or problem Severe pain in the body can move can't bend down
Body part(s) involved Lower left + Middle Back

Patient description of accident

How did injury or problem occur ~~Steel~~ Steel Stretching Rubber. moving Robbins

History of Present Illness

Describe the pain: (check all that apply)
☑ stabbing, ☑ dull ache, ☑ burning, ☑ pins and needles, ☐ throbbing, ☑ other everything

When does the pain occur?
☑ constant, ☐ off and on, ☐ worse at night, ☐ worse in the morning

When did the pain begin? 6-24-17 as soon as I stretch the rubber

What makes the pain better? (check all that apply)
☐ lying down, ☐ sitting, ☐ standing, ☐ walking, ☐ pain pills, ☐ muscle relaxant pills, ☐ anti-inflammatory pills, ☐ heat, ☐ cold, ☐ Physical Therapy ☑ nothing
☐ other nothing seems to work

What activities make the pain worse? (check all that apply)
☐ during exercise, ☐ after exercise, ☐ sitting, ☐ standing, ☐ walking, ☐ bending forward, ☐ bending backward, ☐ coughing, ☐ sneezing, ☐ nothing, ☐ other everything

Any other symptoms present? Leaning Dripping on myself

The pain is:
☐ improving, ☐ not improving, ☑ getting worse since onset

On a scale of 1–10 (10 being the worst pain you can imagine), please rate your current pain:
1 2 3 4 5 6 7 8 9 (10) a 20

Have you ever injured this part of your body before? ☐ Yes ☑ No

Have you been seen or treated for this injury? ☑ Yes ☐ No
If yes, where Lexington emergency center

PE80

Name: Isaac V. Bro...Jr.

Review of Systems Check any of the following symptoms that you have now or in the last year:

Constitutional ☐ weight loss more than 10 lb, ☐ weight gain more than 10 lb, ☐ fatigue, ☐ fever, ☑ trouble sleeping

Eyes ☐ blurred vision, ☐ difficulty seeing, ☐ double vision, ☐ cataracts, ☐ glaucoma

ENT ☐ difficulty swallowing, ☐ difficulty hearing, ☐ sore throat, ☐ hoarseness, ☐ nose bleeds, ☐ swollen lymph nodes, ☐ ear aches, ☐ neck pain

Cardio ☐ chest pain, ☐ palpitations or irregular beats, ☐ shortness of breath, ☐ swelling of feet, ☐ varicose veins, ☐ heart murmur, ☐ previous MI (heart attack), ☐ previous stroke

Resp ☐ asthma, ☐ emphysema, ☐ pneumonia, ☑ cough, ☐ coughing up blood, ☐ night sweats

GI ☐ gallbladder disease, ☐ liver disease, ☐ abdominal pain, ☐ stomach ulcer, ☐ jaundice, ☐ nausea, ☐ intestinal bleeding

GU ☑ difficulty with urination, ☐ urinary tract infection, ☐ kidney stones ☐ frequent urination ☐ burning on urination

Musculoskel ☐ fibromyalgia, ☑ joint pain, ☑ joint redness, ☑ joint swelling, ☑ muscle pain, ☐ arthritis

Skin ☐ eczema, ☐ rash

Neuro ☐ headache, ☐ seizures, ☑ weakness, ☐ hands fall asleep at night, ☑ tingling or numbness in feet, Leg ☑ lightheadedness or dizziness, ☐ numbness or tingling

Psych ☐ anxiety, ☑ depression, ☐ panic, ☐ panic attack

Endocrine ☐ thyroid disease, ☐ excessive hunger, ☐ excessive thirst

Hematologic ☐ easy bruising, ☐ anemia

Immun ☐ frequent infections

History

Previous Illnesses Do you now have or have you ever had: (if so, list the date it occurred or you were diagnosed)

	Now	Past	Never	Date
Heart disease or heart attack	☐	☐	☐	
High blood pressure	☑	☐	☐	5 yrs ago
Diabetes	☐	☐	☐	
Back injuries or problems	☑	☐	☐	6-24-17 Lexington Emergency
Arthritis	☐	☐	☐	
Cancer	☐	☐	☐	
Other illness _____	☐	☐	☐	

Previous Surgery Have you ever had surgery? If so, list the operation and the date: NO

Tetanus Immunization When was your last tetanus immunization? This year.

Name: Isaac Brailey

Current Conditions

Are you pregnant or is there any possibility you could be pregnant? ☐ yes ☑ no

Do you have or have you ever had any of the following conditions (check all that apply):

☐ ulcers, ☐ kidney or liver disease, ☐ gastrointestinal bleeding (vomiting blood or rectal bleeding), ☐ diverticulitis or inflammatory bowel disease, ☐ problems with taking anti-inflammatory medications (such as Ibuprofen, etc.), ☐ none of these problems.

Current Medications

What medications are you currently taking? Oxycodone, Cyclobenzaprine, Ibuprofen, Labetalol, Amlodipine, Metoprolol,

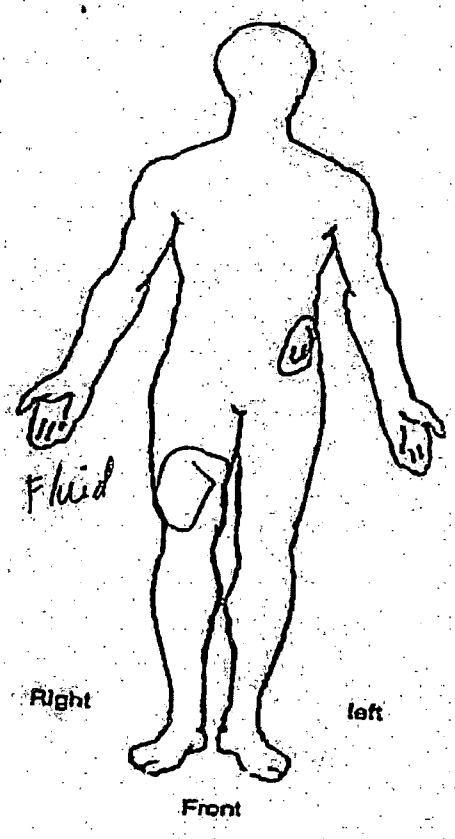
Allergies

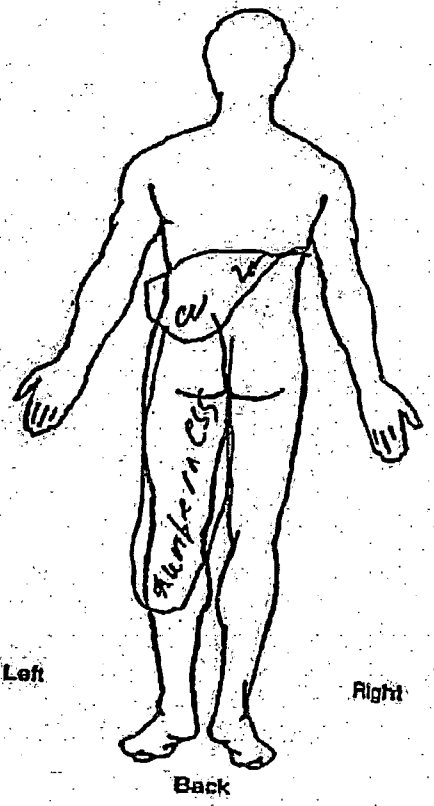
Do you have any allergies to medications or latex? ☐ yes ☑ no
If yes, to what? _____

Where is your pain?

Mark the areas on your body where you have the feelings described below, use the appropriate symbol. Include all affected areas.

Aching ▲▲▲ Numbness = = = Pins and needles ooo Burning XXX Stabbing ///





Please mark with a "W" on the drawing where the pain is the worst.

Signature Isaac P. Brailey P82 P28 Date 6-26-17

OCCUPATIONAL MEDICINE CLINIC VISIT
Palmetto Health - HealthWorks
1333 Taylor St Suite 3H
Columbia, SC 29201
803-296-3500

Patient: Isaac Bralley
Company: Michelin Cola US 7
Provider: Stephen R. Izard, MD, PHD

Date of Birth:
Injury Date: 6/24/2017
Exam Date: 6/26/2017
Appt Time: 08:45

DEMOGRAPHICS
Isaac Bralley is a ar-old Male, and employee of Michelin Cola US 7.

CHIEF COMPLAINT
Severe pain can bearly move, can't bend down.

PATIENT DESCRIPTION OF ACCIDENT
Per Pt, I was streching rubber and moving bobins."

INITIAL HISTORY OF PRESENT ILLNESS
Isaac's primary problem is pain located in the Upper Leg, left side of back, Left leg numbness, right leg fluid. He describes it as dull ache, burning, pins and needles, throbbing, stabbing, eveything. Isaac says that it seems to be constant. The problem began on 6/24/2017. It is improved with nothing. He has noticed that it is made worse by everything. He also notes that it is accompanied by urine dripping on myself. His pain level is 10+. Yes- Seen at LMC. Previous Injury to same body part: no.

REVIEW OF SYSTEMS
Constitutional: Positive for trouble sleeping. Negative for weight loss more than 10 lbs, weight gain more than 10 lbs, fatigue, and fever.
Eyes: Negative for blurred vision, difficulty seeing, double vision, cataracts, and glaucoma.
ENT: Negative for difficulty swallowing, difficulty hearing, sore throat, hoarseness, nose bleeds, swollen lymph nodes, earaches, and neck pain.
Cardiovascular: Negative for chest pain, palpitations, shortness of breath, swelling of feet, varicose veins, heart murmur, previous myocardial infarction, and previous stroke.
Respiratory: Positive for cough. Negative for asthma, emphysema, pneumonia, coughing up blood, and night sweats.
Gastrointestinal: Negative for gall bladder disease, liver disease, abdominal pain, stomach ulcer, jaundice, nausea, and intestinal bleeding.
Genitourinary: Negative for difficulty with urination, urinary tract infections, kidney stones, frequent urination, and burning on urination.
Musculoskeletal: Positive for joint redness, joint swelling, and muscle pain. Negative for fibromyalgia, and arthritis.
Skin and Breast: Negative for eczema, and rash.
Neurological: Positive for weakness, tingling or numbness in feet, and lightheadedness or dizziness. Negative for headache, seizures, hands fall asleep at night, and numbness or tingling.
Psychiatric: Negative for anxiety, depression, panic, and panic attack.
Endocrine: Negative for thyroid disease, excessive hunger, and excessive thirst.
Hematologic: Negative for easy bruising, and anemia.
Immunologic: Negative for frequent infections.

HISTORY
Current Conditions:
Current Conditions Back injuries/ problems
Previous Surgery:

Previous Surgery None.
Tetanus Immunization:
Tetanus Immunization 2017
Previous Illnesses:
Previous Illnesses Hypertension.

CURRENT MEDICATIONS
Cyclobenzaprine, Oxycodone HCl, Ibuprofen, Labetalol HCl, Amlodipine Besylate, water pill.

ALLERGIES
None.

VITAL SIGNS
Weight (lbs): 265.
Height (inches): 74.
BMI: Obese (34).
Blood Pressure: 181/94.
Respiratory Rate (per min): 24.
Pulse Rate (per min): 65.
Oral Temperature (°F): 99.

EXAMINATION
Constitutional: He looks comparable to his stated age. His compledon is normal. He appears to be healthy. He is able to move with no difficulty.
Thoracic Spine: the employee winces with slightest touch to his left lower thoracic paravertebral region. Straight leg raising test is negative. DTRs wnl.
Right Knee: There is no apparent edema of the right knee as stated by the patient. Range of motion about the right knee is full.
Left Lower Leg: Examination of the left leg revealed sensation to be intact to light touch.

ADDITIONAL ROS AND HPI UPDATE
The employee also complains of difficulty urinating. In addition, he reports swelling of his right knee and numbness at times in his left leg. He states that taking the Percocet relieves the numbness.

DIAGNOSIS
1. Pain in thoracic spine (M54.6).

DISCUSSION
There seems to be a significant degree of symptom amplification and magnification By the employee.I explained to the employee that at the worst he has a back strain which should require only treatment with NSAIDs and a muscle relaxant. I also explained to him that he may very well have a urinary tract infection since he was having difficulty urinating and having pain in the CVA area on the left side. He was advised to discontinue taking Percocet because of the high risk for addiction and the high risk for hyperalgesia related to the Percocet.The employee was also advised not to follow-up with the neurosurgeon that he will follow-up with me at Richelin medical department on Wednesday, 06/28/2017.

MEDICAL CAUSATION
The cause of this problem is not known at this time.

RECOMMENDED WORK STATUS
Isaac's recommended work status is Regular Duty. The effective date for this work status is 6/26/2017.

Palmetto Health - HealthWorks
Isaac Bradley
DOB:
6/26/2017

RECOMMENDED ACTIVITY RESTRICTIONS

The employee was given no work restrictions at this time. He is scheduled to return to work on Wednesday, 06/28/2017.

AFTERCARE INSTRUCTIONS

The employee was advised to apply heat to the area in his back that is uncomfortable and take Ibuprofen as well as Flexeril.

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Patient Visit Summary and Instructions

Palmetto Health - HealthWorks
1333 Taylor St Suite 3H
Columbia, SC 29201
803-296-3500

PATIENT LAST NAME		PATIENT FIRST NAME	AGE	GENDER
Brailey		Isaac		Male
DATE OF TREATMENT	DATE OF INJURY OR ILLNESS	PRACTITIONER'S NAME		
06/26/2017	06/24/2017	Stephen R. Izard, MD, PHD		

TIME ARRIVE 8:15 AM TIME IN TIME OUT

PATIENT'S DESCRIPTION OF PROBLEM

Per Pt, I was streching rubber and moving bobins."

DIAGNOSIS

1. Low back pain (M54.5).

MEDICATIONS PRESCRIBED OR DISPENSED

ACTIVITY RESTRICTIONS

WORK STATUS Regular Duty AS OF 06/26/2017

The employee was given no work restrictions at this time. He is scheduled to return to work on Wednesday, 06/28/2017.

AFTERCARE INSTRUCTIONS

The employee was advised to apply heat to the area in his back is uncomfortable and take ibuprofen as well as Flexeril.

NEXT 3 APPOINTMENTS

PATIENT	STAFF MEMBER
I received this information and was given the opportunity to ask questions about my care.	I reviewed this information with the patient. The patient verbalized understanding.
	Isaac Brailey PA

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ED Provider Notes by Grant, Stephen A. D., MD at 06/27/17 1328 (continued)

Author: Grant, Stephen A. D., MD | Service: (none) | Author Type: Physician
Filed: 06/27/17 1827 | Date of Service: 06/27/17 1328 | Note Type: ED Provider Notes
Status: Signed | Editor: Grant, Stephen A. D., MD (Physician)

Chief Complaint

Patient presents with:
- Back Pain
  here on Saturday for the same. Did not recognize numbness until he was reading discharge instructions
- Urinary Retention
  since this am[SG1.1]

HPI Comments: This patient presents to the ED complaining of severe back pain x 3 days and urinary retention since this AM. Patient states he was seen 3 days ago and was told to come back for numbness or urinary retention which he states he has, but states he can empty his bladder. Patient states he has numbness in his right leg and also states when he coughs it hurts his back.

Patient is a [redacted] y.o. male.The history is provided by the patient and the spouse. No language interpreter was used.
Back Pain
Timing/Onset: **Acute**
Episode duration: **3 days**
Frequency: **Constantly**
Pain location: **Lumbar spine**
Radiates to: **Right hip, right thigh and right knee**
Quality: **Achy**
Severity of pain: **Moderate**
Progression: **Worsening**
Relieved by: **Nothing**
Exacerbating factors: **Nothing**
Associated symptoms: **extremity numbness**
Associated symptoms: **no bladder incontinence and no bowel incontinence**[JE1.1]

Past Medical History

Diagnosis | Date
- Hypertension

History reviewed. No pertinent past surgical history.

Family History

Problem | Relation | Age of Onset
- Hypertension | Father

Social History

Social History Narrative
Full-time employment

Uses safety equipment

Social History
Substance Use Topics

• Smoking status:	Never Smoker
• Smokeless tobacco:	None
• Alcohol use	Yes[SG1.1]

Review of Systems
Constitutional: Negative.
HENT: Negative.
Eyes: Negative.
Respiratory: Negative.
Cardiovascular: Negative.
Gastrointestinal: Negative. Negative for bowel incontinence.
Genitourinary: Positive for difficulty urinating. Negative for bladder incontinence.
Musculoskeletal: Positive for back pain.
Skin: Negative.
Neurological: Positive for numbness. Negative for syncope.
Hematological: Negative.
Psychiatric/Behavioral: Negative.

Initial ED Vital Signs:[JE1.1]
Blood Pressure: (I) 178/103 Heart Rate: 72 Temp: 98.6 °F (37.1 °C) Resp: 18 SpO2: 98 %[SG1.1]

Last Documented Vital Signs This Encounter:[JE1.1]
Blood Pressure: (I) 160/106
MAP (mmHg): 132
Heart Rate: 72
Temp: 98.9 °F (37.2 °C)
Resp: 18
SpO2: 98 %

Weight: 120.2 kg (265 lb)

weight is 120.2 kg (265 lb). His temperature is 98.9 °F (37.2 °C). His blood pressure is 160/106 (abnormal) and his pulse is 72. His respiration is 18 and oxygen saturation is 98%.[SG1.1]

Physical Exam
Constitutional: He is oriented to person, place, and time. He appears well-developed and well-nourished. No distress.
HENT:
Head: Normocephalic.
Eyes: Conjunctivae and EOM are normal. Right eye exhibits no discharge. Left eye exhibits no discharge.

ED Provider Notes by Grant, Stephen A. D., MD at 06/27/17 1328 (continued)

Neck: Normal range of motion. Neck supple. No tracheal deviation present. No thyromegaly present.
Cardiovascular: Normal rate and regular rhythm.
Pulmonary/Chest: Effort normal. No respiratory distress.
Musculoskeletal: Normal range of motion. He exhibits tenderness. He exhibits no deformity.[JE1.1]
Left lower lumbar tenderness.
Strength and reflexes intact.
Patient ambulates with a normal gait.[JE1.2]
Neurological: He is alert and oriented to person, place, and time.
Skin: Skin is warm and dry. No rash noted. He is not diaphoretic.
Psychiatric: He has a normal mood and affect. His behavior is normal.
Nursing note and vitals reviewed.

[redacted]

Procedures[JE1.1]

[redacted]

Final Result
No acute bony abnormalities. Lower lumbar facet arthropathy from L4 through S1

Results for orders placed or performed during the hospital encounter of 06/27/17
Urinalysis

Result	Value	Ref Range
Collect Type, Urine	CLEAN VOIDED URINE	
Color	YELLOW	
Clarity, Urine	CLEAR	
Glucose, Urine	NEGATIVE	NEGATIVE
Bilirubin, Urine	NEGATIVE	NEGATIVE
Ketones, Urine	NEGATIVE	NEGATIVE
SG, Urine	1.014	1.003 - 1.030
Blood, Urine	NEGATIVE	NEGATIVE
pH, Urine	5.0	4.6 - 8.0
Protein, Urine	MODERATE (A)	NEGATIVE
Urobilinogen, Urine	NORMAL	NORMAL
Nitrite, Urine	NEGATIVE	NEGATIVE
Leukocyte Esterase, Urine	NEGATIVE	NEGATIVE
WBC, Urine	0	<6
Squamous Epithelial, Urine	<1	<6
Mucous, Urine	PRESENT	
RBC, Urine	0	<4

All Medication Administration through 06/27/2017 1827

ED Provider Notes by Grant, Stephen A. D., MD at 06/27/17 1328 (continued)

Date/Time	Order	Dose	Route	Action	Action By
06/27/2017 1348	HYDROmorphone (DILAUDID) injection 2 mg	2 mg	Intramuscular	Given	Smith, Magdalene, RN

ED Discharge Orders
None

ED Prescriptions

Medication	Sig	Dispense	Start Date	End Date	Auth. Provider
predniSONE (DELTASONE) 10 mg tablet	4 tabs PO QD x 3 days, then 3 tabs po QD x 3 days, then 2 tabs PO QD x 3 days, then 1 tab po QD x 3 days, then stop	30 tablet	6/27/2017		Grant, Stephen A. D., MD
oxyCODONE-acetaminophen (PERCOCET) 5-325 mg tablet	Take 1-2 tablets by mouth every 4 (four) hours as needed for pain.	24 tablet	6/27/2017		Grant, Stephen A. D., MD[SG1.1]

Diagnosis:[JE1.1]
Final Diagnoses
Lower back pain (Primary)
Left sided sciatica[SG1.1]

Follow Up Instructions:[JE1.1]

Lexington Brain and Spine Institute - Lex
811 W Main St, Ste 201
Lexington South Carolina 29072-2500
803-936-7035

If symptoms worsen

Disposition: Discharge
Departure Condition: Stable[SG1.1]

LMC ED MDM NO CC TIME:

ED Provider Notes by Grant, Stephen A. D., MD at 06/27/17 1328 (continued)

Review of Previous:[JE1.1] Notes[SG1.2]
Notes comment:[JE1.1] From prior visit reviewed.[SG1.2]
Interpretation:[JE1.1] Pulse ox, labs, x-ray and ultrasound[SG1.2]
Labs comment:[JE1.1] Urinalysis negative. No blood.[SG1.2]
X-Rray comment:[JE1.1] Independently reviewed by me. L SPINE: LS-spine shows no fracture subluxation.[SG1.2]
Ultrasound comment:[JE1.1] US bladder scan was 60 cc[SG1.2]
Pulse Ox comment: I reviewed: 98% on room air with no hypoxia
Consult other physician: No
Patient Progress: Stable
MDM Comments:[JE1.1] The scribe's documentation has been prepared under my direction and personally reviewed by me in its entirety. I confirm that the note above accurately reflects all work, treatment, procedures, and medical decision making performed by me.

Grant, Stephen A. D.- was the Primary ED Provider for this patient.

Grant, Stephen A. D.
06/27/17 2:18 PM[SG1.2]

In evaluating this patient, I have accessed SCRIPTS (SC Reporting & Identification Prescription Tracking System) and reviewed this patient's prior utilization of controlled substances in an effort to formulate an appropriate plan of care for this patient: Date/Time Stamp (06/27/17 1335)

ED Course[SG1.1]

I, Jamie S. Elks, am serving as a scribe to document services personally performed by, and in the presence of,[JE1.1] No att. providers found[SG1.1], based on the provider's statements to me.[JE1.1]
06/27/17 6:27 PM[SG1.1]
Patient feels better after medications.[SG1.2]

Grant, Stephen A. D., MD
06/27/17 1827
[SG1.1]

Electronically signed by Grant, Stephen A. D., MD on 06/27/17 1827

Revision History

User Key	Date/Time	User	Provider Type	Action
> SG1.1	06/27/17 1827	Grant, Stephen A. D., MD	Physician	Sign
SG1.2	06/27/17 1425	Grant, Stephen A. D., MD	Physician	Share
JE1.2	06/27/17 1412	Elks, Jamie S	ED Scribe	Share
[N/A]	06/27/17 1339	Elks, Jamie S	ED Scribe	Share
JE1.1	06/27/17 1336	Elks, Jamie S	ED Scribe	Share

END OF REPORT

Brailey, Isaac Douglas Jr. (MR # M002150817)
LMC Emergency Department
2720 Sunset Boulevard
West Columbia SC 29169
Phone: 803-791-2350

Encounter Date: 06/27/

Isaac Douglas Brailey Jr.
MRN: M002150817

Department: LMC Emergency Department
Date of Visit: 6/27/2017

Diagnoses

Lower back pain
Left sided sciatica

You were seen by

You were seen by Grant, Stephen A. D., MD.

You are allergic to the following

No active allergies

Administrations This Visit

	Admin Date	Dose	Route
HYDROmorphone (DILAUDID) injection 2 mg	06/27/2017 13:48	2 mg	Intramuscular

Procedures and tests performed during your visit

Bladder scan
Urinalysis
XR Lumbar Spine AP and Lateral

Follow-up Information

Follow up with Lexington Brain and Spine Institute - Lex.
Specialty: Neurosurgery
Why: If symptoms worsen
Contact information:
811 W Main St, Ste 201
Lexington South Carolina 29072-2500
803-936-7035

ED Prescriptions

Medication	Sig	Dispense	Start Date	End Date	Auth. Provider
predniSONE (DELTASONE) 10 mg tablet	4 tabs PO QD x 3 days, then 3 tabs po QD x 3 days, then 2 tabs PO QD x 3 days, then 1 tab po QD x 3 days, then stop	30 tablet	6/27/2017		Grant, Stephen A. D., MD
oxyCODONE-acetaminophen (PERCOCET) 5-325 mg tablet	Take 1-2 tablets by mouth every 4 (four) hours as needed for pain.	24 tablet	6/27/2017		Grant, Stephen A. D., MD

Additional Follow Up Information

None

Medication List

START taking these medications

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Medication List (continued)

START taking these medications (continued)

predniSONE 10 mg tablet
Commonly known as: DELTASONE
4 tabs PO QD x 3 days, then 3 tabs po QD x 3 days, then 2 tabs PO QD x 3 days, then 1 tab po QD x 3 days, then stop

CHANGE how you take these medications

*** oxyCODONE-acetaminophen 5-325 mg tablet**
Commonly known as: PERCOCET
Take 1-2 tablets by mouth every 4 (four) hours as needed for pain.
What changed: **You were already taking a medication with the same name, and this prescription was added. Make sure you understand how and when to take each.**

[redacted]

ASK your doctor about these medications

cyclobenzaprine 10 mg tablet
Commonly known as: FLEXERIL
Take 1 tablet (10 mg total) by mouth 3 (three) times daily as needed for muscle spasms for up to 5 days.

hydrochlorothiazide 25 mg tablet
Commonly known as: HYDRODIURIL

ibuprofen 800 mg tablet
Commonly known as: ADVIL,MOTRIN
Take 1 tablet (800 mg total) by mouth every 8 (eight) hours as needed for pain (take with food) for up to 10 days.

labetalol 200 mg tablet
Commonly known as: NORMODYNE

*** oxyCODONE-acetaminophen 5-325 mg tablet**
Commonly known as: PERCOCET
Take 1 tablet by mouth every 8 (eight) hours as needed for pain for up to 4 days.
What changed: **Another medication with the same name was added. Make sure you understand how and when to take each.**

polyethylene glycol powder
Commonly known as: GLYCOLAX
Take 17 g by mouth daily.

[redacted]

Where to Get Your Medications

You can get these medications from any pharmacy

Bring a paper prescription for each of these medications
- ☐ oxyCODONE-acetaminophen 5-325 mg tablet
- ☐ predniSONE 10 mg tablet

Preferred Pharmacy
None

General Infomation and Instructions

During this visit your provider evaluated you at one point in time in the course of an illness or injury that may be early in the progression of the disease or injury process. Please return or see your doctor if anything gets worse, changes, or concerns you at any time, or if you do not improve in 24-48 hours.

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X-RAYS AND EKG: For your protection, all x-rays and EKGs are reviewed by specialist physicians. If any clinical significant difference is noted between the first and final readings

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LABORATORY: Certain lab tests and cultures require a waiting period. If any results require a change in your treatment, you or your physician will be notified. Please do not call the Emergency Department for your test results.

Work/School Excuse Letter

LMC Emergency Department
2720 Sunset Boulevard
West Columbia SC 29169
Phone: 803-791-2350
Fax: 803-939-4578

June 27, 2017

Patient: **Isaac Douglas Brailley Jr.**
Date of Birth: [redacted]
Date of Visit: 6/27/2017

To Whom It May Concern:

Isaac Brailley was seen and treated at LMC Emergency Department on 6/27/2017. He has the following restriction(s): no work for three days.

He may return to work or school on .

Sincerely,

Johnson, Mendy E, LPN

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Patient Information and Consent

Please Print

What is the reason for your visit today? Back

Have you been treated at any Doctors Care office location before? ☐ Yes ☐ No

Copy of insurance card is required for all visits.

Patient Information

Name (First, Middle, Last) Isaac Bell Jr. | Birth Date | Age | Social Security # | Sex: ☐ M ☐ F

Address

City | State | Zip

Email Address (We will never rent or sell your email address – we value your privacy)

Home Phone

Cell Phone — Okay to leave voice message? ☐ Yes ☐ No

Responsible Party or Parent's Name (If minor) | Guarantor Birth Date

Okay to leave voice message? ☐ Yes ☐ No

Employer or Parent Occupation | Work Phone

RACE ☐ American Indian or Alaska Native ☐ Asian ☐ Black or African American ☐ Native Hawaiian or Other Pacific Islander ☐ White

ETHNICITY ☐ Hispanic or Latino ☐ Not Hispanic or Latino | Preferred Language

Marital Status: ☐ S ☐ M ☐ D ☐ W

SPOUSE'S INFORMATION

Spouse's Name

Spouse's Employer

Spouse's Work Phone

Spouse's Cell Phone

Spouse's Email

Insurance | Please present your insurance card to the receptionist.

PRIMARY INSURANCE CARRIER

Insurance Company Name

Address

City | State | Zip

Phone | Policy Number

Group Number / Name

Insured Name & DOB

Patient's relationship to Insured: ☐ Self ☐ Spouse ☐ Dependent

SECONDARY INSURANCE CARRIER

Insurance Company Name

Address

City | State | Zip

Phone | Policy Number

Group Number / Name

Insured Name & DOB

Patient's relationship to Insured: ☐ Self ☐ Spouse ☐ Dependent

Emergency Contact

Name | Relationship | Home Phone | Cell Phone

Address | City | State | Zip | Email

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Preferred Pharmacy

Pharmacy Name | Pharmacy Location

Workers' Compensation

IS THIS A WORKERS' COMPENSATION CLAIM? ☐ Yes ☐ No Not Applicable ☐

Workers' Compensation Billing Address

Accident/Injury Information (if applicable)

Not Applicable ☐

Where did the injury occur? (example: park)

Were you struck by an object? ☐ Yes ☐ No If Yes, what type of object?

Where did you fall? (example: kitchen, bathroom, garage)

Where did you fall from? (example: ladder, roof, steps)

If you were in a motor vehicle accident, were you the driver or passenger?

Authorization for Release of Information

Can we leave results to internal and external office testing or referrals in email or voicemail? ☐ Yes ☐ No

Whom can receive information on your behalf regarding testing or referrals? Name:

Patient Consent for Treatment

1. I voluntarily consent to any and all health care treatment and diagnostic procedures provided by Doctors Care and its associated physicians, clinicians and other personnel. I am aware that the practice of medicine and other health care professions is not an exact science and I further state that I understand that no guarantee has been or can be made as to the results of the treatments or examinations at Doctors Care.
2. I consent to the use and disclosure of my/the patient's protected health information for purposes of obtaining payment for services rendered to me/the patient, treatment and health care operations consistent with the Doctors Care Notice of Privacy Practices.
3. I authorize payment of medical benefits to Doctors Care physicians or their designee for services rendered.
4. I give permission to obtain all my medication/prescription history when using an electronic system to process prescriptions for my medical treatment.

I have received a copy of the Notice of Privacy Practice and Financial Policy Notice. ☐ Yes ☐ No Initial

WORKERS' COMPENSATION PATIENTS: I hereby authorize Doctors Care to speak to a rehabilitation specialist, my employer, my insurance carrier or other professionals involved in my care of rehabilitation, regarding my medical records and the treatment I have received or will receive.

X Alexa Russell 6-30-17

Patient or Authorized Person's Signature Date

FOR INTERNAL USE ONLY

DocuTAP Visit ID: P98 Co-Pay Collected: $

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acute low back pain

Patient: BRAILEY, ISAAC MRN: D307608 FIN: 1370218
Age: Sex: Male DOB:
Associated Diagnoses: Acute low back pain
Author: Saunders MD, John

Visit Information

Date of Service: 06/30/2017 12:45 pm Performing Location: Doctors Care - Lexington West Encounter#: 1370218

Primary Care Provider (PCP): D1042 -UNKNOWN, PERSONNEL

Referring Provider: No referring provider recorded for selected visit.
Additional Information: 6/30/2017 12:53 PM EDT Lt lower back pain injured it by stretching rubber. x 6/24/2016 .

History of Present Illness

50 yo wm with work related left sided low back pain. he has been seen four times since 6/11/17
6/111/17 he got 20 Tramadol
6/16/17 he got 30 tramadol
6/24/17 he got 20 oxycodone
6/27/17 he got 24 oxycodone

he was hurt at work at Michelin. he says the Michelin doc told him to put ice on it and he had no work restrictions.
he has muscle spasm, loss of balance. he has been seen in the ER twice for this problem.

I told them that I really didn't have much to offer them. He is on nsaids (ibuprofen 800), muscle relaxers (Flexeril) and pain meds (oxycodone).

I told he and his wife that he needed to see the ortho (list given). wife had already called midlands block and blue clinic but they do not see backs there.

I also told them that as soon as a specialist hears that he got hurt at work, they're going to have no interest in seeing him if it's not through WKC.

no bowel or bladder problems.

Review of Systems

Constitutional: Negative except as documented in history of present illness.
Gastrointestinal: Negative except as documented in history of present illness.
Genitourinary: Negative except as documented in history of present illness.
Musculoskeletal: Back pain: On the left side, in the middle of the back, in the lower region. The pain is moderate. Radiating.

Health Status

Allergies:
Allergic Reactions (Selected)
No known allergies
Medications: (Selected)
Prescriptions
Prescribed
Norco 5 mg-325 mg oral tablet: 1 tab(s), po, q4-6 hrs, # 30 tab(s), 0 Refill(s), Type: Maintenance
Documented Medications

Documented
Labeled: 0 Refill(s). Type: Maintenance

Problem list:

All Problems

Hypertension / SNOMED CT 64176011 / Confirmed
Hypertension / SNOMED CT 1216744012 / Confirmed
Obesity / SNOMED CT 2535065012 / Probable

Histories

Past Medical History

Active

Hypertension (64176011).

Past Surgical History

No previous procedures..

Family History

Hypertension
Mother
Father
Diabetes..
Sister

Social History:

Alcohol Assessment
Past
Tobacco Assessment
Never
Substance Abuse Assessment
Never

Physical Examination

Vital Signs

6/30/2017 12:53 PM EDT

Temperature Oral	98.6 DegF
Peripheral Pulse Rate	95 bpm
Pulse Site	Brachial artery
HR Method	Electronic
Respiratory Rate	18 br/min
Systolic Blood Pressure	145 mmHg HI
Diastolic Blood Pressure	97 mmHg HI
Mean Arterial Pressure	113 mmHg
BP Site	Right arm
BP Method	Electronic
Oxygen Saturation	97 %

Measurements from flowsheet : Measurements
6/30/2017 12:53 PM EDT

Height Measured - Standard	71.5 in
Weight Measured - Standard	265 lb
BSA	2.46 m2
Body Mass Index	36.44 kg/m2

General: Alert and oriented, No acute distress.
Eye: Pupils are equal, round and reactive to light, Normal conjunctiva.
HENT: Normocephalic, Normal hearing.
Neck: Supple, Non-tender.
Musculoskeletal: +patella dtr's, + str on left, pain off spine in LSAst dorsi area.

Printed by: Phelps , Glenda
Printed on: 9/13/2017 2:50 PM EDT

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Integumentary: Warm, Dry.
Neurologic: Alert, Oriented.
Psychiatric: Cooperative, Appropriate mood & affect.

Impression and Plan
Diagnosis
Acute low back pain (ICD10-CM M54.5).
Course: Worsening.
Plan: OOW fri,sat, sun
rest
alternate ice /wet heat
continue meds
given list of orthos
to ER if worse.
Patient Instructions: Counseled: patient, regarding diagnosis, regarding treatment, regarding medications, verbalized understanding.

Signature Line

Signed and Authored by John Saunders MD on 06/30/2017 01:30 PM EDT

Charted Date: June 30, 2017 1:18 PM EDT
Subject / Title: acute low back pain
Performed By: Saunders MD, John on June 30, 2017 1:30 PM EDT
Electronically Signed By: Saunders MD, John on June 30, 2017 1:30 PM EDT
Visit Information: 1370216, Doctors Care - Lexington West, Outpatient, 6/30/2017 - 7/2/2017

Comprehensive Intake Entered On: 6/30/2017 12:58 PM EDT
Performed On: 6/30/2017 12:53 PM EDT by Boyd , Dana

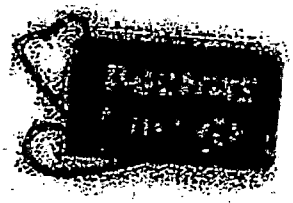
Summary
Chief Complaint : Lt lower back pain injured it by stretching rubber. x 6/24/2016
Menstrual Status : N/A
Weight Measured : 265 lb(Converted to: 265 lb 0 oz, 120.20 kg)
Height Measured : 71.5 in(Converted to: 5 ft 11 in, 181.61 cm)
Body Mass Index : 36.44 kg/m2
Body Surface Area : 2.46 m2
Systolic Blood Pressure : 145 mmHg (HI)
Diastolic Blood Pressure : 97 mmHg (HI)
Mean Arterial Pressure : 113 mmHg
Peripheral Pulse Rate : 95 bpm
BP Site : Right arm
Pulse Site : Brachial artery
BP Method : Electronic
HR Method : Electronic
Temperature Oral : 98.6 DegF(Converted to: 37.0 DegC)
Respiratory Rate : 18 br/min
Oxygen Saturation : 97 %
Race : African American
Languages : English
Ethnicity : Not Hispanic or Latino

Boyd , Dana - 6/30/2017 12:53 PM EDT

Charted Date: June 30, 2017 12:53 PM EDT
Subject / Title: Comprehensive Intake
Performed By: Boyd , Dana on June 30, 2017 12:53 PM EDT
Electronically Signed By: Boyd , Dana on June 30, 2017 12:53 PM EDT
Visit Information: 1370216, Doctors Care - Lexington West, Outpatient, 6/30/2017 - 7/2/2017

Return to Work/School Waiver

Patient: BRAILEY, ISAAC
Age: 8 Sex: Male DOB: MRN: D307601 FIN: 1370216
Associated Diagnoses: None
Author: Bailey, Angie



Return to Work/School Waiver

Dates of Care: _06/30/17-07/02/17
Return to Work Date: _07/03/17
Nature of Illness/Injury (if requested): _
Work Status: _ Light Duty _ Full Duty
Comments: _

Charted Date: June 30, 2017 1:18 PM EDT
Subject / Title: Return to Work/School Waiver
Performed By: Bailey, Angie on June 30, 2017 1:19 PM EDT
Electronically Signed By: Bailey, Angie on June 30, 2017 1:19 PM EDT
Visit Information: 1370216, Doctors Care - Lexington West, Outpatient, 6/30/2017 - 7/2/2017

General Message

BRAILEY, ISAAC - D30760

Document Contains Addenda

From: Spencer , Marie
To: Saunders MD, John;
Sent: 7/25/2017 6:38:02 PM EDT
Subject: Rx refill

wanted a refill on Valtrex, could we send it over for him

Addendum by Saunders MD, John on July 26, 2017 7:13:57 AM EDT (Verified)

** Submitted: **
Order:valACYclovir (Valtrex 500 mg oral tablet) 1 tab(s) po daily
Qty: 30 tab(s) Refills: 11
Substitutions Allowed Route To Pharmacy - Walgreens Drug Store 07399
Signed by Saunders MD, John 7/26/2017 7:13:00 AM

Addendum by Saunders MD, John on July 26, 2017 7:14:28 AM EDT (Verified)

From: Saunders MD, John
To: Office Pool (WLEX_SC);
Sent: 7/26/2017 7:14:28 AM EDT
Subject: FW: Rx refill

notify patient valtrex was sent to pharm in cerner.

Saunders

Addendum by Spencer , Marie on July 26, 2017 10:36:35 AM EDT (Verified)
lmtrc

Addendum by Spencer , Marie on July 26, 2017 10:40:46 AM EDT (Verified)
pt notified

Charted Date: July 25, 2017 6:38 PM EDT
Subject / Title: Rx refill
Performed By: Spencer , Marie on July 25, 2017 6:38 PM EDT
Visit Information: 1370216, Doctors Care - Lexington West, Outpatient, 6/30/2017 - 7/2/2017

Printed by: Phelps , Glenda P104
Printed on: 9/13/2017 2:51 PM EDT P50

General Message

BRAILEY, ISAAC - D30760

Document Contains Addenda

From: Spencer , Marie
To: Saunders MD, John;
Sent: 9/11/2017 11:06:43 AM EDT
Subject: Rx Instructions

Pt needs to know what he needs to do as far as taking the Valtrex since he has an outbreak of cold sores on lip to treat it.

Addendum by Saunders MD, John on September 11, 2017 11:11:03 AM EDT (Verified)

From: Saunders MD, John
To: Spencer , Marie;
Sent: 9/11/2017 11:11:03 AM EDT
Subject: RE: Rx Instructions

the correct dosing for valtrex for cold sores is 2 pills by mouth twice a day x one day.

Saunders

Addendum by Spencer , Marie on September 11, 2017 12:22:43 PM EDT (Verified)
Pt notified

Charted Date:	September 11, 2017 11:06 AM EDT
Subject / Title:	Rx Instructions
Performed By:	Spencer , Marie on September 11, 2017 11:06 AM EDT
Visit Information:	1370216, Doctors Care - Lexington West, Outpatient, 6/30/2017 - 7/2/2017

Printed by: Phelps , Glenda
Printed on: 9/13/2017 2:51 PM EDT

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LEXINGTON Brain and Spine INSTITUTE
A Lexington Medical Center Physician Practice

Lexington Brain and Spine Institute
146 N Hospital Dr, Ste 120
West Columbia SC 29169-4800
Outpatient

BRAILEY,ISAAC DOUGLAS JR.
MRN: M002150817
DOB: [redacted] c: M
Enc. Date: 07/24/17

Brailey, Isaac Douglas Jr.

MRN: M002150817
Description: [redacted] year old male

Initial consult 7/24/2017
Lexington Brain and Spine Institute

Provider: Valdes, Luis G., PA (Neurosurgery)
Primary diagnosis: Low back pain
Reason for visit: Back Pain

Progress Notes

Valdes, Luis G., PA (Physician Assistant) • Neurosurgery

Expand All Collapse All

Patient is a [redacted]y.o. male.

Chief Complaint: Back pain

Vitals:

	07/24/17 1227
BP:	159/99
Pulse:	85

Subjective

Reason for Visit:
Chief Complaint
Patient presents with
- Back Pain

HPI
[redacted]year-old male patient presents for evaluation after a recent visit to the emergency Department due to back pain. Patient states that he was injured while at work at the Michellin Tire plant on June 24. He states he was lifting some heavy materials when he felt a sharp pain in his lower back. Patient had visits to primary care an urgent care and eventually ended up in our emergency department. Patient states that the pain has been increasing and is now radiating down his LEFT leg towards the thigh with numbness in the LEFT calf. He states that any position whether laying down or standing aggravate his pain and that only sitting and favoring the RIGHT side alleviates his pain. She was prescribed Percocet for pain control as well as Flexeril in the emergency department. States that the Flexeril hasn't alleviated his pain somewhat and allow him to fall asleep. Patient has not had any physical therapy or any type of epidural steroid injection. The only imaging we have of this patient is of a lumbar x-ray. Patient denies shoes of bladder or bowel dysfunction.
Review of Systems

Constitutional: Negative for chills and fever.
Eyes: Negative for blurred vision and double vision.
Respiratory: Negative for cough, shortness of breath, wheezing and stridor.
Cardiovascular: Positive for leg swelling. Negative for chest pain and palpitations.
Genitourinary: Negative for dysuria and urgency.
Musculoskeletal: Positive for back pain and joint pain. Negative for falls.
Neurological: Positive for tingling, weakness and headaches. Negative for dizziness.
Psychiatric/Behavioral: Negative for depression. The patient is nervous/anxious.

1. Low back pain
- cyclobenzaprine (FLEXERIL) 5 MG tablet; Take 2 tablets (10 mg total) by mouth 3 (three) times daily as needed for muscle spasms. Dispense: 30 tablet; Refill: 0
- Referral to PT for Eval and Treat; Future
- MRI Lumbar Spine Without Contrast; Future

Past Medical History

Diagnosis	Date
• Hypertension	

History reviewed. No pertinent past surgical history.

family history includes Hypertension in his father.

Social History

Social History

• Marital status:	Single
Spouse name:	N/A
• Number of children:	N/A
• Years of education:	N/A

Occupational History
- Not on file.

Social History Main Topics

• Smoking status:	Never Smoker
• Smokeless tobacco:	Not on file
• Alcohol use	No
• Drug use:	No
• Sexual activity:	Not on file

Other Topics	Concern
• Not on file	

Social History Narrative
Full-time employment
Uses safety equipment

Current Outpatient Prescriptions:
• amLODOPine-benazepril (LOTREL) 10-40 mg per capsule, Take 1 capsule by mouth daily., Disp: , Rfl:
• hydrochlorothiazide (HYDRODIURIL) 25 mg tablet, Take 25 mg by mouth daily., Disp: , Rfl:
• labetalol (NORMODYNE) 200 mg tablet, Take 200 mg by mouth 2 (two) times daily. Reported on 7/24/2017, Disp: , Rfl:
• oxyCODONE-acetaminophen (PERCOCET) 5-325 mg tablet, Take 1-2 tablets by mouth every 4 (four) hours as needed for pain., Disp: 24 tablet, Rfl: 0
• cyclobenzaprine (FLEXERIL) 5 MG tablet, Take 2 tablets (10 mg total) by mouth 3 (three) times daily as needed for muscle spasms., Disp: 30 tablet, Rfl: 0
• ibuprofen (ADVIL,MOTRIN) 800 mg tablet, Take 1 tablet (800 mg total) by mouth every 8 (eight) hours as needed for pain (take with food) for up to 10 days., Disp: 30 tablet, Rfl: 0
• polyethylene glycol (GLYCOLAX) powder, Take 17 g by mouth daily. (Patient not taking: Reported on 7/24/2017), Disp: 119 g, Rfl: 0
• predniSONE (DELTASONE) 10 mg tablet, 4 tabs PO QD x 3 days, then 3 tabs po QD x 3 days, then 2 tabs PO QD x 3 days, then 1 tab po QD x 3 days, then stop (Patient not taking: Reported on 7/24/2017), Disp: 30 tablet, Rfl: 0

Allergies

Allergen	Reactions
• Pollen Extract	Other (See Comments)

Objective

Results/Data

Physical Exam
Constitutional: He is oriented to person, place, and time. He appears distressed.
HENT:
Head: Normocephalic.
Eyes: EOM are normal. Pupils are equal, round, and reactive to light.
Cardiovascular: Normal rate and regular rhythm.
Pulmonary/Chest: Breath sounds normal.
Abdominal: Soft. Bowel sounds are normal.
Musculoskeletal: He exhibits tenderness.
Left hip: He exhibits decreased range of motion and tenderness.
Left upper leg: He exhibits tenderness.
Left lower leg: He exhibits tenderness.
Neurological: He is alert and oriented to person, place, and time. He has normal sensation and normal strength. He displays normal reflexes. He has an abnormal Straight Leg Raise Test. Gait abnormal.
Psychiatric: Memory and judgment normal. His mood appears anxious.

Assessment/Plan

Diagnoses and all orders for this visit:

Low back pain
- cyclobenzaprine (FLEXERIL) 5 MG tablet; Take 2 tablets (10 mg total) by mouth 3 (three) times daily as needed for muscle spasms.
- Referral to PT for Eval and Treat; Future
- MRI Lumbar Spine Without Contrast; Future

We will order a lumbar MRI for further evaluation of this patient. He is to begin a course of physical therapy. We'll prescribe additional Flexeril for muscle spasms. We'll follow-up with this patient with results of imaging.

The content of this note has been partially generated with voice recognition software. Grammatical and possibly even content error may be present despite note review prior to submission.

Valdes, Luis G.

Instructions

Return in about 2 weeks (around 8/7/2017).

Additional Documentation

Vitals:	BP 159/99 (BP Location: Left arm, Patient Position: Sitting) Pulse 85 Ht 6' 2" (1.88 m) Wt 120.2 kg (265 lb) BMI 34.02 kg/m2 BSA 2.51 m2
Flowsheets:	Custom Formula Data, Anthropometrics
Encounter Info:	Billing Info, History, Allergies, Detailed Report

Media

Scan on 7/24/2017 1227 by Sweat, Christina L.: Perceptive Content Scan
Scan on 8/4/2017 1043 by Crossley, Christine N : Perceptive Content Scan
Scan on 8/4/2017 1044 by Crossley, Christine N : Perceptive Content Scan

Orders Placed

MRI Lumbar Spine Without Contrast (Resulted 7/29/2017)
Referral to PT for Eval and Treat Closed

Medication Changes

As of 7/24/2017 1:10 PM

	Refills	Start Date	End Date
Added: cyclobenzaprine (FLEXERIL) 5 MG tablet	0	7/24/2017	10/12/2017

Take 2 tablets (10 mg total) by mouth 3 (three) times daily as needed for muscle spasms. - Oral

Visit Diagnoses

Low back pain M54.5

P109
P55

MRI Lumbar Spine Without Contrast

Status: Final result

Study Details

Reading Physician	Reading Date	Result Priority
Davis, Michael M., MD	7/29/2017	Routine

Narrative

CLINICAL DATA: Low back pain

COMPARISON: None

TECHNIQUE: Multiplanar, multisequence MR images of the lumbar spine were obtained without contrast

FINDINGS: There is no evidence of acute fracture or bone marrow edema. Posterior elements are intact and well aligned. Conus medullaris is unremarkable. Paraspinal soft tissues are normal. Visualized portions of the abdomen are normal.

Level Specific Findings:

T12- L1: Unremarkable.

L1-L2: Unremarkable.

L2-L3: Unremarkable.

L3-L4: Mild broad-based disc bulge and facet arthropathy without significant compressive sequelae

L4-L5: There is a left paracentral disc extrusion, with a large superiorly migrated extruded disc fragment measuring 13 x 12 x 14 mm. There is complete effacement of the left lateral recess with contact and likely compression of the transiting nerve roots. Mild left-sided facet arthropathy

L5-S1: Bilateral facet arthropathy with mild bilateral neuroforaminal narrowing

Impression

Left paracentral disc extrusion at L4-5 with a large superiorly migrated extruded disc fragment measuring 13 x 12 x 14 mm, which results in complete effacement of the left lateral recess, with contact and likely compression of the transiting nerve roots

Signed by

Signed	Date/Time	Phone	Pager
DAVIS, MICHAEL M.	7/29/2017 17:38	803-791-2460	

Exam Information

P110
P56

IR Epidural injection lumbar sacral single with fluoro

Status: Final result

Study Details

Reading Phyelcian
Brehmer, William P., MD
Power, Matthew T., PA

Reading Date
8/17/2017
8/17/2017

Result Priority
Routine

Narrative

CLINICAL DATA: Herniated lumbar disc

FLUORO TIME: 0.19minutes

PROCEDURE: Informed consent was obtained. The low back was prepped and draped in a sterile fashion. 1% lidocaine was used for local anesthesia. Using fluoroscopic guidance a 22-gauge 3 1/2 inch spinal needle was advanced at the L4-L5 interspace from a left para-midline approach using a loss-of-resistance technique. A small amount of contrast was injected to verify proper position. At this point 40 mg of triamcinolone was injected into the epidural space. The needle was removed and hemostasis was achieved. The patient tolerated this well without any immediate complications and left the department in satisfactory condition.

Impression

Successful fluoroscopy guided lumbar epidural steroid injection.

Dictated by:Matthew Power, PA, 8/17/2017 5:26 PM EDT

Signed by

Signed
BREHMER, WILLIAM P.

Date/Time
8/31/2017 09:38

Phone
803-791-2460

Pager

Exam Information

Status
Final [99]

Exam Begun
8/17/2017 09:22

Exam Ended
8/17/2017 10:17

Reviewed by

Boyd, Scott B, MD

8/31/2017 12:39 PM

External Result Report

External Result Report

Encounter

View Encounter

Office Requisition

Hospital Requisition

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LEXINGTON Brain and Spine INSTITUTE
A Lexington Medical Center Physician Practice

Lexington Brain and Spine Institute
146 N Hospital Dr, Ste 120
West Columbia SC 29169-4800
Outpatient

BRAILEY,ISAAC DOUGLAS JR.
MRN: M002150817
DOB: Sex: M
Enc. Date: 08/07/17

Brailey, Isaac Douglas Jr.

MRN: M002150817
Description: [redacted]

Office Visit 8/7/2017
Lexington Brain and Spine Institute

Provider: Boyd, Scott B, MD (Neurosurgery)
Primary diagnosis: HNP (herniated nucleus pulposus), lumbar
Reason for visit: Follow-up

Progress Notes

Boyd, Scott B, MD (Physician) • Neurosurgery

Expand All Collapse All

Patient is a [redacted] y.o. male.

Chief Complaint
Patient presents with
- Follow-up
  MRI Review

Vitals:

	08/07/17 0949
BP:	154/98
Pulse:	90

HPI
Is a very pleasant and otherwise healthy [redacted] year-old who is here for evaluation of back and LEFT leg pain. He works for Michelin and was he was pulling rubber and felt something happen in his back in June of this year. He had immediate back pain and then pain began radiating down his RIGHT his LEFT leg and that pain continues. It can go as far as his foot. He feels he somewhat weak in his LEFT leg. He is also now getting some swelling in his RIGHT knee likely from up and sating. He states that he really hasn't had previous back problems except maybe 25 years ago he had an episode that resolved without any treatment area this pain is made worse by bending over picking anything up. It somewhat relieved by sitting and resting favoring his LEFT side. So far he is just started physical therapy and he thinks that might be helping. He has not had any type of injections.

Review of Systems
No history of previous back surgery

Past Medical History
Diagnosis Date
- Hypertension

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No past surgical history on file.

Current Outpatient Prescriptions:
- amLODOPine-benazepril (LOTREL) 10-40 mg per capsule, Take 1 capsule by mouth daily., Disp: , Rfl:
- cyclobenzaprine (FLEXERIL) 5 MG tablet, Take 2 tablets (10 mg total) by mouth 3 (three) times daily as needed for muscle spasms., Disp: 30 tablet, Rfl: 0
- hydrochlorothiazide (HYDRODIURIL) 25 mg tablet, Take 25 mg by mouth daily., Disp: , Rfl:
- ibuprofen (ADVIL,MOTRIN) 800 mg tablet, Take 1 tablet (800 mg total) by mouth every 8 (eight) hours as needed for pain (take with food) for up to 10 days., Disp: 30 tablet, Rfl: 0
- labetalol (NORMODYNE) 200 mg tablet, Take 200 mg by mouth 2 (two) times daily. Reported on 7/24/2017, Disp: , Rfl:
- polyethylene glycol (GLYCOLAX) powder, Take 17 g by mouth daily., Disp: 119 g, Rfl: 0
- predniSONE (DELTASONE) 10 mg tablet, 4 tabs PO QD x 3 days, then 3 tabs po QD x 3 days, then 2 tabs PO QD x 3 days, then 1 tab po QD x 3 days, then stop, Disp: 30 tablet, Rfl: 0
- diazePAM (VALIUM) 5 mg tablet, Take 1 tablet (5 mg total) by mouth as needed for anxiety (Take 1 tab by mouth 30 mins prior to MRI and may repeat if needed) for up to 2 doses. (Patient not taking: Reported on 8/7/2017), Disp: 2 tablet, Rfl: 0
- oxyCODONE-acetaminophen (PERCOCET) 5-325 mg tablet, Take 1-2 tablets by mouth every 4 (four) hours as needed for pain., Disp: 24 tablet, Rfl: 0

Allergies

Allergen	Reactions
• Pollen Extract	Other (See Comments)

Reviewed and updated this visit by provider:

Objective

Physical Exam
Constitutional: Patient is oriented to person, place, and time. Appears well-developed and well-nourished. Non-toxic appearance. No distress.
HENT:
Head: Normocephalic and atraumatic.
Eyes: Conjunctivae, EOM and lids are normal. Pupils are equal, round, and reactive to light. No scleral icterus. Right eye exhibits no nystagmus.
Neck: Normal range of motion and phonation normal. No muscular tenderness present.No tracheal deviation present.
Back: Some limitation of lumbar range of motion. No significant point tenderness.
Cardiovascular: Normal rate, regular rhythm and intact distal pulses. Exam reveals no decreased pulses.
Pulmonary/Chest: Effort normal. No accessory muscle usage or stridor. No respiratory distress. Patient has no decreased breath sounds, no wheezes, and no tenderness.
Abdominal: Soft. Patient exhibits no distension. There is no guarding.
Musculoskeletal: Normal range of motion. Patient exhibits no edema or deformity.
Neurological: Patient is alert and oriented to person, place, and time. Normal strength and normal reflexes. Patient displays no tremor and normal reflexes. No cranial nerve deficit or sensory deficit. Normal muscle tone. Coordination and gait normal. Patient displays no Babinski's sign on the right side. No Babinski's sign on the left side.
Reflex Scores:

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Tricep reflexes are 2+ on the right side and 2+ on the left side.
Bicep reflexes are 2+ on the right side and 2+ on the left side.
Brachioradialis reflexes are 2+ on the right side and 2+ on the left side.
Patellar reflexes are 2+ on the right side and 2+ on the left side.
Achilles reflexes are 2+ on the right side and 2+ on the left side.
5/5 power all extremity muscle groups except 4 over 5 weakness of tibialis anterior and EHL
Skin: Skin is warm, dry and intact.
Psychiatric: Patient has a normal mood and affect. Speech is normal and behavior is normal. Cognition and memory are normal.
Strongly positive straight leg raise on the LEFT. He ambulates with an antalgic gait favoring his LEFT side

Mri Lumbar Spine Without Contrast

Result Date: 7/29/2017
CLINICAL DATA: Low back pain COMPARISON: None TECHNIQUE: Multiplanar, multisequence MR images of the lumbar spine were obtained without contrast FINDINGS: There is no evidence of acute fracture or bone marrow edema. Posterior elements are intact and well aligned. Conus medullaris is unremarkable. Paraspinal soft tissues are normal. Visualized portions of the abdomen are normal. Level Specific Findings: T12-L1: Unremarkable. L1-L2: Unremarkable. L2-L3: Unremarkable. L3-L4: Mild broad-based disc bulge and facet arthropathy without significant compressive sequelae L4-L5: There is a left paracentral disc extrusion, with a large superiorly migrated extruded disc fragment measuring 13 x 12 x 14 mm. There is complete effacement of the left lateral recess with contact and likely compression of the transiting nerve roots. Mild left-sided facet arthropathy L5-S1: Bilateral facet arthropathy with mild bilateral neuroforaminal narrowing

Left paracentral disc extrusion at L4-5 with a large superiorly migrated extruded disc fragment measuring 13 x 12 x 14 mm, which results in complete effacement of the left lateral recess, with contact and likely compression of the transiting nerve roots

MRI lumbar spine does show a large extruded disc fragment that is migrated cranially from the L4 5 disc space behind the L4 vertebral body on the LEFT side consistent with his symptoms

Assessment/Plan

Low back pain with LEFT lumbar radiculopathy L4. He does have weakness of his dorsiflexors on the LEFT. It is encouraging that he is improved early with physical therapy. I want him to continue with that. I'm also get a set him up for an epidural sterile injection but if these measures do not provide relief or if he gets worse he would be a good candidate for an outpatient microscopic lumbar discectomy. For now I believe he needs to be out of work considering his pain and neurologic deficit as well as his MRI findings I don't believe that he could work productively at this point.

There are no diagnoses linked to this encounter.

Boyd, Scott B

Instructions

Return if symptoms worsen or fail to improve.

Additional Documentation

Vitals:	BP 154/98 (BP Location: Right arm, Patient Position: Sitting) Pulse 90 Ht 6' 2" (1.88 m) Wt 120.2 kg (265 lb) BMI 34.02 kg/m2 BSA 2.51 m2
Flowsheets:	Custom Formula Data, Anthropometrics
Encounter Info:	Billing Info, History, Allergies, Detailed Report, Reviewed This Encounter

Communications

Letter sent to Isaac Douglas Brailey Jr.

Orders Placed

IR Epidural injection lumbar sacral single with fluoro (Resulted 8/17/2017)

Medication Changes

As of 8/7/2017 9:49 AM

None

Visit Diagnoses

HNP (herniated nucleus pulposus), lumbar M51.26

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Lexington Brain and Spine Institute
146 N Hospital Dr, Ste 120
West Columbia SC 29169-4800
Phone: 803-935-8410
Fax: 803-936-7816

August 7, 2017

Patient: Isaac Douglas Brailley Jr.
Date of Birth:
Date of Visit: 8/7/2017

To Whom it May Concern:

Isaac Brailey was seen in my clinic on 8/7/2017. Please excuse Isaac for his absence from work on this day. The patient is to remain out of work until he is seen back in our office following an injection.

If you have any questions or concerns, please don't hesitate to call.

Sincerely,

Boyd, Scott B, MD

LEXINGTON Brain and Spine INSTITUTE
A Lexington Medical Center Physician Practice

Lexington Brain and Spine Institute
146 N Hospital Dr, Ste 120
West Columbia SC 29169-4800
Outpatient

BRAILEY,ISAAC DOUGLAS JR.
MRN: M002150817
DOB: [redacted] Sex: M
Enc. Date: 09/14/17

Brailey, Isaac Douglas Jr.

MRN: M002150817
Description: [redacted]

Office Visit 9/14/2017
Lexington Brain and Spine Institute

Provider: Boyd, Scott B, MD (Neurosurgery)
Primary diagnosis: HNP (herniated nucleus pulposus), lumbar
Reason for visit: Follow-up

Progress Notes

Boyd, Scott B, MD (Physician) • Neurosurgery

Expand All Collapse All

Patient is a [redacted]y.o. male.

Chief Complaint
Patient presents with
- Follow-up
  Injections

Vitals:

	09/14/17 1356
BP:	138/90
Pulse:	76

HPI
This is follow-up for this [redacted]d industrial worker who was pulling something at Michelin where he used to work and felt something happen in his back. He's been diagnosed with a lumbar disc herniation and we've been managing him conservatively. He's undergone physical therapy and feels that that is helped significantly. He now rates his pain is about 3 out of 10. He has pain that radiates from his back down his RIGHT leg.

Review of Systems

Past Medical History:

Diagnosis	Date
• Hypertension	

No past surgical history on file.

