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**SC Court of Appeals**

**STATE OF SOUTH CAROLINA**

In The Court of Appeals  
In The Supreme Court

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**WORKERS COMPENSATION COMMISSION PANEL:**

Cynthia C. Dooley, Chair  
T. Scott Beck  
Melody L. James

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WCC No. 1923480

Appellate Case No. 2023-001264

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Takara L Stewart

Claimant/Appellant,

South Carolina CVS Pharmacy, LLC,  
Employer and  
XL Insurance America Inc.,  
Carrier

Defendants/Respondents

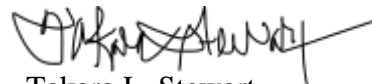
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Record on Appeal

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November 20, 2024

Michelle Deluca Yarbough  
PO Box 10589  
Greenville, SC 29603



Takara L. Stewart  
108 E York Street  
Suite 236  
Savannah, Georgia 31401  
(984) 215-1812  
Pro Se

The State of South Carolina  
In The Court of Appeals  
In The Supreme Court

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Appeal from the South Carolina  
Workers' Compensation Commission

Cynthia C. Dooley, Chair  
T. Scott Beck  
Melody L. James

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WCC. No. 1923480

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Appellate case No.: 2023-001264

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**Corrected**  
**DECISION AND ORDER**

**OF THE**

**SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION**

**WCC FILE NO. 1923480**

Takara L. Stewart, Employee

Claimant,

Vs.

SC CVS Pharmacy, LLC, Employer, and  
XL Insurance America, Inc.,  
Carrier,

Defendants.

HEARING:

Held in Hartsville, South Carolina, on June 3, 2021

APPEARANCES:

Claimant represented by Stephen J. Wukela, Esquire,  
Florence SC

Defendants represented by Mrs. Michelle Yarbrough,  
Greenville, SC

PURPOSE OF HEARING:

To determine issues set forth in Forms 50 and 51 and  
any other issues which may have timely come before  
the Commission.

DECISION AND ORDER:

By: Aisha Taylor, Commissioner

FILED:

January 19, 2023



**State of South Carolina**  
**Workers' Compensation Commission**

**APPELLATE PANEL DECISION AND ORDER**

**COMMISSION PANEL:** Commissioner Cynthia C. Dooley, Chair; Commissioner T. Scott Beck; Commissioner Melody L. James

SCWCC File No.: 1923480

Takara L. Stewart,  
Claimant/Respondent,

v.

South Carolina CVS Pharmacy, L.L.C.,  
Employer,

and

XL Insurance America Inc.,  
Carrier,  
Defendants/Appellants.

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**REVERSED**

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Hearing held via Zoom  
on May 8, 2023

Per notice timely and properly served upon all Parties of Interest.

**Appearances:** Stephen J. Wukela, of Wukela Law Firm, appeared on behalf of Claimant/Respondent.

Michelle D. Yarbrough, of Gallivan, White & Boyd, PA, appeared on behalf of Defendants/Appellants.

**Court Reporter:** Amber Scarborough, 1230 Richland Street, Columbia, SC 29201, 803-252-3445, contact@creelreporting.com.

**Filed:** July 10, 2023

# The South Carolina Court of Appeals

Takara Stewart, Claimant, Appellant,

v.

South Carolina CVS Pharmacy, LLC, Employer, and XL  
Insurance America, Inc., Carrier, Respondents.

Appellate Case No. 2023-001264

Workers' Compensation Commission  
Trial Court Case No. 1923480

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## ORDER

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Appellant moves this Court to relieve Stephen J. Wukela, Esquire as counsel of record. This motion is granted. Stephen J. Wukela, Esquire shall not be copied on any future correspondence in regards to this appeal.

This appeal will be held in abeyance for 30 days for appellant to obtain new counsel or she will be presumed to be proceeding as pro se.

FOR THE COURT  
BY *Catherine Harrison, deputy*  
CLERK

Columbia, South Carolina

cc:  
Takara Stewart  
Michelle Deluca Yarbrough, Esquire  
Stephen J. Wukela, Esquire

**FILED**  
**Aug 31 2023**

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# The South Carolina Court of Appeals

Takara Stewart, Claimant, Appellant,

v.

South Carolina CVS Pharmacy, LLC, Employer, and XL  
Insurance America, Inc., Carrier, Respondents.

Appellate Case No. 2023-001264

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## ORDER

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Respondents filed a motion to dismiss this appeal, or in the alternative to strike improper portions of Appellant's initial brief and designation of matter. No return was filed. After careful consideration, we deny Respondents' motion to dismiss. However, we strike Appellant's initial brief and designation of matter. Within twenty days of the date of this order, Appellant shall file an initial brief and designation of matter that complies with Rules 208 and 209 of the South Carolina Appellate Court Rules. Failure to comply will result in dismissal of the appeal.

  
\_\_\_\_\_  
FOR THE COURT

Columbia, South Carolina

cc:  
Takara Stewart  
Michelle Deluca Yarbrough, Esquire

**FILED**  
**Mar 28 2024**

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# The South Carolina Court of Appeals

Takara Stewart, Claimant, Appellant,

v.

South Carolina CVS Pharmacy, LLC, Employer, and XL  
Insurance America, Inc., Carrier, Respondents.

Appellate Case No. 2023-001264

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## ORDER

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On April 17, 2024, Appellant filed her initial brief and designation of matter. On April 24, 2024, Appellant filed a motion titled "Motion New Evidence." In the motion, she requests "to present new evidence pertinent to the record on appeal to the Full Commission Appellate Panel." Specifically, she seeks to present (1) a psychology referral from Dr. Hicks-Beckum, (2) a psychology consultation and debrief, (3) a psychology estimate requested by Respondents, and (4) documentation of Respondents' settlement offers. Respondents filed a return, opposing Appellant's motion. We construe Appellant's motion as requesting either to amend the designation of matter or to remand to the South Carolina Workers' Compensation Commission. After careful consideration, we deny the motion. *See* Rule 210(c), SCACR (providing the record on appeal shall not include matter not presented to the lower court or tribunal).

Respondent filed a motion to dismiss the appeal or to strike improper portions of Appellant's initial brief and designation of matter. Appellant did not file a return. After careful consideration, we deny Respondent's motion to dismiss; however, we grant Respondent's motion to strike Appellant's initial brief and strike items 2, 3, and 4 from Appellant's designation of matter. *See* Rule 208(b)(1)(C), SCACR (explaining the statement of the case "shall not contain contested matters"); Rule 209(b), SCACR (stating a party may only designate matters that may properly be included in the record on appeal); Rule 210(c), SCACR (providing the record shall not include matter which was not presented to the lower court or tribunal).

# The South Carolina Court of Appeals

Takara Stewart, Claimant, Appellant,

v.

South Carolina CVS Pharmacy, LLC, Employer, and XL  
Insurance America, Inc., Carrier, Respondents.

Appellate Case No. 2023-001264

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## ORDER

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On August 1, 2024, Appellant filed an amended initial brief and designation of matter. On August 29, 2024, Respondents moved to dismiss this appeal because Appellant's amended initial brief and designation of matter do not comply with the South Carolina Appellate Court Rules. In the alternative, Respondents moved to strike Appellant's amended initial brief and designation of matter. On September 9, 2024, Appellant filed a return, opposing dismissal and striking. After careful consideration, we deny Respondents' motion to dismiss or, in the alternative, to strike.

  
\_\_\_\_\_  
FOR THE COURT

Columbia, South Carolina

cc:

Takara Stewart  
Michelle Deluca Yarbrough, Esquire

**FILED**  
**Oct 01 2024**

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**Corrected  
DECISION AND ORDER**

**OF THE**

**SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION**

**WCC FILE NO. 1923480**

Takara L. Stewart, Employee

Claimant,

Vs.

SC CVS Pharmacy, LLC, Employer, and  
XL Insurance America, Inc.,  
Carrier,

Defendants.

**HEARING:**

Held in Hartsville, South Carolina, on June 3, 2021

**APPEARANCES:**

Claimant represented by Stephen J. Wukela, Esquire,  
Florence SC

Defendants represented by Mrs. Michelle Yarbrough,  
Greenville, SC

**PURPOSE OF HEARING:**

To determine issues set forth in Forms 50 and 51 and  
any other issues which may have timely come before  
the Commission.

**DECISION AND ORDER:**

By: Aisha Taylor, Commissioner

**FILED:**

January 19, 2023

STIPULATIONS

Counsel for the parties stipulated at the hearing to the following:

1. That the purpose of the hearing is to determine issues set forth in the Forms 50 and 51 and any other issues which may timely come before the Commissioner;
2. Notice of the hearing was timely and properly served upon all parties of interest;
3. Venue, set in Darlington County, is proper.

APA SUBMISSIONS

Under the South Carolina Administrative Procedures Act, the following records were submitted into evidence:

Claimant's APA Submissions

APA #	PHYSICIAN/ OTHER	GROUP/AGENCY	DATE OF REPORT	PAGES
APA#1	Ethics Point Report		01/05/20	1-2
APA#2	Police Report		01/05/20	3-4
APA#3	Linda Davis, LPC		01/28/20-05/07/20	5-7
APA#4	Andrea Atkins, MD	McLeod OBGYN Dillon	02/20/20	8-15
APA#5	Ashley Hicks, MD	MUSC Health	04/15/20 05/18/20	19-24
APA#6	Aneta Hopkins, LPC	Wellness Counseling Services, LLC	05/21/20-07/10/20	26-33
APA#7	Eviction		05/27/20	34
APA#8	Family Medical Leave		10/05/20	36
APA#9		Deposition of Takara L. Stewart	06/11/20	
APA#10		Deposition of Robyn Hanna	11/05/20	Exclude d by Commis sioner (Proffere d only)
APA#11		Deposition of Dr. Ashley Hicks	03/22/21	

**Defendants' APA Submissions**

<b>Tab</b>	<b>Physician</b>	<b>Date(s)</b>	<b>Page(s)</b>
<b>12</b>	MUSC Family Medicine Hoffmeyer	08/11/2020- 11/9/2020	37-44
<b>13</b>	Dr. Jon Snipes	05/05/2021	45-55

**Defendant's Exhibits**

<b>Tab</b>	<b>Exhibit</b>	<b>Description</b>	<b>Page(s)</b>
<b>A</b>	Form 20		56
<b>B</b>	FMLA Paperwork	CVS Health	57-61
<b>C</b>	Eviction Court Filing Records		62-65
<b>D</b>	Rent Assistance Request		66-67
<b>E</b>	Curl Properties File		68-101
<b>F</b>	Information Produced from SCDEW		102-109
<b>G</b>	CVS Video of incident		
<b>H</b>	Video Surveillance of Claimant with corresponding report		110-120
<b>I</b>	Claimant's Resume		

Claimant's APAs 1-8, pages 1-14; 19-24; 26-34; 36 were admitted without objection.

The Defendants objected to the admission of Claimant's APA #9, the deposition of the Claimant, Takara Stewart, and Claimant's APA #10 the deposition the Claimant's supervisor, Robyn Lynn Hanna, except for use during the hearing for impeachment purposes, on the grounds that the depositions were discovery depositions and not taken as de bene esse depositions for use at trial.

Claimant argued that the Rules of Evidence and Civil Procedure, while applicable in the Courts of Common Pleas in this state, are not applicable in proceedings before this Commission. At that point, the undersigned ruled that the depositions at APA #9 and #10 would be proffered and available during the hearing only for impeachment purposes.

During the course of the Claimant's testimony, Defense counsel questioned the Claimant, Takara Stewart, with regard to her deposition testimony for impeachment purposes. (See, Transcript p. 31 line 25-p. 32 line 22). At that point, the Claimant's counsel moved that the Court admit the entire deposition of the Claimant. The Defense counsel objected; requesting that the Court only admit specific portions of the deposition for impeachment purposes. (See, Transcript p.32 line 23, - p. 33, line 24).

The Claimant argued, again, that the Rules of Evidence and Civil Procedure were inapplicable before the Commission and that, therefore, the Defendants' hearsay objections to the depositions in APA #9 and #10 should not be sustained. The Claimant further argued that, even applying those rules, Rule 32(a)(4) of the South Carolina Rules of Civil Procedure provides, "if only part of a deposition is offered in evidence by a party, an adverse party may require him to introduce any other part which ought in fairness to be considered with the part introduced and any party may introduce any other parts."

I find that by questioning the Claimant with regard to portions of her deposition testimony, the Defense, in fairness, opened the door to the admission to the entire deposition. Therefore, the undersigned admitted APA #9, the deposition of Takara Stewart, into evidence in its entirety.

As to APA #10, the deposition of Robyn Lynn Hanna, Ms. Hanna testified at the hearing with no reference to her deposition. Therefore, the Commission excluded APA #10, the deposition of Robyn Lynn Hanna; which was proffered by the Claimant.

APA #11, the deposition of Dr. Ashley Hicks, was admitted without objection.

Defendants APA's 12-13 and Exhibits A-I were admitted without objection.

## STATEMENT OF THE CASE

This is a denied claim; tried before the Commission on the Claimant's Form 50.

The Claimant alleges that on December 26, 2019, while the Claimant was in the employ of CVS, cleaning up and vacuuming at the end of the day, she opened the door for a customer to leave and the customer groped her posterior.

It is the Claimant's contention that, as a result, she suffered a psychological injury as a product of a physical assault.

The Claimant argues, in the alternative, that if the Court finds that the Claimant's injury is a mental-mental injury, such a sexual assault was unusual and extraordinary within the meaning of the Act; and, therefore, compensable.

Defendants contend that, under South Carolina Code §42-1-160, the Claimant's mental injury must be accompanied by a physical injury, not just physical contact. Alternatively, to establish a mental-mental injury under South Carolina Code §42-1-160, the Claimant must establish not only that her employment conditions were unusual and extraordinary but also that there is medical causation established by expert testimony to a reasonable degree of medical certainty. Defendants argue that, although there was physical contact, there was no physical injury. Likewise, Defendants argue the statutorily required medical evidence was not submitted, highlighting the deposition testimony of physician Dr. Ashley Hicks and the written opinion of psychiatrist Dr. John Snipes.

The evidence of the record reveals that the Claimant reported the assault to her supervisor, Robyn Hanna. Robyn Hanna directed her to complete a report with the CVS ethics point website, which she did on January 5, 2020. (APA#1). The Claimant also filed a report with the Florence County Sheriff's office on January 5, 2020. (APA#2).

The case is complicated by the Claimant's personal history. Claimant testified that she was sexually molested by a family member. She testified that she was told not to say anything.

The Claimant contends that her repressed emotions came rushing back to her after the incident at CVS on December 26, 2019. The Claimant alleges that, after the incident at CVS, she felt increasingly vulnerable and concerned that she might be retaliated against by the assailant or their family for reporting the incident to the police.

The record reflects that the Claimant underwent counseling with the CVS employee assistance program, Ms. Linda Davis. As the texts between Ms. Davis and the Claimant show, Ms. Davis was not a very reliable care giver and cancelled appointments on the Claimant repeatedly.

On February 20, 2020, Claimant saw her OBGYN, Dr. Andrea Atkins for birth control and she was diagnosed with anxiety although there was no mention in the medical record of a sexual assault.

In a text dated March 10, 2020 with Linda Davis, the Claimant asked Ms. Davis "Is it crazy to think someone going to jail for something they did to you could create some form of retaliation on the perpetrator's behalf even if it's not the perpetrator could be someone directly connected to the perpetrator. Maybe I am just paranoid. I don't feel safe. Do you feel I am just projecting unnecessary fear? Just wanted to share how I am feeling." (APA#3).

Days later, on or about March 13, 2020, Ms. Stewart testified that she met with her supervisor, Robyn Hanna to express her increasing anxiety and fear. Ms. Hanna testified that Claimant was crying at the meeting, seemed genuinely upset, and related that she was having anxiety attacks. Ms. Hanna testified that the Claimant told her she was fearful of retaliation by her assailant. (Tr. p. 97). Ms. Hanna also testified the Claimant also revealed to Ms. Hanna the sexual assault in her past. (Tr. p. 97).

Ms. Hanna encouraged Ms. Stewart to take a leave of absence. (Tr. p. 98) At that point, Ms. Stewart left work and has not returned.

On direct examination, Ms. Hanna, the Store Manager, testified that the Claimant was instructed to call her if there were any issues and there were no more senior managers working with the Claimant (Tr. p. 87). Ms. Hanna testified that the Claimant did not contact her on the evening of December 26, 2019 to report any problem. (Tr. p. 87). She first learned of the issue a couple of weeks later when they were working the same shift. (Tr. p. 87). She described the report as being a normal conversation during which the Claimant did not seem that upset or frantic. (Tr. p. 88). She further described the Claimant's demeanor and noted that she was not crying, but rather compared it to a normal conversation that one would have with anybody. (Tr. p. 88).

Ms. Hanna testified that the Claimant continued to work her regular schedule, not missing time from work, from December 27, 2019 until the beginning of March 2020 when she went on leave. (Tr. pp. 89-90). During that time, she did not express any concerns about being scared of running the front of the store by herself, she did not make any complaints, and she did not call out of work because of any claimed psychological stress, depression, or anxiety. (Tr. p. 90). When she worked at the same time as the Claimant, Ms. Hanna observed the Claimant being pleasant and cordial with customers. (Tr. pp. 90-91). She testified that she never observed her crying or showing any signs of distress.

Ms. Hanna testified that the Claimant's first episode of crying or signs of distress did not occur until around March 13, 2020 when she arrived late for her shift and reported being scared of retaliation from the CVS customer and her family for bringing charges against the customer. (Tr. p. 91).

On April 15, 2020, the record reflects that the Claimant saw her family doctor, Dr. Andrea Hicks, to whom she reported anxiety and recent sexual assault affecting work. Dr. Atkins recommended counseling and, ultimately, on May 18, 2020, she wrote the Claimant out of work. On that date Dr. Atkins noted "Due to incident at work there is extreme anxiety related to the work place..Recommended patient abstain from going to the work place for now." (APA# 5).

On referral from Dr. Hicks, the Claimant saw a counselor, Dr. Aneta Hopkins, who diagnosed the Claimant with PTSD.

Dr. Hicks was deposed and testified as follows:

Q: Do you have a reason [sic] to reasonable degree of medical certainty as to whether this incident that she has described in the CVS would have aggravated a pre-existing condition?

A: Yes; of course.

Attorney: Object to the form, but you can answer.

A: Yes

Q: Okay. And do you have any opinions to a reasonable degree of medical certainty as to whether the complaints that she made to you when she saw you were the result of that aggravation?

A: Yes

(APA #11 Depo p. 17)

On July 10, 2020, Dr. Hopkins completed a summary of the Claimant's treatment in which she indicated "This incident also led Takara to lose her apartment since she was unable to make payments, since she could not work due to the intensity of PTSD symptoms. Takara continues to struggle due to being sexually harassed at work...".

Indeed, the Claimant testified that she and her young child were evicted from their apartment due to inability to pay on May 27, 2020, the Claimant having been out of work since March 2020. (APA# 7).

The Claimant testified that she ultimately returned to family in Savannah where she has been living since.

Dr. Hicks testified that she initially completed an FMLA form with a start date of May 18, 2020 and an estimated return date of November 5, 2020, but that she wasn't prepared to endorse Family Medical Leave beyond that point because of the Claimant's failure to be compliant with medications and treatment. (APA #8, p. 36; APA #11, Depo. p. 27). On cross-examination, Dr. Hicks testified that she only took the Claimant out of work for one month following her May 18, 2020 visit and for one month following her August 11, 2020 visit. (APA #11, Depo pp. 39-40). Dr. Hicks testified that she did not write the Claimant out of work following her October 5, 2020 visit because she was not compliant with treatment. (APA #11, Depo. p. 40).

Claimant seeks temporary total disability benefits for May 18, 2020 to November 5, 2020 along with treatment at the hands of Dr. Andrea Hicks and whatever psychological counselor Dr. Hicks recommends.

#### FINDINGS OF FACT

After the hearing and giving careful consideration to the documentary evidence, medical records, and the testimony of the above individuals,

**1. I find the parties to the proceeding are subject to and bound by the terms and provisions of the South Carolina Workers' Compensation Act, with Takara L. Stewart being the Claimant, and SC CVS Pharmacy, LLC. being the Employer and XL Ins. America, Inc., the Carrier.**

This finding is based upon stipulation of the parties at the commencement of the hearing.

**2. I find that pursuant to §42-1-40 the Claimant's average weekly wage is Two Hundred Fifty-Eight and 45/100 (\$258.45) Dollars a week resulting in a compensation rate of One Hundred Seventy-Two and 31/100 (\$172.31) Dollars.**

This finding is based on the stipulation of the parties.

**3. I find that pursuant to §42-1-160 the Claimant sustained physical-mental injury by accident on December 26, 2019 as a direct and proximate result of a physical and sexually based assault.**

I find based on evidence of the record that on December 26, 2019, while closing out the CVS store where she was employed, the Claimant was groped on her buttocks by a customer. This finding is supported by the Claimant's report to her supervisor, Robyn Lynn Hanna, Store Manager.

Ms. Hanna testified that the Claimant reported being touched on the rear to her that she referred the Claimant to report it the ethics line. (See, Tr. p. 87, l. 17 – p. 88, l. 14);(See also Tr. p. 92, l. 22 – p. 93, l. 21). The report to the ethics portal describes the same description of the accident. (APA #1, p. 1). Ms. Hanna described the Claimant's demeanor during this conversation, which she described as normal. She testified that the Claimant was not that upset, frantic, or crying. (Tr. p. 88).

The Claimant also gave the same description to the police department. (See, APA #2, p. 3).

The event was also captured on surveillance video. After viewing the surveillance video and providing it to the police department, the store manager testified that she was able to identify the assailant as a customer that frequently visited the store by the name of Beth Rollinson. (Transcript p.94, l.20- p.95, l.22).

The store manager, Ms. Hanna further testified at trial that subsequent to the incident, Ms. Stewart came to see her in March of 2020, and seemed genuinely upset. (Tr. p.97, l.5 -l.11). Ms. Hanna testified that, in that meeting, Ms. Stewart relayed to her that she was having anxiety attacks and that she was fearful of retaliation by the assailant or someone in her family. (See, Tr. p. 97, l. 12-l.18).

Ms. Hanna also testified that, at that March 2020 meeting, the Claimant also revealed that she had suffered a sexual assault in the past. (Tr. p. 97, l.19-l.21).

Ms. Hanna testified that she consoled the Claimant and told her that her only option was to take medical leave. (Tr. p. 98, l. 7).

Ms. Hanna testified that the Claimant had told her that she had spoken to a counselor, (Tr. p. 99, l. 12-13), and that Hanna was aware that the Claimant subsequently requested a leave of absence from CVS. (Tr. p. 99, l. 18-p. 100, l. 6).

The Defense disputes the severity and the significance of the injury: Ms. Hanna testified, “Being touched on the rear, I mean, it’s just not that big of a deal to me.” (Tr. p. 88, l.4-l.5)

Nevertheless, the Act does not require a physical injury to be permanent in order to meet the burden proving a physical-mental injury. I find that a sexual assault is a physical and an unwanted touching, which constitutes a physical injury within the meaning of the Act. See, e.g., Landford vs. Clinton Cotton Mills 204 S.C. 423 (1944) (finding willful assault constitutes injury by accident).

Therefore, regardless of the severity of the injury to the Claimant’s physical body, or whether it was permanent, I find that the unwanted touching by the customer constitutes physical assault and an injury by accident within meaning of the Workers’ Compensation Act.

I also find that this physical assault resulted in a psychological injury as a direct and proximate result.

After reporting the incident to CVS, the Claimant initially underwent counseling with the CVS Employee Assistance Program through Ms. Linda Davis. The text exchanges between Ms. Davis and the Claimant, found that APA #3, indicate that Ms. Davis was not a very reliable caregiver and cancelled appointments on the Claimant, repeatedly.

In the meantime, the record reflects that the Claimant saw her OBGYN, Dr. Andrea Atkins, on February 20, 2020, and was diagnosed with anxiety.

Ultimately, on April 15, 2020, the Claimant saw her family doctor, Dr. Andrea Hicks, to whom she reported anxiety and recent sexual assault affecting her work. Dr. Hicks was deposed and testified as follows:

Q: Do you have a reason [sic] to reasonable degree of medical certainty as to whether this incident that she has described in the CVS would have aggravated a pre-existing condition?

A: Yes; of course.

Attorney: Object to the form, but you can answer.

A: Yes

Q: Okay. And do you have any opinions to a reasonable degree of medical certainty as to whether the complaints that she made to you when she saw you were the result of that aggravation?

A: Yes

(APA #11 Depo p. 17)

Therefore, based on this evidence, I find that the unwanted touching or groping that the Claimant was subjected to by a customer on December 26, 2019, constitutes a physical injury by accident that, in turn, aggravated the preexisting psychological condition of PTSD which the Claimant suffered as a result of sexual assault when she was a child. Thus, the Claimant

sustained a physical-mental injury by accident on December 26, 2019, within the meaning of S.C. Code 42-1-160 of the South Carolina Workers' Compensation Act.

**4. Notwithstanding the finding of a physical-mental injury, above; I also find that, on December 26, 2019, the Claimant sustained a compensable mental-mental injury within the meaning of S.C. Code 42-1-160.**

It is well established in the Workers' Compensation law that, in order to recover Workers' Compensation benefits for a mental injury unaccompanied by a physical injury, the Claimant must prove both: 1. that the Claimant was exposed to unusual and extraordinary conditions in her employment; and, 2. that those unusual and extraordinary conditions were the proximate cause of the mental injury. (See, Doe v. South Carolina Department of Special Needs, 364 S.C. 411(Ct. App. 2005).

Given, as I find above, that the assault, the act of unwanted touching by customer, resulted in physical injury, and, in turn, resulted in the aggravation of the Claimant's psychological condition, the requirement of demonstrating "unusual and extraordinary work conditions," does not apply.

However, even if the Claimant has not sustained a physical injury, I specifically, and alternatively, find that the physical and sexually based assault suffered by the Claimant was extraordinary and unusual in comparison to the normal working conditions of employment at CVS.

**5. I find that the accident of December 26, 2019 aggravated the Claimant's pre-existing psychological condition.**

Ms. Stewart testified, that, as a child, she was sexually assaulted by her mother's older brother. (Tr. p. 24, l. 7-1.20). Supervisor, Ms. Robyn Hanna, testified that in March of 2020, after the accident, the Claimant met with Hanna and seemed genuinely upset. Ms. Hanna

testified that, at that meeting, the Claimant related to her that she had been having anxiety attacks and that she was fearful of retaliation by her assailant, or someone in the assailant's family. Ms. Hanna testified that, at that point, the Claimant revealed to her that the Claimant had been sexually assaulted in the past. (Tr. p. 97, 1.8-1.28).

Dr. Hicks, the Claimant's treating physician was deposed and testified as follows:

Q: Do you have a reason [sic] to reasonable degree of medical certainty as to whether this incident that she has described in the CVS would have aggravated a pre-existing condition?

A: Yes, of course.

Attorney: Object to the form, but you can answer.

A: Yes

Q: Okay. And do you have any opinions to a reasonable degree of medical certainty as to whether the complaints that she made to you when she saw you were the result of that aggravation?

A: Yes

(APA #11 Depo p. 17)

**6. I find that, pursuant to §42-15-20, the Employer received notice of the accident on December 26, 2019, within ninety (90) days of the accident.**

This finding is based on upon the Employer's Form 51 admission.

**7. I find that pursuant to S.C. Code §42-15-60 the Defendants are responsible for additional treatment to be rendered to Claimant, including treatment rendered by Dr. Ashley Hicks, and any counselor she recommends from the date of this Order, and continuing for such additional time as will tend to lessen the period of disability.**

The Claimant's treating physician, Dr. Hicks, testified that the treatment that she and Dr. Hopkins had provided to the Claimant was necessary as a result of this accident. (See, Dep. Dr.

Hicks, p.18, 1.2-1.6). Dr. Hicks' recommendation was that the Claimant attend future visits with Dr. Hicks. (Dep. Dr. Hicks, p.18, 1.7-1.9).

Dr. Hicks testified, however, that the Claimant had not been compliant with that recommendation, and had failed to consistently attend appointments with Dr. Hicks.

Dr. Hicks acknowledged that she understood from the Claimant that the Claimant had difficulty obtaining transportation and that issues with the Claimant's social situation played a large role in her non-compliance. (Dep. Dr. Hicks, p. 18, 1. 7-1.23). However, Dr. Hicks agreed that transportation would not be an issue if the Claimant attended her appointments virtually which she had done previously. (Dep. Dr. Hicks, pp. 33-34). Dr. Hicks testified that she previously recommended that the Claimant undergo counseling, and that the question as to whether the Claimant should continue counseling depended on the Claimant's current condition. Dr. Hicks explained that, therefore, she needed to meet with the Claimant to evaluate her to make further recommendations. (See, Dep. Dr. Hicks, p.19, 1.9-p.20, 1.6).

At trial, Claimant's Counsel indicated that the Claimant was not seeking a finding that the Employer and Carrier were responsible for past medical treatment. Rather, the Claimant's counsel indicated that the Claimant sought only future treatment at the hands of Dr. Hicks and any counseling Dr. Hicks recommended.

Specifically at trial, the Claimant's counsel noted, "the more difficult question in this case, your Honor, is the remedy. Of course, we contend that she is entitled to continued medical treatment at the hands of Dr. Hicks and psychological, psychiatric treatment on the referral by Dr. Hicks. That treatment has been spotty at best, and in no—in part due to Ms. Stewart and her inconsistent visits with Dr. Hicks. I would contend, your Honor, that that is part and parcel of the injury itself as well. However, I think Ms. Stewart understands that if she is to get better, she needs to have treatment, she needs to take medication, and that if the Commission finds this case

compensable, that will be a requirement of her continued eligibility for benefits by statute". (Tr., p. 9, 1.7-1.21).

I, therefore, find that the Employer is required to provide the Claimant evaluation and treatment at the hands of Dr. Hicks and any providers, including counselors, to whom Dr. Hicks refers the Claimant, for causally related treatment.

The Commission further notes, as the Claimant's counsel concedes, that if the Claimant is not compliant with medical treatment going forward, the Employer and Carrier will certainly have the right, pursuant to the Act, to seek the suspension of benefits during any period of unreasonable refusal of treatment.

**8. I find that Claimant was totally disabled and entitled to benefits at the weekly rate of \$172.31 pursuant to §42-9-10 for the 24.5714 week period of May 18, 2020, through November 5, 2020; totaling \$4,224.01.**

The record reflects the Claimant was placed out of work by Dr. Hicks during the period of May 18, 2020 through November 5, 2020.

Dr. Hicks testified that she was not prepared to endorse medical leave beyond November 5, 2020, because, at that point, the Claimant was not compliant with medications and treatment.

At trial, the Claimant sought only temporary total disability benefits for the period of May 18, 2020 through November 5, 2020.

Therefore, I find that the Claimant is entitled to temporary total disability benefits for the dates Dr. Hicks had written her out of work of May 18, 2020 through November 5, 2020.

The Claimant's future entitlement to temporary total disability benefits is not before this Commission. Such will be determined, if necessary, by future proceedings before this Commission.

As with medical treatment, the Claimant's entitlement to future disability benefits will, no doubt, be based on her future psychological condition and the extent to which she is compliant with the care recommended by Dr. Hicks and any counselor recommended by Dr. Hicks.