Current Outpatient Prescriptions:

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F63

- amLODOPine-benazepril (LOTREL) 10-40 mg per capsule, Take 1 capsule by mouth daily., Disp: , Rfl:
- cyclobenzaprine (FLEXERIL) 5 MG tablet, Take 2 tablets (10 mg total) by mouth 3 (three) times daily as needed for muscle spasms., Disp: 30 tablet, Rfl: 0
- diazePAM (VALIUM) 5 mg tablet, Take 1 tablet (5 mg total) by mouth as needed for anxiety (Take 1 tab by mouth 30 mins prior to MRI and may repeat if needed) for up to 2 doses. (Patient not taking: Reported on 8/7/2017), Disp: 2 tablet, Rfl: 0
- hydrochlorothiazide (HYDRODIURIL) 25 mg tablet, Take 25 mg by mouth daily., Disp: , Rfl:
- ibuprofen (ADVIL,MOTRIN) 800 mg tablet, Take 1 tablet (800 mg total) by mouth every 8 (eight) hours as needed for pain (take with food) for up to 10 days., Disp: 30 tablet, Rfl: 0
- labetalol (NORMODYNE) 200 mg tablet, Take 200 mg by mouth 2 (two) times daily. Reported on 7/24/2017, Disp: , Rfl:
- oxyCODONE-acetaminophen (PERCOCET) 5-325 mg tablet, Take 1-2 tablets by mouth every 4 (four) hours as needed for pain., Disp: 24 tablet, Rfl: 0
- polyethylene glycol (GLYCOLAX) powder, Take 17 g by mouth daily., Disp: 119 g, Rfl: 0
- predniSONE (DELTASONE) 10 mg tablet, 4 tabs PO QD x 3 days, then 3 tabs po QD x 3 days, then 2 tabs PO QD x 3 days, then 1 tab po QD x 3 days, then stop, Disp: 30 tablet, Rfl: 0

Allergies

Allergen	Reactions
• Pollen Extract	Other (See Comments)

Reviewed and updated this visit by provider:

Objective

Physical Exam

Constitutional: Patient is oriented to person, place, and time. Appears well-developed and well-nourished. Non-toxic appearance. No distress.

HENT:

Head: Normocephalic and atraumatic.

Eyes: Conjunctivae, EOM and lids are normal. Pupils are equal, round, and reactive to light. No scleral icterus. Right eye exhibits no nystagmus.

Neck: Normal range of motion and phonation normal. No muscular tenderness present.No tracheal deviation present.

Back: Some limitation of lumbar range of motion. No significant point tenderness.

Cardiovascular: Normal rate, regular rhythm and intact distal pulses. Exam reveals no decreased pulses.

Pulmonary/Chest: Effort normal. No accessory muscle usage or stridor. No respiratory distress. Patient has no decreased breath sounds, no wheezes, and no tenderness.

Abdominal: Soft. Patient exhibits no distension. There is no guarding.

Musculoskeletal: Normal range of motion. Patient exhibits no edema or deformity.

Neurological: Patient is alert and oriented to person, place, and time. Normal strength and normal reflexes. Patient displays no tremor and normal reflexes. No cranial nerve deficit or sensory deficit. Normal muscle tone. Coordination and gait normal. Patient displays no Babinski's sign on the right side. No Babinski's sign on the left side.

Reflex Scores:

Tricep reflexes are 2+ on the right side and 2+ on the left side.
Bicep reflexes are 2+ on the right side and 2+ on the left side.
Brachioradialis reflexes are 2+ on the right side and 2+ on the left side.
Patellar reflexes are 2+ on the right side and 2+ on the left side.

Achilles reflexes are 2+ on the right side and 2+ on the left side.
5/5 power all extremity muscle groups
Skin: Skin is warm, dry and intact.
Psychiatric: Patient has a normal mood and affect. Speech is normal and behavior is normal. Cognition and memory are normal.

Ir Epidural Injection Lumbar Sacral Single With Fluoro

Result Date: 8/31/2017
CLINICAL DATA: Herniated lumbar disc FLUORO TIME: 0.19minutes PROCEDURE: Informed consent was obtained. The low back was prepped and draped in a sterile fashion. 1% lidocaine was used for local anesthesia. Using fluoroscopic guidance a 22-gauge 3 1/2 inch spinal needle was advanced at the L4-L5 interspace from a left para-midline approach using a loss-of-resistance technique. A small amount of contrast was injected to verify proper position. At this point 40 mg of triamcinolone was injected into the epidural space. The needle was removed and hemostasis was achieved. The patient tolerated this well without any immediate complications and left the department in satisfactory condition.

Successful fluoroscopy guided lumbar epidural steroid injection. Dictated by:Matthew Power, PA,8/17/2017 5:26 PM EDT

Assessment/Plan

Doing well following physical therapy and epidural sterile injection but still with some residual pain and radiculopathy. It's too early for him to go back to his regular work. I'm going to gradually increase his activity. I'll see him back in 4 weeks to reassess

There are no diagnoses linked to this encounter.

Boyd, Scott B

Additional Documentation

Vitals: BP 138/90 (BP Location: Left arm, Patient Position: Sitting) Pulse 76

Encounter Info: Billing Info, History, Allergies, Detailed Report, Reviewed This Encounter

Communications

Letter sent to Isaac Douglas Brailey Jr.

Orders Placed

None

Medication Changes

As of 9/14/2017 1:55 PM

None

Visit Diagnoses

HNP (herniated nucleus pulposus), lumbar M51.26

P119
P65

Lexington Brain and Spine Institute
155 N Hospital Dr, Ste 200
West Columbia SC 29169-4800
Phone: 803-935-8410
Fax: 803-936-7816

September 14, 2017

Patient: Isaac Douglas Brailey Jr.
Date of Birth:
Date of Visit: 9/14/2017

To Whom it May Concern:

Isaac Brailey was seen in my clinic on 9/14/2017. Please excuse Isaac for his absence from work on this day and for the next month until his next follow-up appointment.

If you have any questions or concerns, please don't hesitate to call.

Sincerely,

Scott B Boyd, MD

RE: Brailey, Isaac – MR#: M002150817

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LEXINGTON Brain and Spine INSTITUTE
A Lexington Medical Center Physician Practice

Lexington Brain and Spine Institute
146 N Hospital Dr, Ste 120
West Columbia SC 29169-4800
Outpatient

BRAILEY,ISAAC DOUGLAS JR
MRN: M002150817
DOB: ex: M
Enc. Date: 10/12/17

Brailey, Isaac Douglas Jr.

MRN: M002150817
Description:

Office Visit 10/12/2017
Lexington Brain and Spine Institute

Provider: Boyd, Scott B, MD (Neurosurgery)
Primary diagnosis: Low back pain
Reason for visit: Follow-up

Progress Notes

Boyd, Scott B, MD (Physician) • Neurosurgery

Expand All Collapse All

Patient is a male.

Chief Complaint
Patient presents with
- Follow-up
  F/U of PT and epidural injection

Vitals:

	10/12/17 1308
BP:	**(!) 170/103**
BP Location:	Right arm
Patient Position:	Sitting
Pulse:	101

HPI
Is a [redacted] year-old here for follow-up of back and LEFT leg pain. He's known to have a fairly large disc herniation at L4 5 on the LEFT. We have been treating him with physical therapy and that was helping but he had to stop because of insurance reasons. Since he stopped his physical therapy his pain is worsened. He again describes pain in his back radiating down into his LEFT leg and foot. He does feel weak in his LEFT leg. He's having to take pain medication now and he describes his pain as a 6 out of 10. It's difficult to sleep at night. He's currently out of work as he was let go from Michelin after his work injury. He has an upcoming hearing in January and after that hopes to restart physical therapy.

Review of Systems

Past Medical History:

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Diagnosis
- Hypertension

Date

No past surgical history on file.

Current Outpatient Prescriptions:
- amLODOPine-benazepril (LOTREL) 10-40 mg per capsule, Take 1 capsule by mouth daily., Disp: , Rfl:
- cyclobenzaprine (FLEXERIL) 5 MG tablet, Take 2 tablets (10 mg total) by mouth 3 (three) times daily as needed for muscle spasms., Disp: 30 tablet, Rfl: 0
- diazePAM (VALIUM) 5 mg tablet, Take 1 tablet (5 mg total) by mouth as needed for anxiety (Take 1 tab by mouth 30 mins prior to MRI and may repeat if needed) for up to 2 doses. (Patient not taking: Reported on 8/7/2017), Disp: 2 tablet, Rfl: 0
- hydrochlorothiazide (HYDRODIURIL) 25 mg tablet, Take 25 mg by mouth daily., Disp: , Rfl:
- ibuprofen (ADVIL,MOTRIN) 800 mg tablet, Take 1 tablet (800 mg total) by mouth every 8 (eight) hours as needed for pain (take with food) for up to 10 days., Disp: 30 tablet, Rfl: 0
- labetalol (NORMODYNE) 200 mg tablet, Take 200 mg by mouth 2 (two) times daily. Reported on 7/24/2017, Disp: , Rfl:
- oxyCODONE-acetaminophen (PERCOCET) 5-325 mg tablet, Take 1-2 tablets by mouth every 4 (four) hours as needed for pain., Disp: 24 tablet, Rfl: 0
- polyethylene glycol (GLYCOLAX) powder, Take 17 g by mouth daily., Disp: 119 g, Rfl: 0
- predniSONE (DELTASONE) 10 mg tablet, 4 tabs PO QD x 3 days, then 3 tabs po QD x 3 days, then 2 tabs PO QD x 3 days, then 1 tab po QD x 3 days, then stop, Disp: 30 tablet, Rfl: 0

Allergies

Allergen	Reactions
• Pollen Extract	Other (See Comments)

Reviewed and updated this visit by provider:

Objective

Physical Exam

Constitutional: Patient is oriented to person, place, and time. Appears well-developed and well-nourished. Non-toxic appearance. No distress.

HENT:

Head: Normocephalic and atraumatic.

Eyes: Conjunctivae, EOM and lids are normal. Pupils are equal, round, and reactive to light. No scleral icterus. Right eye exhibits no nystagmus.

Neck: Normal range of motion and phonation normal. No muscular tenderness present. No tracheal deviation present.

Back: Some limitation of lumbar range of motion. No significant point tenderness.

Cardiovascular: Normal rate, regular rhythm and intact distal pulses. Exam reveals no decreased pulses.

Pulmonary/Chest: Effort normal. No accessory muscle usage or stridor. No respiratory distress. Patient has no decreased breath sounds, no wheezes, and no tenderness.

Abdominal: Soft. Patient exhibits no distension. There is no guarding.

Musculoskeletal: Normal range of motion. Patient exhibits no edema or deformity.

Neurological: Patient is alert and oriented to person, place, and time.normal reflexes. Patient displays no tremor and normal reflexes. No cranial nerve deficit or sensory deficit. Normal

muscle tone. Coordination and gait normal. Patient displays no Babinski's sign on the right side. No Babinski's sign on the left side.
Reflex Scores:
Tricep reflexes are 2+ on the right side and 2+ on the left side.
Bicep reflexes are 2+ on the right side and 2+ on the left side.
Brachioradialis reflexes are 2+ on the right side and 2+ on the left side.
Patellar reflexes are 2+ on the right side and 2+ on the left side.
Achilles reflexes are 2+ on the right side and 2+ on the left side.
5/5 power all extremity muscle groups except 4 minus over 5 weakness of tibialis anterior and EHL on the LEFT
Gait is antalgic and he demonstrates foot drop
Skin: Skin is warm, dry and intact.
Psychiatric: Patient has a normal mood and affect. Speech is normal and behavior is normal. Cognition and memory are normal.

No results found.
Review of his MRI scan shows a little fairly large disc herniation on the RIGHT at L4 5 with cranial migration behind the L4 vertebral body likely affecting both the L4 and L5 nerve roots

Assessment/Plan

Low back pain with a LEFT lumbar radiculopathy. He was improving with physical therapy now he is progressed since stopping. I believe he needs surgery but he very much wishes to proceed with physical therapy. I've explained and he seems to understand the significance of his lower extremity weakness. He really does not want to pursue surgery. Therefore all we can do is try to get him started with physical therapy again. I'll see him back after he completes his physical therapy or sooner if he changes his mind. I do not believe he can work and his former occupation and his current condition so I'll keep him out of work until next follow-up
Diagnoses and all orders for this visit:

Low back pain
- cyclobenzaprine (FLEXERIL) 5 MG tablet; Take 2 tablets (10 mg total) by mouth 3 (three) times daily as needed for muscle spasms.

Boyd, Scott B

Additional Documentation

Vitals: BP 170/103 (BP Location: Right arm, Patient Position: Sitting) (Abnormal) Pulse 101
Encounter Info: Billing Info, History, Allergies, Detailed Report, Reviewed This Encounter

Communications

Letter sent to Isaac Douglas Brailey Jr.

Media

Disability Form - Scan on 10/24/2017 0908 by Bare, David J : Perceptive Content Scan

Orders Placed
None

Medication Changes
As of 10/12/2017 1:40 PM

None

Visit Diagnoses
Low back pain M54.5

The following are my opinions, stated to a reasonable degree of medical certainty, concerning my patient, Isaac Douglas Brailey, Jr.:

1. The patient, more likely than not, injured his lumbar spine at his employment, on June 24, 2017.

   ✓ Yes ____ No.

2. The patient's back injury resulted in radiculopathy down his left leg.

   ✓ Yes ____ No.

3. The patient should remain out of work pending further treatment.

   ✓ Yes ____ No.

4. Additional medical treatment as recommended in my reports would tend to lessen the patient's period of disability.

   ✓ Yes ____ No.

5. The patient is currently not at Maximum Medical Improvement.

   ✓ Yes ____ No.

DATE: 11/29/17

Scott Boyd, M.D.

Lexington Physical Therapy

Patient Information

Do you prefer to be called something different than name provided? No

PATIENT DEMOGRAPHICS

Medicare Patients: Height 62" Weight 260

Isaac D Bailey [illegible] [illegible] m Male m Female
First Name | Middle Initial | Last Name | SSN | DOB

212 Sweetbriar Rose Dr Lexington SC 29073
Mailing Address | Apt# | City | State | Zip Code

(803) 269-7395 [illegible] o Married o Single o Divorced o Widowed o Partnered
Home Phone | Cell Phone | Email Address

Emergency Contact: [illegible]
Name | Relationship | Phone#

EMPLOYMENT INFORMATION

m Retired

Michelin Tirebuilder Full
Employer Name | Occupation | Full/Part Time

If not employed, are you a student? No

Has a claim been filed to the workers' compensation carrier? o YES o NO

MEDICAL INSURANCE

Have you had home health or other PT? YES (NO) If yes how many visits: _____

Primary | Secondary | Tertiary

o Self Pay (no Insurance) o Workers' Comp o Personal Injury/Attorney: _____
Name and Contact Number

RELEASE OF MEDICAL INFORMATION

I authorize Lexington Physical Therapy, LLC to release my medical information regarding this injury/condition to the following: My Health Insurance Company, Referring Physician listed, Workers' Compensation Carrier/Employer (if work related injury) and others listed below (family members, other physicians, etc.)

_____, _____, _____

_____

Signature | Relationship if other than patient | Date

REFERRING PHYSICIAN

Dr. Boyd — Doctor's Name/Phone

7/24/06 — Date of last visit

Date of next visit

REASON FOR VISIT

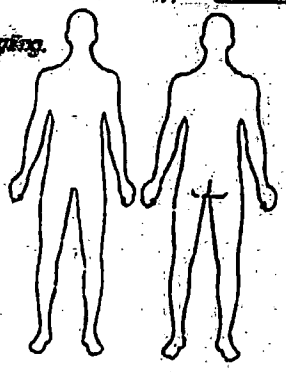
back pain left side & hip — What problems are you having?

YES NO — Is it getting worse?(circle)

If injury due to an accident, when was date of accident _____ If not from an accident, when did symptoms appear _____

o Work Accident o Auto Accident o Other Accident

Mark an X on the picture where you continue to have pain, numbness, or tingling.



Rate your pain level on a scale from 0 (no pain) to 10 (severe pain): 7

Is the pain o Constant or o does it come and go

Does it interfere with your: o Work o Sleep o Daily Routine o Recreation

Type of pain: o Sharp o Dull o Throbbing o Numbness
o Aching o Shooting

GENERAL MEDICAL HISTORY

What treatment have you received for current condition?
o Medications o Surgery o Chiropractic Services
o Physical Therapy (If this year, how many visits? _____) o Other _____

List any metal implants (I.U.D., pacemaker, screws, artificial joints): _____

Please provide dates for the following if they apply (Month/Year – Just the Year is fine if you do not remember Month):
o MRI/CT/Bone Scan _____ o Spinal X-Ray _____ o Chest X-Ray _____

o Spinal Exam _____ o Falls _____ o Surgeries(type) _____

o Broken Bones(which ones) _____ o Dislocations(details) _____

Exercise: o None o Moderate o Daily o Heavy Work Activity: o Sitting o Standing o Light Labor o Heavy Labor

Tobacco Use: Amount/Day _____ Alcohol: Drinks/Week _____ Coffee/Caffeine: Cups/Day _____

Please mark all that applies to your current or past medical history.

AIDS/HIV	Diabetes	Herpes	Osteoporosis	Shingles
Anemia	Emphysema	High Blood Pressure ✓	Parkinson's Disease	Stroke
Anorexia	Epilepsy	Kidney Disease	Pinched Nerve	Thyroid Problems
Arthritis	Fever/Chills	Liver Disease	Polio	Tuberculosis
Blood Disorders	Gonorrhea	Lung Disease	Prosthesis	Tumors/Growths
Low Blood Sugar	Heart Disease	Measles	Rheumatoid Arthritis	Unexplained weight gain or loss
Bulimia	Hepatitis	Mononucleosis	STD's	OTHER:
Cancer	Hernia	Multiple Sclerosis	Scarlet Fever	
Depression	Herniated Disk	Mumps	Seizure	

Are you currently pregnant? YES NO

List of Medications (Include Vitamins, Herbs and Minerals)/Allergies provided? o Yes If no, please list them:

birth ctrl — water pill — b/c cooler — Flexeril
Ampicillin — Tylenol 600 — Tresmeter

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Lexington Physical Therapy

Patient Information

Consent for Purposes of Treatment, Payment, and Healthcare Operations

I consent to the use or disclosure of my protected health information of Lexington Physical Therapy, LLC. for the purpose of diagnosing or providing treatment to me, obtaining payment for my health care bills, or to conduct health care operations of Lexington Physical Therapy, LLC. I understand that diagnosis or treatment of me by Mark A. Waldrop, PT or one of his staff may be conditioned upon my consent as evidenced by my signature on this document. My signature of this letter of consent signifies that I will actively participate in the plan of care discussed with me by the therapist unless I verbally notify the therapist otherwise.

I also understand and promise that if my bills are not paid at all, or paid only partly by the insurance company and/or my attorney(s), that I am fully and personally responsible for all my medical expenses as presented by Lexington Physical Therapy, LLC. I hereby authorize my attorney(s) or insurance company to pay directly to Lexington Physical Therapy, LLC. all bills in full. It was carefully explained to me and I fully understand that Lexington Physical Therapy, LLC.'s charges for examination, treatment, etc. are to be paid in full by me regardless of the outcome of my suit or negotiations.

I understand I have the right to request a restriction as to how my protected health information is used or disclosed to carry out treatment, payment or healthcare operation of the practice. Lexington Physical Therapy, LLC. is not required to agree to the restrictions that I may request. However, if Lexington Physical Therapy, LLC. agrees to a restriction that I request, the restriction is binding on Lexington Physical Therapy LLC., Mark A. Waldrop, PT and his staff.

I have the right to revoke this consent, in writing, at any time, except to the extent that Mark A. Waldrop, PT or Lexington Physical Therapy, LLC. has taken action in reliance on this consent.

My "Protected Health Information" means health information, including my demographic information collected from me and created or received by my physician, another healthcare provider, a health plan, my employer or a healthcare clearinghouse. This protected health information relates to my past, present, or future physical or mental health condition and identifies me, or there is a reasonable basis to believe that information may identify me.

I understand I have a right to request and review a copy of Lexington Physical Therapy, LLC.'s Notice of Privacy Practices prior to signing this document. The Notice of Privacy Practices describes the types of uses and disclosures of my protected health information that will occur in my treatment, payment of my bills or in the performance of healthcare operations of Lexington Physical Therapy, LLC. This Notice of Privacy Practices also describes my rights which I understand and Lexington Physical Therapy, LLC.'s duties with respect my protected health information.

I may obtain a revised notice of privacy practices by calling the office and requesting a revised copy be sent to me in the mail or asking at the time of my next appointment.

Effective 03-01-15: **Due to excessive 'No-Show' missed appointments, we are forced to make the following addition to our cancellation policy. All future 'no-shows' will be a $25 fee.** Cancellations with appropriate notice before hand (we prefer 12 to 24 hours) will not count toward this policy. *One 'no-show' appointment may be forgiven under this policy by the Director of this clinic at their discretion.* **–Thank you**

(Patient or Guardian) (Date) 12/27/16

(Witness)

LEXINGTON Brain and Spine INSTITUTE
A Lexington Medical Center Physician Practice

Lexington Brain and Spine Institute
146 N Hospital Dr, Ste 120
West Columbia SC 29169-4800
Phone: 803-935-8410
Fax: 803-936-7816

7-25-17 called pt - couldn't leave vm b/c mailbox was full. BRB

7-25-17 Spoke w pt. Scheduled July 27th BRB

Patient:
Isaac Douglas Brailey Jr.
212 Southbrook Dr
LEXINGTON SC 29073
Phone: 803-269-7395

MRN: uvn2160817
DOB:
SSN:
Sex: M

Primary:
UHC
PO BOX 740800
ATLANTA GA 30374-0800
555-555-5555
714103
914804357

Secondary:

Referral to PT for Eval and Treat
Diagnosis: Low back pain (M54.6)
Questions: Medication use: May use Phonophoresis with topical hydrocortisone 10% cream and/or Iontophoresis with topical dexamethasone 4mg/mL solution for pain and inflammation control.
Order Detail: Sent to somewhere on Long Pond Drive or Hwy 6.
Additional Comments:

Referring/Authorizing Provider Information:
Valdes, Luis G., PA
148 North Hospital Drive
Suite 120
WEST COLUMBIA SC 29169

Phone: 803-935-8410
Fax: 803-936-7816
NPI: 1477095164

FAXED 7-25-17 BRB

Order Date: *Jul 24, 2017* **Order Time:** *1:10 PM*

Authorized by: *Valdes, Luis G., PA*

This document serves as a request of services and does not constitute insurance authorization or approval of services. To determine eligibility, please contact the members insurance carrier to verify and review coverage.

Lexington Physical Therapy
WHITE KNOLL

PHYSICAL THERAPY
Initial Evaluation with Plan of Care

Patient: Bradley, Isaac
Date of Birth: [redacted]
Diagnosis: LBP M54.5

Date of Evaluation: 7/27/17
Physician: Dr. Boyd

Mr. Bradley is a [redacted] old male who has been referred to physical therapy for evaluation and treatment of his low back pain. He reports going to the ER June 24. He is scheduled to get an MRI on 7/28/17. He has been "pulling rubber" at his job exiting tires. He reports he has a lawyer at this time. Aggravating Factors: turning to the left side, laying down at night, bending over, sitting and standing, getting out of the car. Laying prone. Relieving factors: sitting in certain positions, taking medications Pain Scale: Current = 6/10, Best = 4/10, Worst = 7/10

Clinical Evaluation reveals: PT appears to be fiadon sensitive. His prognosis is good with consistent physical therapy.

Functional Questionnaire: OSWESTRY (Low Back Pain Disability Index): 50% (7/27/17)
Posture: forward head, rounded shoulders
Observation: Pt. describes numbness in his left leg when he stands up from sitting. He also reports numbness in the right left since his injury.
Special Testing: Positive SLR Test bilaterally; pain increases cry to obtain positions for faber test and piriformis stretch.
Gait: antalgic gait pattern, leans to right, externally rotated hips.
Palpation: T6 to L5 painful with palpation, thoracic and lumbar paraspinals, left PSIS and Sacrum point tenderness. He complains of swelling in the right knee since his injury.

ROM:	Hamstrings (SLR)			DF		Prone Quads	
Right	20 deg*			-4 deg		87 cm*	
Left	20 deg*			-1 deg		42 deg*	
	Flexion 80%**			Extension 50%*		Right Rotation 85%*	
	Left Rotation 90%*			Right Side Bending 70%*		Left Side Bending 80%*	
MMT:	Hip Flex	Abd	Add	Ext	Knee Flex	Ext	DF	PF
Right	-2/5**	+3/5*	2/5*	-2/5*	4/5*	+4/5*	5/5	5/5
Left	-2/5**	-4/5	+2/5*	+2/5*	-4/5*	4/5*	+4/5	5/5

-Asterisk (*) notes pain with ROM and MMT. -Double Asterisk (**) notes severe pain.

Treatment will consist of: Therapeutic exercises, patient education, modalities, manual therapy, dry needling, mechanical traction, and therapeutic activities for: 2-3 times/week for 4-6 weeks.

Short Term Goals: (2-4 weeks)
1. pt. independent with initial HEP.
2. pt. to note decreased pain with his ADLs by 35-50%.
3. Patient to note 20-30% increased lumbar ROM to motions above.

Long Term Goals: (5-8 weeks)
1. pt. independent with a final HEP/gym program.
2. pt. to improve bilateral LE strength by 1 to ½ MMT to improve ADL functioning.
3. pt. to note decreased pain with her lumbar spine and radicular s/s by 75-95%.
4. pt. to be independent with core and hip strengthening activities that does not increase his pain levels.

Thank you for your referral of this patient;
Sincerely,

Matthew L. Palmer, PT, DPT, GCS, Cert. SMT
Physician Comments: _____

Signature _____ Date 8/1/17

This note was generated in part using voice-recognition software, please excuse any grammatical / spelling / punctuation errors and/or typos that may have occurred.

1787 South Lake Drive | Suite H | Lexington, SC 29073 | (803) 957-8404 | Fax (803) 957-0463 | www.lexingtonphysicaltherapy.com

Lexington Physical Therapy
WHITE KNOLL

PHYSICAL THERAPY
Progress Update

Patient: Bradley, Isaac
Date of Birth:
Diagnosis: LBP M54.5

Date of Update: 8/25/17
Physician: Dr. Boyd

Mr. Bradley is a [redacted] male who has been referred to physical therapy for evaluation and treatment of his low back pain. He recently had a cortisone injection into his lumbar spine. He reports that mechanical traction is very helpful. Pain scale: Current = 3/10, Best = 2/10, Worst = 5/10

Clinical evaluation reveals: Flexion sensitive LBP. He reports that he is now able to sleep on his left side which he couldn't do before. He is making very good progress. Significant left sided weakness.

Functional Outcome Measure: OSWESTRY (Low Back Pain Disability Index): 50% (7/27/17)
Posture: forward head, rounded shoulders
Palpation: Pt. describes numbness in his left leg when he stands up from sitting. He also reports numbness in the front of his thigh since his injury.
Special Tests: Positive SLR Test bilaterally
Gait: Antalgic gait pattern, leans to right, externally rotated hips.
Comments: Lumbar paraspinals on the right.

ROM	Hamstring angle (SLR)		DF	Prone Quads
Right	35 deg*		9 deg	38 cm
Left	12 deg*		10 deg	34 cm
	Flexion 50%		Extension 100%	Right Rotation 80%
	Left Rotation 90%		Right Side Bending 60%*	Left Side Bending 70%*

MMT:	Hip Flex	Abd	Add	Ext	Knee Flex	Ext	DF	PF
Right	2/5*	+4/5*	2/5*	4/5	-5/5*	5/5*	5/5	5/5
Left	-2/5*	-4/5	+2/5*	4/5	-4/5*	+4/5*	4/5	+4/5

-Asterisk (*) notes pain with ROM and MMT. -Double Asterisk (**) notes severe pain.

Treatment will consist of: Therapeutic exercises, patient education, modalities, manual therapy, dry needling, mechanical traction, and therapeutic activities for: 2-3 times/week for 4-6 weeks.

Short Term Goals: (2-4 weeks)
1. pt. independent with initial HEP.
2. pt. to note decreased pain with his ADLs by 25-50%.
3. Patient to note 20-30% increased lumbar ROM to motions above.

Long Term Goals: (6-8 weeks)
1. pt. independent with a final HEP/gym program.
2. pt. to improve bilateral LE strength by a ½ MMT to improve ADL functioning.
3. pt. to note decreased pain with her Lumbar spine and radiculer s/s by 75-85%.
4. pt. to be independent with core and hip strengthening activities that does not increase his pain levels.

Thank you for your referral of this patient;
Sincerely,

Matthew L. Palmer, PT, DPT, GCS, Cert. SMT

Physician Comments: _____

Signature _____ Date 8-31-17

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DAILY PROGRESS NOTES Name: Brierley, Isaac

DOB:

Lexington Physical Therapy

Date:	Next MD Visit:
7/27/17 3:40p 5:03 83 min	S: LBP GNO after bout of Work O: Skilled PT eval of moderate complexity x 58 min Manual therapy x 15 min - TPR @ lumbar / thoracic paraspinals, ribs. Mechanical traction x 10 min A: Pt felt slightly better after therapy today. Mechanical traction did not provide relief because it was aiding up his back. P: Develop POC to decrease LBP, improve ROM, strength + function. Alexa Becker, SPT
8/1/17	Pt CX. Pt DNS — Zachary Sandoval
8/2/17	Pt CX Pt DNS — Zachary Sandoval
8/4/17 12:08 12:47	S: Pt states his pain is 4/10 today and says he took pain medication before coming today. O: Mechanical traction x 20 min A: Pt states he feels the most he's felt since hurting his back @ traction today. Pt had to leave early but requested TPR for next tx. P: Continue per POC. Alexa Becker, SPT / [illegible]
8/9/17 11:55 1:00	S: Pt states traction helped for about 2-3 hours after tx last time. O: Mechanical traction x 20 min Manual therapy x 25 min - TPR @ lumbar paraspinals, manual quad stretch Skilled ther ex per flow sheet x 20 min A: Pt states he is scheduled for a steroid injection on 8/11. Pt reports heat feels good @ traction. P: Continue per POC. Alexa Becker, SPT
8/11/17 12:05 1:06	S: Pt reports back feeling a little better each day. O: Mechanical traction x 20 min Manual therapy x 15 min Skilled ther ex per flow sheet x 26 min A: Pt reports feeling good @ TPR / traction today P: Continue per POC. Alexa Becker, SPT / [illegible]
8/14/17 12:02 1:05 63 min.	S: Pt. reports back continues to feel better gradually. O: Mechanical Lumbar traction with combination x 20 min. Skilled ther ex's per flow sheet x 43 min. A: Progressing well. Pt reports less pain & is able to bend forward more. Able to extend back further with several passive reps. P: Cont. per POC. — N. Perry Cole, PTA
8/16/17	Pt cx due to death in family — Zachary
8/18/17	pt had shot yesterday - rested + was s/p - Rsh out via [illegible]

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DAILY PROGRESS NOTES Name: Brailey, Isaac

DOB: Next MD Visit:

Lexington Physical Therapy

Date:	
8/24/17 2:37 3:42 45min	S: Pt got a shot last Thursday & reports good results. O: 1) Mechanical lumbar traction with combination x 20 min. 2) Skilled ther ex's per flow sheet x 45 min. A: Pt could feel has been when doing SKTC stretch on L side but reports back is doing much better. P: Cont. per POC. N. Perry Lexington PTA
8/25/17 2:00 3:15	S: Pt reports feeling much better since beginning PT. 3/10 O: Manual traction & MHP x 15 min. Skilled therapeutic exercise x 45 min. A: Good progress. Unable to D/C @ this pt. P: Cont. POC
8/29/17 2:52 4:06 74min	S: Pt reports LB pain at 2-3/10 but felt last night he was falling some aggravation/irritation since last MD visit 9/14. O: 1) Mechanical lumbar traction with combination x 20 min. 2) Skilled ther ex's per flow sheet x 54 min. A: Impairments & plan of care very difficult. Core & LE's weak. Pain symptoms continue to be aggravated. Was feeling some tightness & soreness from glutes & suspected at end of TX. P: Cont. per POC. N. Perry Lexington PTA
9/1/17 9:55	Pt called to cancel appt - Pain not wn (22)
9/5/17 2:55 3:55	S: Pt reports doing ok. Pain 2-3/10. O: 1) Mechanical lumbar traction & ambulation x 15 min 2) Skilled ther ex per flow sheet x 45 min A: Pt did well overall but did skating & stretches. Pt felt "OK" today. P: Continue per POC. [illegible] LC and CTA
9/7/17	Pt NS. Tried calling Pt but number is disconnected -DC (23)

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Lexington Physical Therapy
WHITE KNOLL

PHYSICAL THERAPY
Discharge/Discontinuation Summary

Patient Name: *Brailley, Issac* Date of Birth: /
Discharge Diagnosis/Physician: *LBP* *Boyd*

50% of Short-Term & Long Term Goals satisfied.
Physical and Functional Status with respect towards Goals: *Mr. Brailley has reported significant pain relief with physical therapy treatments.*

Condition upon Discharge / Discontinuation:
X Significantly Improved ___ Slightly Improved ___ Condition Worsening
___ Moderately Improved ___ Not Improved ___ Unable to Assess

Potential for Further Improvement:
X Excellent ___ Good ___ Fair ___ Poor ___ N/A

Discharge / Discontinuation Instructions:
X Home Exercise Program
___ Use of brace or orthotic device ___ Gym and / or Aquatics Program
___ Use of Assistive Devices ___ Modification of Physical Environment
Other: *Patient is encouraged to call or stop by Lexington Physical Therapy at any time if any pain or problems persist in the future.* ___ Other:

Factors Influencing Outcome:
___ Coexisting Condition --
___ Patient Compliance
___ Other:

Outcomes / Reasons for: X Discharge / O Discontinuation: (Check One)
x Patient to self-manage with home exercise program.
___ Patient to return to Physician due to failure to progress as originally anticipated.
___ Patient was able to return to their pre-onset activity level with no modifications.
___ Patient has reached their maximum rehabilitation potential at this time.
___ Patient is able to demonstrate the ability to modify necessary activities of daily living while reducing the risk of re-injury, to safely compensate for residual impairment.
___ Patient and / or caregiver verbalized understanding of HEP instruction, precautions, and symptoms which would require physician notification.

Comments: Mr. Brailley has reported flexion sensitive LBP. We have been able to decrease his pain with physical therapy treatment. AT his final treatment pain was at a 2/10. He eventually received a steroid injection from his MD which also helped to decrease pain.

Treatments Rendered: *PT evaluation, manual traction, therapeutic exercise, therapeutic activities,*

Treatment Period From: *7/27/17* To: *9/5/17* Total Visits: *8*

Therapist Signature:

Date: *10/13/2017*

****This note was generated in part using voice-recognition software, please excuse any grammatical / spelling / punctuation errors and/or typos that may have occurred.****

Gallagher Bassett Services, Inc.

July 13, 2017

Isaac Brailey
212 Southbrook Drive
Lexington Sc 29073-6902

RE: Our Claim No: 002550-080240-WC-01 State Claim #: 1708221
Claimant: Brailey, Isaac
Date of Accident: 6/24/2017

Dear Isaac Brailey:

Gallagher Bassett Services is the Workers' Compensation Administrator for the above captioned client. We are in receipt of your claim for Workers' Compensation benefits due to an alleged injury from an alleged accident on or around 6/24/2017.

We have investigated this claim and found no evidence to support your claim for benefits under South Carolina Workers' Compensation provisions.

We must, therefore, accordingly deny your claim.

Please call this office if you have any questions.

Sincerely,

Sharon West
Senior Claim Adjuster

9101 Southern Pine Blvd
Suite 175
Charlotte, NC 28273
Tel: 800-227-4837
Fax: 704-547-9818

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South Carolina Workers' Compensation Commission
1333 Main Street, Suite 500
P.O. BOX 1715
Columbia, SC 29202-1715
(803) 737-5723

WCC File #: 1708221
Carrier File #: 002550-080240-WC-01
Carrier Code #: 1026
Employer FEIN #:

Claimant's Name: Isaac Bralley
Address:
City: State: Zip:
Home Phone: Work Phone:
Preparer's Name: Sharon West Law Firm:

Employer's Name: Michelin
Address: 2420 Two Notch Road
City: Lexington State: SC Zip: 29071
Insurance Carrier: GALLAGHER BASSETT SERVICES
Preparer's Phone #: 704 405 6711

Compensation Paid:	Number of Weeks	From (m/d/yyyy)	To (m/d/yyyy)	Amount
1. Number of Weeks T.T.				$ 0.00
2. Number of Weeks T.P.				$ 0.00
3. Number of Weeks P.P.				$ 0.00
4. Disfigurement				$ 0.00
5. Agreement and Final Release				$ 0.00
Total Compensation Paid				$ 0.00
6. Total Medical Benefits* Paid				$ 0.00
7. Funeral Benefits				$ 0.00

☒ Case Denied

Date of Injury: 6/24/2017 (m/d/yyyy)

By signing this receipt, I acknowledge that I have received the compensation shown above.

By: _____ Claimant

By: _____ Employer's Representative

7/13/2017 Date (m/d/yyyy)

Print or type the name of the person, other than the claimant, receiving benefits and sign below.

By: _____

Report of Additional Fees and Recoupment

A. Carrier Reimbursement by Third Party	$
B. Attorney's Fee Paid by Employer	$
C. Attorney's Fee Paid by Claimant (Non-contingent fees only)	$

File this form with the Claims Department according to R.67-414 and R.67-1204. A person, other than the claimant, receiving benefits should sign on the line provided. * Do not include as medical costs fees paid for expert testimony, fees for determining carrier's liability, costs of autopsy, birth and death certificates and impartial examination. Form 19 must be filed within 16 days of final payment of compensation. Form 19 must be filed when a claim is denied.

MICHELIN
A better way forward

DISCIPLINARY ACTION

Employee Name: Isaac Bralley	Employee Number 10326505	Dept. Training	Date Discussed: 7/0/17	Reason Code: USS
Job Classification: PAP Operator	Written Warning ☐		Final Warning ☐	Recommendation for Discharge ☒

FULLY EXPLAIN CIRCUMSTANCES – (Time, date, and any other pertinent details):

Isaac, you are being terminated for not being a good fit during your probationary period.

CORRECTIVE ACTION TO BE TAKEN:

HAS THIS EMPLOYEE BEEN WARNED PREVIOUSLY FOR DISCIPLINARY ISSUES? If So, when (give specific dates).

FRONT LINE LEADER'S SIGNATURE:	FRONT LINE LEADER'S CHORUS #	Date:

I HAVE READ AND UNDERSTAND THE ABOVE WARNING AND WISH, DO NOT WISH TO MAKE A STATEMENT.

Michelin's Employee Assistance Program was discussed with the employee. Yes ☐ N/A ☐

EMPLOYEE'S SIGNATURE:	Date:	DEPT. MANAGER'S SIGNATURE:	Date:

A Written or Final Written Warning has the following impact:

The employee is ineligible to participate in the job posting procedure for the duration of the WW or FWW.
The WW or FWW will remain active for a period of 12 months, assuming no further disciplinary issues.
The employee is ineligible for any pay increases that might occur while a FWW is in effect.
The occasional absence policy will be suspended for the duration of the WW or FWW if due to attendance issues.
The employee is ineligible to participate in Michelin's educational reimbursement program while the WW or FWW is in effect.

SERVICE MANAGER (TERMINATION ONLY)	Date: 7/10/17
FACILITY PERSONNEL MANAGER or APM (Required for all warnings and recommendations for discharge.)	Date: 7/9/17

MNA 021-007 (Rev. 12-10) - Microsoft Word disciplinary_action.doc
Distribution: SP File Employee Department File

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P83

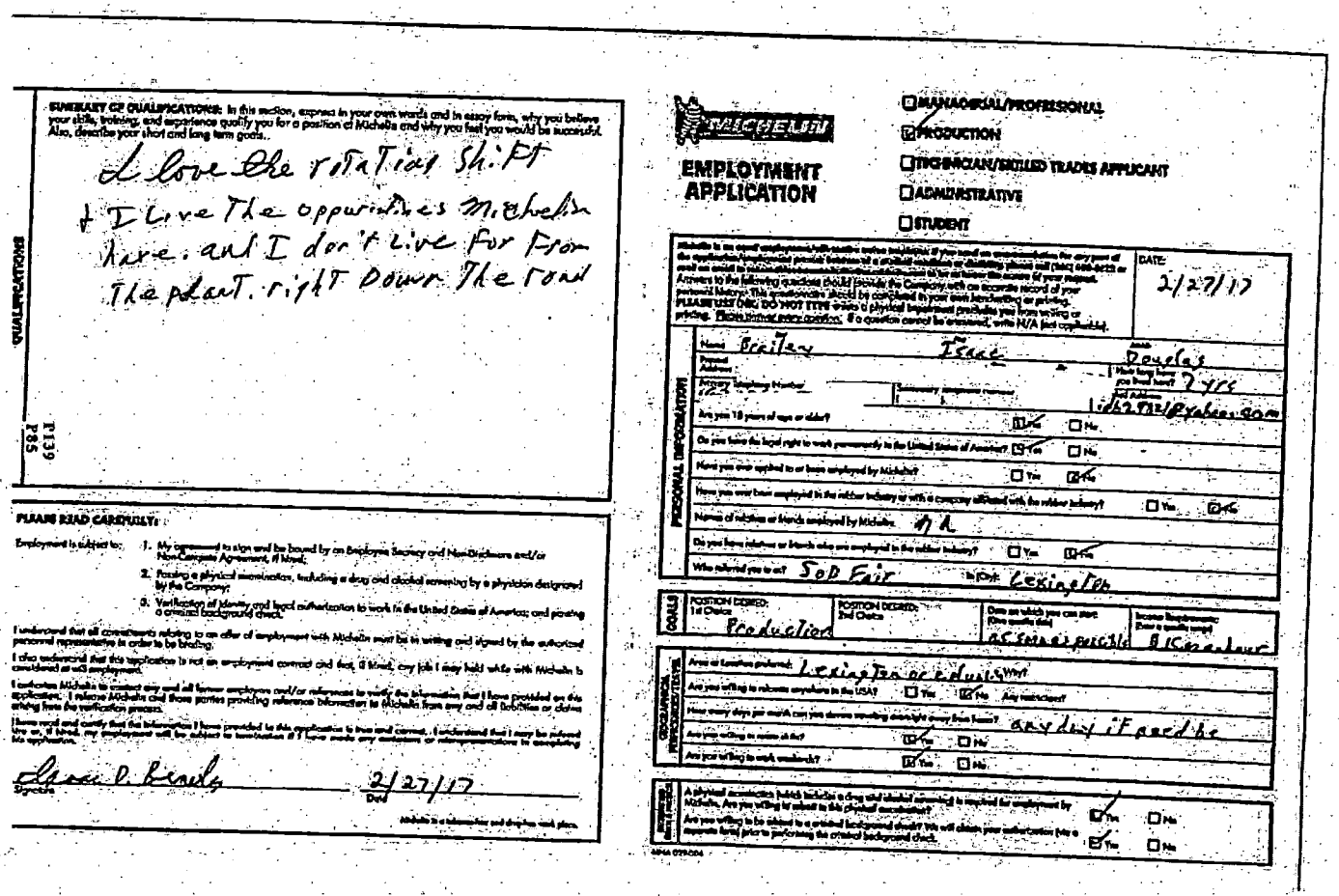
Payroll Date Start 04/17/17
Payroll Date End 07/09/17

Employee Isaac D Bralley
Code (W),OU,VP,(D),XU,(W),(Z),L Okay

Select | Summary Employee Summary

Emp #	Reg Hr	OT Hr	DT Hr	OT3 Hr	Reg $	OT $	Bonus $	PM $
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	$0.00	$0.00

P138
P84



SUMMARY OF QUALIFICATIONS: In this section, express in your own words and in essay form, why you believe your skills, training, and experience qualify you for a position at Michelin and why you feel you would be successful. Also, describe your short and long term goals..

I love the rotation shift + I like the opportunities Michelin have. and I don't live far from the plant. right down the road

F139 P85

PLEASE READ CAREFULLY:

Employment is subject to:
1. My agreement to sign and be bound by an Employee Secrecy and Non-Disclosure and/or Non-Compete Agreement, if hired;
2. Passing a physical examination, including a drug and alcohol screening by a physician designated by the Company;
3. Verification of identity and legal authorization to work in the United States of America; and passing a criminal background check.

I understand that all commitments relating to an offer of employment with Michelin must be in writing and signed by the authorized personnel representative in order to be binding.

I also understand that this application is not an employment contract and that, if hired, my job I may hold while with Michelin is considered at will employment.

I authorize Michelin to contact any and all former employers and/or references to verify the information that I have provided on this application. I release Michelin and those parties providing reference information to Michelin from any and all liabilities or claims arising from the verification process.

I have read and certify that the information I have provided in this application is true and correct. I understand that I may be refused hire or, if hired, my employment will be subject to termination if I have made any misstatements or misrepresentations in completing this application.

Signature: Grace D. Bradley Date: 2/27/17

Michelin is a tobacco-free and drug-free work place.

MICHELIN

EMPLOYMENT APPLICATION

- ☐ MANAGERIAL/PROFESSIONAL
- ☑ PRODUCTION
- ☐ TECHNICIAN/SKILLED TRADES APPLICANT
- ☐ ADMINISTRATIVE
- ☐ STUDENT

Michelin is an equal employment/affirmative action employer. If you need an accommodation for any part of the application or interview process because of a medical condition or disability please call (toll) 888-8228 or email us (email) to let us know how we can accommodate you.
Answers to the following questions should provide the Company with an accurate record of your personal history. This questionnaire should be completed in your own handwriting or printing.
PLEASE USE ONLY DARK INK. DO NOT TYPE. If due to physical impairment prohibits you from writing or printing, [illegible] question. If a question cannot be answered, write N/A (not applicable).

DATE: 2/27/17

PERSONAL INFORMATION

Name: Bradley Grace D. Douglas
Present Address: [illegible] How long have you lived here? 7 yrs
Primary Telephone Number: 7123 Secondary Telephone Number: Email Address: dd2782@yahoo.com
Are you 18 years of age or older? ☑ Yes ☐ No
Do you have the legal right to work permanently in the United States of America? ☑ Yes ☐ No
Have you ever applied to or been employed by Michelin? ☐ Yes ☑ No
Have you ever been employed in the rubber industry or with a company affiliated with the rubber industry? ☐ Yes ☑ No
Name(s) of relatives or friends employed by Michelin: n/a
Do you have relatives or friends who are employed in the rubber industry? ☐ Yes ☑ No
Who referred you to us? Job Fair In (City): Lexington

GOALS

POSITION DESIRED: 1st Choice: Production
POSITION DESIRED: 2nd Choice:
Date on which you can start (Give specific date): As soon as possible
Income Requirements (Enter a specific amount): Bi-weekly

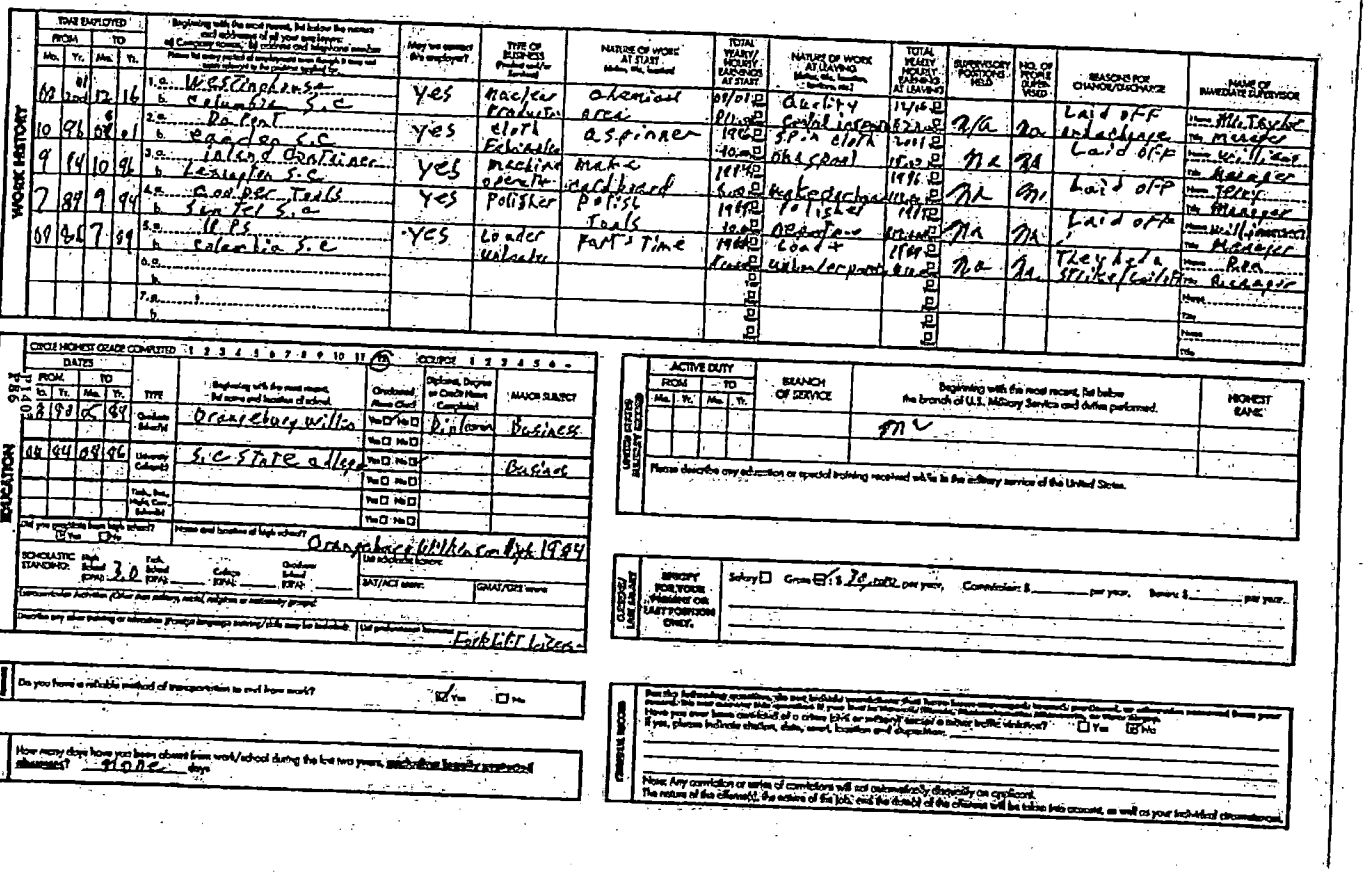
OCCUPATIONAL PREFERENCES

Area or function preferred: Lexington or Industry Why?
Are you willing to relocate anywhere in the USA? ☐ Yes ☑ No Any restrictions?
How many days per month can you devote working overnight away from home? anyday if needed
Are you willing to travel at all? ☑ Yes ☐ No
Are you willing to work overtime? ☑ Yes ☐ No

ADDITIONAL REQUIREMENTS

A physical examination (which includes a drug and alcohol screening) is required for employment by Michelin. Are you willing to submit to this physical examination? ☑ Yes ☐ No
Are you willing to be subject to a criminal background check? We will obtain your authorization prior to requesting [illegible] ☑ Yes ☐ No

APHA 079-004



WORK HISTORY

Time Employed From Mo.	From Yr.	To Mo.	To Yr.	Beginning with the most recent, list below the names and addresses of all your employers. Please list every period of unemployment more than 3 mos not listed elsewhere by the position applied for.	May we contact this employer?	Type of Business	Nature of Work at Start	Total Yearly Hourly Earnings at Start	Nature of Work at Leaving	Total Yearly Hourly Earnings at Leaving	Supervisory Positions Held	No. of People Supervised	Reasons for Change/Discharge	Name of Immediate Supervisor
02	01 (2nd)	12	16	1.a. W.S. Employment b. Columbia S.C.	yes	Machine Products	chemical operator	01/01	Quality control	14/16			Laid off	Mr. Taylor
10	96	08	01	2.a. Dupont b. Eagle Dep S.C.	yes	cloth Fabricator	asp inner	1962	sp.n cloth	2011	n/a	no	re-exchange	Mr. Murdock
9	94	10	96	3.a. Inland Container b. Lexington S.C.	yes	machine operator	make cardboard	1994	obs spool	1500	no	no	Laid off	Mr. Williams
7	89	9	94	4.a. Cooper Tools b. Sinkel S.C.	yes	Polisher	Polish Tools	1992	Polisher	1996	no	no	Laid off	Mr. Manager
09	86	7	89	5.a. U.P.S. b. Columbia S.C.	yes	Loader Unloader	Part Time	1980	Loader	1989	no	no	Laid off	Mr. Manager
				6.a. b.										
				7.a. b.										

EDUCATION

Circle highest grade completed: 1 2 3 4 5 6 7 8 9 10 11 12 | College: 1 2 3 4 5 6 +

Dates From Mo.	From Yr.	To Mo.	To Yr.	Type	Beginning with the most recent, list name and location of school.	Graduate? Please Check	Diploma, Degree or Credit Hours Completed	Major Subject
08	90	05	84	Graduate School	Orangeburg Wilkinson	Yes ☑ No ☐	Diploma	Business
08	94	08	96	University, College, etc.	S.C. State college	Yes ☐ No ☑		Business
				Trade, Bus., Tech., or Correspondence School		Yes ☐ No ☐		
						Yes ☐ No ☐		

Did you graduate from high school? ☑ Yes ☐ No — Name and location of high school? Orangeburg Wilkinson H.S. 1984

Scholastic Standing: Trade School (GPA) ____ College (GPA) ____ Graduate School (GPA) 3.0

List academic honors: ____

SAT/ACT score: ____ GMAT/GRE score: ____

Extracurricular Activities (Other than military, social, religious or fraternity groups): ____

Describe any other training or education (Foreign language training/skills may be included): ____

List professional licenses: Forklift Licen-

UNITED STATES MILITARY SERVICE

Active Duty From Mo.	From Yr.	To Mo.	To Yr.	Branch of Service	Beginning with the most recent, list below the branch of U.S. Military Service and duties performed.	Highest Rank
					N/A	

Please describe any education or special training received while in the military service of the United States.

OCCUPIED LINE ABOVE

Briefly for your present or last position only.

Salary ☐ Gross ☑ $ 7.0 per week per year, Commission: $ ____ per year, Bonus: $ ____ per year.

Do you have a reliable method of transportation to and from work? ☑ Yes ☐ No

How many days have you been absent from work/school during the last two years, excluding legally approved absences? none days

CRIMINAL RECORD

Has any of the following occurred in the last 10 years? Conviction of a felony or misdemeanor (other than traffic violations) or any conviction involving drugs, or any conviction, no matter when, involving theft, dishonesty, breach of trust or money changes.

Have you ever been convicted of a crime (DWI or anything) except a minor traffic violation? ☐ Yes ☑ No

If yes, please indicate charges, date, court, location and disposition: ____

Note: Any conviction or series of convictions will not automatically disqualify an applicant. The nature of the offense(s), the nature of the job, and the date(s) of the offense will be taken into account, as well as your individual circumstances.

S.C. WORKERS' COMPENSATION COMMISSION – FIRST REPORT OF INJURY OR ILLNESS

EMPLOYER (NAME & ADDRESS INCL ZIP)
Michelin North America - 5000
2420 TWO NOTCH RD
LEXINGTON SC 29071

CARRIER/ADMINISTRATOR CLAIM NUMBER:
OSHA LOG NUMBER:
REPORT PURPOSE CODE:
JURISDICTION: SC
JURISDICTION CLAIM NUMBER:
INSURED REPORT NUMBER:
EMPLOYER'S LOCATION ADDRESS (IF DIFFERENT):
LOCATION #: 5000
PHONE #:
INDUSTRY CODE: 5014
EMPLOYER FEIN: 111724646

CARRIER/CLAIMS ADMINISTRATOR

CARRIER (NAME, ADDRESS, & PHONE #): Safety National Casualty Corp
POLICY PERIOD: 01/01/2017 TO 12/31/2017
CHECK IF APPROPRIATE: ☑ SELF INSURANCE
CLAIMS ADMINISTRATOR (NAME, ADDRESS & PHONE NO): Gallagher Bassett, 8731 Red Oak Blvd - Suite 240, Charlotte NC 28217, (704) 547-1586
CARRIER FEIN:
POLICY/SELF-INSURED NUMBER: LDS4047410
ADMINISTRATOR FEIN: 36-3365500
AGENT NAME & CODE NUMBER:

EMPLOYEE/WAGE

NAME (LAST, FIRST, MIDDLE): BRAILEY, ISAAC
DATE OF BIRTH: 8
SOCIAL [illegible] NUMBER:
DATE HIRED: 04/17/2017 SC
STATE OF HIRE:
ADDRESS (INCL ZIP):
SEX: ☑ Male ☐ Female ☐ Unknown
MARITAL STATUS: ☐ Unmarried/Single/Divorced ☐ Married ☐ Separated ☑ Unknow
OCCUPATION/JOB TITLE: PAP OPERATOR
EMPLOYMENT STATUS: ACTIVE
PHONE: (803)289-7395
OF DEPENDENTS: 0
WCCI CLASS CODE:
RATE PER: $ ☐ DAY ☐ WEEK ☐ MONTH ☐ OTHER:
DAYS WORKED/WEEK:
FULL PAY FOR DAY OF INJURY? ☑ YES ☐ NO
DID SALARY CONTINUE? ☑ YES ☐ NO

OCCURRENCE/TREATMENT

TIME EMPLOYEE BEGAN WORK: 07:00 ☐ AM ☑ PM
DATE OF INJURY/ILLNESS: 06/24/2017
TIME OF OCCURRENCE: ☐ CANNOT BE DETERMINED 05:30 ☑ AM ☐ PM
LAST WORK DATE: 06/24/2017
DATE EMPLOYER NOTIFIED: 06/24/2017
DATE DISABILITY BEGAN:
CONTACT NAME/PHONE NUMBER: CHRISTIE SIROIS (803)808-8208
TYPE OF INJURY/ILLNESS: SPECIFIC INJURY – ALL OTHER SPECIFIC INJURIES, NOC
PART OF BODY AFFECTED: TRUNK - LOWER BACK AREA
DID INJURY/ILLNESS/EXPOSURE OCCUR ON EMPLOYER'S PREMISES? ☑ YES ☐ NO
TYPE OF INJURY/ILLNESS CODE: 59
PART OF BODY AFFECTED CODE: 42
DEPARTMENT OR LOCATION WHERE ACCIDENT OR ILLNESS EXPOSURE OCCURRED: US7-LXT1 (LEXINGTON) - 2420 TWO NOTCH RD -
ALL EQUIPMENT, MATERIALS, OR CHEMICALS EMPLOYEE WAS USING WHEN ACCIDENT OR ILLNESS EXPOSURE OCCURRED: EE stated that he was stretching rubber and his lower back started to ache. He
SPECIFIC ACTIVITY THE EMPLOYEE WAS ENGAGED IN WHEN THE ACCIDENT OR ILLNESS EXPOSURE OCCURRED: Standing
WORK PROCESS THE EMPLOYEE WAS ENGAGED IN WHEN ACCIDENT OR ILLNESS EXPOSURE OCCURRED: Standing
HOW INJURY OR ILLNESS/ABNORMAL HEALTH CONDITION OCCURRED. DESCRIBE THE SEQUENCE OF EVENTS AND INCLUDE ANY OBJECTS OR SUBSTANCES THAT DIRECTLY INJURED THE EMPLOYEE OR MADE THE EMPLOYEE ILL:
EE stated that he was stretching rubber and his lower back started to ache. He kept working and the pain got worse. HE did not notify anyone
CAUSE OF INJURY CODE: 57
DATE RETURN(ED) TO WORK: 06/26/2017
IF FATAL, GIVE DATE OF DEATH:
WERE SAFEGUARDS OR SAFETY EQUIPMENT PROVIDED? ☑ YES ☐ NO
WERE THEY USED? ☐ YES ☐ NO
PHYSICIAN/HEALTH CARE PROVIDER (NAME & ADDRESS):
HOSPITAL OR OFF SITE TREATMENT (NAME & ADDRESS):
INITIAL TREATMENT:
0 ☐ No Medical Treatment
1 ☐ MINOR: BY EMPLOYER
2 ☐ MINOR CLINIC/HOSP
3 ☑ EMERGENCY CARE
4 ☐ HOSPITALIZED > 24 HOURS
5 ☐ FUTURE MAJOR MEDICAL/ LOST TIME ANTICIPATED

OTHER

WITNESSES (NAME & PHONE #):

DATE ADMINISTRATOR NOTIFIED:
DATE PREPARED: 06/27/2017
PREPARER'S NAME & TITLE: CHRISTIE SIROIS via Internet
PHONE NUMBER:

WCC FORM 12A
REV. DATE 04/06
SEE INSTRUCTIONS FOR IMPORTANT INFORMATION
REPRINTED WITH PERMISSION OF IAIABC

P141
P87

Employee	Brailley, Isaac D.	Incident Date	06/24/2017 / 05:30am
SSN/ID		Injury/Illness Description	Back Lower
Company	Michelin North America, Inc.		
Department	GC/GC/I/LXT/TRA	Case Number	LXT201706-0003

Newest Notes first

OH1.10 Admin-Assist EE W Info Or Fo on 06/28/2017 @ 13:54 by US7 Christie Sirois RN

I received a phone call from Isaac Brailey on 06/28/17 at 9:11 am. EE stated that he went to Lexington Medical Center on 06/27/17 and got and injection in his lower back and he has been written out of work for 3 days. He told me that he could not come to see Dr. Izard today because he did not have a ride. I asked EE is he treating this personally and he stated no that it was work related. I explained to EE the WC process and that he has not notified medical of any of his appointments and he stated angrily that he did and he did not have to get into this with me. I told him that he needed to talk to his supervisor immediately. He would not let me talk and hung up. Faxed request for medical records from 06/27/17 Lexington ER visit.

EE did not show for his 2:20 pm follow up appointment with Dr. Izard on 06/28/17.
Signed by Sirois, Christie NX07176 on 6/29/2017 at 1:58pm

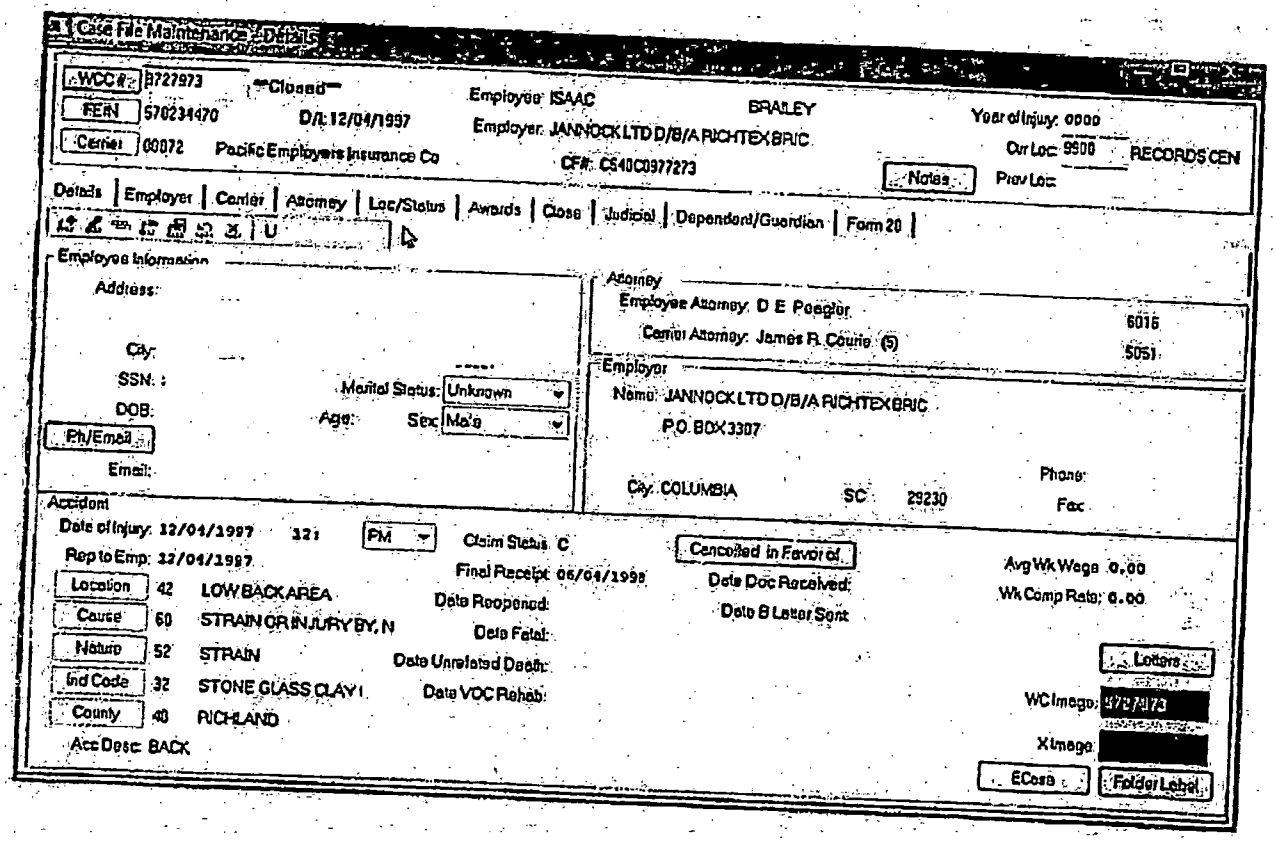
OH9.60 MD Visit (Initial) Occ on 06/26/2017 @ 10:50 by US7 Christie Sirois RN

I attended appointment with Mr. Brailey and Dr. Izard at Healthworks on 06/26/17. EE stated that problem began on 06/24/17 he is now having pain in his upper leg, left side of back, left leg numbness, right leg fluid with dull ache,burning, pins and needles, throbbing, stabbing, everything. Nothing makes it better and everything makes it worse. EE states urinating dripping. EE rates pain a 10. See attached notes in documents. Dr. Izard stated that there seems to be a significant degree of symptoms amplification and magnification by the EE. Dr. Izard explained to EE that at worst he has back strain which should require only treatment with NSAID's and muscle relaxant. He was advised to discontinue taking percocet because of high risk for addiction and high risk of hyperalgesia related to Percocet. The EE was advised to not follow up with neurosurgeon. EE will follow up with Dr. Izard at Michelin Medical Department on Wednesday 06/28/17 at 2:20 pm. Hair Drug screen was collected at Healthworks on 06/28/17. Medical records requested from LMC.
Signed by Sirois, Christie NX07176 on 6/27/2017 at 11:01am

OH3.70 Inj/Ill Occupational (MS) on 06/24/2017 @ 09:30 by US7 Christie Sirois RN

EE stated on 06/24/17 around 5:30 am that he was working on PAP when his back started to ache. He said he continued to work and the back pain got worse. EE stated he left work and went to MFH but they closed. He then went to LMC ER. EE did not report injury to anyone until after being released from LMC ER. EE was diagnosis with lumbar strain and given prescription for Percocet and Flexeril. No diagnostic testing was completed in ER.

I received phone from shop manager, Tyrone Gilmore, to see if I had heard from EE. I was given EE's phone number to contact and see how he was doing. I called EE on 06/24/17 around 3:57 pm. EE stated he was seen in the ER for lower left back pain that started on 06/24/17 while stretching and pulling rubber. EE rate pain a 10, denies any numbness or tingling, radiating pain, or any other symptoms. EE told me the ER physician diagnosed him with lumbar strain and he was released same day. I advised EE to take Aleve BID and ice area 4 times daily for 20 minutes and to not take the Percocet because it would delay healing and it does not fix the problem. EE denied anything specific that started the pain at work and he denies anything personal outside of work. I scheduled EE appointment with Dr. Izard at Healthworks on 06/26/17 at 8:00 am for further evaluation. EE to contact me if any worsening of symptoms, concerns, or issues.
Signed by Sirois, Christie NX07176 on 6/27/2017 at 9:58am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WCC #: 8727973
"Closed"
Employee: ISAAC BRAILEY
Year of Injury: 0000
FEIN: 570234470
D/I: 12/04/1997
Employer: JANNOCK LTD D/B/A RICHTEX BRIC
Carrier: 00072
Pacific Employers Insurance Co
CF#: C540C0977273
Notes
Cur Loc: 9500 RECORDS CEN
Prev Loc:
Details | Employer | Carrier | Attorney | Loc/Status | Awards | Close | Judicial | Dependent/Guardian | Form 20 |
Employee Information
Address:
City:
SSN:
Marital Status: Unknown
DOB:
Age:
Sex: Male
Ph/Email
Email:
Attorney
Employee Attorney: D E Peeples
6016
Carrier Attorney: James R. Courie (5)
5051
Employer
Name: JANNOCK LTD D/B/A RICHTEX BRIC
P.O. BOX 3307
City: COLUMBIA
SC
29230
Phone:
Fax:
Accident
Date of Injury: 12/04/1997
321
PM
Claim Status: C
Cancelled in Favor of
Rep to Emp: 12/04/1997
Final Receipt: 06/04/1998
Date Doc Received:
Avg Wk Wage: 0.00
Location 42 LOW BACK AREA
Date Reopened:
Date S Letter Sent:
Wk Comp Rate: 0.00
Cause 60 STRAIN OR INJURY BY, N
Date Fatal:
Nature 52 STRAIN
Date Unrelated Death:
Letters
Ind Code 32 STONE GLASS CLAY I
Date VOC Rehab:
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County 40 RICHLAND
Acc Desc: BACK
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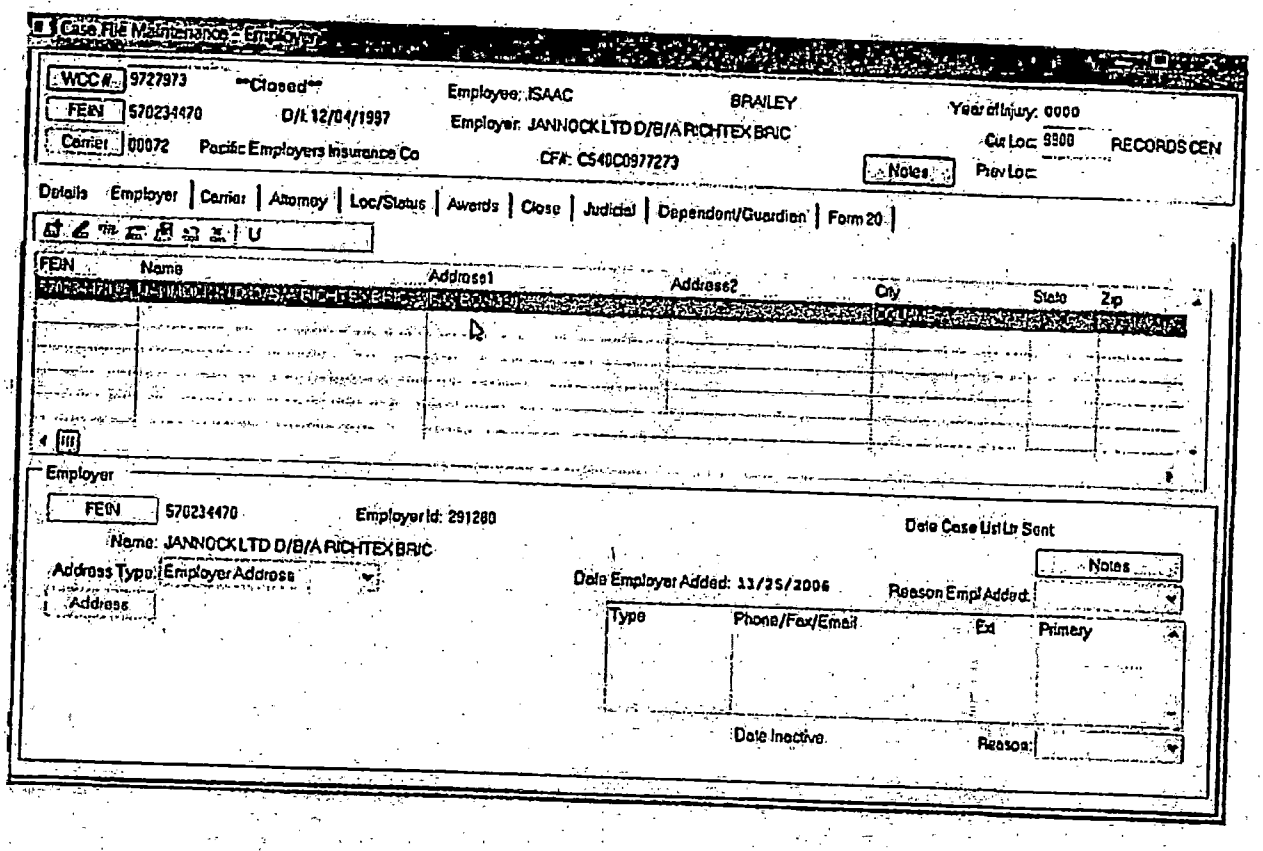
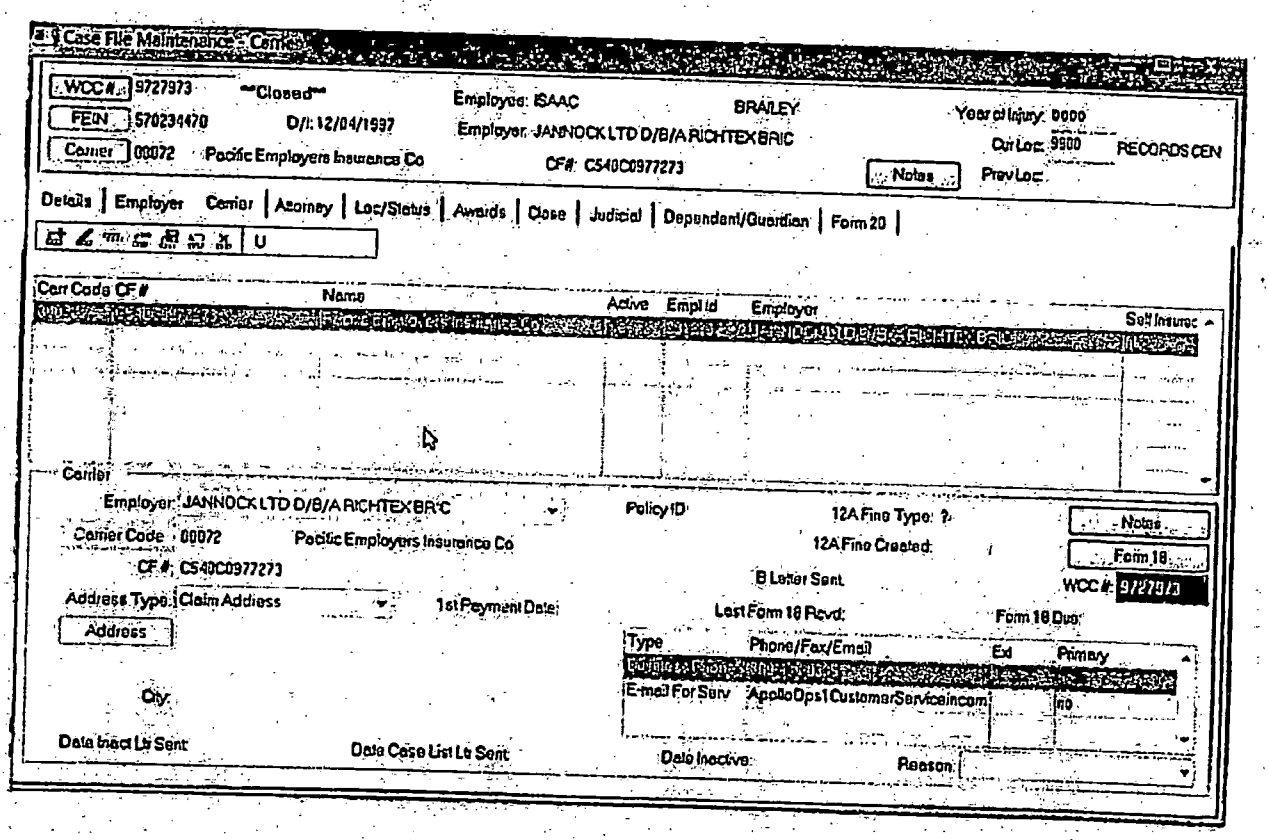
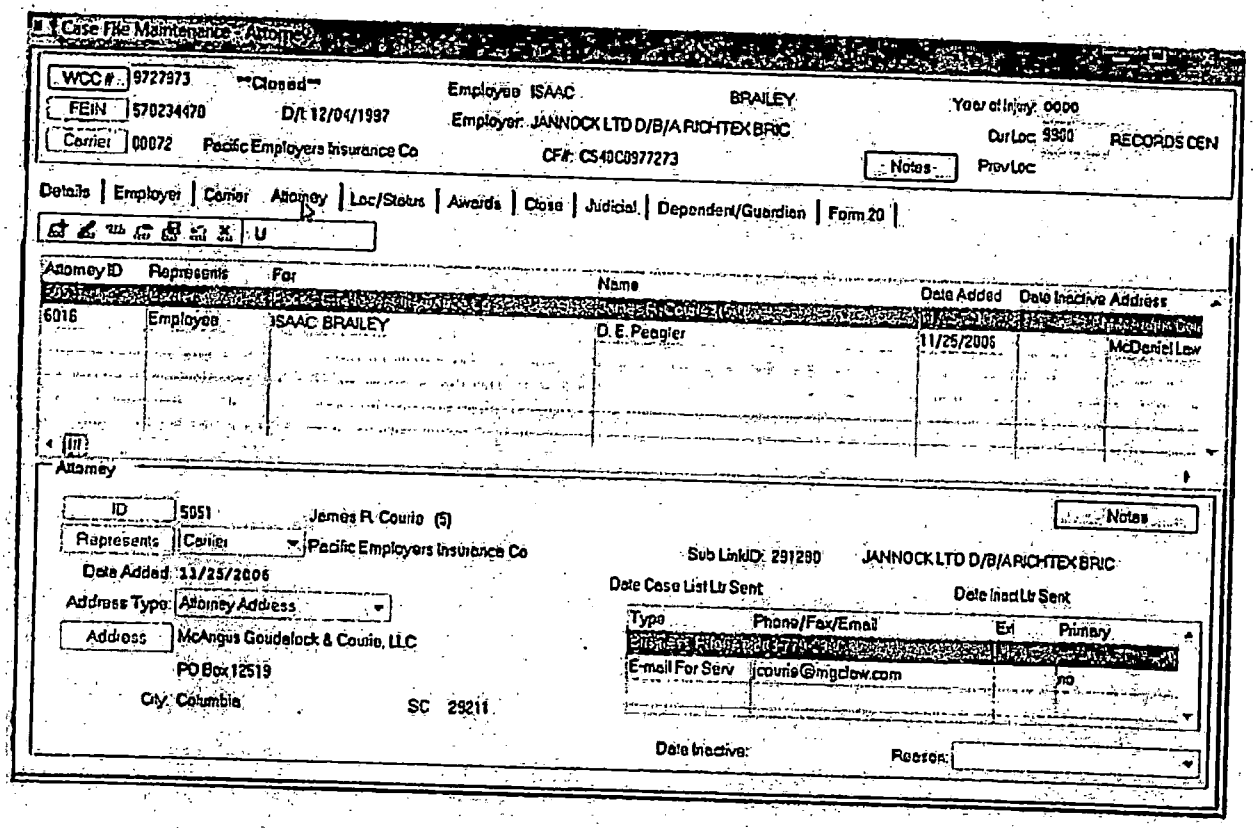
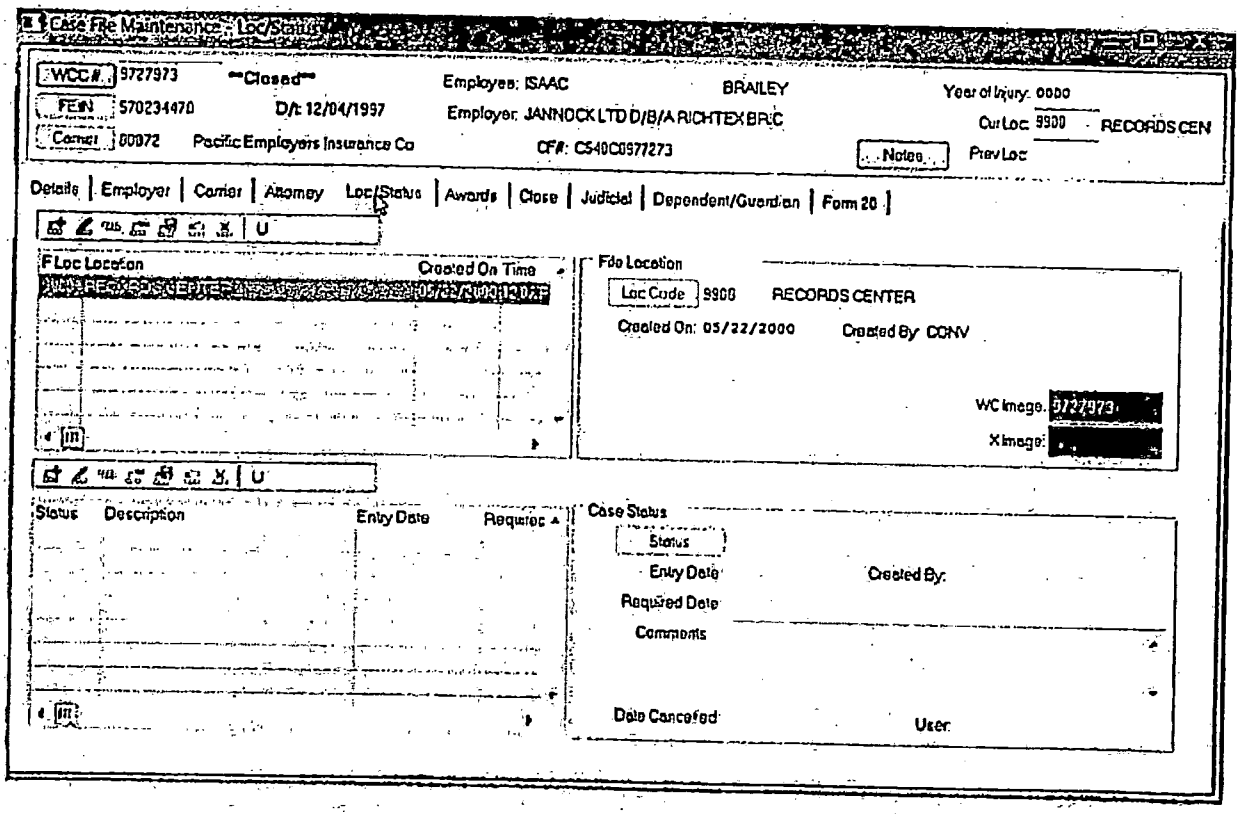
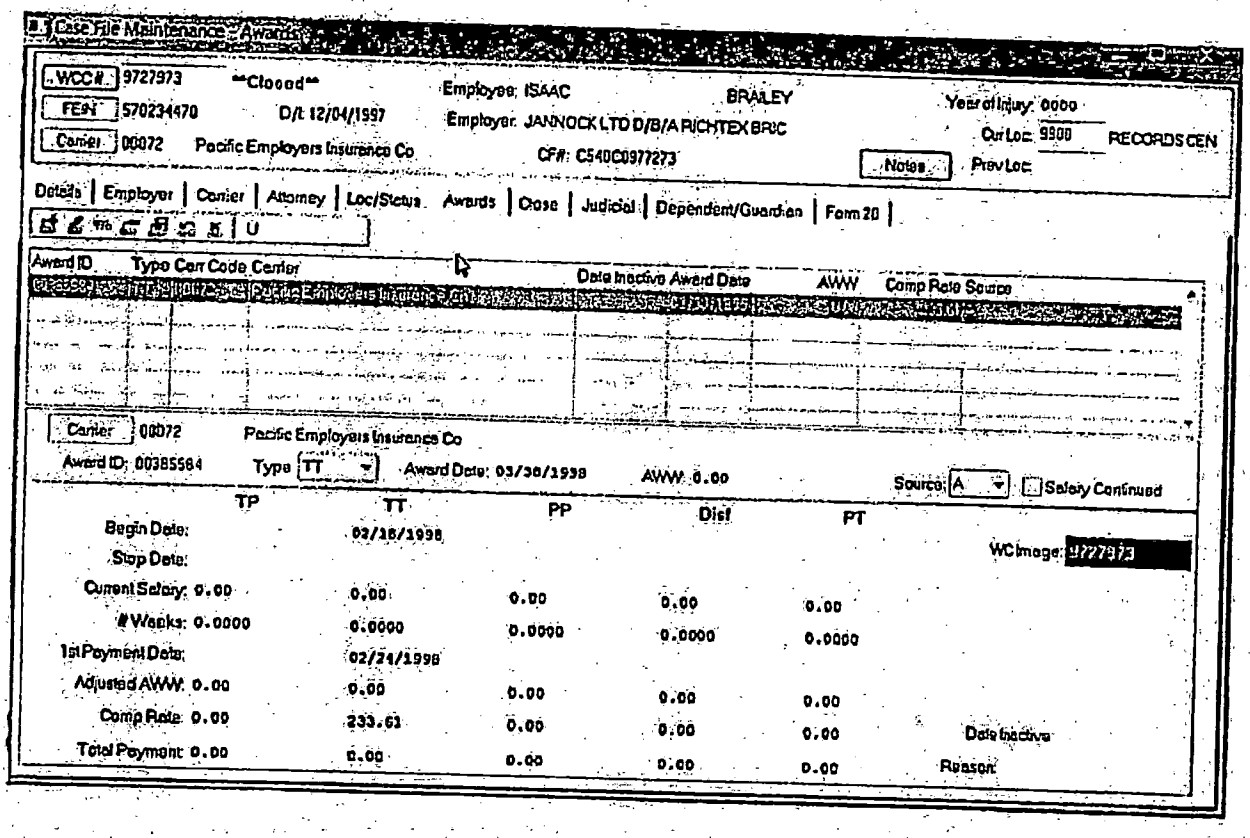
Folder Label

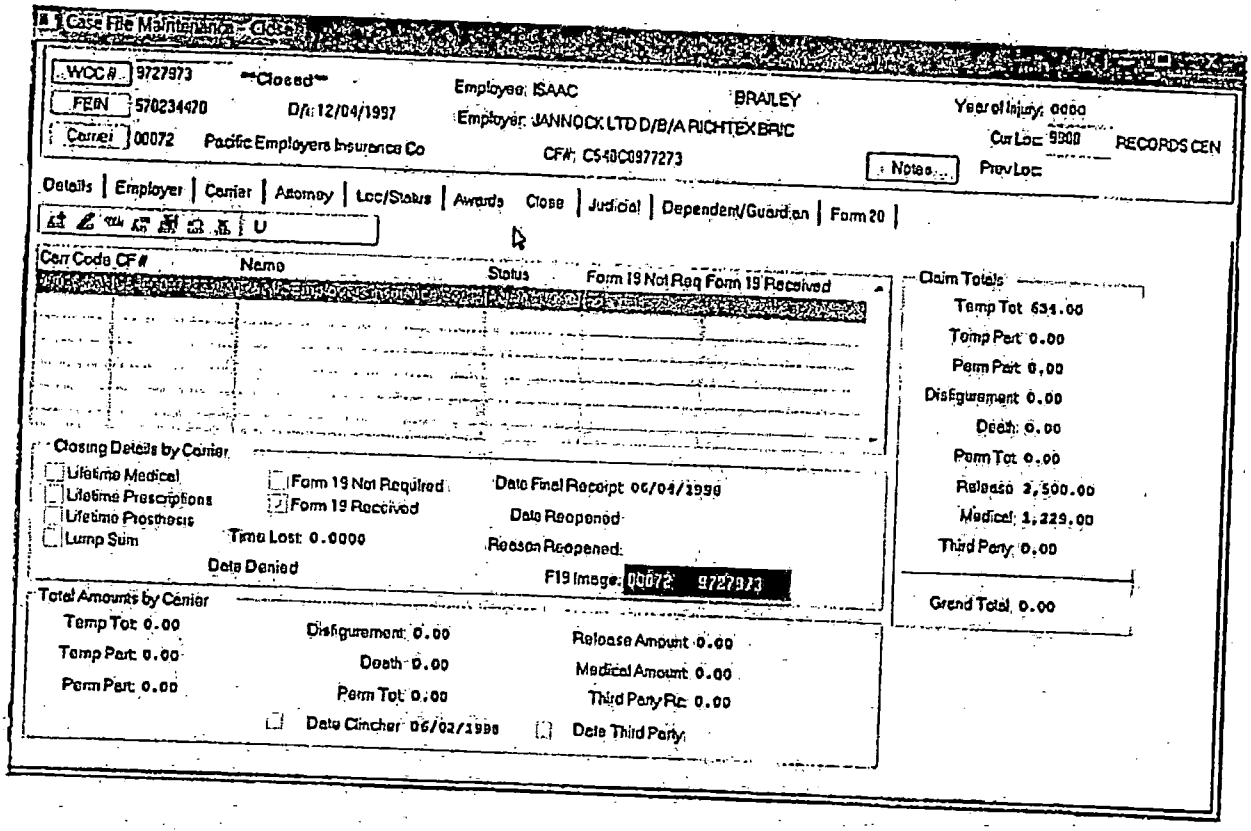

Case File Maintenance - Employer
WCC #: 9727973 "Closed" Employee: ISAAC BRAILEY Year of Injury: 0000
FEIN 570234470 D/I: 12/04/1997 Employer: JANNOCK LTD D/B/A RICHTEX BRIC Cur Loc: 9900 RECORDS CEN
Carrier 00072 Pacific Employers Insurance Co CF#: CS40C0977273 Notes Prev Loc:
Details Employer Carrier Attorney Loc/Status Awards Close Judicial Dependent/Guardian Form 20
FEIN Name Address1 Address2 City State Zip
Employer
FEIN 570234470 EmployerId: 291280 Date Case Ltr Sent
Name: JANNOCK LTD D/B/A RICHTEX BRIC
Address Type: Employer Address Notes
Address Date Employer Added: 11/25/2006 Reason Empl Added:
Type Phone/Fax/Email Ext Primary
Date Inactive: Reason:


Case File Maintenance - Carrier
WCC #: 9727973
"Closed"
Employee: ISAAC BRAILEY
Year of Injury: 0000
FEIN: 570234470
D/I: 12/04/1997
Employer: JANNOCK LTD D/B/A RICHTEX BRIC
Cur Loc: 9900 RECORDS CEN
Carrier: 00072 Pacific Employers Insurance Co
CF#: C540C0977273
Notes
Prev Loc:
Details | Employer | Carrier | Attorney | Loc/Status | Awards | Close | Judicial | Dependent/Guardian | Form 20
U
Carr Code CF# Name Active Empl Id Employer Self Insured
Carrier
Employer: JANNOCK LTD D/B/A RICHTEX BRIC
Policy ID
12A Fine Type: ?
Notes
Carrier Code: 00072 Pacific Employers Insurance Co
12A Fine Created:
Form 18
CF#: C540C0977273
B Letter Sent
WCC #: 9727973
Address Type: Claim Address
1st Payment Date:
Last Form 18 Rcvd:
Form 18 Due:
Address
Type Phone/Fax/Email Ext Primary
E-mail For Serv ApolloOps1CustomerService@com no
City:
Date Inact Ltr Sent
Date Case List Ltr Sent
Date Inactive:
Reason:


Case File Maintenance - Attorney
WCC # 9727973 **Closed**
Employee ISAAC BRAILEY
Year of Injury 0000
FEIN 570234470 D/I 12/04/1997
Employer JANNOCK LTD D/B/A RICHTEX BRIC
Carrier 00072 Pacific Employers Insurance Co
CF#: CS40C0977273
Cur Loc 9990 RECORDS CEN
Notes
Prov Loc
Details | Employer | Carrier | Attorney | Loc/Status | Awards | Close | Judicial | Dependent/Guardian | Form 20
Attorney ID | Represents | For | Name | Date Added | Date Inactive | Address
6016 | Employee | ISAAC BRAILEY | D. E. Peagler | 11/25/2006 | | McDaniel Law
Attorney
ID 5051 James R. Courie (5)
Represents Carrier Pacific Employers Insurance Co
Sub LinkID: 291290 JANNOCK LTD D/B/A/RICHTEX BRIC
Date Added 11/25/2006
Date Case List Ltr Sent
Date Inact Ltr Sent
Address Type: Attorney Address
Address McAngus Goudelock & Courie, LLC
PO Box 12519
City: Columbia SC 29211
Type | Phone/Fax/Email | Ext | Primary
E-mail For Serv courie@mgclaw.com no
Date Inactive:
Reason:


Case File Maintenance - Loc/Status
WCC#: 9727973
"Closed"
Employee: ISAAC
BRAILEY
Year of Injury: 0000
FEIN: 570234470
D/I: 12/04/1997
Employer: JANNOCK LTD D/B/A RICHTEX BLC
Cur Loc: 9900 RECORDS CEN
Carrier: 00072
Pacific Employers Insurance Co
CF#: C540C0977273
Notes...
Prev Loc:
Details | Employer | Carrier | Attorney | Loc/Status | Awards | Close | Judicial | Dependent/Guardian | Form 20
F Loc Location
Created On Time
Fdo Location
Loc Code: 9900 RECORDS CENTER
Created On: 05/22/2000
Created By: CONV
WC Image: 9727973
X Image:
Status
Description
Entry Date
Case Status
Status:
Entry Date:
Created By:
Required Date:
Comments:
Date Canceled:
User:


Case File Maintenance - Awards
WCC#: 9727973 "Closed" Employee: ISAAC BRAILEY Year of Injury: 0000
FEIN: 570234470 D/I: 12/04/1997 Employer: JANNOCK LTD D/B/A RICHTEX BRIC Cur Loc: 9900 RECORDS CEN
Carrier: 00072 Pacific Employers Insurance Co CF#: C540C0977273 Notes Prev Loc:
Details | Employer | Carrier | Attorney | Loc/Status | Awards | Close | Judicial | Dependent/Guardian | Form 20
U
Award ID Type Carr Code Carrier Date Inactive Award Date AWW Comp Rate Source
Carrier: 00072 Pacific Employers Insurance Co
Award ID: 00385564 Type: TT Award Date: 03/30/1998 AWW: 0.00 Source: A Salary Continued
TP TT PP Dist PT
Begin Date: 03/16/1998
Stop Date:
WC Image: 9727973
Current Salary: 0.00 0.00 0.00 0.00 0.00
Weeks: 0.0000 0.0000 0.0000 0.0000 0.0000
1st Payment Date: 02/24/1998
Adjusted AWW: 0.00 0.00 0.00 0.00 0.00
Comp Rate: 0.00 233.61 0.00 0.00 0.00 Date Inactive
Total Payment: 0.00 0.00 0.00 0.00 0.00 Reason


Case File Maintenance - Closed
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Employee: ISAAC BRALEY
Year of Injury: 0000
FEIN 570234420 D/I: 12/04/1997
Employer: JANNOCK LTD D/B/A RICHTEX BRIC
Carrier 00072 Pacific Employers Insurance Co
CF#: C540C0977273
Cur Loc: 9900 RECORDS CEN
Notes...
Prev Loc:
Details | Employer | Carrier | Attorney | Loc/Status | Awards | Close | Judicial | Dependent/Guardian | Form 20 |
Carr Code CF # Name Status Form 19 Not Req Form 19 Received
Claim Totals
Temp Tot 634.00
Temp Part 0.00
Perm Part 0.00
Disfigurement 0.00
Death 0.00
Perm Tot 0.00
Release 2,500.00
Medical 1,229.00
Third Party 0.00
Grand Total 0.00
Closing Details by Carrier
Lifetime Medical
Lifetime Prescriptions
Lifetime Prosthesis
Lump Sum
Form 19 Not Required
Form 19 Received
Time Lost 0.0000
Date Denied
Date Final Receipt 06/04/1998
Date Reopened
Reason Reopened
F19 Image: 00072 9727973
Total Amounts by Carrier
Temp Tot 0.00
Temp Part 0.00
Perm Part 0.00
Disfigurement 0.00
Death 0.00
Perm Tot 0.00
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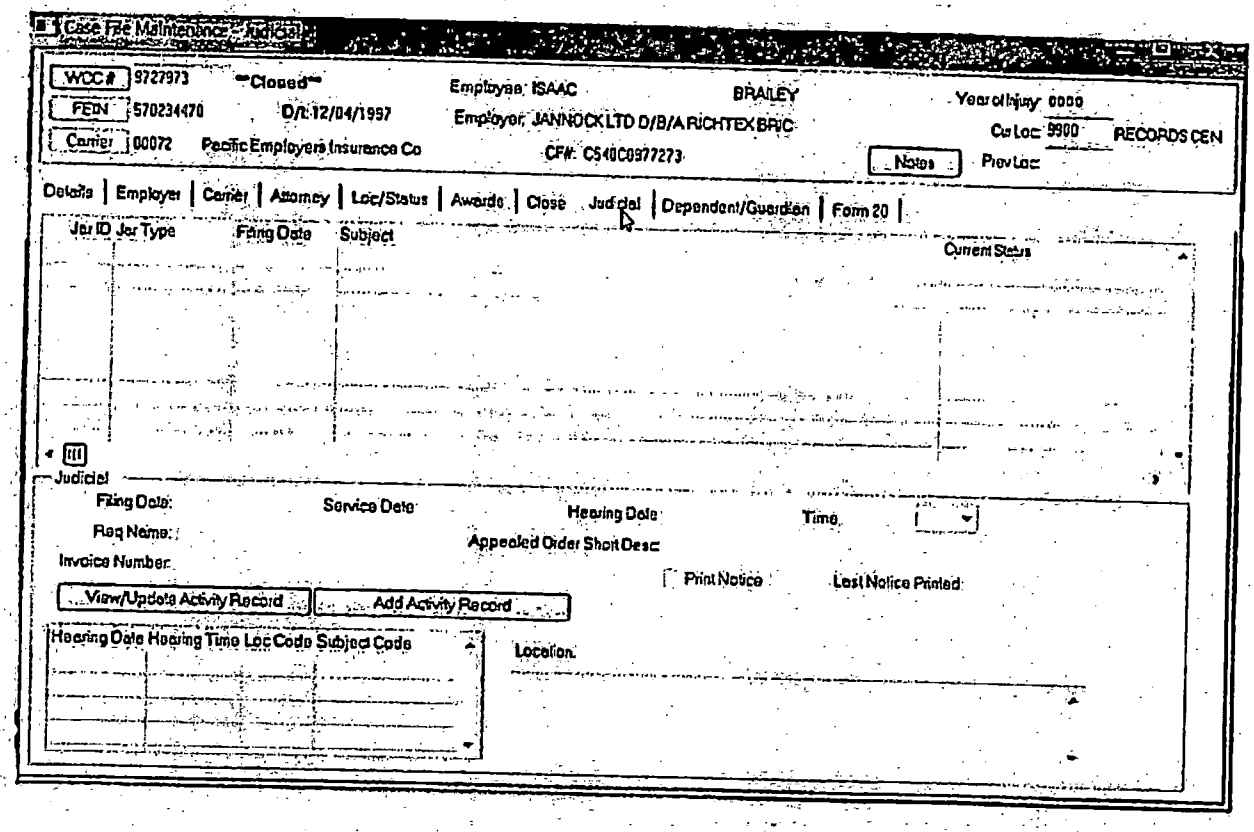
Medical Amount 0.00
Third Party Rc 0.00
Date Cincher 06/02/1998
Date Third Party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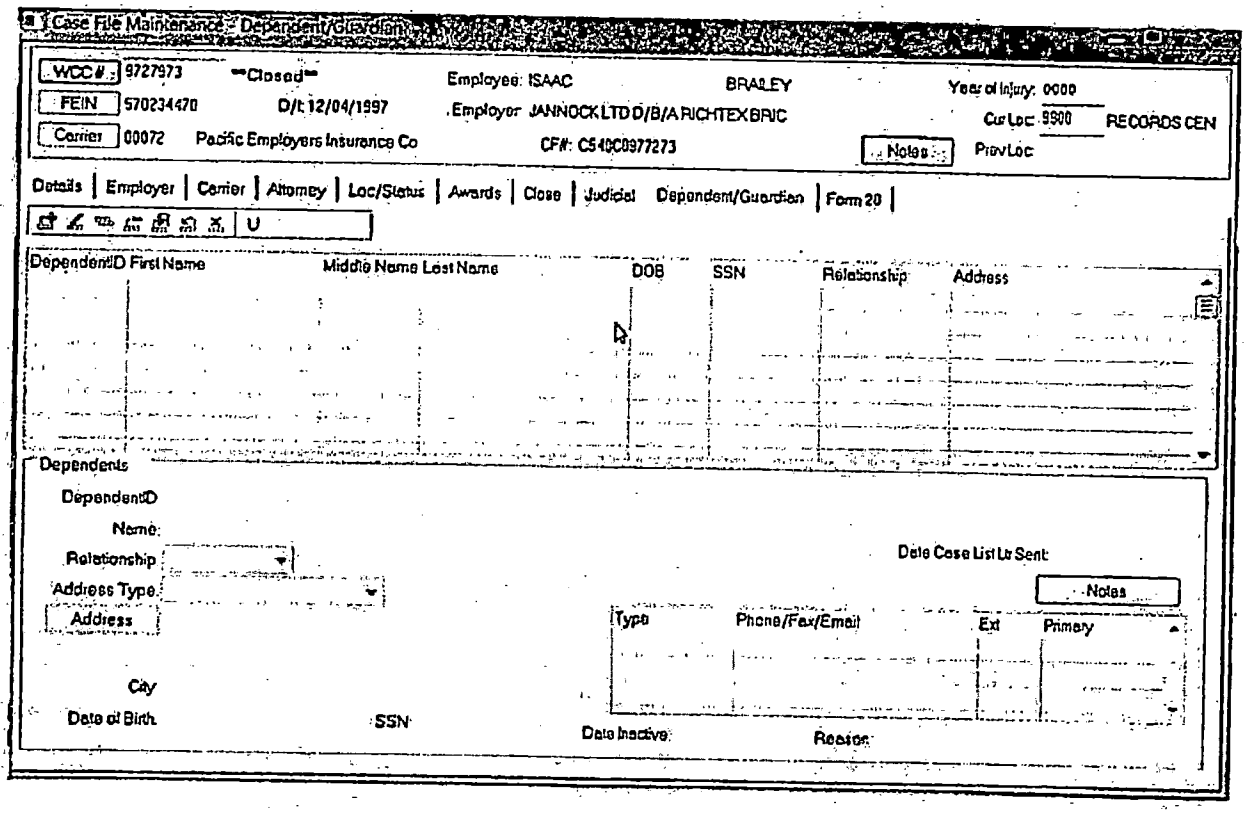
WCC # 9727973
"Closed"
Employee ISAAC BRAILEY
Year of Injury 0000
FEIN 570234470
D/I: 12/04/1997
Employer JANNOCK LTD D/B/A RICHTEX BRIC
Cs Loc 9900 RECORDS CEN
Carrier 00072 Pacific Employers Insurance Co
CF#: C540C0977273
Notes
Prev Loc
Details | Employer | Carrier | Attorney | Loc/Status | Awards | Close | Judicial | Dependent/Guardian | Form 20
Jur ID Jur Type
Filing Date
Subject
Current Status
Judicial
Filing Date:
Service Date
Hearing Date
Time
Req Name:
Appealed Order Short Desc
Invoice Number
Print Notice
Last Notice Printed
View/Update Activity Record
Add Activity Record
Hearing Date Hearing Time Loc Code Subject Code
Location

P150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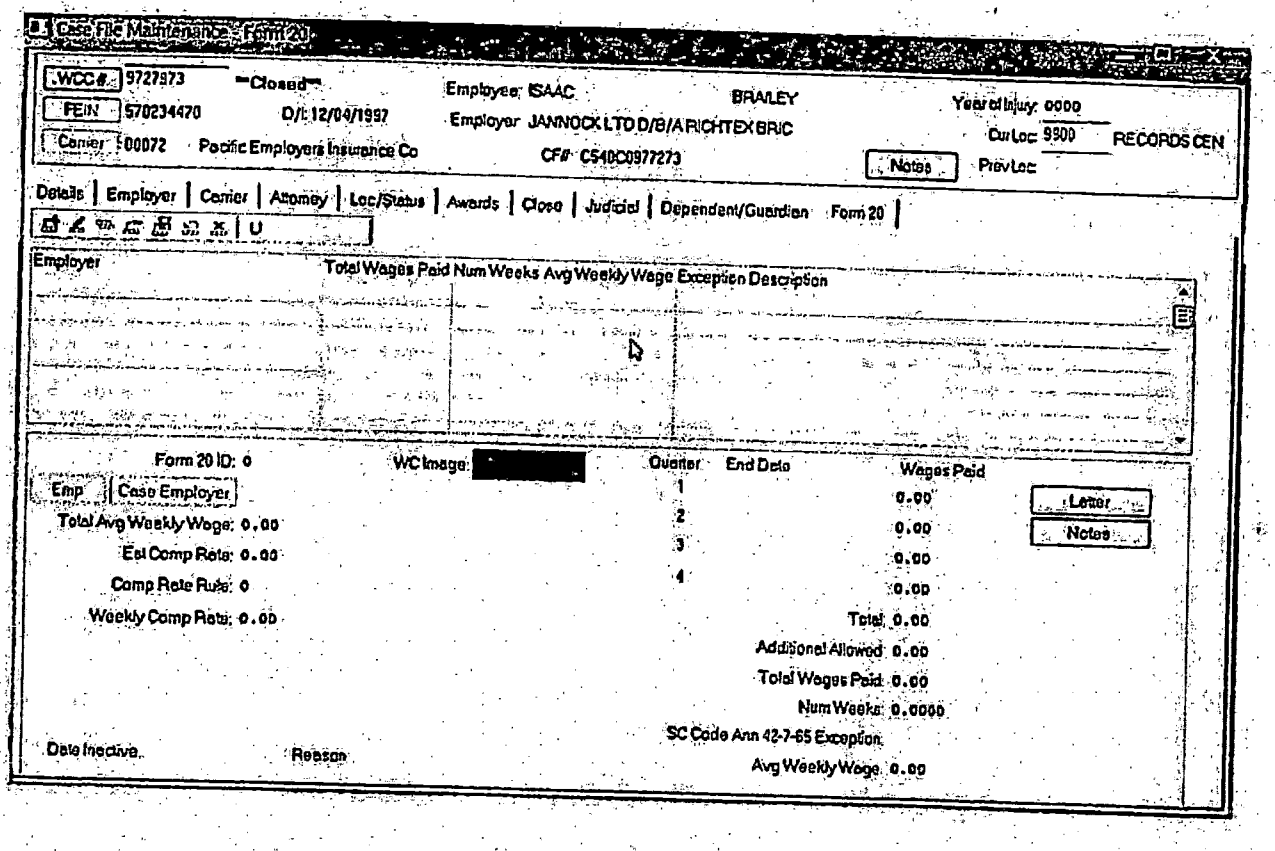
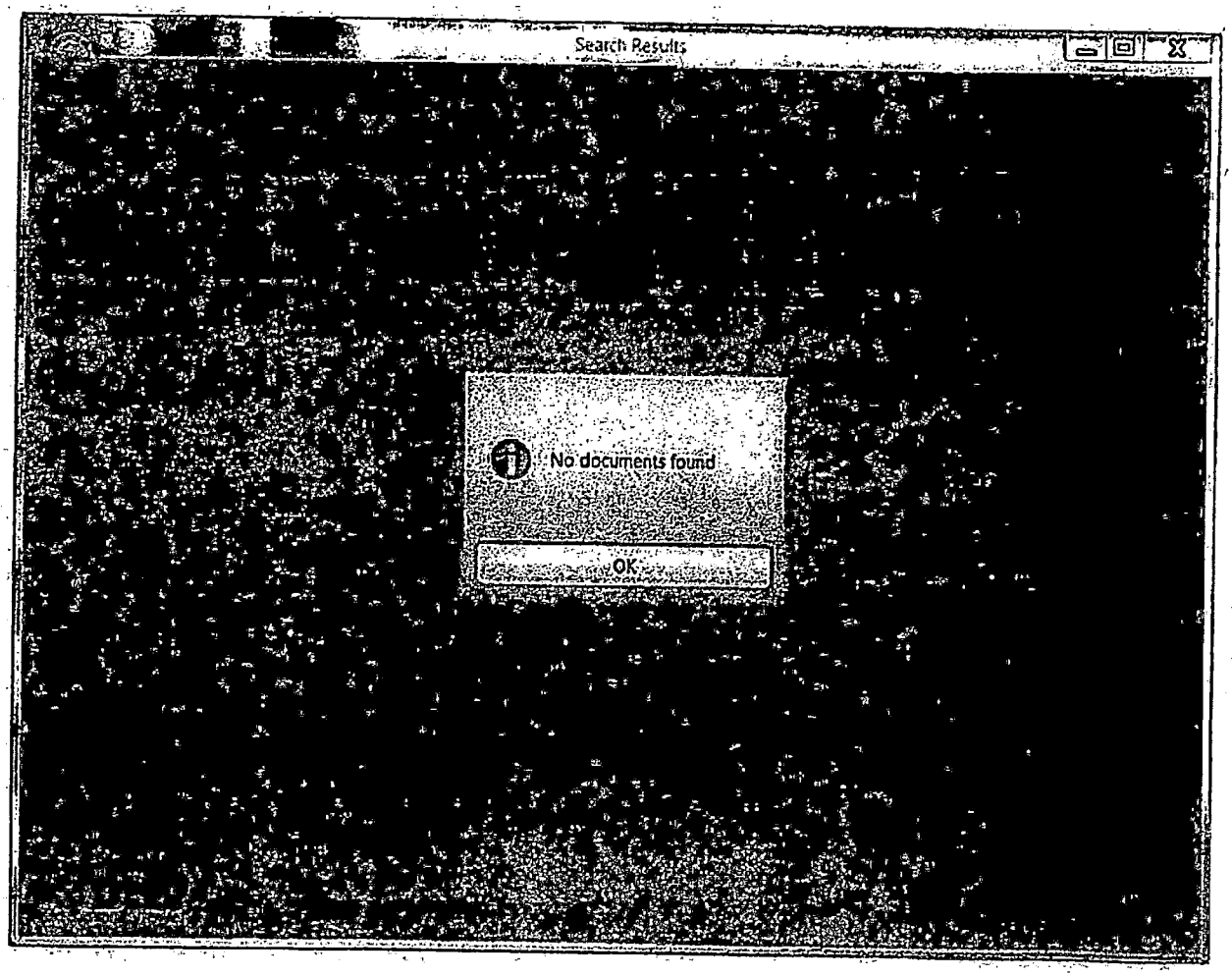
WCC #: 9727973
Closed
Employee: ISAAC BRALEY
Year of Injury: 0000
FEIN 570234470
D/I: 12/04/1997
Employer: JANNOCK LTD D/B/A RICHTEX BRIC
Cur Loc: 9900 RECORDS CEN
Carrier 00072 Pacific Employers Insurance Co
CF#: C540C0977273
Notes
Prev Loc
Details | Employer | Carrier | Attorney | Loc/Status | Awards | Close | Judicial | Dependent/Guardian | Form 20
DependentID First Name
Middle Name Last Name
DOB
SSN
Relationship
Address
Dependents
DependentID
Name:
Relationship
Address Type
Address
City
Date of Birth
SSN
Date Case List Ltr Sent
Notes
Type
Phone/Fax/Email
Ext
Primary
Date Inactive
Reason

P151


Case File Maintenance - Form 20
WCC # 9727973
Closed
Employee ISAAC BRAILEY
Year of Injury 0000
FEIN 570234470
D/I 12/04/1997
Employer JANNOCK LTD D/B/A RICHTEX BRIC
Cur Loc 9900 RECORDS CEN
Carrier 00072 Pacific Employers Insurance Co
CF# C540C097273
Notes
Prev Loc
Details | Employer | Carrier | Attorney | Loc/Status | Awards | Close | Judicial | Dependent/Guardian | Form 20
Employer
Total Wages Paid Num Weeks Avg Weekly Wage Exception Description
Form 20 ID: 0
WC Image:
Emp
Case Employer
Total Avg Weekly Wage: 0.00
Est Comp Rate: 0.00
Comp Rate Rule: 0
Weekly Comp Rate: 0.00
Date Inactive
Reason
Quarter End Date Wages Paid
1 0.00
2 0.00
3 0.00
4 0.00
Total 0.00
Additional Allowed 0.00
Total Wages Paid 0.00
Num Weeks 0.0000
SC Code Ann 42-7-65 Exception
Avg Weekly Wage 0.00
Letter
Notes



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STATE OF SOUTH CAROLINA
BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC FILE NO.: 1708221

Isaac Brailey, Claimant, v. Michelin North America, Inc.(US7), Employer, and Safety National Casualty Corp., Carrier, Defendants.	**MOTION TO RECONVENE THE DEPOSITION OF DR. SCOTT BOYD**

TO: AMY BRACY, JUDICIAL DIRECTOR, SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION, COMMISSIONER AVERY B. WILKERSON, JR., AND STEPHEN B. SAMUELS, ESQUIRE, ATTORNEY FOR ISAAC BRAILEY:

Pursuant to Regulation 67-215, the defendants, Michelin North America, Inc. and Safety National Casualty Corp., hereby file this Motion to Reconvene the Deposition of Dr. Scott Boyd. The grounds for this Motion are set forth below:

1. The claimant in this matter, Isaac Brailey, alleges that he injured his back while working for Defendant Michelin North America, Inc.

2. On February 9, 2018, Commissioner Wilkerson issued an Order compelling the claimant to execute a release to allow the defendants to review the claimant's prior workers' compensation file, SCWCC file number 9727973.

3. The defendants were able to review the prior workers' compensation file, which evidences a prior low back claim.

4. Furthermore, the defendants obtained the claimant's Post-Offer Pre-Placement Medical History and Examination Form in which he claimed he has never had any issues with his back, despite a prior workers' compensation claim for same, as well as actual medical records from the prior workers' compensation claim.

5. Dr. Scott Boyd completed a questionnaire citing the cause of claimant's back problems as the alleged work injury on June 24, 2017. In his deposition on January 15, 2018, Dr. Boyd opined the claimant actually aggravated a prior low back strain. However, he confirmed the claimant told him he did not have any prior back issues.

6. The defendants wish to reconvene Dr. Boyd's deposition and ask that he address the aforementioned newly discovered evidence.

7. There is absolutely no prejudice to the claimant in reconvening the deposition of Dr. Boyd. In fact, the only prejudice would be on the defendants. As this is a denied claim, it is of the utmost importance the defendants have every opportunity to cross-examine the claimant's expert with evidence contradictory to his opinions or evidence with which he was not ever provided by claimant's counsel when he obtained his questionnaire.

8. The claimant's counsel has informed the defendants he is unable to consent to the reconvening of Dr. Boyd's deposition.

For the reasons set forth herein, the defendants would request an Order reconvening Dr. Boyd's deposition prior to the Hearing on this claim. There is no reason to believe further consultation with the claimant would serve any useful purpose prior to filing this Motion. *See* Rule 11, SCRCP (consultation is not required prior to filing of Motion if consultation would serve no useful purpose).

Respectfully Submitted,
SOWELL GRAY ROBINSON STEPP & LAFFITTE, L.L.C.

By: _____
Grady L. Beard
1310 Gadsden Street
Post Office Box 11449
Columbia, SC 29211
(803) 929-1400

Columbia, South Carolina
3/12, 2018

SC Workers' Compensation Commission
1333 Main Street, Suite 500
P.O. BOX 1715
Columbia, SC 29202-1715
(803) 737-5723

WCC File #: 1708221
Carrier File #: 002550-060240-wc-01
Carrier Code #:
Employer FEIN #:

Isaac Bralley [redacted]
Claimant's Name SSN

City Zip

Home Phone Work Phone

Michelin North America, Inc.(US7)
Employer's Name
2420 Two Notch Road, Lexington, SC 29071
Address City State Zip
Safety National Casualty Corp.
Insurance Carrier

Preparer's Name: Grady L. Beard, Esquire Law Firm: Sowell Gray Robinson Stepp & Laffitte, L.L.C. Preparer's Phone #: (803) 929-1400

A claim for workers' compensation benefits is made based on the following grounds:
☒ Injury ☐ Illness ☐ Repetitive Trauma

1. Compensation Rate: $502.11 2. AWW: $753.13 Date of Injury: 06/24/17 (Alleged)
3. Type of injury and body part(s): Back and left leg (Alleged on Form 50)
4. Facts in controversy: DENIED CLAIM. ALL FACTS IN CONTROVERSY. (1) Whether claimant sustained a compensable injury by accident as alleged; (2) Whether claimant gave proper notice of accident; (3) Whether claimant is entitled to any of the benefits claimed; (4) Whether claimant has submitted any medical evidence causally relating his alleged condition to this alleged accident to within a reasonable degree of medical certainty.
5. Legal issues involved: SEE #4 ABOVE (1) Section 42-1-160; (2) Section 42-15-20; (3) Section 42-15-60; (4) Section 42-9-10 (TTD); (5) Legal causation; (6) Fraud in the Application for Employment
6. Unusual aspects: Defendants have issued numerous subpoenas for medical records and employment records to obtain evidence of claimant's pre-existing low back issues and reserve the right to submit same upon receipt via supplementing the APAs and/or amending the Pre-Hearing Brief

Based upon new evidence obtained after subpoenas and receipt of prior low back WC claim, defendants would like to reconvene the deposition of Dr. Boyd. Moreover, Defendants were forced to file a Motion to Reconvene the Deposition which needs to be addressed.
7. Witnesses (designated expert):* Defendants may call the following if available or necessary: (1) Mark Gross, Safety Director; (2) Nurse Christie Sirois; (3) Troy Lowman; (4) Tyrone Gilmore; (5) Dr. Scott Boyd (via deposition); (6) Jermaine Lemon; (7) Antwan Jackson; (8) Kathy Griffin; (9) Derrick Gibson
8. Exhibits: Defendants may submit the following as necessary: (1) Claimant's deposition for impeachment purposes; (2) Portions of claimant's Personnel File and other documents previously provided to Mr. Samuels on 8/24/17, in response to Subpoena;(3) ISO Report; (4) Deposition of Dr. Scott Boyd; (5) 1997 WC claim computer screen shots; (5) Michelin Post-Offer Medical Questionnaire; (6) Westinghouse Personnel Records
9. Medical evidence (indicate report pursuant to R.67-612; deposition or appearance): See attached Notice of Witnesses and Medical Reports to be Introduced as Evidence on Behalf of the Defendants. Defendants did not duplicate any medical records already submitted by claimant.
10. Name, address, and specialty, if any, of the treating physician: N/A as claim denied
11. Impairment rating(s); body part(s); physician and date of opinion: None to Defendants' knowledge
12. I am amending my Form 50/51 in the following manner: Amend Form 51 to specifically deny claimant sustained an injury by accident within the course and scope of employment (Section 42-1-160) and failure to provide timely and proper Notice of Injury by accident (Section 42-15-20); and Fraud in the Application for Employment Defense (All previously identified on the Form 51).

☐ Mediation
- ☐ (a) Mediation is requested to be ordered pursuant to Reg. 67-1601 B.
- ☐ (b) Mediation is required pursuant to Reg. 67-1602.
- ☐ (c) Mediation is requested by consent of the parties pursuant to Reg. 67-1603.
- ☐ (d) Mediation has been conducted by a duly qualified mediator and resulted in an impasse.

I verify the contents of this form are accurate and true to the best of my knowledge.

File this form and proof of service on the opposing party according to R.67-611. Do not send medical reports.
*Commissioners reserve the right to admit expert witnesses at hearings.

WCC Form # 58
Revised 9/07

FORM 58
P156

PRE-HEARING BRIEF

SC Workers' Compensation Commission
1333 Main Street, Suite 500
P.O. BOX 1715
Columbia, SC 29202-1715
(803) 737-5723

WCC File #: 1708221
Carrier File #: 002550-080240-wc-01
Carrier Code #:
Employer FEIN #:

Isaac Bralley [redacted]
Claimant's Name SSN

City State Zip

Home Phone Work Phone

Michelin North America, Inc.(US7)
Employer's Name
2420 Two Notch Road, Lexington, SC 29071
Address City State Zip
Safety National Casualty Corp.
Insurance Carrier

Preparer's Name: Grady L. Beard, Esquire Law Firm: Sowell Gray Robinson Stepp & Laffitte, L.L.C. Preparer's Phone #: (803) 929-1400

I certify I have served this document pursuant to R. 67-211 by delivering a copy to: Honorable Avery B. Wilkerson, Jr., Commissioner, South Carolina Workers' Compensation Commission, 1333 Main Street, Suite 500, Columbia, SC 29202-1715 (via e-case upload) and Stephen B. Samuels, Esquire, Samuels Law Firm, LLC 1320 Richland Street Columbia SC 29201, (via U.S. Mail and E-mail).
Name Address

on the 13th day of March 2018 by ☒ first class mail, ☐ certified mail, ☐ personal service.

Signature: [signature] Email: gbeard@sowellgray.com

Date of hearing: 3/23/18 Time needed for hearing: 2 hours as claim denied

On behalf of ☐ Claimant ☒ Employer

File this form and proof of service on the opposing party according to R.67-611. Do not send medical reports.
*Commissioners reserve the right to admit expert witnesses at hearings.

SPRINGWOOD LAKE FAMILY PRACTICE Isaac Brailey

Workers Comp - Richtex Bricks

S: This is a [redacted] y/o black male who has been working for Richtex for three weeks and of note he has had back pain for three weeks. This has been worsening over the past couple of days since a possible injury while lifting some bricks on Tuesday of this week. Denies any difficulty with ambulation, weakness in either lower extremity, bowel or bladder dysfunction, or tingling in upper or lower extremities. He is right hand dominant. He also reports some right hand and arm tingling in the AM. This is not pain but simply tingling. Prior to being employed in Richtex he was an industrial machine operator. He has no previous history of back problems. Current medications none. Medicine allergies none.

O: WT 222. BP 134/70. Pulse 72. Physical exam is a well nourished, well developed, calm, cooperative black in no acute distress. Back exam shows tenderness to palpation of the intervertebral space at L2-3. Also there is pain with forward flexion, although he has full ROM of his back and flexion extension and lateral flexion. There is tenderness and muscle spasm in the bilateral lumbar region without any significant swelling. Bilateral straight leg raise is negative. Muscle strength 5/5 and DTR's 2+. Internal and external rotation of the thighs illicit no pain. Also there is tenderness at the intervertebral space of T11-12. Bilateral upper extremities are neurovascularly intact with 5/5 muscle strength, 2+ DTR's and sensation is symmetrical bilateral upper and lower extremities and trunk. LS spine films are obtained and show no significant abnormality except for some questionable abnormal posterior wedging of L5 but there is no spondylolysis or spondylolisthesis.

A: 1. Lumbar strain.

P: Patient will be placed on Oruvail, Flexeril, heat and stretching. He is instructed on no heavy lifting times one week and he is to return to clinic in one week. I also discussed with this gentleman in no uncertain terms if he has been having back pain for three weeks, the entire time he has been working for Rictex, if he does not respond very well and very fast to some conservative treatment it might be in his and Rictex's best interest for him to find new employment.

G. Thomas Norris, III, M. D.

GTN / jdh

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SPRINGWOOD LAKE FAMILY PRACTICE Issac Brailey

Workers Comp - Richtex Bricks

S: Last week on 12/4/97 patient presented for his first visit here. He is a [redacted] y/o male and had been working for Richtex for three weeks. He had noted back pain and soreness for three weeks. Then he reported this vague episode of lifting some bricks and he felt that he may have injured himself at that time although he denied any significant change at the time of this incident. Of note, three days after he saw me, he was at Doctors Care wanting a second opinion, although he was not following my instructions. He had only been stretching once per day. He had been taking Oruvail, Flexeril as well as applying the heat. He states he is having difficulty sleeping at times although at the same time he tells me that the Flexeril knocks him out at night. I do not have the records from the Doctors Care and he is unsure exactly what the diagnosis was or what he was told. He mentions that he knows something is wrong with his back and he wants to go to a back specialist. It seems today that Mr. Brailey and I have a very difficult time communicating and I certainly feel that with him having only been an employee three weeks at Richtex, and mentioning a back specialist after he had been improving on the therapy I had recommended, he may very well be in a litigation thought process. I believe it certainly would be prudent for both myself and Richtex bricks to send him to an orthopaedic surgeon. LS spine films were obtained last week. I read them as essentially normal except for some wedging of L5. However, the dictated radiologist reading is not available today. Patient continues to deny weakness in either extremity, difficulty with ambulation, bowel or bladder dysfunction, or tingling in either upper or lower extremity. He reports the pain is in the middle of his back, hurts sometimes when he is sitting and when he bends forward. Current medications are Oruvail and Flexeril. Medicine allergies none.

O: WT 218. BP 118/74. Pulse 84. No physical exam is performed today secondary to what I felt was a very hostile encounter.

A: 1. Lumbar strain,
2. Thoracic strain.

P: Patient does report on Oruvail, heat, Flexeril and stretching, this has improved. However, it seems he wants to be evaluated by a back specialist. I feel like Dr. Bethea at Moore Clinic would certainly put this to rest most expediently, however, as stated above, I don't feel that Richtex nor myself need to undertake any liability with this young man who, in my opinion, is unable to perform the job required at Richtex and he was even told this the very first day. I restated that today. I will place him on no heavy lifting until he sees the surgeon.

G. Thomas Norris, III, M. D. / jdh

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The Deposition of Dr. Scott Boyd is contained within the "Transcripts" section of the Record on Appeal

The Deposition of Isaac Brailey is contained within the "Transcripts" section of the Record on Appeal

P161(a)

Portions of records provided to Mr. Samuels in response to Subpoena for Michelin records are contained within the "Pleadings" section of the Record on Appeal

P161(b)

Claim 002550 MICHELIN NORTH AMERICA, INC.