#### **RULINGS OF LAW**

Accordingly, as provided in the South Carolina Code of Laws, 1976, as amended, §42-17-40, it is the determination of this Commissioner:

1. Under §42-1-130, the Claimant was a covered Employee at the time in question; and under §42-1-140, the Defendant-Employer was a covered Employer under the Act.
2. Under §42-1-160, the Claimant did sustain a physical-mental injury by accident arising out of and in the course of her employment.
3. Under §42-1-160 the Claimant did sustain a mental-mental injury by accident arising out of and in the course of employment.
4. Under §42-15-20, the Claimant gave proper notice of the accident to the Employer.
5. Under §42-15-60, the Employer is required to furnish future adequate and proper care, at the hands of Dr. Andrea Hicks and any counselor to whom Dr. Hicks refers the Claimant.
6. Under §42-9-10 the Claimant is entitled to temporary total benefits for the 24.5714 week period of May 18, 2020 through November 5, 2020 of the weekly rate at \$172.31; totaling \$4,224.01.

ORDER

IT IS, THEREFORE, ORDERED that the Form 50 regarding the injury of December 26, 2019, under the Workers' Compensation File No. 1923480 is found to be a compensable accident. It is,

FURTHER ORDERED that the Employer, SC CVS Pharmacy, LLC, and the Carrier, XL Insurance America, Inc., shall pay all future causally related treatment rendered to Claimant, by Dr. Andrea Hicks and any counselor to whom Dr. Hicks refers the Claimant the date of this Order, and continuing for such additional time as will tend to lessen the period of disability. It is,

FURTHER ORDERED that the Employer/Carrier shall pay to the Claimant benefits at the compensation rate of One Hundred Seventy-Two and 31/100 (\$172.31) for the 24.5714 week period of from May 18, 2020, until November 5, 2020, in the amount of Four Thousand Two Hundred Twenty-Four and 01/100 (\$4,224.01) Dollars to be paid in a lump sum.

No hearing costs are assessed in this instance.

S.C. WORKERS' COMPENSATION COMMISSION



Commissioner Aisha Taylor

Columbia, South Carolina

CERTIFICATE OF SERVICE

DATED: *January 19, 2023*

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).

Order Served via Email  
1-19-23:

**By Renee' Smith on January 19, 2023**

Michelle D. Yarbrough myarbrough@gwblawfirm.com

Stephen J. Wukela stephen@wukelalaw.com

**State of South Carolina**  
**Workers' Compensation Commission**

**APPELLATE PANEL DECISION AND ORDER**

**COMMISSION PANEL:** Commissioner Cynthia C. Dooley, Chair; Commissioner T. Scott Beck; Commissioner Melody L. James

SCWCC File No.: 1923480

Takara L. Stewart,  
Claimant/Respondent,

v.

South Carolina CVS Pharmacy, L.L.C.,

Employer,

and

XL Insurance America Inc.,

Carrier,

Defendants/Appellants.

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**REVERSED**

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Hearing held via Zoom  
on May 8, 2023

Per notice timely and properly served upon all Parties of Interest.

**Appearances:** Stephen J. Wukela, of Wukela Law Firm, appeared on behalf of Claimant/Respondent.

Michelle D. Yarbrough, of Gallivan, White & Boyd, PA, appeared on behalf of Defendants/Appellants.

**Court Reporter:** Amber Scarborough, 1230 Richland Street, Columbia, SC 29201, 803-252-3445, [contact@creelreporting.com](mailto:contact@creelreporting.com).

**Filed:** July 10, 2023

## I. STATEMENT OF THE CASE

The parties were heard by Commissioner Aisha Taylor on June 3, 2021 in Hartsville, South Carolina. This is an appeal from the January 19, 2023 Order of Commissioner Taylor which found that Takara Stewart ("Claimant") sustained a compensable physical-mental injury and a compensable mental-mental injury entitling her temporary total disability benefits and medical benefits.

This claim arises out of an incident which took place on December 26, 2019 when a CVS customer touched Claimant on her posterior while she was vacuuming the store floor. Video footage of the incident shows Claimant smiling immediately afterwards and then proceeding with vacuuming the floor. (Defendants' Exhibit G). Claimant performed the remainder of her job duties that evening and closed the store. (Single Commissioner Hearing Tr. 76:17-77:6). She did not cry after the incident, nor did she speak about it with her supervisor or any of her coworkers that day. (Hearing Tr. 77:7-78:5).

Ten days later, on January 5, 2020, she first reported the incident to the police. (APA pp. 3-4). On February 20, 2020, Claimant presented to Dr. Andrea Atkins, an OBGYN, to discuss birth control. (Claimant's APA, 4, p. 8). Dr. Atkins provided her with Nexplanon and diagnosed her with, among other things, anxiety. There is no reference to this work incident in the medical note.

On April 8, 2020 and February 24, 2021, Claimant filed a Form 50, Request for Hearing, alleging she suffered a *psyche* injury only as a result of a customer groping her posterior on December 26, 2019. She claimed she was in need of additional medical examination and treatment for her psyche and requested temporary total disability benefits over "[v]arious dates and times" since the accident. On May 8, 2020 and March 26, 2021, South Carolina CVS Pharmacy, LLC and XL Insurance America, Incorporated ("Defendants") filed a Form 51, denying Claimant sustained an injury by accident arising out of and in the course of her employment and denying the nature and extent of the injury alleged. On May 18, 2021, Claimant filed a Form 58, Pre-Hearing Brief, in which she answered "psyche" to the question "Type of injury and body part(s)."

At the hearing on June 3, 2021, Claimant denied experiencing any pain or bruising after being touched by the customer. (Hearing Tr. 64:11-19). She also denied being physically hurt or injured from

the contact (Hearing Tr. 64:7-10), or ever reporting a physical injury to her physicians. (Hearing Tr. 63:23-24). She continued to work for CVS for months following the incident, and she did not call out of work or miss any time due to stress, anxiety, depression, trauma, or any psychological issues until March 14, 2020. (Hearing Tr. 63:4-14).

On March 13, 2020, she met with her supervisor, Robyn Hanna, and voiced fear over what might happen when the customer, who touched her and was just arrested, was released. (Hearing Tr. 27:12-17). She informed Ms. Hanna that she “had a past of being assaulted, or whatever” and that “it just kind of aggravated and, you know, stirred up a lot of, you know, anxiety.” (Hearing Tr. 27:20-23). Claimant alleged she was assaulted by an uncle when she was younger. (Hearing Tr. 24:7-10; 27:20-23). She admitted she never reported the molestation to any police or governmental agency, claiming her family told her not to say anything. (Hearing Tr. 72:25-73:3; 24:14-15). She also never received any medical treatment or professional counseling for the alleged molestation, and she never mentioned it to any of her medical providers until after December 26, 2019. (Hearing Tr. 73:14-25). There were also no witnesses present at the hearing to corroborate her prior molestation account or claims that she previously told family members of this alleged molestation. (Hearing Tr. 74:17-20).

Ms. Hanna advised Claimant, who wanted to take time off from work, to submit a leave request through Human Resources. (Single Commissioner Hearing Tr. 28:1-2). Ms. Hanna testified Claimant told her she was fearful of retaliation by her assailant. (Hearing Tr. 97:5-14). Claimant explained she stopped working for CVS the next day because she was scared of retaliation by the customer who had just been arrested and had a bond hearing. (Hearing Tr. 65:21-25). Claimant did not ask to be transferred to a different store to avoid the customer. (Hearing Tr. 82:18-21). She also acknowledged she did not have any medical documentation to support being out of work as of March 14, 2020. (Hearing Tr. 66:17-19).

On April 15, 2020, through telemedicine, Claimant presented for her initial appointment with Dr. Ashley Hicks of MUSC Primary Care, her chosen primary care physician. (Claimant’s APA 5, p. 19). Claimant reported, among other things, a recent sexual assault and anxiety. However, on examination, she demonstrated a normal mood and affect with normal attention span and concentration. (Claimant’s APA

5, p. 20). Dr. Hicks diagnosed her with “anxiety state” and noted she had already been prescribed sertraline but had not started taking it. (Claimant’s APA 5, p. 21). The parties took Dr. Hicks’ deposition on March 22, 2021. During her deposition, Dr. Hicks testified she based Claimant’s anxiety diagnosis on her subjective complaints. (Dr. Ashley Hicks Dep. Tr. 28:8-10). She saw no objective findings of Claimant’s alleged psychological problems. (Hicks Dep. Tr. 27:24 – 28:2). Dr. Hicks did not assign any work restrictions or place Claimant out of work during this visit.

When Claimant returned to Dr. Hicks on May 18, 2020, she opined that Claimant was not compliant with her April 15, 2020 recommendations and also opined that there were no objective findings to support her subjective complaints. (Hicks Dep. Tr. 30:2-5; 33:8-10). Dr. Hicks placed Claimant out of work. Three days later, Claimant applied for unemployment benefits and certified she was ready, willing, and able to work. (Hearing Tr. 61:22-62:8). When asked about this certification, Dr. Hicks stated that she would support Claimant working as of May 21, 2020 if Claimant reported she felt she was able to work at that time. (Hicks Dep. Tr. 32:17-25). Following her May 2020 visit with Dr. Hicks, Claimant started treating with Dr. Aneta Hopkins, a Doctor of Education, with Wellness Counseling Services. She diagnosed Claimant with PTSD. (Claimant’s APA 6, p. 26).

Claimant failed to present for her follow-up appointment in June and July with Dr. Hicks due to transportation issues but confirmed Dr. Hicks never refused to see her via telemedicine during that time. (Single Commissioner Hearing Tr. 68:6-22). Dr. Hicks also agreed that transportation is not an issue for her virtual appointments. (Hicks Dep. Tr. 33:23-34:4). When Claimant ultimately presented for her August virtual appointment with Dr. Hicks, Dr. Hicks indicated Claimant’s anxiety had improved since she started seeing a counselor. (Defendants’ APA 12, p. 37). Dr. Hicks again noted that her anxiety diagnosis was based on Claimant’s subjective complaints and there were no objective signs of anxiety to support the diagnosis. (Hicks Dep. Tr. 36:3-13). Dr. Hicks did not give Claimant a mental status examination before diagnosing her with anxiety. Further, although her medical records recorded a new diagnosis of depression, she retracted that diagnosis during her deposition because she does not know where it came from, and she could not support that diagnosis based on her documentation. (Hicks Dep. Tr. 36:14 – 37:17). Dr. Hicks

prescribed sertraline, advised her to follow up in one month, and placed her out of work until her follow-up appointment. (Defendants' APA 12, p. 38). Claimant, however, did not return until October 5, 2020. (Defendants' APA 12, p. 40). That appointment was also virtual.

At that time, Claimant reported that she felt her anxiety and depression were poorly controlled, that she was not compliant with taking sertraline, and that the medication was making her drowsy. (Defendants' APA 12, p. 40). She also requested Dr. Hicks complete her FMLA paperwork. Dr. Hicks switched Claimant's prescription to Lexapro and advised her to call and cancel in advance rather than continue to no-show to her appointments. (Defendants' APA 12, p. 41). She further indicated she "will have to be honest about her lack of follow-up on her FMLA paperwork." She recommended Claimant follow up with her counselor, and, if unable to reach her, to switch counselors. In her deposition, Dr. Hicks again noted that Claimant was still non-compliant with her appointments despite them being virtual, there were no objective findings to support Claimant's anxiety diagnosis, and she was not willing to write her out of work due to non-compliance. (Hicks Depo. Tr. 38:9-20, 39:3-13).

When she returned to Dr. Hicks in November 2020, Claimant indicated she never picked up the Lexapro prescription and that she would instead prefer to continue without medications as she felt she was doing well with her coping mechanisms. Although Dr. Hicks asked Claimant to return in February 2021 for a follow up evaluation, Claimant never returned and never tried to make a follow up appointment. (Hicks Dep. Tr. 42:25 – 43:7).

Dr. Hicks confirmed Claimant continued to be non-compliant with her medication and follow-up visit treatment recommendations. (Hicks Dep. Tr. 41:9-23). In her deposition, Dr. Hicks confirmed that, during the course of treating Claimant, she only took Claimant out of work for one month on May 18, 2020 and one month on August 11, 2020. (Hicks Dep. Tr. 39:24 – 40:22)

Although post-traumatic stress disorder was not referenced or recorded in Dr. Hicks' medical records, when presented with a record from Claimant's counselor, Dr. Hicks agreed Claimant had a diagnosis of post-traumatic stress disorder. (Dr. Ashley Hicks' Dep. Tr. 16:22-25). Dr. Hicks stopped short of providing her opinion, to a reasonable degree of medical certainty, as to whether the incident Claimant

described at CVS would have aggravated a pre-existing condition and whether the complaints Claimant made when seeing Dr. Hicks were the result of the aggravation. (Dr. Ashley Hicks Dep. Tr. 17:1-21). She also testified she is a family medicine doctor and her only training in psychological diagnoses was during her residency. She could not recall the diagnostic criteria for a PTSD diagnosis during the deposition, she does not know how many criteria are required to qualify for a PTSD diagnosis, and she did not consult with the DSM before giving the PTSD diagnosis. (Hicks Depo. Tr. 5:25-6:2; 43:17-23; 44:3-8).

Regarding work restrictions, Dr. Hicks explained that, when she took Claimant out of work in May and August 2020, she did so for only a one-month period each time and that the period was meant to cover the time between her monthly follow-up appointments. (Hicks Depo. Tr. 40:10-12). She further explained she did not take her out of work in October 2020 because Claimant had been noncompliant with treatment. (Hicks Depo. Tr. 40:19-22). She also did not write her out of work in November 2020.

On May 25, 2021, Claimant presented for an IME with Dr. Jon Snipes, a psychiatrist, who was the only medical doctor seen by Claimant specially trained in diagnosing post-traumatic stress disorder. (Defendants' APA 13, p. 46). In his accompanying report, Dr. Snipes described Claimant's demeanor as "hostile" and noted it was difficult to assess Claimant's specific symptoms due to her poor cooperation and her being clearly unhappy with the interview. (Defendants' APA 13, pp. 47; 51). He provided that, at one point, "it seemed that she actually hung up and then rejoined the meeting." (Defendants' APA 13, p. 50). He also indicated she was not able to elaborate on many specific symptoms, answered most questions with somewhat vague answers, answered a lot of other questions with "I don't know", and refused to answer others. (Defendants' APA 13, p. 47).

Still, she reported a depressed mood, a sense of being easily overwhelmed, low frustration tolerance, that her mind races at times, and that she often becomes frustrated. She told him her symptoms of anxiety and stress started immediately after the accident despite being able to continue working for three months after. (Defendants' APA 13, p. 47). When asked what she felt she needed for treatment, she responded "I wasn't given any kind of restitution, compensation." (Defendants' APA 13, p. 51). When Dr. Snipes tried to clarify that he was asking about psychiatric care and what kind of treatment she felt that she

needed going forward, Claimant stated, "I'm trying to get the funds so I can pay for my classes!" When he reframed the question a third time and asked more about treatment and how to help her recover, she responded "at this point, there has to be some restitution." (Defendants' APA 13, p. 51). When asked directly about the need for medication, she reported that she does not need medication. (Defendants' APA 13, p. 51).

Dr. Snipes did not see any evidence of any psychiatric illness related to Claimant's workplace incident at that point. (Defendants' APA 13, p. 52). He explained she would not meet the criteria for post-traumatic stress disorder as she was not showing any continued symptoms of avoidance, alterations in arousal or reactivity, and did not endorse any continued intrusion symptoms. He also indicated in his report that Claimant was still able to vacuum without experiencing distressing thoughts. (Defendants' APA 13, p. 50). He felt she was showing signs of depression that did not appear to be related to her workplace incident but rather related to her life stressors following becoming homeless. He indicated it is "very clear" from her comments that the major stressor contributing to these symptoms is her financial strain and homelessness. He noted she does not feel she needs any psychiatric treatment related to her previous incident but felt optimistic about therapy she recently started with Brenda Graham. He further provided "she is very clearly capable of returning to work, and she herself agrees with this assessment and is taking steps to find employment now." All of his opinions were given to a reasonable degree of psychiatric certainty. (Defendants' APA 13, p. 52).

Claimant testified that, after she stopped working for defendant employer, she did not "really have any . . . working income coming in." (Single Commissioner Hearing Tr. 28:16-25). However, the record provides that, even prior to this incident and her subsequent unemployment, Claimant had a history of financial problems. She testified she had been involved in a bankruptcy suit in Savannah in 2010 as well as in a number of eviction-related matters spanning from 2009-2017. (Hearing Tr. 43:2-5; 43:23-46:19). Nevertheless, when presented with her renter's application for the Florence apartment she was residing in at the time of this incident, she acknowledged she indicated on the application that she had never been evicted. (Hearing Tr. 48:7-12). She also acknowledged she was late on rent "a lot of times" and that her

landlord for that apartment also filed evictions against her. (Hearing Tr. 49:12-18). Five of those evictions were before the incident that gave rise to this claim. (Hearing Tr. 49:10-51:15).

Additionally, before this work incident, Claimant, a divorced mother, indicated she was having a "rough time" and that it was "not easy" having to work, attend school, raise a child, and pay her expenses. (Single Commissioner Hearing Tr. 52:21-53:7). She provided her landlord notice of her intent to vacate on December 19, 2019, a week before the incident. (Hearing Tr. 54:14-22). The reason she provided on the notice was "income changed." (Defendants' Exhibit E, p. 83). She testified on direct examination that she moved out of the apartment at the end of June/early July 2020 allegedly due to an inability to pay her rent. (Hearing Tr. 29:6-22). However, when confronted with documentation during cross-examination, Claimant admitted that she moved because was given a notice to vacate for violating the lease agreement because she had a pet. (Hearing Tr. 55:1-17).

After moving out of the apartment, she moved in with her aunt. (Single Commissioner Hearing Tr. 56:18-20). She denied living anywhere other than at a hotel for a few nights and her aunt's place from the time she left her apartment in Florence until the date of the hearing. (Hearing Tr. 58:19-23). Although she testified on cross-examination that she slept in her car when she could not afford a hotel (Hearing Tr. 57:11-13), she later changed her testimony and admitted that that she never lived out of her car. (Hearing Tr. 57:17-24). This testimony is contrary to what she told Dr. Hicks who testified in her own deposition that Claimant told her that she and her daughter were both living out of her car. (Hicks Dep. p. 34:22-25). This testimony is also contrary to her report to Dr. Snipes that she was homeless and displaced. (Defendants' APA 13, p. 51).

The parties presented for oral argument before the Appellate Panel on May 8, 2023. Michelle D. Yarbrough appeared on behalf of Defendants/Appellants and Stephen J. Wukela appeared on behalf of Claimant/Respondent. On February 2, 2022, Defendants filed a motion to admit additional and newly discovered evidence into the record. The hearing on that motion was heard by the Appellate Panel.

## II. SINGLE COMMISSIONER FINDINGS OF FACT AND CONCLUSIONS OF LAW

### FINDINGS OF FACT

1. I find the parties to the proceeding are subject to and bound by the terms and provisions of the South Carolina Workers' Compensation Act, with Takara L. Stewart being the Claimant, and SC CVS Pharmacy, LLC. being the Employer and XL Ins. America, Inc., the Carrier.

This finding is based upon stipulation of the parties at the commencement of the hearing.

2. I find that pursuant to §42-1-40 the Claimant's average weekly wage is Two Hundred Fifty-Eight and 45/100 (\$258.45) Dollars a week resulting in a compensation rate of One Hundred Seventy-Two and 31/100 (\$172.31) Dollars.

This finding is based upon the stipulation of the parties.

3. I find that pursuant to §42-1-160 the Claimant sustained physical-mental injury by accident on December 26, 2019 as a direct and proximate result of a physical and sexually based assault. I find based on evidence of the record that on December 26, 2019, while closing out the CVS store where she was employed, the Claimant was groped on her buttocks by a customer. This finding is supported by the Claimant's report to her supervisor, Robyn Lynn Hanna, Store Manager.

Ms. Hanna testified that the Claimant reported being touched on the rear to her that she referred the Claimant to report it the ethics line. (See, Tr. p. 87, l. 17 - p. 88, l. 14);(See also Tr. p. 92, l. 22 - p. 93, l. 21). The report to the ethics portal describes the same description of the accident. (APA #1, p. 1). Ms. Hanna described the Claimant's demeanor during this conversation, which she described as normal. She testified that the Claimant was not that upset, frantic, or crying. (Tr. p. 88).

The Claimant also gave the same description to the police department. (See, APA #2, p. 3).

The event was also captured on surveillance video. After viewing the surveillance video and providing it to the police department, the store manager testified that she was able to identify the assailant

as a customer that frequently visited the store by the name of Beth Rollinson. (Transcript p.94, 1.20- p.95, 1.22).

The store manager, Ms. Hanna further testified at trial that subsequent to the incident, Ms. Stewart came to see her in March of 2020, and seemed genuinely upset. (Tr. p. 97, 1.5 -1.11). Ms. Hanna testified that, in that meeting, Ms. Stewart relayed to her that she was having anxiety attacks and that she was fearful of retaliation by the assailant or someone in her family. (See, Tr. p. 97, 1. 12-1.18).

Ms. Hanna also testified that, at that March 2020 meeting, the Claimant also revealed that she had suffered a sexual assault in the past. (Tr. p. 97, 1.19-1.21).

Ms. Hanna testified that she consoled the Claimant and told her that her only option was to take medical leave. (Tr. p. 98, 1. 7).

Ms. Hanna testified that the Claimant had told her that she had spoken to a counselor, (Tr. p. 99, 1. 12-13), and that Hanna was aware that the Claimant subsequently requested a leave of absence from CVS. (Tr. p. 99, 1. 18-p. 100, 1. 6).

The Defense disputes the severity and the significance of the injury: Ms. Hanna testified, "Being touched on the rear, I mean, it's just not that big of a deal to me." (Tr. p. 88, 1.4-1.5)

Nevertheless, the Act does not require a physical injury to be permanent in order to meet the burden proving a physical-mental injury. I find that a sexual assault is a physical and an unwanted touching, which constitutes a physical injury within the meaning of the Act. See, e.g., Landford vs. Clinton Cotton Mills, 204 S.C. 423 (1944) (finding willful assault constitutes injury by accident).

Therefore, regardless of the severity of the injury to the Claimant's physical body, or whether it was permanent, I find that the unwanted touching by the customer constitutes physical assault and an injury by accident within meaning of the Workers' Compensation Act.

I also find that this physical assault resulted in a psychological injury as a direct and proximate result.

After reporting the incident to CVS, the Claimant initially underwent counseling with the CVS Employee Assistance Program through Ms. Linda Davis. The text exchanges between Ms. Davis and the Claimant, found that APA #3, indicate that Ms. Davis was not a very reliable caregiver and cancelled appointments on the Claimant, repeatedly.

In the meantime, the record reflects that the Claimant saw her OBGYN, Dr. Andrea Atkins, on February 20, 2020, and was diagnosed with anxiety.

Ultimately, on April 15, 2020, the Claimant saw her family doctor, Dr. Andrea Hicks, to whom she reported anxiety and recent sexual assault affecting her work. Dr. Hicks was deposed and testified as follows:

Q: Do you have a reason [sic] to reasonable degree of medical certainty as to whether this incident that she has described in the CVS would have aggravated a pre-existing condition?

A: Yes; of course.

Attorney: Object to the form, but you can answer.

A: Yes

Q: Okay. And do you have any opinions to a reasonable degree of medical certainty as to whether the complaints that she made to you when she saw you were the result of that aggravation?

A: Yes

(APA #11 Depo p. 17)

Therefore, based on this evidence, I find that the unwanted touching or groping that the Claimant was subjected to by a customer on December 26, 2019, constitutes a physical injury by accident that, in turn, aggravated the preexisting psychological condition of PTSD which the Claimant suffered as a result of sexual assault when she was a child. Thus, the Claimant sustained a physical-mental injury by accident on December 26, 2019, within the meaning of S.C. Code 42-1-160 of the South Carolina Workers' Compensation Act.

4. Notwithstanding the finding of a physical-mental injury, above; I also find that, on December 26, 2019, the Claimant sustained a compensable mental-mental injury within the meaning of S.C. Code 42-1-160.

It is well established in the Workers' Compensation law that, in order to recover Workers' Compensation benefits for a mental injury unaccompanied by a physical injury, the Claimant must prove both: 1. that the Claimant was exposed to unusual and extraordinary conditions in her employment; and, 2. that those unusual and extraordinary conditions were the proximate cause of the mental injury. (See, *Doe v. South Carolina Department of Special Needs*, 364 S.C. 411 (Ct. App. 2005).

Given, as I find above, that the assault, the act of unwanted touching by customer, resulted in physical injury, and, in turn, resulted in the aggravation of the Claimant's psychological condition, the requirement of demonstrating "unusual and extraordinary work conditions," does not apply.

However, even if the Claimant has not sustained a physical injury, I specifically, and alternatively, find that the physical and sexually based assault suffered by the Claimant was extraordinary and unusual in comparison to the normal working conditions of employment at CVS.

5. I find that the accident of December 26, 2019 aggravated the Claimant's pre-existing psychological condition.

Ms. Stewart testified, that, as a child, she was sexually assaulted by her mother's older brother. (Tr. p. 24, l. 7- 1.20). Supervisor, Ms. Robyn Hanna, testified that in March of 2020, after the accident, the Claimant met with Hanna and seemed genuinely upset. Ms. Hanna testified that, at that meeting, the Claimant related to her that she had been having anxiety attacks and that she was fearful of retaliation by her assailant, or someone in the assailant's family. Ms. Hanna testified that, at that point, the Claimant revealed to her that the Claimant had been sexually assaulted in the past. (Tr. p. 97, l.8-1.28).

Dr. Hicks, the Claimant's treating physician was deposed and testified as follows:

Q: Do you have a reason [sic] to reasonable degree of medical certainty as to whether this incident that she has described in the CVS would have aggravated a pre-existing condition?

A: Yes; of course.

Attorney: Object to the form, but you can answer.

A: Yes

Q: Okay. And do you have any opinions to a reasonable degree of medical certainty as to whether the complaints that she made to you when she saw you were the result of that aggravation?

A: Yes

(APA #11 Depo p. 17)

6. I find that, pursuant to §42-15-20, the Employer received notice of the accident on December 26, 2019, within ninety (90) days of the accident.

This finding is based on upon the Employer's Form 51 admission.

7. I find that pursuant to S.C. Code §42-15-60 the Defendants are responsible for additional treatment to be rendered to Claimant, including treatment rendered by Dr. Ashley Hicks, and any counselor she recommends from the date of this Order, and continuing for such additional time as will tend to lessen the period of disability.

The Claimant's treating physician, Dr. Hicks, testified that the treatment that she and Dr. Hopkins had provided to the Claimant was necessary as a result of this accident. (See, Dep. Dr. Hicks, p.18, 1.2-1.6). Dr. Hicks' recommendation was that the Claimant attend future visits with Dr. Hicks. (Dep. Dr. Hicks, p.18, 1.7-1.9).

Dr. Hicks testified, however, that the Claimant had not been compliant with that recommendation, and had failed to consistently attended appointments with Dr. Hicks.

Dr. Hicks acknowledged that she understood from the Claimant that the Claimant had difficulty obtaining transportation and that issues with the Claimant's social situation played a large role in her non-compliance. (Dep. Dr. Hicks, p. 18, 1. 7-1.23). However, Dr. Hicks agreed that transportation would not be

an issue if the Claimant attended her appointments virtually which she had done previously. (Dep. Dr. Hicks, pp. 33-34). Dr. Hicks testified that she previously recommended that the Claimant undergo counseling, and that the question as to whether the Claimant should continue counseling depended on the Claimant's current condition. Dr. Hicks explained that, therefore, she needed to meet with the Claimant to evaluate her to make further recommendations. (See, Dep. Dr. Hicks, p.19, 1.9-p.20, 1.6).

At trial, Claimant's Counsel indicated that the Claimant was not seeking a finding that the Employer and Carrier were responsible for past medical treatment. Rather, the Claimant's counsel indicated that the Claimant sought only future treatment at the hands of Dr. Hicks and any counseling Dr. Hicks recommended.

Specifically at trial, the Claimant's counsel noted, "the more difficult question in this case, your Honor, is the remedy. Of course, we contend that she is entitled to continued medical treatment at the hands of Dr. Hicks and psychological, psychiatric treatment on the referral by Dr. Hicks. That treatment has been spotty at best, and in no-in part due to Ms. Stewart and her inconsistent visits with Dr. Hicks. I would contend, your Honor, that that is part and parcel of the injury itself as well. However, I think Ms. Stewart understands that if she is to get better, she needs to have treatment, she needs to take medication, and that if the Commission finds this case compensable, that will be a requirement of her continued eligibility for benefits by statute". (Tr., p. 9, 1.7-1.21).

I, therefore, find that the Employer is required to provide the Claimant evaluation and treatment at the hands of Dr. Hicks and any providers, including counselors, to whom Dr. Hicks refers the Claimant, for causally related treatment.

The Commission further notes, as the Claimant's counsel concedes, that if the Claimant is not compliant with medical treatment going forward, the Employer and Carrier will certainly have the right, pursuant to the Act, to seek the suspension of benefits during any period of unreasonable refusal of treatment.

8. I find that Claimant was totally disabled and entitled to benefits at the weekly rate of \$172.31 pursuant to §42-9-10 for the 24.5714 week period of May 18, 2020, through November 5, 2020; totaling \$4,224.01.

The record reflects the Claimant was placed out of work by Dr. Hicks during the period of May 18, 2020 through November 5, 2020.

Dr. Hicks testified that she was not prepared to endorse medical leave beyond November 5, 2020, because, at that point, the Claimant was not compliant with medications and treatment. At trial, the Claimant sought only temporary total disability benefits for the period of May 18, 2020 through November 5, 2020.

Therefore, I find that the Claimant is entitled to temporary total disability benefits for the dates Dr. Hicks had written her out of work of May 18, 2020 through November 5, 2020.

The Claimant's future entitlement to temporary total disability benefits is not before this Commission. Such will be determined, if necessary, by future proceedings before this Commission.

As with medical treatment, the Claimant's entitlement to future disability benefits will, no doubt, be based on her future psychological condition and the extent to which she is compliant with the care recommended by Dr. Hicks and any counselor recommended by Dr. Hicks.

#### CONCLUSIONS OF LAW

1. Under §42-1-130, the Claimant was a covered Employee at the time in question; and under §42-1-140, the Defendant-Employer was a covered Employer under the Act.
2. Under §42-1-160, the Claimant did sustain a physical-mental injury by accident arising out of and in the course of her employment.
3. Under §42-1-160 the Claimant did sustain a mental-mental injury by accident arising out of and in the course of employment.
4. Under §42-15-20, the Claimant gave proper notice of the accident to the Employer.

5. Under §42-15-60, the Employer is required to furnish future adequate and proper care, at the hands of Dr. Andrea Hicks and any counselor to whom Dr. Hicks refers the Claimant.

6. Under §42-9-10 the Claimant is entitled to temporary total benefits for the 24.5714 week period of May 18, 2020 through November 5, 2020 of the weekly rate at \$172.31; totaling \$4,224.01.

### III. ISSUES ON APPEAL

In a workers' compensation case, the Appellate Panel is the ultimate fact finder. *DeBruhl v. Kershaw Cnty. Sheriff's Dep't.*, 303 S.C. 20, 24, 397 S.E.2d 782, 785 (Ct. App. 1990). "When reviewing the evidence and award of the hearing commissioner, the [Appellate Panel] may make its own findings of fact and reach its own conclusions of law either consistent or inconsistent with those of the hearing commissioner." *Lowe v. Am-Can Transp. Servs., Inc.*, 283 S.C. 534, 537, 324 S.E.2d 87, 89 (Ct. App. 1984). The final determination of witness credibility and the weight to be accorded evidence is reserved to the Appellate Panel. *DeBruhl*, 303 S.C. at 24, 397 S.E.2d at 785.

#### 1. Defendants'/Appellants' Arguments

Defendants/Appellants set forth forty-two issues on appeal. They are as follows:

- (1) Did the hearing commissioner err as a matter of law in ruling on a physical-mental injury as a physical injury was not raised in the Form 50, Request for Hearing?
- (2) Was the hearing commissioner's ruling on a physical-mental injury when a physical injury was not raised in the Form 50, Request for Hearing, arbitrary capricious, characterized by an abuse of discretion, or clearly an unwarranted exercise of discretion?
- (3) Was the hearing commissioner's ruling on a physical-mental injury when a physical injury was not raised in the Form 50, Request for Hearing, clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record?
- (4) Did the hearing commissioner err as a matter of law in finding that, pursuant to section 42-1-160, Claimant sustained a physical-mental injury by accident on December 26, 2019 as a direct and proximate result of a physical and sexually based assault?
- (5) Was the hearing commissioner's finding that, pursuant to section 42-1-160, Claimant sustained a physical-mental injury by accident on December 26, 2019 a direct and proximate result of a physical and sexually based assault, arbitrary, capricious, characterized by an abuse of discretion, or clearly an unwarranted exercise of discretion?

- (6) Was the hearing commissioner's finding that, pursuant to section 42-1-160, Claimant sustained a physical-mental injury by accident on December 26, 2019 as a direct and proximate result of a physical and sexually based assault clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record?
- (7) Did the hearing commissioner err as a matter of law in finding that an unwanted touching constitutes a physical injury within the meaning of the South Carolina Workers' Compensation Act?
- (8) Was the hearing commissioner's finding that an unwanted touching constitutes a physical injury within the meaning of the South Carolina workers compensation act, arbitrary, capricious, characterized by an abuse of discretion, or clearly an unwarranted exercise of discretion?
- (9) Was the hearing commissioner's finding that an unwarranted touching constitutes a physical injury within the meaning of the South Carolina Workers' Compensation Act clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record?
- (10) Did the hearing commissioner err as a matter of law in finding that Claimant had pre-existing post-traumatic stress disorder?
- (11) Was the hearing commissioner's finding that Claimant had pre-existing post-traumatic stress disorder, arbitrary, capricious, characterized by an abuse of discretion or clearly an unwarranted exercise of discretion?
- (12) Was the hearing commissioner's finding that Claimant had pre-existing post-traumatic stress disorder, clearly erroneous in view of the reliable, probative and substantial evidence on the whole record?
- (13) Did the hearing commissioner err as a matter of law finding that the unwanted touching aggravated Claimant's pre-existing psychological condition?
- (14) Was the hearing commissioner's finding that the unwanted touching aggravated Claimant's pre-existing psychological condition, arbitrary, capricious characterized by an abuse of discretion, or clearly and unwarranted exercise of discretion?
- (15) Was the hearing commissioner's finding that the unwanted touching aggravated Claimant's pre-existing psychological condition, clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record?
- (16) Did the hearing commissioner err as a matter of law finding that the physical assault resulted in a psychological injury as a direct and proximate result?
- (17) Was the hearing commissioner's finding that the physical assault resulted in a psychological injury as a direct and proximate result, arbitrary, capricious, characterized by an abuse of discretion, or clearly an unwarranted exercise of discretion?
- (18) Was the hearing commissioner's finding that the physical assault resulted in a psychological injury as a direct and proximate result, clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record?

- (19) Did the hearing commissioner err as a matter of law in failing to find that Claimant did not establish by expert opinion or testimony stated to a reasonable degree of medical certainty that the incident on December 26, 2019 aggravated a pre-existing psychological condition as required by section 42-9-35?
- (20) Was the hearing commissioner's failure to find Claimant did not establish by expert opinion or testimony stated to a reasonable degree of medical certainty that the incident on December 26, 2019 aggravated a pre-existing psychological condition as required by section 42-9-35, arbitrary, capricious, characterized by an abuse of discretion, or clearly an unwarranted exercise of discretion?
- (21) Was the hearing commissioner's failure to find that Claimant did not establish by expert opinion or testimony stated to a reasonable degree of medical certainty that the incident on December 26, 2019 aggravated a pre-existing psychological condition as required by section 42-9-35, clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record?
- (22) Did the hearing commissioner err as a matter of law in failing to find that the only medical evidence stated to a reasonable degree of medical certainty, came from Psychiatrist Dr. Jon Snipes who opined that Claimant did not have PTSD but that she was showing signs of depression, unrelated to the December 26, 2019 incident?
- (23) Was the hearing commissioner's failure to find that the only medical evidence stated to a reasonable degree of medical certainty, came from Psychiatrist Dr. Jon Snipes who opined that Claimant did not have PTSD but that she was showing signs of depression unrelated to the December 26, 2019 incident, arbitrary, capricious, characterized by an abuse of discretion, or clearly an unwarranted exercise of discretion?
- (24) Was the hearing commissioner's failure to find that the only medical evidence, stated to a reasonable degree of medical certainty, came from Psychiatrist Dr. Jon Snipes who opined that Claimant did not have PTSD but that she was showing signs of depression, unrelated to the December 26, 2019 incident, clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record?
- (25) Did the hearing commissioner err as a matter of law in finding that, under section 42-1-160, Claimant sustained a compensable mental-mental injury by accident on December 26, 2019?
- (26) Was the hearing commissioner's finding that, under section 42-1-160, Claimant sustained a compensable mental-mental injury by accident on December 26, 2019, arbitrary, capricious, characterized by an abuse of discretion, or clearly an unwarranted exercise of discretion?
- (27) Was the hearing commissioner's finding that, under section 42-1-160, Claimant sustained a compensable mental-mental injury by accident on December 26, 2019, clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record?
- (28) Did the hearing commissioner err as a matter of law in finding that, under section 42-15-60, Defendants are responsible for additional treatment to be rendered to Claimant, including treatment rendered by Dr. Ashley Hicks, and any counselor she recommends from the date of the Order and continuing for such additional time as will tend to lessen the period of disability?

- (29) Was the hearing commissioner's finding that, under section 42-15-60, Defendants are responsible for additional treatment to be rendered to Claimant, including treatment rendered by Dr. Ashley Hicks, and any counselor she recommends from the date of the Order and continuing for such additional time as will tend to lessen the period of disability, arbitrary, capricious, characterized by an abuse of discretion, or clearly an unwarranted exercise of discretion?
- (30) Was the hearing commissioner's finding that, under section 42-15-60, Defendants are responsible for additional treatment to be rendered to Claimant, including treatment rendered by Dr. Ashley Hicks, and any counselor she recommends from the date of the Order and continuing for such additional time as will tend to lessen the period of disability, clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record?
- (31) Did the hearing commissioner err as a matter of law in failing to find that Defendants are entitled to direct medical treatment under section 42-15-60?
- (32) Was the hearing commissioner's failure to find that Defendants are entitled to direct medical treatment under section 42-15-60, arbitrary, capricious, characterized by an abuse of discretion, or clearly an unwarranted exercise of discretion?
- (33) Was the hearing commissioner's failure to find that Defendants are entitled to direct medical treatment under section 42-15-60, clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record?
- (34) Did the hearing commissioner err as a matter of law in failing to find medical treatment awarded, if compensable, is limited to just causally-related medical treatment and not all medical treatment provided by Dr. Hicks, a general practitioner, and counselors who she recommends?
- (35) Was the hearing commissioner's failure to find medical treatment awarded, if compensable, is limited to just causally related medical treatment and not all medical treatment provided by Dr. Hicks, a general practitioner, and counselors who she recommends, arbitrary, capricious, characterized by an abuse of discretion, or clearly an unwarranted exercise of discretion?
- (36) Was the hearing commissioner's failure to find medical treatment awarded, if compensable, is limited to just causally related medical treatment and not all medical treatment provided by Dr. Hicks, a general practitioner, and counselors who she recommends, clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record?
- (37) Did the hearing commissioner err as a matter of law in finding that, under section 42-9-10, Claimant is entitled to temporary total disability benefits for the 24.5714 week period of May 18, 2020 through November 5, 2020?
- (38) Was the hearing commissioner's finding that, under section 42-9-10, Claimant is entitled to temporary total disability benefits for the 24.5714 week period of May 18, 2020 through November 5, 2020, arbitrary capricious, characterized by an abuse of discretion, or clearly an unwarranted exercise of discretion?
- (39) Was the hearing commissioner's finding that, under section 42-9-10, Claimant is entitled to temporary total disability benefits for the 24.5714 week period of May 18, 2020 through

November 5, 2020, clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record?

- (40) Did the hearing commissioner err as a matter of law in failing to find that Claimant was earning \$4,500.00 per month during the time she was claiming temporary total disability benefit for the 24.5714 week period of May 18, 2020 through November 5, 2020?
- (41) Was the hearing commissioner's failure to find that Claimant was earning \$4,500.00 per month during the time she was claiming temporary total disability benefits for the 24.5714 week period of May 18, 2020 through November 5, 2020, arbitrary, capricious, characterized by an abuse of discretion, or clearly an unwarranted exercise of discretion?
- (42) Was the hearing commissioner's failure to find that Claimant was earning \$4,500.00 per month during the time she was claiming temporary total disability benefits for the 24.5714 week period of May 18, 2020 through November 5, 2020, clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record?

The Form 30 is contained within the Commission file.

#### **IV. DECISION OF THE APPELLATE PANEL**

##### **FINDINGS OF FACT**

After the hearing and giving careful consideration to the documentary evidence, medical records, the testimony of the witnesses, and arguments of counsel, the Appellate Panel makes the following findings of fact:

- 1. The parties to the proceeding are subject to and bound by the terms and provisions of the South Carolina Workers' Compensation Act, with Takara L. Stewart being Claimant, and SC CVS Pharmacy, LLC being the Employer and XL Ins. America, Inc., the Carrier.**

This finding is based upon the stipulation of the parties.

- 2. Claimant did not suffer a physical injury within the meaning of South Carolina Code section 42-1-160.**

This finding is supported by Claimant's own denial of being physically hurt or injured from the contact (Single Commissioner Hearing Tr. 64:7-10), or ever reporting a physical injury to her physicians. (Hearing Tr. 63:23-24). This finding is also supported by Claimant's physician confirming that Claimant did not report a physical injury and the physician did not diagnose her with a physical injury as a result of the incident. (Hicks Dep. Tr. p. 46:23-47:14).

**3. Claimant did not suffer a physical-mental injury within the meaning of South Carolina Code section 42-1-160.**

Because Claimant is unable to establish a physical injury from the incident in question, Claimant is also unable to support a claim for a physical injury causing a mental injury. Accordingly, we reverse the single commissioner's finding that the incident caused a physical-mental injury.

**4. Claimant did not establish the requirements of section 42-9-35 of the South Carolina Code to prove an aggravation of her pre-existing psychological condition.**

Section 42-9-35 provides that a claimant shall establish by a preponderance of the evidence, including medical evidence, that: (1) the alleged injury aggravated the pre-existing condition or permanent physical impairment; or (2) the preexisting condition or the permanent physical impairment aggravated the subsequent injury. S.C. Code Ann. 42-9-35(A). This statute defines "medical evidence" as "expert opinion or testimony stated to a reasonable degree of medical certainty, documents, records, or other material that is offered by a licensed health care provider." S.C. Code Ann. 42-9-35(C).

There is no evidence in the record showing Claimant was diagnosed with PTSD or any other mental health conditions prior to this accident. There is also no evidence indicating she received mental health treatment of any kind before this accident. Further, even if there was evidence of a preexisting mental health condition, Claimant did not present sufficient medical evidence establishing an aggravation between the alleged injury and alleged pre-existing condition. Claimant's primary care physician, Dr. Hicks, did not render her opinion regarding an aggravation of a preexisting condition to a reasonable degree of medical certainty as required under section 42-9-35. In contrast, Dr. Snipes, a psychiatrist, opined to a reasonable degree of psychiatric certainty that Claimant had no psychiatric illness related to the workplace incident. Accordingly, we reverse the single commissioner's finding that Claimant suffered an aggravation of a preexisting mental health condition.

**5. Claimant has failed to establish a mental-mental injury under section 42-1-160 of South Carolina Code.**

When a mental injury is not accompanied by a physical injury, the employee must establish, by a preponderance of the evidence: (1) the employment conditions causing the mental injury were extraordinary

and unusual in comparison to the normal conditions of the particular employment; and (2) the medical causation between the stress, mental injury, or mental illness, and the stressful employment conditions by medical evidence. S.C. Code section 42-1-160. Like section 42-9-35, the statute defines "medical evidence" as an "expert opinion or testimony stated to a reasonable degree of medical certainty, documents, records, or other material that is offered by a licensed health care provider." As noted in Finding of Fact number 4, we find Claimant failed to submit sufficient medical evidence to establish her burden of proof under 42-1-160 for a mental-mental injury. Therefore, we reverse the single commissioner's decision finding Claimant established a mental-mental injury.

**6. Claimant is not entitled to future medical treatment.**

In light of our finding Claimant failed to establish a compensable injury under the Act, we find Claimant is not entitled to any medical treatment in connection with this claimed work incident. Moreover, no physician has stated, to a reasonable degree of medical certainty as required under section 42-15-60, that future medical treatment is needed as a result of the claimed incident. As such, we reverse the single commissioner's decision awarding Claimant future medical treatment.

**7. Claimant is not entitled to temporary compensation benefits.**

Because Claimant has failed to establish a compensable injury under the Act, we find she is not entitled to temporary compensation benefits for any period of time due to this work incident. Accordingly, we reverse the single commissioner's decision awarding Claimant temporary total disability benefits.

**8. Defendants' Motion to Submit Newly Discovered Evidence is denied as moot.**

Given the aforementioned findings, we deny Defendants' Motion to Submit Newly Discovered Evidence as moot.

**CONCLUSIONS OF LAW**

Accordingly, it is the determination of the Full Commission:

1. Under §42-1-130, Claimant was a covered employee at the time in question; and under §42-1-140, Defendant-Employer was a covered employer under the Act.

2. Under §42-1-160, Claimant did not sustain a physical-mental injury by accident arising out of and in the course of her employment.

3. Under §42-9-35, Claimant did not meet the requirements of establishing an aggravation of pre-existing condition.

4. Under §42-1-160, Claimant did not sustain a mental-mental injury by accident arising out of and in the course of her employment.

5. Under §42-15-60, Claimant is not entitled to medical treatment.

6. Under §42-9-10, Claimant is not entitled to temporary total benefits.

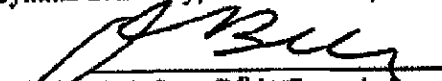
**ORDER**


The order of the single commissioner is fully reversed and the Motion to Submit Newly Discovered Evidence is denied as moot.

**AND SO IT IS ORDERED.**

\_\_\_\_\_  
Columbia, SC (date)

  
\_\_\_\_\_  
Cynthia C. Dooley, Commissioner, Chair

  
\_\_\_\_\_  
J. Scott Beck, Commissioner

  
\_\_\_\_\_  
Melody L. James, Commissioner

**STATE OF SOUTH CAROLINA**

In The Court of Appeals  
In The Supreme Court

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**WORKERS COMPENSATION COMMISSION PANEL:**

Cynthia C. Dooley, Chair  
T. Scott Beck  
Melody L. James

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WCC No. 1923480

Appellate Case No. 2023-001264

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Takara L Stewart

Claimant/Appellant,

South Carolina CVS Pharmacy, LLC,  
Employer and  
XL Insurance America Inc.,  
Carrier

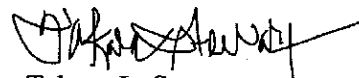
Defendants/Respondents

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Initial Brief

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August 11, 2024

  
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Pro Se

**DESIGNATION OF MATTER  
TO BE INCLUDED IN THE RECORD ON APPEAL  
THE STATE OF SOUTH CAROLINA**

In The Court of Appeals  
The Supreme Court

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**WORKERS COMPENSATION COMMISSION PANEL:**

Cynthia C Dooley, Chair

T. Scott Beck

Melody L James

---

Appellate Case No. 2023-CP-001264

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Takara L Stewart

Claimant/Appellant,

v.

South Carolina CVS Pharmacy, LLC Employer and

XL Insurance America Inc.,  
Carrier

Defendants/Respondents

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**DESIGNATION OF MATTER TO BE  
INCLUDED IN THE RECORD ON APPEAL**


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Appellant proposes the following be included in the Record on Appeal:

1. Single Commissioner Decision and Order of January 19, 2023;
2. Statements of the Case/Arguments (I-VI)
3. Issues on Appeal

I certify that this designation contains no matter which is irrelevant to this appeal.

August 01, 2024

  
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**THE STATE OF SOUTH CAROLINA**  
In The Court of Appeals  
[In The Supreme Court]

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**WORKERS COMPENSATION COMMISSON PANEL:**

Cynthia C Dooley, Chair  
T Scott Beck  
Melody L James

---

Case No. 2023-001264

---

Takara Stewart, Claimant/Appellant,

v.

South Carolina CVS Pharmacy, LLC, Employer Defendants/Respondents.  
XL Insurance America Inc., Carrier

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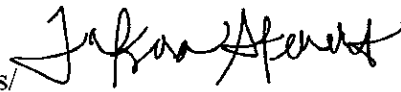
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Appellant proposes the following be included in the Record on Appeal:

1. Single Commissioned Order/Rulings of Law of January 19, 2023;
2. Appellant Panel Order of July 10, 2023;
3. Appellants Initial Brief/ Answer;
4. APA #11 Depo P. 17; APA #1, #2, #3 #9, #6, #7 #11; APA #5 Pgs. 19-24, APA #12 Pgs. 37-44
5. Transcript of Proceedings: S. C. Tr. P. 17-31; F.C Hearing Tr. Pg. 3:1-25, Pg.4:1-25; F.C. Hearing Pg. 4:17-25; F.C. Tr. Pg. 4:11-12; F. C. Hearing Tr. Pg. 11:10-25; F. C. Hearing Tr. Pg. 10:1-25; F.C Tr. Pg. 8:3-25; F.C. Tr. Pg. 12:12-18; F. C. Hearing Tr. Pg. 17:5; F. C. Hearing Tr. Pg. 6:1-25
6. CVS Employee Handbook, Sexual harassment/assault policy;
7. Defendants' APA #13 Pg. 45-55

I certify that this designation contains no matter which is irrelevant to this appeal.

August 11, 2024

  
/s/

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Pro Se

## I. INITIAL BRIEF

### STATEMENTS OF THE CASE

I, Takara Stewart (“Claimant”) sustained a compensable physical-mental injury and a compensable mental-mental injury for which the January 19, 2023 order granted temporary total disability and medical benefits. This is an appeal for the July 10, 2023 order of Commissioner’s Dooley and T. Scott Beck which reversed the January 19, 2023 order of hearing Commissioner A. Taylor. Claimant (Appellant) was not present for the May 8, 2023 appellate panel oral argument, may it please the commission to state the facts of this claim. I have been denied compensation on the basis of bias speculation, unsupported defense narration purported with inconsistent sequencing of events and socioeconomic mockery and respectfully an inconsistent Workers Compensation Commission solidarity per justifiable remedy in claimant processing. All arguments presented have been presented and or submitted to the lower courts. The defense is determined to strike the truth which is supported by the sexual assault being captured on video surveillance. Ms. Yarbrough has no defense and by default she has gone through extreme desperate lengths to leverage her Esquire title to have her indefensible defense supported. At this point, the legal system is extremely questionable, civility is selectively privileged, and the continuity in justice being upheld is contingent upon status and or rank. This is America! I was sexually assaulted at the third (3<sup>rd</sup>) degree which was initially reviewed and found compensable through the workers compensation commission by way of Commissioner Aisha Taylor. Upon receiving notification of my motion being denied and having to resubmit the initial brief, the respondents submitted a one-thousand

dollar (\$1000.00) settlement bribe on May 21, 2024 at 10:48 p.m. in efforts to dismiss CVS from liability, which I find highly contradictory to their indefensible defense. My arguments are coherently just and relevant as presented to the lower courts, despite the motion to present supporting evidence being denied all of which is also another desperate attempt of Ms. Yarbrough on behalf of CVS.

## II. ARGUMENTS

Pursuant to Rule 208 of the South Carolina Appellate Court Rules, the statements of the case are essential for understanding the basis of the appeal. I am not a lawyer yet the initial brief has been stated coherently, coordinated with the transcripts as reference to the arguments aforementioned. I am the appellant. The victim of the CVS, workplace third degree sexual assault for which the statements are evidentiary and or factually inclined as I am the primary party involved alongside the assailant, by name Elizabeth Johnson Rawlinson, who was apprehended for sexual assault. (Claimants APA #2, #9) There is no basis for respondents defense hence the frivolous, bias speculation and unsupported defense narration purported out of inconsistent sequential events of the sexual assault and socioeconomic mockery strategically compiled by defense with an intent to overthrow justice for workplace sexual assault subjected to during CVS supervisory employment. The night of December 26, 2019, as the only form of premise security at the time of the attack, the video surveillance confirms the workplace sexual assault. (Defendants Exhibit G). What is defense if the narration isn't concise nor consistent with the footage and the sequence of events as personally endured by the appellant? The statements of the case merely detail, to a minimally necessary degree, per understanding of the record on appeal. (See June 3, 2021; S. C. Tr. P. 17-31)

**i. Bias Speculation**

The respondents were tactless yet meticulous in defense using indefensible descriptions of the customers' sexual attack as merely a "*touch, pat or pad*" of the posterior. (F.C Hearing Tr. Pg. 3:1-25, Pg.4:1-25). While tightly groping-fingers intimately unwanted on the inside of my posterior, pulling and tugging on the right cheek of my posterior in a forward and backward motion the assailant stated "that's a big ole butt, you got a big ole butt" in the midst of the tugging in disbelief, as if it wasn't real and implanted silicon should and would fall from behind depicting the extent of the tug and force for a potential tear of the posterior muscle. The actual depiction of the perpetrators hand placement and immoral sexual behavior is not portrayed in its entirety on the video footage due to the camera placement at the time of the recording and the assailants body positioning. (Defendants Exhibit G). It was painfully uncomfortable, socially abnormal and privileged. An insensitive, bias speculation insinuating the attack was nothing per Ms. Yarbrough's statements and or indefensible opined impressions of the case are as follows:

**(a)**      "*She did not even cry after the incident nor did she speak about it with her supervisor or any of her coworkers that day*". (May 8, 2023; F.C. Reversed Decision and Order; Defendants Statement of the Case; Pg. 1 ¶ 2). This statement is highly contradictory with the Deposition of Robyn Hanna (Supervisor and or Store Manager). (APA #10). Ms. Hanna was notified, on December 30, 2019, which was the next shared shift. (F.C. Hearing Pg. 4:17-20) (APA #2). Mrs.

Hanna wasn't very knowledgeable in regards to providing support, in lieu of the assault Mrs. Hanna stated "had I been here when she did that to you, I would have said something to her" and then provided information about the CVS Employee Assistance Program (EAP). Mrs. Hanna's defense testimony later contradicts her previously expressed sympathy and encouragement. (APA #10). Suppressed emotions are a thing and reluctantly I have had a very tumultuous childhood, initiating my introduction to unhealed trauma. Is it okay to scream or will I be scolded for what is supposed to be a freedom of expression? Can I tell what happened to me on the mountaintop or will it be surmised as "*being grown or manish*"? I have always been mocked for being genetically full-figured. Anti-social or uncommunicative, withdrawn, angry, self-conscious because of the premature sexual grooming and overly hyper sexualized mocking were all byproducts of childhood trauma. This "*closed persona*" has been directly shaped by my trauma hence the improper depictions of emotions. Long and silent sufferings are illustrative of the past and present trauma that has been resurfaced by way of employment through CVS. Not being taken seriously is painful. It's as if you're not taken serious until there is some sort of horrific event that transpires as a result of those sufferings. You're forced to remain in the shadows of insensitive mocking: "*you're one of how many, no one actually cares, you're a liar, it never happened, why you never said anything, alleged assault, alleged injury, alleged pre-existing condition and or you are not suffering from post-traumatic stress disorder*", disregarding the obvious cry for help. The desire to be selfish, there is no room to be selfish in motherhood. A lack of childhood

nurturing, parental selfishness and projected adult responsibilities would inevitably groom one into the characterization of being emotionally withdrawn.

As with the sexual workplace assault, none of it was ever welcomed!

(b) “...*My impression is she smiled, she continued to vacuum the floor. She performed her remaining job duties. Closed the store. Did not even stop what she was doing. She continued to vacuum.* (F.C. Tr. Pg. 4:6-25) Yes, and within that bias impression which couldn’t be any further from fact, did it not logically occur to the respondents to consider the heavy CVS obligations per the indefensible narration? Providing security for the store as there were no additional security enforcement available, including but not limited to completing closing tasks and closing the store. Struck with a wave of fear that is perceived outwardly and mocked by defense as little to nothing. Suppressed fear, anxiety, the fight or flight response was definitely activated but yet there’s a huge responsibility of closing the store, including thoughts of returning home to my daughter. With pressurized self-control, one of two big responsibilities that were contingent solely on performance, managing to close the store successfully which created no further liabilities for the CVS employer. There was no time to really allow oneself to *feel the effects of what transpired from the result of the highly unusual and extraordinary sexual attack.* To be subjected to cruelty by way of CVS employment is by far the most unusual and highly extraordinary experience ever endured. An assault without causation and heavily defended per remedy. One of two (1 of 2) liabilities: sexual assault on an employee or an unsecured building as a result which seemingly the sexual assault on the employee is the lessor of the

liabilities as the store was secured in the midst of the effects of the sexual assault being experienced. I have never experienced this before yet I was engulfed in an enormous amount of anxiety and fear. I was assaulted and there was no one there to protect me. There was no CVS security. I was there, the last open operating hour of the store, alone.

(c) A profound depiction of bias and circular speculation exemplified through the statement “*she appeared hurt on the camera*”. (F.C. Tr. Pg. 4:11-12). Was there an expression on camera or not? The defense narration is not supported, yet the camera displays the incident and the perpetrator.

Ms. Yarbrough’s frivolous and erroneous defense speculation is a direct implication of the respondents unsupported defense narration of the sexual attack and eager anticipation to purposely defend neglecting to consider the victim and all the trauma ensued as a result of the workplace sexual attack. The record on appeal would be null and void if the assailant (customer) never made the willful decision to sexually attack the posterior of management during the CVS scheduled shift.

**ii. Unsupported Defense Narration Purported with Inconsistent Sequencing of Events and Socioeconomic Mockery**

Ms. Yarbrough’s dramatized, inconsistent sequencing of events in efforts to sway the Full Commission Appellate Panel is desperately absurd. The bias speculation and unsupported defense narration continues as there are several instances where she protracts the sequence of sexual assault attack events, corroborates and pays

for a psychiatrists opinion, socioeconomic mockery regarding the finances of a working class single mom and an old resume found on the web to question credibility in some desperate way of minimizing the sexual attack, effects of the sexual attack including but not limited to the repressed trauma and or current trauma that ensued afterwards. All of which, collectively, are motives to remiss and deflect justice moreover for a liability that has been confirmed. There has been countless compensatory offers to date to release CVS of the sexual assault liability. Of all the offers presented to date, none were psychologically inclined and or sufficient in regards to the well-being of the claimant and or on behalf of the record on appeal which further implicates the respondents in their unsupported defense. If there are and or were offers to dismiss liability, which liability is being offered compensation to dismiss: the physical-mental or the mental-mental liability? CVS's desensitization and three mocked offers are as follows: (1) Seven thousand dollars (\$7000.00), (2) a fifteen hundred dollar (\$1500.00) D/D clincher based settlement and (3) five thousand dollars (\$5000.00) all of which were presented to keep confidential in efforts to release CVS from all further liabilities subsequently avoiding further court processing fees alongside a mocked defense narration per the unforgettable assault experienced during the course of employment with CVS. This is an admission of liability and should be upheld justly; molestation during the course of employment which would deem contradictory to defense implications of falsification of injuries. (F. C. Hearing Tr. Pg. 11:10-25). What I experienced was not a hoax! Employees are not expendable, need I remind you the storefront is null and void without the

employees. The offers ridiculed me of what I actually experienced and furthermore contends there is factual and or legally admissible evidence regarding my claimed injuries as an employee of CVS. (F. C. Hearing Tr. Pg. 10:1-25).

(a) *“She told her supervisor a couple weeks later and when she did that the supervisor said she wasn’t crying or frantic.”* (F.C Tr. Pg. 4:17-25). Robyn Hanna was notified on December 30, 2019, the next shared shift, which intelligibly comes out to be four days. The incident occurred on December 26, 2019. A couple weeks versus four days substantiates Ms. Yarbrough’s purported defense narration.

(b) *“She didn’t call out of work or miss any time due to stress, anxiety, depression, trauma, or any psychological issues until March 14, 2020.”* (May 8, 2023; F.C. Reversed Decision and Order; Defendants Statement of the Case; Pg. 2 ¶ 4). Highly subjective defense narration, mere talk, hearsay and insensitive mockery for what was endured on behalf of the CVS workplace, sexual assault attack. The sufferings are still very much present, I lost and suffered a great deal. Through the CVS EAP program, referred to by Mrs. Robynn Hanna (Supervisor), I was connected to Linda Davis, MA, LPC, and SAP, which provided my initial introduction to counseling. Counseling with Linda Davis was no relief, inconsistent and significantly impacted and or interrupted by and at the peak of COVID-19. Linda Davis cancelled all remaining appointments due to COVID-19 isolation, stating “she wishes me the best and she hopes I get all the help I deserve”. (APA#3). I have been coping the best way I know and or trying to positively managing my trauma (i.e., focusing on, protecting my daughter from

my harsh realities and providing her a safe livelihood with hyper awareness and open communication to prevent the same narrative); taking my mind away from my repressed trauma was my ideology of healing but hasn't been deemed proper in review of psychologist consultations attempted through CVS EAP, psychology prescriptions of my attending physician, and personal efforts of seeking help through Brenda Graham of Savannah, Georgia and various submitted documented assistance. (APA #3, #4, #6, #11). The CVS assailants' immoral sexual behavior places me back in a spiraling-dark tunneled mind frame, all my years have been intentional, positively trying to overcome through aspirations to inevitably change the narrative. (Defendants Exhibit I). The CVS assailants' painful physical assault, created mental anguish was shockingly unexpected, this incident affected me physically and mentally.