002550-080240-WC-01 BRAILEY, ISAAC

Index System Matched Claims

Matching Claim

File Number: 6X000314998

Reason For Match	
Insuring Company	ACE PROPERTY AND CASUALTY COMPANY
Claim Number	C540C0977273
Date/Time of Loss	04-Dec-1997 00:00
Policy Number	
Policy Type	WORKERS COMP & EMPLOYERS LIABILITY
Inception Date	Expiration Date
Policy Renewed?	
Assigned Risk?	
Insuring Co. Address	4168 COX RD GLEN ALLEN, VA 23060
Insuring Co. Phone	800-830-6823
Co. Received Date	
Loss Description	
Agency Notified	
Location of Loss	COLUMBIA, SC,
Mailing Address	

SIU Information

Name	
Business Phone	
Mobile Phone	

Involved Party

Role in Claim	Name
Claimant	BRAILEY, ISAAC
Insured	JANNOCK LIMITED

Role In Claim	Claimant
Name	BRAILEY, ISAAC

Address 1	POB 212503
Address 2	
City	COLUMBIA
State	SC
Postal Code	29221-0000
DOB	[redacted]
Gender	Unknown
Home Phone	
Business Phone	
Cellular Phone	
SSN	[redacted]
Occupation	BRICK, CLAY PRODUCTS
Med./Prof. License	
Drivers License	
Drivers License State	

Service Provider

Name	Address 1
SPRINGWOOD LAKES MED CTR 1721 HORSESHOE	

Name	SPRINGWOOD LAKES MED CTR 1721 HORSESHOE
Address 1	
Address 2	
City	
State	
Postal Code	
DOB	
Gender	Unknown
Business Phone	
Home Phone	
SSN	
Med./Prof. License	
Driver License	
Drivers License State	

Casualty Coverage Information

Adjuster Company	Adjuster	Adjuster
ACE PROPERTY AND CASUALTY COMPANY		

Adjuster Company	ACE PROPERTY AND CASUALTY COMPANY		
Adjuster			
Adjuster Phone			
Coverage Type			
Loss Type	COMPREHENSIVE		
Claim Status		Date Claim Closed	
Alleged Injury/Damage	SPRAIN OR STRAIN OF THE BACK		
Suit Filed (Y/N)			
Court Date			
Court State			
Docket Number			

Claim 002550 MICHELIN NORTH AMERICA, INC.

002550-080240-WC-01 BRAILEY, ISAAC

Index System Matched Claims

Matching Claim

File Number: 7Q000547899

Reason For Match	
Insuring Company	NATIONWIDE MUTUAL INSURANCE COMPANY
Claim Number	6139K018286
Date/Time of Loss	20-Sep-1994 00:00
Policy Number	
Policy Type	COMMERCIAL AUTO
Inception Date	Expiration Date
Policy Renewed?	
Assigned Risk?	
Insuring Co. Address	4401 CREEDMOOR RD PO BOX 30000 RALEIGH, NC 27622-0000
Insuring Co. Phone	919-781-3322
Co. Received Date	
Loss Description	
Agency Notified	
Location of Loss	COLUMBIA, SC
Mailing Address	

SIU Information

Name	
Business Phone	
Mobile Phone	

Involved Party

Role in Claim	Name
Claimant	BRAILEY JR, ISAAC D
Insured	ERIK CO AHLSTEDT

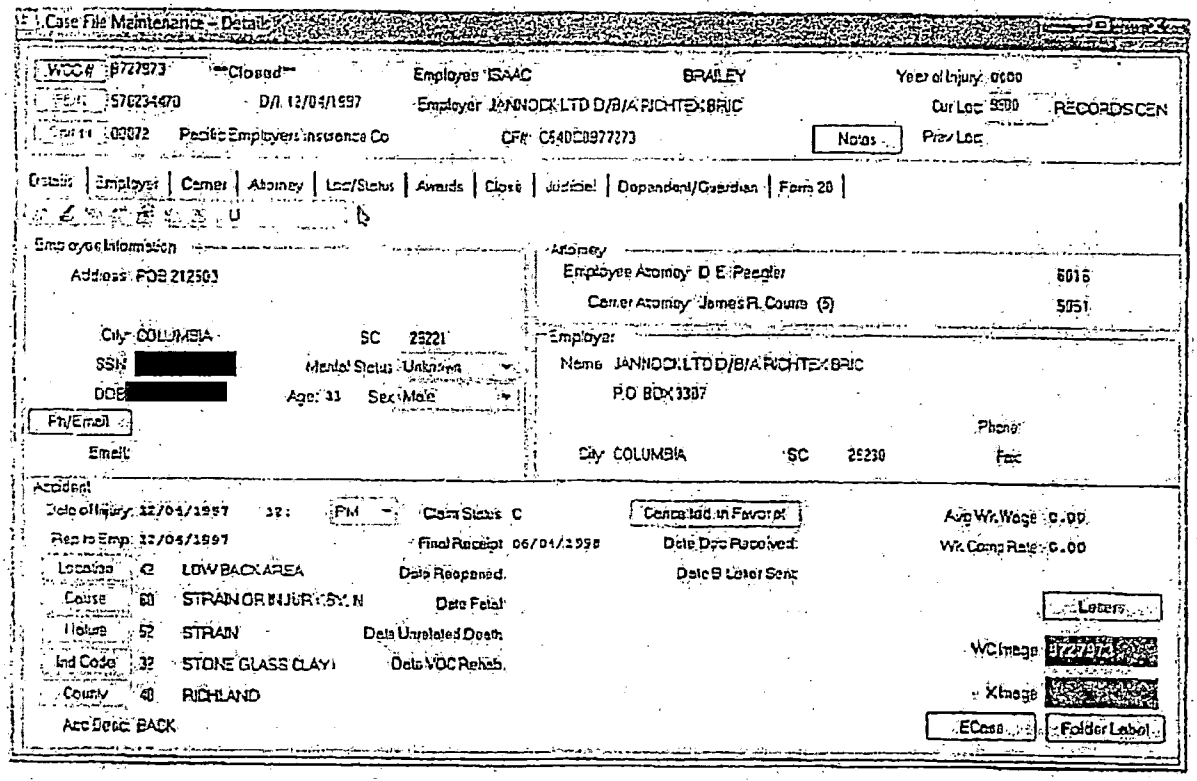
Role in Claim Claimant

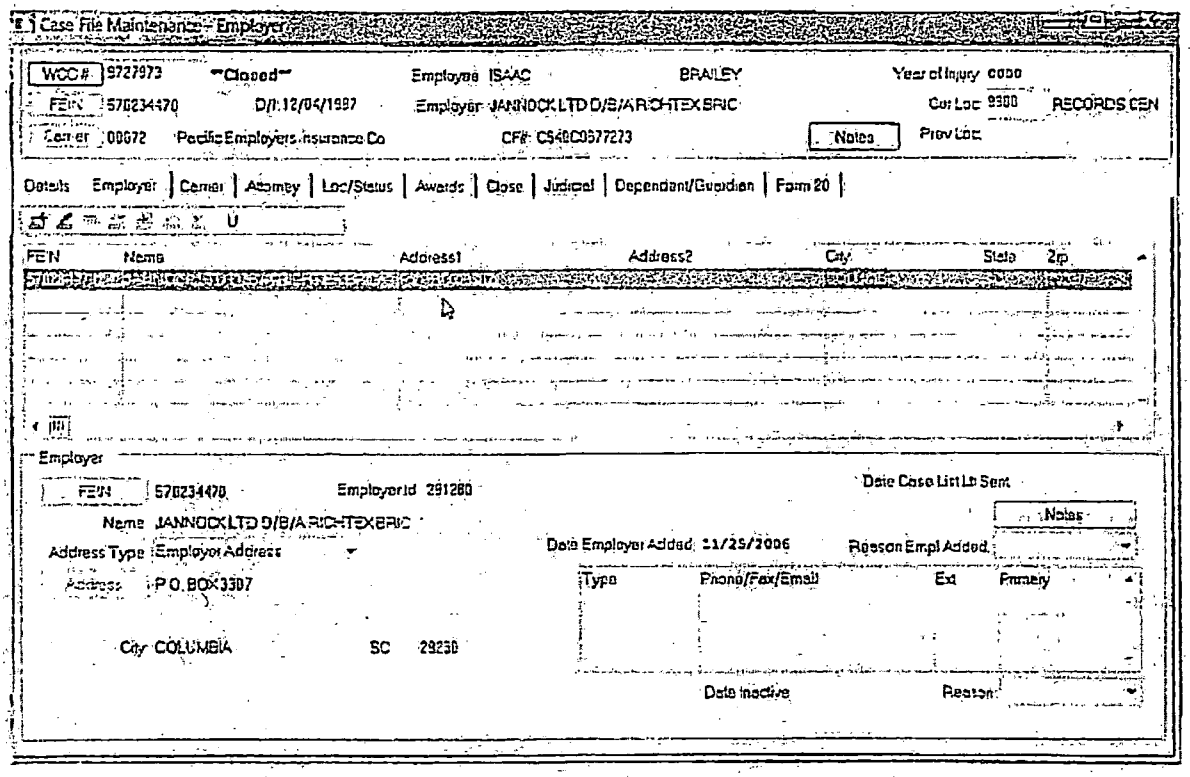
Name BRAILEY JR, ISAAC D
Address 1 PO BOX 212503
Address 2
City COLUMBIA
State SC Postal Code 29221-0000
DOB [redacted]
Gender Unknown
Home Phone
Business Phone
Cellular Phone
SSN [redacted]
Occupation COOPER HAND TOOLS
Med./Prof. License
Drivers License
Drivers License State

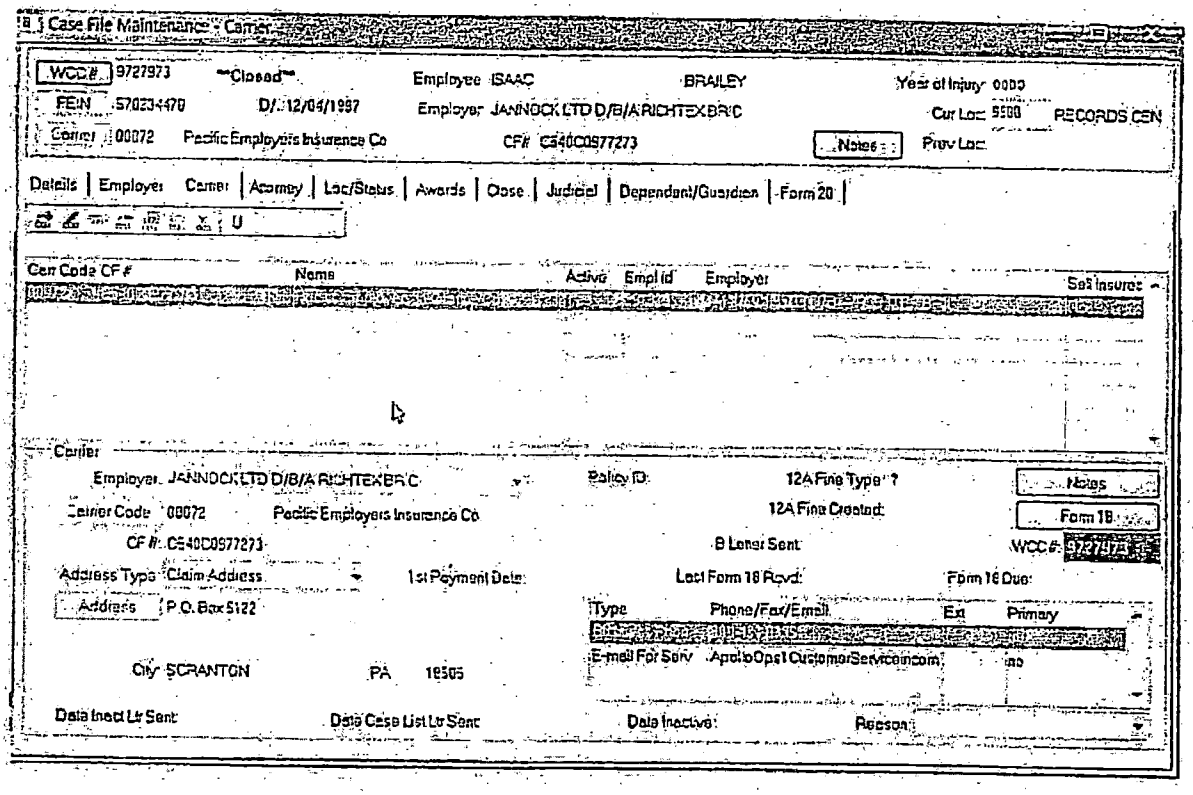
Casualty Coverage Information

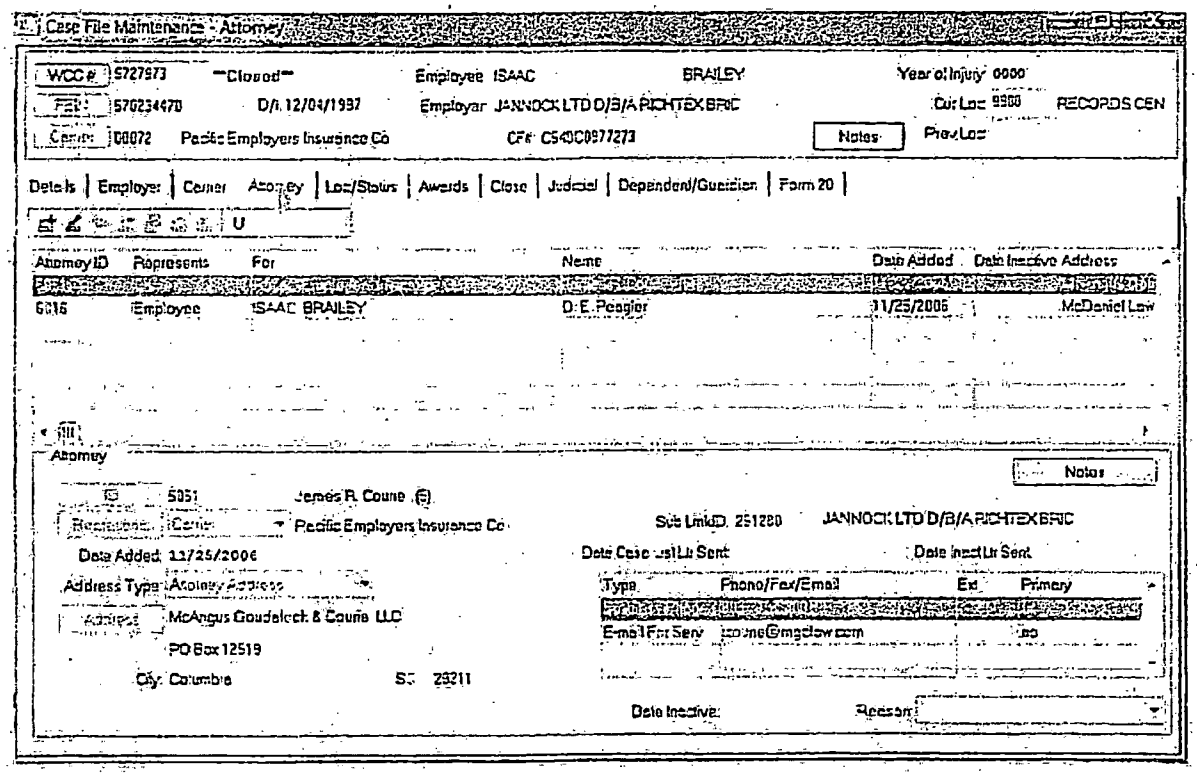
Adjuster Company	Adjuster	Adjuster
NATIONWIDE MUTUAL INSURANCE COMPANY		

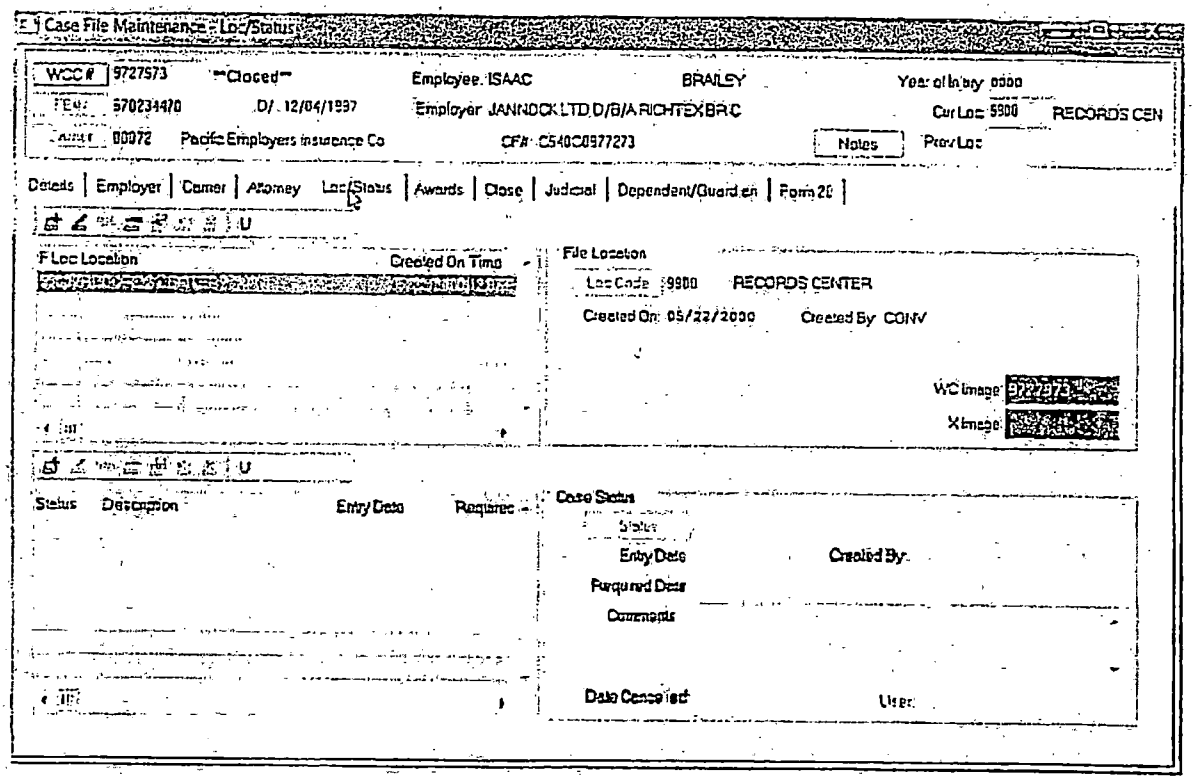
Adjuster Company NATIONWIDE MUTUAL INSURANCE COMPANY
Adjustor
Adjuster Phone
Coverage Type
Loss Type BODILY INJURY
Claim Status Date Claim Closed
Alleged Injury/Damage LOW BACK
Suit Filed (Y/N)
Court Date
Court State
Docket Number

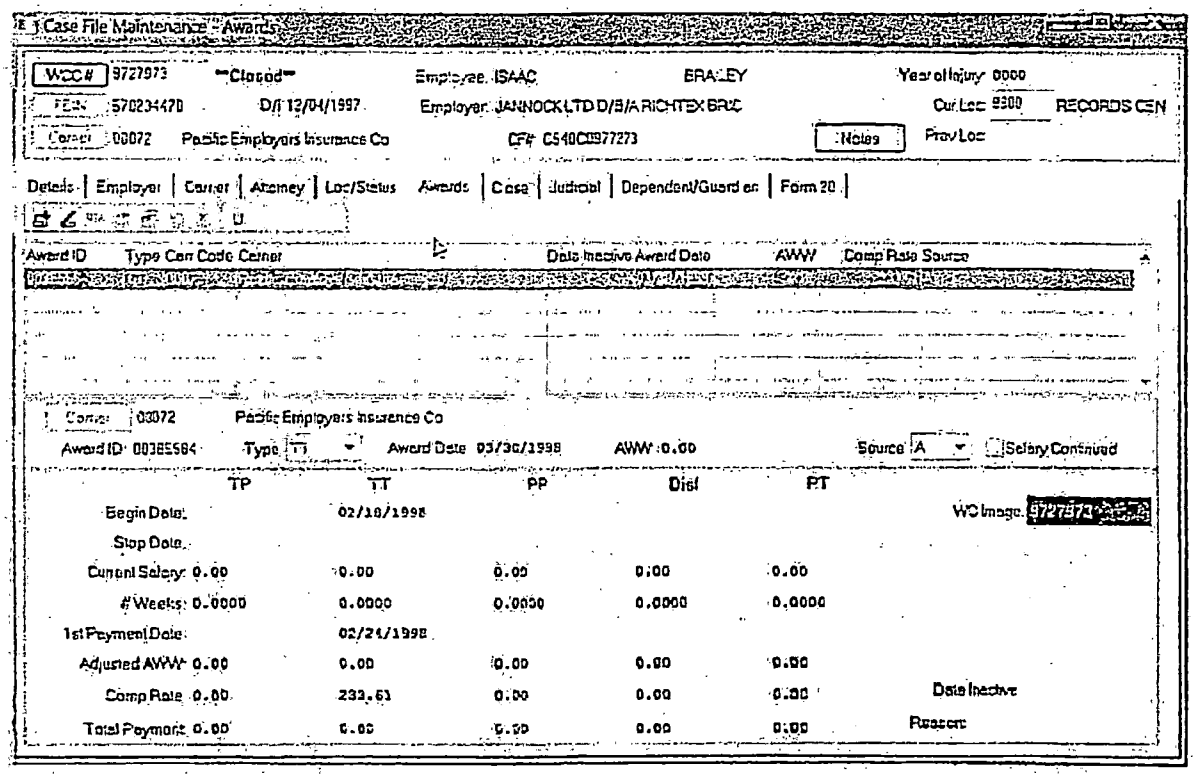

Case File Maintenance - Details
WCC# B727973 **Closed** Employee ISAAC BRAILEY Year of Injury 0000
FEIN 576234470 D/I 12/04/1997 Employer JANNOCK LTD D/B/A RICHTEX BRIC Cur Loc 9500 RECORDS CEN
Carrier 00072 Pacific Employers Insurance Co CFN C540D0977273 Notes Prev Loc
Details | Employer | Comer | Attorney | Loc/Status | Awards | Close | Judicial | Dependent/Guardian | Form 20
Employee Information
Address POB 212503
City COLUMBIA SC 29221
SSN [redacted] Marital Status Unknown
DOB [redacted] Age 31 Sex Male
Ph/Email
Email
Attorney
Employee Attorney D E Peeples 5016
Comer Attorney James R. Coura (5) 5051
Employer
Name JANNOCK LTD D/B/A RICHTEX BRIC
P.O BOX 3307
Phone
City COLUMBIA SC 29230 Fax
Accident
Date of Injury 12/04/1997 12: PM Claim Status C Concluded in Favor of Avg Wk Wage 0.00
Rep to Emp 12/04/1997 Final Receipt 06/01/1998 Date Doc Received Wk Comp Rate 0.00
Location 42 LOW BACK AREA Date Reopened Date B Letter Sent
Cause 60 STRAIN OR INJURY, N Date Fatal Letters
Nature 52 STRAIN Date Unrelated Death WC Image B727973
Ind Code 32 STONE GLASS CLAY Date VOC Rehab X Image
County 40 RICHLAND
Acc Desc BACK ECase Folder Label

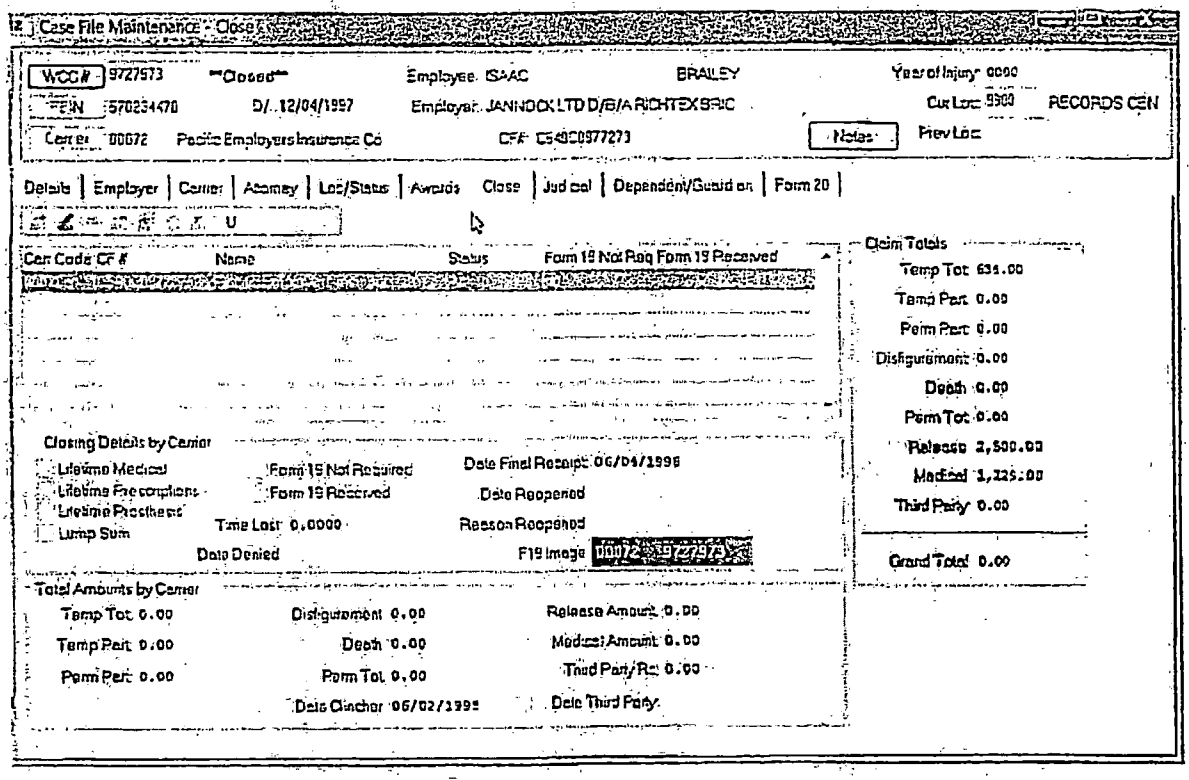

Case File Maintenance - Employer
WCC# 9727973 "Closed" Employee ISAAC BRAILEY Year of Injury 0000
FEIN 570234470 D/I: 12/04/1997 Employer JANNOCK LTD D/B/A RICHTEX BRIC Cur Loc 9300 RECORDS CEN
Carrier 00072 Pacific Employers Insurance Co CF#: C540C0577273 Notes Prev Loc
Details Employer Carrier Attorney Loc/Status Awards Close Judicial Dependent/Guardian Form 20
FEIN Name Address1 Address2 City State Zip
Employer
FEIN 570234470 EmployerId 291280
Name JANNOCK LTD D/B/A RICHTEX BRIC
Address Type Employer Address
Address P O BOX 3307
City COLUMBIA SC 29230
Date Case List Ltr Sent
Notes
Date Employer Added: 11/29/2006 Reason Empl Added
Type Phone/Fax/Email Ext Primary
Date Inactive Reason

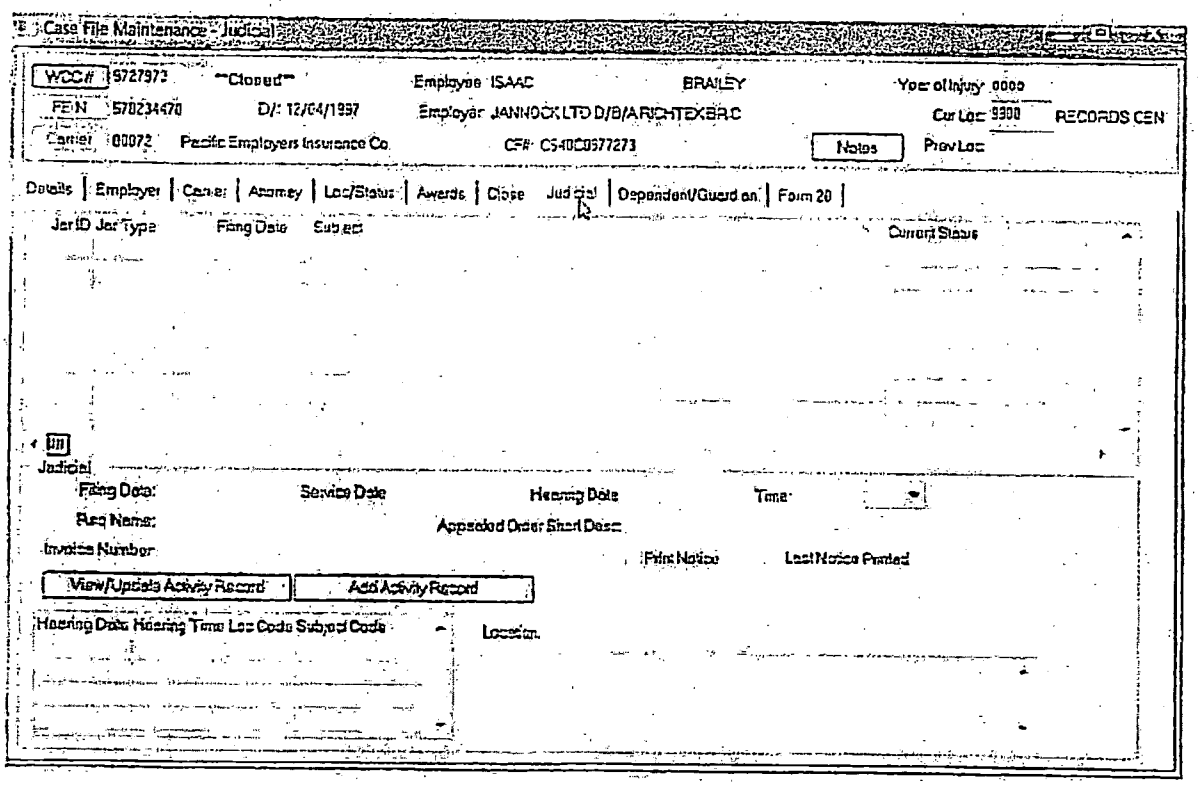

Case File Maintenance - Carrier
WCC # 9727973 "Closed" Employee ISAAC BRAILEY Year of Injury 0000
FEIN 570234470 D/I 12/04/1997 Employer JANNOCK LTD D/B/A RICHTEX BRIC Cur Loc 9500 RECORDS CEN
Carrier 00072 Pacific Employers Insurance Co CF# CS40C0977273 Notes Prev Loc
Details | Employer | Carrier | Attorney | Loc/Status | Awards | Close | Judicial | Dependent/Guardian | Form 20
Carr Code CF # Name Active Empl Id Employer Set Insured
Carrier
Employer JANNOCK LTD D/B/A RICHTEX BRIC
Carrier Code 00072 Pacific Employers Insurance Co
CF #: CS40C0977273
Address Type Claim Address
Address P O Box 5122
City SCRANTON PA 18505
Policy ID
12A Fine Type ?
12A Fine Created
B Letter Sent
1st Payment Date
Last Form 18 Rcvd
Form 18 Due
Notes
Form 18
WCC #: 9727973
Type Phone/Fax/Email Ext Primary
E-mail For Serv ApolloOpsCustomerService@com no
Date Inact Ltr Sent
Date Case List Ltr Sent
Date Inactive
Reason


Case File Maintenance - Attorney
WCC # 5727973 "Closed" Employee ISAAC BRAILEY Year of Injury 0000
Fax 570234470 D/I 12/04/1997 Employer JANNOCK LTD D/B/A RICHTEX BRIC Cur Loc 9900 RECORDS CEN
Carrier 00072 Pacific Employers Insurance Co CFA CS40C0977273 Notes Prev Loc
Details | Employer | Carrier | Attorney | Loc/Status | Awards | Close | Judicial | Dependent/Guardian | Form 20 |
Attorney ID Represents For Name Date Added Date Inactive Address
6016 Employee ISAAC BRAILEY D E Peagler 11/25/2006 McDaniel Law
Attorney
Notes
5051 James R Coune (E)
Carrier Pacific Employers Insurance Co Sub Link ID 251280 JANNOCK LTD D/B/A RICHTEX BRIC
Date Added 11/25/2006 Date Case Last Ltr Sent Date Inact Ltr Sent
Address Type Attorney Address
Address McAngus Goudelock & Coune LLC
PO Box 12519
City Columbia St 29211
Type Phone/Fax/Email Ext Primary
E-mail For Serv jcoune@mgdlaw.com no
Date Inactive Reason


Case File Maintenance - Loc/Status
WCC #
9727573
Closed
Employee ISAAC
BRAILSY
Year of Injury 0000
FEIN
670234470
D/ 12/04/1997
Employer JANNOCK LTD D/B/A RICHTEX BRIC
Cur Loc 9900
RECORDS CEN
Carrier
00072
Pacific Employers Insurance Co
CFN C540C0977273
Notes
Prev Loc
Details
Employer
Carrier
Attorney
Loc/Status
Awards
Close
Judicial
Dependent/Guardian
Form 20
F Loc Location
Created On Time
File Location
Loc Code
9900
RECORDS CENTER
Created On 05/22/2000
Created By CONV
WC Image
XImage
Status
Description
Entry Date
Required
Case Status
Status
Entry Date
Created By
Required Date
Comments
Date Cancelled
User


Case File Maintenance - Awards
WCC # 9727973
"Closed"
Employee: ISAAC BRADLEY
Year of Injury: 0000
FEIN: 570234470
D/I: 12/04/1997
Employer: JANNOCK LTD D/B/A RICHTEX BRC
Cur Loc: 9300 RECORDS CEN
Carrier: 03072 Pacific Employers Insurance Co
CF#: C540C0977273
Notes
Prev Loc:
Details | Employer | Carrier | Attorney | Loc/Status | Awards | Case | Judicial | Dependent/Guardian | Form 20
Award ID | Type | Carr Code | Carrier | Date Inactive | Award Date | AWW | Comp Rate | Source
Carrier: 03072 Pacific Employers Insurance Co
Award ID: 00385584 Type: TT Award Date: 03/30/1998 AWW: 0.00 Source: A Salary Continued
TP TT PP Dist PT
Begin Date: 02/10/1998 WC Image: 9727973
Stop Date:
Current Salary: 0.00 0.00 0.00 0.00 0.00
Weeks: 0.0000 0.0000 0.0000 0.0000 0.0000
1st Payment Date: 02/24/1998
Adjusted AWW: 0.00 0.00 0.00 0.00 0.00
Comp Rate: 0.00 232.61 0.00 0.00 0.00 Date Inactive
Total Payment: 0.00 0.00 0.00 0.00 0.00 Reason:


Case File Maintenance - Closed
WCC #
9727573
"Closed"
Employee ISAAC
BRAILEY
Year of Injury 0000
FEIN
570234470
D/..12/04/1997
Employer JANNOCK LTD D/B/A RICHTEX BRIC
Cur Loc 9500
RECORDS CEN
Carrier 00072
Pacific Employers Insurance Co
CFA C5480977273
Notes
Prev Loc
Details | Employer | Carrier | Attorney | Loc/Status | Awards | Close | Judicial | Dependent/Guaranteed | Form 20
Carr Code CF # Name Status Form 19 Not Req Form 19 Received
Claim Totals
Temp Tot 631.00
Temp Part 0.00
Perm Part 0.00
Disfigurement 0.00
Death 0.00
Perm Tot 0.00
Release 2,500.00
Medical 1,225.00
Third Party 0.00
Grand Total 0.00
Closing Details by Carrier
Lifetime Medical
Lifetime Prescriptions
Lifetime Prosthesis
Lump Sum
Form 19 Not Required
Form 19 Received
Time Lost 0.0000
Date Denied
Date Final Receipt 06/04/1998
Date Reopened
Reason Reopened
F19 Image
Total Amounts by Carrier
Temp Tot 0.00
Temp Part 0.00
Perm Part 0.00
Disfigurement 0.00
Death 0.00
Perm Tot 0.00
Date Clincher 06/02/1998
Release Amount 0.00
Medical Amount 0.00
Third Party Rec 0.00
Date Third Party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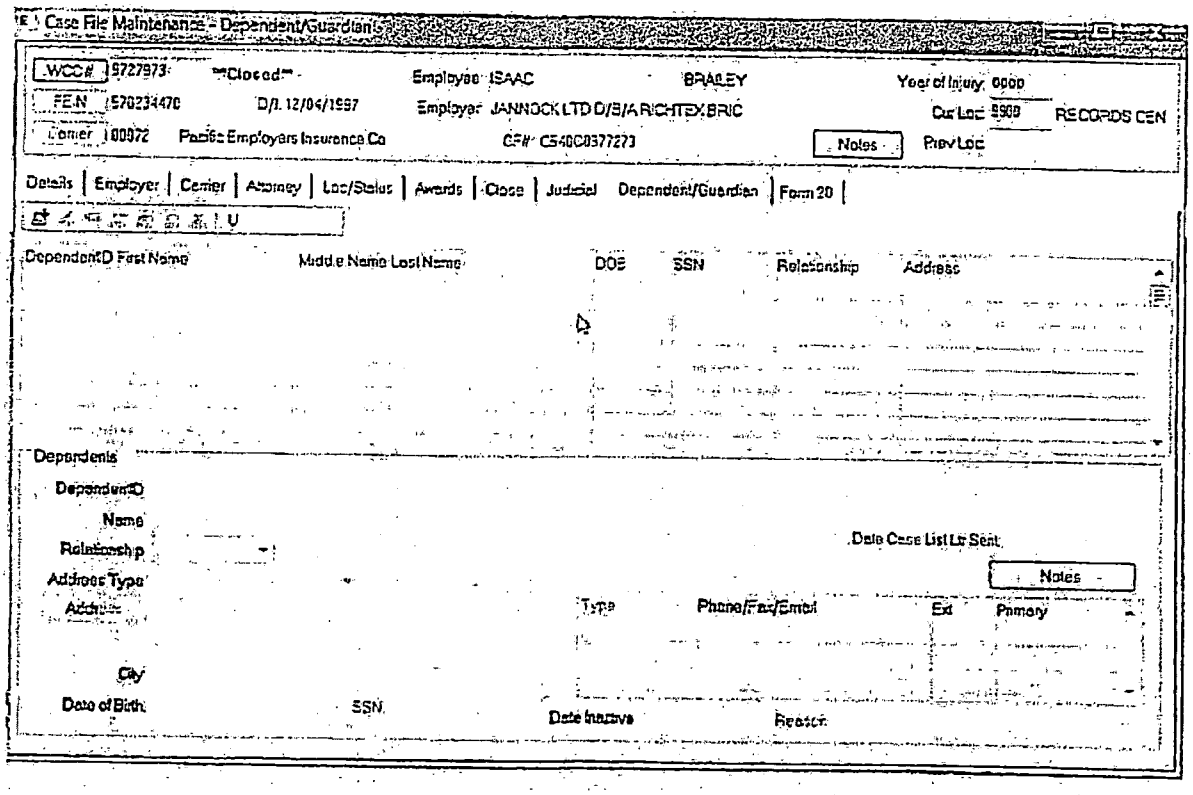
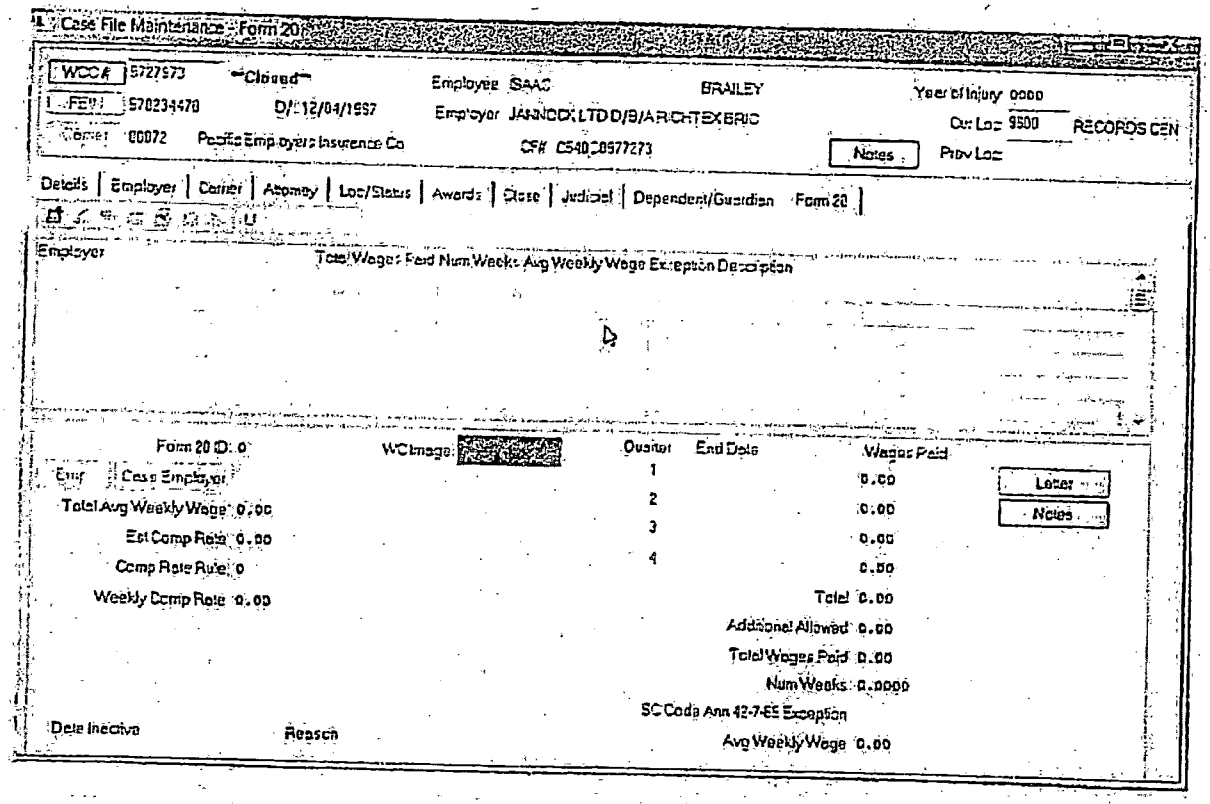
WCC# 9727973 "Closed" Employee ISAAC BRAILEY Year of Injury 0000
FEIN 570234470 D/: 12/04/1997 Employer JANNOCK LTD D/B/A RICHTEX R C Cur Loc 9900 RECORDS CEN
Carrier 00072 Pacific Employers Insurance Co CF#: CS40C0977273 Notes Prev Loc
Details | Employer | Carrier | Attorney | Loc/Status | Awards | Close | Judicial | Dependent/Guardian | Form 20
Jar ID Jar Type Filing Date Subject Current Status
Judicial
Filing Date: Service Date Hearing Date Time:
Req Name: Appealed Order Short Desc:
Invoice Number Print Notice Last Notice Printed
View/Update Activity Record Add Activity Record
Hearing Date Hearing Time Loc Code Subject Code
Location


Case File Maintenance - Dependent/Guardian
WCC#
9727973
Employee ISAAC BRADLEY
Year of Injury 0000
FEIN
570234470
D/I 12/04/1997
Employer JANNOCK LTD D/B/A RICHTEX BRIC
Cur Loc 9900
RECORDS CEN
Carrier
00972
Pacific Employers Insurance Co
CF#: C540C0377273
Notes
Prev Loc
Details
Employer
Carrier
Attorney
Loc/Status
Awards
Close
Judicial
Dependent/Guardian
Form 20
DependentID
First Name
Middle Name
Last Name
DOB
SSN
Relationship
Address
Dependents
DependentID
Name
Relationship
Address Type
Address
City
Date of Birth
SSN
Date Case List Ltr Sent
Notes
Type
Phone/Fax/Email
Ext
Primary
Date Inactive
Reason


Case File Maintenance - Form 20
WCC # 5727573
Closed
Employee ISAAC BRAILEY
Year of Injury 0000
FEIN 570234478
D/I 12/04/1997
Employer JANNOCK LTD D/B/A RICHTEX BRIC
Cur Loc 9500 RECORDS CEN
Carrier 00072 Pacific Employers Insurance Co
CF# C540_0977273
Notes
Prev Loc
Details | Employer | Carrier | Attorney | Loc/Status | Awards | Close | Judicial | Dependent/Guardian | Form 20
Employer
Total Wages Paid Num Weeks Avg Weekly Wage Exception Description
Form 20 ID: 0
WC Image
Quarter
End Date
Wages Paid
Enter
Case Employer
Letter
Notes
Total Avg Weekly Wage 0.00
Est Comp Rate 0.00
Comp Rate Rule 0
Weekly Comp Rate 0.00
1
2
3
4
0.00
0.00
0.00
0.00
Total 0.00
Additional Allowed 0.00
Total Wages Paid 0.00
Num Weeks 0.0000
SC Code Ann 42-7-65 Exception
Avg Weekly Wage 0.00
Date Inactive
Reason

MICHELIN NORTH AMERICA

Confidential Health Questionnaire for Post-Offer Examination

Name Isaac D. Bradley	Emergency contact
Address	Relationship
	Emergency contact phone
Phone	Family Doctor

Do you have problems with, or have you ever had medical attention for any of the following:

This section for Employee	YES	NO	Comment
1. Eye sight, color vision or depth perception	0	0	
2. Nose, throat, ear, sinus, balance or hearing problem	0	0	
3. Headaches or migraine	0	0	
4. Breathing or lung problems, asthma, bronchitis, emphysema, lung surgery or shortness of breath.	0	0	
5. Have you ever had a heart attack or any other kind of heart, circulation, or blood pressure problems?	0	0	
6. Stomach, ulcer, digestive, or bowel problem	0	0	
7. Kidney, or bladder problem	0	0	
8. Hernia or rupture	0	0	
9. Skin rashes, eczema, or dermatitis	0	0	
10. Joint problems, e.g. shoulder, elbow, wrist, hand, finger	0	0	
11. Arthritis or recurrent joint problems, e.g. hip, knee, ankle, foot	0	0	
12. Bone fracture or disease	0	0	
13. Back injury, backache or pain	0	0	
14. Blood disorder or anemia	0	0	
15. Diabetes, thyroid or other gland problems	0	0	
16. Drug allergies, hay fever, or general allergy	0	0	
17. Emotional disorder, anxiety, depression, sleep disorder or chronic fatigue	0	0	
18. Seizures, fits fainting spells, dizziness, sudden loss of balance, epilepsy, impaired coordination or dexterity.	0	0	
19. Are you currently taking any medication?	0	0	High Blood Pressure Enrolle
20. Have you previously worked in an industry exposing you to dust, chemicals, or solvents?	0	0	
21. Have you experienced a medical problem that affected your ability to perform your work?	0	0	
22. Have you been hospitalized? When? Why?	0	0	
23. List any surgical procedures you have undergone	0	0	
24. Have you smoked tobacco any time in the past 10 years?	0	0	
25. Have you ever experienced claustrophobia or panic attacks?	0	0	
26. Are you presently being treated for any condition that may inhibit your ability to work?	0	0	
27. Have you ever worn a respirator? Please describe usage.	0	0	
28. Do you wear dentures?	0	0	
29. Have you ever suffered heat stroke or illness related to a hot environment?	0	0	

Declaration and Authorization

I declare that all information contained herein is true and complete to the best of my knowledge. I understand and agree that any false, misleading or incomplete information will make me subject to disqualification from employment or subject to dismissal at any time. I hereby authorize Michelin to make any investigation it deems appropriate and expressly authorize any physician, hospital, clinic, or other person or entity Michelin may contact to release particulars of my health, medical history (other than genetic information) or any claim to Michelin. A photocopy of this authorization shall be as valid as the original.

Signature of Employee Isaac D. Bradley Date 3.20.17

Medical History and Examination Form
(Post-Offer/Pre-Placement)

Section A — To be completed by examinee — Please print

Name	Birth Date	Sex	Social Security No.
Brady Isaac D (Last, First, MI)	[redacted]	☑ Male ☐ Female	[redacted]

Current Address (Street, City, State, Zip)

P.O Box 212503

Columbia S.C 29221

Daytime Telephone Number

(803) 796-5781
(Area Code)

(WIN)

Work Location (Proposed)	Job Title (Proposed)	Examination Date
		5/16/01

Please note:

The physician examiner will use the information recorded on this form to:

1) **match your abilities against the proposed job's requirements;**
2) **gauge the potential for any serious safety hazard your employment may cause for yourself or others; and**
3) **note present health findings and use as a basis for comparison with future findings.**

Westinghouse Electric Corporation

Medical History and Examination Record
Westinghouse Form 30750I

P177

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Section A: Medical Questions

Do you have or are you troubled by ... (Examinee: Please check (✓) the appropriate answers.)

	Yes	No	Don't Understand
severe headaches?	☐	☑	☐
dizziness or vertigo?	☐	☑	☐
blackouts or fainting?	☐	☑	☐
fits or epileptic seizures?	☐	☐	☐
double vision?	☐	☑	☐
color blindness?	☐	☑	☐
any uncorrected loss of vision?	☐	☑	☐
ringing in the ears?	☐	☑	☐
hearing loss?	☐	☑	☐
hay fever or frequent colds?	☐	☑	☐
coughing spells?	☐	☑	☐
thick or bloody sputum?	☐	☑	☐
shortness of breath?	☐	☑	☐
asthma or wheezing?	☐	☑	☐
bronchitis or lung infections?	☐	☑	☐
chest pain or tightness?	☐	☑	☐
palpitations?	☐	☑	☐
abdominal pain?	☐	☑	☐
digestive problems?	☐	☑	☐
hepatitis or liver disease?	☐	☑	☐
a rupture or hernia?	☐	☑	☐
kidney stones?	☐	☑	☐
urinary problems?	☐	☑	☐
reproductive problems?	☐	☑	☐
allergies?	☐	☑	☐
skin problems?	☐	☑	☐
enlarged lymph nodes?	☐	☑	☐
other lumps or masses?	☐	☑	☐

	Yes	No	Don't Understand
arthritis or joint pain?	☐	☑	☐
shoulder or elbow problems?	☐	☑	☐
wrist or hand problems?	☐	☑	☐
recurrent low back pains?	☐	☑	☐
hip or knee problems?	☐	☑	☐
ankel or foot problems?	☐	☑	☐
muscle pains?	☐	☑	☐
a pinched nerve?	☐	☑	☐
numbness/tingling?	☐	☑	☐
tremors/shakiness?	☐	☑	☐
chronically cold hands or feet?	☐	☑	☐
a bleeding disorder?	☐	☑	☐
enlarged surface veins?	☐	☑	☐
high blood pressure?	☐	☑	☐
swelling or edema?	☐	☑	☐
low blood sugar?	☐	☑	☐
chronic fatigue?	☐	☑	☐
heat exhaustion?	☐	☑	☐
sugar diabetes?	☐	☑	☐
difficulty concentrating?	☐	☑	☐
prolonged depression?	☐	☑	☐
anxiety or phobias?	☐	☑	☐
other mental or emotional problems?	☐	☑	☐
a learning disorder?	☐	☑	☐
a fear of closed places?	☐	☑	☐
alcohol or other drug problems?	☐	☑	☐
any other health concerns?	☐	☑	☐

Have you ever...? (Examinee: Please check (✓) the appropriate responses and give details about each "Yes" answer.)

	Yes	No	Details
- been injured in a motor vehicle crash?	☐	☑	
- sustained a serious head injury?	☐	☑	
- broken or fractured a bone?	☐	☑	
- been kept overnight in a hospital?	☐	☑	
- undergone a surgical procedure/operation?	☐	☑	
- sought chiropractic treatment?	☐	☑	
- worked in a dusty trade or chemical plant?	☐	☑	
- been exposed to asbestos, lead or other hazards?	☐	☑	
- had a work-related injury or illness?	☐	☑	
- missed work 10 consecutive days due to illness/injury?	☐	☑	
- been restricted medically from doing any part of your job?	☐	☑	

Would you describe your present health as ...

☑ excellent? ☐ good? ☐ fair? ☐ uncertain

Please list below all medications (other than vitamins or birth control pills) you take regularly:

I certify that the above answers are true and complete. I understand that the information will be held confidential in accord with applicable laws and corporate policies. I agree to the employer's being told by the physician examiner of any medical restrictions or limitations placed on my performance.

Diane D Bradley
(Signature of person being examined)

05/16/01
(Date Signed)

P179

19

HealthWorks Questionnaire and Physical

NAME: Isaac D. Bailey II DATE: 10-7-13

COMPANY: Westinghouse JOB TITLE: Inspector

[redacted] GENDER: M ☑ F ☐ DATE OF BIRTH: [redacted] AGE: [redacted]

ADDRESS: P.O. Box 12303 CITY Columbia STATE S.C ZIP 2922[illegible]

PHONE: HOME (803) 265-7319 CELL Isaac WORK (803) [redacted]

#	Do you have or have you ever had the following? (Please check the appropriate box for each item.)	Now	Past	Never	Please supply COMPLETE DETAILS in the space below for questions where you marked any "yes" answers. Please list the number of the question you are responding to:
1.	Hypertension (high blood pressure)	✓			
2.	Cardiac disease, heart attack, stents, bypass, pacemaker, heart murmur or other heart or blood vessel problem			✓	
3.	Palpitations (irregular heart beat), chest pain or tightness			✓	
4.	Shortness of breath, asthma, wheezing, hay fever or lung disease, including tuberculosis, or cough for more than a month			✓	
5.	Vision or eye problems, including glasses or contacts, glaucoma			✓	
6.	Deafness, hearing loss, use a hearing aid, tinnitis (persistent ringing or buzzing in your ears), ruptured eardrum, frequent or severe earaches, other hearing or ear problems			✓	I treated (ortho)
7.	Kidney or bladder problems, including frequent infections or stones			✓	
8.	Liver disease or hepatitis			✓	
9.	Ulcer, vomiting blood or other stomach problem			✓	
10.	Hernia or history of hernia repair			✓	
11.	HIV infection, AIDS or other immune disorder			✓	
12	Arthritis or other joint problems			✓	
13	Fractures (broken bones)			✓	
14.	Psychiatric or emotional disorder, depression, anxiety, panic attacks			✓	
15.	Frequent or severe headaches/migraines			✓	
16	Dizziness, lightheadedness, fainting or falls, balance problems			✓	
17.	Epilepsy or seizures			✓	
18.	Other brain or nervous system problems, including head injury, cerebral palsy, Parkinson's disease, muscular dystrophy, multiple sclerosis, poliomyelitis, tremor (shaking), or stroke			✓	
19.	Skin problem, rash, psoriasis, eczema			✓	
20.	Illness or injury from any exposure to hazardous chemicals, drugs, dust or radiation			✓	
21.	Diabetes (sugar) or low blood sugar			✓	
22.	Cancer or tumors, including leukemia, lymphoma or Hodgkin's disease			✓	
23.	Anemia, sickle cell anemia, varicose veins, hemophilia, blood clots or other bleeding disorder			✓	
24.	Carpal tunnel syndrome diagnosis, treatment or surgery			✓	
25.	Any pain, numbness, limited motion, injury or surgery of the:	✓			Knee pain w/ weather
	Back or neck			✓	
	Shoulder, arm, hand, wrist, finger			✓	
	Hip, knee, leg, ankle, foot	✓			
26.	Are you pregnant or breast feeding?			✓	
27.	Ever hospitalized overnight for a reason other than surgery?			✓	
28.	Have you ever had a work injury, Workers' Compensation claim, been given an impairment rating or disability rating, applied for or received any type of disability or pension (including military/VA), received an award or settlement for any injury, accident, disease or other disorder?			✓	
29.	Do you have any current or permanent restrictions or limitations?			✓	
30.	Have you had a previous job with similar physical demands?			✓	
31.	Do you have any other health problem, concern or disease?			✓	

List all medications you are currently taking or have taken in the last month:

Lotrel 10/40

amlodipine

Note:

1. *If you smoke and/or use smokeless tobacco, as healthcare professionals we strongly recommend you quit. If you would like to discuss smoking-related risk or smoking cessation, please ask the healthcare professional during your evaluation.*
2. *As healthcare providers, we recommend that you stay up to date with age and gender appropriate cancer screening such as pelvic, breast, prostate and/or colon. We also strongly encourage you to follow up with your primary care provider for this purpose.*

I hereby affirm that the information above is true to the best of my knowledge and belief. I agree that any false statement or misrepresentation will be cause for dismissal.

I give *Health*Works staff permission to perform an assessment, examination and conduct any necessary tests as part of this evaluation. The results of any tests are to be released to *Health*Works. I authorize *Health*Works and its staff to contact my physician to obtain my medical records or written report/opinion if deemed necessary to complete this evaluation. I also authorize *Health*Works and my physician/provider to communicate or exchange any medical information which is necessary for this purpose.

I authorize *Health*Works staff to convey any relevant medical information including but not limited to drug testing results or any false statement or misrepresentation, to my insurer, employer or prospective employer or their assigns.

I understand this evaluation is done for employment purposes only and does not replace routine health care or periodic physical exams performed by my primary care provider, which are more comprehensive and address personal health issues not covered in today's evaluation, including but not limited to routine cancer screening.

Signature: [signature] Date: 10-7-13

*Health*Works Witness: [signature] Date: 10-7-13

For Office Use only:

MERT, Emergency Brigade, Firefighter, Hazmat exam. (include spirometry and EKG)

- ☐ male >45 years old or female >55
- ☐ family hx of MI or sudden death <55 (male relative) or <65 (female relative)
- ☐ current cigarette smoker
- ☐ BP > 140/90 or on antihypertensive medication
- ☐ HDL <40 (negative risk for >60)
- ☐ cholesterol >240
- ☐ physical inactivity
- ☐ diabetes

Hazardous drugs/Cyto exam

- Include exam for lymphadenopathy, vibratory sense in all 4 extremities
- review labs and exposure history;
- have employee sign the statement at the bottom of this box)

Repeat Cyto exam in ☐ 2 years or ☐ 1 year

I understand it is my responsibility to contact Employee Health for a hazardous drugs/cyto exam when I plan to transfer or terminate employment.

Employee Signature: _____

Date: _____

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

WCC File No.: 1708221

Isaac Brailey,

Claimant,

v.

Michelin,

Employer,

and

Gallagher Bassett Services,

Carrier,

Defendants.

CLAIMANT'S RETURN TO DEFENDANTS' MOTION TO RECONVENE THE DEPOSITION OF DR. SCOTT BOYD

The Claimant, Isaac Brailey, hereby files his Return to Defendants' Motion to Reconvene the Deposition of Dr. Scott Boyd. As grounds for denying this Motion, Claimant would show (1) this case has been continued 4 times since the original hearing date scheduled on December 4, 2017, such that a further delay beyond the current March 28 hearing date is an unreasonable hardship to Claimant; (2) Defendants had knowledge of Claimant's previous 1997 workers' compensation claim as early as September 25, 2017; (3) the case was previously continued for Dr. Boyd's deposition; (4) Dr. Boyd was deposed in full on January 15, 2018; (5) Defense counsel could have questioned Dr. Boyd about the 1997 claim, but did not; (6) Medical records from 20 years ago are stale and have no probative value to the issues in this case, particularly when, as here, the records contain no evidence of permanent injury or impairment; and (7) Defendants' mischaracterize Dr. Boyd's testimony regarding aggravation of a preexisting condition as it relates to back pain Brailey felt while working at Michelin in the weeks before his June 24, 2017 accident.

ARGUMENT

Defendants' Motion to Continue the Hearing and Reopen the Deposition of Dr. Boyd should be Denied.

Under the facts of this case, there is no justification to further postpone the hearing to reopen the deposition of Dr. Boyd. Defendants have been fishing in this pond ever since September 24, 2017 when Brailey testified in his deposition about a previous workers' compensation claim occurring twenty years ago. Since the deposition, Defendants have served 9 subpoenas on various entities. This includes serving subpoenas on 5 separate medical providers *after Dr. Boyd's deposition had been completed.* with no evidence to support a belief that any of those providers had actually provided treatment to Brailey. The originally scheduled hearing has been postponed 4 times already to accommodate Defendants. Two of these continuances were for additional discovery – Dr. Boyd's original deposition taken on January 15, 2018 and a postponement for the screen shots from the 1997 claim to be produced.

Defendants now seek another continuance to reopen the deposition of Dr. Boyd. Dr. Boyd testified in full on January 15, 2018. At that time, even though Defendants had known about the 1997 workers' compensation claim for over three months, they asked no questions about it and made no request to adjourn.

Records obtained by Defendants from the 1997 claim show Brailey had a minor injury with minimal treatment and no evidence of permanent impairment. Commission records show the claim clinchered for nuisance value of $2,500.00. Defendants now seek to cross-examine Dr. Boyd on 20-year-old medical records. Presumably Defendants seek to persuade Dr. Boyd that Brailey should not have been placed in his job at Michelin because of a preexisting weakness or susceptibility to injury. For Dr. Boyd or any other doctor to make such a statement based on stale medical records would be pure speculation. See Wright v. Strickland, 306 S.C. 187, 410 S.E.2d 596 (Ct. App.

1991)(where there was "no showing that additional testimony would make any difference in the outcome of the case," court held moving party "simply seeks the opportunity to embark on 'a fishing expedition."); Dawkins v. Fields, 354 S.C. 58, 69, 580 S.E.2d 433, 439 (2003) ("party must demonstrate the likelihood that further discovery will uncover additional relevant evidence and that the party is not merely engaged in a fishing expedition.").

A hearing commissioner has discretionary authority to grant or deny a continuance. Where, as here, there is no showing that reopening Dr. Boyd's deposition would lead to additional relevant evidence, an additional continuance should be denied. Trotter v. Trane Coil Facility, 393 S.C. 637, 714 S.E.2d 289 (2011)(hearing commissioner acted within his discretion in denying motion to leave the record open to depose doctor where basis of motion was party's trial strategy). As such, the motion should be denied.

Respectfully Submitted,

Stephen B. Samuels
Samuels Law Firm, LLC
1320 Richland Street
Columbia, SC 29201
(803) 779-4000

March 22, 2018
Columbia, South Carolina

ADDENDUM: DETAILED PROCEDURAL HISTORY

1. Claimant Isaac Brailey alleges he suffered a compensable injury to his back with resulting radiculopathy into his left leg on June 24, 2017 while employed with Michelin.

2. Brailey was deposed by Defendants' attorney on September 25, 2017. In his deposition, Brailey disclosed that he had a previous workers' compensation claim 20 years ago. Brailey recalled receiving a settlement of "Like $1,200, I think." When asked if he had "continued back and shoulder pain after that," he testified "No. No, I haven't had it continue."

3. Claimant filed his Form 50 (Request for Hearing) on October 4, 2017. On November 3, 2017, Defendants filed a Form 51 denying Brailey's claim.

4. On November 14, 2017, Defendants ran a "Claims Index" on Brailey. Even though the Claims Index had explicitly been subpoenaed by Claimant on August 10, 2017, this report was not produced to Claimant until Defendants' December 4, 2017 prehearing brief.

5. On November 17, 2017, Defendants served 2 subpoenas on various entities, to wit: Ace Property and Casualty Company (in Virginia); and Nationwide Mutual Insurance Company.

6. A hearing was scheduled before Commissioner Wilkerson on December 14, 2017.

7. Upon receiving Claimant's prehearing brief, Defendants requested a continuance to depose Brailey's treating neurosurgeon, Dr. Scott Boyd. Claimant consented to the continuance. The hearing was continued to January 31, 2018.

8. Dr. Boyd was deposed on January 15, 2018.

9. On January 16, 2018, Defense Counsel served 7 subpoenas on various entities, to wit: Lexington Medical Center, Providence Hospital, Palmetto Health Baptist, Springwood Lake Family Practice, Palmetto Health Richland, South Carolina Department of Juvenile Justice, and Westinghouse Electric Corporation. Five of the entities served are medical providers. The other two entities are former employers of Brailey discussed in his September 25, 2017 deposition.

10. On January 19, 2018, Defense counsel's paralegal sent an email to Commissioner Wilkerson's Administrative Assistant, Deborah Hutto, requesting that "all of the claimant's . . . prior wc claims be added to the Commission's file and made part of the record for the January 31, 2018 hearing." On January 22, 2018, Hutto responded stating "Details I have confirmed this morning that the prior wd file for Mr. Brailey has indeed been destroyed." In response, Defense counsel's paralegal wrote: "We would request a copy of the 'print screen' that the SCWCC has available for the prior WC file. Please have the print screen available at the time fo the Hearing or provide by email to the parties in advance of the hearing." At that time, Claimant's counsel declined to consent. On February 1, 2018, Defendants filed a "Motion to Compel Execution for Release of Records from Prior Workers' Compensation Claim."

11. On January 23, 2018, Defendants requested a continuance of the January 31, 2018 hearing based on unavailability of their witnesses due to a meeting at Michelin with directors from France. Claimant's counsel responded:

> While I personally have no objection to a very brief postponement, my client does not consent -- particularly as this case has already been postponed at Mr. Beard's request.
>
> If the case is reset, I am available all day on Monday, February 5th.

The hearing was continued for a second time to February 5, 2018.

11. The parties appeared for the February 5, 2018 hearing before Commissioner Wilkerson. Commissioner Wilkerson granted the Motion regarding production of the screen shots for Brailey's 1997 workers' compensation claim. The screen shots confirmed Brailey's deposition testimony about a 20-year-old workers' compensation claim. The hearing was continued for a third time to February 28, 2018.

12. The parties appeared before Commissioner Wilkerson for the February 28, 2018 hearing prepared to go forward with the trial. Commissioner Wilkerson's docket made it impossible

to complete the hearing on February 28, 2018, so the hearing was continued a fourth time to March 23, 2018.

13. On March 1, 2018, Defense counsel advised Claimant's counsel that he would like to reconvene Dr. Boyd's deposition on March 8, 2018. On March 2, 2018, Claimant's counsel responded that he was not available on March 8th as he was scheduled to appear before Commissioner Beck for a hearing expected to last 4-6 hours. He further advised that he does not consent to reconvening Dr. Boyd's deposition.

14. On March 12, 2018, Defendants filed the instant "Motion to Reconvene the Deposition of Dr. Scott Boyd."

15. As grounds for this motion, Defendants contend they have "newly discovered evidence" in the form of two medical records from 20 years ago along with "Post-Off Pre-Placement Medical History and Examination Form."

South Carolina Workers' Compensation Commission
1333 Main Street, Suite 500
P.O. BOX 1715
Columbia, SC 29202-1715
803-737-5675 www.wcc.sc.gov

WCC File #: 1708221
Carrier File #: 002550-080240-WC-0
Carrier Code #: 1026
Employer FEIN #:

Claimant's Name: Isaac Brailey SSN:
Address:
City: State: Zip:
Home Phone: ( ) - Work Phone: ( ) -
Preparer's Name: Stephen B. Samuels Law Firm: Samuels Law Firm

Employer's Name: Michelin North America, Inc.
Address: 2420 Two Notch Rd.
City: Lexington State: SC Zip: 29071
Insurance Carrier: Gallagher Bassett Services
Preparer's Phone #: (803) 779-4000

REQUEST FOR COMMISSION REVIEW

Request for Commission Review by ☒ Claimant ☐ Employer (check one) Date of Injury or Illness: 06/24/2017

The undersigned makes application for review of the findings of the Commissioner in the above-captioned case. The request for review is based on the following grounds: (State the grounds of your appeal in the form of questions presented. Each question presented must contain a concise statement of one proposition of law or fact. Refer to evidence by title and exhibit number. Use additional pages if necessary).

Please see "Attachment to Form 30, Request for Commission Review."

(Check one) Oral argument ☒ is ☐ is not requested. Appellant's request for oral argument is waived if not indicated on this form.

☐ **Mediation**

☐ Mediation is requested by consent of the Parties pursuant to Reg. 67-1803.

Questions regarding mediation may be submitted to **mediation@wcc.sc.gov**.

I certify I have served this document pursuant to Reg. 67-211 by delivering a copy to Grady L. Beard, Robinson Gray Stepp & Laffitte, LLC, PO Box 11449, Columbia, SC 29211 on the 24th day of July 2018, by ☒ first class postage ☐ certified mail ☐ personal service.

Preparer's Signature | Attorney for Claimant (Title) | Stephen@samuelslawfirm.net (Email) | July 24, 2018 (Date)

Check this box if you are not represented by an attorney ☐

Questions about the use of this form should be directed to the Judicial Department at 803.737.5675 or appeals@wcc.sc.gov.

If the claimant appeals and is not represented by counsel, the Judicial Department will properly serve this form pursuant to Reg. 67-607 C. Pursuant to Reg. 67-205 and Reg. 701, the appeal must be postmarked no later than 14 days from the date of service of the Decision and Order of the Hearing Commissioner along with the filing fee. Attach a Form 32, if you are unable to pay the filing fee. Refer to Reg. 67-211 and Reg. 67-701 through 711.

ATTACHMENT TO FORM 30

Isaac D. Brailey v. Michelin North America, Inc.

W.C.C. File Number: 1708221

Grounds of Appeal:

1. Whether the Single Commissioner erred as a matter of fact and law in finding Claimant did not sustain an injury by accident arising out of and in the course of his employment at Michelin.

2. Whether the Single Commissioner erred as a matter of fact and law in finding Claimant's testimony was not credible.

3. Whether the Single Commissioner erred as a matter of fact and law in finding Claimant was unclear as to the date of the accident when his testimony, confirmed by medical records and employer records, confirmed that after some back pain from his work at Michelin, he suffered an acute injury by accident on June 24, 2017.

4. Whether the Single Commissioner erred as a matter of fact and law in finding Claimant did not report back pain from his work to Michelin prior to his work accident.

5. Whether the Single Commissioner erred as a matter of fact and law in finding Dr. Boyd did not provide causation when Dr. Boyd's opinion was explicit as to causation to a reasonable degree of medical certainty.

6. Whether the Single Commissioner erred as a matter of fact and law in finding Defendants proved the elements of the Cooper v. McDevitt and Street defense, as Claimant did not make a material misrepresentation on his application for employment; that Employer relied on the physical examination clearing Claimant for work (confirmed later by Dr. Izard); and there is no evidence of a causal connection between any alleged misrepresentation and the ultimate work-related injury.

7. Whether the Single Commissioner erred as a matter of fact and law in finding "The claimant has failed to carry his burden of proof of an accident being sustained on June 24, 2017."

8. Whether the Single Commissioner erred as a matter of fact and law in finding that the separate incident occurring on June 24, 2017 after which Claimant was unable to return to work was not compensable.

9. Whether the Single Commissioner erred as a matter of law in finding this claim was barred by Capers v. Flaut when no factual findings were made to support such a defense and when the defense does not apply to this case in that there was no evidence that Claimant knew or could have known that he would injure his back at Michelin.

10. Whether the Single Commissioner erred as a matter of fact and law in finding stale medical records of a minor injury to a different part of Claimant's back from 25 years ago could support any defense or denial of this claim.

11. Whether the Single Commissioner erred as a matter of fact and law in finding this claim was barred by "the claimant intentionally and willfully did so by failing to alert or notify his employer he was allegedly suffering from ten out of ten low back pain for at least 4 weeks prior to that date and seeking medical treatment on his own without any knowledge by his employer due to his failure to provide same."

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

WCC FILE NO.: 1708221

Isaac D. Brailey, Claimant/Appellant, v. Michelin North America, Employer, and Safety National Casualty Corporation, Carrier, Defendants/Respondents,	**BRIEF OF CLAIMANT/APPELLANT**

Claimant, by and through his undersigned attorney, hereby submits his Brief of Claimant/Appellant in support of his claim for workers' compensation benefits.

STATEMENT OF THE CASE

This is an appeal from a Form 50 hearing in a denied case. The Claimant, Isaac Brailey, was employed as a production worker at Michelin. Brailey sustained a work related injury to his back on June 24, 2017. The Single Commissioner found "the claimant was unable to return to work after June 24, 2017, due to a separate incident. I find the June 24, 2017, incident is not compensable based upon the greater weight of the evidence and the other reasons stated within this finding." The Single Commissioner held Brailey failed to sustain his burden of proof and that Defendants had proven the affirmative defenses set forth in Cooper and Capers.

Isaac Brailey is [redacted] years old. Twenty-one years ago, Brailey worked for Richtex Brick for about three weeks. On December 4, 1997, he had an admitted minor injury (lumbar and thoracic strain) for which he received two family practice visits and some physical therapy. X-rays were "essentially normal except for some wedging of L5," which the doctor described as "questionable." [Defendants' APA pages 1-2]. He was paid TTD for 2 weeks and 5 days. Brailey clinchered this claim for a nominal sum ($2,500.00) in June 1998. [Claimant's APA page 95].

For the next twenty years, Brailey had no problems with his back and no workers' compensation claims. Brailey worked as a quality control technician for Westinghouse for 15 years, until he was laid off in a reduction in force in March 2016.

Brailey worked briefly as a correctional office for DJJ before joining Michelin in April 2017. He had long hoped to join Michelin and stay there until retirement.

When Brailey filled out his health questionnaire for Michelin on March 2, 1997, he admittedly did not disclose his previous injury from 20 years before. He was given a complete physical exam and cleared for work with Michelin.

Brailey started working for Michelin on April 17, 2017. The work was strenuous and caused body aches – including in the back. Brailey was told aches and pains were a normal part of getting used to the job.

On June 11, 2017, Brailey went to Urgent Care. He reported "low back pain particularly in the left lumbar paraspinal region for the past several days. Patient was doing some heavy lifting at work prior to the onset of pain. He denied any history of prior back rales. [sic] No direct trauma. No incontinence or radiation." [APA pages 13-15]. Brailey was given a muscle relaxer and pain medication. He was not placed under any work restrictions.

Two days later, on June 13, 2017, Brailey went to Dr. Marom, his family doctor, reporting "left lower back pains for the past 2 weeks. Has had new job at Michelin, moving heavy stuff – there now for about past 2 weeks. Pain is 10/10 with certain movements. . . . no radiation into legs." [APA page 7]. Dr. Marom diagnoses "acute low back . . . no radicular signs/symptoms j. . . discussed likely strained muscles due to heavier work load at new job." [APA page 11].

As there was no accident and the doctors told Brailey this was muscle strain due to new job (matching what he had been told by his trainers at Michelin), Brailey did not report an accident nor file a workers compensation claim.

Brailey continued to work for Michelin. On Saturday June 24, 2017, he was working in the early morning "stretching the rubber on tires" when he felt a sharp pain in his back. He reported the issue to Jermaine who told him "yeah, I know that hurt you." Brailey went to the nurses station, but it was not open during third shift weekends, so when he completed his shift he went to the emergency room at Lexington Medical Center, arriving shortly after 9:00 am.

At the emergency room, he reported "lower back pain to left side since he was working last night, states does a lot of lifting/pulling and started hurting then." [APA page 16]. Brailey was given medication and – unlike his previous two doctor visits – taken out of work for three days. [APA page 25]. He was referred to a neurosurgeon. [APA page 25].

Brailey called his training supervisor, Troy Lowman, from the emergency room. Lowman contacted the plant nurse, Christie Sirois. Sirois called Brailey. He told her "he was seen in the ER for lower left back pain that started on 6/24/17 while stretching and pulling rubber." Sirois told Brailey not to take the medication prescribed by the emergency room and set up with the company doctor, Dr. Izard. [APA page 88].

On Monday morning, June 26, 2017, Brailey reported to Dr. Izard. On intake, he filled out a pain diagram showing left sided back pain with numbness radiating down his left buttock to just below his knee. [APA page 28]. Dr. Izard documented "pain located in the Upper Leg, left side of back, left leg numbness . . ." [APA page 29]. Dr. Izard recorded:

> There seems to be a significant degree of symptom amplification and magnification by the employee. I explained to the employee that at the worst he has a back strain which should require only treatment with NSAIDs and a muscle relaxant. I also explained to him that *he may very well have a urinary tract infection* since he was having difficulty urinating and having pain in the CVA area on the left side. He was advised to discontinue taking Percocet because of the high risk for addiction and the high risk for hyperalgesia related to the Percocet. The employee was also *advised not to follow-up with the neurosurgeon* that he will follow-up with me at Michelin medical department on Wednesday, 06/28/2017. [APA page 30 (emphasis added)].

Dr. Izard gave "no work restrictions at this time." [APA page 32].

Concerned with the contradictory advice and the misdiagnosis of a UTI, Brailey went back to the emergency room the next day, on June 27, 2017. He stated "he has numbness in his right leg and also states when he coughs it hurts his back." He was diagnosed with left sided sciatica, given an injection, oral steroids and Percocet, referred to Lexington Brain and Spine, and taken out of work for another three days. [APA pages 33-42].

The next morning, Brailey called Christie Sirois. He told her he could not see Dr. Izard that day because he did not have a ride. She asked if he is "treating this personally and he stated no that it was work related." [APA page 88].

On Friday, June 30, 2017, Brailey went to Doctor's Care. He reported "he was hurt at Michelin. He says the Michelin doc told him to put ice on it and he had no work restrictions. He has muscle spasm, loss of balance. He has been seen twice in the ER for this problem." Given that he was already on medication from the ER, the doctor had nothing more to offer and "I told he and his wife he needed to see the ortho." [APA page 45].

Brailey never returned to work at Michelin. Michelin terminated his employment "for not being a good fit during you probationary period" on July 6, 2017. [APA page 83]. Michelin's carrier formally denied the claim on July 13, 2017. [APA page 81].

On July 24, 2017, Brailey started treatment with a neurosurgeon, Dr. Scott Boyd. He reported the June 24, 2017 injury at Michelin. His "pain has been increasing and is now radiating down his LEFT leg towards the thigh with numbness in the LEFT calf." An MRI and physical therapy were ordered. [APA pages 52-55].

The MRI showed a "Left paracental disc extrusion at L4-5 with a large superiorly migrated extruded disc fragment measuring 13 x 12 x 14 mm, which results in complete effacement of the left lateral recess, with contact and likely compression of the transiting nerve roots." [APA page 56].

Dr. Boyd opined Brailey "needs surgery" and kept him out of work. Brailey wanted to avoid surgery, so physical therapy was provided. [APA page 69].

On November 19, 2017, Dr. Boyd completed a questionnaire in which he provided causation to the work accident to a reasonable degree of medical certainty. [APA page 71].

> Dr. Boyd was deposed on January 15, 2018. After reviewing all medical records, he testified: It sounds like he began having back problems with pain because of increased physical exertion with his new job at Michelin starting in April, got progressively worse to the point that he sought medical attention.
>
> And I think, at some point, somewhere around June 24th, something changed where he began having a slightly different set of symptoms with pain radiating down his left leg in a radicular pattern. [Boyd dep. Tr. Page 43, lines 8-19].

Dr. Boyd added the pain running down his left leg in a radicular pattern "would be consistent with a disk herniation" which is what he found on the MRI. [Boyd dep. Tr. Page 43, line 20-page 44, line 1]. Dr. Boyd opined to a reasonable degree of medical certainty "I believe that, more likely than not, he injured his lumbar spine at his employment, including some episode on June 24th." [Boyd dep. Tr.

page 44, line 15-page 45, line 4]. Dr. Boyd maintained his opinion on causation throughout the deposition.

The case was tried before Commissioner Wilkerson on March 23, 2018. By Decision and Order dated July 10, 2018, Commissioner Wilkerson denied the claim. He made various findings, the most important being:

> This claim is denied in its entirety based on evidence of numerous issues relating back to 1997 through 2017. The Claimant has failed to carry his burden of proof of an accident being sustained on June 24, 2017, due to his lack of credibility, the lack of sufficient medical evidence to support his allegations, and, moreover, due to medical evidence to the contrary. I find the claimant was unable to return to work after June 24, 2017 due to a separate incident. I find the June 24, 2017, incident is not compensable based upon the greater weight of the evidence and the other reasons stated within this finding. [Order, page 21, Finding of Fact 10].

The Commissioner primarily denied the claim based on finding Defendants proved the affirmative defenses set out in Cooper v. McDevitt & Street Co., 260 S.C. 463, 196 S.E.2d 833 (1973) and Capers v. Flautt, 305 S.C. 254, 407 S.E.2d 660 (Ct.App.1991).

ISSUES ON APPEAL

1. Whether the Single Commissioner erred as a matter of fact and law in finding Claimant did not sustain an injury by accident arising out of and in the course of his employment at Michelin.

2. Whether the Single Commissioner erred as a matter of fact and law in finding Claimant's testimony was not credible.

3. Whether the Single Commissioner erred as a matter of fact and law in finding Claimant was unclear as to the date of the accident when his testimony, confirmed by medical records and employer records, confirmed that after some back pain from his work at Michelin, he suffered an acute injury by accident on June 24, 2017.

4. Whether the Single Commissioner erred as a matter of fact and law in finding Claimant did not report back pain from his work to Michelin prior to his work accident.

5. Whether the Single Commissioner erred as a matter of fact and law in finding Dr. Boyd did not provide causation when Dr. Boyd's opinion was explicit as to causation to a reasonable degree of medical certainty.

6. Whether the Single Commissioner erred as a matter of fact and law in finding Defendants proved the elements of the Cooper v. McDevitt and Street defense, as Claimant did not make a material misrepresentation on his application for employment; that Employer relied on the physical examination clearing Claimant for work (confirmed later by Dr. Izard); and there is no evidence of a causal connection between any alleged misrepresentation and the ultimate work-related injury.

7. Whether the Single Commissioner erred as a matter of fact and law in finding "The claimant has failed to carry his burden of proof of an accident being sustained on June 24, 2017."

8. Whether the Single Commissioner erred as a matter of fact and law in finding that the separate incident occurring on June 24, 2017 after which Claimant was unable to return to work was not compensable.

9. Whether the Single Commissioner erred as a matter of law in finding this claim was barred by Capers v. Flautt when no factual findings were made to support such a defense and when the defense does not apply to this case in that there was no evidence that Claimant knew or could have known that he would injure his back at Michelin.

10. Whether the Single Commissioner erred as a matter of fact and law in finding stale medical records of a minor injury to a different part of Claimant's back from 25 years ago could support any defense or denial of this claim.

11. Whether the Single Commissioner erred as a matter of fact and law in finding this claim was barred by "the claimant intentionally and willfully did so by failing to alert or notify his employer he was allegedly suffering from ten out of ten low back pain for at least 4 weeks prior to that date and seeking medical treatment on his own without any knowledge by his employer due to his failure to provide same."

ARGUMENT

1. Claimant met his burden of proof by showing by medical evidence that he suffered a compensable injury by accident.

The Single Commissioner found as a fact that "I find the claimant was unable to return to work after June 24, 2017 due to a separate incident." [Order, page 21, Finding of Fact 10]. While the Commissioner found " the June 24, 2017, incident is not compensable," the finding confirms Brailey proved that he had injured his back while working at Michelin on June 24, 2017. He has therefore met

his burden of proof on showing he suffered an injury by accident arising out of and in the course of his employment. S.C. Code Ann. § 42-1-160 (2007).

The fact Brailey had back pain from his new job prior to the accident does not change this analysis. When Brailey went to Urgent Care and his family doctor, he had back pain but *no radicular signs or symptoms*. It was not until the June 24, 2017 work accident that he developed radiculopathy.

This is dramatically demonstrated by the pain diagram he filled out for Dr. Izard on June 26, 2017. [APA page 28]. Every medical report from that time on consistently shows left sided radiculopathy – a symptom notably absent from the June 11th and 13th examination (and absent from the 1997 medical records).

Clear *objective proof* of the new injury is shown by the July 29, 2017 MRI. The MRI showed a large extruded disc fragment measuring 13 x 12 x 14 millimeters (about ½ an inch) compressing the L4-5 nerve roots. [APA page 56]. Dr. Boyd opined this was proof of causation.

There is no medical evidence showing a different incident nor is there medical evidence that the radiculopathy and herniated disc existed before the June 24, 2017 work accident. Moreover, Brailey reported the June 24, 2017 work accident the same day it happened, as documented by Nurse Sirois.

Brailey most specifically proved his injury by accident by the reports and testimony of Dr. Scott Boyd. Dr. Boyd opined specifically that the work accident of June 24, 2017 caused the herniated disc. [Boyd dep. Tr. Page 43, line 8-page 45, line 4; APA page 71]. The Single Commissioner "found causation is not provided in the medical records because Dr. Boyd had no knowledge of the extent of claimant's prior back issues." [Order, page 20, Finding of Fact 5]. This is belied by the deposition testimony. Dr. Boyd was examined in detail on Brailey's previous records from Urgent Care, the emergency room, and Dr. Izard. If this finding is supposed to imply that Dr. Boyd's opinion

can be rejected because he was not shown medical records from twenty years ago, this would be error. Those stale medical records have no probative value. If the Commissioner believed they did have value, then he should have ordered Dr. Boyd's deposition to be reconvened.

Whether the accident is not compensable for other legal reasons is a separate issue. The Single Commissioner's finding of an "incident" at Michelin on June 24th that took Brailey out of work is confirmation that he actually proved his prima facie case. Therefore, the Appellate Panel should reverse and find that Brailey met his burden of proof.

2. Defendants cannot prove the elements of the *Cooper v. McDevitt & Street* defense.

At the hearing, the employer proved the so-called "fraud in the application defense" adopted in Cooper v. McDevitt & St. Co., 260 S.C. 463, 196 S.E.2d 833 (1973). If an employer proves the Cooper defense, it can then void the employment relationship. If there is no employment relationship, the Commission has no subject matter jurisdiction over the claim to award benefits.

Three elements must be proven by an employer to bar a workers' compensation claimant from receiving benefits when he makes false statements in an employment application: "(1) The employee must have knowingly and wilfully made a false representation as to his physical condition. (2) The employer must have relied upon the false representation and this reliance must have been a substantial factor in the hiring. (3) There must have been a causal connection between the false representation and the injury." Cooper v. McDevitt & Street, 260 S.C. 463, 469, 196 S.E.2d 833, 835 (1973). The record shows there is insufficient evidence for Defendants to have proven all elements of the Cooper defense.

A. The employee must have knowingly and wilfully made a false representation as to his physical condition.

Defendants introduced a *Confidential Health Questionnaire for Post-Offer Examination* completed by Brailey on March 2, 2017. [APA page 16]. In the questionnaire, was asked "Do you have problems with, or have you ever had medical attention for any of the following?" Brailey checked "no" to the questions about "Back injury, headache or pain" and "Have you ever experienced a medical problem that affected your ability to work?"

Strictly speaking, these were false representations because, although Brailey had not had any back problems or pain in over twenty years, he had previously had a back injury in 1997 that affected his ability to work for 2 ½ weeks. He also checked "no" to the question "Are you presently being treated for any condition that may inhibit your ability to work?" His response to this question – which seems to be the most germane – was true and accurate. He had not been treated for back pain for over twenty years.

Thus, while Brailey's representation was objectively false, there is no evidence that his failure to disclose a minor back injury from twenty years ago could rise to the level of a knowing and wilful false statement intended to deceive Michelin. The Commission has previously held that "stale" medical records have no probative value. Medical records from twenty years prior showing nothing more than lumbar strain are about as stale as can be. They cannot be considered probative of anything relevant to Brailey's current condition. See Johnson v. Rent-A-Ctr., Inc., 398 S.C. 595, 730 S.E.2d 857 (2012)(noting Commission found two-year old medical record to be "stale" and not indicative of claimant's current work status).

B. The employer must have relied upon the false representation and this reliance must have been a substantial factor in the hiring.

Michelin presented testimony from Mark Gross, the Safety Manager, that Michelin relies on the questionnaire in hiring employees. Notably, the actual person who hired Brailey did not testify.

However, the major missing piece of evidence is the record of a physical examination and medical clearance on Brailey. It is not enough to produce the questionnaire. To prove the reliance element, Michelin would have to produce the record of a physical examination. And, the physical examination would have to show that Brailey never corrected the statement about back pain and a prior medical problem.

Point being, for Michelin to say it relied on a medical clearance from its doctor, it has to produce the actual medical clearance. If Michelin does not do a physical exam and obtain clearance, they cannot claim reliance. Merely producing the questionnaire with generic testimony about reliance is not enough to prove this element.

Michelin presumably would comply with the Americans with Disabilities Act wherein it would obtain medical clearance to make *placement* decisions; not *hiring* decisions. Small v. Oneita Indus., 318 S.C. 553, 554-55, 459 S.E.2d 306, 306-07 (1995) (noting an agent of the employer testified Small's prior injury would affect job placement decisions, not hiring decisions, and affirming the denial of workers' compensation benefits due to a false representation on an employment application). As such, the medical determination would affect whether Brailey would be placed in the position he was employed or in some less strenuous position.

The interesting point is that at the time of his accident, Brailey had not been given work restrictions by either Urgent Care or the emergency room. *Dr. Izard, Michelin's company doctor,*

returned Brailey to full duty even after his work injury. It can therefore be safely assumed that Brailey's minor back injury from twenty years ago would not have resulted in any restrictions from Dr. Izard. There is no evidence of reliance because there is no evidence of a medical clearance.

C. There must have been a causal connection between the false representation and the injury.

The third prong of Cooper is "There must have been a causal connection between the false representation and the injury." Cooper v. McDevitt & Street, 260 S.C. 463, 469, 196 S.E.2d 833, 835 (1973). In this case, there is *no evidence* of a causal connection between the false representation and the injury. At the time of the June 24, 2017, work accident, Brailey was under no work restrictions. In fact, he had been to two doctors for back pain related to work and been cleared to work without restrictions. Even after the accident, Dr. Izard still released him to work full duty. If he was under no restrictions, then there was nothing for the employer to change or accommodate about his job. Ergo, there is no causal connection.

Cooper is an affirmative defense which must be proven by the employer. The finding of a causal connection without evidence is necessarily speculation and must be reversed.

Therefore, the conclusion that Defendants proved the Cooper defense should be reversed and the June 24, 2017 accident should be ruled to be a compensable injury.

3. Defendants cannot prove the elements of *Capers v. Flautt.*

In the Conclusions of Law, the Single Commissioner made the conclusory statement that "Moreover the claim would be barred by *Capers v. Flautt.* [Order, page 22, Conclusion of Law 4]. Such a brief conclusory statement without accompanying findings of fact is defective and must be reversed as a matter of law. See, e.g. Baldwin v. James River Corp., 304 S.C. 485, 405 S.E.2d 421 (Ct App. 1991)(Generalized, conclusory, or incomplete findings will not suffice as findings of fact.).

Equally important, Capers is inapplicable to this case. In Capers, the claimant was a dishwasher. He developed contact dermatitis from contact with the dishwashing detergent while working at Fort Jackson. Based on the opinion of his doctor, Capers claimed he was permanently and "totally disabled from work which involved exposure to soap, detergents, and/or water." Capers v. Flautt, 407 S.E.2d 660, 305 S.C. 254 (Ct. App. 1991). Two years later, Capers filed an identical claim for contact dermatitis from exposure to detergent and water from working as a dishwasher at Holiday Inn.

The Court of Appeals affirmed the Commission's finding that "Capers did not sustain an accidental injury as contemplated within S.C.Code Ann. Section 42-1-160 (1976)." Id. The Court reasoned "the outbreak of dermatitis was not an unlooked for event which Capers did not expect. It was, in fact, an event which Capers could anticipate given his past experience." Id.

This is an entirely different circumstance than the instant case. Capers was allergic to detergent. He knew with certainty that he would develop contact dermatitis every time he was exposed to detergent. He also knew that the contact dermatitis would resolve when the exposure ended.

To say that Brailey knew with substantial certainty that he would herniate a disc in his back from working at Michelin is neither reasonable nor plausible. At most, Brailey knew that he had once suffered back strain twenty years earlier working in a brick plant. The back strain resolved and he had no problems for the next twenty years – including 15 years working at Westinghouse.

While Brailey did suffer back pain (without radiculopathy) during his first weeks working at Michelin, he reasonably believed that this was normal back pain to be expected for someone unaccustomed to that level of physical labor. His trainer had told him back pain was normal and

expected for new employees. His family doctor even told him he needed to "exercise to lose weight and need for strengthening of core muscles and proper lifting techniques." [APA page 11]. No doctor told him not to work at Michelin or put him under work restrictions even though he was reporting back pain from working at Michelin.

If no doctor believed he needed to be under work restrictions in 2018, then he can hardly have been expected to request light duty or lay out of work. He could not have known nor expected that he would herniate a disc at work on June 24, 2017. Therefore, the legal conclusion that Capers bars this claim should be reversed.

4. Claimant did not intentionally and willfully cause injury to himself.

The Single Commissioner concluded as a matter of law that "the claimant intentionally and willfully [sustained an injury by accident] by failing to alert or notify his employer he was allegedly suffering from ten out of ten low back pain for at least 4 weeks prior to that date and seeking medical treatment on his own without any knowledge by his employer due to his failure to provide same." [Order, page 22, Conclusion of Law 5]. As this finding is made with no corresponding finding of fact, it is facially defective.

More importantly, it is just plain wrong. The courts define "willful intention" as a deliberate or formed intention to injure or kill oneself. Youmans v. Coastal Petroleum Co., 333 S.C. 195, 508 S.E.2d 43 (Ct. App. 1998). The clearest example of this involved a police officer who voluntarily engaged in a shoot-out with a fellow officer. Ziegler v. S. C. Law Enforcement Division , 250 S.C. 326, 157 S.E.2d 598 (1967).

Brailey was not playing the fool or engaging in dangerous conduct. He was simply doing his job. In fact, even when he started having back pain, he did not make a fuss or try to gin up a workers'

compensation claim. He simply went to the doctor, got some medication and got cleared to return to work. If he has been medically cleared to work full duty after reporting back pain from the job, then there can be no willful intention to suffer injury. This Conclusion of Law should be reversed.

CONCLUSION

For the foregoing reasons, the Decision and Order below should be reversed. Brailey should be awarded medical treatment with Dr. Boyd and temporary total disability compensation from June 24, 2017 for his compensable back injury with radiculopathy.

Respectfully Submitted,

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September 24, 2018

STATE OF SOUTH CAROLINA
BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC FILE NO.: 1708221

Isaac Brailey, Claimant, v. Michelin North America, Inc.(US7), Employer, and Safety National Casualty Corp., Carrier, Defendants.	**FULL COMMISSION RESPONDENTS' BRIEF**

STATEMENT OF THE CASE

This is an appeal by Isaac D. Brailey (Claimant) from the Decision and Order of Commissioner Avery B. Wilkerson, Jr. (Single Commissioner) filed July 20, 2018. The claimant contends the Single Commissioner erred in failing to find claimant sustained a compensable injury by accident involving his back and left leg. Michelin North America, Inc. (US7) (Defendant-Employer) and Safety National Casualty Corp. (Defendant-Carrier) (*Collectively* Defendants) maintain the Single Commissioner's determination is supported as a matter of law by the greater weight of the evidence in the record and should be affirmed in its entirety.

By way of background, Claimant filed a Form 50 on October 4, 2017, claiming a work-related injury to his back affecting his left leg which allegedly occurred while he was employed with (Defendant-Employer) on June 24, 2017. The Single Commissioner heard this case on March 23,

2018, and filed his Decision and Order on July 20, 2018, denying compensability. The Single Commissioner's Order found Claimant failed to prove he sustained a compensable injury to his back or left leg on June 24, 2017. Moreover, the Single Commissioner found even if Claimant had met his burden of proof, his claim would be barred by *Capers v. Flautt*, 407 S.E.2d 660, 305 S.C. 254 (Ct. App. 1991), § 42-9-60, and the fraud in the application for employment defense as articulated in *Cooper v. McDevitt & Street*, 260 S.C. 463,196 S.E.2d 833 (1973).

Claimant admittedly has a prior workers' compensation claim from 1997 while he was an employee with Richtex Brix, requiring physical therapy for his back and treatment with Dr. Thomas Norris, III, MD. *See* H.T. p. 40-41; Defendants' APA #1, p. 1-2. On December 4, 1997, Dr. Norris noted Claimant had been "working for Richtex for three weeks and of note he has had back pain for three weeks. This has been worsening over the past couple of days since a possible injury while lifting some bricks on Tuesday of this week." *See* Defendants' APA #1, p. 1-2. Dr. Norris instructed the claimant not to complete any heavy lifting and to return to the clinic the following week. *See* Defendants' APA #1, p. 1-2. Dr. Norris noted that if Claimant does not respond to conservative treatment quickly, it might be in his and Richtex Brix's best interest for him to find new employment as his pain had been consistent during his three weeks of employment. *See* Defendants' APA #1, p. 1-2. The following week, Dr. Norris's notes indicate the Claimant's description of his injury was "vague" and noted Claimant treated at Doctors Care in between his appointments requesting a second opinion, while not following Dr. Norris's instructions. *See* Defendants' APA #1, p. 1-2. Dr. Norris wrote Claimant was requesting to see a back specialist and opined he may be in the "litigation thought process." *See* Defendants' APA #1, p. 1-2. Dr. Norris wrote it would be prudent for Claimant to see an orthopaedic surgeon and referred him to Dr. Bethea at Moore Clinic. *See* Defendants' APA #1, p. 1-2. Dr. Norris placed him on restrictions to include "no heavy lifting" until he saw the surgeon. *See*

Defendants' APA #1, p. 1-2. To Defendants' knowledge, Claimant never saw a back surgeon in relation to his claim from 1997 and Claimant testified at the Hearing he could not recall seeing a back specialist around that time. *See* H.T. pp. 228, 250. Claimant settled his workers' compensation claim with Richtex Brix for $2,500.00. *See* H.T. p. 43. He admitted at the Hearing he did not tell any of his subsequent employers about his restriction of no heavy lifting following working for Richtex Brix. *See* H.T. p. 230.

Only three years later, on May 16, 2001, Claimant began working for Westinghouse Electric Corporation and admittedly falsely completed the "Medical History and Examination Form (Post Offer/Pre-Placement)" denying any history of back pain. *See* H.T. pp. 238-42, 245-56; Defendants' Exhibit F, p. 17-21. On the form, he denied ever having had a work-related injury or illness. *See* Defendants' Exhibit F. p. 19. He denied ever being medically restricted from doing any part of his job. *Id.* He stated he never had any pain, numbness, limited motion, or injury of the back. *Id.* at 20. He denied ever having a work injury, workers' compensation claim, or receiving a settlement for any injury. *Id.* He denied any permanent restrictions or limitations. *Id.* He also denied having had a previous job with similar physical demands. *Id.* He testified he did not recall ever seeing that document, despite his name and address appearing on the form. *See* H.T. p. 44.

He was eventually laid off from Westinghouse Electric and was hired by Defendant-Employer, for which he began working in April 2017. Similarly to his experience with Westinghouse Electric, Claimant executed the "Michelin Confidential Health Questionnaire for Post-Offer Examination" on March 21, 2017. *See* Defendants' Exhibit E, p. 16. On the Questionnaire, he denied any prior back injury, backache, or back pain. *Id.* He denied ever experiencing a medical problem that affected his ability to perform work. *Id.* At the Hearing, he admitted he lied on this Questionnaire for Defendant-

Employer. *See* H.T. 93, 233-37. Furthermore, he testified at the Hearing that he omitted Richtex Brix as a former employer on his employment application for Defendant-Employer. *See* H.T. p. 136-38.

Troy Alton Lowman, a training manager for Michelin, testified at the Hearing. He explained he was responsible for on-boarding new employees and insuring training occurs and is properly conducted. *See* H.T. p. 329. He had authority over new hires until they reach "Validation" which means the employee can do the job safely with good quality while developing speed. *Id.* He stated the training includes a discussion on workers' compensation and reporting claims, and that Claimant never reached Validation. *See* H.T. pp. 329, 331.

Mark Gross, the Safety Manager for Michelin, also testified at the Hearing. He outlined the post-offer health questionnaire Michelin requires of every newly-hired employee. *See* H.T. p. 406. He stated they rely on the information provided by the employees in the questionnaire. *Id.* at 407. Gross testified that because Claimant did not note he had prior back issues and a prior workers' compensation claim, the company and its doctor were not able to investigate the extent of the prior injury. *Id.* He explained that if he had known about Claimant's prior issues, he would have been concerned. *Id.* at 408. He confirmed Claimant lied on his questionnaire and noted it is impossible for the plant doctors to conduct thorough investigations and examinations if an employee lies on this form. *See* H.T. pp. 419, 422-23, 428-29.

Shortly after beginning his employment with Defendant-Employer, on June 11, 2017, Claimant visited Lexington Medical Center complaining of "back pain after lifting at work." *See* Claimant's APA #2, p. 13. He complained the low back pain had persisted for the past several days and reported he was doing heavy lifting prior to the onset of pain. *Id.* Two days later, Claimant saw his primary care physician, Dr. Eric Marom, complaining of lower back pains for the past two weeks. *See* Claimant's APA #1, p. 7. He noted he "has had a new job at Michelin, moving heavy stuff-there now for about 2

weeks, pain is 10/10 w/ certain movements, says feels sharp, no radiation into legs." *Id.* Further, the record provides that the claimant reported he had never had pain there in the past and had suffered no recent injury or trauma. *Id.* At the Hearing, Claimant testified he told his Michelin trainer, Jermaine Ante Lemon that his back hurt. *See* H.T. p. 64. Lemon also testified at the Hearing and denied any such conversation with Claimant ever took place and denied Claimant ever reported any injuries, aches, or pains to him. *See* H.T. pp. 295, 301. When questioned about these visits at the Hearing, Claimant responded they were for "minor" pain in his back. *See* H.T. pp. 104-05, 254. However, he conceded 10/10 level pain is not minor and is the worst pain one could have. *See* H.T. pp. 255, 272.

Lowman testified he was unaware of the Claimant's medical visits on June 11 and June 13 and testified the proper procedure would have been for the claimant to report those issues or alleged injuries to the manager or safety spoke. *See* H.T. pp. 336-37. He stated he would have wanted to know of Claimant's back pain because of its impact on the safety of Michelin, the claimant's coworkers, and other members of the claimant's team. *Id.* He confirmed that if he had been made aware of Claimant's back issues, he would have secured medical treatment for him and determined if he was capable of performing the job. *See* H.T. pp. 353-55. Mark Gross also testified he was unaware of these appointments and that they should have been reported to Michelin to make sure Claimant did not hurt himself or anyone else further. *See* H.T. p. 414.

On June 24, 2017, the claimant reported to Lexington Medical Center Emergency Room complaining of lower back pain "since he was working last night." *See* Claimant's APA #3, p. 16. He was evaluated as having a normal range of motion and negative for gait problems and was told to follow up with Dr. Brett Gunter the next day to make an appointment. *See* Claimant's APA #3, p. 19. He was advised he could return to work three days later – June 28, 2017. *See* Claimant's APA #3, p. 25.

Nurse Christie Sirois with Palmetto Health Healthworks testified at the Hearing and said she called Claimant about his alleged injury after she was contacted by Tyrone Gilmore, the shop manager. *See* H.T. pp. 364-65. She informed Claimant he did not follow proper protocol in seeking medical treatment. *See* H.T. p. 367. In her testimony, she described Claimant as "vague" in his efforts to describe how his accident occurred. *See* H.T. pp. 367, 373. Also, during her testimony, Nurse Sirois stated she was not aware of any alleged pain until June 24, 2017, and that it was unsafe for Claimant to continue performing his job if he was experiencing 10/10 pain in the weeks preceding. *See* H.T. p. 368. She scheduled an appointment for him per company policy with Dr. Izard for June 26, 2017. He completed a "HealthWorks Post-Injury Questionnaire" before meeting with the doctor on which he denied ever injuring his back previously. *See* Claimant's APA #4, p. 26. At the Hearing, Claimant attempted to explain this omission by stating he completed the form in a "pencil whip" fashion. *See* H.T. p. 47. However, he clearly completed the form slowly enough to include history of hypertension; high blood pressure; pain, numbness, limit of motion, injury or surgery of the hip, knee, leg, ankle, foot; and "knee pain with weather." *See* H.T. p. 47. After an evaluation, Dr. Izard opined the claimant presented a significant degree of symptom amplification and magnification and returned him to regular duty with a follow up appointment on June 28, 2017. *See* Claimant's APA #4, p. 30.

The following day, Claimant chose to pursue more treatment on his own at the Lexington Medical Center Emergency Room where he complained of back pain and urinary retention. *See* Claimant's APA #5, p. 35. He failed to return for his follow up appointment with Dr. Izard on June 28, 2017, and when asked about it during the Hearing, testified he did not have transportation. *See* H.T. p. 85. However, on cross examination, Claimant confirmed that was a lie as he was offered transportation to the appointment with Dr. Izard which he refused. *See* H.T. p. 209. He clarified he did not return to Dr. Izard because he did not want to go to Dr. Izard. *See* H.T. p. 202. Mark Gross

testified he was the person who offered to arrange transportation for Claimant. *See* H.T. p. 404. Gross testified Claimant responded, "you need to talk to my lawyer," and hung up the phone. *See* H.T. p. 405.

When his restrictions ended on June 30, 2017, Claimant did not return to work. Instead, he chose to treat at Doctors Care where he neglected to report this was a workers' compensation injury or that he previously met with Dr. Izard. *See* H.T. pp. 171-72; Claimant's APA #6 p. 44. The doctor told him he "really didn't have much to offer" the claimant as he was already taking NSAID's, muscle relaxers, and pain medications. *See* Claimant's APA #6, p. 45. He was referred to an orthopedic specialist.

Claimant did not treat with any physician for this injury again until July 24, 2017, when he saw Dr. Scott Boyd's physician assistant, Luis Valdes, PA at Lexington Brain and Spine Institute. *See* Claimant's APA #7, p. 55. He was referred for physical therapy and an MRI. *Id.* He reported he has not had previous back problems "except maybe 25 years ago he had an episode that resolved without any treatment." *Id.* at 57. The MRI revealed a herniated disc which, during his deposition, Dr. Boyd testified there was no way to tell from looking at the MRI scan how long the issue had been present. *See* Deposition of Dr. Boyd p. 9, 25-56. Dr. Boyd gave him an injection, ordered physical therapy, and placed him out of work. *See* Claimant's APA #7, p. 60-71. On his physical therapy intake form, Claimant did not answer the question asking whether the injury was related to a work accident. *See* Claimant's APA #8, p. 73.

Dr. Boyd completed a medical questionnaire at the request of claimant's counsel on November 29, 2017, opining the claimant injured his lumbar spine at Michelin on June 24, 2017, resulting in radiculopathy down the claimant's left leg. *See* Claimant's APA #7, p. 71. He further opined Claimant should remain out of work pending further treatment and had not reached maximum medical

Improvement. *Id.* At his deposition, Dr. Boyd confirmed he could not be certain as to when the current injury occurred. *See* Deposition of Dr. Boyd, p. 27. Further, he testified that when he began treating Claimant he was specifically informed claimant's problems began around June 24, 2017, and he had no issues prior to that date. *Id.* at 54. At the time of Dr. Boyd's deposition, Defendants' did not possess and were unable to show him the reports of Claimant's prior workers' compensation claim and medical treatment for his back while he worked for Richtex Brix in 1997. Prior to the beginning of the Hearing on March 23, 2018, Defendants moved to reconvene the deposition of Dr. Boyd. However, during the Hearing, Defendants withdrew their motion to reconvene the deposition. *See* H.T. pp. 307, 435. Claimant moved to reconvene the deposition after initially requesting the Single Commissioner to deny Defendants' Motion. *See* H.T. pp. 308-15, 435. The Single Commissioner denied the Claimant's Motion. *See* H.T. p. 436.

Claimant timely filed an appeal to the Full Commission raising the following grounds for appeal:

1. Whether the Single Commissioner erred as a matter of fact and law in finding Claimant did not sustain an injury by accident arising out of and in the course of his employment at Michelin.

2. Whether the Single Commissioner erred as a matter of fact and law in finding Claimant's testimony was not credible.

3. Whether the Single Commissioner erred as a matter of fact and law in finding Claimant was unclear as to the date of the accident when his testimony, confirmed by medical records and employer records, confirmed that after some back pain from his work at Michelin, he suffered an acute injury by accident on June 24, 2017.

4. Whether the Single Commissioner erred as a matter of fact and law in finding Claimant did not report back pain from his work to Michelin prior to his work accident.

5. Whether the Single Commissioner erred as a matter of fact and law in finding Dr. Boyd did not provide causation when Dr. Boyd's opinion was explicit as to causation to a reasonable degree of medical certainty.

6. Whether the Single Commissioner erred as a matter of fact and law in finding Defendants proved the elements of the *Cooper v. McDevitt and Street* defense, as Claimant did not make a material misrepresentation on his application for employment; that Employer relied on the

physical examination clearing Claimant for work (confirmed later by Dr. Izard); and there is no evidence of a causal connection between any alleged misrepresentation and the ultimate work-related injury.

7. Whether the Single Commissioner erred as a matter of fact and law in finding "The claimant has failed to carry his burden of proof of an accident being sustained on June 24, 2017."

8. Whether the Single Commissioner erred as a matter of fact and law in finding that the separate incident occurring on June 24, 2017 after which Claimant was unable to return to work was not compensable.

9. Whether the Single Commissioner erred as a matter of law in finding this claim was barred by *Capers v. Flautt* when no factual findings were made to support such a defense and when the defense does not apply to this case in that there was no evidence that Claimant knew or could have known that he would injure his back at Michelin.

10. Whether the Single Commissioner erred as a matter of fact and law in finding stale medical records of a minor injury to a different part of Claimant's back from 25 years ago could support any defense or denial of this claim.

11. Whether the Single Commissioner erred as a matter of fact and law in finding this claim was barred by "the claimant intentionally and willfully did so by failing to alert or notify his employer he was allegedly suffering from ten out of ten low back pain for at least 4 weeks prior to that date and seeking medical treatment on his own without any knowledge by his employer due to his failure to provide same."

Claimant subsequently filed an Appellants' Brief addressing the following arguments: (1) Claimant met his burden of proof by showing by medical evidence that he suffered a compensable injury by accident; (2) Defendants cannot prove the elements of the *Cooper v. McDevitt & Street* defense; (3) Defendants cannot prove the elements of *Capers v. Flautt*; and (4) Claimant did not intentionally and willfully cause injury to himself.

Defendants maintain the Single Commissioner properly determined (1) Claimant failed to meet his burden of proving he sustained a compensable injury to his back and left leg on June 24, 2017; (2) Defendants successfully proved the claim was barred by the fraud in the application for employment defense as articulated by *Cooper v. McDevitt & Street Co.*; (3) Defendants successfully proved the elements of *Capers v. Flautt*; and (4) the greater weight of the evidence supports the Single

Commissioner's finding that Claimant intentionally and willfully caused injury to himself. As such, Defendants respectfully request the Appellate Panel to Affirm the Decision and Order of the Single Commissioner in its entirety. Defendants also take the position that any determination not appealed or any issue not briefed by Claimant would now be the law of the case.

STANDARD OF REVIEW

As an appellate body, the Full Commission is given great discretion to review decisions made at the Hearing Commissioner level and to make its own findings and conclusions.

> Although it is logical for the Full Commission, which did not have the benefit of observing the witness, to give weight to the hearing commissioner's opinion, the Full Commission is empowered to make its own findings of fact and to reach its own conclusions of law consistent or inconsistent with those of the hearing commissioner.

McGuffin v. Schlumberger-Sangamo, 307 S.C. 184, 414 S.E.2d 162 (1992) (citing Green v. Raybestos-Manhattan, Inc., 250 S.C. 58, 156 S.E.2d 318 (1967)). "The final determination of witness credibility and the weight to be accorded evidence is left to the Full Commission." McGuffin, 307 S.C. at 186, 414 S.E.2d at 163 (citing Ross v. American Red Cross, 298 S.C. 490, 381 S.E.2d 728 (1989)).

Accordingly, the Full Commission is the ultimate finder of fact and is not bound by the single Commissioner's Findings of Fact. Lanford v. Clinton Cotton Mills, 204 S.C. 423, 30 S.E.2d 36 (1994); Linnen v. Beaufort Co. Sheriff's Dep't, 305 S.C. 341, 408 S.E.2d 248 (Ct. App. 1991). Defendants request that the Full Commission now exercise its discretion to review the evidence presented at the Hearing and provide an independent decision that the underlying Award, and specifically the issues raised on appeal, are supported by the greater weight of evidence or the law of South Carolina.

ARGUMENT

I. **THE CLAIMANT FAILED TO MEET HIS BURDEN OF PROVING HE SUSTAINED A COMPENSABLE INJURY TO HIS BACK OR LEFT LEG ON JUNE 24, 2017.**

The greater weight of the evidence in the record supports the Single Commissioner's determination that Claimant failed to meet his burden of proof and accordingly his claim should be denied in its entirety. It is well-established in South Carolina that the claimant has the burden of proving by a preponderance of the evidence that his alleged injuries are causally-related to his employment and that he is entitled to any compensation or medical care as a result. S.C. Code Ann. 42-1-160 (Supp. 2007); *Mims v. Nehi Bottling Co.*, 218 S.C. 513, 63 S.E.2d 305 (1991). Importantly, however, an award under the Act cannot be based upon surmise, conjecture, or speculation, but must be founded upon sufficient substance to afford it a reasonable basis. *Linen v. Ruscon Constr. Co.*, 286 S.C. 67, 68, 332 S.E.2d 211, 212 (1985).

The Single Commissioner found "[t]his claim is denied in its entirety based on evidence of numerous issues relating back to 1997 through 2017. The claimant has failed to carry his burden of proof of an accident being sustained on June 24, 2017, due to his lack of credibility, the lack of sufficient medical evidence to support his allegations, and, moreover, due to medical evidence to the contrary. I find the claimant was unable to return to work after June 24, 2017, due to a separate incident. I find the June 24, 2017, incident is not compensable based upon the greater weight of the evidence and other reasons stated within this finding." The Claimant only claimed an injury by accident on June 24, 2017. He did not claim a repetitive trauma injury, or an injury occurring on June 11, 2017 or June 13, 2017. While there is record of him visiting a medical facility on June 24, 2017, there are equally probative records evidencing similar complaints from weeks prior. As Claimant has only alleged injury for Jun 24, 2017, it was reasonable for the Single Commissioner to find Claimant failed to meet his burden of proving an injury by accident on the date he has alleged. Claimant argues

in his brief "there is no medical evidence showing a different incident nor is there medical evidence that the radiculopathy and herniated disc existed before the June 24, 2017 work accident." This statement is refuted by the evidence of the Claimant experiencing back pain in 1997, so much so that he filed a workers' compensation claim, and 10/10 back pain that sent Claimant to two different doctors earlier in June. Claimant appears to hang his proverbial hat on Dr. Boyd's opinion, and relies on same to argue he met his burden of proof. However, even Dr. Boyd testified he had no way of knowing how long Claimant's herniated disc had been present. *See* Deposition of Dr. Boyd p. 9. Furthermore, Dr. Boyd completed a Questionnaire for Claimant on November 29, 2017, in which he opined Claimant "more likely than not, injured his lumbar spine at his employment on June 24, 2017." *See* Claimant's APA #7, p. 71. At his deposition, Dr. Boyd confirmed that opinion is based 100% on the history Claimant has given him, and also on the records from Urgent Care he may have received. *See* Deposition of Dr. Boyd, p. 17. Therefore, a quintessential component of Dr. Boyd's opinion was his ability to trust the history he was provided by Claimant. This issue of Claimant's credibility was addressed by the Single Commissioner and severely called into question. In Finding of Fact No. 2 in the Single Commissioner's Decision and Order, Claimant was found to be "not credible."

The record is replete with evidence of Claimant falsifying records or even lying during the Hearing. Clamant fraudulently completed paperwork when he was hired for Westinghouse denying any prior workers' compensation claim or history of back pain, despite settling a claim for his back just three years prior. He made a similar false statement on his Michelin Confidential Health Questionnaire for Post-Offer Examination and omitted Richtex Brix from his list of prior employers on his employment application. When treating with Dr. Izard, he falsely completed his "HealthWorks Post-Injury Questionnaire" and once again denied any prior back injury.

During the Hearing, Claimant admitted to having lied on each of those forms. He also admitted he lied at the Hearing when he said he did not return to see Dr. Izard because he did not have transportation, when in fact, Mark Gross did offer to provide him with transportation. He admitted he simply did not return because he did not want to treat with Dr. Izard. The Single Commissioner further noted that "while testifying, the claimant gave confusing answers when asked direct questions by his attorney. As noted by the undersigned throughout the proceeding, the claimant provided vague responses when questioned by defense counsel. He would not answer defense counsel's questions, rambling through responses."

Opposing Counsel makes an issue of the wording of the Single Commissioner's finding of fact No. 10 in which he outlines Claimant failed to meet his burden of proving his injury by accident and wrote "I find the June 24, 2017, incident is not compensable based upon the greater weight of the evidence and other reasons stated within this finding." Opposing Counsel is seemingly arguing that because the Single Commissioner references an "incident" on June 24, 2017, Claimant has met his burden of proof. However, the Single Commissioner's finding simply concedes Claimant has alleged an incident on that date and finds he did not meet his burden of proving a compensable injury by accident on June 24, 2017. Due to Claimant's lack of credibility and the ample medical records evidencing prior back issues before Claimant's alleged date of injury, the Single Commissioner correctly found Claimant failed to meet his burden of proving an injury by accident on June 24, 2017.

II. **DEFENDANTS SUCCESSFULLY PROVED THE DEFENSE OF FRAUD IN THE APPLICATION FOR EMPLOYMENT BY PROVING EACH OF THE ELEMENTS ARTICULATED BY *COOPER V. MCDEVITT & STREET CO.***

Defendants maintain they have proven the defense of Fraud in the Application for Employment in that they have met all the prongs articulated by our Supreme Court in *Cooper v. McDevitt & Street Co.*, 260 S.C. 43, 196, S.E.2d 833 (1973). Pursuant to our Supreme Court in *Cooper*,

> The general rule is that the following factors must be present before a false statement in an employment application will bar benefits: (1) The employee must have knowingly and willfully made a false representation as to the physical condition. (2) The employer must have relied upon the false representation and this reliance must have been a substantial factor in the hiring. (3) There must have been a causal connection between the false representation and the injury.

260 S.C. 43, 46, 196 S.E.2d 833, 835 (1973). *See also Jones v. Georgia-Pacific Corp.*, 355 S.C. 414, 419, 586 S.E.2d 111, 114 (2003) (holding substantial evidence supported the defendants' contention the claimant satisfied the three prongs of the *Cooper* test when the claimant failed to disclose back and leg problems on an employment application and health history form, and thereafter injured her back while working).

a. The claimant knowingly and willfully made a false representation as to his prior back condition.

Defendants assert the greater weight of the evidence in the record supports Claimant knowingly and willfully made a false representation to the Defendant-Employer regarding his pre-existing back condition. On March 21, 2017, Claimant completed the Michelin Confidential Health Questionnaire for Post-Offer Examination. *See* Defendants' Exhibit E, p. 16. He denied any prior back injury, backache, or back pain. *Id.* He denied ever experiencing a medical problem that affected his ability to perform work. *Id.* He affixed his signature to the document and admitted at the Hearing these were not truthful statements. *See* H.T. pp. 93, 233-37. This satisfies the first prong of the *Cooper* test. Claimant's argument at the Hearing that he completed the form quickly and did not pay attention to those questions does not negate the fact that he knowingly and willfully answered the questions by lying. In *Brayboy v. Workforce*, 383 S.C. 463, 681 S.E.2d 567 (2009), the Claimant testified he did not disclose

his prior back injuries and prior workers' compensation claim because he did not believe those injuries were relevant, yet our Supreme Court held his omission satisfied the first prong. Here, Claimant offers no such explanation and simply testified he completed the form quickly. Just like in *Brayboy*, despite Claimant's explanation, he still knowingly and willfully made a false statement thereby satisfying the first prong of the *Cooper* test.

b. The Defendant-Employer testified they rely upon the Questionnaire in placing employees.

Multiple representatives from Defendant-Employer testified at the Hearing to confirm the Michelin Confidential Health Questionnaire for Post-Offer Examination is relied upon by Defendant-Employer in making placement decisions. Jermaine Ante Lemon testified and confirmed he truthfully completed his post-hire questionnaire, and expected Michelin needed to know whether he could perform his duties, and believed it was important to be truthful in his answers. *See* H.T. pp. 297-98. Lemon stated he believed it was important to be truthful in answering the questions on the questionnaire because Defendant-Employer needed to know whether employees could perform the jobs they were assigned for their safety and the safety of their coworkers. *See* H.T. p. 298.

Troy Alton Lowman, who was responsible for training Claimant, testified he would have wanted to know of Claimant's back condition because of its impact on the safety of Defendant-Employer, Claimant's co-workers, and other members of Claimant's team. *See* H.T. p. 338.

Mark Gross, the Safety Manager testified at the Hearing and confirmed Defendant-Employer relies upon the information provided by the employees in the questionnaire. *See* H.T. p. 407. He testified he would have investigated the extent of Claimant's prior back issues had he been aware of same prior to placing him. *See* H.T. p. 407. Therefore, Defendants have established the Defendant-employer relies upon the Michelin Confidential Health Questionnaire in placing employees in their positions satisfying the second prong of the *Cooper* test.

c. A causal relationship exists between the false representation and the injury.

Finally, Defendants have met the third prong of the *Cooper* test and established a causal relationship exists between the false representation and the injury. The parallels between Claimant's 1997 injury and his current alleged complaints are overwhelming. In both instances, he began a new job involving heavy lifting. Within a short period of time, literally only days or weeks, he began complaining of back pain. In both instances he went for medical treatment with one provider, and to another provider when he was dissatisfied with the answers he was being given by the first medical provider.

Whether or not Defendants admit Claimant has established an injury by accident on June 24, 2017, which Defendants assert he has not, the parallels between the alleged pain in late May and early June of 2017 read very similarly to those complaints he had in 1997. Importantly, a physician in 1997 opined Claimant should not continue performing work involving heavy lifting **until he was evaluated by a specialist.** He never saw that specialist based upon the evidence in the record and actually lost his job at Richtex Brix due to his lower back issues. Dr. Boyd opined he could not tell how long Claimant has had a herniated disc, therefore it is a reasonable inference that Claimant herniated his disc sometime between 1997 and his complaints beginning in late May of 2017. While Opposing Counsel attempts to discount Claimant's injury from 1997 as "stale," it cannot be refuted that Claimant was restricted from any heavy lifting until he was evaluated by a surgeon and failed to follow those restrictions. The reasonable inference is that his failure to refrain from heavy lifting caused his herniated disc which is the cause of his current complaints. Therefore, there is a causal connection between claimant's false statement and omission of his prior workers' compensation claim and his current condition, thus satisfying the third prong of the *Cooper* test.

III. DEFENDANTS SUCCESSFULLY PROVED THE ELEMENTS OF CAPERS V. FLAUTT

The greater weight of the evidence in the record supports the Single Commissioner's determination that the claimant's alleged injury was not an unexpected or unlooked for event and, therefore, is not compensable as a matter of law. *See Capers v. Flautt*, 305 S.C. 254, 407 S.E.2d 660 (Ct. App. 1991); *see also Havird v. Columbia YMCA*, 308 S.C. 397, 418 S.E.2d 329 (Ct. App. 1992). In *Capers v. Flautt*, a dishwasher at Holiday Inn sought benefits for contact dermatitis. 305 S.C. 254, 407 S.E.2d 660 (Ct. App. 1991). Capers was denied benefits because he was "aware of the situation for several years and had previously left a job due to the same problem caused by exposure to detergents and water." *Id.* Similarly, in *Havird v. Columbia YMCA*, the claimant was aware that long periods of standing in one place would cause pain and swelling in his feet as he suffered from varicose veins. *Id.* After treatment, he returned to his position with YMCA as a masseur and continued to suffer from pain, swelling and periodic infection in his legs. *Id.* He was barred from benefits because his condition was "the natural and expected result of standing in a limited area without such movement. Havird himself knew standing would worsen his condition over time and did his best to reduce further injury to his legs by elevating them when he could." *Id.*

In the present case, Claimant was told twenty years ago he should refrain from continuing to perform a job involving heavy lifting until he was evaluated by a surgeon. He suffered a similar back injury in the past when he began a job that involved heavy lifting. Furthermore, in the weeks preceding his alleged date of injury, he was experiencing 10/10 back pain, yet continued to perform his heavy-duty job with no notice of this pain or his medical issues provided to his employer. Just like in *Capers* and *Havird*, Claimant's injury is not an injury by accident in that he was "aware of the situation" and, exactly as in *Capers*, he had previously left a job because of the same condition with medical instructions to be seen by a specialist for these symptoms.

Claimant argues in his brief the Single Commissioner's Conclusion of Law No. 4, which states in part "Claimant failed to meet his burden of proof that he injured his low back on June 24, 2017, under the evidence presented. Moreover, the claim would be barred under *Capers v. Flautt*," is conclusory and should be reversed as a matter of law in that it has no accompanying findings of fact. However, Defendants note this Conclusion of Law is in fact supported by Finding of Fact No. 4 which states "claimant never notified anyone at Michelin he had ten out of ten pain in his back which he felt was caused by his work, but instead he returned to the same work he felt was causing his problems unbeknownst to Michelin." Therefore, the Conclusion of Law is not defective, and the Single Commissioner correctly found the claim would be barred by *Capers v. Flautt* had Claimant met his burden of proving a compensable injury from June 24, 2017. Moreover, the Full Commission has the legal right to provide its own findings of fact if they believe the Conclusion of Law to be conclusory as claimed by claimant.

IV. THE GREATER WEIGHT OF THE EVIDENCE SUPPORTS THE SINGLE COMMISSIONER'S FINDING CLAIMANT INTENTIONALLY AND WILLFULLY CAUSED INJURY TO HIMSELF

The Single Commissioner found "Under § 42-9-60, assuming claimant actually sustained an injury by accident on June 24, 2017, to his low back, as alleged, the claimant intentionally and willfully did so by failing to alert or notify his employer he was allegedly suffering from ten out of ten low back pain for at least four weeks prior to that date and seeking medical treatment on his own without any knowledge by his employer due to his failure to provide same." Pursuant to § 42-9-60, "no compensation shall be payable if the injury or death was occasioned by the intoxication of the employee or by the willful intention of the employee to injure or kill himself or another." Defendants contend the Single Commissioner's Conclusion of Law is supported by the record and should be affirmed.

Again, Claimant argues this Conclusion of Law is conclusory and defective in that it is not supported by a Finding of Fact. However, Defendants again note Finding of Fact No. 4 is directly on point in that it outlines the facts specifically supporting this conclusion of law. Four weeks prior to his alleged injury, Claimant sought medical treatment complaining of ten out of ten back pain, yet returned to his work without reporting same to his employer or requesting any modified work. He related the pain in his back to his job at his appointments in early June yet continued to do the same work he felt was causing his pain. "Willful intent" has been defined to mean "deliberate intention" or "formed intention" by our Supreme Court in *Reeves v. Carolina Foundry and Machine Works*, 194 S.C. 403, 9 S.E.2d 919 (1940). Further, our Supreme Court has held the "willful intent" defense "finds application only in those cases where it is shown the acts of the employee are so serious and aggravated as to evidence a willful intent to injure." *Ziegler v. South Carolina Law Enforcement Division*, 250 S.C. 326, 157 S.E.2d 598 (1967). Claimant attempts to downplay the severity of his continued performance of his job despite his serious pain and implies in his brief this defense is only applicable if he had been "playing the fool or engaging in dangerous conduct." However, one who treats with a physician complaining of ten out of ten pain (the worst possible pain one can have) which he relates to his work without any notification to his employer, then continues to do the very same work is certainly engaged in dangerous conduct. If his pain was, in fact, as severe as he reported it was in early June, it cannot be argued that it was dangerous for him to return to his job and exacerbate his condition by not immediately alerting his employer of the pain and problems he was having. This continued action was willful, deceitful and intentional, and the Single Commissioner did not err in finding this claim would be barred by § 42-9-60, had claimant met his burden of proving an injury by accident on June 24, 2017.