(c) *"....reasonable degree of medical certainty as to whether the complaints that she made to you when she saw you were the result of that aggravation." The answer is "Yes, she is....." Dr. Hicks who gave that testimony is a general practitioner. We had a -- a board certified psychiatrist evaluate her and he opined that she doesn't have post-traumatic stress disorder. She has depression related to life stressors and not the work place incident. She doesn't have psychiatric issues related to the workplace incident. So, therefore, there's no physical mental injury." (F.C Tr. Pg. 8:3-25). Dr. Jon snipes was intentionally hired, payment for services rendered, by CVS's defense attorney on the basis of negligibly corroborating a defense theory. (Defendants' APA #13 Pg. 45-55). I have never met with this man in my life, he doesn't know anything about my character. There*

was no rapport established with Dr. Snipes. I knew Dr. Snipes was virtually appointed and or paid to try and complete an assessment of my current condition by way of a video call in support of the defense narration of the respondents. Dr. Snipes' interaction doesn't compare to Dr. Ashley Hicks (Beckum), as she was able to establish a safe space to open up about the workplace assault and as a result the post traumatic episodes. Dr. Ashley Hicks (Beckum) medically certain opinion established under section 42-9-35 sufficiently justifies her opinion on the basis of aggravation of pre-existing conditions. Her opinion is more factual as she had no other underlying, defense motive outside of providing patient-centered quality care. (F. C. Hearing Tr. Pg. 8:15-25) (APA #5 Pgs. 19-24, APA #12 Pgs. 37-44). He was very hostile with questioning as a way to intimidate and manipulate me in solidifying his defense contracted services, unprepared yet inconsistent introductory brief by defense, corroborated confirming the defense centered tactics producing invalidated and incomplete documented findings. I was totally cooperative during my initial meeting with Dr. Snipes. (Defendants' APA #13). I never disconnected during the briefly scheduled video. This is not admissible evidence. His "psychiatrist" title does not confirm and or automatically permit or deem his findings as fact especially when Dr. Snipes had no factual recollection of the current workplace sexual assault and the correct sequence of events at the time of the defense arranged meeting. In review of S.C. Code section 42-15-60, Dr. Snipe's findings are not any more admissible than my attending physician Dr. Ashley Hicks (Beckum). (F. C. Hearing Tr. Pg. 10:4-25). I have had more office and virtual visit interactions with Dr. Ashley Hicks

(Beckum) in comparison to the one, contracted, virtual visit with Dr. Jon Snipes. Dr. Jon Snipe's claims are not valid, cannot be substantiated by "seeing" me on camera once, under a strategically scheduled defense appointed video and are highly offensive as a victim of such abominable injuries. (Defendants' APA #13 Pg. 45-55). Manipulative tactics of the defense are contemptible and should not be regarded as fact furthermore as a determinant for reversing a previously awarded order. (F. C. Hearing Tr. Pg. 8:1-14).

(d) *"In terms of the Claimant's credibility, it is all outlined in the brief. She has major credibility issues. It's easier to falsify mental injuries. Y'all are the ultimate fact finder of credibility. She lied on her employment application. She lied in her deposition. With regard to law suits that she previously was involved in, she had judgments against her regarding evictions. She lied on her tenant agreements."* (F.C Tr. Pg.11:10-19). I am not a liar as stated by the respondents. Are we to disregard the surveillance footage as supreme evidence and allow justice to be subjected to inconsistent, unsupported, indefensible defense narration? Do I allow defense narration to purport blasphemous defense narration as authentic personal characterization? There is no way to deny that this sexual assault took place moreover justifiable remedy to be administered as a result. I have always been gainfully employed since the age of fifteen (15). Despite the unfortunate adversity, memory, physical and mental history of being sexually taken advantage of, acquiring an instinctive yet psychologically unaccepted ability to endure. Not the healthiest way of overcoming trauma with no other option. Motherhood makes it even more instinctively profound to persevere.

There are struggles with bouts of depression and anxiety; PTSD. Working for CVS and being the victim of a sexual assault injury has forced and or ripped open an old flesh and psyche wound. A wound that was being functionally managed before being subjected to a very unusual and extraordinary work environment; getting the right cheek of my rear-end firmly grabbed, gripped and aggressively tugged as if the intent was to tear it from my body which was painfully gross. Taking the stairs for success properly displays personal character, standing up for what is right should never be misinterpreted as some sort of ponzi scheme additionally used as reinforcement as the basis for reversing a previously proven, compensable, workplace sexual assault order. (W.C.C File No. 1923480).

(e) “... ..based on Equifax reporting...that she had been making forty-five hundred dollars a month working for the Department of Defense at the same time she was requesting temporary total disability benefits.” (F.C. Tr.

Pg. 12:12-18). The defenses’ sequence of events is completely off, unsupported narration as I was no longer receiving Department of Defense pay; resigned August of 2018. Financial struggles increased with the decision to return to school and the change in full-time employment to the part-time CVS employment. (See Single Commissioner Hearing Tr. Pg. 18:11-14). Equifax reporting is subjective moreover the information is outdated as there are still active credit freezes on all major credit bureaus. My employment with CVS took some getting used to, in retrospection to being a civil service employee and gross income at approximately forty-five hundred (\$4,500.00) a month, an acclimation to the change in pay while aspiring to achieve short-term career goals. Adjustments were made accordingly

with acceptance that this was going to be a means of and or for intermittent career advancement. Of course the respondents are desperately reaching with the purported indefensible defense narration of earning (\$4,500) a month in addition to working during a workers compensation total disability reward as a way to miscommunicate finances during the time of the assault. In no way can one accept this tactless defense as justification for reversing a justifiable, compensable order per said claim. To date, in the field of dentistry for 16 plus years, most of those years performed for the Department of Defense and Department of Veteran Affairs. My past financial affairs does not substantiate my character, it illustrates the storm in the midst of finding my rainbow. I contend that I have never been evicted. I have been served dispossessory warrants, yes, yet I have never been ordered to vacate any residence secured as a tenant. A slack attempt to purport financial struggles with the motive of slandering my character to ultimately gain the defense leverage of a Full Commission Appellate Panel reversed decision. Goals and aspirations are completely exclusive of the workplace sexual assault claim. A working class, civil citizen and single mom aspiring for change. (F. C. Hearing Tr. Pg.11:10-25). (APA #7). Federal employment is not awarded to just anyone, extensive credentialing and a thorough background check for which I passed successfully. My Federal employment was fully vested which confirms the longevity in civil service employment.

**iii. An Inconsistent Workers Compensation Commission Solidarity per Justifiable Remedy in Claimant Processing**

The Department of Justice and the Workers Compensation Commission has been subjected to unconstitutional, inconsistent and unjustifiable due diligence concerning preponderance of evidence for workers compensation claim number 1923480. The workplace sexual assault, workers compensation claim, was justifiably ordered and now fully reversed on inconsistent defense narration, bias speculation, unsupported defense narration purported with inconsistent sequencing of events and socioeconomic mockery, going along with the undiplomatic defense and no regard for solidarity per justifiable remedy in claimant processing. Selective intimidation and manipulative leveraging of doctors and their degree credibility is improper. The order reversed on the grounds of the insensitive and dishonorable defense characterization mockery of a working class single mom. This is the only defense that was used to reverse the previously awarded order. There are a lot of speculative hearsay that were made a part of an order, presented as fact, and used to overturn the initial ruling of single Commissioner A. Taylor. The United States Worker Compensation Commission credibility is questionable because of the manipulative assertions of innumerable quotations, effectively establish a credible ruling entail not ignoring the most credible evidence. The highest credible evidence is the actual CVS video recording of the assailant painful and ghastly assault, including but not limited to an admission of assault by the assailant yet not enough to warrant justice for what I have endured and still fighting to overcome. No one can justify how the sexual assault injury and the effects of the injury affected the injured. No one can quantify the extent of the injuries on behalf of the injured. I was physically

injured by being sexually assaulted in the CVS workplace by a customer. I am proof, as I am the victim of the workplace sexual assault. (F. C. Hearing Tr. Pg. 18:8-25). Those injuries opened the door of repressed, very traumatic, mental anguish of which the assailant was not considerate and or ignorant of at the time of her willful and unjust immorally sexual behavior towards me. I have had to relive this sexual assault from Dec 26, 2019 until now which has adversely effected my mental health creating an indefinite mental injury. The assault is on a vivid, constant replay in my mind. There are visuals, feelings of the firmly gripped hand on my posterior and the assailants humorless laughter as she walked out the front door of the CVS storefront are all collectively a nightmare yet to be awoken from. I'd never advocate for employment with CVS nor will I personally seek employment again. The code of ethics presented as a standard for employment is a contradiction of CVS employees' workplace handbook. I exhausted every medium known as way of remedying the sexual assault in real time in the midst of trying take care of myself so that I can make a life for my daughter, our livelihood. CVS is responsible for the unusual and extraordinary sexual assault environment I was subjected to through workplace and workplace operations negligence. CVS should be ordered and inclined to provide treatment continuity to lessen the effects of the sexual assault and the debilitating physical-mental, mental-mental injuries of S.C code 42-1-160. The CVS Employee Assistance Program failed to uphold a properly executed chain of command in offering employee assistance by way of their Employee Assistance Program. (APA #1 Pgs. 1-2). The appointed representative was not effective. (APA #3).

The time I was out of work was substantiated, documented by my reputable and credible, licensed attending physician which was accepted thereafter documented by my CVS employer from May 18, 2020 to November 5, 2020 which is compensable pursuant to the S.C code 42-9-10 as previously ordered in the amount of \$4,224.01. (APA #8 Pg. 36). (F. C. Hearing Tr. Pg. 17:5). The awarded contents of the initial order and the defense mocked settlement offers, in no way, constitutes adequate compensation for my physical and mental injuries. I have been painfully mocked with the reversal of the initial order including the privately emailed defense mocked settlement offers, all of which have been insensitive and regarded as highly irremediable. No justly calculated steps in acquiring relapse relief necessary to officially start coping as I have had to live through the physical injury with no remorse from CVS employment. Healing is a lifelong process, the severity of how I suffered, the extent of suffering deserves respect and is not to be diminished.

**iv. South Carolina Code 42-1-160**

Appellant sustained physical-mental injuries by accident on December 26, 2019 as a direct and proximate result of a willful physical and sexually based assault. Supported by *Landford vs Clinton Cotton Mill 204 S.C 423 (1944)* defining willful assault which is comprised of an injury by accident. Regardless of severity, the workplace sexual assault may have not resulted in an MRI, CAT scan and or other medical imaging nevertheless all of which are not required per burden of proof as the willful-unwanted, videotaped immoral touching of the

perpetrator constitutes an injury by accident within the meaning of the Workers Compensation Act. One does not have to accrue unnecessary medical bills, on part-time income, to substantiate workplace sexual assault. Is that the only medium to warrant justice? Why has this claim resulted in (5) five years of litigation in efforts to seek justice for a video graphed sexual assault? I, Takara Stewart, suffered a physical-mental, mental-mental injury as a direct result of being sexually assaulted while performing my supervisory job description for CVS. There are no specifications within that job description that entails undue, harsh, hostile, sexual assault exposure as a basis of employment. The surveillance of the incident, the police report, the assailant admitting to the sexual assault, the assailant being arrested and the incident being reported within reporting timeframes to the store supervisor is documented support of this incident as its alleged as being nonexistent by Ms. Yarbrough in the Full Commission Hearing. (F. C. Hearing Tr. Pg. 6:1-25). No employment with CVS, to be diligently working any shift extending the unwarranted interaction with the assailant thereafter horrendously being sexually assaulted, the claim, video footage, all its contents and transpiring traumatic, PTSD contents would be nonexistent. CVS nor I intended for this physical-mental injury presented during employment to happen but unfortunately it has subsequently presenting a highly unusual and extremely extraordinary condition for one to experience during employment among any employer and the mental-mental causation remnants as it is to date. I have been left to just deal with the injury aftermath, with no genuine support in spite of my personal resilient efforts provided on behalf of CVS while upholding CVS's job

description. My socioeconomic status, working class, single mom struggles and bias speculation in regards the effects of the sexual attack is tactless and indefensible. Arguably, there is no basis for defense as I was a victim of a sexual assault liability presented on behalf of CVS employment.

### **III. SINGLE COMMISSIONER FINDINGS OF FACT AND CONCLUSIONS OF LAW FINDINGS OF FACT**

1. I find the parties to the proceeding are subject to and bound by the terms and provisions of the South Carolina Workers' Compensation Act, with Takara L. Stewart being the Claimant, and SC CVS Pharmacy, LLC., being the Employer and XL Ins. America, Inc., the Carrier.
2. I find that pursuant to §42-1-40 the Claimant's average weekly wage is Two Hundred Fifty- Eight and 45/100 (\$258.45) Dollars a week resulting in a compensation rate of One Hundred Seventy-Two and 31/100 (\$172.31) Dollars.
3. I find that pursuant to §42-1-160 the Claimant sustained physical-mental injury by accident on December 26, 2019 as a direct and proximate result of a physical and sexually based assault.
4. Notwithstanding the finding of a physical-mental injury, above; I also find that, on December 26, 2019, the Claimant sustained a compensable mental-mental injury within the meaning of S.C. Code 42-1-160.
5. I find that the accident of December 26, 2019 aggravated the Claimant's pre-existing psychological condition.

6. I find that, pursuant to §42-15-20, the Employer received notice of the accident on December 26, 2019, within ninety (90) days of the accident.

7. I find that pursuant to S.C. Code §42-15-60 the Defendants are responsible for additional treatment to be rendered to Claimant, including treatment rendered by Dr. Ashley Hicks, and any counselor she recommends from the date of this Order, and continuing for such additional time as will tend to lessen the period of disability.

8. I find that Claimant was totally disabled and entitled to benefits at the weekly rate of \$172.31 pursuant to §42-9-10 for the 24.5714 week period of May 18, 2020, through November 5, 2020; totaling \$4,224.01.

#### **IV. CONCLUSIONS OF LAW**

1. Under §42-1-130, the Claimant was a covered Employee at the time in question; and under §42-1-140, the Defendant-Employer was a covered Employer under the Act.

2. Under §42-1-160, the Claimant did sustain a physical-mental injury by accident arising out of and in the course of employment.

3. Under §42-1-160 the Claimant did sustain a mental-mental injury by accident arising out of and in the course of employment.

4. Under §42-15-20, the Claimant gave proper notice of the accident to the Employer.

5. Under §42-15-60, the Employer is required to furnish future adequate and proper care, at the hands of Dr. Andrea Hicks and any counselor to whom Dr. Hicks refers the Claimant.

6. Under §42-9-10 the Claimant is entitled to temporary total benefits for the 24.5714 week period of May 18, 2020 through November 5, 2020 of the weekly rate at \$172.31; totaling \$4,224.01.

## V. ISSUES ON APPEAL

The mental-mental injury was direct and proximate to the physical-mental injury sustained and exposed to while gainfully employed and carrying out a supervisor trainee position at CVS located at 3210 East Palmetto Street, Florence South Carolina 29506. It has been proven that the present physical-mental and willful workplace sexual assault was highly unusual and beyond extraordinary conditions of employment subsequently creating mental-mental injuries which compounds and inadvertently intensifies repressed childhood trauma which according to the Workers Compensation law is interpreted as a burden of proof being properly established and the previous order of Single Commissioner A. Taylor's awarded benefits are justifiably legitimate. I believe the Appellate Panel will review, correlate the actual statement and factual delegations of this claim.

### 1. Claimants'/Appellants' Arguments

Claimant issues on Defendants'/Respondents May 8, 2023 reversed appeal are:

- (1) How is there no commission ruling continuity per the single commissioners hearing established and based on a matter of law, factual, videotaped footage confirming the physical-mental, mental-mental injury?
- (2) Per the CVS handbook, what part of the physical, willful, unwanted workplace sexual assault has been made a condition of employment? The single commissioner's credibility was accountable in ruling, accurate in characterization, free from abuse and justifiably within single commissioner ruling discretion.

- (3) What substantiates and or confirms Appellate Panel reliability in retrospect to surveillance and indefensible defense narration per the reversed decision?
- (4) Did the Appellate Panel disregard justice and endorse inconsistent defense narration and intimidation per medical certainty of licensed medical providers, ignoring the confirmed physical assault?
- (5) How is the a matter of law mistaken and overlooked in finding that, pursuant to section 42-1-160, when the December 26, 2019 workplace sexual assault occurred it was a direct and proximate result of a willful and unwanted molestation by a customer at CVS during CVS employment?
- (6) Defenses' narration characterization of the single commissioners findings and ruling as being unreliable, insignificant, insubstantial, abused discretion and or an unjustified exercise of discretion is it not disrespectful mockery to a law abiding commissioner and of course an indirect implication of the Appellate Panel?
- (7) Doesn't the indefensible narration, inconsistent depiction of workplace sexual assault sequence of events, and accusing the single commissioner of workers compensation ruling abuse propel the law governing the complete Workers Compensation Commission including but not limited to the Appellate Panel under review for abuse of discretion?

(8) What is erroneous about the single commissioner's ruling that is portrayed on store surveillance and testified as fact by the perpetrator and claimant confirming section 42-1-160?

(9) The single commissioner ruling upholds law in finding the willful yet unwanted workplace sexual assault was severely unusual and highly extraordinary by way of employment, per commissioning solidarity did the Appellate panel abuse discretion?

(10) The single commissioner ruling upholds law in finding the willful yet unwanted workplace sexual assault of the claimant was severely unusual and highly extraordinary by way of employment and justifiably within the means of the South Carolina workers compensation act, is the Appellate Panel upheld by the same commissioning law?

(11) Did the Appellate Panel err as a matter of law in insufficiently ruling per the mental-mental injury claimant was subjected to by willful yet unwanted workplace sexual assault was severely unusual and highly extraordinary by way of employment?

(12) Did the Appellate Panel implement indefensible defense narration by way of an erroneous and unjustified ruling discretion to reverse a single commissioner's order?

(13) Did the Appellate Panel disregard the CVS surveillance footage and the warranted implications as a direct and proximate result of what the footage confirms?

(14) Did the Appellate Panel disregard the direct and proximate psychological impediments including but not limited to PTSD?

(15) Disregarding the implications of the video footage, is that conclusive and synonymous of the Appellate Panel agreeing with inconsistent, indefensible defense narration subsequently abusing discretion and dismissing justice?

(16) In retrospect PTSD being diagnosed by a psychologist, Did the Appellate Panel disregard justice and endorse inconsistent defense narration and intimidation per medical certainty of licensed medical providers, ignoring the confirmed physical assault?

(17) Does the reversed order confirm the Appellate Panels' disregard for law with the dismissal of facts surrounding the willful and yet unwanted workplace sexual assault of the claimant; severely unusual and highly extraordinary by way of employment and justifiably within the means of the South Carolina workers compensation act?

(18) Dismissing the assault on the basis of indefensible defense narration is that synonymous for Appellate Panel confirming that the workplace sexual assault and video footage never happened?

(19) Dismissing the assault on the basis of indefensible defense narration is that synonymous for Appellate Panel confirming that the workplace sexual assault and video footage, the mental-mental injury claimant was subjected to by willful yet unwanted physical workplace sexual assault had no direct and proximate psychological effects?

- (20) Appellate Panel confirming that the workplace sexual assault and video footage, the mental-mental injury claimant was subjected to by willful yet unwanted physical workplace sexual assault had no direct and proximate psychological effects, how is that justifiable and completely exclusive of discretion abuse?
- (21) Did the Appellate Panel err the only factual evidence, coincide with indefensible defense narration and inconsistencies of workplace sexual assault events and provide a partial ruling in regards to the mental-mental injury as a direct and proximate physical workplace sexual assault?
- (22) To what degree of PTSD, anxiety and or suppressed emotions are required to be displayed to substantiate the current and repressed PTSD?
- (23) Did the Appellate Panel abuse discretion based on the indefensible narration purported to manipulate, coerce and project intimidation through licensure of physicians and counselors?
- (24) Would it be deemed justified by the Appellate Panel to disregard implications of video footage and testimonies regarding workplace sexual assault and execute discretion on the basis of noncriminal activity and improper defense characterization of the working class?
- (25) Are the code of ethics considerably different for citizens, private and government officials?
- (26) Are not the code of ethics held at an even higher regard for government officials?

(27) Does the Appellate Panel agree or disagree that workplace sexual assault is perverse, unusual and extraordinary to be subjected to during employment?

(28) Indefensible defense narration, claimant claim mocking and insensitivity towards current past traumas are tactless, did the Appellate Panel use the inconsistent narrative to compel a reversed order?

(29) Did the Appellate panel err the medical certainty of a psychiatrist, with no previous interaction, in comparison with an attending physician as a basis for reversing a previously awarded order? (30) Was the Appellate Panel misinformed about the medical certainty of Dr. Ashley Hicks (Beckum), the rapport built with the claimant as it pertains to patient-centered treatment and the referral of psychiatric treatment?

(31) The discretion of the appellate panel is inconclusive, was the appellate panel made aware of the CVS employer zero tolerance sexual harassment and or sexual assault policy?

(32) Has the Appellate Panel disregarded commission solidarity in justly remedying the physical and willful workplace sexual assault as the current and revision of past trauma initiated the mental mental injury which is a direct and proximate result of the unwanted physical assault?

(33) Per section 42-9-35, did the Appellate Panel err or dismiss pre-existing conditions with no regard to the video confirmed assault, testimonies, medical certainty of attending physician subsequently neglecting to acknowledge the current workplace sexual assault conditions being regarded as unusual and extraordinary per employment and the implications thereof on previous trauma in

regards to a collective remedy, preferred and sustainable psychological healing as a direct and proximate result of the physical-mental workplace sexual assault?

(34) What does it take to have pre-existing conditions constituted, considered and accepted before PTSD becomes a graphic depiction of claimants' statement of the case?

(35) Did the Appellate Panel fail to recognize the physical assault on surveillance, reported on the police report and confirmed by the perpetrator thus neglecting to accept the mental-mental injury of the South Carolina code section 42-1-160?

(36) Did the Appellate Panel fail to provide justice solidarity the claimant being told she was not required to be in attendance of the May 8, 2023 hearing via zoom?

(37) Did the Appellate Panel make an inconsistent, unwarranted and unjustifiable ruling per the inconsistent defense narration as to the sexual assault events were not accurate?

(38) Who can better state the case to the Appellate Panel than the actual victim of the workplace sexual assault?

(39) Did the Appellate Panel fail to establish the continuity of treatment was impeded on by the relocation to Georgia?

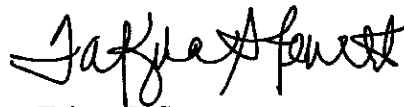
(40) Did the Appellate Panel concur and enforce an order with purported, indefensible defense narration regarding claimant admittance of being physically injured?

## **VI. CONCLUSION**

I contend for the reasons asserted, the Appellate Panel should review the reversed decision of the Workers Compensation Single Commissioners' hearing initially filed on January 19, 2023. I sustained a compensable physical-mental injury and a compensable mental-mental injury for which the January 19, 2023 order granted temporary total disability and medical benefits. This appeal was submitted to state the actual facts of the claim by the victim. I have been denied compensation on the basis of bias speculation, unsupported defense narration purported with inconsistent sequencing of events and socioeconomic mockery, and respectfully an inconsistent Workers Compensation Commission order ruled with no solidarity in justice to appropriate remedy of misconduct of claimant workplace sexual assault.

August 01, 2024

Respectfully Submitted,



Takara L Stewart  
Pro Se  
108 E York Street Suit 236  
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(984) 215-1812

cc: Michelle D Yarbrough, esq.  
myarbrough@gwblawfirm.com

**STATE OF SOUTH CAROLINA**

In The Court of Appeals  
In The Supreme Court

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**WORKERS COMPENSATION COMMISSION PANEL:**

Cynthia C. Dooley, Chair  
T. Scott Beck  
Melody L. James

---

WCC No. 1923480

Appellate Case No. 2023-001264

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Takara L Stewart

Claimant/Appellant,

South Carolina CVS Pharmacy, LLC,  
Employer and  
XL Insurance America Inc.,  
Carrier

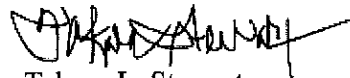
Defendants/Respondents

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Return

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September 9, 2024



Takara L. Stewart  
108 E York Street  
Suite 236  
Savannah, Georgia 31401  
(984) 215-1812  
Pro Se

Arguments regarding (SCACR 240, 208, 209, 210, 267, 269) form noncompliance and or procedural deficiencies, your plight regarding unintelligibly responding to the issues on appeal for which you intelligibly interpret and restate a response to, persistent mockery and a bias claim of circular prejudice. What is actually being defended here? The Respondents have no defense, desperate purported and paid defense narration portrayed as actual evidence. It seems as though the Respondents arguments have been deflected from indefensible defense to leveraging an Esquire title to their advantage. I am not a lawyer. I am the victim of a third-degree workplace sexual assault. There is no way in justice you can say a videotaped sexual assault did not occur for which on countless there has been attempts to remedy and or dismiss the liability by way of compensation. This is highly contradictory to the entire Single Commissioner A .Taylor's<sup>1</sup> decision on appeal. Respondents have diverted their indefensible defense of immoral, unusual, gross and extremely extraordinary workplace sexual assault to an Esquire vs a Pro Se Litigant argument in hopes to sway and or protect an unjustifiable reversed ruling for an additional adverse court ordered decision.

---

1

**SINGLE COMMISSIONER FINDINGS OF FACT AND CONCLUSIONS OF LAW FINDINGS OF FACT**

1. I find the parties to the proceeding are subject to and bound by the terms and provisions of the South Carolina Workers' Compensation Act, with Takara L. Stewart being the Claimant, and SC CVS Pharmacy, LLC., being the Employer and XL Ins. America, Inc., the Carrier.

2. I find that pursuant to §42-1-40 the Claimant's average weekly wage is Two Hundred Fifty- Eight and 45/100 (\$258.45) Dollars a week resulting in a compensation rate of One Hundred Seventy-Two and 31/100 (\$172.31) Dollars.

3. I find that pursuant to §42-1-160 the Claimant sustained physical-mental injury by accident on December 26, 2019 as a direct and proximate result of a physical and sexually based assault.

4. Notwithstanding the finding of a physical-mental injury, above; I also find that, on December 26, 2019, the Claimant sustained a compensable mental-mental injury within the meaning of S.C. Code 42-1-160.

5. I find that the accident of December 26, 2019 aggravated the Claimant's pre-existing psychological condition.

6. I find that, pursuant to §42-15-20, the Employer received notice of the accident on December 26, 2019, within ninety (90) days of the accident.

7. I find that pursuant to S.C. Code §42-15-60 the Defendants are responsible for additional treatment to be rendered to Claimant, including treatment rendered by Dr. Ashley Hicks, and any counselor she recommends from the date of this Order, and continuing for such additional time as will tend to lessen the period of disability.

8. I find that Claimant was totally disabled and entitled to benefits at the weekly rate of \$172.31 pursuant to §42-9-10 for the 24.5714 week period of May 18, 2020, through November 5, 2020; totaling \$4,224.01.

**CONCLUSIONS OF LAW**

1. Under §42-1-130, the Claimant was a covered Employee at the time in question; and under §42-1-140, the Defendant-Employer was a covered Employer under the Act.

2. Under §42-1-160, the Claimant did sustain a physical-mental injury by accident arising out of and in the course of employment.

3. Under §42-1-160 the Claimant did sustain a mental-mental injury by accident arising out of and in the course of employment.

4. Under §42-15-20, the Claimant gave proper notice of the accident to the Employer.

5. Under §42-15-60, the Employer is required to furnish future adequate and proper care, at the hands of Dr. Andrea Hicks and any counselor to whom Dr. Hicks refers the Claimant.

6. Under §42-9-10 the Claimant is entitled to temporary total benefits for the 24.5714 week period of May 18, 2020 through November 5, 2020 of the weekly rate at \$172.31; totaling \$4,224.01.

## ARGUMENT

- I. As a Pro Se Litigant, organized and intelligibly succinct as referenced and presented to the lower courts, the following were provided within the Designation of Matter and respective to the Initial Brief: Initial Brief (*five roman numeral numbered sections*), Table of Contents, Issues on Appeal, Statements of the Case which are defined by a subset of numerical and alphabetized bullets giving a defined single-commissioned and full-commissioned transcript correlated arguments per standard of review which is contrary to the Respondents statement of a recitation of allegations, and a clear cut conclusion per the arguments depicted by the lowercase roman numerals subsequently stating relief. The documents were signed for certifying that no matter submitted was irrelevant to the appeal. To date, every attempt to acquire justice for immoral employment sexual assault has been threatened by indefensible defense tactics depicted by striking relevant evidence to the record on appeal.
  
- II. “*Appellants improper record citations have greatly hindered Respondents’ and Court’s ability to understand and intelligibly and responsibly respond to the issues Appellant raises*”. The respondents concur that there is no defense to the appeal on record. The Respondents further confirm and affirm the following Appellants Initial Brief Arguments/Assertions: Bias Speculation and Unsupported Defense Narration with Inconsistent Sequencing of Events. The Respondents restate the arguments, intelligibly respond and makes corrections per cited transcripts which are bulleted and made bold yet proceeds to cite the excerpt as

improper (i.e., “she *didn't* appear hurt on the camera”), all of which are. Respondents display and confirm proper citations within an Initial Brief and Designation of Matter claimed as deficient. If the Respondents are indeed making presumptions on what is being argued, it’s safe to say to “presumptively” respond to “presumptive arguments” for which you state were improperly stated on the Designation of Matter yielding an improper Initial Brief and improper citations for which defense makes references and responses to hypocritically contradicts defense speculative narration prompting motions to strike and or dismiss because “...*the brief have prohibited Respondents from discerning which portions of the brief or Designation of Matter, if any, should survive a motion to strike*” which further contends the unsupported and indefensible motive of capitalizing on Pro Se Litigation. Leveraging an Esquire title and hypocritically stating inaccuracies with what are stated as “accurate” responses to leverage a dismissal and unjustifiable win by way of blatantly stating you don’t intelligibly understand the Initial Brief yet the motion filed clearly depicts otherwise, ironically in retrospect of the current motion to strike and or dismiss. The lengths that defense have gone to in efforts to solidify defense is desperately hypocritical and highly exemplary of indefensible defense. The record on appeal is for a workplace sexual assault, not a Pro Se Litigant, victim of the immorally, gross workplace sexual assault in the third degree.

III. The Mockery persists “Appellant failed to do so...”, or “...She cannot overcome”, “*First portions of Appellant’s Statements of the case are not factual.*”

*Rather, it is a recitation of her allegations” I am not a lawyer, I am a victim of workplace sexual assault (December 2019), third degree by way of CVS employment seeking compensable restitution originally ordered by the Single Commissioner A. Taylor, never awarded per the reversed Full-Commissioned Appellate Panel Decision and Order of May 8, 2023. My ignorance per litigation form and procedures shouldn’t be leveraged as defense. Again, I signed certifying that any and all information petitioned as evidence and presented to the courts have been relevant to the record on appeal. The respondents have been made aware of all evidence and supplied copies which further implicates defense, their indefensible defense and strongly encourages the motive to strike and or dismiss.*

- IV. Bias claims per circular prejudice is a deceptive defense tactic of the Respondents as this cumbersome indefensible defense narration of not understanding an Appellants Initial Brief yet making *factual* references and accurate citation corrections based on the citations provided is the only circular prejudice presented in hypocrisy with the intent to overthrow the Full-Commissioned Appellate Panel.

#### CONCLUSION

Upon review of the enumerated indefensible defense tactics, once again the Respondents are attempting to deceptively compel the Full-Commissioned Panel to dismiss the appeal by way of purported defense narration regarding a claim of not intelligibly understanding in order to respond to an appeal. The

Respondents respond to the appeal, stating the response as factual evidence to hypocritically substantiate and overthrow a Courts decision. The Respondents attempt to extort the Courts by stating “...*the only course which remedies the Appellants violations and promote fairness to Respondents is dismissing the appeal*”. Fairness is justice for third-degree workplace sexual assault. The Respondents have no defense, take away the presumptive theories for which are hypocritically contradicted throughout the motion to strike and or dismiss yet are intentionally leveraged to take away what actually happened and depicted on the video surveillance. Respondents have boldly attempted to overthrow the Court’s decision *again* with: Bias speculation, unsupported defense narration with inconsistent sequencing of events, hypocritical impropriety claims of not being able understand and respond intelligibly although Respondents respond with referenced inferences based on citations including but not limited to making grammatical corrections/insertions to some of the same citations stated as improper, persistent Pro Se Litigant mockery for which all are derived from an Initial Brief ironically conjectured by defense as having enumerated deficiencies.

September 9, 2024

Kind Regards,



Takara L Stewart

Pro Se

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cc: Michelle D Yarbrough, Esq.  
myarbrough@gwblawfirm.com

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION  
COLUMBIA, SOUTH CAROLINA  
WCC FILE NO. 1923480

EMPLOYEE/CLAIMANT: TAKARA L. STEWART

EMPLOYER: SOUTH CAROLINA CVS PHARMACY, LLC

CARRIER: XL INSURANCE AMERICA, INC.

---

SOUTH CAROLINA WORKERS' COMPENSATION HEARING

---

PURSUANT TO NOTICE OF WORKERS' COMPENSATION HEARING, THE WITHIN HEARING WAS TAKEN ON THE 3RD DAY OF JUNE, 2021, COMMENCING AT THE HOUR OF 11:15 P.M., IN HARTSVILLE, SOUTH CAROLINA, BEFORE THE HONORABLE AISHA TAYLOR, ATTENDED BY COUNSEL AS FOLLOWS:

TIMMI A. PARRISH  
VERBATIM REPORTER

---

**TIMMI A. PARRISH**  
**COURT REPORTING SERVICES**  
POST OFFICE BOX 551  
ROEBUCK, SC 29376  
864-921-8743

APPEARANCES

**STEPHEN J. WUKELA**, ESQUIRE  
WUKELA LAW FIRM  
POST OFFICE BOX 13057  
FLORENCE, SOUTH CAROLINA 29504

ATTORNEY FOR THE CLAIMANT,

**MICHELLE DELUCA YARBROUGH**, ESQUIRE  
GALLIVAN, WHITE & BOYD, P.A.  
POST OFFICE BOX 10589  
GREENVILLE, SOUTH CAROLINA 29603

ATTORNEY FOR THE EMPLOYER/CARRIER.

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1 PURSUANT TO NOTICE OF HEARING, THE WITHIN HEARING  
2 WAS TAKEN BY THE ABOVE-NAMED COURT REPORTER, A NOTARY  
3 PUBLIC FOR THE STATE OF SOUTH CAROLINA, IN HARTSVILLE,  
4 SOUTH CAROLINA.

5 \* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \*

6 **BY COMMISSIONER TAYLOR:**

7 TODAY IS THURSDAY, JUNE 3RD, 2021. WE ARE HERE  
8 IN WORKERS' COMPENSATION FILE NUMBER 1923480. THIS  
9 IS THE CLAIM OF MS. TAKARA STEWART, WHO IS PRESENT  
10 HERE TODAY AND REPRESENTED BY MR. STEPHEN J. WUKELA.  
11 THE EMPLOYER IS SOUTH CAROLINA CVS PHARMACY, LLC,  
12 WHICH IS A SELF-INSURED EMPLOYER. OH, NO, I HAVE XL  
13 INSURANCE AMERICA, INCORPORATED.

14 **BY MS. YARBROUGH:**

15 THEY'RE SELF-INSURED UP TO A SELF-INSURED  
16 RETENTION, SO BASICALLY THEY'RE THEY ARE SELF-  
17 INSURED.

18 **BY THE COMMISSIONER:**

19 YES, MA'AM. THANK YOU. THE EMPLOYER AND  
20 CARRIER ARE REPRESENTED TODAY BY MS. MICHELLE  
21 YARBROUGH.

22 WE ARE HERE TODAY ON THE CLAIMANT'S FORM 50,  
23 REQUEST FOR HEARING. I WILL ALLOW THE PARTIES TO  
24 PUT DETAILED POSITION STATEMENTS ON THE RECORD.  
25 HOWEVER, PRIOR TO DOING SO, ARE THERE ANY OBJECTIONS

1 TO THE APAs, JURISDICTION, VENUE, OR ANY OTHER  
2 ITEMS? MR. WUKELA?

3 **BY MR. WUKELA:**

4 NONE FROM THE CLAIMANT, YOUR HONOR.

5 **BY THE COMMISSIONER:**

6 ALL RIGHT. THANK YOU. MS. YARBROUGH?

7 **BY MS. YARBROUGH:**

8 I'D JUST OBJECT TO THE SUBMISSION OF THE  
9 DEPOSITION TRANSCRIPTS OF TAKARA STEWART AND ROBYN  
10 HANNA EXCEPT FOR USE IN THE HEARING FOR IMPEACHMENT  
11 PURPOSES.

12 **BY THE COMMISSIONER:**

13 MR. WUKELA, DO YOU WANT TO RESPOND FOR THE  
14 RECORD?

15 **BY MR. WUKELA:**

16 OF COURSE. YOUR HONOR, WE CONTEND THAT -- I  
17 ASSUME THE OBJECTION IS A HEARSAY OBJECTION AS TO  
18 THE DEPOSITION OF ROBYN LYNN HANNA, ASSUMING THE  
19 RULE OF EVIDENCE WOULD APPLY TO THIS FORUM, WHICH I  
20 CONTEND THAT THEY DO NOT. HER TESTIMONY IS  
21 ADMISSIBLE AS THE STATEMENT OF A PARTY OPPONENT.  
22 AND AS TO MS. TAKARA STEWART, HER TESTIMONY IS  
23 ADMISSIBLE AS A PRIOR CONSISTENT STATEMENT UNDER  
24 RULE 801. OF COURSE, THE 804 EXCEPTION IS THE PARTY  
25 OPPONENT EXCEPTION. AGAIN, I DON'T THINK EITHER OF

1           THOSE RULES APPLY HERE.  THOSE ARE RULES THAT ARE  
2           APPLIED IN COMMON PLEAS, AND THE RULES OF EVIDENCE,  
3           WE'VE BEEN TOLD CONSISTENTLY, DON'T APPLY IN THIS  
4           FORUM.  NONETHELESS, WE WOULD PROFFER THOSE  
5           DEPOSITIONS FOR THE RECORD.

6           **BY THE COMMISSIONER:**

7                     ALL RIGHT.  MS. YARBROUGH, I BELIEVE, ALSO, YOU  
8           NOTED THAT THESE WERE DISCOVERY DEPOSITIONS AS  
9           OPPOSED TO DE BENE ESSE DEPOSITIONS?

10          **BY MS. YARBROUGH:**

11                    THAT'S RIGHT.  THEY WERE DISCOVERY INSTEAD OF  
12          DE BENE ESSE.

13          **BY THE COMMISSIONER:**

14                    ALL RIGHT.  THANK YOU.  WITH REGARD TO THE  
15          OBJECTION TO THE DEPOSITION TRANSCRIPTS OF THE  
16          CLAIMANT, I WILL ALLOW THE CLAIMANT TO PROFFER THOSE  
17          DEPOSITION TRANSCRIPTS IN TOTAL.  HOWEVER, THEY WILL  
18          ALSO BE AVAILABLE FOR IMPEACHMENT AND/OR CROSS  
19          EXAMINATION OR ANY OTHER EVIDENTIARY MATTERS  
20          THROUGHOUT THE HEARING.

21                    ALL RIGHT.  ANY OTHER OBJECTIONS?  MS.  
22          YARBROUGH?

23          **BY MS. YARBROUGH:**

24                    NONE, YOUR HONOR.

25          **BY THE COMMISSIONER:**

1           ALL RIGHT. THANK YOU. WITHOUT FURTHER  
2           OBJECTION THE COMMISSION FILE BECOMES A PART OF THE  
3           RECORD WITH THE EXCEPTION OF SELF-SERVING  
4           DECLARATIONS AND UNSTIPULATED MEDICAL REPORTS.

5           MR. WUKELA, YOUR POSITION STATEMENT FOR THE  
6           RECORD.

7           BY MR. WUKELA:

8           YOUR HONOR, THIS IS, WE CONTEND, A  
9           PHYSICAL/MENTAL CASE OR IF A MENTAL/MENTAL CASE, ONE  
10          THAT INVOLVES EXTRAORDINARY AND UNUSUAL  
11          CIRCUMSTANCES. MS. STEWART, AN EMPLOYEE AT CVS, WAS  
12          MOLESTED BY A CUSTOMER WHO GROPED HER REAR-END AS  
13          SHE LEFT THE STORE WHILE MS. STEWART WAS CLEANING  
14          UP. THAT WAS PARTICULARLY OFFENSIVE TO MS. STEWART,  
15          FRANKLY, BECAUSE SHE HAD A PRIOR HISTORY OF  
16          CHILDHOOD SEXUAL MOLESTATION AND A PRIOR HISTORY OF  
17          HER FAMILY, FRANKLY, THREATENING HER TO KEEP THAT  
18          QUIET, AND SHE WAS PARTICULARLY VULNERABLE TO THAT.

19          SHE WORKED FOR SEVERAL MONTHS AFTER -- SHE  
20          REPORTED THE INCIDENT, FILED A POLICE REPORT, WORKED  
21          FOR SEVERAL MONTHS AFTER THE INCIDENT WITH  
22          INCREASING ANXIETY ABOUT HER SAFETY, LARGELY FEAR  
23          THAT SHE WOULD BE RETALIATED AGAINST, WHICH THE  
24          CLAIMANT -- WHICH I CONTEND, YOUR HONOR, WAS A  
25          PRODUCT OF THAT PRIOR EXPERIENCE BEING AGGRAVATED BY

1 THIS INCIDENT. SHE CAME AND CONFIDED IN MS. HANNA,  
2 HER SUPERVISOR, WITH WHOM SHE HAD GREAT RAPPOR, AND  
3 MS. HANNA, BY ALL COUNTS, WAS VERY SYMPATHETIC AND  
4 KIND TO HER. SHE WAS TEARFUL WITH MS. HANNA. SHE  
5 CONFIDED IN MS. HANNA ABOUT HER PRIOR EXPERIENCE AND  
6 ABOUT HER FEARFULNESS. AND SHE LEFT WORK THEN IN  
7 MARCH OF 2020 AND HAS NOT RETURNED.

8 IT'S THE CLAIMANT'S CONTENTION THAT SHE  
9 SUFFERED A COMPENSABLE INJURY ON THE JOB THAT  
10 AGGRAVATED A PREEXISTING CONDITION. WE POINT THE  
11 COMMISSION PARTICULARLY TO THE TESTIMONY OF DR.  
12 ASHLEY HICKS, HER FAMILY DOCTOR, AND IN PARTICULAR  
13 PAGE 17 OF THAT DEPOSITION TESTIMONY, AND I THINK IT  
14 GOES ON INTO PAGE 18, WHEREIN MS. HICKS -- AND I'LL  
15 LET YOUR HONOR CATCH UP WITH ME. SHE'S ASKED ON  
16 PAGE 17, LINE 8, BY ME, "DO YOU HAVE AN OPINION TO A  
17 REASONABLE DEGREE OF MEDICAL CERTAINTY AS TO WHETHER  
18 THIS INCIDENT SHE'S DESCRIBED AT THE CVS WOULD HAVE  
19 AGGRAVATED A PREEXISTING CONDITION?" ANSWER: "YES,  
20 OF COURSE." "OBJECTION TO THE FORM." ANSWER:  
21 "YES." I SAID, "DO YOU HAVE ANY OPINIONS TO A  
22 REASONABLE DEGREE OF MEDICAL CERTAINTY AS TO WHETHER  
23 THE COMPLAINTS THAT SHE MADE TO YOU WHEN SHE SAW YOU  
24 WERE THE RESULT OF AN AGGRAVATION?" ANSWER: "YES."  
25 IT GOES ON, AND SHE ANSWERS: "IF SOMEONE HAS VERY

1           TRAUMATIC EXPERIENCE AS A CHILD, ESPECIALLY TO DO  
2           WITH SEXUAL ASSAULT, IF THAT DID HAPPEN, IT CAN BE  
3           VERY EASILY TRIGGERED MENTALLY AND EMOTIONALLY BY A  
4           SMALL DEGREE OF THAT IN THE FUTURE." AND IT'S OUR  
5           CONTENTION THAT THAT ESTABLISHES AGGRAVATION OF A  
6           PREEXISTING CONDITION AND COMPENSABILITY.

7           THE MORE DIFFICULT QUESTION IN THIS CASE, YOUR  
8           HONOR, IS THE REMEDY. OF COURSE, WE CONTEND THAT  
9           SHE IS ENTITLED TO CONTINUED MEDICAL TREATMENT AT  
10          THE HANDS OF DR. HICKS AND PSYCHOLOGICAL,  
11          PSYCHIATRIC TREATMENT ON THE REFERRAL BY DR. HICKS.  
12          THAT TREATMENT HAS BEEN SPOTTY AT BEST, AND IN NO --  
13          IN PART DUE TO MS. STEWART AND HER INCONSISTENT  
14          VISITS WITH DR. HICKS. I WOULD CONTEND, YOUR HONOR,  
15          THAT THAT IS PART AND PARCEL OF THE INJURY ITSELF AS  
16          WELL. HOWEVER, I THINK MS. STEWART UNDERSTANDS THAT  
17          IF SHE IS TO GET BETTER, SHE NEEDS TO HAVE  
18          TREATMENT, SHE NEEDS TO TAKE MEDICATION, AND THAT IF  
19          THE COMMISSION FINDS THIS CASE COMPENSABLE, THAT  
20          WILL BE A REQUIREMENT OF HER CONTINUED ELIGIBILITY  
21          FOR BENEFITS BY STATUTE.

22          THE OTHER QUESTION IS ENTITLEMENT TO INDEMNITY  
23          BENEFITS. DR. -- AND YOU WILL READ IN THE  
24          DEPOSITION, AND I WON'T RECITE IT AGAIN, BUT APA  
25          PAGE 36, I THINK, IS AN FMLA STATEMENT SIGNED BY DR.

1 HICKS THAT INDICATES THAT THE CLAIMANT WAS OUT OF  
2 WORK FROM MAY 18TH, 2020, TO NOVEMBER 5TH OF 2020.  
3 OF COURSE, SHE LEFT WORK IN MARCH, BUT I THINK THE  
4 TREATMENT DIDN'T REALLY START UNTIL MAY. SHE WRITES  
5 HER OUT FROM MAY UNTIL NOVEMBER. DR. HICKS  
6 TESTIFIES THAT SHE DIDN'T ENDORSE FURTHER FMLA  
7 BECAUSE OF NONCOMPLIANCE WITH MEDICAL TREATMENT.  
8 THAT SOMEWHAT SHORT-CIRCUITS THE PROVINCE OF THIS  
9 JURISDICTION, COMMISSIONER. THAT'S NOT REALLY THE  
10 DOCTOR'S ROLE, BUT I UNDERSTAND, AND I THINK THAT  
11 DR. HICKS CAME TO THAT WITH A LOT OF HONESTY AND  
12 WITH A LOT OF DESIRE TO MAKE MS. STEWART BETTER.

13 SO, AT THIS POINT THE CLAIMANTS CONTEND  
14 ENTITLEMENT TO THAT PERIOD OF TEMPORARY TOTAL AS  
15 WELL AS THE MEDICAL TREATMENT, AND THEN WHAT THE  
16 DOCTORS SAY FROM THAT POINT FORWARD, WE WILL  
17 ADDRESS.

18 I KNOW THE DEFENSE CONTENDS THAT, I THINK,  
19 BECAUSE DR. HICKS SAW HER ON TWO OCCASIONS THERE AND  
20 WROTE HER OUT ON THOSE TWO OCCASIONS, THAT IT REALLY  
21 WASN'T A FULL PERIOD BETWEEN MAY AND NOVEMBER. YOUR  
22 HONOR, YOU WILL READ THAT DEPOSITION TESTIMONY FOR  
23 YOURSELF, AND I DON'T NEED TO RECITE ALL THAT TO  
24 YOU. WE DON'T AGREE WITH THAT VIEW.

25 BUT THAT'S THE -- THAT'S THE CLAIMANT'S CASE,

1 COMMISSIONER.

2 **BY THE COMMISSIONER:**

3 ALL RIGHT. THANK YOU. ALL RIGHT, MS.

4 YARBROUGH.

5 **BY MS. YARBROUGH:**

6 THANK YOU, YOUR HONOR. IT'S THE DEFENDANTS'  
7 CONTENTION THAT, FIRST OF ALL, TO GET PAST THE  
8 PHYSICAL/MENTAL ARGUMENT THAT MR. WUKELA MAKES  
9 INITIALLY, UNDER SOUTH CAROLINA CODE SECTION 42-1-  
10 160, THE INJURY -- OR THE MENTAL INJURY MUST BE  
11 ACTUALLY ACCOMPANIED BY A PHYSICAL INJURY, NOT THAT  
12 SHE WAS ACTUALLY TOUCHED OR GROPED OR GRABBED BY --  
13 HER BODY WAS ACTUALLY TOUCHED DURING THE INCIDENT.  
14 SHE TESTIFIED IN THE DEPOSITION THAT SHE HAD NO  
15 PAIN, SHE WASN'T BEAT UP, NONE OF HER BODY PARTS  
16 WERE ACTUALLY HURT, AND MEDICAL RECORDS ALSO CONFIRM  
17 THAT SHE DIDN'T COMPLAIN OF ANY PHYSICAL INJURIES.

18 SO, IN THIS CASE, TO PREVAIL SHE ACTUALLY HAS  
19 TO MEET THE ELEMENTS OF A MENTAL/MENTAL INJURY UNDER  
20 42-1-160, AND TO DO THAT SHE MUST ESTABLISH, NUMBER  
21 ONE, THAT THE EMPLOYMENT CONDITIONS WERE  
22 EXTRAORDINARY AND UNUSUAL, AND YOU WILL HAVE THE  
23 VIDEO TO LOOK AT THE ENCOUNTER, THE LENGTH OF IT,  
24 MS. STEWART'S REACTION TO IT, AND WHAT SHE DID  
25 FOLLOWING IT. ALSO, THE CLAIMANT MUST ESTABLISH

1 MEDICAL CAUSATION BETWEEN THE MENTAL INJURY AND THE  
2 EMPLOYMENT CONDITIONS, AND THIS MUST BE ESTABLISHED  
3 BY MEDICAL EVIDENCE, AND UNDER THE STATUTE MEDICAL  
4 EVIDENCE MEANS EXPERT TESTIMONY TO A REASONABLE  
5 DEGREE OF MEDICAL CERTAINTY. IT IS A STATUTORY  
6 REQUIREMENT; IT'S NOT A COURTESY OR A PREFERRED  
7 LANGUAGE.

8 I THINK THAT MR. WUKELA MISCHARACTERIZES DR.  
9 HICKS' TESTIMONY, AND I KNOW HE POINTED OUT PAGE 17  
10 AND 18, AND I WOULD ACTUALLY HAVE YOU LOOK AT THAT  
11 AS WELL. THE QUESTION PRESENTED TO DR. HICKS WAS,  
12 "DO YOU HAVE AN OPINION TO A REASONABLE DEGREE OF  
13 MEDICAL CERTAINTY AS TO WHETHER THE COMPLAINTS SHE  
14 MADE WERE THE RESULT OF THE AGGRAVATION?" AND SHE  
15 RESPONDS, "YES," MEANING THAT SHE HAS AN OPINION.  
16 SHE THEN -- HE DOESN'T THEN ASK, "WHAT IS YOUR  
17 OPINION?" SHE WAS THEN ASKED DIRECTLY, "DO YOU HAVE  
18 AN OPINION TO A REASONABLE DEGREE OF MEDICAL  
19 CERTAINTY WHETHER THE CVS INCIDENT AGGRAVATED A  
20 PREEXISTING CONDITION," AND SHE RESPONDS, "YES,"  
21 MEANING THAT SHE HAS OPINION. SHE WASN'T  
22 SPECIFICALLY ASKED WHAT WAS HER OPINION, AND THAT'S  
23 JUST THE PLAIN LANGUAGE OF HER DEPOSITION TESTIMONY.  
24 SHE WASN'T DIRECTLY ASKED WHAT HER OPINION WAS, AND  
25 SHE NEVER STATED TO A REASONABLE DEGREE OF MEDICAL

1 CERTAINTY THAT THERE WAS A CAUSAL LINK BETWEEN ANY  
2 MENTAL INJURY AND THE INCIDENT AT CVS. AND, ALSO,  
3 THERE ARE NO MEDICAL RECORDS SUBMITTED INTO EVIDENCE  
4 USING THAT STATUTORY LANGUAGE ESTABLISHING THE  
5 CAUSAL LINK. ALSO, DR. HICKS IS A GENERAL  
6 PRACTITIONER. THE EXTENT OF HER PSYCHIATRIC  
7 TRAINING WAS ONE ROTATION DURING HER RESIDENCY. SHE  
8 COULDN'T IDENTIFY OFFHAND THE ELEMENTS OF  
9 POSTTRAUMATIC STRESS DISORDER, AND IN HER DEPOSITION  
10 SHE WASN'T ESTABLISHED AS AN EXPERT IN ANY FIELD AND  
11 SPECIFICALLY IN THE FIELD OF PSYCHIATRY.

12 WE PRESENTED IN OUR APA SUBMISSIONS EVIDENCE  
13 FROM A PSYCHIATRIST SKILLED IN EVALUATIONS OF  
14 PSYCHIATRIC CLAIMS, THAT'S DR. JOHN SNIPES, WHO  
15 EVALUATED MS. STEWART AND NOTED THAT SHE DID NOT  
16 SHOW SIGNS OF POSTTRAUMATIC STRESS DISORDER; SHE DID  
17 NOT ENDORSE SPECIFIC TRIGGERS, INCLUDING VACUUMING,  
18 WHICH IS WHAT SHE WAS DOING AT THE TIME OF THE  
19 INCIDENT, AND I THINK HIS REPORT IS VERY  
20 INFORMATIVE. HE OPINED TO A REASONABLE DEGREE OF  
21 PSYCHIATRIC CERTAINTY THAT SHE DID NOT HAVE PTSD  
22 BUT, RATHER, SHE WAS SHOWING SIGNS OF DEPRESSION,  
23 WHICH WERE NOT RELATED TO THE INCIDENT AT CVS BUT,  
24 RATHER, RELATED TO HER LIFE STRESSORS FOLLOWING HER  
25 BECOMING HOMELESS AND ALSO HER FINANCIAL STRAIN. WE

1 WILL ALSO IDENTIFY SOME CREDIBILITY ISSUES TODAY.

2 BECAUSE IT'S NOT COMPENSABLE, WE ARGUE THAT SHE  
3 IS NOT ENTITLED TO TEMPORARY TOTAL DISABILITY  
4 BENEFITS, BUT IN THE ALTERNATIVE, IF YOU DO BELIEVE  
5 IT'S COMPENSABLE, WE BELIEVE THAT SHE'S ONLY  
6 ENTITLED TO TWO MONTHS AT THE MOST, ONE MONTH AFTER  
7 MAY 18TH, 2020, AND ONE MONTH AFTER AUGUST 11TH,  
8 2020. AND IF YOU LOOK SPECIFICALLY AT DR. HICKS'  
9 TESTIMONY ON PAGE 39 AND 40, SHE LIMITED THE TIME  
10 SHE TOOK HER OUT OF WORK TO THOSE PERIODS OF TIME,  
11 AND DR. HICKS SPECIFICALLY EXPLAINED ON PAGE 32 THAT  
12 SHE ONLY GAVE HER A NOTE TO BE OUT OF WORK ON MAY  
13 18TH FOR ONE MONTH UNTIL HER NEXT VISIT, AND THEN  
14 SHE EXPLAINED ON PAGE 39 AND 40 THAT SHE ONLY TOOK  
15 HER OUT FOR ONE MONTH AFTER THE MAY 18TH AND AUGUST  
16 11TH OF 2020 VISITS, AND THAT SHE SPECIFICALLY  
17 DIDN'T WRITE HER OUT AFTER THE OCTOBER 5TH VISIT  
18 BECAUSE SHE WAS NONCOMPLIANT WITH HER FOLLOW-UP  
19 VISITS IN JUNE AND SEPTEMBER. SHE WAS CONFRONTED  
20 WITH THAT FMLA STATEMENT. SHE CLARIFIED HER  
21 TESTIMONY IN THE DEPOSITION, AND THE ABILITY TO  
22 CROSS EXAMINE HER ON THAT TESTIMONY WAS AVAILABLE,  
23 AND SHE DIDN'T CHANGE HER OPINION IN THAT REGARD,  
24 AND THAT'S OUR POSITION.

25 ALSO, SHE FILED FOR UNEMPLOYMENT BENEFITS AT

1            THAT TIME CERTIFYING DURING THAT SAME PERIOD OF TIME  
2            ON MAY 21ST, 2020, THAT SHE WAS READY, WILLING, AND  
3            ABLE TO WORK TO QUALIFY FOR BENEFITS. SO, IT'S OUR  
4            OPINION THAT SHE COULD HAVE WORKED DURING THAT  
5            PERIOD OF TIME, AS SHE REPORTED TO THE UNEMPLOYMENT  
6            COMMISSION.

7            PER DR. SNIPES, HE REPORTED THAT THE CLAIMANT  
8            IS CAPABLE OF WORKING AND THAT THE CLAIMANT AGREED  
9            WITH THAT ASSESSMENT AT THE EVALUATION, AND NO  
10           DOCTOR HAS TAKEN HER OUT OF WORK SINCE ONE MONTH  
11           FOLLOWING THE AUGUST 11TH, 2020, VISIT.

12           WITH REGARD TO FUTURE MEDICAL TREATMENT, WE  
13           CONTEND THAT MS. STEWART RECEIVED MEDICAL TREATMENT  
14           FROM DR. HICKS. SHE WAS NOTED TO BE NONCOMPLIANT  
15           WITH TREATMENT IN TERMS OF TAKING MEDICATION  
16           PRESCRIBED, ATTENDING VISITS AS SCHEDULED, AND GOING  
17           TO COUNSELING. IN HER DEPOSITION TESTIMONY, ON PAGE  
18           19 SPECIFICALLY, DR. HICKS SAID THAT IF MS. STEWART  
19           FEELS THAT SHE'S COMPLETELY RECOVERED AND NO LONGER  
20           NEEDS COUNSELING FOR THE INCIDENT, THEN SHE DOESN'T  
21           NEED IT. AND DR. SNIPES NOTED THAT MS. STEWART SAID  
22           SHE DID NOT FEEL SHE NEEDED ANY PSYCHIATRIC  
23           TREATMENT RIGHT NOW RELATED TO THE WORK INCIDENT BUT  
24           WAS HAPPY WITH THE THERAPY SHE WAS RECEIVING AND  
25           FOCUSED ON GETTING HER LIFE BACK ON TRACK.

1 SO, THAT'S OUR CONTENTION.

2 **BY THE COMMISSIONER:**

3 OKAY. THANK YOU. ALL RIGHT. ANYTHING FURTHER  
4 BEFORE TESTIMONY?

5 **BY MR. WUKELA:**

6 JUST VERY BRIEFLY. AS TO MENTAL/MENTAL, AS  
7 YOUR HONOR UNDERSTANDS, THE STATUTE QUITE RIGHT DOES  
8 SAY THAT, 42-1-160, THAT WHERE INJURIES ARE  
9 UNACCOMPANIED BY PHYSICAL INJURY, SHE'D HAVE TO  
10 PROVE UNUSUAL AND EXTRAORDINARY. OF COURSE, WE  
11 CONTEND THAT THIS MEETS THAT STANDARD, UNUSUAL AND  
12 EXTRAORDINARY. BUT IN ANY EVENT, THE STATUTE  
13 DOESN'T REQUIRE PERMANENCY, AND THE CASE LAW HAS  
14 CONSISTENTLY -- THOUGH I'M NOT AWARE OF A CASE THAT  
15 DIRECTLY ADDRESSES THIS ISSUE, THE CASE LAW HAS  
16 CONSISTENTLY HELD THAT A MENTAL/MENTAL CASE IS A  
17 PURELY MENTAL INJURY, NOT -- RESULTING ONLY FROM  
18 EMOTIONAL STIMULI, AND THAT WAS NOT THE CASE IN THIS  
19 CASE. HAD THERE NOT BEEN PHYSICAL CONTACT BETWEEN  
20 THAT PERSON AND MS. STEWART, WE WOULD NOT BE HERE  
21 TODAY.

22 AND AS TO DR. HICKS' TESTIMONY, I THINK THAT  
23 THE DEPOSITION TESTIMONY SPEAKS FOR ITSELF, AND I  
24 THINK WHAT DR. HICKS' OPINIONS ARE ARE PRETTY  
25 EVIDENT IN THAT DEPOSITION.

1 **BY THE COMMISSIONER:**

2           THANK YOU. ALL RIGHT. MADAM COURT REPORTER,  
3           WILL YOU PLEASE PLACE MS. STEWART UNDER OATH.

4 **BY MADAM COURT REPORTER:**

5           MA'AM, IF YOU WOULD RAISE YOUR RIGHT HAND,  
6           PLEASE.

7                   \* \* \* \* \*           \* \* \* \* \*           \* \* \* \* \*

8           THE WITNESS WAS DULY SWORN TO TELL THE TRUTH, THE  
9           WHOLE TRUTH, AND NOTHING BUT THE TRUTH CONCERNING THE  
10          MATTER HEREIN:

11                               **TAKARA L. STEWART,**

12           BEING FIRST DULY SWORN, TESTIFIED ON HER OATH AS  
13          FOLLOWS:

14 **BY THE COMMISSIONER:**

15           MR. WUKELA.

16 **DIRECT EXAMINATION BY MR. WUKELA:**

17          Q.    WHAT'S YOUR NAME?

18          A.    TAKARA STEWART.

19          Q.    HOW OLD ARE YOU?

20          A.    THIRTY-THREE.

21          Q.    WHERE WERE YOU BORN?

22          A.    SAVANNAH, GEORGIA.

23          Q.    AND WHAT KIND OF WORK HAVE YOU DONE IN YOUR  
24          BACKGROUND?

25          A.    I'VE DONE -- MOST OF IT HAS BEEN DENTAL ASSISTING.

1 I DID NINE YEARS D.O.D. AND ONE YEAR WITH THE V.A.

2 Q. THE DEPARTMENT OF DEFENSE AND ---

3 A. DEPARTMENT OF DEFENSE.

4 Q. --- AND VETERANS ADMINISTRATION?

5 A. YES.

6 **BY THE COMMISSIONER:**

7 CAN YOU SPEAK UP A LITTLE BIT?

8 **BY THE WITNESS:**

9 OH, SURE.

10 **DIRECT EXAMINATION RESUMED BY MR. WUKELA:**

11 Q. AND AT SOME POINT YOU CAME TO FLORENCE?

12 A. I DID. I WENT BACK TO -- I DECIDED TO GO BACK TO  
13 SCHOOL IN AUGUST OF 2018. SO, I RESIGNED FROM THE  
14 V.A., AND I OPTED TO MOVE TO A MORE ECONOMICAL AREA,  
15 YOU KNOW, 'CAUSE IT WAS -- I WAS MORE OF A -- A  
16 LITTLE MORE COST-EFFICIENT.

17 Q. I THINK THE COURT WILL TAKE JUDICIAL NOTICE OF THE  
18 FACT THAT FLORENCE IS CHEAPER THAN SAVANNAH.

19 A. AT THE TIME, IT WAS CHEAPER THAN NORTH CAROLINA,  
20 WHICH WAS WHERE I WAS WORKING AT THE V.A., IN  
21 DURHAM. SO, BEING A SINGLE MOM, OF COURSE, AND  
22 MAKING THAT DECISION, I THOUGHT THAT WOULD BE A  
23 BETTER FIT. SO ---

24 Q. HOW OLD IS YOUR CHILD?

25 A. SHE'S 12. SHE'LL BE 13 IN SEPTEMBER.

1 Q. I'M SORRY; GO AHEAD. SO YOU WENT TO FLORENCE.

2 A. I WENT TO FLORENCE. I ENROLLED AT MARION -- FRANCIS  
3 MARION UNIVERSITY, AND, YOU KNOW, I JUST -- I WAS A  
4 FULL-TIME STUDENT, YOU KNOW, FOR A WHILE. AND THEN  
5 I...