Conclusion

Defendants request this Appellate Panel affirm the Decision and Order of the Single Commissioner in its entirety. Claimant failed to meet his burden of proving an injury by accident on June 24, 2017. Had he proven such an accident, his claim would then be barred by his committing fraud in the application for employment, by *Capers v. Flautt*, or by § 42-9-60 in that his willful intention caused his injury. Therefore, the Decision and Order of the Single Commissioner should be affirmed.

Respectfully submitted,

ROBINSON GRAY STEPP & LAFFITTE, L.L.C.

By: _____

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Attorney for Respondents

Columbia, South Carolina

October 18, 2018

State of South Carolina
Before the
South Carolina Workers' Compensation Commission
WCC File No.: 1708221

Isaac Brailey,
Employee,
Claimant,
vs.
Michelin North America, Inc. (US7),
Employer,
and
Safety National Casualty Corp.,
Carrier,
Defendants.

Deposition of
ISAAC BRAILEY
September 25, 2017

COPY

Deposition on oral examination of ISAAC BRAILEY, reported by Shelley Burgoyne, Court Reporter and Notary Public in and for the State of South Carolina; said deposition taken pursuant to notice of deposition and in accordance with the South Carolina Rules of Civil Procedure, at Samuels Law Firm, LLC, 1320 Richland Street, Columbia, South Carolina, commencing on Monday, September 25, 2017, at the hour of 11:04 a.m.

APPEARANCES

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EXHIBIT INDEX

REPORTER'S NOTE: No exhibits were marked for identification.

This deposition is taken in accordance with the South Carolina Rules of Civil Procedure.

It is agreed and stipulated by the deponent and respective counsel that the reading and signing of the deposition transcript by the deponent is expressly waived.

WHEREUPON:

ISAAC BRAILEY, being duly sworn and cautioned to speak the truth, the whole truth and nothing but the truth, testified as follows:

EXAMINATION

BY MS. ROSS:

Q. Is it Mr. Brailey?

A. Yeah, Brailey.

Q. Mr. Brailey, my name is Meredith Ross. We've never met before today. My firm represent Michelin, and I'm here to take what's called a discovery deposition.

Have you ever had your deposition taken before?

A. Yes.

Q. You have. So you know a little bit about how this works.

A. Yes.

Q. I would like to go over just a few of the ground rules before we begin just as a refresher for you, if that's okay.

A. Yes.

Q. First of all, this is, like I said, a discovery deposition, so the rule is you've got absolutely nothing to be nervous about. We're just here to get a little bit more information about your claim.

A deposition is basically a conversation, but there are some important distinctions between this and a normal conversation.

First, you were just placed under oath, so everything that I ask you and everything that you answer is being taken down and put into this transcript today.

Because that's being done, it is very important that we do a couple things. It's very important that we not talk over one another, so I will be sure to try and let you finish your answer before asking my next

question, and if you could, just do the same, make sure I've finished asking my question before answering.

Some of my questions will be so easy you are going to want to jump in with the answer, but just try and make sure I'm finished first. Okay?

A. Okay.

Q. You are doing a great job of this so far, but please make sure to articulate all of your answers with a yes or no or an okay or like you have been doing because the transcript can't pick up nodding or shaking your head or uh-huhs or huh-uns. All right?

A. Yes.

Q. Okay. If you forget to do that at any point, I will simply prompt you and ask if that was a yes or a no, and I'm not trying to give you a hard time. I'm just trying to make sure your answer is recorded. Okay?

A. Okay.

Q. Great. Also, if you answer my question, I'm going to assume you understood me. If at any point I ask a question that is confusing or I spoke too quickly or, like I

said, I'm a little bit under the weather, if you couldn't understand me, feel free to ask me to repeat it or rephrase, and I'm happy to do so.

A. Okay.

Q. All right. I'm happy to do anything you need to make you comfortable. If you need to stand up and stretch at any point, if you need to take a break at any point, that's absolutely fine.

I have to give you this one caution. If we do take a break and you speak with your attorney, I'm allowed to ask you about that conversation. Okay?

A. Okay.

Q. All right. I believe that's everything I need to go over. Can we start by -- I need to confirm, have you taken anything today that would impair your ability to answer my questions?

A. No.

Q. Okay. Can you state your full name for the record?

A. Isaac D. Brailey, Jr.

Q. Do you have any nicknames,

Mr. Brailey?

A. Doug.

Q. Doug.

A. I mean, that's my middle name.

Q. Okay. And what is your date of birth?

A. [redacted]

Q. How old does that make you today?

A. [redacted].

Q. How tall are you?

A. Six-two.

Q. And approximately how much do you weigh?

A. 265.

Q. Have you gained or lost any weight recently?

A. Gained.

Q. About how much?

A. 5 pounds.

Q. What do you attribute that weight gain to?

A. I don't know. I don't know. Maybe just medicine or eating, stuff like that. I don't know.

Q. Okay. Can you give me the last four digits of your Social Security number?

A.

Q. All right. How did you get here today, Mr. Brailey?

A. Drove.

Q. What do you drive?

A. Altima.

Q. An Altima?

A. Altima.

Q. What color is it?

A. Gold.

Q. Do you own any other automobiles?

A. No.

Q. Do you own any mopeds?

A. No.

Q. Motorcycles?

A. No.

Q. Boats?

A. No.

Q. Okay. Do you have a South Carolina driver's license?

A. Yes.

Q. Do you happen to know the number of that license?

A. . Let me make sure.

Q. Okay.

A. Yeah. Well, now, you want the two zeros in front of it?

Q. So it's [redacted] --

A. [redacted]-- yeah. It's

Q. Perfect. Thank you.

A. Uh-huh.

Q. Is that license restricted for any reason?

A. No.

Q. Okay. Has it ever been suspended?

A. No.

Q. Have you ever had a license from any other state?

A. No.

Q. Okay. How far did you go in school?

A. To South Carolina State, to my second semester -- I mean sophomore year in South Carolina State College.

Q. What were you studying at south Carolina State?

A. Business.

Q. Do you have any other trainings or certifications?

A. Forklift training, safety training, counseling training, CPR, First Aid. That's

as far as I can remember.

Q. Okay. When did you get the forklift training?

A. The recent one is at Michelin.

Q. And when did you receive that training?

A. When I was employed there.

Q. Okay. What year was that?

A. '17.

Q. Okay. How about the safety training?

A. That was there too. I have received it other places as well, but --

Q. Okay. And you said counseling training?

A. Yeah, counseling. That's Big Brother Big Sister Program.

Q. Okay. When did you do that?

A. That was -- oh, I can't remember the years, but it's been a good little while back. Maybe 20- -- I can't remember --

Q. Okay.

A. -- the year.

Q. That's okay. Are you currently involved with Big Brothers Big Sisters?

A. No.

Q. Okay. And CPR, First Aid training, when was that?

A. That was when I was at Westinghouse, and that was 20- -- maybe 2012.

Q. Okay. Any other degrees?

A. No.

Q. Okay. Are you married?

A. Yes.

Q. Can you tell me her name or his?

A. Marissa.

Q. Okay. What does she --

A. Brailey.

Q. I'm sorry?

A. Marissa Gibson Brailey.

Q. And what does she do?

A. We separated now.

Q. I see.

A. Okay.

Q. But you are still legally married?

A. Uh-huh.

Q. And what is her occupation?

A. Red Cross.

Q. Red Cross?

A. She work at Red Cross.

Q. Okay.

A. Technician work.

Q. Have you been married before?

A. No.

Q. Okay. Do you have any children?

A. Yeah.

Q. How many?

A. Malya, one.

Q. How old is she?

A. She is 30. Hold on. April 3rd. Let's see. April 3, 2010, so -- no. April 3 -- no. April 10, 2000 -- she is 13.

Q. Okay. Does she live with you?

A. No.

Q. Do you see her?

A. Yeah.

Q. How often?

A. Maybe once every four months.

Q. And how long have you and your wife been separated?

A. About maybe three years.

Q. Okay. Can you tell me your current address?

A. 212 Southbrook Drive, Lexington, South Carolina 29073.

Q. How long have you lived there?

A. Going on about a year.
Q. Is that an apartment or a house?
A. House.
Q. Are you renting?
A. Buying.
Q. Okay. Who all lives there?
A. Me. Just me and Cheryl, Cheryl Shockly.
Q. And Ms. Shockly is?
A. A friend of mine.
Q. Okay. Do you both cover the living expenses?
A. Yeah.
Q. Okay. Where were you living before that?
A. 121 Palm Court.
Q. Palm Court?
A. Uh-huh.
Q. Okay.
A. Lexington, South Carolina.
Q. Can you recall the ZIP code?
A. Oh, 29072.
Q. All right. How long were you there?
A. Five years.
Q. Was that a house or an apartment?

A. Condo.

Q. Okay. Were you renting or did you own that?

A. I was renting.

Q. Okay. And who all lived there?

A. Me.

Q. How about before that?

A. 200 Woodberry Road.

Q. Can you say that again?

A. 200 Woodberry Road, Lot 36, West Columbia, South Carolina 29170.

Q. And is that a house or an apartment or a condo?

A. Mobile home.

Q. Mobile home. Okay.

How long were you there?

A. Since 1994 -- '94.

Q. That's fine.

A. Yeah.

Q. Do you have any military experience?

A. No.

Q. All right. When were you hired to work for Michelin?

A. April 17th.

Q. Of this year?

A. Uh-huh.
Q. Who was your supervisor?
A. Troy Lowman was -- when I was in training, Troy Lowman. He was my person -- we didn't have a supervisor, but he was the one that we would go to for anything.
Q. Okay.
A. Until we get from under training.
Q. Did you complete training?
A. No.
Q. What were you hired to do?
A. PAP operator.
Q. Can you tell me a little bit about the job duties as a PAP operator?
A. Well, what we had to do was, we had a turbine, and you had to make sure the rubber go around the turbine to make the tire. Sometimes the rubber don't go all the way around. You have to stretch it to go around so you can seal it. That was one of the jobs. Making sure loading proper material, loading rubber material so it can go into the machines so the machine could disburse it to this platform, and it come to us.
Q. Okay.

A. And then it will roll around the turbine as we -- we control it with a pedal, and we moving the turbine, and then if that, the rubber, goes all the way around, you know, you sealed it, and if not, you have to stretch it manually. And so also moving bobbins.

Q. Okay.

A. These big bobbins, which is also material that feeds from the other side, which is a lot of rubber, different rubbers, you know, because we have different tires.

Well, the tire has different layer of rubber to make, so we have bobbins we have to push into the things weigh about 8-, 900 pounds. You have to put it in. Sometimes it rolls.

Q. Okay.

A. And you have to push it in and lock in so it can go and feed it through a feeding machine, so then that way we can control it through -- feed it to the turbine.

Q. Okay. You mentioned training. What all did they teach you in training?

A. Basically, we just had a -- we had a week or -- I think a week and a half or so in

the room, you know -- you know, working as a team, this, that or the other.

Q. Okay.

A. And then we got on the floor, and we were assigned different assignments. I mean, we was -- then we found out -- the last couple of days we found out where we was going, you know, PAP, or whatever, and I was a PAP operator.

Q. Did you receive training on procedures for workers' compensation claims?

A. Say what now?

Q. Did you receive training on what to do if you needed to file a workers' compensation claim?

A. No.

Q. Did you receive training on what to do if you had an injury at work?

A. No.

Q. Okay. Do you recall your pay rate?

A. 17 -- 17. Then it went up to 19, you know.

Q. Okay. Were you ever written up or disciplined for any reason?

A. Nope.

Q. Are you still working there?
A. No.
Q. Why not?
A. They fired me. I don't know. For -- for no reason. I got hurt on the job and they fired me, so I never been written up, never did anything wrong, always there earlier than time.
Q. Okay. When was that?
A. That was July 9th. I talked to Kathy on the phone, and, you know, they knew I was hurt and I had doctor's excuses, or whatever, so they fired me then on the phone.
Q. Okay. Were you working anywhere else while you were working for Michelin?
A. No.
Q. Okay. Where were you working before you started working for Michelin in April?
A. I was working at -- I was doing some yard work for my cousin because I was laid off at Westinghouse.
Q. How long did you do that yard work?
A. Not long. Maybe like maybe a couple of months.
Q. Does your cousin have a yard work

company?

A. Yeah.

Q. What is it called?

A. Johnson. Johnson -- Johnson Yard Work. That's...

Q. How many people work for Johnson Yard Work?

A. Not -- it's two other guys. Actually, he does that like part time.

Q. I see. What kind of work were you doing there?

A. We was basically trimming hedges off, cutting grass.

Q. How much did you make doing that?

A. It varies. Maybe 300 a week, if -- if good. You know, it varies.

Q. Okay. And what were you doing before the yard work?

A. Westinghouse.

Q. Westinghouse.

How long were you with Westinghouse?

A. Fifteen years.

Q. What did you do there?

A. I was QC.

Q. What is that?

A. Quality Control. Quality Control. I'm sorry.

Q. Thank you.

A. Uh-huh.

Q. Assume I know nothing about any of this.

A. Uh-huh.

Q. What were your job duties?

A. We made sure different areas followed the procedures. We did quality checks for different areas of the plant and we inspect rods. We would inspect -- inspect rods, make sure we had quality rods going in the reactor.

Q. Tell me a little bit about --

A. It --

Q. Sorry. Go ahead.

A. Yeah. We inspect rods that go in the rack. That was one part of our job. Other parts also was quality control where we go around different areas that -- once we get the rod in our area, we had to make sure those areas was following procedures, and we went around and made sure those -- they was working within spec of their machines and just made sure -- just did the quality check, made sure

they followed their procedures, and we had to document that down.

And the other part of our job was also inspecting rods after we finish -- after they brought the rods over to -- from us -- from after they finish. It's a process, so long-stream process. It's long to explain it. A lot to explain on that, you know, but that's how that was.

Q. Tell me a little bit about the physical demands of that job.

A. Well, really wasn't no -- you know, it was basically -- only physical -- it was not too much physical demand on that job. It was just basic. We had rods we would pull on the table, but it just -- it was really light, you know, two rods, three rods at a time to inspect them.

Q. You said you were let go there?

A. Excuse me?

Q. You said you were let go or laid off?

A. Yeah. Laid off, yes.

Q. When was that?

A. What date was -- it was the -- '16. It was 2017. Like in -- I think it was --

yeah, last year. What's this year?

Q. 2017.

A. Next year -- last year. '16, uh-huh.

Q. Do you remember what month?

A. March.

Q. And you were with your cousin's yard work operation for only a few months?

A. Yeah.

Q. Did you do anything else between March of 2016 and April of 2017?

A. I did at DJJ, Department of Juvenile Justice. I left DJJ to go to Michelin.

Q. What did you do for DJJ?

A. Juvenile correction officer.

Q. When did you start working there?

A. Right after -- a little bit after Westinghouse. A little bit after Westinghouse.

Q. Tell me a little bit about the job duties as a correction officer there.

A. What we did was just mainly custody, care and control. Counsel youth -- counsel youth that had behavioral problems, and basically custody, care and control, that's what it is. Keep account on them and make

sure they do their time.

Q. How long did you do that?

A. Not long. As soon as I got the call from Michelin, I went there.

Q. Why were you laid off from Westinghouse?

A. Well, they had a lot of -- they got some -- they filed bankruptcy. They laid a lot of folks off.

Q. Right.

A. They still laying off now. They got a big, major problem because they had stopped that VC Summer thing out there on -- out there VC Summer, where they shut it down. It was a lot of things where a lot of people that -- the older folks -- well, the older folks had left. The young guns went in there and they didn't really know the process, and that caused a downfall of -- a lot of people was milking overtime as well too.

Q. I see.

A. Uh-huh. It's a lot of -- a lot of stuff going on in there that it just got to be rebuilt.

Q. Okay. Have you ever filed a workers'

compensation claim before?

A. Yeah.

Q. When was that?

A. I can't remember. I'm not good with dates, but it's been -- I can't remember the date exactly.

Q. Within the last ten years?

A. No.

Q. Within the last 20 years?

A. Yeah, I would say the last 20 years.

Q. Okay. Within the last 15 years?

A. Yeah. I say in the last 20 years.

Q. Okay. So if we shorten that timeframe, would you say it would be within the last 15 years, between 10 and 15 years ago?

A. Let's see. I worked at Tech. I started with the Tech in -- I was at Westinghouse 15 years. It would be more than -- it's got to be 20.

Q. Okay.

A. You know what I'm saying?

Q. Where were you working?

A. Ridge Tech.

Q. Ridge Tech?

A. Ridge Tech. That's off of Monticello Road.

Q. What were you doing there?

A. I was a laborer. We -- we lift bricks, sort bricks, stacking bricks.

Q. What kind of injury did you have?

A. It was a shoulder and along with a back injury.

Q. Are you indicating your right shoulder?

A. Yeah. Uh-huh.

Q. Okay. Right shoulder and back?

A. Yeah.

Q. What happened?

A. This was lifting bricks, and we did it so much times -- so many -- have to do so much. That's -- that's what happened, just lifting bricks multiple times and lifting a lot of bricks.

Q. Did you receive medical treatment?

A. No. What they did is tell us to stop for a while back then. I can't remember, but they told us -- told me to -- they got me off the job, and I went to -- I think I went to a doctor. I'm not really -- I don't remember.

I'm pretty sure I did go to a doctor, you know, but they stopped me from the job, and I don't know, you know, and I'm trying to think what else happened.

They stopped me from the job because they say, you know, people -- it happen like that with people when they working a lot, and after that I -- they -- they sent me to a doctor, and that is when they found out there was some strain on my back.

Q. Do you recall any medical procedures you had done to your back?

A. I did an MRI. I remember that. I was in this little tunnel thing. I remember that.

Q. Yeah. Do you recall the name of the doctor you saw?

A. No.

Q. Do you recall what they told you about your MRI?

A. No. No.

Q. Okay. Other than the MRI, do you remember any other medical procedures you had after that injury?

A. They just tried to -- I did physical therapy.

Q. Okay. How long did you do physical therapy?

A. Maybe about a month or two months.

Q. Did that resolve your back issues and your shoulder issue?

A. Yeah. Sort of, you know, yeah.

Q. Did you have continued back and shoulder pain after that?

A. No. No, I haven't had it continue.

Q. And you filed a workers' compensation claim then?

A. Yeah. Well, my lawyer handled all that.

Q. Okay.

A. Uh-huh.

Q. Who was your lawyer?

A. McWhirter Bellinger Associates.

Q. Do you recall, did you receive a settlement?

A. Yeah. Like $1,200, I think.

Q. 1,200?

A. Uh-huh.

Q. Okay. Any other workers' compensation claims?

A. No.

Q. Any other times you were injured on the job?

A. No.

Q. Okay.

A. Only at Michelin.

Q. Any job. Any other time you've been --

A. Just Michelin and -- Michelin and Ridge Tech.

Q. Okay. So other than this injury that we're here to talk about from Michelin today and the one that you just told me about, any other times you have been injured while working?

A. No.

Q. Okay. Have you ever been a party to a lawsuit?

A. Yeah.

Q. Can you tell me about that?

A. That's with General -- General Tire.

Q. Okay.

A. They did -- they -- we -- we had signed a contract where it was -- I think it -- and it was like a group of us, and General Tire was up in North Carolina, and we

had to hire a lawyer, and they -- they didn't honor the contract as far as hiring us permanently, and we won that.

Q. Who was your attorney for that?

A. I can't even remember her name.

Q. Okay.

A. I know she was a lady. That's all I know. I don't remember what name.

Q. And you all won your --

A. And that was like a long time ago. Huh?

Q. You all won that suit?

A. Uh-huh.

Q. Did you receive a settlement or --

A. Yeah.

Q. Do you know about how much?

A. 14,000.

Q. And that's for a breach of contract?

A. Yeah. Something like that. Something they did wrong that she caught, and everybody -- you know, it was a collective -- like 30 or 40 of us. It was a lot of people, and they had that strike up there a long time ago. If you can remember, I don't know.

Q. Okay. And you said that was "a long

time ago." Ten years ago?

A. No.

Q. Twenty years?

A. Yeah.

Q. Okay. Have you ever had a motor vehicle accident?

A. Yeah.

Q. How many?

A. One, two -- when I was a kid with my dad, I was in the car with my daddy, and one with me. That's as far as I can remember.

Q. So two, maybe?

A. Uh-huh.

Q. Okay.

A. Two as far as I can remember. Now, I'm trying to think. Did I have another one. No. That's it.

Q. Did either of those result in injury?

A. Let's see. No. Well, when I was a kid, they had said I had a bruise, but I don't even remember that --

Q. Okay.

A. -- you know, but none of them result in injury. All I did -- the second one, I just -- they got a -- towed the car.

Q. Okay. But you were not injured?
A. No, I was not injured.
Q. When was that?
A. 1990-something. '92. '90s, in the '90s.
Q. Okay. I have to ask, do you have a criminal record?
A. No.
Q. Okay. No pending charges?
A. No pending charges.
Q. All right. We've already talked about one issue that you had, your prior workers' compensation claim, but can you tell me, have you ever had any prior problems with your back?
A. No. No. Not at all.
Q. Any prior medical treatment for your back?
A. Other than, I mean, when I had it with Ridge Tech, that's -- that was it.
Q. Okay.
A. That's the only, Ridge Tech is the only, such and such after -- after Ridge Tech, my -- my back was fine.
Q. Okay. And when did you leave

Ridge Tech?

A. I can't remember.

Q. Okay. Were you let go or did you resign?

A. I resigned.

Q. All right. Do you remember why?

A. I just found a better job. I think it was a better job.

Q. Okay.

A. Let's see. Yeah. I can't remember what date.

Q. And no other back injuries or medical treatment since then until June 24th?

A. Right.

Q. Okay. Do you recall receiving medical treatment on June 11th of 2017 --

A. Uh-huh.

Q. -- for your back?

A. Uh-huh.

Q. What happened then?

A. Well, that was when I went to the -- to the emergency room, because it was still kind of aching me, my back, you know, was aching me, and I was like, why, you know, and I asked them, say, Maybe I can take something

for -- something -- can you check it?

He said, Well, you know -- he -- he asked me what kind of work I do, and I say, I work at Michelin and I do this.

And he was like, Well, you might just need to give it time, some time. It will go away or this, that and the other.

So I said, Okay, and he prescribed some Flexeril, or whatever, to me, some muscle relaxer, I think.

Q. And that was on June 11th?

A. Uh-huh.

Q. Okay.

A. Yeah.

Q. When did your back start bothering you?

A. When I start doing the work at, the physical work at, Michelin.

Q. Okay.

A. I mean, as far as stretching the rubbers and stuff like that, but everybody was saying that was expected to do -- to be, and I was like, yeah, you know, this -- I'm -- because I'm not -- you know, you -- you do that, I guess you body got to get used to it.

I don't know.

Q. Right. So you started doing that physical work at Michelin in late April? Would that be right?

A. I -- I don't exactly know the date.

Q. Okay.

A. Don't hold me to that, but it been when we started getting our job prep -- when we start assigning to the jobs.

Q. Right.

A. You know what I'm saying? PAP operator.

Q. Yeah. So if you started working for Michelin April 17th, then it would be a couple weeks after that?

A. I assume so. I -- I don't --

Q. Okay.

A. I can't -- don't hold me to that.

Q. Did you tell anyone that your back was bothering you?

A. Yeah. The trainers that was training me. I forgot his name, but people -- you know, everybody -- everybody around us, they tell -- they tell you that -- that you going to be hurting. You going to be doing this,

they say that's normal, but you got to get used to it. You know, everybody said that.

Q. Okay.

A. So -- because, you know, you are not used to doing the physical work or whatever.

Q. Right. And who did you tell?

A. I forgot the guy training me. I mean, everybody knew. My neighbor -- the person that I was -- Harlan Brown. I forgot the guy that's training me, though.

Q. Okay.

A. But everybody that -- we didn't have a -- we went to different people around, and, you know, they was doing it, and they say, Hey, your back going to be hurting, this, that and the other.

And he say, Hey, your back hurting?

Yeah.

I know -- I know your back going to be hurting. It just take time to get used to it. You know, even the nurse said that as well.

Q. Okay. When did you see a nurse?

A. I didn't see a nurse. I mean -- I mean -- I mean, I'm talking about when -- after -- this is when -- after I got hurt on

6-24.

Q. Okay.

A. Okay. That's when the nurse told me it takes time to get you --

Q. Okay.

A. She even explained to me about, hey, you know, don't -- that the -- the -- your body will get used to it or what have you, you know, stuff like that, so that's what happened. You know, she told me my body is going to get used to it.

I was like, Hey, it's hurt. That was the time with the -- the back had -- the camel had broke. How you say it? The camel broke the horse's back. That was it, you know, but she was -- you know, they was saying, Hey, it's -- you know, You got to get used to it, this, that and the other, so I didn't kind of -- I went --

I say, Huh? But I had got a second opinion. And when I got a second opinion, they say, No, you need to lay out for a while.

Q. Okay.

A. That was that -- go ahead.

Q. No. Continue if there is anything

else.

A. Huh-un.

Q. Did you tell the people a Michelin that you went to the ER on June 11th?

A. Telling people a Michelin? When I went to the emergency room? No. When -- when I went -- no. I didn't tell nobody, no.

Q. Okay. And you were prescribed Flexeril?

A. Yeah.

Q. Were you ordered out of work?

A. No.

Q. Okay. Any other problems with your back prior to June 24, 2017, that we -- other than what we've discussed?

A. Say what now?

Q. Other than those problems that we've discussed in this conversation or the conversation about Ridge Tech, do -- can you recall any other back injuries --

A. No.

Q. -- or back issues?

A. Huh-un.

Q. Okay. Do you have any other medical conditions?

A. High blood pressure.
Q. High blood pressure.
Do you take anything for that?
A. Uh-huh.
Q. What do you take?
A. Labetalol.
Q. Who prescribes that?
A. Dr. Moorman.
Q. Doctor?
A. Moorman.
Q. Moorman. Okay.
Have you ever had any surgery?
A. No.
Q. Have you ever been hospitalized?
A. Oh, I had a surgery on my knee.
Q. Okay.
A. A long time ago, playing football, high school.
Q. Were you indicating your right knee?
A. Uh-huh, my right knee. I'm sorry.
Q. That's okay.
A. Anthropsoly(sic), whatever that is called, fluid on the knee or something.
Q. Okay.
A. That was it.

Q. Ever been hospitalized for any reason?
A. No.
Q. Okay. Other than the high blood pressure medicine, what else do you currently take?
A. I was taking some cholesterol medicine, you know, but the doctor took me -- you know, if I can take that Omega -- what you call it, Omega 3, that would be fine, but that's it, high blood pressure, and I had -- I was taking cholesterol medicine now. What else. That is it.
Q. Okay.
A. Uh-huh.
Q. Who is your family doctor?
A. Dr. Moorman, Eric Moorman.
Q. Are you right- or left-handed?
A. Right-.
Q. All right. So now let's talk a little bit about June 24, 2017. Can you tell me what happened?
A. Well, we was stretching rubber on a tire -- on the tire bar, and I'm -- in the a.m., morning, 4:30, 5:30, whatever time it was, and I was stretching -- try to stretch

it, get it onto the thing. Then stretch it.

You got to keep stretching until it connect to the other side, and I just -- my back just like, boom, and I -- oh, and, you know, everybody say, Hey, you got -- you got to get used to it, you got to get used to it.

So I just, hey, you know, suck it up, got to get used to it. That's what he was telling me, so went on throughout the day, and then go to my car. I couldn't bend down in my car.

Oh, so I -- I tried to contact -- I went to the -- what you call it, the nurse, the infirmary -- the infirmary. The nurses -- because they said on this card, 951-5200, they were open, but they wasn't open that day, so I went over there to knock on the door. They wasn't open, so I left there and went to the emergency room because there no nurse on -- on the site.

This is Saturday morning, so I went to the emergency room, and I contact Derrick. Derrick is one of the -- the bulls, and he told me, he say, Yeah, you --

I say, I just want to let you know

because you more who I see on the lot.

But he say, Yeah, but you need to let Troy know because Troy is the --

I say, Yeah, I'm going to call him too, but I want to let you know and let Troy know because in case I can't -- I'm going to call everybody.

I let Derrick Gibson know, Troy Lowman know. Troy -- I called Troy. Troy Lowman told me call me. I called him right from the emergency room. The nurses was right there, and Troy say, Call the nurse.

I said, There is no nurse there, so when I --

He say, Okay. Well, let me see if I can get in contact with the nurse, and he say -- and that's how that was, and I said -- that was that. I say -- he say, Why didn't you let nobody know?

I said, Hey, I -- I'm letting you know and I'm -- that's the only person I -- nobody is there, you know.

So he say, Yeah. Okay. Well, he said he will try to get in -- I guess he called and talked to the nurse or whoever it was.

Q. Okay.

A. And they -- and the nurse called me Saturday. No. Tyrone called me Saturday when I got home from the emergency room, and the nurse called me Saturday, and they asked me what had happened, blah, blah, blah, because they -- you know, there is nobody onsite, so they say, Okay. Well, Isaac, can you just meet at HealthWorks Monday morning?

And I say, Okay. And that's when I met Dr. Izard.

Q. All right. So you mentioned there were people around when you felt this pain. Can you tell me the name of anybody who would have seen this happen?

A. Harlan Brown. That's the -- he was in training with me, and, well, and I got to find out the other guy name. He's the one who was -- tall, black guy. God almighty. I got to think of his name. He used to -- Derrick Gibson know who was training me. He would know who was training me. I forgot. I can't recall his name. I said it once before, but I can't remember his name.

Q. But that person saw it as well?

A. Yeah. Yeah. They -- they know -- they know that -- you know, expect to be back hurting. That's what they were telling us.

Q. Okay.

A. Uh-huh.

Q. So you went to the ER.

A. Uh-huh.

Q. What did they do for you there?

A. Well, she -- she examined me and she prescribed me Oxycodone, Flexeril, so many medications I can't -- I got them at home. What's the other one, the big -- with big pills. God almighty. A lot of medication. I got a --

Q. Okay.

A. And she ordered me off of work and she recommend me to go see Lexington Brain. She told me after that, if it hurts -- because she had the same problem too. If it continues to hurt and I have a problem with my left side or urinating, or whatever, come back.

I came back at the Lexington Hospital again, and it was -- it was terrible pain. I couldn't drive. I mean, when I came back, they gave me a shot. This is the second time

around. Gave me a shot and did an MRI -- I mean -- no. Yeah, did an x-ray. Not an MRI. X-ray. I'm sorry. And they saw -- you know, they were saying that, you know, my blood pressure still high because of the pain.

Q. When did you go back and have that x-ray done?

A. That's -- that's the 6 -- maybe the -- the -- I can't remember. I know it was after the -- after the first time, 6-24, but after that it was another time. I think it was 6-27.

Q. Okay. So a few days later?

A. Yeah, a few days later.

Q. On the 24th were you taking the Flexeril you were prescribed on the 11th?

A. Uh-huh.

Q. Okay. Was it helping your back pain?

A. The Flexeril or you say -- say that again now.

Q. So on the 11th you went to the ER and you said they prescribed you Flexeril that day.

A. Yeah. Yeah.

Q. Were you taking that on the 24th?

A. Yeah. I was taking that on the 24th, yeah.

Q. Okay. Was that helping?

A. No.

Q. Okay. So you went back to the ER, and the next time they did the x-ray. What did you do after that? Did they send you somewhere? Did you go back to the ER again?

A. After the 24th or the 27th?

Q. You went the 24th and you went back the 27th, correct?

A. Uh-huh. Uh-huh.

Q. Okay. After the 27th, where else did you go?

A. I went to Doctors Care.

Q. Doctors Care. Okay.

Who did you see at Doctors Care?

A. I don't know the big guy name. I forgot his name, but he -- he saw -- he put a -- he pulled a report on us. You know, we got there, he pulled a report up. He showed that -- he say, Isaac, I wish I could help you, but you got to go to Lexington. He say, You know, you got -- because when you get that highly drugged, Oxycodone, and all those other

drugs that they already prescribe to me because I already had a shot and everything, he said, you know, What I can do is write you out now because -- but I see you been trying to get some help here, and he said, I couldn't -- you know, I really -- I can't do nothing for you, but, you know, I could write you out because -- until you get -- get into Lexington Brain & Spine.

Q. Okay.

A. You know, and he finally -- he -- he did me some more Flexeril and wrote me out again because I guess he -- he saw when -- when we -- when we went to him, he -- you know, it -- it shows a report that says -- when you get the Oxycodone, it's -- a red flag go up.

Q. Okay. Did you go see someone at Lexington Brain & Spine?

A. Yes.

Q. Who did you see there?

A. Boyd. No, not Boyd first, but what is his PA. I don't know his name. He a Mexican guy. I saw him first. He did the first diagnostic of me, and that's when I went to

schedule to see Dr. Boyd.

Q. Okay.

A. Uh-huh.

Q. What did Dr. Boyd do for you?

A. Well, he assigned me physical therapy and gave me a shot, administer a shot.

Q. What did he diagnose you with?

A. It's -- it's a sheet -- lumbar 4 and 5. The medical terms I don't know. You know what I'm saying? He say my lumbar 4 and 5 are -- first he did an MRI. When he did the MRI, that's what showed him everything, what the lumbar 4 and 5 are, what was -- the disk.

Q. Okay.

A. Uh-huh.

Q. And he ordered physical therapy?

A. Physical therapy, first stages, physical therapy, and the shot.

Q. Have you started physical therapy?

A. Uh-huh.

Q. How often do you go?

A. I had to stop, though.

MR. SAMUELS: I don't want to interrupt you, but I want to make sure that you say yes or no, rather than uh-huh.

THE WITNESS: Okay.

MR. SAMUELS: Because it helps the court reporter.

MS. ROSS: Thank you.

MR. SAMUELS: And it helps us make sure we get a clear record.

THE WITNESS: Okay. All right.

MS. ROSS: Thank you.

BY MS. ROSS:

Q. I will try to prompt you better.

A. Okay.

Q. So you started physical therapy when?

A. As soon as he ordered it, and I can't remember the date.

Q. Is that --

A. I would have to look it up. I don't have the information on me, on hand.

Q. That's okay.

A. Yeah.

Q. Was that in July?

A. Yeah, somewhere in July, I think.

Q. Okay.

A. Was it in July? Wait a minute. No. No. I couldn't do it because I had to wait and I had to see him. I -- I don't -- I have

to look those dates up.

Q. That's okay. How long did you go to physical therapy?

A. I have to look those dates up as well.

Q. More than a week?

A. Yeah, more than a week.

Q. More than a month?

A. Not more than a month. I had to stop because I couldn't -- they had -- when I got fired off of Michelin, I had to -- they -- they cut off my insurance and stuff, so they couldn't really pay -- I couldn't really -- they said in a nice way that, hey, look, you know, we just wait and see what workmen's comp -- can we wait and see what workmen's comp do.

Q. I see.

A. Uh-huh.

Q. You saw Dr. Izard?

A. Uh-huh. On the HealthWorks.

Q. Yes.

A. Uh-huh.

Q. What did Dr. Izard do for you?

A. Nothing.

Q. Did he examine you?

A. No. Barely.
Q. Did he perform any tests?
A. No, no tests. He -- I -- I showed him all the paperwork that the other person -- that the emergency room said. He just said, No. I mean, Go -- assigned me to go back to work.
Q. So you did not have to follow up with him again?
A. What, Dr. Izard?
Q. Right.
A. I mean, I didn't -- nobody told me to follow up with him --
Q. Okay.
A. -- or anything like that? I went and got another opinion because he told me to go back to work, and I wasn't going -- you know.
Q. Any other --
A. I got another opinion when I went to -- when I went to the emergency room, the emergency room told me, so I went after. My pain was -- I was on Oxycodone then, so it got worser, and I couldn't even move, and I was so dizzy, or whatever, so I went back to the

emergency room, and that's when they told me, You got to go to Lexington Brain & Spine.

Q. Okay. Do you have any upcoming scheduled appointments with Dr. Boyd?

A. October, I think. It's -- I have to look at -- I got it written down. October 15th, 12th, something like that.

Q. And when was your last appointment with Dr. Boyd?

A. I got it written -- I have to look. I got my notes and stuff at home. It's just recently. I think I -- I sent it to my --

THE WITNESS: I sent it to you all, a copy, didn't I, of -- of the --

MR. SAMUELS: You are not able to ask --

MS. ROSS: You've got to --

MR. SAMUELS: -- me any questions.

THE WITNESS: Oh. Oh.

MS. ROSS: -- direct all your answers to me.

THE WITNESS: Got you. Okay.

MS. ROSS: Yeah.

THE WITNESS: Yeah. Everything -- I mean, I have to look it up.

BY MS. ROSS:

Q. Okay. Was it within the last week?

A. No, it wasn't last week. Let's see. When that was. If I have to give you exact date, I have to look it up.

Q. Just give me generally. Was it within the last two weeks?

A. Last two weeks.

Q. Okay.

A. Within the last two weeks. It was in -- what is the date. September. This month here.

Q. Okay.

A. And the next appointment is October.

Q. October.

A. I don't know exact date.

Q. Okay. And has he ordered anything other than I believe you mentioned injections and physical therapy?

A. Yeah. He is -- yeah. That's all he ordered for now, you know.

Q. Okay.

A. But he knows I stop -- you know, stopped physical therapy.

Q. Okay. And he told you you were unable

to work?

A. Right.

Q. Okay. Have you seen any other doctors for your back?

A. No. Just Dr. Boyd.

Q. Do you believe any other body parts are injured as a result of this injury on the 24th, other than your lower back?

A. No.

Q. Okay. All right. What additional medical treatment do you think you may need?

A. I don't know. I know I'm going to need physical therapy.

Q. What was different about your back pain on the 24th than what you experienced -- that sent you to the ER on the 11th?

A. Say that again?

Q. So you went to the ER on June 11th for back pain --

A. Uh-huh.

Q. -- correct?

A. Yeah.

Q. Okay.

A. Yeah.

Q. What was different about the pain you

felt on June 24th than that pain?

A. Well, the pain I felt on June -- June 11th was not -- it was just -- it was on a weekend, and I couldn't -- so I say, well, let me go and see what I -- see whether I can get something from a doctor to see whether I can get some muscle relaxer, whatever it is. I don't know. You know what I'm saying? I wanted to ease the -- the muscle up a little while I'm off. You know, it was, you know, really -- it was just, you know, hey, you know, rub it off. Everybody was tell me that, so I was like, Okay, it's fine, so, you know, I took it like that, so then --

Q. Okay.

A. -- when June 24th, when I pulled that rubber, that's when the hard -- the camel broke the horse's back.

Q. I see. All right. Can you tell me a little bit about your physical limitations right now? What is it that you used to be able to do that you can no longer do because of your back pain?

A. Right now I can't bend all the way down.

Q. Okay.

A. I mean, I can't do certain things, what the doctor told me not to do.

Q. Okay.

A. Right now I'm at a standstill because I can't do physical therapy and get the -- he think I might need another shot or something. I don't know. You know, until he examine -- he going to examine me again in October to see where I'm at, but he already examine me this month here, and he say, you know, I'm still weak on my left -- he did some tests on me, said I'm still weak on my left side.

Q. On your whole left side?

A. Well, he did with my foot, he had -- had -- you know, he got his own little tests he done, and he said, yeah, the side, it just kind of weak on bending down and stuff like that.

Q. Okay.

A. Because my pain is still at -- it's right -- it went down when I start physical therapy. Now it's at like a three, you know, three or something like that. It's better than what it was when I started physical

therapy and got that shot.

Q. Okay. What kind of physical activity did he tell you to avoid?

A. Oh, everything. Everything. Only thing I supposed to do is physical therapy.

Q. How about in your daily life, are there stairs in your house?

A. Yeah.

Q. Do you have trouble going up and down your stairs?

A. I don't go up the stairs.

Q. Okay. Do you have any hobbies?

A. No. I play sax.

Q. Do you still play the sax?

A. No.

Q. Do you have any other hobbies?

A. Looking at movies.

Q. Okay. You don't do anything else in your free time?

A. No. Nothing but try to get better for now.

Q. Okay.

A. Yeah.

Q. Okay. Are you working anywhere?

A. No.

Q. Have you applied to work anywhere?
A. No.
Q. Okay. Have you applied for unemployment benefits?
A. No, ma'am.
Q. Have you applied for short-term- or long-term disability?
A. No. And I had asked Kathy that, but I just -- it finally waited...
Q. Have you applied for Social Security disability?
A. No, ma'am.
Q. Have you had any other injuries or aggravations since your accident?
A. What you mean injury?
Q. So since the 24th, has anything -- have you slipped and fallen?
A. No.
Q. Has anything happened?
A. No.
Q. Okay. Did you return to work at any time between the 24th and when you were let go?
A. No.
MS. ROSS: Give me just one second.

I believe that's all I have.

EXAMINATION

BY MR. SAMUELS:

Q. I have a question about Dr. Izard. Did he tell you not to follow up with a neurosurgeon?

A. Yeah. He told me I wouldn't -- I would just -- you know, this -- this is -- this is normal and don't worry about it, don't take the medication, don't follow up with the neurosurgeon, but I didn't -- I -- I didn't -- I have went and got a second opinion and -- and thank God I did.

Q. Okay. I have a note, something to the effect about Michelin wanted you to go back to Dr. Izard two days later.

A. Yeah. I couldn't. I was on -- drugged up --

Q. Okay.

A. -- Oxycodone, laid out, doctor's order say I can't drive.

Q. Okay.

A. And, you know, I had no car there, and I'm -- I'm on Oxycodone and all this medicine. I never took that in my life, and it made me

sleepy, and I'm not going nowhere out of the house. I mean, I couldn't even answer -- I didn't even answer my phone for a long time. I mean, you know what I'm saying? Yeah.

Q. Okay. Where are you having symptoms right now?

A. (Indicating) right here. What you mean "symptoms"?

Q. Where do -- are you feeling any pain anywhere?

A. Three, yeah.

Q. Okay.

A. The three right here.

Q. Okay. Do you have numbness or tingling anywhere?

A. That's -- it was going away because I was on the physical therapy --

Q. Okay.

A. -- but it's come slightly -- it might be coming back. I don't know. I have -- that's why I got a -- that's what my -- I have to -- when I go to Boyd, he is going to examine me again.

Q. Okay.

A. Because he was worried about

whether -- if I don't get that therapy, that -- and -- because it work -- it want it to work hand-in-hand --

Q. Okay.

A. -- the shot and that, because, see, on -- can I show you something?

Q. Nope.

A. Okay. But it's like it's -- it's a back thing they put me in.

Q. All right. So my -- my question is, where in your body do you feel this numbness and tingling?

A. Not right now. Not right now.

Q. Not right now as we are sitting here.

A. No, not right now.

Q. When you did feel it, where was it?

A. Oh, left side here.

Q. And --

A. Uh-huh.

Q. -- when you say "left side here," you've got your --

A. Yeah.

Q. -- hand on something, but --

A. Thigh, on my left thigh. From --

Q. Okay. Left thigh.

A. From my upper left thigh all the way to my knee.

Q. Okay. So --

A. Go ahead.

Q. Would it be fair to say that with that sensation of numbness and tingling, your back injury is affecting your left leg?

A. Yeah, I would say fair to say that.

Q. And that's something that Dr. Boyd is working with you on?

A. Right.

Q. Do you like Dr. Boyd?

A. Love him.

Q. Do you want him to continue as your doctor?

A. Yes.

Q. Do you trust him?

A. Oh, my God, yes. He -- he -- he -- I thought I wasn't going -- I -- I thought I was -- I was done. I thought I -- I start looking for Social Security. I thought I was done, but when he -- when -- and when he did his -- that -- that -- he told me, he say, We going to go through three steps, the shot, the physical therapy -- because he say he don't

want to go in until -- because he believe the body can heal itself, so -- and -- and he -- he got me to somebody who had the same problem I had, so that's -- I trust him.

MR. SAMUELS: Okay. Thank you. That's all the questions I have.

MS. ROSS: I just want to briefly follow up.

REEXAMINATION

BY MS. ROSS:

Q. We talked about that Michelin wanted you to see Dr. Izard again, but you said you couldn't because you didn't have transportation, you couldn't drive yourself?

A. Yeah, I couldn't drive. I couldn't -- I was out of capacitated(sic).

Q. Okay. Do you recall Mark Gross informing you that they could have transportation arranged for you?

A. Yeah. He called me up and -- and I was -- right then I wasn't too kosher about that, of coming all the way out to -- coming to Michelin, or whatever like that, so I wasn't -- when I'm under -- I would rather have somebody with me because I was still

sleeping and on Oxycodone. You know, I was -- you know, I mean, I couldn't -- I -- I didn't -- I wasn't comfortable with that.

Q. Okay. But you recall Mark Gross asking you --

A. Yeah. I do recall it, yeah.

Q. Okay. And you refused that transportation and visit.

A. Yeah. Yeah.

MS. ROSS: Okay. That's all I have.

MR. SAMUELS: Meredith, do you have some documentation about Mark Gross?

MS. ROSS: I do, I believe.

MR. SAMUELS: Because that was not -- does not appear to have been provided to me in response to my subpoena.

MS. ROSS: In response to a subpoena. Let's see.

Okay. Are we off the record?

MR. SAMUELS: We're still on the record.

MS. ROSS: We're still on. Okay.

MR. SAMUELS: While you are looking for that, who is Mark Gross?

MS. ROSS: He is one of the Michelin

employees.

MR. SAMUELS: I mean, is he a safety guy, a supervisor? Is he...

MS. ROSS: Let's see. I have RGEP US7.

MR. SAMUELS: Do you have any idea what that stands for?

MS. ROSS: No, sir.

MR. SAMUELS: Neither do I.

MS. ROSS: Okay. I will find out if there is anything missing in the file to give -- to respond to your subpoena.

MR. SAMUELS: All right. For what it's worth, looking at what I've been provided, I've not been provided any payroll records.

MS. ROSS: Okay.

MR. SAMUELS: I've not been provided any witness statements.

MS. ROSS: Sorry? Can you say that last one again? Payroll records...

MR. SAMUELS: Payroll records, witness statements, time sheets, any records of any investigation or safety evaluation. I've not been provided any reports documenting the

reason for terminated. All of these would have been covered under the subpoena, so I would request that those be immediately provided.

MS. ROSS: Okay. I've got that noted.

MR. SAMUELS: Okay. And there is no problem with that, is there?

MS. ROSS: I am covering this deposition. I will need to confirm with our office if there is something that they have not provided that they need to send.

MR. SAMUELS: Okay. Thank you very much.

MS. ROSS: Thank you.

(The deposition concluded at approximately 12:06 p.m.)

CERTIFICATE OF REPORTER

I, Shelley Burgoyne, Court Reporter and Notary Public for the State of South Carolina at Large, do hereby certify:

That the foregoing deposition was taken before me on the date and at the time and location stated on Page 1 of this transcript; that the deponent was duly sworn to testify to the truth, the whole truth and nothing but the truth; that the testimony of the deponent and all objections made at the time of the examination were recorded stenographically by me and were thereafter transcribed; that the foregoing deposition as typed is a true, accurate and complete record of the testimony of the deponent and of all objections made at the time of the examination to the best of my ability.

I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof.

Witness my hand, I have hereunto affixed my official seal this 26th day of October, 2017, at Lexington County, South Carolina.

Shelley Burgoyne, Court Reporter
Notary Public
State of South Carolina at Large
My Commission expires:
June 29, 2020

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State of South Carolina
Before the
South Carolina Workers' Compensation Commission
WCC File No.: 1708221

Isaac Brailey,
Employee,
Claimant,
vs.
Michelin North America, Incorporated (US7),
Employer,
and
Safety National Casualty Corporation,
Carrier,
Defendants.

Deposition of
SCOTT B. BOYD, MD
January 15, 2018

COPY

Deposition on oral examination of SCOTT B. BOYD, MD, reported by Donna Cheryl Kyzer, Court Reporter and Notary Public in and for the State of South Carolina; said deposition taken pursuant to notice of deposition and in accordance with the South Carolina Rules of Civil Procedure, at Lexington Brain & Spine Institute, 155 North Hospital Drive, #200, West Columbia, South Carolina, commencing on Monday, January 15, 2018, at the hour of 4:48 p.m.

APPEARANCES:

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REPORTER'S NOTE: No exhibits were marked for identification.

This deposition is taken in accordance with the South Carolina Rules of Civil Procedure.

It is agreed and stipulated by the deponent and respective counsel that the reading and signing of the deposition transcript by the deponent is expressly waived.

WHEREUPON:

SCOTT B. BOYD, MD, being duly sworn and cautioned to speak the truth, the whole truth and nothing but the truth, testified as follows:

EXAMINATION

BY MR. BEARD:

Q. Dr. Boyd, if you would, please state your name for the record and your affiliation, your medical affiliation.

A. Scott Burton Boyd. I'm affiliated with Lexington Medical Center practicing neurological surgery.

Q. Okay. And during your course of practice -- we're obviously here for a deposition regarding a gentleman by the name of Isaac Brailey, and I represent Michelin. You have had an opportunity to treat or evaluate this gentleman?

A. Yes.

Q. When did you first see him?

A. According to the records I have, July 24, 2017 --

Q. Okay.

A. -- was the first interaction that I was involved with.

Q. All right. Did you actually see him then or was that just the PA?

A. That was my physician assistant.

Q. Okay. Does the -- just for the record, what is the difference between a PA and, obviously what you are, an MD?

A. A physician assistant is a -- someone trained in medicine, but is not a medical doctor. It's an assistant that reports and works directly under me.

Q. And so when -- is it Mr. Valdez?

A. Yes.

Q. When Mr. Valdez saw Mr. Brailey, he would report to you, and you would supervise what would go forward from there, or how did that work?

A. Yes.

Q. Okay. So on July 24, 2017, did your records indicate that Mr. Valdez took a history

from Mr. Brailey?

A. Yes.

Q. And what was that history?

A. Well, I can read the whole thing, but basically he was presenting for evaluation of a injury he stated occurred at work when he was lifting some heavy materials. He felt a sharp pain in his low back. He was seen at urgent care and then the emergency room, prescribed medications and told to follow up with us.

Q. And as I'm looking at that report, it indicates he told Mr. Valdez that he was injured on June the 24th. Is that correct?

A. That's what's noted here, yes.

Q. Okay. Does Lexington Brain and Spine -- when someone is referred here or comes here for treatment, do you do like a patient history form?

A. I don't believe we do.

Q. Okay. Is there any indication or do you normally -- you and/or Mr. Valdez or anyone else here, do you normally ask questions about preexisting types of problems or things of that nature?

A. Yes.

Q. Was that done in this case?

A. I'm not sure.

Q. Okay. All right. And it looks like, from the history I'm looking at, he told Mr. Valdez that he was having radiating pain down his left leg towards his thigh into the left calf. Is that correct?

A. Yes.

Q. Any indication of right leg symptoms?

A. Not at this point.

Q. Okay. Is there any indication -- or where would we locate on these records how Mr. Brailey was referred to Lexington Brain & Spine?

A. Well, what's written in the History was that he came to us through the emergency department.

Q. Okay. And how do you confirm that? I mean, is that just what the patient told you or is there something from the ER that sends him over here?

A. Well, usually we can see in our electronic record if he's been in our emergency room.

Q. Okay. A couple of questions I have

on the first page of that report. They may be typos, and I know you all rely on the folks who type these. It says, States that Flexeril "hasn't" alleviated his pain somewhat and allow him to fall asleep. Do you -- what does that sentence mean? Is that -- should that --

A. I believe that was supposed to be "has." We use this voice recognition software that unfortunately some mistakes, typographical errors, get through that we don't always correct.

Q. Okay. And then another -- the last sentence, at least on the first page I have, says, Patient denies "shoes" of bladder. What should that be?

A. Issues.

Q. Okay. All right. So those are good things, that he has no bladder or bowel dysfunction issues?

A. Correct.

Q. And it looks like Mr. Valdez diagnosed him with -- it says low back pain. Then there are three things under there, Cyclobenzaprine or Flexeril, referral for physical therapy and an MRI to his lumbar spine. Those were the things that Mr. Valdez recommended?

A. Yes.

Q. Okay. Do you know whether those things occurred or what happened after July 24th?

A. Well, I know he got his lumbar MRI scan on July 29, 2017. I feel certain he got a prescription for Flexeril, and he was also referred to physical therapy. I don't know if he actually went to physical therapy.

Q. What did his MRI scan show on July 29th?

A. The most prominent finding was a left paracentral disk extrusion at L4-5 with a large superiorly migrated extruded fragment likely compressing the nerve next to it.

Q. In layman's terms, is that what we call a herniated disk?

A. A herniated disk.

Q. Okay. Is there any way to tell from looking at this MRI scan, Dr. Boyd, how long it had been present?

A. No.

Q. The next thing I see is a -- it looks like on August the 17th he had an epidural steroid injection by a -- is that by Dr. Brehmer?

A. Actually, probably by Matt Power,

the --

Q. Okay.

A. -- PA under the direction of Dr. William Brehmer.

Q. Okay. Are they both affiliated with this practice?

A. They're affiliated with the hospital, but not our practice.

Q. Okay. All right. Then the next time I have Mr. Brailey coming back here was August the 7th of 2017, when he actually saw you. Is that correct?

A. Correct.

Q. Okay. And what did he tell you? Anything different than what had been told to Mr. Valdez?

A. He again said he was pulling rubber at Michelin and felt something happen in his back, got immediate back pain and then pain radiating down his right, then left leg, which was continuing. He felt that he was weak in his left leg. At that point he felt like he was getting some swelling in his right knee, likely from compensating. He also stated that he hadn't had previous back problems, except maybe 25 years ago

he had an episode that resolved without any treatment. Pain was made worse by bending over, picking anything up. He stated that the physical therapy that he was undergoing felt like it was helping.

Q. Okay. You did an objective examination of him?

A. Yes.

Q. Were there any negative findings in that examination?

A. It was notable that he had weakness in his tibialis anterior and extensor hallucis longus, and he had a positive straight leg raise on the left.

Q. Okay. Straight leg test, is that an objective or a subjective test?

A. A little of both.

Q. And what was your diagnosis at that time?

A. Low back pain with a left lumbar radiculopathy.

Q. And what was -- what was your plan of action going forward?

A. I wanted him to continue with the physical therapy since he felt it was improving.

I was going to get him set up for an epidural steroid injection, but if those measures didn't help, we were going to discuss lumbar disk surgery.

Q. Okay. And it looks like he had the epidural, we talked about that earlier, on 8-17 with Dr. Brehmer or the PA, and then obviously this indicates he was going to physical therapy. He tells you physical therapy seemed to be helping. When was the next visit?

A. I have September 14, 2017.

Q. Okay. And what was his condition on that date?

A. Well, he was improved. His pain level was down to a three out of ten. I have recorded here that he has pain that radiates from his back down his right leg. I can't be certain that that's not a misprint.

Q. What was the plan for continued treatment, based upon what appears to be someone who is getting somewhat better?

A. Well, he was better, but still had some residual pain and radiculopathy. I felt it was too early for him to go back to his regular work, so I was going to gradually increase his

activities on his own and see me back in four weeks to reassess.

Q. Okay. And when you say it's too early to get him back to his regular work, you meant back to the job at Michelin?

A. Yes.

Q. What type of activities were you hoping he would be able to perform at that period in time, when you say "gradually increase his activities"?

A. At that time I wanted to see him being able to move around better, bend, twist, lifting at a reasonable level with -- without too much pain.

Q. Okay. Did he come back after September 14, 2017?

A. He did. October 12th.

Q. And how was his condition then?

A. He said his pain was worsened. It was worse at that point. He again described pain in his back, down his left leg to his foot. Described his pain on a level of six out of ten now, difficult to sleep. He had stopped his physical therapy at that point.

Q. And what was the -- based upon that

history or those complaints, what was the plan going forward?

A. Well, given his MRI findings, his neurologic exam and the pattern of his symptoms and the fact that this had been going on for quite a while, I felt that he needed surgery, but he really didn't want surgery. He instead wanted to pursue physical therapy, which was reasonable, and so we were going to try and do what we needed to to get him back with physical therapy, and then I would see him after his therapy to see how he was doing, or sooner if he changed his mind about surgery or was not getting better.

Q. What type of surgery would he have?

A. I think he was a good candidate for a outpatient microscopic diskectomy.

Q. In the world of back surgeries, is that pretty much the least invasive there is?

A. It's one of the most least invasive --

Q. Okay.

A. -- surgeries we do.

Q. Does that require him to be cut open or is that done more arthroscopically?

A. Well, it is an open surgery.

Q. Okay.

A. There is an incision made, but it's a small incision, about 1 to 1 centimeters.

Q. Okay.

A. And, again, it is usually done as an outpatient.

Q. All right. And has he been back since October 12, 2017?

A. Not that I'm aware of.

Q. Was he scheduled to return at any particular time? Was any -- were any appointments made for him to come back?

A. I don't know. I don't believe we made an appointment for him at his last visit because we were waiting for him to get started with and finish his physical therapy.

Q. Okay. Is there any indication in your records as to whether or not he has made phone calls asking to come back or anything of that nature?

A. Not in the records that I have in front of me.

Q. All right. Then the last thing I have is a questionnaire dated November 29, 2017. Do you have that in your file?

A. Yes.

Q. Okay. And it looks like -- I notice there is no heading or no -- there is nothing that says Lexington Brain & Spine, so I'm assuming this document was prepared entirely by someone and sent to you.

A. I know -- I know I didn't prepare this.

Q. Okay.

A. I responded to it, but I didn't prepare it.

Q. All right. Were there any -- was there any cover letter, any phone conversations, any communications that came with this document, or did the patient bring this document to you?

A. I don't think the patient brought this document. I think it was typically put on my desk by my staff.

Q. Okay. And in looking at the document, all of the questions, 1 through 5, are answered yes. Correct?

A. Yes.

Q. Would you agree, correct me if I'm wrong, that your answers to these questions -- at least with regards to question No. 1, The patient

more likely than not injured his lumbar spine at his employment on June 24, 2017, is the answer to that question based 100 percent on the history given to you by the patient?

A. Yes.

Q. Okay. The questions relative to No. 2, 3, 4 and 5 are questions answered based specifically on your examination and belief about the patient regardless of the causation. Is that fair?

A. Let me make sure I understand that. First of all, backing up to No. 1, that response is based on history given to me by the patient, but also perhaps some records from the emergency room and the urgent care that I may have had available when I first saw him.

Questions 2 through 5 were all answered by me based on my medical judgement and my examination of the patient and the objective imaging and tests that we had available to me.

Q. So 2 through 5 do not rely at all on the causation of the problem. They rely on the problem, correct?

A. It relies on his condition. Yes.

Q. Okay. So causation of -- what may

have caused it is irrelevant to your answers in 2 through 5?

A. Correct.

Q. Okay. I want to show you medical records that have been submitted into evidence by Mr. Brailey himself dated -- well, first of all, let me just show you what looks like about a six-page document from Internal Medicine's office. I'm not exactly sure what that is. It may be something affiliated with Lexington Medical Center, but I want to show you that document and ask you, did you have that document, records that were provided to you?

MR. SAMUELS: Grady, do you have a date or a page on that?

MR. BEARD: Yeah. It's your pages 7 through 12.

MR. SAMUELS: Okay.

MR. BEARD: I'm sorry.

MR. SAMUELS: Thank you.

MR. BEARD: Yeah.

THE WITNESS: Okay. I don't believe I did have this record, nor would I have had access to it because this is a physician group outside of the Lexington network.

BY MR. BEARD:

Q. Okay. So Internal Medicine is not a Lexington Medical Center affiliated group?

A. Dr. Marom is not.

Q. Okay.

A. I believe it's either Baptist or Providence.

Q. All right. Is that document consistent with the understanding that was given to you and to Mr. Valdez by Mr. Brailey?

A. He's talking about he's there reporting left low back pain for two weeks, so similar low back pain that he reported to us. He feels like it might be related to moving heavy things at his work, described ten-out-of-ten pain with certain movements.

Q. Does it indicate that that problem had been going on for two weeks prior to the time he went to those doctors?

A. According to this, yes.

Q. Okay. So that would -- would you agree that would date back to the very end of May or the very beginning of June?

A. Yes.

Q. Would you agree that that is not a

specific accident occurring on June 24, 2017, which is what Mr. Brailey has claimed in his workers' compensation claim that we're here for?

A. The records that we have, the history that we obtained, was that he reported June 24th as the date of injury --

Q. Okay.

A. -- which is different than what this says.

Q. All right. He did not claim to you or to Mr. Valdez any kind of repetitive type of workers' comp -- or work-related injury, did he?

A. He -- he reported to us what we have listed here, which was he was lifting some heavy materials and he felt a sharp pain in his low back.

Q. Okay. Would you agree in looking at that history, and I think you just basically said it, but just confirm for me, that the symptoms and complaints given on June 13th -- are they similar to the symptoms and complaints that he made when he first came here?

A. Left low back pain. There was no radiation into the leg at this point, whereas when we saw him he was talking about left leg pain, so

as far as the left low back pain, yes, that is similar.

Q. And ten out of ten is as bad as it -- is as bad as someone can describe pain?

A. Proper application of that scale, it should be the worst pain you could experience, yes.

Q. Okay. And, again, just for purposes of the record, and it's obvious, but I need you to answer the question, you would agree to within a reasonable degree of medical certainty that June the 13th is before June the 24th by approximately 11 days if not exactly 11 days?

A. I would agree with that.

Q. Is there also an indication, I'm sorry, on this report that he advised whoever took the history that there was no recent injury or trauma related to what was causing his back problems?

A. That's what's recorded here in this June 13th note.

Q. Okay. And, again, you don't think that this was a document that was in -- that you had access or was privy to?

A. It may have been in his records that

came with us. I don't recall seeing it.

Q. Okay. Do you -- do you keep records that come from other locations in the patient file?

A. They are scanned into our chart, whatever comes with them, yes.

Q. Is there any way for you to look and see if you have those? Is that --

A. Yeah.

Q. -- something you --

A. If we could break for a few minutes, I could go look.

Q. Would you rather wait until the end?

A. I would.

Q. Okay. I'll make a note to --

A. Okay.

Q. -- remind -- to just go see what's in your -- in your file.

I want to show you another report. It's dated June 11, 2017. It looks like a Lexington Medical Center ER report. I think that's what this is --

MR. BEARD: And, Stephen, it's pages 13 through 15 of yours.

MR. SAMUELS: Okay. Thank you.

Q. -- and ask you, did you have that from a June the 11th visit?

A. Now, this, I know we would have had access to, yes.

Q. Okay. Is that history different than the history given to you and Mr. Valdez, in terms of when this accident occurred or when his problems began?