6 Q. AND WHAT WERE YOU STUDYING?

7 A. DENTISTRY. WELL, I'M GETTING AN UNDERGRAD BACHELOR  
8 OF SCIENCE.

9 Q. OKAY. NOW, SO YOU DON'T HAVE ANY -- OTHER THAN THE  
10 WORK AT FRANCIS MARION, DO YOU HAVE ANY OTHER  
11 CERTIFICATES, OR DID YOU GRADUATE HIGH SCHOOL?

12 A. I GRADUATED HIGH SCHOOL IN 2006. I ENROLLED AT  
13 SAVANNAH TECH IN JANUARY OF 2007, AND THEN I TOOK UP  
14 DENTAL ASSISTING -- DENTAL OFFICE MANAGEMENT WHILE  
15 WAITING TO GET ACCEPTED INTO DENTAL ASSISTING, AND I  
16 GRADUATED WITH BOTH IN 2009.

17 Q. AND THOSE WOULD HAVE BEEN ASSOCIATE'S DEGREES?

18 A. THOSE WERE BOTH DIPLOMAS.

19 Q. NOT BACHELOR'S DEGREES?

20 A. NOT BACHELOR'S.

21 Q. NOT FOUR-YEAR DEGREES?

22 A. RIGHT. RIGHT, NOT FOUR-YEAR DEGREES.

23 Q. I GOT IT. YOU'VE GOT MUCH MORE EDUCATION IN DENTAL  
24 ASSISTING THAN I HAVE, I PROMISE YOU. AND SO THEN  
25 YOU WENT TO FRANCIS MARION IN HOPES OF GETTING A

1           FOUR-YEAR DEGREE?

2           A.    RIGHT.  BECAUSE I WAS STILL RECEIVING A PELL GRANT  
3                    RECIPIENT AND I HADN'T RECEIVED A BACHELOR'S, I WAS  
4                    STILL ELIGIBLE FOR, YOU KNOW, FINANCIAL AID, AND I  
5                    HAVE ACCRUED SOME LOANS, OR WHAT HAVE YOU.  I WAS  
6                    JUST PURSUING THOSE PREREQS BECAUSE, FROM MY  
7                    UNDERSTANDING, I DIDN'T NEED A FULL BACHELOR'S, I  
8                    JUST NEEDED LIKE THE PREREQS, LIKE THE SCIENCE AND  
9                    MATH, AND SO I WAS WORKING TO GET THOSE COMPLETED,  
10                   THEN TO, YOU KNOW, FAST-FORWARD TO WORK ON GETTING  
11                   ACCEPTED INTO DENTAL SCHOOL, OR WHAT HAVE YOU.

12          Q.    OKAY.  SO, YOU HAD SOME PELL GRANTS; YOU HAD SOME  
13                   STUDENT LOANS?

14          A.    MM-HMM.

15          Q.    YOUR CHILD WAS LIVING WITH YOU IN FLORENCE?

16          A.    YES.

17          Q.    AND YOU GUYS HAD AN APARTMENT?

18          A.    YES.

19          Q.    AND YOU ---

20          A.    A DUPLEX.

21          Q.    YOU WERE WORKING?

22          A.    MM-HMM.

23          Q.    AND WHERE WERE YOU WORKING?

24          A.    I DID LIKE -- ONE SUMMER I DID LIKE CONTRACT WORK AT  
25                   SUMTER, IT'S SHAW AIR FORCE BASE, WORKING AS A

1 DENTAL ASSISTING, AND THEN I'M NOT SURE IF IT WAS  
2 THAT OCTOBER MS. HANNA OFFERED ME THE POSITION AT  
3 CVS AS A SHIFT SUPERVISOR. SO, I WAS A SHIFT  
4 SUPERVISOR TRAINEE.

5 Q. AND THAT WAS THERE IN FLORENCE?

6 A. YES.

7 Q. OKAY. THAT WAS CLOSER THAN -- TO FRANCIS MARION  
8 THAN THE OTHER JOB IN SUMTER?

9 A. RIGHT, RIGHT. THE SUMTER JOB WAS ABOUT A 30- TO 40-  
10 MINUTE RIDE TO AND FROM.

11 Q. OKAY. AND I'M STILL TALKING ABOUT BEFORE THE  
12 INCIDENT, BUT HOW DID YOU LIKE WORKING THERE? HOW  
13 WAS THE JOB; HOW WAS MS. HANNA; HOW WAS THE WORK?

14 A. WELL, I WAS ELATED THAT SHE OFFERED THE POSITION TO  
15 ME BECAUSE, OF COURSE, I WAS, YOU KNOW, UPHOLDING  
16 SCHOOL AND THE LIVELIHOOD FOR ME AND MY DAUGHTER.  
17 SO, I WASN'T GOING ABOUT IT AS IF I DIDN'T HAVE TO  
18 WORK AT ALL. I JUST FELT LIKE WITH A PART-TIME  
19 POSITION I COULD UPHOLD THAT RENT, WHICH WAS A LOT  
20 CHEAPER THAN WHERE I WAS IN NORTH CAROLINA. SO, SHE  
21 EXTENDED THE JOB OFFER TO ME, AND I JUST STARTED  
22 WORKING. YOU KNOW, SHE WAS -- SHE WAS MORE THAN  
23 WILLING TO WORK AROUND MY SCHOOL SCHEDULE, AND  
24 THAT'S PRETTY MUCH HOW IT WENT, YOU KNOW. I WOULD  
25 WORK -- GO TO SCHOOL DURING THE DAY, WORK IN THE

1 EVENINGS MOSTLY, SOME -- MOSTLY ON WEEKENDS, TOO.

2 Q. TELL THE COMMISSIONER WHAT HAPPENED. WE'RE HERE  
3 ABOUT THIS INCIDENT THAT HAPPENED ON DECEMBER THE  
4 26TH.

5 A. YES.

6 Q. TELL US WHAT HAPPENED.

7 A. WELL, IT WAS ME AND ONE OTHER COLLEAGUE, AND THAT  
8 PARTICULAR COLLEAGUE, SHE LEFT AT EIGHT, SO I WAS  
9 BASICALLY UP AT THE FRONT OF THE STORE BY MYSELF.  
10 THERE WASN'T ANYONE ELSE UP THERE WITH ME, AND IT  
11 WAS -- A LITTLE AFTER SHE LEFT I STARTED, YOU KNOW,  
12 LIKE BASIC CLOSING STUFF, LIKE STOCKING BAGS AND  
13 JUST, YOU KNOW, VACUUMING AND STUFF, THINGS OF THAT  
14 NATURE. AND SO, YOU KNOW, AS I WAS VACUUMING THE  
15 FOYER WHEN YOU FIRST WALK INTO THE STORE, I WAS, YOU  
16 KNOW -- 'CAUSE THAT WAS JUST ONE THING THAT SHE  
17 EXPECTED US TO DO. I SAW IN MY PERIPHERAL VISION  
18 THAT SHE -- THAT THE CUSTOMER WAS APPROACHING THE  
19 STORE -- ABOUT TO LEAVE THE STORE, AND SO I GOT OUT  
20 OF THE WAY. I HAD MY RIGHT HAND ON THE VACUUM, AND  
21 I HAD MY OTHER HAND BRACING THE DOOR, BUT I GOT OUT  
22 OF THE WAY SO SHE CAN GO PAST ME, BUT SHE DIDN'T,  
23 AND SHE -- SHE GRABBED ME AND -- SHE GRABBED ME, AND  
24 SHE -- SHE LIKE REALLY GRABBED ME, AND SHE DID LIKE  
25 THIS, AND SHE WAS LIKE YOU GOT A BIG, OL' BUTT;

1            THAT'S A BIG, OL' BUTT, AND SHE JUST LEFT OUT OF THE  
2            STORE. AND I DON'T KNOW WHO SHE WAS, AND LIKE A LOT  
3            OF OTHER PEOPLE WAS LIKE, DO YOU KNOW -- LIKE THE  
4            INVESTIGATOR, SARAH MILLER, SHE WAS LIKE, "DO YOU  
5            KNOW WHO SHE IS?" AND I WAS LIKE, "NO, I DON'T. I  
6            DON'T KNOW WHO SHE IS."

7            Q.    NOW, YOU'VE INDICATED THAT YOU REPORTED THAT TO THE  
8            POLICE DEPARTMENT?

9            A.    YES, AND WHEN I FILED THE POLICE REPORT, THE OFFICER  
10           WAS LIKE, YOU SHOULD HAVE SMACKED HER, AND I WAS --  
11           THE ONLY THING I WAS THINKING ABOUT WAS I DON'T HAVE  
12           ANY FAMILY HERE AND I NEED TO GET BACK TO MY KID.  
13           YOU KNOW WHAT I MEAN? SO, I DON'T KNOW; MAYBE IT  
14           WAS A STATE OF SHOCK. BUT I DID FEEL LIKE, YOU  
15           KNOW, I WAS ASSAULTED, AND I HAVE NO RECOLLECTION OF  
16           WHO THIS PERSON IS. I DON'T EVEN KNOW HER NAME. I  
17           REMEMBER SHE HAD BLOND HAIR, AND, YOU KNOW, SHE WAS  
18           A CAUCASIAN FEMALE. BUT, YEAH, SHE JUST -- IT  
19           HAPPENED SO FAST, AND I HAD A LOT ON ME.

20                        SO, ALTHOUGH I WAS A SUPERVISOR TRAINEE, THERE  
21           WAS NO SECURITY THERE. THERE WAS NOBODY ELSE THERE  
22           WITH ME, YOU KNOW, SO I HAD THIS HUGE OBLIGATION OF  
23           CLOSING THE STORE, AND I DIDN'T WANT THAT TO FALL ON  
24           ME EITHER. YOU KNOW WHAT I MEAN? SO IT WAS A LOT  
25           ON ME AT ONE PARTICULAR TIME. SO I CLOSED -- I DID

1           WHAT I WAS SUPPOSED TO DO; I CLOSED THE STORE, AND,  
2           YOU KNOW -- YOU KNOW, I WAS JUST TRYING TO MAKE  
3           SENSE OF IT. I CALLED MY AUNT, MY DAD'S SISTER, WHO  
4           I'M REALLY CLOSE WITH, AND SHE WAS LIKE YOU NEED TO  
5           -- YOU NEED TO CALL THE POLICE. YOU NEED TO -- YOU  
6           NEED TO DEAL WITH THIS; SO...

7           Q.   NOW, HAD -- HAD YOU EVER HAD A SEXUAL ASSAULT IN THE  
8           PAST?

9           A.   I HAD WHEN I WAS -- WHEN I WAS A LOT YOUNGER, BY MY  
10          MOM'S BROTHER, OLDER BROTHER.

11          Q.   HOW OLD WOULD YOU HAVE BEEN AT THE TIME?

12          A.   I WAS A LOT YOUNGER THAN MY DAUGHTER, AND IT WAS A  
13          SITUATION WHERE IT WAS A HUGE FAMILY AND A LOT OF  
14          STUFF GETS SWEEPED UNDER THE RUG, AND I WAS TOLD YOU  
15          BETTER NOT SAY NOTHING. SO, I DEALT -- I DEALT WITH  
16          IT. I DISTANCED MYSELF. I TRIED STAYING AWAY. I  
17          WOULD ALWAYS OPT TO GO TO MY DAD'S. AND THEN, OF  
18          COURSE, WHEN I GOT -- BECAME AN ADULT, I MOVED  
19          AWAY, AND I'VE BEEN -- I'VE BEEN AWAY SINCE I'VE  
20          BEEN 17, YOU KNOW. SO, YEAH.

21          Q.   OKAY. NOW, SO YOU FILLED OUT THE ETHICS FORM, AND  
22          YOU TALKED TO THE POLICE DEPARTMENT. WE ALSO HAVE  
23          SOME RECORDS OF TEXTS BETWEEN YOU AND A PERSON BY  
24          THE NAME OF LINDA DAVIS.

25          A.   YES.

1 Q. WHO IS LINDA DAVIS?

2 A. SHE WAS THE -- THE COUNSELOR THAT WAS ELECTED FOR  
3 THE E.A.P. PROGRAM, AND I, YOU KNOW, WENT TO SEE HER  
4 A FEW TIMES. WE BUILT RAPPORT. AND WHEN COVID --  
5 WHILE EVERYTHING WAS GOING ON, SHE WAS, YOU KNOW,  
6 HELPING ME TO MITIGATE THROUGH EVERYTHING, TO  
7 CONFRONT EVERYTHING, FROM SITTING, LOOKING -- OR  
8 TRYING TO VISUALIZE THE PERPETRATOR IS IN A CHAIR,  
9 LIKE JUST TRYING TO GET ME TO GET EVERYTHING OUT, OR  
10 WHATEVER. SO SHE -- YOU KNOW, SHE WAS, YOU KNOW,  
11 PRETTY CONSISTENT WITH TREATMENT, AND WHEN COVID  
12 BROKE SHE WAS LIKE, "I'M NOT OPENING MY OFFICE  
13 ANYMORE. I'M NOT -- YOU KNOW, I'M NOT SEEING  
14 ANYBODY ANYMORE." AND SO, I UNDERSTOOD BECAUSE, OF  
15 COURSE, COVID WAS -- IT'S A BIG THING. AND SO, I  
16 DIDN'T COMPLETE MY VISITS THROUGH E.A.P., AND I WAS  
17 OUT ON MY OWN LOOKING FOR COUNSELING, AND I THINK  
18 DR. HICKS REFERRED ME TO ANETTA HOPKINS.

19 Q. OKAY. BEFORE I GET YOU THERE, I'M LOOKING AT -- WE  
20 HAVE TEXTS BACK AND FORTH BETWEEN YOU AND MS. DAVIS.

21 **BY MR. WUKELA:**

22 I'M LOOKING AT APA THREE, PAGE SIX,  
23 COMMISSIONER.

24 **DIRECT EXAMINATION RESUMED BY MR. WUKELA:**

25 Q. THERE'S A TEXT HERE ON MARCH THE 10TH FROM YOU TO

1 MS. DAVIS, AND I'M NOT GOING TO READ THE WHOLE  
2 THING, BUT YOU TALK ABOUT CONCERN ABOUT RETALIATION?

3 A. YES. THE PERPETRATOR HAD BEEN ARRESTED, AND, YOU  
4 KNOW, IT WAS -- IT WAS JUST, YOU KNOW, THE FACT THAT  
5 I WASN'T THERE; I DIDN'T HAVE ANY FAMILY, AND SO I  
6 -- I DIDN'T KNOW LIKE WHAT TO EXPECT NOW THAT SHE  
7 WAS -- OR SHE HAD BEEN ARRESTED, OR WHATEVER. SO, I  
8 -- IT STIRRED UP A LOT FOR ME BECAUSE I WAS -- I WAS  
9 -- I DIDN'T KNOW LIKE WHAT TO EXPECT AS FAR AS HER  
10 GETTING ARRESTED.

11 Q. ALL RIGHT. WE'VE ALSO GOT MS. HANNA HERE, AND WE'LL  
12 TALK TO HER ABOUT THIS, AND WE'VE TAKEN HER  
13 DEPOSITION, BUT THERE WAS SOME TESTIMONY ABOUT A  
14 MEETING THAT HAPPENED BETWEEN YOU AND MS. HANNA ON  
15 MARCH THE 13TH, JUST A FEW DAYS AFTER THAT TEXT. DO  
16 YOU REMEMBER THAT, WHEN YOU WENT AND SPOKE WITH MS.  
17 HANNA?

18 A. I'M NOT SURE. OH, WHEN I -- I GUESS I WAS -- SHE --  
19 SHE CONFRONTED ME -- WELL, COMFORTED ME, AND SHE  
20 TOLD ME THAT SHE KNEW THAT I COULD GET PAST THIS, OR  
21 WHATEVER, AND I KEPT THE STORE KEYS, EVERYTHING,  
22 BECAUSE SHE -- SHE WAS ENCOURAGED AND CONFIDENT IN  
23 THAT, YOU KNOW, I WOULD -- I WOULD BE COMING BACK  
24 OR, YOU KNOW, I WOULD GET PAST THIS AND THINGS WOULD  
25 GET BETTER. AND SHE, YOU KNOW, EVEN SPOKE ON MY --

1 ON MY FAITH IN GOD, OR WHATEVER, AND SHE WAS LIKE,  
2 "YOU CAN GET PAST THIS; YOU CAN DO IT," YOU KNOW.  
3 SHE SAID, "I BELIEVE YOU CAN DO IT; YOU CAN GET PAST  
4 IT." AND SO, I ASKED, YOU KNOW -- I NEEDED THAT  
5 TIME, YOU KNOW.

6 Q. DURING THAT CONVERSATION WITH MS. HANNA, DID YOU  
7 TELL HER ABOUT YOUR CONCERNS, HOW YOU WERE FEELING,  
8 THE ANXIETY YOU FELT?

9 A. I DID. I TOLD HER JUST NOT KNOWING WHO THE  
10 PERPETRATOR WAS AND NOT KNOWING, YOU KNOW, WHAT  
11 MENTAL STATE THEY MAY HAVE BEEN IN, I WAS -- I WAS  
12 AFRAID. I WAS AFRAID BECAUSE, I MEAN, SHE FELT  
13 COMFORTABLE ENOUGH TO DO WHAT SHE DID, BUT, YOU  
14 KNOW, BEING THAT SHE HAD BEEN ARRESTED, AND ALTHOUGH  
15 THEY TOLD ME ONCE SHE WAS RELEASED AND SHE WAS TO  
16 STAY AWAY FROM ME, I STILL DIDN'T FIND ANY  
17 COMFORTABILITY WITH THAT AT ALL.

18 Q. DID YOU TELL MS. HANNA ABOUT YOUR HISTORY, ABOUT  
19 WHAT HAPPENED TO YOU WHEN YOU WERE A CHILD?

20 A. I TOLD HER I HAD A PAST OF BEING ASSAULTED, OR  
21 WHATEVER, AND, YOU KNOW, IT JUST KIND OF AGGRAVATED  
22 AND, YOU KNOW, STIRRED UP A LOT OF, YOU KNOW,  
23 ANXIETY.

24 Q. AND IT'S AT THAT POINT THAT YOU LEAVE WORK WITH CVS?

25 A. YES. SHE -- MS. HANNA, HERSELF, SHE INSTRUCTED ME,

1 SHE SAID, "I CANNOT GIVE YOU THAT AMOUNT OF TIME  
2 OFF," BUT SHE SAID, "SUBMIT THE LEAVE THROUGH H.R."  
3 AND I DID EXACTLY WHAT SHE TOLD ME TO DO, AND THEN  
4 IT WENT FROM THERE.

5 Q. DID CVS EVER OFFER YOU WORK AT ANOTHER CVS, PERHAPS,  
6 ONE THAT MAYBE THAT THAT LADY DIDN'T GO TO?

7 A. NO.

8 Q. AND YOU SAY THAT IT'S AFTER THAT THAT YOU START --  
9 YOU'RE SEEING DR. HICKS?

10 A. CORRECT.

11 Q. OKAY. AND THAT'S YOUR FAMILY DOCTOR?

12 A. RIGHT.

13 Q. AND THEN SUBSEQUENT TO THAT, DR. HICKS ALSO REFERRED  
14 YOU TO THIS COUNSELOR, ANETTA HOPKINS?

15 A. RIGHT.

16 Q. NOW, AFTER THAT, YOU HAD BEEN OUT OF WORK FOR A  
17 PERIOD OF TIME. WHAT WAS THE SITUATION WITH YOUR  
18 FINANCES?

19 A. OF COURSE, BEING UNEMPLOYED, THE ONLY THING THAT I  
20 REALLY HAD THAT I WAS KIND OF PINCHING OFF OF TRYING  
21 TO MAKE ENDS MEET WAS PROBABLY -- I BELIEVE WE HAD  
22 RECEIVED MAYBE A STIMULUS AND MAYBE SCHOOL, AND, OF  
23 COURSE, CHILD SUPPORT. BUT OTHER THAN THAT, I  
24 DIDN'T REALLY HAVE ANY, YOU KNOW, WORKING INCOME  
25 COMING IN. SO, I DID -- I DID WHAT I COULD DO WITH

1           WHAT I HAD AND...

2           Q.   NOW, AT SOME POINT ---

3           BY MR. WUKELA:

4                       WE'RE AT APA SEVEN, COMMISSIONER, PAGE 34.

5           DIRECT EXAMINATION RESUMED BY MR. WUKELA:

6           Q.   --- IS A NOTICE OF EVICTION THAT YOU RECEIVED ON MAY  
7                       THE 27TH?

8           A.   RIGHT.  AND I WAS IN COMMUNICATION WITH MY LANDLORD,  
9                       AND THEY WERE WORKING WITH ME FOR AS LONG AS THEY  
10                      COULD, YOU KNOW.

11          Q.   BUT ULTIMATELY, YOU LOST THAT APARTMENT?

12          A.   RIGHT.

13          Q.   WAS THAT AT THAT POINT IN MAY 27TH OF 2000?

14          A.   YEAH.  I COULDN'T PAY, AND THEN, OF COURSE, BECAUSE  
15                      I DIDN'T VACATE UNTIL, I WANT TO SAY -- WAS IT THE  
16                      END OF JUNE, EARLY JULY?  I'M NOT SURE OF THE EXACT  
17                      DATE, BUT I KNOW IT WAS THAT SUMMER.  AND I LEFT  
18                      WITH A BALANCE, OR WHAT HAVE YOU.

19          Q.   AND SO, THEN WHEN YOU VACATED THE APARTMENT, YOU AND  
20                      YOUR DAUGHTER, WHERE DID YOU GO?

21          A.   I WENT TO LIVE WITH THE SAME AUNT THAT I CALLED.  
22                      SHE OPENED HER HOUSE TO ME AND MY DAUGHTER; SO...

23          Q.   NOW, THIS IS YOUR FATHER'S SISTER?

24          A.   MM-HMM.  YEAH.

25          Q.   AND HAVE YOU -- AND SHE IS IN SAVANNAH?

1           A.    MM-HMM.

2           Q.    IS THAT A YES?

3           A.    YES; I'M SORRY.  I'M SORRY; YES.

4           Q.    THIS COURT REPORTER IS TAKING EVERYTHING DOWN.

5           A.    I'M SORRY; YES.

6           Q.    AND HAVE YOU BEEN WITH HER EVER SINCE?

7           A.    YES.

8           Q.    HAVE YOU MADE ANY ATTEMPTS TO HAVE COUNSELING OR SEE

9           DOCTORS SINCE YOU'VE BEEN IN SAVANNAH?

10          A.    I STARTED TALKING WITH -- HER AND I HAD STARTED

11          RECENTLY.  IS IT BRENDA GRAHAM?

12          Q.    THIS IS SOMEONE IN SAVANNAH?

13          A.    YEAH.  SHE'S NEW, JUST BECAUSE I -- I FOUND OUT

14          THROUGH THE VICTIMS ADVOCATE THAT, YOU KNOW, ONCE I

15          GOT TO GEORGIA, MY SOUTH CAROLINA MEDICAID WAS NOT

16          -- I COULD NOT USE IT IN GEORGIA.  THEY WASN'T

17          ACCEPTING IT.  SO, I OPTED TO FIND SOMEONE ELSE, YOU

18          KNOW, AT REASONABLE PRICE, OR WHAT HAVE YOU, AND

19          THAT'S WHAT I DID.

20          Q.    NOW, MS. STEWART, WHAT DO YOU WANT TO HAVE HAPPEN?

21          A.    HONESTLY, I FEEL LIKE I'VE BEEN DISPLACED.  I FEEL

22          LIKE I WAS, YOU KNOW, WORKING TOWARDS A GOAL.  I WAS

23          FUNCTIONING, YOU KNOW, AS A CIVILIAN DOING -- TRYING

24          TO DO THE RIGHT THING BY MY KID AND MYSELF.  I HAD

25          NO PLANS TO BE BACK IN GEORGIA.  I DIDN'T WANT TO GO

1 BACK TO GEORGIA, BUT I DIDN'T WANT TO BE ON THE  
2 STREET EITHER. SO, I'M BACK IN GEORGIA, AND, YEAH,  
3 I'M STILL ENROLLED AT FRANCIS MARION, BUT I DO FEEL  
4 LIKE I'VE BEEN ROBBED, YOU KNOW, LIKE, YOU KNOW,  
5 IT'S BEEN SNATCHED AWAY FROM ME. YOU KNOW WHAT I  
6 MEAN? I WAS -- AND THEN AS AN EMPLOYEE OR JUST --  
7 IT JUST FELT LIKE I WAS JUST KIND OF LIKE I WAS  
8 DISPOSABLE TO THEM. YOU KNOW WHAT I MEAN? I DON'T  
9 FEEL LIKE I HAD THE FULL SUPPORT OF THE EMPLOYER.  
10 LIKE I SAY, I WASN'T ABLE TO COMPLETE MY COUNSELING  
11 THROUGH THE E.A.P. I WAS WORKING. I WASN'T LOOKING  
12 FOR A HANDOUT. I WAS TRYING TO, YOU KNOW, JUST TAKE  
13 CARE OF WHAT I NEEDED TO DO WITH ME AND MY KID, AND  
14 BASICALLY I FELT LIKE I TOOK A HUGE LOSS; SO...

15 Q. OKAY. WOULD YOU LIKE TO GO BACK TO SCHOOL?

16 A. I WOULD LIKE TO GO BACK TO SCHOOL.

17 Q. WOULD YOU LIKE TO HAVE REGULAR COUNSELING AND  
18 MEDICAL TREATMENT?

19 A. YES. I WOULD LIKE TO CONTINUE MY COUNSELING.

20 **BY MR. WUKELA:**

21 THAT'S ALL THE QUESTIONS I HAVE.

22 **BY THE COMMISSIONER:**

23 THANK YOU. MS. YARBROUGH.

24 **CROSS EXAMINATION BY MS. YARBROUGH:**

25 Q. JUST SOME BACKGROUND QUESTIONS. YOU'RE FIVE FOOT,

1 ONE AND A HALF INCHES TALL?

2 A. YES.

3 Q. OKAY. ABOUT 172 POUNDS, GIVE OR TAKE?

4 A. MORE OR LESS, YES.

5 Q. YOU ARE DIVORCED?

6 A. YES.

7 Q. AND YOU GET \$353 A MONTH IN CHILD SUPPORT FROM YOUR  
8 DIVORCE DECREE?

9 A. MORE OR LESS. IT'S NOT REALLY CONSISTENT FOR  
10 VARIOUS REASONS.

11 Q. OKAY. AND YOU WENT TO -- WHEN YOU WENT TO SAVANNAH  
12 TECHNICAL COLLEGE, THE DEGREES THAT YOU TALKED ABOUT  
13 EARLIER, THOSE WERE THE EQUIVALENT OF AN ASSOCIATE'S  
14 DEGREE TOTAL IN DENTAL OFFICE MANAGEMENT AND DENTAL  
15 ASSISTING?

16 A. THAT, I CANNOT REALLY CONFIRM OR DENY. BUT LIKE  
17 THEY ARE BOTH TWO DIPLOMAS, THE DENTAL ASSISTING  
18 DIPLOMA AND A DENTAL OFFICE MANAGEMENT DIPLOMA.

19 Q. AND WHEN I TOOK YOUR DEPOSITION THE FIRST TIME, ON  
20 JUNE 11TH, 2020, DO YOU REMEMBER ME ASKING YOU ABOUT  
21 YOUR EDUCATION?

22 A. NOT REALLY, BUT YOU MAY HAVE.

23 **BY MR. WUKELA:**

24 YOUR HONOR, ONCE THE DEPOSITION IS OFFERED FOR  
25 IMPEACHMENT, WE'D ASK THAT THE WHOLE DEPOSITION BE

1 ADMITTED. THE DEFENSE CAN'T HAVE THEIR CAKE AND EAT  
2 IT, TOO.

3 **BY THE COMMISSIONER:**

4 WELL, LET ME ASK THIS BEFORE WE EVEN GET INTO  
5 THAT PART. CAN YOU, I GUESS, LAY THE FOUNDATION FOR  
6 WHY IT MAKES A DIFFERENCE WHETHER IT'S AN  
7 ASSOCIATE'S OR A DIPLOMA?

8 **BY MS. YARBROUGH:**

9 WELL, I'M JUST -- THE CHANGE OF TESTIMONY, AND  
10 WE'LL SEE IT DURING MY -- DURING HER TESTIMONY, AND  
11 ALSO WHAT SHE SAYS NOW WITH REGARD TO HER EDUCATION,  
12 I THINK ONE OF THE ELEMENTS IS TO ESTABLISH WHAT HER  
13 EDUCATION IS. AND IF SHE CHANGES HER TESTIMONY, I  
14 THINK THAT'S IMPORTANT TO HER CREDIBILITY.

15 **BY THE COMMISSIONER:**

16 ALL RIGHT.

17 **BY MR. WUKELA:**

18 WELL, THEN WE ASK, YOUR HONOR, IF THE  
19 DEPOSITION IS GOING TO BE ADMITTED, IT BE ADMITTED  
20 IN ITS ENTIRETY.

21 **BY MS. YARBROUGH:**

22 AND I WOULD SAY IF I ADMIT -- IF I SUBMIT THE  
23 TESTIMONY, THEN IT WOULD BE SUBMITTED SPECIFIC  
24 PORTIONS FOR IMPEACHMENT PURPOSES ONLY.

25 **BY MR. WUKELA:**

1                   YOUR HONOR, THE RULE ALLOWS THE CLAIMANT TO  
2                   INSIST ON THE ADMISSION OF THE ENTIRE DEPOSITION IF  
3                   THEY'RE GOING TO RELY ON PART OF IT.

4                   **BY MS. YARBROUGH:**

5                   I'VE NEVER HEARD OF THAT RULE.

6                   **BY MR. WUKELA:**

7                   WELL, IT'S A RULE OF EVIDENCE. AGAIN, IT  
8                   DOESN'T APPLY HERE. BUT IT'S KIND OF, YOUR HONOR,  
9                   THEY HAVE THEIR CAKE AND EAT IT, TOO. THEY CAN'T  
10                  OBJECT TO THE DEPOSITION AND THEN PICK PIECES OUT.

11                  **BY THE COMMISSIONER:**

12                  ALL RIGHT.

13                  **CROSS EXAMINATION RESUMED BY MS. YARBROUGH:**

14                  Q. CAN YOU LOOK AT YOUR TESTIMONY ON PAGE 14, LINE 16.

15                  A. DO YOU WANT ME TO READ IT?

16                  Q. YOU CAN JUST READ IT TO YOURSELF.

17                  A. OH.

18                  Q. OKAY. AND BASED ON YOUR REVIEW OF THAT DEPOSITION  
19                  TRANSCRIPT, WOULD IT BE FAIR TO SAY THAT AT THE TIME  
20                  OF YOUR DEPOSITION IN JUNE OF 2020 YOU FELT LIKE THE  
21                  DIPLOMAS THAT YOU GOT WERE CONSISTENT WITH AN  
22                  ASSOCIATE'S DEGREE?

23                  A. AND YOU SAID DO I -- WHAT WAS THE QUESTION AGAIN?  
24                  DO I AGREE?

25                  Q. YES. DO YOU AGREE THAT THE DIPLOMAS YOU GOT WERE

1 CONSISTENT WITH EQUIVALENT OF AN ASSOCIATE'S DEGREE?

2 A. I WOULD -- I SAID I WOULD SAY MAYBE IT MAY -- IT MAY  
3 EQUATE TO AN ASSOCIATE'S DEGREE, MEANING AT THE TIME  
4 I WAS AT SAVANNAH TECH THEY WERE ON A QUARTER  
5 SYSTEM. IF YOU LOOK AT THE HOURS COMPARED TO A  
6 SEMESTER AND A QUARTER SYSTEM, I'M NOT SURE WHAT IT  
7 WOULD EQUATE TO.