A. Well, it seems roughly consistent. He's talking about low back pain, particularly in the left lumbar area, and he stated he was doing some heavy lifting at work prior to the onset of his pain, denied any prior history of back problems.

Q. There is no indication on that report, and I assume there is no indication in your records, that Mr. Brailey told anyone at Michelin about what was going on June the 11th or what was going on at Internal Medicine on June 13th, correct? There is no way for you to know that?

A. I have no idea what he reported to --

Q. Okay.

A. -- his employer.

Q. There was nothing in your records

indicating that he had reported anything earlier than June the 24th, correct?

A. I don't believe so.

Q. I want to show you, Doctor, what looks like another hospital ER report and it --

MR. BEARD: Stephen, this is page 18.

BY MR. BEARD:

Q. It's part of a June 24th admission and discharge date, and ask you, was there any indication on that particular date of radiating type of pain or anything other than the same left lower lumbar spine pain issues?

A. So this is an emergency department record from June 26th and it talks about low back left-sided pain that does not radiate.

Q. Let me just interrupt you one second. You said June 26th. Is it June 26th or June 24th?

A. I meant June 24th.

Q. Okay.

A. Excuse me.

Q. Thank you. And there is no indication of radiating pain at that time?

A. Correct.

Q. Okay. And that's the date -- June 24th is the date he told you he was injured on the job, correct?

A. That's what we have recorded in our first contact.

Q. Thank you, sir. It looks like this may have been the referral, page 21 of that same report. It looks like he was referred to Dr. Gunter. He's your partner, correct?

A. That's correct.

Q. Okay. And page 25 of Mr. Brailey's medical record submitted by him, what does that indicate in regards to his ability to return to work according to the hospital?

A. Well, it says that -- Dr. Brucker in the emergency department stated that he had the following restrictions: no work for three days, no school for three days, may return to work or school on June 28, 2017.

Q. Now, it appears no one requested or took an MRI scan at that time, so obviously there is no way for you to know whether or not the herniated disk you saw on the MRI scan you had would have already been in existence at this time, correct?

A. There is no way to conclusively know that.

Q. Based on the MRI scan that you saw, would it be normal to have radiating pain into a right hip, right thigh or right knee area or would it be -- should it be radiating into the left side?

A. Well, it should be on the left side, the same side as the disk herniation.

Q. Okay. I just want to show you what looks like another ER report dated June the 27th.

MR. BEARD: It's page 33, Stephen, of yours.

BY MR. BEARD:

Q. And does that reference radiating pain into the right lower extremity as opposed to the left lower extremity?

A. So this is June 27th, and it is noted that he has right hip, right thigh and right knee radiation, which would be atypical. I do think that at some point when I saw him he was talking about right knee pain probably because of compensation, so that may be something similar.

Q. Would he have had compensation that soon, three days after an alleged date of

accident?

A. It's possible.

Q. Okay. Is it probable?

A. If he had underlying knee problems, yes, but in the absence of underlying knee problems, not likely.

Q. Based on the documents you have been shown today, including the preexisting records from June 13, 2017 at Internal Medicine and June 11, 2017 from the Lexington Medical Center ER, is it still probable to state that his lower back problem was caused by an accident on June 24, 2017?

A. I can't be certain about the date, but something clearly caused him to have these problems with his back, these symptoms related to the problems with his back.

Q. Okay. But based on this new medical evidence, is it still possible to state within a reasonable degree of medical certainty, as was done on this form, that the cause of the low back problems is related to a work accident on June 24, 2017, which I believe is what question No. 1 asks?

A. I can't be certain about the date.

Q. Okay. So that question, you would no

longer say, Yes, to within a reasonable degree of medical certainty. It would just be uncertain?

A. I think I would say uncertain as to the date.

Q. Okay. And as I understand, currently you are awaiting Mr. Brailey to complete physical therapy, then make an appointment to come back and see you following that.

A. Correct. To reassess him, see how he's doing.

Q. Okay. And just to make sure, he has not been here at all since October 12, 2017, so roughly -- almost exactly three months at this point?

A. I'm not aware of him being here or having contact with our office, but I'd have to check our records.

Q. Okay. Assuming he had this microdiskectomy surgery and assuming we go to that point, how long is the rehab period for that? How long is somebody out of work for that?

A. It depends on a lot of factors, but I would estimate for Mr. Brailey and the type of work that he does, fairly heavy, physical work, that -- it would be done as an outpatient. At

four weeks he could go back to light duty if it did not involve heavy lifting, any significant twisting, pulling, more like office work, and then at six, more likely eight weeks he could be released to unrestricted duty.

Q. Okay. What type of impairment rating does that type of surgical procedure carry?

A. 6 to 8 percent.

Q. And that's the AMA Guides?

A. Fifth Edition, considering the whole person.

Q. Okay. And just by -- I'm doing this -- trying to do this off memory. That's like a DRE Category II?

A. Yes.

MR. BEARD: Okay. All right. Dr. Boyd, other than, when Stephen is through with his questions and assuming I have no further, us checking on what records you have in your file, I have no further questions at this time.

EXAMINATION

BY MR. SAMUELS:

Q. Dr. Boyd, I represent your patient, Isaac Brailey. For ease of reference, I'm going to hand you a couple of documents. One is the set

of medical records that Mr. Beard was already referring to, and the other, I will also hand you Mr. Brailey's deposition. You don't need to look at it at this point, but I will reference you to it most likely during the questioning.

And if I may, I just want to take you back through things chronologically. If you would, look at the larger package, and you'll see the numbers at the bottom. They have page numbers P1, P2, P3, and that's how I'll be referring to them.

And I guess as a first question, looking through the first set of documents, which appear to be records from Dr. Eric Marom at Midlands Internal Medicine, would you agree that there is no report of prior back pain or back injury, any kind of symptoms related to the back?

A. These are all the records under tab 1?

Q. Yes, sir. And specifically, pages 1 through 6 appear to be a visit from January 3, 2017.

A. I don't see any reference to low back problems.

Q. Okay. And I didn't either, just sort

of to point out. So would you agree that, at least from that record, there is no evidence that Mr. Brailey had any problems with his back on January 3, 2017?

A. There is nothing here to indicate that.

Q. Now, from the records I have, and if Mr. Beard wants to correct me if I --

A. Can I interrupt?

Q. Yes, sir.

A. These are records on a Rufus Dale Morris -- Norris --

Q. Are they?

A. -- not Isaac Douglas Brailey.

Q. 1 through -- I'm sorry. I have given you the wrong package.

A. All right.

Q. From an earlier deposition, and I seem to have mixed up my sets.

MR. BEARD: You want to let him use mine while you're questioning him?

MR. SAMUELS: Yeah. If you've got it --

MR. BEARD: Okay. Sure.

MR. SAMUELS: -- that's better.

THE WITNESS: All right. Let me go back to answer your last question.

BY MR. SAMUELS:

Q. So that was pages 1 through --

A. 5.

Q. -- 6. Well, 5. 6 is just blood work.

A. Okay. Same response. I don't see anything to indicate --

Q. Okay.

A. -- back problems, at least on January 3, 2017.

Q. I'm going to show you a document which is a Form 12A. This is a First Report of Injury, and just to confirm, this is a document filed by Michelin. Would you agree that we have a date of hire of April 17, 2017?

A. That's what it says, yes.

Q. Now if we can, jump ahead to page 13 of the large package in front of you.

A. Okay.

Q. Would you agree this is the first -- or the earliest record in which Mr. Brailey is complaining of back pain, and it's dated June 11, 2017?

A. Yes. That's the earliest that I've been shown today.

Q. Okay. What kind of history did Mr. Brailey give as to what was going on prior to the onset of his pain?

A. Well, the history he gave to the urgent care was low back pain, particularly in the left lumbar paraspinal region, for the past few days. Patient was doing some heavy lifting at work prior to the onset of his pain, denies any prior history of back "rails." No direct trauma, no incontinence or radiation.

Q. Do you agree at that point he was diagnosed with lumbar strain?

A. Yes.

Q. Given Cyclobenzaprine, a muscle relaxer, and Tramadol for pain?

A. Yes.

Q. And to follow up with his doctor if not better in the next three to five days?

A. Yes.

Q. Is that pretty typical for what happens when somebody goes to an urgent care with an industrial injury to their back?

A. That's not uncommon. In fact, it's

typical.

Q. And I'd like you to go back to the June 13, 2017 record, from Dr. Marom, at pages 7 through 11, that Mr. Beard had previously shown you.

A. Okay.

Q. Is this essentially the same history that was provided to urgent care? Has a new job at Michelin moving heavy stuff. Lower back pains for the past two weeks.

A. Well, two weeks. In another notation he said a few days. He does give a pain rating of ten out of ten, which he did not rate previously, but it seems roughly similar.

Q. And then, particularly, let me ask you to look at page 10. What did the physical examination show?

A. The pertinent findings were mild tenderness to palpation of the left lower back.

Q. Did they do a straight leg raising test?

A. Negative straight leg raise bilaterally. Normal symmetric lower extremity strength and reflexes.

Q. And at page 11, what was the

diagnosis as it relates to the back?

A. Acute low back pain.

Q. And also, No radicular signs or symptoms?

A. Correct.

Q. So at this point, does it appear that Dr. Marom essentially agrees with the urgent care as to what the diagnosis is?

A. Yes. They discuss the likely muscular strain, and they were going to check some plain x-rays.

Q. Let me ask you to take a look at Mr. Brailey's deposition, if you would. I'll ask you to look at page 33, and kind of read on, all the way through page 34 down to -- all of page 34. Let me know when you're finished with that, Dr. Boyd.

A. Okay.

Q. I'm going to ask you to jump ahead a little bit to page 35. Read lines -- starting at 21 on to the next page, just the beginning of the next page.

A. Okay.

Q. So reading that testimony along with -- along with the medical records you just

reviewed, what does it appear is going on with Mr. Brailey at that point in time?

A. It sounds like he was getting a sore back from the work he was doing at Michelin since, according to his testimony, it began after he started doing the physical work at Michelin.

Q. And at this point, is there anything that would warrant a referral to a neurosurgeon?

A. At this point, no, I don't think so.

Q. Okay. Let me jump you ahead to the emergency room report from Dr. Brucker on June 24, 2017, which begins at page 16.

A. Okay.

Q. Mr. Brailey has now gone to the emergency room, not urgent care, not his family doctor, but the emergency room, 11 days later. Would you agree with that?

A. Yes.

Q. And he is reporting lower back pain to the left side, since he was working last night. States that he does a lot of lifting and pulling and it started then, and that's at page 18?

A. Yes.

Q. What did Dr. Brucker do in terms of

referral to a neurosurgeon on that date?

A. Gave follow-up instructions to follow up with Dr. Gunter of our practice. Instructed the patient to call in one day to set up an appointment for next week if possible.

Q. So is it reasonable, then, to say that something is different on June 24th as compared to June 11th and June 13th, in terms of what the treating doctor did at that time?

A. Well, perhaps the acuity is worse since he went to the emergency room. I think the symptoms are roughly similar to what he had reported before, but at that point the physician evaluating him felt like he needed to be evaluated by a neurosurgeon.

Q. All right. I'd like you to look at page 26. Would you agree these next three pages are a post-injury questionnaire filled out at HealthWorks, apparently by Mr. Brailey, on June 26, 2017?

A. Okay.

Q. What sort of symptoms is Mr. Brailey complaining of now?

A. He is describing severe pain in his back, can't move, can't bend down, and it's

affecting his lower left and middle back.

Q. Jump ahead, if you would, to page 28. Now, there is a question with a couple outlines of a human body, and the question is, Where is your pain? What is this kind of illustration used for medically, Dr. Boyd?

A. Well, it's a pain diagram that helps get an indication of the pattern and distribution and sometimes the quality of a person's reported pain.

Q. What are you able to determine from this particular pain diagram?

A. That he was having mid- left low back pain down his left leg in the back, some right knee pain.

Q. And is that more consistent with what he reported to Lexington Brain & Spine after that date?

A. Yes. This pain diagram, which was dated June 26, does indicate radiation down into the leg of at least numbness.

Q. Do you believe that presentation would be appropriate for the patient to be referred to a neurosurgeon for further evaluation and an MRI?

A. Here is the thing. I think this is now his third encounter seeking medical attention, now in the emergency room, and he is describing symptoms that include radiation in a radicular pattern down a leg, and so therefore, yes, I do believe it would be reasonable to refer to a higher level of care, a specialist, at least imaging studies.

Q. And to be clear, this is actually the fourth visit. This is a June 26, 2017 visit with the occupational medicine clinic at Palmetto Health, HealthWorks.

A. Okay. Yes.

Q. This is not -- this is the follow-up after the emergency room.

A. Excuse me. You're right. Fourth.

Q. I'm going to jump you ahead once again to page 33. This is the June 27, 2017 note by Dr. Grant at Lexington Medical Center. I believe this is back at the emergency room. Is that correct?

A. I don't think I know a Dr. Grant, but, yes, it is the emergency department.

Q. This is the one Mr. Beard pointed out that the note says radiates to right hip, right

thigh, right knee rather than left.

A. Yes.

Q. I'm going to ask you, though, to jump ahead to page 36. And what is the diagnosis?

A. Low back pain with left-sided sciatica.

Q. Is it possible that the -- the first page, where it says right hip, right thigh and right knee is radiating to, is it possibly also a typographical error given the diagnosis is left-sided sciatica?

MR. BEARD: I just need to object, for the record, because that could go vice versa. It could also be the other way around.

THE WITNESS: I believe that could be either a patient reporting error or a physician recording error, as everywhere else in the records at other -- it seems to be left-sided.

BY MR. SAMUELS:

Q. And the MRI would -- based on the MRI, you would expect that if there were symptoms, they would be left-sided. Is that --

A. Yes.

Q. And also on page 39, what kind of referral was made?

A. Well, a referral was made to Lexington Brain & Spine.

Q. So twice the emergency department has referred Mr. Brailey to your practice; is that correct?

A. Yes.

Q. Let me jump you to page 43, and this is a set of documents dated June 30, 2017, from Doctors Care.

A. Yes.

Q. If you would, move to page 45 where there is the actual narrative report.

A. Okay.

Q. What kind of history did Mr. Brailey provide to the doctor at Doctors Care?

A. Work-related left-sided low back pain. He had been four times since June 11th, says he was hurt at work at Michelin.

Q. Did Doctors Care also make a referral to a specialist?

A. Yes.

Q. And did the Doctors Care doctor, as a primary care or urgent care type physician, did he have anything to offer Mr. Brailey given that Mr. Brailey was already taking medication from the

other doctor visits?

A. That's what's noted, that the doctor told him he had -- really didn't have much to offer him.

Q. Okay. He also makes a note that, I also told him as soon as a specialist hears that he got hurt at work, they're going to have no interest in seeing him if it's not through workers' comp.

A. I see that, yes.

Q. Is that -- is that something you occasionally run in to?

A. I don't know that that's entirely accurate, but it makes it more complicated.

Q. Sure. It means it's more likely you're going to have to go through a deposition with Stephen Samuels and Grady Beard?

A. Well, it just winds up being difficult with billing and authorization --

Q. All right.

A. -- for services and treatment.

Q. I'll jump you ahead to page 48. Under the Summary, what's the chief complaint?

A. Left low back pain. Injured it by stretching rubber on 6-24-2016(sic).

Q. And, Dr. Boyd, I'm not going to go back through your own medical records, but having gone through all of these records both times, do you feel you have a better picture now than you had at the beginning of the deposition of what happened to Mr. Brailey?

A. I think so.

Q. Okay. And what do you think happened to Mr. Brailey?

A. It sounds like he began having back problems with pain because of increased physical exertion with his new job at Michelin starting in April, got progressively worse to the point that he sought medical attention.

And I think, at some point, somewhere around June 24th, something changed where he began having a slightly different set of symptoms with pain radiating down his left leg in a radicular pattern.

Q. And what would have been causing the pain running down his left leg in a radicular pattern?

A. Well, that would be consistent with a disk herniation.

Q. Is that what you found on the MRI?

A. Yes.

Q. Then going back to the questionnaire that you had filled out that you have in front of you, and is also page 88 of our Claimant's APA submissions, having gone through this history now in more detail, seeing the sequence of events and the change in Mr. Brailey's presentation symptoms and condition, are you more comfortable with the idea that he had back pain or back soreness from the heavy labor, but on June 24, 2017, he had an incident where he was pulling or stretching rubber that essentially was the straw that broke the camels back, herniating the disk, and led to the condition he is in now?

A. I will say reviewing these records and specifically the questionnaire he filled out on June 26, which I believe is the first evidence of radicular symptoms down the left leg, that he reports some event on June 24th. I believe that, more likely than not, he injured his lumbar spine at his employment including some episode on June 24th.

Q. Is that your opinion to a reasonable degree of medical certainty?

A. Yes. Based on these records

presented to me.

Q. And do you stand by the other opinions you've given on the questionnaire?

A. Yes.

MR. SAMUELS: Thank you, Dr. Boyd. I have no further questions.

REEXAMINATION

BY MR. BEARD:

Q. I think just three questions, Dr. Boyd. Looking at the June 24, 2017, LMC report, pages 16 through 25, specifically -- I think if you turn over to -- turn the page a couple of pages, and I'll tell you when you get there. Right there. And what page is that? I'm sorry.

A. 18.

Q. Okay. On page 18, is there any indication on the date of the accident of any radicular pain to the left lower extremity?

A. He states it does not radiate.

Q. It specifically says that, correct, no radiating pain?

A. That is what is reported here, yes.

Q. Okay. And that would be the date, June 24th, that Mr. Samuels on behalf of

Mr. Brailey is claiming to have herniated his disk, correct, based on the information you've been provided?

A. Claiming that something happened on that date to have it recorded as an event of injury.

Q. Okay. But what's important to me is there is no radiating pain on that date. Correct?

A. In the Chief Complaint, it says, Does not radiate.

Q. Okay. How about under the diagnosis, is there any indication of radiating pain?

A. No.

Q. And you were asked a question by Mr. Samuels, Based on that report, was it then necessary for him to be referred to a neurosurgeon given the other two reports. In fact, that report is virtually no different than the report of June the 11th or, more importantly, the one from June 13th where he said he had ten-out-of-ten pain, correct?

A. Well, that's correct except this is now the third time he has sought medical attention. He is now in the emergency room. He's not better. In fact, you have to assume that he's

at least the same, probably worse, if he's continuing to seek medical care and going to the emergency room.

Q. And that opinion is based specifically on not knowing what Mr. Brailey may be reporting or not reporting to his folks out at Michelin, correct? You have no idea what he's telling the folks out at Michelin; is that correct?

A. Correct.

Q. Okay. And so if those folks come in and testify he told them something differently, then you have no way of knowing what that information is going to be or what that testimony may be, correct?

A. I have no idea what he has told the people at Michelin.

Q. Okay. And if the history ends up being different than is reported in these medical reports, then causation would change as well; is that correct?

A. Well, if it was substantially different, then, yes, it could. I -- I just want to say that it seems like he's been pretty consistent here. One other thing I want to say is

if I ask a patient, Does your pain radiate, they may not fully understand that, what that means, and so may not know how to respond. Admittedly, though, the physician did not note any sort of radicular symptoms, but did feel like it was appropriate to refer to neurosurgery.

Q. Did Mr. Brailey advise you or Mr. Valdez, did he advise either one of you that he had been to all of these other three locations before June the 24th? Was there any indication that he told you that?

A. Not that I'm aware of. I think we got the referral or he came to us through the emergency room, so I'm not sure we were aware of his previous physician note.

Q. All right. And there was an indication about there may have been a typographical error about right-sided, but your records indicated on a couple of occasions that he was complaining of right-sided radiculopathy. Isn't that correct?

A. I think on one occasion it might have been, and as I said earlier, I think that could be a typographical or recording error.

Q. Okay. Could I see one thing? I

think I'm sure, but let me just check one thing.

A. Okay.

Q. How long should 20 Tramadol last?

A. It varies so widely. Tramadol is usually dosed one 50-milligram tablet every eight hours, so three in a calendar day, so roughly seven days.

Q. Okay.

A. Many times it's taken as needed and lasts longer.

Q. All right. Would someone normally go from 20 Tramadol on June the 11th to 30 more Tramadol on June the 16th?

A. I think that's not unusual.

Q. Okay.

A. A lot of times patients will be in a lot of pain and they'll double up on their Tramadol, and it's not technically a narcotic medication, so we don't feel uncomfortable refilling it.

Q. Are you any kin to someone at Doctors Care named Dana Boyd?

A. I'm not related to anybody.

Q. Okay. I didn't think so. I just wanted to make sure.

A. I'm an only child of an only child and not related to anybody it seems.

MR. BEARD: Okay. That's all I have.

REEXAMINATION

BY MR. SAMUELS:

Q. Very little follow-up, Dr. Boyd. Take a look, if you would, at page 52 of the large package, which is the first visit to your practice where the PA, Mr. Valdez, saw Mr. Brailey.

A. Yes.

Q. Wouldn't you agree, in fact, according to that history, Mr. Brailey had visits to primary care and urgent care and eventually ended up in Lexington Medical Center Emergency department?

A. Yes. I see that.

Q. So, in fact, he did provide a history of those previous visits to Mr. Valdez. Isn't that true?

A. I stand corrected. Yes.

Q. I ask you to take a quick look at page 28. That is the picture with the pain diagram.

A. Okay.

Q. And in terms of radiculopathy down

into that left leg, how did Mr. Brailey describe it on the pain diagram?

A. Well, he has circled an area of the lower left buttock, posterior thigh and calf on the left and written in there Numbness.

Q. Okay. And numbness, would that be a sign of radiculopathy?

A. Yes.

Q. Okay. Is that something, sometimes, patients don't recognize as coming from a back injury?

A. It could be.

Q. Let me ask you to jump ahead to page 74. This is the second visit at the emergency room, on June 27, 2017. What specifically was reported as far as back pain in the Chief Complaint?

A. Can you tell me the page number again?

Q. Oh, I'm sorry. I gave you the wrong number. Page 33.

A. Okay.

Q. So immediately under History, what is the chief complaint?

A. Back pain. Here on Saturday for the

same. Did not recognize numbness until he was reading discharge instructions. Urinary retention seems the same.

Q. So specifically as to the not recognizing numbness, there was a question that was raised by Mr. Beard as to whether he felt numbness on June 24th at the first visit to the emergency room. Doesn't this fact indicate -- the part you just read indicate that he didn't recognize the numbness, didn't know what it was and didn't know to address it with the doctor?

A. It's hard for me to interpret that.

Q. Okay.

A. I don't know whether it means he didn't recognize numbness, meaning he didn't feel it until reading the discharge instructions, or didn't know what it was until reading the discharge instructions.

Q. And no question he's complained of left-sided radiculopathy presenting as numbness consistently since at least the point where he drew that diagram up through the entire time he has been under your care.

A. Since the June 26 -- the diagram, consistently through our care, yes, it has been

left leg and -- low back and left leg symptoms.

Q. And would it still be your opinion, to a reasonable degree of medical certainty, that that most probably resulted from an industrial accident on or about June 24, 2017 at Michelin?

A. I believe, based on his history and in his records, that it was related to his work at Michelin in the continuum with some event on or about June 24th that made things worse.

MR. SAMUELS: Thank you, Dr. Boyd. I have no further questions.

FURTHER REEXAMINATION

BY MR. BEARD:

Q. One question.

A. All right.

Q. June the -- or your first -- page 52 of your records, first history, is there any indication, when he says he's been to these medical facilities, that he was advising you he had been before June 24, 2017, or was it your impression and Mr. Valdez's impression that his problems began on June 24, 2017?

A. I don't believe that we distinguished whether he had been to the primary care or urgent care before or after June 24th.

Q. Am I safe in stating, based on the rest of your records where you indicated he told you he had no preexisting problems, that you were of the impression that he injured himself on June the 24th and had had no problems before that? That was at least your impression?

A. Yeah, my impression on -- my impression when we first saw him was that he had an injury on June 24th and no problems before then.

MR. BEARD: Thank you, sir. That's all I have.

MR. SAMUELS: We're done, Dr. Boyd. Thank you.

THE WITNESS: Okay.

(The deposition concluded at approximately 6:12 p.m.)

CERTIFICATE OF REPORTER

I, Donna Cheryl Kyzer, Court Reporter and Notary Public for the State of South Carolina at Large, do hereby certify:

That the foregoing deposition was taken before me on the date and at the time and location stated on Page 1 of this transcript; that the deponent was duly sworn to testify to the truth, the whole truth and nothing but the truth; that the testimony of the deponent and all objections made at the time of the examination were recorded by me and were thereafter transcribed; that the foregoing deposition as typed is a true, accurate and complete record of the testimony of the deponent and of all objections made at the time of the examination to the best of my ability.

I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof.

Witness my hand, I have hereunto affixed my official seal this 24th day of January, 2018, at Lexington County, South Carolina.

Donna Cheryl Kyzer, Court Reporter,
Notary Public
State of South Carolina at Large.
My Commission expires:
October 5, 2022

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SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

W.C.C. FILE #1708221

ISAAC BRAILEY CLAIMANT, VS. MICHELIN EMPLOYER, AND SAFETY NATIONAL CASUALTY CORPORATION CARRIER.	SC WORKERS' COMPENSATION COMMISSION HEARING OF ISAAC BRAILEY VS MICHELIN

This is the Transcript of the South Carolina Workers' Compensation Hearing of Isaac Brailey versus Michelin, taken before Gloria Davis, a Court Reporter and Notary Public in and for the State of South Carolina, commencing at the hour of 9:39 A.M., Friday, March 23, 2918, at South Carolina Workers' Compensation Commission, 1333 Main Street Columbia, South Carolina.

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ALSO PRESENT:

Mr. Mark Gross

*Reporter's Note: -- Indicates incomplete thought or sentence, trailing off or interruption by speakers.

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EXHIBITS

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THE RECORD
Received 5:2

Certificate 437

STIPULATIONS

(DEFENDANT'S EXHIBIT NUMBER ONE WAS MARKED FOR IDENTIFICATION PRIOR TO GOING ON THE RECORD)

Commissioner Wilkerson: Today's date is the 23rd day of March, 2018. We're here in reference to Workers' Comp file number 1708221. The Claimant is Isaac Brailey. Is it Brailey --

Mr. Brailey: Yes --

Commissioner Wilkerson: -- is that right?

Mr. Brailey: -- Brailey, sir.

Commissioner Wilkerson: Okay. Represented by Stephen Samuels. The Employer is Michelin; the Carrier is Safety National Casualty Corporation, represented by Grady Beard. The date of accident is 6/24/2017. The average weekly wage is seven fifty-three, thirteen ($753.13); thus the comp rate would be five oh two, eleven ($502.11). It is my understanding this is a denied Workers' Compensation claim. The issues -- we're here today -- oh, excuse me -- the date of accident, I think I said, is 6/24/17. We're here to determine the issues as set forth on a 50 and 51. Are there any objections to APA's, jurisdiction, venue or any other items by Mr. Samuels, the moving party?

Mr. Samuels: Your Honor, I object to the

Claims Index that has been submitted by the Defendants as it is inadmissible hearsay.

Commissioner Wilkerson: Okay.

Mr. Beard: We'll withdraw that.

Commissioner Wilkerson: Okay. What pages are those, just for --

Mr. Beard: That would be Exhibit C, Commissioner.

Commissioner Wilkerson: -- Exhibit C?

Mr. Beard: Yes, sir.

Commissioner Wilkerson: Okay. That way just for the record, I have it; I'll just take that out and not look at it because we may get into that as -- anything else, Mr. Samuels?

Mr. Samuels: No, Your Honor.

Commissioner Wilkerson: Okay. From the Defense's perspective?

Mr. Beard: Your Honor, at pre-hearing I indicated I would be objecting to page 45 of the Claimant's APA's relative to some hearsay. I'm going to withdraw my objection; I have no objections.

Commissioner Wilkerson: Okay. All right. Thank you. So, at this time -- excuse me -- Mr. Beard, if you would put your client's position on

the record and then, likewise, we'll have Mr. Beard do the same. I apologize; I've got something in my throat here.

Court Reporter: I think you said Mr. Beard.

Mr. Beard: You -- I -- I think you called, Stephen, Mr. Beard twice, yes.

Commissioner Wilkerson: Oh, did I?

Mr. Beard: Yes.

Mr. Samuels: Yes.

Commissioner Wilkerson: Okay.

Mr. Beard: You saw that bald head over there and you just assumed we all look alike.

Commissioner Wilkerson: You all could be --

Mr. Beard: All baldheaded men look alike.

Commissioner Wilkerson: -- you all could be twins.

Mr. Beard: That's why I grew facial hair so nobody -- I hoped that everybody would be able to tell us apart.

Commissioner Wilkerson: Please, Mr. Samuels, we'll let you go first anyway and then -- and then we'll get Mr. Beard's side.

Mr. Samuels: Thank you, Your Honor. May it please the Commission. Your Honor, I represent Isaac Brailey. Mr. Brailey injured his back on

June 24th of 2017, while employed with Michelin. What the evidence is going to show is that Mr. Brailey took the job at Michelin, worked, started developing some back pain, talked to his co-workers and essentially was sort of just, you know, new job, not an injury kind of pain. He went to -- to two (2) medical providers; he went to the emergency room on June 11th, 2017, and Urgent Care on June 13th, 2013. He was given some medication. He was not put on any work restrictions and --

Commissioner Wilkerson: Tell me that first date; I've got June 11th, 2013, so --

Mr. Samuels: -- I'm sorry. June 11th, 2017 --

Commissioner Wilkerson: -- okay. Okay. I put --

Mr. Samuels: -- and June 13th, 2017.

Commissioner Wilkerson: -- okay. I'm sorry. Okay. That's all right.

Mr. Samuels: Early Saturday morning, June 24th, 2017, he was stretching rubber, as he will testify, and felt sudden acute pain, went to the emergency room. This time he was taken out of work for three (3) days and referred to a

Neurosurgeon; he reported all of this to Michelin. On June 26th he saw Dr. Izard, Michelin's company doctor, who released him to full duty. Mr. Brailey was still having symptoms so he went to the emergency room again. He went to Doctor's Care and, ultimately, July 24th, 2017, he was seen by Dr. Scott Boyd. Now, Dr. Boyd has provided some treatment. Particularly, what happened is the MRI --

Commissioner Wilkerson: That's October 21st; is that what you said? I've got a right ear infection I found out yesterday. So, I'm having a wee -- my fault -- I'm having a wee bit of a problem picking up on dates.

Mr. Samuels: -- I'm sorry. His first visit with Dr. Boyd is July 24th, 2017.

Commissioner Wilkerson: Okay.

Mr. Samuels: Dr. Boyd has been deposed. Dr. Boyd does give an opinion that this injury is causally related to the work at Michelin and he maintained that opinion through his deposition and I think his -- his entire deposition testimony is very important in clarifying exactly what happened and why. Mr. Brailey is not at MMI.

Commissioner Wilkerson: Is he currently

working?

Mr. Samuels: He is not working.

Commissioner Wilkerson: Okay.

Mr. Samuels: Dr. Boyd has written him out of work. So, we are seeking a finding of compensability. We contend there is an injury to the back, which affects one of the legs. We also contend that Mr. Brailey is entitled to temporary total disability compensation from the last day he worked at Michelin.

Commissioner Wilkerson: What's that date?

Mr. Samuels: June 25th, 2017, and continuing on a running award. We would ask that Michelin be required to pay for past medical treatment and that Dr. Boyd be designated the authorized treating physician. That's our position, Your Honor.

Commissioner Wilkerson: Okay. Thank you. Mr. Beard, your client's position?

Mr. Beard: Thank you, Your Honor. On behalf of Michelin it is our position that this is not, in fact, a compensable Workers' Compensation claim for multiple reasons: Number one (1), we don't believe that there was a compensable injury and we don't agree that Dr. Boyd maintained that position

as to his questionnaire during his deposition; in fact, he said in his deposition that June the 24th, obviously, was not the actual date of accident and has so testified. Mr. Samuels pointed out to you that his client went to the hospital and went to an Urgent Care up to two (2) weeks before the date of accident on two (2) occasions; the evidence will show not only is that true, that the did go to the doctors a couple of times, but Mr. Brailey never once mentioned that to anyone at Michelin. In fact, he didn't mention this accident on June the 24th that he is alleging on the date it happened until after he went to the hospital on his own; he didn't report it to anyone within in the plant until he had done that in violation of the Michelin protocol and, in fact, after he was sent to Dr. Izard, the company doctor, he was instructed by Dr. Izard to return in two (2) days, which he refused to do, and then chose to go on his own and, basically, dictate his own medical treatment in violation of any Workers' Compensation Law. Whether this would have been admitted or denied, my client had no opportunity to -- to go forward because he violated the company doctor's instructions to return to me two

(2) days later, is what the evidence will show. In addition to that, Stephen is correct that Dr. Boyd has been deposed; however, Dr. Boyd did not have, as neither of the parties had at the time or at least we certainly did not have, the Defendants did not have, the prior Workers' Compensation claim or now the medical evidence from that claim, which we have now filed a motion to reconvene the deposition to present that to Dr. Boyd because what you will see in those medical records, which are now before you in the evidence, is that what happened at Richtex Bricks in 1997, is virtually identical to what he is now claiming here today; meaning, he went to work at Richtex Bricks, within three (3) weeks of working there he filed a Workers' Compensation claim alleging something to do with the bricks. The medical records from the doctor who treated him, basically, called him out as being fraudulent, basically, called him out as -- he was malingering, embellishing, he didn't believe any of it but the doctor ultimately said --

Mr. Samuels: Your Honor, I object to the impropriety of Counsel commenting on the credibility of the witness; those are not words

that were used by this doctor in this report that he is talking about.

Commissioner Wilkerson: Were those the specific words he used or --

Mr. Beard: -- no, sir.

Commissioner Wilkerson: -- okay.

Mr. Beard: They're not the specific words. I don't -- in argument, I'm not real sure you have to use the specific words; this is not evidence.

Commissioner Wilkerson: That's just your --

Mr. Beard: The lawyers aren't --

Commissioner Wilkerson: -- that's just the position --

Mr. Beard: -- correct.

Commissioner Wilkerson: -- of your client.

Mr. Beard: It's kind of like Stephen saying, Dr. Boyd said; that's not what Dr. Boyd said --

Commissioner Wilkerson: I understand.

Mr. Beard: -- he misrepresented that --

Commissioner Wilkerson: That's fine.

Mr. Beard: -- but that's what lawyers do when we're making argument is we make argument.

Commissioner Wilkerson: That's right.

Mr. Beard: I am not stating facts because as the law has clearly said, what we say is not facts

--

Commissioner Wilkerson: That's right.

Mr. Beard: -- pre-hearing briefs are not facts.

Commissioner Wilkerson: That's right.

Mr. Beard: The evidence will so that in 1997, Mr. Brailey did the exact same thing he's trying to do today and the medical evidence will show that and we have submitted medical reports now that we believe show that.

Commissioner Wilkerson: Okay.

Mr. Beard: In this case, his own lawyer has submitted medical evidence that we believe supports our fraud in the application defense because we have submitted to you his post-hire questionnaire where he was asked specifically about pre-existing issues and specifically asks about prior back injuries and issues and he denied any of that. The only thing he admitted having was high blood pressure, denied everything else. You're going to find out that he has even other issues that he lied about on that application, knowingly and willfully and -- and intentionally denied things that he knew were to be true. And in support of that and in -- so that we would

have, yet, additional evidence we obtained Westinghouse's file where he went to work after Richtex and he was point-blank untruthful to them on their questionnaire. And so, we believe Mr. Brailey is barred by the fraud in the application defense; on top of that, we believe he is barred by the Capers defense from the Capers case law because he knew doing this type of heavy work was going to cause this problem because he had already been told that in medical records by the doctor who treated him in 1997. So, we would renew, at least at this point, I think you said you would wait until the end to -- to --

Commissioner Wilkerson: I did because I don't know what we're going to find today. I didn't want to not convene the hearing today because --

Mr. Beard: -- I'm fine with going forward.

Commissioner Wilkerson: -- yes. I put you off last time; I think there were some other issues that it got pushed off the time before and at the end of the hearing I'll make a determination if I think it is in the best interest, probably from Avery's perspective, I just want to make sure I don't have enough

information to decide it before I get anything from Dr. Boyd. I don't know where we're going with the fraud in the application; if -- if that's there, we may not need Dr. Boyd's --

Mr. Beard: We may not.

Commissioner Wilkerson: -- I don't know.

Mr. Beard: But I --

Commissioner Wilkerson: I -- I --

Mr. Beard: -- but I --

Commissioner Wilkerson: -- I understand.

Mr. Beard: -- I'm just, alternatively I need to --

Commissioner Wilkerson: Yes. I understand.

Mr. Beard: -- have it out there just in case because I don't know what your -- your ruling is going to be.

Commissioner Wilkerson: I understand. And I -- and I haven't ruled on that because I think you had filed it and I think Mr. Samuels had filed it yesterday some time --

Mr. Beard: Correct.

Commissioner Wilkerson: -- and I read it late yesterday afternoon and I said, let's just bring everybody in and let's get the hearing moving.

Mr. Beard: So, essentially, it's our position that there is not an injury by accident. Even if there was an injury by accident it would not have been June the 24th; it would have been before that and we were not on notice so we think the notice defense would apply to any date before June the 24th because we're still not on notice of an accident from that date under the law. We also would raise the fraud in the application defense, the Capers defense as an affirmative defenses to the allegations in the claim that would bar the claim going forward and that's the purpose and the reason that we have denied the claim.

Commissioner Wilkerson: Okay.

Mr. Beard: Thank you.

Commissioner Wilkerson: Thank you. Anything in response, Mr. Samuels? If not --

Mr. Samuels: Yes, Your Honor, if I may.

Commissioner Wilkerson: -- we'll take --

Mr. Samuels: Thank you.

Commissioner Wilkerson: -- please.

Mr. Samuels: I'll sort of go down the list in the order that Mr. Beard brought those things up. Mr. Brailey did, indeed, go to Dr. Izard, Michelin's doctor. As the evidence will show, Dr.

Izard gave him bad advice telling him to go back to work when, in fact, he had a herniated disk at L5,S1, as shown by the MRI that was later done. There is no rule prohibiting an employee from seeking medical treatment on his own when the chosen doctor, the designated doctor by the employer, does not provide treatment; I refer Your Honor to Martin v. Rapid Plumbing for that case -- for that issue.

Commissioner Wilkerson: But you would agree that the medical may not be paid for by the Employer? It would have to be paid for by the employee. They can seek any medical they want but it doesn't have to be paid for by the Employer --

Mr. Samuels: I think if it's --

Commissioner Wilkerson: -- unless they are directed to.

Mr. Samuels: -- I think if it's ultimately found to be causally related and here where they have denied the case, they have to pay for it.

Commissioner Wilkerson: Okay.

Mr. Samuels: If they had offered continuing medical treatment, actual treatment, then -- and accepted the case, then it would be a different thing. If somebody has an accepted case and they

are getting treatment and they are doubling up the treatment on their own, then no; I would -- I would agree there. But here we have a case where he got an evaluation and they denied the case from the outset. As to notice, if, Your Honor, looks at page 88 of the Defendant's -- oh, excuse me -- Claimant's APA submissions; these are the Michelin records and the bottom paragraph there is a report from a lady named Christy Sirois who --

Court Reporter: Spell that last name for me, please, Mr. Samuels.

Mr. Samuels: -- S-I-R-O-I-S.

Court Reporter: Thank you.

Mr. Samuels: Who is a Nurse and there is -- exactly right there, employee stated on 6/24/17, around 5:30 A.M. that he was working on PAP when his back started to ache. He said he continued to work and the back pain got worse. Then he advised and he left work, went to Lexington Medical Center and when he left -- he left Lexington Medical Center he reported the injury. And this report is written at 9:30 in the morning; so, it's four (4) hours after the actual injury. So, that's about as perfect notice as you could have. I think I -- I would like to talk about this 1997 situation.

What -- what one can glean from the records submitted by Defendants is that Mr. Brailey, towards the end of 1997, went to two (2) doctor visits, December 4th and December 11th. He got physical therapy and that's it, conservative treatment; he believes he had an MRI. But ultimately Mr. Brailey settled that case, which is also in the record, on a clincher for twenty-five hundred dollars ($2,500.00); in other words, nuisance value. There is no evidence of any permanent injury, any permanent disability from that case; it simply settled --

Commissioner Wilkerson: Let me ask a question. Would twenty-five hundred dollars ($2,500.00) in 1997, what would that be today?

Mr. Samuels: -- probably seventy-five hundred ($7,500.00).

Commissioner Wilkerson: Okay. And you -- and seventy-five hundred ($7,500.00) you still believe is nuisance value in today's market?

Mr. Beard: My clients don't believe that.

Commissioner Wilkerson: I --

Mr. Samuels: For -- for a -- for a back injury --

Commissioner Wilkerson: -- okay.

Mr. Samuels: -- on a clincher with a resignation? Yes, probably so.

Commissioner Wilkerson: Okay. That's fine. I just --

Mr. Beard: Do you have --

Mr. Samuels: But --

Mr. Beard: -- do you have evidence of a resignation?

Mr. Samuels: -- no, I don't.

Mr. Beard: Okay.

Mr. Samuels: I know that Mr. Brailey --

Commissioner Wilkerson: Okay. I understand.

Mr. Samuels: -- I know that Mr. Brailey never went -- went to work back there.

Commissioner Wilkerson: That's fine.

Mr. Samuels: But not only is there no evidence of any permanent impairment, what is showing in that 1997 record that is particularly relevant to this case is that the pain -- I'm looking at Defendant's APA, page 1, back exam shows tenderness to palpation of the intravertable space at L2,3. That is not the same location as Mr. Brailey's June 24th, 2017 injury. He had mid-back pain at that point in time; the doctor refers to thoracic as well. He did not have low

back pain as he has here. He does not have radiation, as he has here. So, there is no causal connection between that injury. Even if there were a causal connection, you would have to provide that -- you -- Mr. Beard's argument is, he wants to re-open the deposition so that he can question Dr. Boyd on a causal connection because that's one of the things he has to establish if he wants to raise this fraud in the application defense. Now, there is no way any doctor or anybody else can infer from a medical record showing tenderness at L2,3 twenty (20) years ago that there is a causal connection between whatever happened in 1997, and what happened today. A -- in -- in the fraud in the application or the Cooper v. McDevitt and Street defense Mr. Beard has to prove three (3) elements. He's got to prove a material misrepresentation. Your Honor, I -- I would contend that overlooking a twenty (20) year minor back strain on your employment physical is not a material misrepresentation. Had Mr. Brailey had surgery twenty (20) years ago or had he been given permanent impairment and permanent restrictions, then perhaps it would be different. But a couple of doctor visits and physical

therapy, maybe an MRI twenty (20) years ago, then you've worked and lived without incident for twenty (20) years? That's not a material misrepresentation. We see this all the time and we know -- and we've heard it many times from many witnesses, that people kind of whiz through these things, check, check, check, check, check, check, and often times they'll miss stuff. In any case, he's -- that is an affirmative defense; the Defendants have the burden to prove that and they cannot prove it based on a twenty (20) year old medical record with -- with an injury to a different part of the back.

Commissioner Wilkerson: But could they prove it with Dr. Boyd's deposition reopened?

Mr. Samuels: I would say no, Your Honor, because I think it would require Dr. Boyd to speculate that there is somehow a causal connection between a twenty (20) year old strain in the area of L2, L3 with a current herniated disk at L5,S1.

Commissioner Wilkerson: But you had a [redacted] ([redacted]) something year old man in '97; you've got a [redacted] ([redacted]) something year old man now, right?

Mr. Samuels: Sure.

Commissioner Wilkerson: Okay.

Mr. Samuels: I'm certainly not going to say --

Commissioner Wilkerson: I don't know.

Mr. Samuels: -- that Mr. Brailey doesn't have miles on him; we all do compared to twenty (20) years ago and it doesn't mean that -- that our backs are going to be any better, there probably is some degeneration but that is not --

Commissioner Wilkerson: The level. I understand.

Mr. Samuels: -- that's -- you know, that's not going to raise -- raise the fraud in the application defense. The same thing with Capers v. Flautt, Capers, if Your Honor recalls, involved a Dishwasher and the Dishwasher developed contact dermatitis from washing dishes with dish detergent. He had a workers' comp case, he settled the Workers' Comp case; he claimed permanent and total disability the first time. Then, after that case was settled, he went to work for another employer doing exactly the same thing and developed the exact same problem. That person knew, with certainty, that he could not do that job without developing that problem. That person

had already claimed that he was totally disabled from washing dishes, yet he still tried to go back and do it and the Court found that meant that he had such certainty that it would happen that it was not an accident; that it was inevitable. That's not the situation you have here. You have a back paid -- you have back pain, a back strain, twenty (20) years ago from lifting bricks, a very heavy job. Now, you come to Michelin, a job that is medium duty; there is no way that you can say with certainty that Mr. Brailey is going to herniate a disk and it's not an accident. He gets sudden, sharp, pain and this is -- it's a herniated disk, that is an injury by accident. That -- that would be our counter arguments to Mr. Beard's position.

Commissioner Wilkerson: Did you want to touch on the other two (2)? You said there were three (3) prongs; I didn't know if you wanted to touch on --

Mr. Samuels: Oh, the other --

Commissioner Wilkerson: -- them or just --

Mr. Samuels: -- on the Cooper v. McDevitt and Street?

Commissioner Wilkerson: -- yes. I didn't

know if you -- yes, or that's the only one you're relying on?

Mr. Samuels: Well, I think when we get to the -- I don't know what the witnesses from Michelin will testify as to the second prong, which is reliance by the employer on that. We also -- Your Honor, just -- you're just going to have to see the evidence.

Commissioner Wilkerson: I understand.

Mr. Samuels: I kind of suspect that they have somebody that will say, yes, we rely on it, you know, they usually do but --

Commissioner Wilkerson: Okay. I don't know.

Mr. Samuels: -- we'll have to see.

Commissioner Wilkerson: And the third (3rd) prong?

Mr. Samuels: The third (3rd) prong is they have to show a causal connection between the -- the alleged misrepresentation and the ultimate injury --

Commissioner Wilkerson: I understand.

Mr. Samuels: -- and, that, they are not able to prove because of the long span and an injury to a different part of the back twenty (20) years ago.

Commissioner Wilkerson: Anything -- anything else from Mr. Beard before we --

Mr. Beard: If -- if I could.

Commissioner Wilkerson: -- take some testimony?

Mr. Beard: I promise I'll be very --

Commissioner Wilkerson: No.

Mr. Beard: -- short just --

Commissioner Wilkerson: That's fine.

Mr. Beard: -- to those specific points.

Commissioner Wilkerson: No problem.

Mr. Beard: Mr. Samuels argues that my clients should be responsible for medical treatment his client knowingly pursued that we were not going to be responsible for, and he knew we were not going to be responsible for. He was told to come back to the doctor we sent him to two (2) days later and he voluntarily refused to do so despite -- claiming that he had no ride, even though he lived right near where it was. We offered him a taxi. We offered to come get him to take him; he refused to come back for the follow up appointment, instead choosing to go on his own. He had legal counsel at the time he was doing that, not Mr. Samuels but another lawyer who was

representing him at the time, so he -- he was under a duty if he thought we were doing something wrong to pursue the claim at that time, not to wait until he went to another lawyer, wait until October to file a Form 50, as opposed to filing a Form 50 when this was going on; he had a duty to do all that. And you don't just get to go run up a bill, you don't -- when a case is denied, you've got to come in here to the Commission and get an order that says we're doing something wrong if it's not emergent care; there's no evidence anywhere that this was emergent care; if it was he would have already had surgery. There is no surgery in this case; this is not emergent care. So, he had a duty to come in here and do that. As to notice, Mr. Samuels apparently did not hear what I said when I stood up here and said, yes, we have notice to the June 24th date but that's not what we believe is the date of accident, nor does Dr. Boyd. The date of accident would apparently be back in June 13th -- 1st whatever, those other dates that he read out to you earlier.

Commissioner Wilkerson: I think they were 11th and 13th.

Mr. Beard: Well, it says the 11th but it

says he had been having problems for over two (2) weeks when he went in on the 11th --

Commissioner Wilkerson: Okay. I hadn't read that.

Mr. Beard: -- so, I'm not sure what the date of accident would be --

Commissioner Wilkerson: Okay.

Mr. Beard: -- but it certainly wasn't June the 24th because he was already undergoing and pursuing medical treatment and the records that Mr. Samuels submitted say on June the 11th he is in, "Ten (10) out of ten (10) pain." Not three (3) out of ten (10), not five (5) out of ten (10); the worst pain you can possible be in, on June the 11th, to his back. With all due respect, I don't know how he can ignore that. He didn't file a date of accident on that claim; there's never been on filed on that date of accident; I submit to you that that claim is barred by the notice defense. As to the next issue he pointed out, we went through the fraud defense and he talked about a twenty-five hundred dollar ($2,500.00) clincher for nuisance of value back in '97, etcetera. Your Honor, the medical records we submitted and he just read to you from indicate -- if you go to

page 2, the last sentence says, and I quote, "I will place him on no heavy lifting until he sees the surgeon." Well, guess when he first saw a surgeon, at least based on the evidence that we have? That would be Dr. Boyd some twenty (20) years later. So, he's still under no heavy lifting restrictions from the only doctor who saw him in 1997; that's point number one. But go back up into the records; go back to page 1 where Mr. Samuels read directly to you. The doctors says -- at the bottom -- puts him on all these medicines. He is instructed on no heavy lifting times one (1) week. I also discussed with this gentleman in no uncertain terms, if he has been having back pain for three (3) weeks, the entire time he has been working for Richtex, if he does not respond very well and very fast to some conservative treatment, it might be in his and Richtex's best interest for him to find new employment. If that's not telling someone you can't do heavy work, I don't know what is. That's exactly what the doctor him and he went further on the second page when, apparently, as you will read in the records, Mr. Brailey got pretty aggressive with the doctor and the doctor talked about how hostile he was in his office;

says it in the report. With all do respect, don't know why he didn't go to a surgeon, don't know why those records -- because conveniently he doesn't remember the names of all those doctors; he didn't remember any of that. We can't find any of that if we don't have names to put together but we were lucky enough to get this and -- and we submitted that. So, we believe the evidence will clearly show that he has committed fraud in the application when you read all of the evidence in the record, including what he told Westinghouse only a -- only a couple of years after this particular incident when his memory would certainly have been a lot closer in time; he -- he certainly had no problem telling them lies on their applications and in their process. As to Capers, again, Stephen a little bit misrepresented to you what the case is. The case says you get to decide whether what he did is the same thing that he did back then and whether he knew based on two (2) doctors or two (2) reports right there that say, under no uncertain terms, you don't need to be doing that kind of work. That's exactly the kind of work he came to do for us, heavy, manual type of work and exact same scenario within,

literally, a few weeks. Within a few weeks the exact same thing happened to him again. He -- he started work at the end of April, by sometime around the end of May he is complaining of significant back problems, running to doctors; not telling anybody he's having problems because that was his duty. Had he told his employer, I mean, ten (10) out of ten (10) pain, do you think they would have let him continue to do that kind of work? Absolutely not. He didn't do that and that's part of the burden in his case, as well. He has a duty to let them know what's going on, otherwise they can't protect themselves if, in fact, it is a legitimate Workers' Compensation claim. And so, we think he is barred from pursuing the claims based on all the reasons that we've raised for Your Honor.

Commissioner Wilkerson: Anything else from Mr. Samuels?

Mr. Samuels: Yes, Your Honor. The law, and I would refer to Martin versus Rapid Plumbing, is that a Claimant is not obligated to forego necessary medical treatment. Mr. Beard has taken the position that it would -- that it is improper for my client to seek any medical treatment at his

own expense and expect Michelin to pay for it until he has actually had a hearing. This is not a situation where it is an emergency; that's not the standard. That would be the standard where you have an accepted claim and there is, perhaps, a dispute over medical treatment or you have an accepted claim and they're providing treatment but they're not providing the necessary treatment and the necessary treatment is an emergency. That is not the standard for Michelin to be ordered to pay for the past treatment Mr. Brailey has had because this is a denied claim; it is still denied. When they found out he was seeing Dr. Boyd they didn't say, okay, we'll accept it moving forward; they didn't do that, they could have done that and they didn't. As long as the claim is denied he is entitled to be reimbursed for all of the causally related medical treatment he has undergone and he is entitled to have Dr. Boyd named the authorized treating physician.

Commissioner Wilkerson: Has anybody paid for that currently? Group health?

Mr. Samuels: Group health has paid for part of it; he has paid for part of it.

Commissioner Wilkerson: Is the part he paid

the co-pay and the deductible or --

Mr. Samuels: I -- I believe so, Your Honor, but I --

Commissioner Wilkerson: -- all right. That's fine.

Mr. Samuels: -- that may come out during the testimony.

Commissioner Wilkerson: That's fine. Anything else?

Mr. Samuels: Yes, sir. In Dr. Boyd's deposition at page 43, I know you will read the whole thing but --

Commissioner Wilkerson: Yes, every line.

Mr. Samuels: -- after having gone through all of the medical records, twice, Dr. Boyd is asked, what do you think happened to Mr. Brailey. His answer was, it sounds like he began having back problems with pain because of increased physical exertion with his new job with Michelin starting in April, got progressively worse to the point that he sought medical attention and I think at some point, somewhere around June 24th, something changed where he began having a slightly different set of symptoms with pain running down his left leg in a radicular pattern. He goes on

to say, that would be consistent with a disk herniation and with a disk herniation he found on the MRI. And then at page 44, Dr. Boyd testifies, I will say reviewing these records and specifically the questionnaire he filled out on June 26, which I believe are the first evidence of radicular symptoms down the left leg, that he reports some event on June 24th. I believe that more likely than not, he injured his lumbar spine at his employment including some episode on June 24th. And he went on to say that is his opinion to a reasonable degree of medical certainty.

Commissioner Wilkerson: But what if it happened on June the 1st or 11th or 13th?

Mr. Samuels: I think what --

Commissioner Wilkerson: Would not the 24th be an aggravation? I don't know --

Mr. Samuels: -- well --

Commissioner Wilkerson: -- until I get --

Mr. Samuels: -- it -- it --

Commissioner Wilkerson: -- until I read it all.

Mr. Samuels: -- yes. Yes, Your Honor, I guess, technically, it --

Commissioner Wilkerson: I -- I don't know.

Mr. Samuels: -- it could be an aggravation but I think what you've got is you've got pain from doing a new job --

Commissioner Wilkerson: I understand.

Mr. Samuels: -- but then you have a sudden change where he feels sudden pain, suddenly develops radicular symptoms and that's the point in time in which he herniated the disk; I think that's -- that's what Dr. Boyd is getting at that, yes, he had some pain but the acute injury, the point in time in which it became not just pain but an actual injury by accident, was June 24th. We are not asking them to pay for anything before June 24th; that's -- that we agree is Mr. Brailey's responsibility and that's not -- that's not been made part of this case.

Commissioner Wilkerson: Okay.

Mr. Samuels: We believe the injury by accident, as shown by the evidence, as opined by Dr. Boyd, as confirmed by the reports to Michelin; as documented by Michelin, it all happened on June 24th --

Commissioner Wilkerson: Okay.

Mr. Samuels: -- and that's when this claim began.

Commissioner Wilkerson: Anything else?

Mr. Beard: Just -- Stephen's reading of page 43 is exactly -- read it for yourself and then go compare that to 1997; that's exactly what happened in 1997, except for the herniated disk because, apparently, he told that employer in '97, he was having back problems. He didn't tell us in 2017, he was having back problems when he was going with -- and, again, ten (10) out of ten (10) pain is not some pain, Commissioner; that's as bad as it possibly can be kind of pain. Are you telling me you don't have an obligation to go tell your employer, I think doing your job is causing me ten (10) out of ten (10) pain and I'm going to the hospital and an Urgent Care and I'm not going to tell you about it; I'm just going to keep doing the job that I think is causing it until I blow out a disk and then I'm going to go file a Workers' Comp claim against you? That's not the way it works. It doesn't work like that and that's exactly what happened.

Commissioner Wilkerson: Anything else?

Mr. Samuels: No, Your Honor.

Commissioner Wilkerson: All right. Sir, I'll get you to raise your right hand; I'll have

the Court Reporter swear you in and we're going to take some testimony.

Mr. Brailey: Stand up, sir?

Commissioner Wilkerson: No, sir; you can be seated.

Mr. Brailey: All right.

Whereupon;

Isaac Douglas Brailey, Junior, being duly sworn and cautioned to speak the truth, the whole truth and nothing but the truth, testified as follows:

Court Reporter: Please state your full name for the record.

Witness: Isaac Douglas Brailey, Junior.

Court Reporter: Thank you, sir.

Commissioner Wilkerson: Please.

Mr. Samuels: Thank you, Your Honor.

DIRECT EXAMINATION

By Mr. Samuels:

Q. Isaac, how old are you?

A.

Q. Are you married?

A. Yes.

Q. How long have you been married?

A. Thirteen (13) years.

Q. Okay. I understand you're separated?

A. Yeah.
Q. Okay. And do you have anybody dependent upon you for support?
A. My daughter.
Q. How old is your daughter?
A.
Q. How far did you go in school?
A. To South Carolina State, second semester.
Q. Okay. Did you finish at South Carolina State?
A. No. No, sir.
Q. And before that, you have a high school diploma?
A. Yes, sir.
Q. I'm going to run through some of your early work history, but you've worked at Department of Juvenile Justice, UPS, Lutheran Family Services, The Babcock Center, Dupont and Inland Container?
A. Yes, sir.
Q. And then you got a job at Richtex?
A. Yes, sir.
Q. When was that?
A. Richtex?
Q. Yes, sir. What year?
A. Either -- I guess '97, around that year.
Q. Okay. What were you doing at Richtex?
A. Lifting bricks, continuously, all day. Lift

bricks, putting them on a monorail; we worked on a monorail.

Q. How many bricks a day?

A. It was like a stack of bricks and we had to keep move -- removing them, four (4) bricks each time, throughout the day to keep the monorail going.

Q. Did you -- did that cause you any -- any pain?

A. Yeah.

Q. Do you believe that --

A. By doing -- yeah. By that time everybody said you've got to get used to it --

Q. -- okay.

A. -- you know, so.

Q. Do you report -- did you report the pain you were having to your supervisor?

A. Yes.

Q. And did they send you to a doctor?

A. Yes.

Q. And the doctor they sent you to -- do you remember the doctor's name?

A. No.

Q. How long ago was this?

A. I guess, twenty-one (21) years ago, twenty (20) something.

Q. Where were you having -- having pain in 1997?

A. Like my back, the middle of my area.
Q. When you say the middle of the back, can you be more specific?
A. Mid -- like the spine area, just below the ribs, the spine --
Q. Okay.
A. -- the spine area; I have say just the middle of my back.
Q. Let me ask you this. Are you still having pain in that part of your back?
A. No.
Q. Do you have pain in your back now in some --
A. Yes.
Q. -- where --
A. Yes, sir.
Q. -- where is the pain in your back now?
A. On my left side, sir.
Q. Okay. And left side of -- of what --
A. Of --
Q. -- I mean, what -- your -- your -- between -- between your butt and your neck, where is the pain?
A. -- right here (indicating) above my hip or right at my hip, whatever, right here (indicating).
Q. Okay. Is that the --
Commissioner Wilkerson: The left side?

Witness: The left side.

Q. -- okay. Is that the same location as it was in 1997?

A. No.

Q. Did you get any treatment, in addition to the two (2) doctor visits we have in the record?

A. You're talking about for what -- which?

Q. For your back in 1997.

A. Yeah. They was very cooperative. I went to physical therapy, you know, they said it might have a -- a muscle sprain; I don't know but they -- I went to physical therapy and non-restriction on certain things.

Q. Okay. Did you have an attorney?

A. Yes.

Q. Who was your attorney?

A. McWhirter Bellinger.

Q. Do you remember the lawyer's name?

A. Ernie Peeler.

Q. And did you ultimately settle that case?

A. Yes, sir.

Q. The records we have show the total settlement was twenty-five hundred dollars ($2,500.00)?

A. Yes.

Q. And how much out of that did you get yourself?

A. Twelve hundred ($1,200.00).

Q. Did you go back to work at Richtex?
A. No, sir.
Q. Did you have any recurrence of that back pain in the middle of your back?
A. No.
Q. Do you have any --
A. No.
Q. -- do you have any problems with pain in the middle of your back now?
A. No.
Q. After working at Richtex, where did you go to work next?
A. I think I went to -- I can't remember. It might have been Westinghouse or Inland or something; I don't -- I can't remember exactly.

Court Reporter: What was the other company? I got Westinghouse.

Witness: It might have been Inland.

Court Reporter: Inland?

Witness: Yeah, Inland Paper is what I think it is, Inland --

Court Reporter: Thank you.

Witness: -- or Cooper.

Q. Let me show you a document that is Defendant's APA, page 17. Isaac, have you seen this document

before?

A. Yes.

Q. Do you remember seeing this document before this morning?

A. No, I don't remember.

Q. Is this your name and was that your address?

A. Yes.

Q. And this is dated May 16th, 2001?

A. Yes, sir.

Q. Is that about the time you started with -- with Westinghouse?

A. Yes, sir.

Q. Okay. I'm going to move you to the next page, page 18, and you were asked a question, at the top, do you see where it says, do you have or are you troubled by?

A. Yes, I see that.

Q. All right. Were you having any low back pain at that point in time?

A. No.

Q. And there is a box checked next to recurrent low back pain and you said no; is that what you checked?

A. Yes, sir.

Q. Did you go to work at -- at Westinghouse?

A. Yes, sir.

Q. What was your job at Westinghouse?

A. I started off at different jobs. I started out in the Steels and then worked my way up to Quality Control.

Q. Okay. What was the first job you -- you said?

A. Steels, working in Steels where what we did is transfer -- you know, made uranium into powder for -- to convert centrical version. And it's different sections, divisions, in Westinghouse you work in. So, I worked at the Steels and then I worked the Steels and then I worked in the Pellet Area and then I worked in the Rod Area, then I worked at QC.

Q. Okay. Was all of this a sit-down, push-button type of job or --

A. No.

Q. -- did you have to do any lifting?

A. No. Lifting.

Q. What kind of stuff did you have to lift?

A. Pellets, the containers. Also, at the Steels you had to work pipe wrenches, at some time take samples, move carts; push carts. Especially in Quality Control you had to push carts that was, like, maybe seven (700), eight hundred (800) pounds; so, it was -- it was, you know, that had rods on it and which was transported to --

Q. Okay.
A. -- the final assembly.
Q. Did you have any back injuries or Workers' Comp claims while you were working at Westinghouse?
A. No, sir.
Q. How long did you work at Westinghouse?
A. Sixteen (16) years.
Q. Why did you leave Westinghouse?
A. They had a layoff, reduction in force.
Q. I'm going to show you another document. In the fifteen (15), sixteen (16), years you worked at Westinghouse did they give you more physical exams other than the first one?
A. Yeah, every year.
Q. Okay.
A. You had to pass a physical exam to make sure you were able to work at Westinghouse.
Q. All right. I'm going to show you page 20 and 21 of Defendant's APA submissions. Do you see this questionnaire?
A. Yes.
Q. And you -- you've also reviewed this before this hearing?
A. Yes. Yes, sir.
Q. And it says, Isaac D. Brailey, Jr., and the date

of this document is October 7th, 2013?

A. Yes, sir.

Q. I want to ask you about some of these questions and, specifically -- well, let me ask you. Tell me about the circumstances where you fill out these questionnaires; tell me -- tell me how that happens.

A. Well, it's -- you know, they -- really you some -- pencil-whip it sometimes because they -- they throw them out to you and you just fill them out; that's -- that's basically -- it was -- it's routine because if you've been working there so long it's just routine, just, hey, okay --

Q. Okay.

A. -- fill them out, you know. So, it was just a routine thing because I had --

Q. You did report, though, that you had, at that point in time, hypertension, high blood pressure, pain, numbness, limit of motion, injury or surgery of the hip, knee, leg, ankle, foot and you wrote in knee pain with weather; is that true?

A. Yes, sir.

Q. Okay. Were you having any -- any back pain at the time?

A. No. No, sir.

Q. Okay. You were also asked a question at number

28, have you ever had a work injury, a Workers' Compensation claim, been given an impairment rating, a disability rating, applied for or received any type of disability or pension including military, VA, received an award or a settlement for any injury, accident, disease or other disorder; you were asked that question, right?

A. Yes, sir.

Q. Okay. What answer did you give?

A. I give, never.

Q. Well, looking back on it, was that a true statement?

A. No, not a true statement.

Q. Because, in fact, you had settled a Workers' Comp claim in 1997, sixteen (16) years before?

A. Yes, sir.

Q. Why did you say never?

A. I was taking -- I was taking it as for right now and I was -- I forgot about it; I be forgot about a -- twenty (20) years -- twenty-one (21) years ago. So, I was just, you know, really -- okay, this -- you know, I -- I'd been working there twelve (12) years. So, I mean, I didn't think -- I just pencil-whipped; I didn't -- I forgot about -- I didn't -- I totally forgot about it.

Q. But you do concede reading it; it was not a true statement?

A. Right. I -- I -- exactly.

Q. All right. So, at some point you're laid off; do you remember when you were laid off from Westinghouse?

A. I can't remember. I think in March sometime of --

Q. March of what year?

A. -- I think '16, '17; something like -- yeah.

Q. Okay. Let me ask you this. How long were you -- how much time between the time you were laid off at Westinghouse before you went to work at Michelin?

A. Say -- say -- repeat the question, sir.

Q. How much -- how long was it after you got laid off at Westinghouse before you went to work at Michelin?

A. Maybe about three (3) months.

Q. Okay.

A. Yeah. I think it's three (3) months, yeah.

Q. Did you work anywhere else during that time?

A. Yes, DJJ.

Q. What did you do at DDJ?

A. Corrections Officer.

Q. Okay. Do you have any accidents or injuries there?

A. No, sir.

Q. Did you have to pass a physical exam to do that

job?

A. Yes, most definitely.

Q. Did you have to do any certification testing?

A. Yes, sir.

Q. Was this more than, like, a -- a typical physical?

A. It's very in-depth, physical, mental; it's just -- it's you -- they pre-qualify you to go to the Academy now.

Q. Did you have any accidents or injuries working at DJJ?

A. No, sir.

Q. Why did you leave DJJ?

A. Yeah, I got a better job with Michelin, applied at Michelin.

Q. What was your plan going to work at Michelin?

A. Oh, to -- to retire. I tried at Michelin for, like, a year. I mean, we -- we went -- we had a -- this was a thorough process and you went through the whole process with Michelin and -- for a year. And I -- I planned to retire there because it was a, you know, good manufacturing job from what I hear, you know. So, I wanted to make better for my family and get more money, better money, you know, so.

Q. The records we have it appears you started with Michelin on March 21st, 2017. When you started did you

go through a training program?

A. Yes, sir.

Q. How long did you -- did it start with classroom training?

A. Yeah. Classroom training was -- I think it was, like, two (2) weeks; if I can remember it was two (2) weeks.

Q. And then after the two (2) weeks what did they have you do?

A. Then they start introducing you to the floor where you're going to be working at. But first -- then there's -- you had to pass the tests in the classrooms. Well, first you pass the test on the computer before you get to the classrooms, before you come out there. So, you know, you went to -- after we did the classroom training, we went to where we was going to be assigned at -- at jobs, where we were going to be assigned to.

Q. Once you're hired at Michelin, and before you started work, did they give you a physical exam?

A. Yes. Yes, sir.

Q. Did they also have you fill out a questionnaire?

A. Yes, sir.

Q. I'm going to show you another document; this is Defendant's APA, page 16. Isaac, do you recognize this document?

A. Yeah.
Q. And is that your name at the top?
A. Yes.
Q. Is that in your own handwriting?
A. Yes.
Q. Where is your address, phone number, emergency contact relationship, emergency contact phone and family doctor?
A. I -- it was -- I didn't put it there; it was kind of like a -- they started out this hurriedly just -- and I just filled it out right quickly as possible, you know.
Q. Okay.
A. Uh-huh.
Q. Did you fill out a lot of paperwork?
A. Yes. Yes, sir.
Q. All right. So, you were asked some questions and these start off, do you have problems with or have you ever had medical attention for any of the following, and it looks like you said no to every one of those --
A. Uh-huh.
Q. -- except are you currently taking any medication and you said you were taking medication for high blood pressure?
A. Yes. Yeah, I -- I read it as -- when I looked at

it, it says, do you have any problems with -- and I just stopped there and -- and I know I had problems with blood pressure and --

Q. All right. Kind of in this list, there's twenty-nine (29) questions but look at number 13. You were asked, do you have problems -- do you ever -- let me start over again. Do you have problems with or have you ever had medical attention for any of the following: Back injury, back ache or pain. And what was your answer?

A. -- no.

Q. Okay. In your life had you ever had medical attention for back injury, back ache or pain?

A. In my life?

Q. Yes, sir.

A. Yes.

Q. When?

A. I guess, twenty-one (21) years ago.

Q. Okay.

A. Yeah.

Q. Why didn't you check yes to the question, do you have back pain?

A. Well, I was working for a long period of time and then -- not so much that day but it -- it just -- I was working and I never had a problem with my back and also

I perceived it as, do you have -- do you have any problem with -- and I just went on with it because we had to -- we finished out the paperwork. That's how -- that's, you know, and I checked no. I looked at it because I put high blood pressure; that's what I have now. So, I didn't -- that's why I took it as to what I have now. So, I perceived it like that. So, you know, but I made a -- if -- if -- I made a mistake on that, you know.

Q. Do you think if Michelin had known that you had back pain twenty (20) years ago that they would have not hired you?

A. They would hire me. They would hire me.

Q. Do you think anything that happened twenty (20) years ago made any difference in your ability to do the work at Michelin?

A. No. We was one of the top groups in the -- we were -- we received one of -- it was me and a lot of other people that we had -- we was the top group that Troy Lowman bragged about us on; that we -- we -- we was one of the top groups --

Q. Who --

A. -- so.

Q. -- who is Troy Lowman?

A. He's -- he's the -- the -- when you come in he was

the guy that, you know, he was over you. You wasn't assigned a Bull, he was the person you go to for any problems or any -- any issues with -- you know, he was your -- your Manager; he was your Bull. He was the guy you go -- he was the go -- the go-to guy. If you had any problems with missing work or anything, you contact Troy Lowman and that's what -- that's what we did -- anything as far as vacation, anything like that, until we was assigned a person.

Q. So, when you went out on the floor in Michelin, what did they have you doing?

A. Well, we was primarily watching in the beginning and then we started getting more engaged into the tire building process.

Q. What job were you given?

A. PAP Operator.

Q. And what is a PAP Operator?

A. We make those tires, those big tires, that's a -- I can't remember -- just make -- we make those big tires and we -- we -- it's a -- it's a turbine and rubber comes on it and you have to hold the rubber and -- against the turbine; you know what I'm saying? So, yeah, we make those big tires and sometimes you have to stretch rubber, you know. So, yeah, that's what I --

Q. All right. So, help me out.

A. -- okay.

Q. First off, was the size of these tires, you said big tires; how big are we talking about?

A. Oh, you're talking about a -- big as this -- this building here, this height here, big as this building here.

Q. Are these car tires?

A. No, these are not car tires.

Q. Okay. What are the tires used on?

A. These are for mining, for mining, mining. Michelin was the corner of the market because -- you know, far as these big mining tires.

Q. Okay.

A. Uh-huh.

Q. So, when you have the rubber coming down the line and you have to stretch it; can you describe what you did when you stretch it?

A. Well, if it doesn't meet all the way around, you have to hold it and press a lever on the thing and stretch it over to get it to meet. So, then that way you can seal it. But if -- you know -- so, that's -- and, you know, everybody was saying that, you know, who I was --

Mr. Beard: Commissioner, I object to what anybody else said --

Commissioner Wilkerson: You can't tell me --

Mr. Beard: -- as hearsay.

Commissioner Wilkerson: -- what anybody else said.

Witness: -- oh. Uh-huh. Oh, okay.

Mr. Samuels: Your Honor, if I may, it's not -- it's not being offered for the truth of the matter therein.

Mr. Beard: Sure it is; it couldn't be offered for any other reason.

Commissioner Wilkerson: Tell me what --

Mr. Beard: There's no other possible reason it could be offered.

Commissioner Wilkerson: -- tell me what it's offered as if it's not for that reason. He can't tell me what somebody else said.

Mr. Samuels: If it's to give context.

Mr. Beard: No. It's to try to tell what people who aren't here said so he can try to win his Workers' Comp claim. That's clearly out of court statements offered for the reasons to -- to -- for the truth of the matter asserted therein, that's clearly hearsay; there couldn't be any other possible

reason. Otherwise, I would have to call every single person who worked with him from day one. I've got all the management people I could get.

Commissioner Wilkerson: Yes.

Mr. Beard: I -- I keep -- I don't know that I can go find all the other people he worked with in the building.

Commissioner Wilkerson: He can't tell me what somebody said -- anything he said, I mean, that could be the Receptionist.

Mr. Samuels: I will --

Commissioner Wilkerson: I -- I don't know.

Mr. Samuels: -- I'll move on and ask it a different way, Your Honor.

Commissioner Wilkerson: Yes.

Q. Isaac, the Commissioner's ruling is --

A. Okay.

Q. -- any co-workers you cannot say.

A. Okay.

Mr. Samuels: Now, would he be allowed to say what a supervisor told him?

Commissioner Wilkerson: Is it his direct supervisor? I mean, I don't know how

big the plant is but there could be a hundred and fifteen (115) supervisors out there.

Mr. Samuels: Well, for example, Troy Lowman, that he testified was his direct supervisor.

Commissioner Wilkerson: Is Troy Lowman here to testify?

Mr. Beard: He is.

Commissioner Wilkerson: Yes, he can tell me what Troy told him because he is here to testify.

Q. All right. Isaac, so -- so, when you were doing this stretching, anything going on with you physically?

A. Yeah. You -- you're stretching the rubber and, you know, it's caused -- might causes a sharp pain in your back if -- if it -- and it's the -- the thickness of the rubber; you might have small rubbers or you might have thick rubber. So, you have to stretch it to meet the turbine to meet the other side so it, you know, will connect so you can bind it together.

Q. All right. And as you're getting this pain did you tell anyone at Michelin about the pain?

A. Yes.

Q. You can testify who you told but you're just going to be limited on how -- what they said in response to

what you told them. So, who did you -- who did you talk to about --

A. Jermaine. Oh, Jermaine, like --

Q. -- who is Jermaine?

A. -- that's my trainer.

Q. Okay. Do you know Jermaine's last name?

A. I forgot.

Q. Okay.

A. He's out -- I know he's one of the -- I can -- I remember he's outside though, yeah.

Q. Jermaine is outside?

A. Yeah.

Q. You saw Jermaine?

A. Yeah.

Q. Okay.

A. Yeah, I saw him. Yeah. Yes, sir.

Mr. Beard: He's not management; so, he still couldn't testify as to what he said outside of court --

Commissioner Wilkerson: Yes.

Mr. Beard: -- until he has testified in the case, unless Mr. Samuels intends to call Jermaine as a witness.

Commissioner Wilkerson: Are you calling Jermaine as a witness?

Mr. Samuels: Well, I can, yes.

Commissioner Wilkerson: Is he here?

Mr. Beard: He is.

Mr. Samuels: Apparently, he is. I mean, as long as he is available --

Commissioner Wilkerson: As long as you're going to call him but at the end of the day if he testifies to what Jermaine says and you don't call him --

Mr. Beard: I'm obviously moving anything he says --

Commissioner Wilkerson: -- absolutely.

Mr. Beard: -- if he doesn't call Jermaine.

Commissioner Wilkerson: Exactly.

Mr. Samuels: I will call Jermaine.

Commissioner Wilkerson: That's fine. You can tell me what Jermaine says.

Mr. Samuels: I don't know Jermaine's last name, though.

Commissioner Wilkerson: Okay.

Mr. Samuels: All right.

Q. When you -- what did -- what did you tell Jermaine, Isaac?

A. Yeah. My back is -- you know, my back is hurting

and he -- you know, he always said, that, hey, you're going to feel that; you've got to get used to it, you know. You know, even said he said his back was hurting. So, you're going to have to get used to it, this, that and the other.

Q. All right. So, from there did you tell anybody else about your back hurting?

A. I mean, if people -- well, I can't -- I don't know what to --

Q. You can -- you can say who you told, you just may not be able to say what they responded.

Mr. Samuels: Is that correct --

Commissioner Wilkerson: That is correct.

Mr. Samuels: -- Your Honor?

A. I can say what -- I can -- I --

Q. You can say what you told other people; you just may not be able to say what they told you in response.

A. -- okay. Yeah, I told other people that, you know, my back was hurting.

Q. Okay.

A. That's -- that's all I can say, right?

Q. And when your back was hurting, where was it hurting; what part of your back?

A. My side. I mean, the side.

Q. Okay. On -- did you, at some point, decide that you needed to go to the doctor?

A. No, not at -- you know, I was feeling a little nudge of pain right there. So, what I did is --

Mr. Beard: Excuse me, I -- I didn't understand the word you said?

Witness: -- I'm sorry. I'm sorry.

A. I -- I was feeling a little -- how can I describe it?

Mr. Beard: You said some word.

A. A nudge -- a nudge --

Mr. Beard: A nudge.

Commissioner Wilkerson: A nudge. A nudge.

A. -- a nudge back here (indicating), you know, but as I said before, that everybody said that was common and I --

Mr. Beard: Commissioner, again, I --

Witness: -- okay.

Mr. Beard: -- object to --

Witness: Okay.

Mr. Beard: -- what everybody said.

Commissioner Wilkerson: I don't know who somebody is.

Witness: Oh, I keep --

Commissioner Wilkerson: I don't know who anybody is.

Witness: -- I'm sorry.

A. I -- I told people that -- that's a better word? I can say it like that? I told people a the -- the plant that way. Repeat the question, again, now. You said -- you said --

Q. Did you at some point decide to -- to go to the doctor for your back pain?

A. -- yes.

Q. Where did you go first?

A. The emergency room.

Q. Which emergency room?

A. The one over there on -- off of -- in Lexington.

Q. On 811 West Main Street?

A. Yes, in front of K-Mart.

Q. What did you tell the doctors at Lexington Medical Center?

A. I told them that I had a -- I had a little back pain back here and what -- what could I do.

Q. Okay.

A. What can I -- what can help me with that.

Q. I'm going to show you this document.

Mr. Samuels: This is APA, page 13, Your Honor.

Commissioner Wilkerson: Page 13, is that correct?

Mr. Samuels: Yes, Your Honor.

Commissioner Wilkerson: Okay. Thank you.

Q. What did you report to the doctors had happened to you?

A. Let's see, that I had a little minor pain in my back.

Q. Did you tell them where you thought the pain was coming from?

A. I don't think so. I don't -- I'm not sure.

Q. Okay. If the doctor said you told them back pain after lifting at work --

A. Right.

Q. -- would you disagree with that?

A. Right. Right. Exactly.

Q. Were you working at Michelin at that time?

A. Yes.

Q. Did the doctor at the emergency room give you any medicine?

A. I think he was prescribing -- he said -- I think he prescribed something --

Mr. Beard: Object to what he said.

Commissioner Wilkerson: You can't tell

me what the doctor said.

Witness: -- oh. Okay.

A. Yes, he prescribed medicine.

Witness: Sorry about that. Excuse me, sir.

Q. And the record says Cyclobenzaprine, which is Flexeril and Tramadol; are those the medications you took?

A. Yes, sir.

Q. Okay. Were you given any work restrictions or taken out of work?

A. No, sir.

Q. Did you report to Michelin that you had been hurt at work and had gone to the doctor on that date?

A. No, sir.

Q. Why not?

A. Because, I mean, it -- well, let me make sure I don't say -- well, because I already told them -- well, people -- well, how can I say it without saying -- well, everybody said that's --

Mr. Beard: Objection.

A. -- not -- no, I can't say that. Well, it was -- it was -- I -- I didn't see it as a -- a big thing as far as it was minor what the doctor said just, you know, it was minor and he would say, hey, just rest a

little bit and, you know, you'd -- your muscles will get used to it.

Commissioner Wilkerson: You can't tell me what the doctor said.

Witness: Oh, right. Okay.

Commissioner Wilkerson: Because I don't know what he said.

Witness: I've got you. Sorry.

Commissioner Wilkerson: I wasn't there.

Witness: Sorry. Sorry, sir.

Q. Let me ask you this, Isaac. Did you want to have a Workers' Comp claim against Michelin?

A. No. No, not at all. I was planning to retire there. I didn't want to be here. No. No, not at all. I just tried to get my back straight.

Q. Get your back straight --

A. I mean, get --

Q. -- how?

A. -- well, I wanted to make sure -- you know, I wanted to get treatment for my back; that's it.

Q. All right. After you went to the emergency room and took that medicine, did you follow up with your family doctor?

A. Yes.

Mr. Samuels: Your Honor, this is at

page 7 of the Claimant's APA submission.

Q. This is Dr. Marom, M-A-R-O-M; is that your --

A. Marom.

Q. -- Marom; is he your regular family doctor?

A. Yes.

Q. How long have you been seeing him?

A. Maybe -- about, maybe, two (2) years.

Q. Do you remember what you told Dr. Marom?

A. I told him that I had some -- like, some minor back pain. What would he --

Q. Okay.

A. -- prescribe for it to help with it?

Q. Did you tell him what -- where you thought the back pain was coming from?

A. Yes. Yes, sir.

Q. What did -- what did you tell him?

A. Working. Lifting, working, stretching.

Q. Okay. I'm going to ask you -- I'm showing you page 7. The record says, has had new job at Michelin moving heavy stuff, there now for about past two (2) weeks?

A. Yes, sir.

Q. And Dr. Marom wrote, pain is ten (10) out of ten (10) with certain movements; is that accurate? Did you tell Dr. Marom your pain was ten (10) out of ten (10)

with certain movements?

A. Well, I don't remember but I -- I don't remember telling him ten (10) out of no ten (10); I just told him I had, you know, minor back pain, you know --

Q. Okay.

A. -- so.

Q. And what did Dr. Marom do for you on that visit?

A. Gave me some -- I guess, he didn't do anything, maybe even told me to --

Mr. Beard: Object to what he told him.

Commissioner Wilkerson: You can't tell me what he told you.

Witness: -- oh. Oh, I mean, well --

Mr. Samuels: I will --

Witness: -- no. No, sir.

Mr. Samuels: -- Your Honor, I'll just refer Your Honor to page 11 under the diagnosis, particularly number 1.

Mr. Beard: Well, Commissioner, I guess, one with my objection would be, based on his testimony just now that the report is apparently inaccurate --

Commissioner Wilkerson: Yes.

Mr. Beard: -- according to him, the ten (10) out of ten (10) part. I don't know how

you can then rely on any accuracy of this report whatsoever. And it makes zero (0) sense that if, in fact, the report is inaccurate why Mr. Samuels would have submitted it without getting clarification as to the inaccuracies from the doctor to begin with; he's had a long time to do that.

Commissioner Wilkerson: I'll read it in its entirety. I understand your position, Grady.

Q. Did the medicine -- did the medicine that you were prescribed, did it help?

A. Sort of, kind of. Yeah, sort of.

Q. Okay. Could you take the medication while you were working?

A. No.

Q. Why not?

A. It'll make you drowsy.

Q. Okay. Were you working at Michelin Saturday, June 24th?

A. Yes.

Q. What shift were you working?

A. Night.

Q. What hours would that be?

A. That would be -- I think it's 6:00 to 6:00 or 7:00

to 7:00; 6:00 P.M. to 6:00 A.M. or 7:00 P.M. to 7:00 A.M.; one out of the two (2), I think.

Q. Okay. And while you were working on Saturday, June 24th, what happened?

A. We was -- me -- we were stretching rubber, me, Jermaine and Harland -- I was stretching the rubber and I felt a sharp, a real sharp pain, in my back and I was, like, oh, and -- you know, and as I finished doing that, I hurt -- and I -- and even Jermaine said I --

Commissioner Wilkerson: You can't tell me what -- well, I guess you can tell me what Jermaine said; he's going to testify. Go ahead.

A. -- even when I told Jermaine he said, yeah, I know that hurt you. I said, yeah, it hurt. So, you know, I -- I just went on and that's -- that's what happened. And later on, after we did that tire, and that was, like, 4:30, 5:30 in the morning, and after we did that tire, we went and did something else because it ran out of something, rubber or ran out of -- went and did some bobbins, whatever. Then after that it was -- so, after that, that was -- that's -- that's what happened and --

Q. Okay. And you described -- just a moment ago you described this sharp pain.

A. -- yes.

Q. Was that any different than what you'd felt before?
A. Yeah.
Q. How was it different?
A. It was -- it hurt, real -- hurt bad.
Q. So, when you got this sudden pain that hurt real bad, did you seek medical treatment at Michelin?
A. Yeah. When we -- we got off -- it was around that time we got off. So, I went to the Nurse's station; there was no Nurse there. And I went to the family health center, which was supposed to be open, not open. And there's no place to -- I wouldn't go -- ain't nobody was there. So, the -- so, I went to the emergency room.
Q. Okay. Which emergency room did you go to?
A. Lexington.

Mr. Samuels: Your Honor, this is all at tab 3 of the Claimant's APA submissions.

Mr. Beard: What page, Stephen? I don't have tabs on mine.

Commissioner Wilkerson: 16. 15, 16, 17; is that right? I can't tell the numbers are gone.

Mr. Samuels: Well, the numbers didn't copy but --

Commissioner Wilkerson: It starts --

Mr. Samuels: -- yes, sir.

Commissioner Wilkerson: -- after page -- if you look --

Mr. Beard: I've got it.

Commissioner Wilkerson: -- yes.

Mr. Beard: Yes, 16 through 25 --

Commissioner Wilkerson: I thought that was right.

Mr. Beard: -- it looks like.

Commissioner Wilkerson: Yes.

Mr. Beard: Yes.

Mr. Samuels: Okay.

Q. So, when you get to the emergency room, what are you doing?

A. I get to the emergency room, I called Derrick and I called Troy Lowman. Well, first I called Troy Lowman; I didn't get an answer, I left a message and I called Derrick. And Derrick told me Troy Lowman would be the point of contact. And I called Troy again -- Troy returned my call and I told him, you know, what happened and he said, okay. What -- he said, well, go to -- go to the Nurse. I said, there's no Nurse there. And he said, oh, okay. Well, I guess you'll just have to wait till Monday morning, okay? All right. Well,

I'll relay the message. And when I got home Saturday from the hospital, Tyrone Gibson called me and the Nurse out there called me and they said they wouldn't be in until Monday and just come see the doctor on Monday morning and don't -- don't take anything.

Q. All right. Was this before or after you had been seen by the doctor at the emergency room?

A. This was -- this was before -- before.

Q. Okay. So, you were at the emergency room but you hadn't been seen yet?

A. Right.

Q. Okay.

A. But then I called -- I called back after I --

Q. Okay. So, before you get back -- so, you were seen by -- were you seen by the doctor at the emergency room?

A. -- yes.

Q. And did they give you a prescription?

A. Yes.

Mr. Beard: Stephen, just -- because I -- I think there's a misunderstanding or I'm misunderstanding what you just asked him or what he said, when you asked him was this before and he said, yes, it was before, are you talking about when the Nurse and Mr.

Lowman called him was before he went to the hospital; is that what he was he was answering? I -- I mean, he -- because he answered kind of a different thing. I'm trying to figure out what you're asking him.

Mr. Samuels: What -- what I'm trying to establish is, he went to the emergency room, then he -- and he testified he called Troy, he called Derrick --

Mr. Beard: Okay.

Mr. Samuels: -- they told him to talk to the Nurse.

Mr. Beard: No. He didn't say he talked to Troy. That's what I think --

Mr. Samuels: No. He's --

Mr. Beard: -- you just asked him.

Mr. Samuels: -- yes.

Mr. Beard: I'm trying to make sure.

Witness: I talked to Troy.

Mr. Beard: Because he just said I did talk to Troy and I want to make sure there's not a misunderstanding.

Mr. Samuels: All right. Let's -- let's sort of clarify that.

Q. So, you're in the emergency room --

A. Yeah.
Q. -- you haven't been seen by the doctor yet?
A. Right.
Q. Did you call Troy Lowman?
A. Yes.
Q. And what happened when you called Troy Lowman?
A. I talked to Troy and told him, you know, I had a -- my back is hurt and I'm at the emergency room and he said go -- no, he said go to the Nurse. And I said, there are no Nurses there.
Q. Okay. Well, let --
A. Go ahead. Okay.
Q. -- let me sort of take it in order.
A. Okay.
Q. Okay.
A. All right.
Q. So, who is the first -- what's the first phone call you made?
A. Troy Lowman.
Q. Okay. And did you get Troy the first time you called?
A. No, sir.
Q. What did you get?
A. Answer machine.
Q. Okay. Did you make a second phone call?

A. No. I -- I made a second phone call to Derrick --
Q. Okay.
A. -- I mean, to Derrick Gibson.
Q. Derrick?
A. Uh-huh.
Q. And what --
A. I told Derrick.
Q. -- and what did Derrick tell you to do?
A. Derrick told me, he said, okay, you know, call Troy, he's the point of contact; he's the person you need to talk to.
Q. Okay. And did you make a third phone call to Troy? The third phone call after --
A. Yeah. Yeah, I went -- the third phone call to call Troy. I think Troy called me. Troy called me.
Q. -- okay.
A. Yeah, Troy called me back on my -- on my --
Q. And that was the conversation where --
A. -- yeah.
Q. -- he said you need to go to the Nurse at the plant, you told him it was closed; he said you wait till Monday?
A. Right. And he said he'll relay the message, you know?
Q. Okay. All right. So, then, after that you were

seen by the doctor --

A. Yes.

Q. -- is that correct?

A. Yeah, Dr. Izard.

Q. Now, I'm going to show you what I believe is page 21 of the Claimant's APA submissions.

Mr. Samuels: Your Honor, this -- I said the numbers did not seem to copy on mine either on this page but it's page 6 of the medical record.

Commissioner Wilkerson: It was generated on 10/16/2007, 4:00 P.M., of course they all say that. So, is it page 6 on the right hand side?

Mr. Samuels: Yes, sir.

Commissioner Wilkerson: Okay. Then that helps.

Q. Now, Isaac, in terms of follow up instructions --

A. Uh-huh.

Q. -- were you given these written instructions that we're looking at here?

A. Yes. Yes, sir.

Q. Okay. And that was to call for an appointment next week at Lexington Brain and Spine?

A. Yes.

Q. And that was for an appointment with a Neurosurgeon?

A. Yes, sir.

Commissioner Wilkerson: Would you agree it says, basically, follow up with Dr. Brett Gunter at --

Mr. Samuels: Yes, sir.

Commissioner Wilkerson: -- is what it says; it doesn't say neuro? Okay. There's no difference but, yes.

Mr. Samuels: And so, we'd ask Your Honor to take judicial notice that Dr. Gunter and Dr. Boyd are both at Lexington Brain and Spine.

Commissioner Wilkerson: I agree.

Mr. Beard: We'll stipulate to that.

Commissioner Wilkerson: Yes. I knew you would. It just didn't say the name.

Mr. Samuels: All right.

Q. After that, so did you then hear back from Troy Gilmore after you had been seen by the doctor?

A. Troy Gilmore?

Q. I'm sorry, Tyrone.

A. Yes. Tyrone called me at home --

Q. Okay.

A. -- and --
Q. And what does Tyrone -- what's his job?
A. -- he's -- he's higher up of over the Bulls.
Q. Okay.
A. And Tyrone called me at home and I don't even know where Tyrone's office is at but he was one of the guys that was there at the plant. So, he called me at home saying she -- he's going to be getting the Nurse to call me.
Q. Okay. And did the Nurse call you?
A. Yes.
Q. Is that Christy Sirois?
A. Yes.
Q. Okay. And what did Christy Sirois tell you?
A. Christy Sirois told me those doctors over exaggerate, just relax, take Aleve and you come see Dr. Izard Monday morning.
Q. Okay. And who is Dr. Izard?
A. Our -- Michelin's doctor. He's at HealthWorks, he works -- yeah, he's at HealthWorks, yeah.
Q. All right. And when you went to HealthWorks did you have to fill out some paperwork?
A. Yeah, I think -- yeah, we had to -- took a drug test. Yeah, some paperwork, yeah.
Q. Okay.

A. Uh-huh.
Q. I'm going to show you Claimant's APA, page 26. Is this the paperwork you filled out?
A. Yeah.
Q. This is your handwriting?
A. Yes.
Q. And what kind of problems were you having?
A. Severe pack -- back pain.
Q. Did you fill out a diagram showing where the pain was?
A. Yeah. Yes, sir.
Q. Is this the diagram you filled out at page 28?
A. Yeah.
Q. And what's this (indicating)? I'm pointing to the picture on the right; what are you trying to illustrate there?
A. I'm just saying some -- my -- a little numbness in my left side and my -- above my left hip, side, is aching real bad.
Q. Okay. And the numbness on your left side, how far down did it go?
A. It goes all the way to my calf.
Q. Isaac, since you will not be able to say what Dr. Izard told you, I'm just going to ask you a couple of questions. Were you comfortable with what Dr. Izard

told you?

A. No, sir.

Q. Why not?

A. He didn't really examine me. He just said, go back to work and --

Mr. Beard: And, Commissioner, I object to what he said.

Witness: -- oh.

Commissioner Wilkerson: You can't go back to what he said.

Witness: Well, okay. Sorry. I'm sorry, sir.

A. Just -- no, I wasn't comfortable with him.

Q. Were you having any problems urinating at that time?

A. Yes, a little.

Q. Did he prescribe an antibiotic for a urinary tract infection?

A. No.

Q. All right. Were you given any restrictions by Dr. Izard?

A. No.

Q. What was your understanding of when you were supposed to report back to work?

A. The next day.

Q. How were you feeling the next day?
A. Terrible.
Q. What did you do?
A. The next day? I went to the emergency room.

Mr. Samuels: I beg Your Honor's indulgence a moment.

Commissioner Wilkerson: Okay.

Q. Lexington Medical Center again?
A. Yes, sir.
Q. Were you given any work restrictions at Lexington Medical Center?
A. Yes.

Mr. Samuels: Your Honor, I would just refer you to page 42.

Q. Are these the restrictions you were given --
A. Yes.
Q. -- June 27th --
A. Yes.
Q. -- no work for three (3) days?
A. Yes, sir.
Q. Were you given a shot for pain?
A. Yes. I was -- they -- they gave me a -- they did a X-ray and they give me a shot for pain and they hold me there for a while because my blood pressure was high.

Q. Were you taking your normal blood pressure medicine?

A. Yes.

Q. Your blood pressure was still high?

A. Yes.

Q. When did you next have communication with Michelin?

A. I let Troy -- every time I go to the -- the doctor, I let Troy and I think -- I don't know -- I think Troy and also I think Kathy Griffin too, as well.

Q. I'm going to show you --

Mr. Samuels: -- Your Honor, I'd actually just refer you to page 88 of the Claimant's APA submissions.

Q. Did you call and talk to the Nurse, Christy Sirois?

A. Yeah. Yes, sir.

Q. Did she want you to come in and see Dr. Izard?

A. Yes.

Q. Were you able to come in to see Dr. Izard?

A. No.

Q. Why were you not able to come in and see Dr. Izard?

A. I was on Oxycodone and on -- on -- I couldn't move.

Q. Okay. Could you drive?
A. No, I couldn't drive.
Q. Was there anybody there that could have given you a ride?
A. No, sir.
Q. And did you or did you not see Dr. Izard that day?
A. No.
Q. Did you -- did you ever go back to work after your injury on June 24th, 2017?
A. No, sir.
Q. You had filled out that diagram when you went to see Dr. Izard with the numbness --
A. Uh-huh. Yes, sir.
Q. -- in your left -- left leg. Did you have that numbness before June 24th?
A. No.
Q. Did you go anywhere else for medical treatment?
A. After the -- the emergency room?
Q. Yes, sir.
A. Yeah. I tried to go to Doctor's Care.
Q. Okay.

Mr. Samuels: And, Your Honor, that's at all -- all at tab 6, page 43.

Commissioner Wilkerson: Okay.

Q. Did you hear back anything from Michelin after

that?

A. They wanted me to report to work. A guy called me, I think his name is Mark, somebody that called me from Michelin to, like, catch a ride to go out -- but I couldn't because I was -- I was on Oxycodone, laid up --

Q. Okay.

A. -- oh, okay.

Q. All right. So, after -- after you had been to Doctor's Care, and now we're talking June 30th, did a lady named Kathy Griffin call you?

A. Yes.

Q. Who is Kathy Griffin?

A. HR.

Q. Was she a Manager?

A. A Personnel Manager.

Q. Okay.

A. I just -- yeah.

Q. And what did you learn from Ms. Griffin?

A. She wanted me to come in and talk.

Q. Okay. Did Michelin terminate your employment?

A. Yes, sir.

Q. How did you find out?

A. On the phone.

Q. From who?

A. Kathy Griffin.
Q. What did she tell you as to why you were terminated?
A. I -- I wasn't a quite good fit or --
Q. Okay. Were you surprised?
A. -- yeah.
Q. Why were you surprised?
A. I mean, I -- I told her what -- I'm -- I have never been -- never been at work on time, did what I was supposed to do and I'm laid up and, you know, I was just astonished. And she was, like, you -- you -- I said, well, look, Kathy, I haven't been work -- I never miss work, I was label -- we was labeled out the best group. What -- why would you just -- I mean, why would you just fire? So, she -- she said, I -- that's it, you know.
Q. Okay. Did you also get a letter from Michelin?
A. Yes, from Kathy.
Q. I'm going to show you a document, page 81 of the Claimant's APA submissions. Do you recognize this letter dated July 13th, 2017?
A. Yes.
Q. This is from Sharon West, Senior Claims Adjustor at Gallagher Bassett?
A. Yeah.

Q. And you were told in this letter that your Workers' Comp claim was denied?
A. Yes.
Q. Did you seek medical treatment after you'd learned that your claim was denied?
A. Yeah. I still was going to seek medical treatment, yeah.
Q. Okay. And after that letter --
Mr. Samuels: -- Your Honor, this is at page 52 --
Q. -- were you able to get in with Dr. Scott Boyd?
A. Yes.
Q. Did you tell Dr. Boyd everything about what had happened?
A. Yes, sir.
Q. Did you actually see Dr. Boyd the first time or was it somebody else at Lexington Brain and Spine?
A. You saw -- you saw the first person, he make a -- he -- he does a exam on you and then he recommend you to see Dr. Boyd.
Q. Ultimately, you did see Dr. Boyd?
A. Yes, sir.
Q. Did you undergo some physical therapy?
A. Yes.
Q. Have you completed your physical therapy?

A. No.
Q. Why not?
A. Didn't have the money to -- to do it.
Q. Okay. So, are you receiving any medical care now?
A. No.
Q. Have you been released by Dr. Boyd?
A. No.

Commissioner Wilkerson: Is this the first time he saw Dr. Boyd?

Mr. Beard: This was actually not Dr. Boyd, is the report he's showing you --

Commissioner Wilkerson: Okay.

Mr. Beard: -- this is some PA.

Commissioner Wilkerson: Okay. But that's the first time he went into that practice?

Mr. Samuels: Correct.

Commissioner Wilkerson: So, no follow up after June the 24th? The next doctor he went to see was Doctor's Care; he didn't follow back up with that practice, right? It -- it -- I think -- I think you showed me a report from Lexington Medical that said June 24th referred him to Brett Gunter, follow -- follow up with Gunter in one (1) week; let's

just say that was July 1st. No follow up on July 1st but prior to that, we went to the --

Mr. Samuels: June 30th he went to --

Commissioner Wilkerson: -- Doctor's Care?

Mr. Samuels: -- Doctor's Care.

Commissioner Wilkerson: That -- I'm trying to figure out why there is a gap of a month; is -- help me understand that. I'm confused.

Q. Why -- why is there a gap of a month, Isaac, before you --

A. Okay.

Q. -- went to Lexington Brain and Spine?

A. It's so hard to get in Lexington Brain and Spine. You have to -- you know, you have to try to get in in some type of way; it's so hard to get in there. So, I got -- by the grace of -- I kept calling and calling trying to get in there, like, they put in off so much and I got hold and waited till somebody had a break in a -- well, one person, you know, didn't -- didn't come to their appointment and so, that's how I got in there. So, I wanted to get in there as soon as I -- as soon as I got the first twenty-four (24) but it was so hard to get in there -- to get in doctor -- doctor -- Lexington

Brain and Spine. So, when I -- I kept calling and somebody finally -- I talked to a David and he -- he knew -- he knew my -- you know, I tried to -- well, I'm sorry, I don't want to mention no names.

Commissioner Wilkerson: Did you tell them you had a referral from the hospital?

Witness: Yeah. I told them that right off -- the referral was sent over.

Commissioner Wilkerson: Okay. That's -- that's why I'm confused as to why.

Witness: Yeah. A referral was sent over. A referral was sent over once and a referral was sent over again. And they kept referring and I kept calling and I called, they said, we know, we know, we -- we backed up; we -- we -- we're trying to work you in --

Mr. Beard: Commissioner, I object to what they said.

Commissioner Wilkerson: You can't tell me --

Witness: -- oh, okay.

Commissioner Wilkerson: -- I don't have a clue if they're backed up or not. That helps me. I was just trying to figure out --

Mr. Samuels: Okay.

Commissioner Wilkerson: -- why he went to Doctor's Care in between.

Q. So, Isaac, how do you feel today, sitting here today?

A. I feel pain, a little pain on my left side.

Q. Okay. Are you feeling any numbness?

A. It can get that way sometimes.

Q. Okay. Do you believe you need more medical treatment?

A. Yes, sir.

Q. Who do you want to be your doctor?

A. Dr. Boyd.

Q. Do you like Dr. Boyd?

A. Yes.

Q. Do you trust Dr. Boyd?

A. Yes.

Q. Do you trust Dr. Izard?

A. No.

Q. Do you believe that you're able to go back and do that PAP job in your current condition?

A. No.

Mr. Samuels: I don't have any further questions. Please answer any questions Mr. Beard has for you.

Witness: Yes.

CROSS-EXAMINATION

By Mr. Beard:

Q. Mr. Brailey, my name is Grady Beard; I don't believe that we've met. I think someone else in my office took your deposition. I'm an attorney for Michelin. You understand we're here today because we contend that you lied on your questionnaire and we don't believe you had a Workers' Comp claim when you said you did; do you understand that?

A. Yes.

Q. Okay. And the fact of the matter is, you did lie on your questionnaire to Michelin when it asked the specific question about prior back issues; you lied on that document, didn't you?

A. I mean, I -- yeah, I mean --

Q. And when you lied on the document, you knew that you were lying on the document, you knew that's what you were doing; isn't that true?

A. -- no.

Q. Mr. Brailey, you told that lie because you wanted that job at Michelin bad enough that you were willing to lie for it; isn't that true?

A. No.

Q. Okay. I'm going to do this a little different

than your lawyer did; I'm going to go through some medical records first, then ask you some more questions, okay?

A. Yes, sir.

Q. All right. Your attorney talked about medical records from a doctor -- well, let's start with Lexington Medical Center on June the 11th, 2017; you went to Lexington Medical Center on June 11th, 2017, correct?

A. Yes, sir.

Q. And on June 11th, 2017, you had only been working at Michelin for, literally, about five (5) weeks at the time; isn't that correct?

A. Yes, sir.

Q. Okay. So, you had basically just started, right?

A. Yes, sir.

Q. And you indicated when you went to Michelin you started in training program, which was just the classrooms, correct?

A. Correct.

Q. Two (2) weeks you said, I think, about two (2) weeks or so --

A. Yeah.

Q. -- in classrooms?

A. Yes.

Q. All right. And so -- okay, so that would take us two (2) weeks into your job and you didn't do any lifting and no work on the floor during that period of time, correct?

A. Correct.

Q. All right. And so, then, you started kind of transitioning; you said the class transitioned out to the floor, you watched a little while and then you kind of did some of the work, correct?

A. Correct.

Q. All right. And so, it appears, correct me if I'm wrong, that you immediately, immediately upon starting doing any of that work, started having back problems; isn't that right?

A. No.

Q. Okay. Well, you went to Lexington Medical Center on June the 11th, 2017, again, you agreed that was about five (5) weeks after you started, right?

A. June 11th, yeah.

Q. Okay.

Mr. Beard: And, Commissioner, on -- this would be page 13 through 15, I believe, of Mr. Samuels' APA's.

Commissioner Wilkerson: Okay.

Q. And the report says you were complaining of low

back pain, particularly in the left lumbar region, in your left lower back, for the past several days is what it says; is that what you told them?

A. Yes.

Q. Okay. So, this had been going on not -- it didn't start on June 11th, it started before June 11th, correct, because it said you'd been having the problem for several days; is that correct?

A. Yeah, that's correct.

Q. Okay. So --

A. It's not June --

Q. -- so, it had been going on for several days before you went to the -- to -- to the hospital, correct?

A. -- correct.

Q. All right. And while you were having that pain over those several days before June the 11th, 2017, when you, basically, had just started working out on the floor for Michelin, you didn't tell any Michelin management folks about that, did you? You didn't tell a single management person you were having any problems, did you?

A. I -- no, not a -- not -- well, what you mean management?

Q. I'm talking about the people that call the shots,

the bosses; you didn't tell any bosses?

A. Well, we -- the only person we deal with is the -- we -- the --

Q. The trainers?

A. -- the trainers.

Q. Okay. My question is, did you tell any bosses? The answer is no, correct?

A. Correct.

Q. All right. And you went through on day one (1) when you walked into that plant and went into the classrooms, day one (1), you went through PowerPoints about safety, about Workers' Comp protocol, about what you do if you get hurt on the job, about what you do if something goes wrong in the plant; you went though all of that on day one (1), didn't you? Everybody goes through that.

A. Uh-huh. Yeah.

Q. Okay.

A. I think.

Q. So, you heard on that PowerPoint that if you get injured on the job, you immediately -- you immediately report that and you contact one (1) of three (3) people, correct?

A. Correct.

Q. All right. And the three (3) people are: You

contact your Bull; that's your team leader, your group leader, correct? Am I correct; that's one (1) of the people you contact --

A. We wasn't --

Q. -- right?

A. -- we wasn't assigned a Bull.

Q. Okay.

A. We --

Q. But I'm correct that's what the PowerPoint said; you either contact your Bull, correct?

Mr. Samuels: Your Honor, I -- I have an objection. This PowerPoint has not been provided to us --

Mr. Beard: The PowerPoint is not --

Mr. Samuels: -- I have no idea what it says.

Mr. Beard: -- the PowerPoint doesn't have to be provided to him; it's not part --

Mr. Samuels: He's --

Commissioner Wilkerson: Just ask him if that's what he was told.

Mr. Samuels: -- he's assuming --

Commissioner Wilkerson: I -- I don't know.

Mr. Samuels: -- facts not in evidence.

Mr. Beard: He just answered -- he just answered he saw it.

Mr. Samuels: And the PowerPoint would be hearsay.

Mr. Beard: He just answered he saw it.

Commissioner Wilkerson: He said he saw it. I don't know what's in the PowerPoint.

Mr. Samuels: I don't either --

Commissioner Wilkerson: Okay.

Mr. Samuels: -- and it's not here.

Mr. Beard: He just answered he saw it and it said what I said it said.

Commissioner Wilkerson: That's what he said; I don't know.

Mr. Beard: Hard -- hard to -- hard to refute his own client just saying it --

Commissioner Wilkerson: It just --

Mr. Beard: -- other than it -- it's not a good answer --

Commissioner Wilkerson: -- yes.

Mr. Beard: -- I understand it's not a good answer for Stephen --

Mr. Samuels: Oh, I --

Mr. Beard: -- I mean, I would jump up and object too but --

Mr. Samuels: -- I --

Mr. Beard: -- he said it.

Mr. Samuels: -- I -- I like the answer, Your Honor; I don't have a problem with the answer. I just would like to have seen the PowerPoint; I think it should have been produced.

Commissioner Wilkerson: Well, he doesn't have to --

Mr. Beard: Well, you didn't -- you didn't subpoena the PowerPoint; you didn't subpoena anything like a PowerPoint.

Mr. Samuels: I subpoenaed training materials.

Commissioner Wilkerson: -- if the PowerPoint wins this --

Mr. Beard: How -- how about this --

Commissioner Wilkerson: -- I'll be shocked.

Mr. Beard: -- how about I will have my client get the PowerPoint if it's that important; if you want to see it, we'll get it and put it into evidence.

Mr. Samuels: We can move on, Your Honor.

Commissioner Wilkerson: I would think so.

Mr. Beard: Okay.

Commissioner Wilkerson: You probably don't want to see the PowerPoint.

Q. You knew you were supposed to tell someone about being injured on the job --

A. Uh-huh.

Q. -- immediately if you thought you were injured on the job, correct?

A. Uh-huh.

Q. That's yes?

A. Yes.

Q. All right.

A. Yes, sir.

Q. And that's what you thought because that's what you told the Lexington Medical Center emergency room physician, "Complaining of low back pain, particularly in the left area. Patient was doing some heavy lifting at work prior to the onset of his pain." That's what you told the emergency room, correct?

A. Correct.

Q. But you didn't tell anybody at Michelin in charge about that, did you, like the protocol required you to do; you didn't say a word to anyone in management, did

you?

A. That -- the -- the day I went to the emergency room?

Q. You didn't tell them until June the 24th; you didn't tell anybody in management, correct?

A. I -- I told somebody on June 24th.

Q. In management?

A. Yeah.

Q. Who did you tell in management on June the -- on -- I'm talking about on June 11th?

A. You -- you said June 24th.

Q. No. No, sir. I said June 11th.

A. You just said June 24th. Okay, June 11th, what now?

Q. You didn't tell anybody in management on --

A. Oh, on June 11th --

Q. -- June the 11th --

A. -- no, I did not.

Q. -- what you told the emergency room doctor?

A. June 11th? No, I didn't.

Q. Okay. So, you violated the Workers' Comp protocol on that day, correct? You didn't notify management just like the PowerPoint told you, you were supposed to tell somebody immediately; you didn't do it, other than --

A. June --

Q. -- other than some Lexington Medical Center doctor that Michelin didn't know you were going to --

A. -- yeah. June --

Q. -- correct?

A. -- June 11th?

Q. Correct.

A. Yeah.

Q. I'm correct?

A. Yeah, you're correct.

Q. Okay.

A. I wasn't even -- it wasn't even to the point where --

Witness: -- can I say something?

Mr. Beard: No, sir.

Mr. Samuels: Your Honor --

Mr. Beard: I'm just asking you to finish the question.

Commissioner Wilkerson: He's answered that --

Mr. Samuels: -- he's -- he's explaining it.

Commissioner Wilkerson: -- particular question.

Mr. Beard: Correct.

Mr. Samuels: He's entitled to explain.

Mr. Beard: No, he's not entitled just -- to just go off and answer questions --

Commissioner Wilkerson: He can't answer anything --

Mr. Beard: -- and say what he wants to say.

Commissioner Wilkerson: -- about June 24th now.

Mr. Samuels: I understand but he --

Commissioner Wilkerson: He can only answer about June the 11th.

Witness: And that's what I want to answer to.

Commissioner Wilkerson: Okay. Well, tell me about June 11th.

Witness: Yeah. June 11th was -- I went there for -- was just on my own thing far as for a minor -- a minor pain --

Q. A minor pain?

Witness: -- in my back.

A. A minor pain.

Q. Okay.

A. Okay. So, that was because -- that was -- I said, well, look, let me -- maybe I can take something for,

you know, minor pain. I didn't -- I'm not going to say everybody is -- I'm not going to say that word after you all said no. But minor pain, that's what I went to June 11th for.

Q. Okay.

A. And when I went there, he was like, okay, you just --

Q. I didn't ask you what he said --

A. -- yeah. Okay.

Q. -- because you can't tell us what he said.

A. Okay.

Commissioner Wilkerson: You can't tell me what he said.

Witness: All right.

A. So, yeah, I went there for a minor pain.

Q. Okay. Well -- well, your testimony -- you expect this Commissioner to believe you went to the hospital for minor pain in your low back? You went to the hospital for minor pain --

A. The --

Q. -- that's what you want him to believe?

A. -- yeah. The only -- the only --

Q. Is that what you want him to believe?

A. -- yes.

Q. Okay. And you told the doctor, "Was doing some

heavy lifting at work prior to the onset of his pain." That's what you told the doctor, correct?

A. Yeah. Right.

Q. But you didn't tell the management at Michelin that you were having back pain that you thought was coming from doing heavy work at Michelin, did you?

A. No.

Q. Okay. You were diagnosed as having a lumbar strain and the Lexington Medical Center doctor prescribed you Flexeril and Tramadol, correct?

A. Right.

Q. All right. You paid for that out of your own pocket, correct?

A. Yes, sir.

Q. Okay. You paid for it through your group health insurance that Michelin provided to you, correct?

A. Correct.

Q. Okay. And, again, didn't tell Michelin you were getting prescription medication because you thought you were hurt on the job, did you; you didn't tell them that?

A. No.

Q. Okay. All right. So, then, two (2) days later, June the 13th of 2017, you went to your personal family doctor, correct, Dr. Marom?

A. Yes.
Q. Okay.
Mr. Beard: Commissioner, pages 7 through 12 of Claimant's APA's.
Q. This is your family doctor; Michelin had nothing to do with you going there, correct?
A. Correct.
Q. You went on your own --
A. Yeah.
Q. -- correct?
A. Correct.
Q. Paid for it yourself --
A. Yes, sir.
Q. -- correct?
A. Yes, sir.
Q. You didn't tell anybody at Michelin you were going there, correct?
A. Correct.
Q. All right. And it says, associated diagnosis, acute low back pain -- acute low back pain, renal insufficiency; meaning you had some sort of kidney issue going on and you were having some sort of problem with erectile dysfunction; those are the three (3) things that you were complaining about to your doctor, right?

A. Yes.
Q. Okay. And he indicates your chief complaint on that date at, it looks like, 4:38 in the afternoon of June 13th, was left lower back pain, correct?
A. Correct.
Q. All right. Now, did you work on June 13th, 2017?
A. I don't know.
Q. Okay. You said you were working -- you shift was nighttime; so --
A. Yeah.
Q. -- 4:38, that would have been right before you went to work, correct?
A. I think it would have been --
Q. Assuming you worked this day.
A. -- it might have been on my off day.
Q. Okay.
A. I don't know.
Q. All right. So, you go in to your family doctor and it mentions also apparently you were seeing some heart doctor, a Dr. Isbell. Have you got some sort of heart condition? You're going to Columbia Heart Clinic, Dr. Isbell --
A. No.
Q. -- a cardiologist?
A. I don't have a heart condition.

Q. Well, do you go to a Cardiologist?
A. I went to a Cardiologist.
Q. How long have you been going to a Cardiologist?
A. That's like -- I wasn't going to -- that was like when I went -- went to --
Q. Let me ask a better question.
A. -- when I -- high blood pressure.
Q. Let me ask a better question. Did you go to a Cardiologist before you went to -- before you came to work for Michelin?
A. Yeah.
Q. You didn't tell Michelin you were going to a heart doctor when you filled out all those forms and that questionnaire, did you; you didn't tell them about that either, did you?
A. No, because I didn't -- I don't -- my heart doctor, everything has been resolved.
Q. That's not my question.
A. Oh.
Q. The -- the questions on there --
A. Oh, okay.
Q. -- were --
A. Yeah.
Q. -- do you have or have you ever had.
A. Okay. Yeah.

Q. You didn't --
A. No, I didn't tell them.
Q. -- you didn't tell them about that?
A. No, I didn't tell them.
Q. You've had surgery on your right knee before, haven't you? Yes or no, have you had surgery on your right knee?
A. Yeah.
Q. Okay.
A. I had surgery on my right knee.
Q. Before you came to work for Michelin?
A. Yeah. Well, I was a child.
Q. Okay. As a child, that's the only time you ever had it?
A. Yeah, when I was a kid.
Q. Okay. You've had problems with your right knee, though, swelling and pain and all that because that's what you told Westinghouse, correct?
A. Well --
Q. Am I right?
A. -- yeah, that was something else.
Q. Yes or no --
A. Yes.
Q. -- did you have --
A. Okay.

Q. -- all right. So, when you filled out the questionnaire at Michelin, they asked those questions too about joint pain in your legs, knees, all that -- you didn't tell Michelin about that either, did you --

A. I --

Q. -- that you had prior knee problems, did you?

A. -- prior knee problems?

Q. Yes, sir. Did you tell --

A. I didn't have no prior knee problems.

Q. -- you had surgery.

A. That wasn't -- that -- that was just to -- that was when I was a child to get fluid out my leg.

Q. Okay. So -- so, you deny the --

A. Yeah. I had --

Q. -- I mean, did you tell them or not tell them?

A. -- I didn't have a problem with my knee.

Q. Okay.

A. I --

Q. Well, you did have a problem with your knee because on the drawing that Mr. Samuels just showed you, you drew on your right knee, in Dr. Izard's office, fluid on your right knee, on June the 26th, didn't you?

A. -- yeah. Oh -- oh, that's -- I mean, you was talking about --

Q. No, I'm talking about right now.
A. -- you're talking --
Q. Did you write --
A. -- you --
Q. -- did you write on that picture --
A. -- on Dr. Izard's office?
Q. -- yes.
A. Yeah, with the --
Q. The picture that he said --
A. -- it was on the -- it was on the left side all the way down to my calf.
Q. -- no, sir. On the right side you drew a picture and said fluid in your right knee; he didn't -- he didn't show you that part but you also talked about that in that drawing. You don't remember?
A. Yeah.
Q. You need me to show it to you?
A. Yeah. That's -- yeah, I -- I'm thinking -- I don't know. I don't remember that but I --
Q. Okay.

Commissioner Wilkerson: Show it to him.

Q. Let me show it to you.

Commissioner Wilkerson: What page?

Mr. Beard: Commissioner, this would be page 28 of Claimant's APA's.

Q. These are your drawings, right?
A. -- yeah. Oh, okay.
Q. Okay. What does that say right there (indicating)?
A. Yeah, that's fluid in my right knee.
Q. Right knee --
A. Yeah.
Q. -- correct?
A. Yeah.
Q. Okay.
A. Okay.
Q. That fluid has been there a long time hasn't it; it's been there for years?
A. No.
Q. You deny --
A. No.
Q. -- that you had fluid and problems before?
A. No, no, no. That fluid just got there.
Q. On June the 26th?
A. That fluid -- I don't have fluid in my knee?
Q. Well, that's not what you told Westinghouse --
A. No.
Q. -- when you went to work for them you told Westinghouse you had knee issues and it got swollen all the time.

A. No. I have knee -- show me that now.
Q. Okay. All right. Do you deny telling Westinghouse that?
A. I don't remember.
Q. Well, I'm asking you -- you remembered a lot of stuff when Mr. Samuels asked you questions.
A. Yeah, I remember.
Q. You don't remember that?
A. I don't remember what Westinghouse said, I mean, I don't know what all these --

Commissioner Wilkerson: Show him the Westinghouse questionnaire.

Q. Okay. Well, we'll --

Mr. Beard: -- I'm sorry?

Commissioner Wilkerson: I guess you'll have to show him the Westinghouse --

Mr. Beard: I will. I'm going to --

Commissioner Wilkerson: -- I know.

Mr. Beard: I'm going to move it -- I want to do this as -- try to get it chronological because it -- it's easier for you and me, I think.

Q. Bottom line, on June the 13th --
A. Uh-huh.
Q. -- you went to your personal doctor, correct?

A. Correct.
Q. All right. And you were shown this --
Mr. Beard: -- Commissioner, permission to approach?
Commissioner Wilkerson: Please.
Mr. Beard: Okay.
Q. Starting at page 7, again, this time it says -- and I'll show you so you don't think I'm misreading -- having left lower back pains for the past two (2) weeks, correct?
A. Left lower back pain, uh-huh.
Q. For two (2) weeks?
A. That's -- where was that?
Q. Is that what it says?
A. Where is this at now?
Q. This is June 13th --
A. Okay.
Q. -- Dr. Marom.
A. Okay.
Q. Am I correct --
A. Okay.
Q. -- that's what it says?
A. Uh-huh.
Q. All right. So, two (2) weeks backwards from June 13th takes us back into May. So, you'd been having

these problems since at least May, correct, with low back pain? That's what you told your personal family doctor, correct?

A. Uh-huh.

Q. That's yes?

A. Yes.

Q. Okay. And it says, has had a new job at Michelin moving heavy stuff -- it doesn't say anything about stretching -- there now -- there now for about the past two (2) weeks; isn't that what it says?

A. Uh-huh. Yeah.

Q. So -- so, you told you personal doctor the entire time you started working at Michelin, day one (1), moving heavy stuff you've been having back pains and that's what you told him, correct?

A. I -- that said that in there?

Q. Yes, sir. That's exactly what that says.

A. It says that -- say that again now.

Q. It says, has had a new job at Michelin --

A. Uh-huh. Yeah.

Q. -- moving heavy stuff, there now for about the past two (2) weeks. Right above it, having left lower back pains for the past two (2) weeks.

A. Yes. That -- yeah --

Q. So, you told --

A. -- yeah. Okay.

Q. -- okay. So, you told Dr. Marom since day one (1) working out on that floor doing heavy lifting, heavy stuff, let me -- let me get it correctly --

A. Uh-huh.

Q. -- you've been having back pains --

A. Yeah.

Q. -- true?

A. I guess. Yes.

Q. All right. Now, you disputed to Mr. Samuels that you told your doctor you had pain that was ten (10) out of ten (10) with certain movements --

A. Uh-huh.

Q. -- you deny telling your doctor that, your personal family doctor; do you think he made that up and just put that in his report?

A. I didn't think he made it up. Maybe we was talking and just something -- you know, ten (10) out of ten (10), I don't know whether -- I don't know what ten (10) out of ten (10) -- this is my first time hearing about ten (10) out of ten (10).

Q. Okay. Would you agree ten (10) out of ten (10) is the worst pain you can possibly have? You can't get worse than ten (10) out of ten (10), can you?

A. No. It can't -- can't get worse than ten (10) out

of ten (10).

Q. The highest number on the scale you can put, right?

A. Right. Right.

Q. And that's what he said you told him --

A. Uh-huh.

Q. -- isn't that true?

A. Okay. Yeah.

Q. Okay. And your lawyer submitted this document, correct?

A. Correct.

Q. This is from your lawyer?

A. Correct.

Q. Okay. It says you've never had pain there in the past; that's not true, you've had pain in your back before. You had a Workers' Comp claim for pain in your back, correct?

A. What, you said I said I did?

Q. It says --

A. No.

Q. -- never had pain there in the past.

A. That's -- twenty-one (21) years ago, yeah.

Q. That's not what he -- well, would you agree twenty-one (21) years ago is sometime? That would be before never, correct? This says never had pain.

A. Okay.
Q. So, you have had pain there, correct?
A. Right.
Q. You didn't tell Dr. Marom about that, correct?
A. No.

Mr. Samuels: Your Honor, I would --

Q. Okay.

Mr. Samuels: -- I would object that we need to define there --

Mr. Beard: No, sir.

Mr. Samuels: -- never had pain there.

Mr. Beard: He answered the question. He can -- he can redirect --

Commissioner Wilkerson: He said his back, yes.

Mr. Beard: -- but he doesn't get to just interrupt and --

Commissioner Wilkerson: Yes.

Mr. Beard: -- and make those types of objections.

Commissioner Wilkerson: That's right.

Mr. Beard: In fact, that's actually a -- a completely inappropriate --

Commissioner Wilkerson: I understand.

Mr. Beard: -- objection and it's

pointing out to his client that I'm going to be asking you in a minute a new question so I need you to fix this --

Commissioner Wilkerson: I understand.

Mr. Beard: -- that's all that is.

Commissioner Wilkerson: You can ask him on --

Mr. Beard: That's improper.

Commissioner Wilkerson: -- you can ask him on redirect. It's left up to me to decide --

Mr. Samuels: Thank you, Your Honor.

Commissioner Wilkerson: -- where there is and what never means and --

Q. You also told the doctor that you'd had no recent injury or trauma on June the 13th, yet you were telling him it was all related to your job at Michelin, correct, lifting heavy stuff?

A. Say that again now?

Q. Yes, sir. It says no recent injury or trauma but you were telling the doctor it was all --

A. Trauma?

Q. -- yes.

A. Well, so, trauma it means, like, as far -- had no recent injury or trauma?

Q. Yes. Is that what you told the doctor?
A. No. Yeah. If it's there, yeah.
Q. Okay. And it says something about you were supposed to have some type of screening, C-scope is what it says; you were referred to do that at your last appointment but you didn't make the appointment because you told him your cousin unexpectedly passed away and you had to be there to help support the family; is that true?
A. Yeah.
Q. Well, what does that have to do with scheduling some sort of screening with your C-scope; what is that?
A. I think that's just --
Q. A colonoscopy?
A. -- yeah.
Q. Because you're fifty ([redacted] years old and plus?
A. Right.
Q. You never did that, right?
A. No, I haven't done that.
Q. Okay. And he prescribed the exact same medications that you had been prescribed at the emergency room, correct?
A. Correct.
Q. Flexeril and Tramadol?
A. Correct.

Q. Okay. And this was all before you -- this is all before June the 24th, which is the day you're claiming you got hurt on the job, correct; that was June 13th?

A. Correct.

Q. Okay. Again, you didn't tell anybody at Michelin what you told the doctor or what the doctor had indicated in his report to you, correct?

A. Higher management, you're saying?

Q. Yes, sir.

A. You're saying higher management?

Q. Bosses.

A. Bosses, okay.

Q. You didn't tell them?

A. No, I didn't tell the bosses.

Q. Okay. You didn't tell anybody in charge of Workers' Comp claims about that either, did you?

A. No.

Q. Okay. Just so you know, I noticed your lawyer didn't read this but I do want to show it to you at page 10 of that same report from your doctor; there's another opportunity where they fill in things.

A. Uh-huh.

Q. It says pain present. It says, yes, actual or suspected pain. Numeric pain score, ten (10). Ten (10) equals the worst possible pain; is that what the