8 Q. OKAY. SO, AT THE TIME OF YOUR DEPOSITION YOU SAID  
9 IT MAY BE EQUIVALENT TO AN ASSOCIATE'S DEGREE; IS  
10 THAT FAIR TO SAY?

11 A. IT MAY. I'M NOT SURE. I'M NOT REALLY SURE. LIKE,  
12 I HAVE TWO DIPLOMAS THAT I CAN GIVE YOU AND SHOW YOU  
13 THAT. I DON'T KNOW IF IT EQUATES TO AN ASSOCIATE'S,  
14 BUT I DID TWO YEARS OF COLLEGE ALREADY.

15 Q. SO, IN ADDITION TO GOING TO SAVANNAH TECHNICAL  
16 COLLEGE AND STARTING AT FRANCIS MARION COLLEGE, DID  
17 YOU GET ANY ADDITIONAL EDUCATION OR TRAINING?

18 A. BETWEEN FRANCIS MARION AND SAVANNAH TECH, I TOOK  
19 MAYBE A CLASS, I THINK, IN THE SUMMER AT UNC CHAPEL  
20 HILL BEFORE RELOCATING TO FLORENCE. BUT IT WASN'T A  
21 WHOLE -- A WHOLE LOT OF CREDITS TAKEN DURING THAT  
22 TIME.

23 Q. AND WHEN YOU STARTED AT FRANCIS MARION, YOU STARTED  
24 IN AUGUST OF 2018?

25 A. YES.

- 1 Q. AND THEN YOU CONTINUED EVEN AFTER THE ACCIDENT ---
- 2 A. YES.
- 3 Q. --- UNTIL THE FALL OF 2020; IS THAT CORRECT?
- 4 A. ABOUT RIGHT, YEAH.
- 5 Q. AND THAT'S WHEN YOU WITHDREW FROM CLASSES?
- 6 A. I WITHDREW, YEAH.
- 7 Q. OKAY. ANY OTHER EDUCATION THAT YOU'VE GOTTEN?
- 8 A. NO. FRANCIS MARION WAS THE LAST ENROLLMENT.
- 9 Q. OKAY. WHAT ABOUT ARMSTRONG STATE UNIVERSITY; DID
- 10 YOU GO THERE?
- 11 A. THAT WAS BEFORE. THAT WAS BEFORE I EVEN -- I THINK
- 12 THAT WAS BEFORE I MOVED TO HAWAII. THAT WAS --
- 13 ARMSTRONG IS NO LONGER CALLED ARMSTRONG NOW. IT'S
- 14 GEORGIA SOUTHERN.
- 15 Q. GEORGIA SOUTHERN?
- 16 A. BUT THAT WAS BEFORE FRANCIS MARION, THAT WAS BEFORE
- 17 UNC, AND I THINK I TOOK MAYBE A CLASS OR SO. I'M
- 18 NOT SURE WHAT THE CLASSES WERE.
- 19 Q. OKAY. CAN YOU THINK OF ANY OTHER CLASSES THAT YOU
- 20 WENT TO, ANY OTHER COLLEGES YOU WENT TO?
- 21 A. SAVANNAH TECH, ARMSTRONG. I ATTEMPTED TO DO SOME
- 22 CLASSES WHEN I WAS IN HAWAII, BUT I DON'T THINK I
- 23 WAS -- I THINK I ENROLLED OR DIDN'T FINISH OR
- 24 SOMETHING OF THAT NATURE.
- 25 Q. THAT WAS HAWAII PACIFIC UNIVERSITY?

1 A. HPU, YES.

2 Q. OKAY. ANY OTHER EDUCATION THAT YOU CAN THINK OF?

3 A. NOT RIGHT OFF THE TOP OF MY HEAD.

4 Q. HAVE YOU EVER RECEIVED A BACHELOR'S IN HEALTH  
5 SCIENCE DEGREE?

6 A. NO.

7 Q. AND DID YOU EVER COMPLETE ANY CLASSES AT KAPLAN  
8 UNIVERSITY?

9 A. KAPLAN UNIVERSITY. THAT WAS ONLINE-BASED, AND THEN  
10 I THINK I DIDN'T FINISH OR WITHDREW FROM THERE. I  
11 MAY HAVE ENROLLED AND DIDN'T FINISH ANY CLASSES.

12 Q. OKAY. SO YOU DIDN'T SUCCESSFULLY COMPLETE ANY  
13 CLASSES AT KAPLAN UNIVERSITY?

14 A. I DON'T BELIEVE I DID, BECAUSE I DIDN'T USE THAT AS  
15 CREDITS TOWARDS ANYTHING AT UNC OR FRANCIS MARION.

16 Q. I'M GOING TO HAVE YOU -- LET ME LET YOU LOOK AT SOME  
17 DOCUMENTS.

18 **BY MR. WUKELA:**

19 NOW, ARE THESE IN THE APAs?

20 **BY MS. YARBROUGH:**

21 THEY'RE NOT. THESE WERE PROVIDED TO YOU IN HER  
22 PERSONNEL FILE.

23 **CROSS EXAMINATION RESUMED BY MS. YARBROUGH:**

24 Q. CAN YOU TELL ME WHAT ---

25 **BY MR. WUKELA:**

1 I DON'T OBJECT.

2 **BY MS. YARBROUGH:**

3 YOU DON'T OBJECT?

4 **BY MR. WUKELA:**

5 NO, I DON'T OBJECT.

6 **CROSS EXAMINATION RESUMED BY MS. YARBROUGH:**

7 Q. OKAY. CAN YOU TELL ME WHAT THESE DOCUMENTS ARE?

8 A. THAT IS MY RESUME.

9 Q. OKAY. AND IF YOU FLIP ON OVER TO THE TENTH PAGE OF  
10 THE DOCUMENT. CAN YOU COUNT TEN PAGES BACK? SORRY;  
11 THEY'RE NOT NUMBERED. IS THAT YOUR ELECTRONIC  
12 SIGNATURE?

13 A. WHERE? AM I ON THE RIGHT PAGE? OH, YOU SAID TEN?

14 Q. I THINK YOU WENT TOO FAR.

15 A. I'M NOT SURE.

16 Q. LET ME SEE. IS THAT YOUR ELECTRONIC SIGNATURE ON  
17 THAT PAGE?

18 A. I GUESS. THAT'S MY NAME AND -- YEAH, I GUESS. DID  
19 I ELECTRONICALLY SIGN IT, BY DIGITALLY ENTERING YOUR  
20 FULL AND LEGAL NAME?

21 **BY MR. WUKELA:**

22 COMMISSIONER, NOT ONLY DO WE NOT OBJECT, BUT  
23 WE'LL STIPULATE TO THEIR AUTHENTICITY.

24 **BY THE COMMISSIONER:**

25 OKAY. THANK YOU.

**CROSS EXAMINATION RESUMED BY MS. YARBROUGH:**

1  
2 Q. IF YOU GO TO THE PAGE BEFORE IT, IS THIS THE  
3 DOCUMENT THAT YOU SUBMITTED FOR YOUR APPLICATION FOR  
4 CVS, THAT YOU COMPLETED AROUND SEPTEMBER 19TH, 2019,  
5 BEFORE YOU GOT THE JOB AT CVS?

6 A. I GUESS. THAT'S WHAT IT SAYS.

7 Q. OKAY. AND WHEN YOU FILLED OUT THIS DOCUMENT, DID  
8 YOU HAVE TO CERTIFY THAT THE INFORMATION YOU  
9 PROVIDED WAS TRUTHFUL?

10 A. YES.

11 Q. AND DID YOU ALSO HAVE TO CERTIFY THAT THE  
12 INFORMATION YOU PROVIDED ON THE ACCOMPANYING RESUME  
13 WAS TRUE, CORRECT, AND COMPLETE?

14 A. I'M ASSUMING I HAD, YES.

15 Q. OKAY. AND IF CVS DETERMINED THAT INFORMATION WAS  
16 NOT TRUTHFUL, THEN IT WOULD BE GROUNDS FOR  
17 TERMINATION?

18 A. RIGHT.

19 Q. OKAY. SO, LET'S LOOK AT YOUR RESUME, ON THE FIRST  
20 PAGE. ACTUALLY, THE SECOND PAGE, UNDER EMPLOYMENT  
21 HISTORY AND EDUCATION, AND IT'S KIND OF COMBINED  
22 HERE. I GUESS THE SPACING IS KIND OF OFF. ON THE  
23 LEFT SIDE THERE'S EMPLOYMENT HISTORY, AND ON THE  
24 RIGHT SIDE IS EDUCATION. DOES THAT SEEM ACCURATE?

25 A. THERE'S A POSITION, AND, YEAH, I'M TRACKING YOU.

1 Q. OKAY. SO, IN THIS DOCUMENT IT SAYS YOU RECEIVED --  
2 YOU GRADUATED FROM BRYAN HIGH SCHOOL IN MAY 2006,  
3 AND THAT'S ACCURATE, RIGHT?

4 A. YES.

5 Q. AND THEN IT SAYS YOU RECEIVED AN OFFICE MANAGEMENT  
6 DIPLOMA FROM SAVANNAH TECHNICAL COLLEGE IN MARCH  
7 2008, AND THAT'S ACCURATE, RIGHT?

8 A. CORRECT.

9 Q. AND THEN IT SAYS YOU RECEIVED A DENTAL ASSISTING  
10 DIPLOMA IN MARCH 2009; IS THAT CORRECT?

11 A. WELL, THEY WERE BOTH -- THEY WERE BOTH AWARDED AT  
12 THE SAME TIME, BUT YES.

13 Q. OKAY. AND ALL OF THAT INFORMATION ON YOUR EDUCATION  
14 PART IS TRUE ON THIS RESUME, RIGHT?

15 A. YES. I THOUGHT I PUT THE TENTATIVE DATE ON -- YEAH,  
16 MOST OF MY EXPERIENCE AND -- YEAH.

17 Q. OKAY. BUT WITH -- SPECIFICALLY, YOU LISTED YOU HAD  
18 A BACHELOR'S OF HEALTH SCIENCE DEGREE FROM KAPLAN  
19 UNIVERSITY, WHICH YOU GOT IN MARCH OF 2018. YOU PUT  
20 THAT ON YOUR RESUME, DIDN'T YOU?

21 A. THAT'S -- WHEN I DID THIS RESUME, OR WHEN I UPDATED  
22 IT, IT WASN'T -- THAT WASN'T -- THAT WASN'T  
23 OFFICIAL. LIKE, THAT'S WHAT I WAS IN PURSUIT OF.  
24 SO, THIS RESUME HASN'T BEEN UPDATED SINCE BEFORE I  
25 LEFT THE DEPARTMENT OF DEFENSE OR THE V.A. I DIDN'T

1 UPDATE IT. I JUST COPIED AND PASTED REALLY, AND  
2 BASED OFF MY EXPERIENCE, SHE GAVE ME THE POSITION.  
3 SHE FELT LIKE I HAD MORE THAN ENOUGH. SHE SAID OUT  
4 OF HER OWN MOUTH THAT SHE FELT LIKE I WAS COMPETENT  
5 ENOUGH AND I HAD MORE THAN ENOUGH EXPERIENCE TO DO  
6 THE JOB.

7 Q. AND I'M NOT -- I'M NOT QUESTIONING YOUR COMPETENCY  
8 TO DO THE JOB. I'M JUST ASKING IF THE INFORMATION  
9 THAT YOU PROVIDED ON YOUR RESUME, IN THIS RESUME,  
10 SAYING THAT YOU HAD A BACHELOR'S OF HEALTH SCIENCE  
11 FROM KAPLAN UNIVERSITY AS OF MARCH 2018, I'M ASKING  
12 IF THAT WAS A TRUTHFUL REPORT ON YOUR RESUME?

13 A. RIGHT, 'CAUSE I DID NOT -- I WAS NOT AWARDED IT, BUT  
14 IT WASN'T THAT I WASN'T PURSUING IT AT THE TIME.  
15 AND LIKE I SAID, I DIDN'T UPDATE IT SINCE -- YOU  
16 KNOW, I'VE BEEN IN ONE POSITION FOR LIKE TEN YEARS.  
17 I DIDN'T UPDATE MY RESUME SINCE BEFORE THEN.

18 **BY THE COMMISSIONER:**

19 SO, THAT WAS YOUR PROJECTED COMPLETION DATE?

20 **BY THE WITNESS:**

21 YES. THAT WAS A PROJECTED COMPLETION, AND I  
22 DIDN'T COMPLETE. BUT THAT'S THE ONLY THING THAT I  
23 REALLY FEEL YOU COULD QUESTION THE VALIDITY OF. BUT  
24 AM I IN PURSUIT OF CERTAIN THINGS? I WAS IN PURSUIT  
25 OF THAT.

1           **CROSS EXAMINATION RESUMED BY MS. YARBROUGH:**

2           Q.    OKAY.  AND DOES IT SAY PROJECTED COMPLETION DATE ON  
3                    THIS RESUME?

4           A.    IT'S NOT SPECIFICALLY SAYING THE PROJECTED  
5                    COMPLETION DATE OR TENTATIVE COMPLETION DATE.  IT  
6                    WAS JUST ME AT THE TIME AT WHAT I WAS STUDYING AND  
7                    PURSUING.

8           Q.    OKAY.  AND YOU SUBMITTED THIS IN 2019, AND IT HAD  
9                    MARCH '18 AS THE DATE THAT YOU FINISHED AT KAPLAN,  
10                   IS THAT RIGHT?

11          A.    RIGHT.  BUT, LIKE I SAID, IT WAS A TENTATIVE DATE.  
12                    LIKE I WAS PURSUING THAT.  I DIDN'T FINISH, THOUGH.

13           **BY MS. YARBROUGH:**

14                    I'LL GO AHEAD AND MARK THIS AS AN EXHIBIT.

15           **BY THE COMMISSIONER:**

16                    AND THEN I ALREADY HAVE YOU THROUGH EXHIBIT  
17                    "H," SO THIS WILL BE DEFENDANTS' EXHIBIT "I."  ANY  
18                    OBJECTION?

19           **BY MR. WUKELA:**

20                    NONE, COMMISSIONER.

21                    (COURT REPORTER MARKS DOCUMENT DEFENDANTS' EXHIBIT "I,"  
22                    RETAINED IN COMMISSION FILE.)

23           **CROSS EXAMINATION RESUMED BY MS. YARBROUGH:**

24           Q.    MS. STEWART, HAVE YOU EVER BEEN IN A LAWSUIT BEFORE,  
25                    EITHER AS A PLAINTIFF OR A DEFENDANT?

1 A. I DON'T RECALL.

2 Q. ISN'T IT TRUE THAT YOU WERE INVOLVED IN A BANKRUPTCY  
3 SUIT YOU FILED IN SAVANNAH IN 2010, RESOLVED IN  
4 2013, IN WHICH BARBARA BRAZIEL WAS YOUR ATTORNEY?

5 A. YEAH. BUT I DON'T KNOW; WOULD THAT BE CONSIDERED AS  
6 A SUIT OR ANYTHING? I MEAN, I FILED IT. SO, I'M  
7 NOT SURE IF THAT ENTAILS ME BEING IN A SUIT.

8 Q. OKAY. BUT YOU WERE INVOLVED IN A BANKRUPTCY FILING?

9 A. RIGHT. I FILED BANKRUPTCY, YEAH.

10 Q. OKAY. AND WHAT DO YOU CONSIDER A SUIT? WHEN  
11 SOMEBODY FILES SOMETHING AGAINST YOU?

12 A. WHEN SOMEONE IS SUING ME OR I'M SUING ---

13 Q. SOMEBODY?

14 A. YEAH. I MEAN, I JUST -- I FILED BANKRUPTCY  
15 CONSIDERING THE CIRCUMSTANCES AT THE TIME.

16 Q. OKAY. SO YOU DIDN'T CONSIDER THAT TO BE A SUIT  
17 BECAUSE NOBODY FILED SOMETHING AGAINST YOU OR YOU  
18 DIDN'T FILE SOMETHING AGAINST SOMEBODY ELSE?

19 A. RIGHT. I -- I DIDN'T -- I MEAN, DON'T KNOW THE...

20 Q. OKAY. NO, THAT'S UNDERSTANDABLE.

21 A. I'M JUST TRYING TO FIGURE OUT, LIKE, WHAT IS GOING  
22 ON HERE.

23 Q. SURE. SO LET'S LOOK BACK AT 2016. DID CORNERSTONE  
24 REAL ESTATE SUE YOU IN CUMBERLAND COUNTY, NORTH  
25 CAROLINA, IN 2016, AND A JUDGMENT WAS ENTERED

1                   AGAINST YOU FOR \$660 IN 2017?

2           A.    NO.  I SPOKE TO THE LANDLORD HIMSELF, AND HE TOLD ME  
3                   THAT THAT WAS NEVER SUPPOSED TO GO THROUGH BECAUSE  
4                   HE STOPPED IT.  I STILL HAVE HIS NUMBER.  I TALKED  
5                   TO HIM RECENTLY, BECAUSE THAT DID PREVENT ME FROM  
6                   GOING INTO LIKE ANOTHER LEASE OR ANYTHING.  SO, ME  
7                   -- HE AND I SPOKE, AND HE TOLD ME WHAT I HAVE TO DO  
8                   TO GET THAT OFF MY RECORD.  BUT, YEAH, I'M NOT SURE  
9                   WHAT THAT IS.

10          Q.    SO HE DIDN'T FILE EVICTION PROCEEDINGS AGAINST YOU?

11          A.    THOSE WAS -- THOSE WERE HIS WORDS, MISAM SHAJO  
12                   (PHONETIC), HE'S -- I'M NOT SURE WHAT HIS ETHNICITY  
13                   IS.  BUT, YES, I HAD TO CALL HIM BECAUSE, OF COURSE,  
14                   THAT'S SOMETHING THAT'S NOT GOING TO ALLOW ME TO GO  
15                   ELSEWHERE.

16          Q.    OKAY.  BUT WERE YOU SERVED WITH EVICTION PAPERS?  
17                   EVEN THOUGH YOU SAY YOU RESOLVED IT, WERE YOU SERVED  
18                   WITH EVICTION PAPERS FROM CORNERSTONE REAL ESTATE IN  
19                   2016?

20          A.    NO, I JUST RECEIVED THE -- THE EVICTION NOTICE, AND  
21                   THEN I SATISFIED THE PAYMENT, AND THAT'S WHY I WAS  
22                   APPALLED THAT IT WAS EVEN ON MY RECORD, BECAUSE I  
23                   HAD TAKEN CARE OF IT.

24          BY MS. YARBROUGH:

25                   YOUR HONOR, I'LL JUST REFER TO EXHIBIT -- THE

1 DOCUMENT IS BEHIND EXHIBIT NUMBER "C," SPECIFICALLY  
2 APA NUMBER 62, FOR THIS ENTRY.

3 **CROSS EXAMINATION RESUMED BY MS. YARBROUGH:**

4 Q. WHAT ABOUT IN 2017? DID THE ASSOCIATION OF  
5 APARTMENT OWNERS SUE YOU IN HONOLULU, HAWAII, AND A  
6 JUDGMENT ENTERED AGAINST YOU FOR ALMOST \$17,000?

7 A. THAT WAS ALSO GOING ON. BUT, LIKE I SAID, I WAS  
8 THERE WITH A ROOMMATE, AND SO, AS YOU KNOW, THE COST  
9 OF LIVING IS EXTREMELY HIGH, AND SO I EXPLAINED THAT  
10 AS WELL AND ACTUALLY WORKING TOWARDS GETTING THAT  
11 RESOLVED.

12 Q. OKAY. BUT THAT WAS A LAWSUIT FILED AGAINST YOU?

13 **BY THE COMMISSIONER:**

14 WELL, I'M GOING TO NOTE FOR THE RECORD, THESE  
15 SAY EVICTION FILINGS, AND I DON'T KNOW THAT THAT...

16 **BY MR. WUKELA:**

17 YOUR HONOR, I MEAN ---

18 **BY THE COMMISSIONER:**

19 LET'S GO OFF THE RECORD FOR A SECOND.

20 (OFF THE RECORD)

21 **BY THE COMMISSIONER:**

22 BACK ON THE RECORD. MS. YARBROUGH.

23 **CROSS EXAMINATION RESUMED BY MS. YARBROUGH:**

24 Q. AND THEN IN 2009 IN CHATHAM COUNTY, WERE YOU SUED  
25 FOR EVICTION FROM GARDEN LAKE TOWNHOMES FOR

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NONPAYMENT OF YOUR RENT?

A. NO. I MEAN, I DON'T KNOW. A LOT OF THOSE THINGS WERE TAKEN CARE OF BEFORE THEY ACTUALLY WENT TO GETTING MY THINGS THROWN OUT. SO, I WOULD SAY, LIKE, MAYBE THE ONLY ONE THAT'S REALLY SHOWING IS THE ONE IN HONOLULU.

Q. OKAY. AND THEN IN 2012, WERE YOU SUED FOR EVICTION FROM RIDGEWOOD APARTMENTS FOR NONPAYMENT OF RENT?

A. NO. I WAS -- I WAS ---

Q. WERE YOU EVER GIVEN A EVICTION NOTICE?

A. OF COURSE, I RECEIVED AN EVICTION NOTICE, BUT I -- LIKE I SAID, THOSE THINGS WERE TAKEN CARE OF BEFORE IT ACTUALLY RESULTED IN ME GETTING THROWN OUT. SO, I DON'T KNOW, MAYBE -- AND THAT'S THE THING. WHEN I CALLED AND ASKED, THEY'LL SHOW UP, BUT IT'S NOT THAT I OWE THEM ANYTHING.

Q. SO, BEFORE YOU MOVED INTO YOUR FLORENCE ADDRESS ON HARBOUR LANE, HOW MANY TIMES WERE YOU GIVEN EVICTION NOTICES?

A. BEFORE I MOVED INTO FLORENCE?

Q. YES.

A. I DON'T RECOLLECT ALL OF THOSE TIMES I WAS GIVEN AN EVICTION NOTICE. BUT, YEAH, LIKE I SAID, I'M A SINGLE MOM. I HAVE STRUGGLED. BUT A LOT OF THE TIMES I WAS ABLE TO, YOU KNOW, RECOMMEND [SIC] THOSE

1 THINGS, LIKE PAY THOSE THINGS BEFORE THEY WENT ANY  
2 FURTHER, LIKE MORE EXTREME TO THROWING MY THINGS OUT.  
3 SO, IT MAY HAVE BEEN LATE. I'VE BEEN LATE. YEAH, I  
4 -- I -- YEAH.

5 Q. WOULD YOU SAY BEFORE 2019 YOU'VE GOTTEN MORE THAN TEN  
6 EVICTION NOTICES?

7 A. I AM 33, AND I -- I DON'T KNOW THE NUMBER, THE EXACT  
8 NUMBER. I REALLY DON'T, AND I'M NOT, YOU KNOW,  
9 TRYING TO BE -- YOU KNOW, GIVE YOU A HARD TIME, BUT  
10 I DON'T REMEMBER.

11 Q. HOW MUCH DO YOU HAVE IN JUDGMENTS AGAINST YOU FOR  
12 EVICTIONS OR FOR NOT PAYING YOUR RENT?

13 A. THE ONLY ONE THAT I'M REALLY, LIKE, WORKING TOWARDS  
14 IS -- LIKE I SAID, I JUST LEFT FLORENCE, AND THAT HAS  
15 A BALANCE, OR WHAT HAVE YOU, AND THE ONE IN HONOLULU,  
16 BECAUSE I HAD A ROOMMATE. THE RENT IS EXTREMELY  
17 EXPENSIVE OVER THERE. SO, YEAH.

18 Q. SO, AS FAR AS YOU KNOW, ONLY ABOUT ALMOST 17,000?

19 A. IF THAT, MORE OR LESS. I'M NOT SURE.

20 Q. ALL RIGHT. IN JULY OF 2018 WHEN YOU MOVED TO  
21 FLORENCE, YOU HAD TO COMPLETE A RENTAL APPLICATION  
22 FOR CURL & CARMON REAL ESTATE; IS THAT ACCURATE?

23 A. RIGHT. AND I TOLD HER ABOUT THAT, AND SHE WAS MORE  
24 THAN WILLING TO ASSIST ME AND HELP ME WITH  
25 RELOCATING. SHE SAID THAT THEY COULD WORK AROUND IT.

1 Q. OKAY. SO, JUST GOING BACK TO THE RENTAL APPLICATION,  
2 YOU -- WHEN YOU FILLED OUT THE APPLICATION, YOU HAD  
3 TO REPRESENT THAT THE INFORMATION CONTAINED IN THE  
4 APPLICATION WAS ACCURATE, COMPLETE, TRUE, AND CORRECT  
5 TO THE BEST OF YOUR KNOWLEDGE; IS THAT ACCURATE?

6 A. YEAH.

7 Q. OKAY. AND WHEN ASKED IF YOU HAD EVER BEEN EVICTED  
8 FROM TENANCY, YOU DIDN'T ADMIT THAT YOU HAD MULTIPLE  
9 PRIOR EVICTIONS, DID YOU?

10 A. NO, 'CAUSE I WASN'T AWARE THAT THAT ONE WAS SHOWING  
11 UP, THE ONE SHE QUESTIONED ME ABOUT, THE ONE IN  
12 HONOLULU.

13 Q. OKAY. SO YOU WEREN'T HONEST ON YOUR APPLICATION  
14 ABOUT YOUR PRIOR EVICTIONS, WERE YOU?

15 A. THEY WEREN'T EVICTIONS. I DIDN'T GET EVICTED. I  
16 DIDN'T GET THROWN OUT. I WAS SERVED A NOTICE, BUT I  
17 PAID IT OFF BEFORE IT WENT ANY FURTHER. SO, I'M NOT  
18 SURE -- LIKE, ARE YOU TALKING ABOUT ME GETTING THROWN  
19 OUT OF THE APARTMENT OR JUST BEING ACTUALLY SERVED A  
20 NOTICE?

21 Q. WELL, THE APPLICATION SAYS YOU'VE EVER BEEN EVICTED  
22 FROM TENANCY.

23 A. I WASN'T EVICTED. I WASN'T THROWN OUT.

24 Q. OKAY.

25 A. I WAS LATE. LIKE, I MEAN, I'M BEING HONEST. I WAS

1 LATE.

2 Q. AND WHEN BELVA POWELL, THE REAL ESTATE MANAGER, FOUND  
3 OUT THAT YOU HAD THE JUDGMENT IN HONOLULU FOR \$16,000  
4 PLUS, SHE CALLED YOU AND TALKED TO YOU ABOUT IT,  
5 RIGHT?

6 A. MM-HMM.

7 Q. YES?

8 A. YES. SORRY.

9 Q. AND AT THAT POINT YOU ASSURED HER THAT IT WOULDN'T  
10 AFFECT YOUR ABILITY TO PAY YOUR RENT, RIGHT?

11 A. CORRECT.

12 Q. OKAY. SINCE MOVING INTO THE DUPLEX, THE APARTMENT IN  
13 FLORENCE, IN AUGUST OF 2018, ---

14 A. RIGHT.

15 Q. --- CURL & CARMON FILED MANY EVICTIONS AGAINST YOU?

16 A. THEY FILED EVICTIONS, YES.

17 Q. OKAY.

18 A. I WAS LATE A FEW -- A LOT OF TIMES.

19 Q. OKAY. SO, SPECIFICALLY, ON DECEMBER 11TH, 2018, THEY  
20 FILED AN EVICTION FOR YOU FOR OWING ABOUT \$1,768, IS  
21 THAT RIGHT?

22 A. YEAH. IT WAS ABOUT TWO MONTHS.

23 Q. OKAY. AND THEN ON MARCH 14TH, 2019, ABOUT THREE  
24 MONTHS LATER, THEY FILED AN EVICTION FOR YOU FOR  
25 OWING \$950, IS THAT RIGHT?

1 A. THAT WAS ONE MONTH I WAS BEHIND ON, YES.

2 **BY MR. WUKELA:**

3 YOUR HONOR, THE CLAIMANT WILL STIPULATE SHE WAS  
4 LATE SEVERAL TIMES, AND SHE'S A SINGLE MOTHER  
5 STRUGGLING TO MAKE ENDS MEET ---

6 **BY THE WITNESS:**

7 I WAS LATE.

8 **BY MR. WUKELA:**

9 --- IF THE DEFENSE WILL STIPULATE THAT SHE  
10 DIDN'T EARN ANY INCOME FROM CVS AFTER MARCH OF 2020.

11 **BY MS. YARBROUGH:**

12 I STILL WANT TO SHOW THE PATTERN LEADING UP TO  
13 THIS.

14 **BY MR. WUKELA:**

15 ALL RIGHT. THANK YOU.

16 **CROSS EXAMINATION RESUMED BY MS. YARBROUGH:**

17 Q. ON AUGUST 13TH, 2019, JUST FIVE MONTHS LATER, YOU  
18 WERE FILED WITH EVICTION PAPERS FOR OWING \$860; DOES  
19 THAT SOUND RIGHT?

20 A. YES. I WASN'T WORKING. LIKE I SAID, I WAS LIVING  
21 OFF OF WHAT I WAS GETTING FROM SCHOOL, CHILD -- CHILD  
22 SUPPORT. SO I WAS REALLY -- I WAS STRUGGLING, YOU  
23 KNOW, AND I -- I WAS TRYING TO WORK AND GO TO SCHOOL  
24 AND TAKE CARE OF MY KID.

25 Q. OKAY. AND THEN TWO MONTHS LATER, ON OCTOBER 22ND,

1           2019, YOU WERE FILED WITH EVICTION PAPERS FOR OWING  
2           \$925; DOES THAT SOUND RIGHT?

3           A.    RIGHT.  WHAT I WOULD DO WAS I WOULD GET THE RETURN --  
4           REFUND CHECK FROM SCHOOL.  I WOULD PAY THE RENT UP AS  
5           MUCH AS I COULD.  IT WAS JUST -- I WAS JUST TRYING  
6           TO, YOU KNOW, STAY ON TOP OF THINGS THE BEST WAY I  
7           COULD.

8           Q.    OKAY.  AND THEN ON DECEMBER 2ND, 2019, THEY FILED  
9           EVICTIONS AGAINST YOU FOR \$1,700; DOES THAT SOUND  
10          CORRECT?

11          A.    ABOUT TWO MONTHS.  YES, ABOUT TWO MONTHS.

12          Q.    OKAY.  SO THAT'S FIVE TIMES THEY FILED EVICTIONS ON  
13          YOU IN THE YEAR LEADING UP TO YOUR INCIDENT AT CVS;  
14          IS THAT CORRECT?

15          A.    I GUESS.  I DON'T -- YOU GOT THIS INFORMATION FROM  
16          THEM, I'M ASSUMING?  I'M NOT SURE EXACTLY THE RIGHT  
17          AMOUNT OF TIMES.

18          Q.    OKAY.  SO, EVEN THOUGH YOU CONTINUED WORKING AT CVS  
19          ---

20          A.    I STARTED WORKING WITH THEM IN OCTOBER.

21          Q.    --- AND YOU CONTINUED TO WORK UNTIL MARCH 14TH, 2020,  
22          ---

23          A.    MM-HMM.

24          Q.    --- YOU WEREN'T MEETING YOUR RENTAL PAYING  
25          OBLIGATIONS; IS THAT AN ACCURATE STATEMENT?

1 A. I WAS FALLING BEHIND HERE AND THERE, YES.

2 Q. OKAY. AND DURING THE TIME YOU RENTED, YOU HAD TO  
3 HAVE YOUR FRIENDS -- EVEN THOUGH YOU WERE STILL  
4 WORKING, YOU STILL HAD TO HAVE YOUR FRIENDS, COLONEL  
5 DAVID AND SUSAN MOTT, PAY LIKE \$1,700 ON YOUR BEHALF  
6 TO GET YOU OUT OF EVICTIONS IN THE PAST?

7 A. RIGHT. IT WAS A FRIEND, YES.

8 Q. OKAY. AND YOU WERE EMAILING YOUR LANDLORD SEVERAL  
9 TIMES DURING YOUR TENANCY ---

10 A. JUST TO COMMUNICATE WITH HER, YES, TO LET HER KNOW,  
11 LIKE, AS SOON AS MY INCOME COMES IN OR I RECEIVE A  
12 REFUND CHECK I WILL PAY IT UP. JUST TO KEEP THE  
13 COMMUNICATION OPEN, I TRIED TO STAY IN CONTACT WITH  
14 BELVA.

15 Q. OKAY. AND EVEN BEFORE THE CVS INCIDENT, YOU WERE  
16 COMMUNICATING WITH YOUR LANDLORD TALKING ABOUT HOW  
17 YOU WERE TRYING TO GET YOUR LIFE BACK ON TRACK AFTER  
18 A HARDSHIP YOU HAD EXPERIENCED AND ASKING IF YOU  
19 COULD -- IF SHE COULD WORK WITH YOU DURING THE  
20 TUMULTUOUS TIME FOR YOURSELF AND YOUR DAUGHTER?

21 A. WELL, YEAH, BECAUSE I WASN'T WORKING AT THE SHAW AIR  
22 FORCE BASE JOB, AND, LIKE I SAID, IT WAS A ROUGH  
23 TIME. LIKE, I WENT FROM RECEIVING INCOME TWICE A  
24 MONTH TO JUST KIND OF -- LIKE I SAID, MY WHOLE GOAL  
25 WAS TO GO TO SCHOOL, AND IT'S NOT -- IT'S NOT EASY.

1 IT'S NOT AN EASY TASK, GOING TO SCHOOL, TRYING TO PAY  
2 FOR LIVELIHOOD OR OVERHEAD COSTS, AND TAKE CARE OF MY  
3 KID IN ADDITION TO -- I WAS ON ASSISTANCE. I WAS  
4 ABLE TO GET ASSISTANCE. SO I -- I TRIED TO DO  
5 EVERYTHING THAT WAS IN MY CONTROL TO DO, BUT, YEAH, I  
6 FELL SHORT. IT WASN'T AN EASY TASK GOING BACK TO  
7 SCHOOL.

8 Q. SO, THIS WAS JUST A CONTINUATION OF HAVING FINANCIAL  
9 DIFFICULTIES, FINANCIAL STRAIN, FEELING LIKE YOU  
10 WEREN'T ON TRACK WITH YOUR LIFE, AND HAVING WHAT YOU  
11 CONSIDERED A HARDSHIP AND A TUMULTUOUS TIME LEADING  
12 UP TO THE TIME OF THE CVS INCIDENT; WOULD THAT BE ---

13 A. ABSOLUTELY NOT.

14 Q. --- FAIR TO SAY?

15 A. ABSOLUTELY NOT.

16 **BY MR. WUKELA:**

17 YOUR HONOR, MAY I ASK -- WHAT WAS THE DATE OF  
18 THAT MOST RECENT EVICTION NOTICE, COUNSEL?

19 **BY MS. YARBROUGH:**

20 DECEMBER 2ND, 2019.

21 **BY MR. WUKELA:**

22 DECEMBER 2ND, 2019. THANK YOU.

23 **WITNESS RESUMES:**

24 A. I WOULDN'T SAY IT WAS A CONTINUATION. IT WAS  
25 COMPLETELY DIFFERENT. LIKE I SAID, I GOT A JOB

1 WORKING AT CVS. I WAS WORKING. I MANAGED TO GET  
2 THINGS ON TRACK. BUT, YEAH, AND IT SEEMED LIKE AS  
3 SOON AS I DID -- YOU KNOW WHAT I MEAN? SO, THAT WAS  
4 A HUGE LOSS FOR ME.

5 Q. DID YOU GIVE NOTICE OF YOUR INTENT TO VACATE YOUR  
6 APARTMENT ON DECEMBER 19TH, 2019, JUST A WEEK BEFORE  
7 YOUR CVS INCIDENT?

8 A. I DON'T RECALL. MAYBE I DID, BUT I THINK SHE -- I  
9 RETRACTED IT BECAUSE I WASN'T SURE -- I DIDN'T WANT  
10 TO ACCRUE MORE MONEY, AND I WASN'T SURE OF, YOU KNOW,  
11 THE INCOME THAT WAS COMING IN. SO, IT WAS EITHER --  
12 I WAS JUST TRYING TO MAKE SENSE OF IT REALLY, JUST  
13 TRYING TO MAKE THE BEST DECISION.

14 Q. OKAY. AND SO, IF WE HAVE A DOCUMENT THAT SAYS YOU  
15 GAVE NOTICE OF YOUR INTENT TO VACATE ON DECEMBER  
16 19TH, THE WEEK BEFORE YOUR ACCIDENT, YOU WOULD HAVE  
17 NO REASON TO DISPUTE THAT, WOULD YOU?

18 A. YOU SAID I GAVE A NOTICE TO VACATE?

19 Q. YEAH. I'LL JUST SHOW IT TO YOU SO YOU DON'T HAVE A  
20 QUESTION. AND THIS IS -- I'M LOOKING AT APA PAGE 83.  
21 IS THAT YOUR SIGNATURE ON THE BOTTOM OF THAT?

22 A. YEAH, THAT'S MY SIGNATURE.

23 Q. AND WHY DID YOU GIVE YOUR NOTICE TO VACATE AT THAT  
24 TIME?

25 A. IT SAYS REASON FOR MOVING, INCOME CHANGED.

1 Q. OKAY. THANK YOU. AND YOUR NEXT NOTICE TO VACATE  
2 THAT YOU GAVE CAME ON JUNE 15TH, 2020; DOES THAT  
3 SOUND RIGHT?

4 A. YEAH, THAT'S ABOUT RIGHT.

5 Q. OKAY. AND I'M LOOKING AT APA PAGE 84. AND YOU GAVE  
6 THIS NOTICE TO VACATE AFTER YOU RECEIVED A LETTER  
7 JUST THREE DAYS EARLIER, ON JUNE 12TH OF 2020, SAYING  
8 YOU WERE VIOLATING A LEASE AGREEMENT BECAUSE YOU HAD  
9 A PET?

10 A. I HAD A PET.

11 Q. IS THAT RIGHT?

12 A. YES.

13 Q. AND THEY SAID YOU NEED TO GET RID OF YOUR PET WITHIN  
14 14 DAYS OR VACATE THE PROPERTY, RIGHT?

15 A. MM-HMM.

16 Q. YES?

17 A. YES.

18 Q. AND YOU DECIDED YOU WANTED -- YOU WOULD LEAVE INSTEAD  
19 OF GIVING UP YOUR DOG; IS THAT ACCURATE?

20 A. RIGHT.

21 Q. OKAY. AND THAT'S UNDERSTANDABLE NOT WANTING TO GIVE  
22 UP YOUR DOG.

23 A. RIGHT.

24 Q. SO AT THE POINT YOU SAID YOU WERE GOING TO LEAVE YOUR  
25 APARTMENT?

- 1 A. WELL, I HAD TO. SHE TOLD ME I COULDN'T HAVE MY --  
2 KEEP MY DOG.
- 3 Q. RIGHT. AND YOU WENT DIRECTLY TO LIVE WITH YOUR AUNT?
- 4 A. I ACQUIRED THE DOG, LIKE, A WHILE AFTER MOVING IN  
5 THERE, YEAH.
- 6 Q. RIGHT. AND IT WAS AGAINST THE TERMS OF THE LEASE TO  
7 HAVE A PET, RIGHT?
- 8 A. WELL, I DIDN'T THINK IT WAS BECAUSE THERE WERE OTHER  
9 PEOPLE WHO HAD PETS; SO... BUT GO AHEAD. YEAH.
- 10 Q. BUT WHEN YOU WERE TOLD THAT IT WAS AGAINST THE LEASE,  
11 ---
- 12 A. MM-HMM. WHEN SHE TOLD ME, YEAH.
- 13 Q. --- YOU SAID, OKAY, I'LL LEAVE?
- 14 A. WELL, YEAH. I MEAN, I COULDN'T STAY THERE, AND I  
15 DIDN'T HAVE NOWHERE ELSE TO -- YOU KNOW, I COULDN'T  
16 KEEP MY DOG. I MEAN, I COULDN'T STAY THERE AND KEEP  
17 MY DOG.
- 18 Q. OKAY. ALL RIGHT. AND SO, YOU WENT DIRECTLY TO LIVE  
19 WITH YOUR AUNT, RIGHT?
- 20 A. RIGHT.
- 21 Q. AND YOU NEVER LIVED OUT OF YOUR CAR OR ON THE STREET,  
22 RIGHT?
- 23 A. NO. THANK GOD I WAS -- I, YOU KNOW, WENT FROM THERE  
24 TO HER HOUSE.
- 25 Q. SO, IF DR. HICKS WAS UNDER THE IMPRESSION THAT YOU

1 WERE LIVING OUT OF YOUR CAR FOR A PERIOD OF TIME,  
2 THAT WOULD NOT BE AN ACCURATE IMPRESSION OF HERS; IS  
3 THAT TRUE?

4 A. I MEAN, IT WAS -- AFTER MOVING THERE, I EVENTUALLY --  
5 WE HAD LIKE AN ARGUMENT, OR WHATEVER, BUT IT WASN'T  
6 -- IT WAS SHORT-LIVED. SO, I WAS A COUPLE, A FEW  
7 NIGHTS, BUT MOST OF THE TIME I'VE BEEN STAYING WITH  
8 HER.

9 Q. OKAY. WHEN YOU SAY A FEW NIGHTS, YOU WERE ACTUALLY  
10 LIVING IN A HOTEL?

11 A. I WAS IN A HOTEL, YEAH, BUT WHEN I COULDN'T AFFORD  
12 THE HOTEL, I JUST OPTED TO SLEEP IN MY CAR, 'CAUSE  
13 THE HOTEL WAS EXPENSIVE AS WELL. LIKE I SAID, IT  
14 HASN'T BEEN, LIKE, SMOOTH SAILING SINCE I LEFT. WE  
15 TALKED; WE GOT PAST OUR DIFFERENCES, AND, OF COURSE,  
16 SHE TOLD ME TO NOT DO THAT AND COME BACK.

17 Q. YOUR TESTIMONY HERE TODAY IS THAT YOU WERE LIVING OUT  
18 OF YOUR CAR, YOU DIDN'T HAVE A RESIDENCE, NOT AT YOUR  
19 AUNT'S HOUSE, NOT AT A HOTEL, FOR SOME PERIOD OF  
20 TIME; IS THAT ACCURATE?

21 A. YOU SAID MY TESTIMONY IS THAT I WAS LIVING OUT OF MY  
22 CAR?

23 Q. YEAH, IS THAT YOUR TESTIMONY TODAY?

24 A. NO. THAT'S NOT MY TESTIMONY. WHAT I'M SAYING IS I  
25 LEFT FLORENCE AND WENT TO LIVE WITH MY AUNT. AND SO,

1           OVER THE COURSE OF LIVING WITH HER, THINGS WEREN'T  
2           ALWAYS PEACHES AND CREAM. LIKE, OF COURSE, THERE  
3           WERE SITUATIONS WHERE THE LIGHT BILL GETS HIGH -- IS  
4           HIGH, AND I'M TRYING TO OFFER WHAT I CAN. TWO WOMEN  
5           LIVING UNDER THE SAME ROOF. I HAVE A KID; SHE HAS A  
6           KID. SHE HAS A TODDLER. SO, THINGS GOT KIND OF  
7           HEATED, AND I WENT AND TRIED TO DE-ESCALATE THE  
8           SITUATION BY MAYBE PUTTING MYSELF IN A HOTEL FOR A  
9           FEW NIGHTS. WHEN SHE FOUND OUT THAT I WAS IN A  
10          HOTEL, THE TYPE OF AUNT THAT SHE IS, SHE'S  
11          RELENTLESS; SHE'S NOT GOING TO -- YOU KNOW, SHE  
12          DOESN'T STOP AT NO. SHE'S -- YOU KNOW, SHE'S GOING  
13          TO MAKE SURE THAT SHE CAN DO WHATEVER IT IS SHE CAN  
14          DO. AND, YOU KNOW, AFTER WE TALKED AND WE TRIED TO  
15          GET THROUGH SOME SITUATIONS OR CONVERSATIONS, SHE WAS  
16          LIKE, YOU COME BACK AND GET YOURSELF TOGETHER, THAT  
17          TYPE THING, YOU KNOW. I MEAN, IT'S JUST DIFFERENCES,  
18          YOU KNOW. IT WASN'T, YOU KNOW...

19          Q.    OKAY. SO, OTHER THAN LIVING AT THE HOTEL FOR A FEW  
20          NIGHTS, LIVING AT YOUR AUNT'S HOUSE, YOU NEVER LIVED  
21          ANYWHERE ELSE IN -- AFTER LEAVING FLORENCE UP UNTIL  
22          TODAY; IS THAT ACCURATE?

23          A.    THAT'S ACCURATE.

24          Q.    OKAY. AND YOUR AUNT LIVES ON CARLISLE WAY?

25          A.    MM-HMM.

1 Q. IS THAT A YES?

2 A. YES.

3 Q. OKAY. SO, WHEN WE TOOK ROBYN HANNA'S DEPOSITION, THE  
4 COURT REPORTER ASKED YOU WHERE YOU WERE?

5 A. MM-HMM.

6 Q. AND YOU SAID YOU WERE AT 22 WEST BRYAN STREET IN  
7 SAVANNAH?

8 A. NO, THAT'S -- I TOLD HER THAT'S MY MAILING ADDRESS.

9 Q. SHE ASKED WHERE YOU WERE LOCATED.

10 A. I TOLD HER WHERE I WAS. I SAID 32 CARLISLE.

11 Q. OKAY.

12 A. I DON'T KNOW WHAT YOU'RE -- I DON'T KNOW.

13 Q. OKAY.

14 A. 'CAUSE THAT'S EVEN THE ADDRESS THAT I GAVE MS. BELVA  
15 POWELL AND THAT'S ALSO LIKE THE FORWARDING ADDRESS  
16 FOR LIKE ALL MY MAIL FROM FLORENCE, AND MY ATTORNEY  
17 HAS THAT ADDRESS, TOO.

18 Q. MS. STEWART, DON'T YOU LIVE AT 241 BORDEAUX LANE?

19 A. NO.

20 Q. WHO LIVES THERE?

21 A. I DON'T LIVE THERE. I LIVE AT 32 CARLISLE.

22 Q. WHO LIVES AT 241 BORDEAUX LANE?

23 A. I'M NOT SURE WHAT YOU'RE -- THEY'VE GOT DOWN ME AS  
24 LIVING AT BORDEAUX?

25 Q. YES. WHO LIVES THERE?

1           A.    I'M NOT SURE.

2           Q.    HAVE YOU EVER BEEN THERE?

3           A.    NO.

4           Q.    YOU'VE NEVER HEARD OF THAT LOCATION?

5           A.    NO.  I LIVE AT BORDEAUX LANE?

6           Q.    YOU'VE NEVER HEARD -- I'M ASKING YOU.

7           A.    NO.  I LIVE AT 32 CARLISLE.

8           Q.    OKAY.  HAVE YOU EVER LIVED AT 241 BORDEAUX LANE IN

9           SAVANNAH?

10          A.    NO.

11          Q.    HAVE YOU EVER BEEN ON BORDEAUX LANE IN SAVANNAH?

12          A.    I HAVE A FAMILY MEMBER THAT LIVES THERE, BUT HE

13          RECENTLY MOVED TO BLOOMINGDALE, BLOOMINGDALE,

14          GEORGIA.

15          Q.    AND YOU'VE NEVER LIVED THERE?

16          A.    NO.

17          Q.    YOU DON'T HAVE UTILITIES AT THAT ADDRESS?

18          A.    NO.

19          Q.    WHAT IS YOUR FAMILY MEMBER'S NAME ON BORDEAUX LANE?

20          A.    JONATHAN HUNTER -- JONA HUNTER.  SORRY.

21          Q.    AND WHAT RELATIONSHIP IS HE TO YOU?

22          A.    HE'S A COUSIN ON MY DAD'S SIDE.

23          Q.    YOU HAVEN'T BEEN AT HIS HOUSE, OR HAVE YOU, SINCE

24          MOVING TO SAVANNAH?

25          A.    HE HAD A BARBEQUE OR -- YOU KNOW, A FEW TIMES.

- 1 Q. BUT THAT'S THE ONLY TIME; YOU WENT TO A BARBEQUE  
2 THERE?
- 3 A. YEAH. I MEAN, HE'S A BACHELOR. I DON'T -- YOU KNOW,  
4 HE HAS HIS OWN LITTLE THING GOING ON.
- 5 Q. OKAY. SINCE LEAVING CVS, YOU'VE RECEIVED JOB OFFERS  
6 FROM SITEL IN CUSTOMER SERVICE?
- 7 A. YEAH. IT WAS LIKE A WORK-FROM-HOME TYPE OF DEAL.
- 8 Q. AND YOU'VE WORKED FOR SITEL IN THE PAST, HAVEN'T YOU?
- 9 A. YEAH. THAT WAS LIKE BEFORE -- I WANT TO SAY BEFORE I  
10 EVEN FINISHED DENTAL ASSISTING.
- 11 Q. OKAY. AND YOU ALSO WORKED -- YOU RECEIVED A JOB  
12 OFFER AS A CORRECTIONAL OFFICER?
- 13 A. YEAH. WELL, YEAH, AND I -- YEAH. I WASN'T -- I  
14 THOUGHT THAT WOULD BE A BIT MUCH.
- 15 Q. OKAY. AND YOU BELIEVE THAT YOU'RE ABLE TO WORK IN  
16 SOME TYPE OF POSITION RIGHT NOW; IS THAT CORRECT?
- 17 A. I FEEL LIKE I CAN PROBABLY DO LIKE A STAY-AT-HOME  
18 JOB, SOMETHING LIKE NOT AS MUCH -- I GUESS, NOTHING  
19 HIGH-PACED RIGHT NOW, JUST SOMETHING A LITTLE MORE --  
20 YOU KNOW, JUST THE CROWD, OR WHATEVER, THAT KIND OF  
21 BOTHERS ME.
- 22 Q. AND IN MAY 21ST OF 2020, WHEN YOU APPLIED FOR  
23 UNEMPLOYMENT BENEFITS, DID YOU CERTIFY THAT YOU WERE  
24 READY, WILLING, AND ABLE TO WORK?
- 25 A. I MEAN, I'M GOING OFF THE PERSPECTIVE THAT I GOTTA DO

1           SOMETHING BECAUSE MY KID -- YOU KNOW, I MEAN, I'M NOT  
2           GETTING MUCH SUPPORT AND IT'S NOT CONSISTENT. SO,  
3           YOU KNOW, THAT'S JUST WHERE MY THOUGHT PROCESS IS.  
4           AND SHE HAS -- SHE HAS NEEDS AND, YOU KNOW, WANTS.

5           Q.    SO, DID YOU CERTIFY THAT YOU WERE READY, WILLING, AND  
6           ABLE TO WORK TO UNEMPLOYMENT IN MAY 2021?

7           A.    I DID. I DID, JUST TO GET SOME ASSISTANCE SOMEHOW.  
8           I DID.

9           Q.    AND SINCE YOU'VE MOVED TO SAVANNAH, SINCE LAST JUNE  
10          OF 2020, YOU'VE BEEN BABYSITTING YOUR AUNT'S THREE-  
11          YEAR-OLD WHILE SHE WORKS THREE ---

12          A.    YEAH.

13          Q.    --- UP TO THREE DAYS A WEEK AND UP TO EIGHT HOURS A  
14          DAY?

15          A.    SHE DOES HAVE A DEMANDING JOB, SO I DO OFFER TO  
16          ASSIST WITH HIM, AND SHE OFFERS TO GIVE ME PAYMENT,  
17          BUT THEN I DON'T FEEL RIGHT BECAUSE, OF COURSE, I'M  
18          LIVING IN HER HOUSE; SO...

19          Q.    ALL RIGHT. AND AT THE TIME THAT INCIDENT OCCURRED,  
20          YOU HAD WORKED FOR CVS FOR LESS THAN THREE MONTHS, IS  
21          THAT RIGHT?

22          A.    OCTOBER TO, WHAT, MARCH.

23          Q.    AT THE TIME THE INCIDENT OCCURRED IN DECEMBER?

24          A.    YEAH, IT WAS OCTOBER. IT HAPPENED IN DECEMBER, YES.

25          Q.    AND YOU CONTINUED -- AFTER THE INCIDENT IN DECEMBER,

1           YOU CONTINUED TO DO YOUR REGULAR JOB UP UNTIL MARCH  
2           14TH, WHEN YOU WENT ON LEAVE OF ABSENCE IN 2020?

3           A.    RIGHT.

4           Q.    ISN'T IT TRUE THAT YOU DID NOT CALL IN AFTER THE  
5           INCIDENT UP UNTIL MARCH 14TH, 2020, TO MISS -- TO  
6           CALL OUT OF WORK, TO MISS TIME FROM WORK DUE TO ANY  
7           TYPE OF STRESS, ANXIETY, DEPRESSION, TRAUMA, OR ANY  
8           PSYCHOLOGICAL ISSUES?

9           A.    RIGHT.  SHE HAD MENTIONED THAT SHE HAD SAW A  
10          DIFFERENCE IN ME, BUT I TRIED TO, YOU KNOW, GET  
11          THROUGH IT AS MUCH AS I COULD.

12          Q.    OKAY.  BUT YOU DIDN'T CALL OUT OF WORK FOR THAT TWO-  
13          AND-A-HALF MONTH PERIOD OF TIME OR SO?

14          A.    NO.

15          Q.    NO?  AND YOU DIDN'T REPORT TO MS. HANNA THAT YOU HAD  
16          ANY TYPE OF PHYSICAL INJURY FROM THE CUSTOMER  
17          INCIDENT, DID YOU?

18          A.    I WENT TO HER, AND I TALKED TO HER.  SHE TOLD ME WHAT  
19          TO DO AS FAR AS REPORTING IT, AND SHE EXPRESSED THAT,  
20          YOU KNOW, SHE WISHED SHE HAD KNOWN.  SHE WOULD HAVE  
21          -- IF SHE HAD BEEN THERE, SHE WOULD'VE SAID SOMETHING  
22          TO HER OR SOMETHING OF THAT NATURE.

23          Q.    BUT DID YOU COMPLAIN OF ANY TYPE OF PHYSICAL INJURY?

24          A.    NO.  I WALKED UP TO HER.

25          Q.    OKAY.  AND YOU DIDN'T GET PHYSICALLY HURT OR

1                   PHYSICALLY INJURED FROM THE CUSTOMER COMING INTO  
2                   CONTACT WITH YOU, DID YOU?

3           A.    I MEAN, SHE GRABBED ME PRETTY HARD; SO...

4           Q.    DID YOU ---

5           A.    I MEAN, I DIDN'T HAVE ANY BRUISES OR ANYTHING, IF  
6                   THAT'S WHAT YOU MEAN.

7           Q.    MY QUESTION IS, DID YOU GET PHYSICALLY HURT OR  
8                   PHYSICALLY INJURED FROM THE CUSTOMER COMING INTO  
9                   CONTACT WITH YOU?

10          A.    I DON'T -- NO, I GUESS NOT.

11          Q.    DID YOU EXPERIENCE ANY PHYSICAL PAIN FROM THE  
12                 CUSTOMER COMING INTO CONTACT WITH YOU?

13          A.    NO. I MEAN, LIKE I SAID, WHEN SHE GRABBED ME IT WAS  
14                 REALLY -- IT WAS LIKE IT WAS A LOT OF FORCE. IT WAS  
15                 FIRM, AND SHE WAS FORCEFUL WITH IT. SO, I'M NOT SURE  
16                 HOW TO ANSWER THAT, HOW YOU WANT ME TO ANSWER THAT.

17          Q.    OKAY. AND PAIN, YOU KNOW, SOMETIMES ---

18          A.    I MEAN, I KNOW WHAT PAIN IS, LIKE SORENESS OR  
19                 SOMETHING LIKE THAT, BUT NO.

20          Q.    OKAY. AND YOU NEVER REPORTED TO ANY MEDICAL DOCTOR  
21                 THAT YOU HAD ANY PHYSICAL INJURY TO ANY PART OF YOUR  
22                 BODY AS A RESULT OF THE INCIDENT ON DECEMBER 26TH,  
23                 DID YOU?

24          A.    I DON'T RECALL. I DON'T RECALL THEM ASKING ME THAT.

25          Q.    OKAY. DO YOU RECALL REPORTING ANY TYPE OF INJURY, IF

1           YOU HAD A PHYSICAL INJURY?

2           A.   OTHER THAN HER, YOU KNOW, GRABBING ME, AND, YOU KNOW,  
3           NO, I DON'T RECALL SAYING THAT.

4           Q.   DO YOU RECALL REPORTING ANY PHYSICAL INJURY?

5           **BY MR. WUKELA:**

6                       YOUR HONOR, THIS CALLS FOR A LEGAL CONCLUSION.  
7                       SHE'S TESTIFIED THAT SHE WAS GRABBED. SHE TESTIFIED  
8                       SHE WASN'T BRUISED. THE FACTS ARE THE FACTS. THE  
9                       LAW WILL BE ARGUED, AND IT HAS BEEN, TO THE COURT.

10          **BY MS. YARBROUGH:**

11                       SHE KNOWS WHETHER OR NOT SHE TOLD THE DOCTOR  
12                       WHETHER SHE HAD A PHYSICAL INJURY OR NOT. THAT'S NOT  
13                       A LEGAL CONCLUSION.

14          **BY THE COMMISSIONER:**

15                       WELL, SHE JUST TESTIFIED. SHE SAID, I TOLD THEM  
16                       THAT SHE GRABBED ME BUT NOTHING OTHER THAN THAT. SO  
17                       I THINK SHE ANSWERED THE QUESTION.

18          **BY MS. YARBROUGH:**

19                       OKAY.

20          **CROSS EXAMINATION RESUMED BY MS. YARBROUGH:**

21           Q.   AND THE REASON WHY YOU WENT OUT OF WORK ON MARCH  
22           14TH, 2020, WAS BECAUSE YOU WERE SCARED OF  
23           RETALIATION BY THE CUSTOMER WHO HAD JUST BEEN  
24           ARRESTED AND HAD A BOND HEARING; IS THAT ACCURATE?

25           A.   YES, IT'S ACCURATE. I MEAN, LIKE IT WAS -- I DIDN'T

1 KNOW WHAT TO EXPECT. LIKE I SAID, I'VE NEVER BEEN  
2 THROUGH ANYTHING LIKE THIS BEFORE.

3 Q. AND YOU DIDN'T WANT TO BE AT THE CVS STORE JUST IN  
4 CASE SHE CAME BACK?

5 A. RIGHT.

6 Q. OKAY. AND NO DOCTOR HAD GIVEN YOU A NOTE TO SUPPORT  
7 YOU BEING OUT OF WORK ON MARCH 14TH, 2020; IS THAT  
8 CORRECT?

9 A. WELL, I HAD ALREADY HAD AN APPOINTMENT, AND MY  
10 QUESTION WAS TO MS. HANNA, WAS COULD I HAVE THAT TIME  
11 OFF UNTIL MY APPOINTMENT, AND SHE TOLD ME THEN THAT I  
12 CANNOT GIVE YOU THAT AMOUNT OF TIME OFF, THAT YOU  
13 WOULD HAVE TO SUBMIT LEAVE.

14 Q. OKAY. AND WHEN YOU SUBMITTED LEAVE, DID CVS ASK YOU  
15 FOR MEDICAL DOCUMENTATION?

16 A. YES, AND I SUBMITTED IT TO THEM.

17 Q. OKAY. DID YOU PRODUCE ANY TYPE OF NOTE TO SUPPORT  
18 BEING OUT OF WORK AS OF MARCH 14TH, 2020?

19 A. NO. I WAS JUST SPEAKING TO MS. HANNA HERSELF.

20 Q. OKAY. AND YOU CONTINUED TO GO TO SCHOOL UNTIL ABOUT  
21 NINE OR TEN MONTHS AFTER THE INCIDENT, IS THAT RIGHT?

22 A. YEAH. I TRIED TO UPHOLD MY CLASS WORK, YES.

23 Q. AND YOU CAN'T GO BACK TO SCHOOL UNTIL YOU PAY THEM  
24 ABOUT \$2,000, RIGHT?

25 A. WELL, YEAH, BECAUSE I -- ACCORDING TO WHEN I

1 WITHDREW, HOWEVER FINANCIAL AID WORKS, I HAVE TO PAY  
2 THAT BACK BEFORE I CAN REGISTER.

3 Q. OKAY. AND THE FIRST DOCTOR TO WRITE YOU OUT OF WORK  
4 WAS DR. HICKS ON MAY 18TH, 2020, IS THAT RIGHT?

5 A. YEAH, I THINK SO.

6 Q. AND THAT VISIT THAT YOU HAD WITH HER WAS DONE VIA  
7 TELEMEDICINE REMOTELY?

8 A. I'VE HAD A FEW VISITS WITH HER TELEMEDICINE. I DON'T  
9 REMEMBER EVERY VISIT. LIKE I SAID, ONCE BEING  
10 DISPLACED, LIKE, IT WAS REALLY HARD TO COMMUTE. ALL  
11 OF THAT PLAYED A PART. AND, LIKE, SO, I GUESS, I  
12 WOULD SAY MAYBE I DID HAVE A FEW, A COUPLE, I'M NOT  
13 SURE, VIA TELEMEDICINE.

14 Q. MOST OF YOUR VISITS WITH HER WERE TELEMEDICINE,  
15 WEREN'T THEY?

16 A. MORE SO BECAUSE OF WHERE I WAS. AND THEN, LIKE I  
17 SAID, I CAME UP HERE, I THINK, ONCE OR TWICE.

18 Q. OKAY. AND WHEN YOU SAW HER MAY 18TH, SHE TOLD YOU TO  
19 FOLLOW UP IN A MONTH, DIDN'T SHE?

20 A. I DON'T RECALL THE COMPLETE CONVERSATION. I'M GONNA  
21 BE HONEST WITH YOU; I REALLY DON'T.

22 Q. IF HER RECORDS INDICATE THAT SHE TOLD YOU IN MAY TO  
23 FOLLOW UP IN JUNE, WOULD YOU HAVE ANY REASON TO  
24 DISPUTE THAT?

25 A. I DON'T -- I'D HAVE TO GO BACK AND LOOK AT MY FILE.

1           LIKE, I'M NOT SURE WHAT DAY YOU'RE TALKING ABOUT.

2           Q.    MAY 18TH, 2020, THE FIRST TIME YOU SAW DR. HICKS.

3           A.    MAY 18TH, 2020.  YEAH, I THINK THAT WAS VIA  
4           TELEMEDICINE, BUT I'M NOT SURE WHAT WE DISCUSSED.  
5           THE WHOLE DIALOGUE, I'M NOT SURE.

6           Q.    OKAY.  AND IN JUNE YOU DIDN'T RETURN TO DR. HICKS AS  
7           SHE ASKED YOU TO DO, DID YOU?

8           A.    WELL, YEAH, I LEFT BECAUSE, I THINK -- I THINK THAT  
9           PARTICULAR APPOINTMENT, IF I'M NOT MISTAKEN, THEY HAD  
10          ME DOWN FOR AN OFFICE VISIT, BUT I WAS NOT -- I DON'T  
11          KNOW; IT WAS A MIX-UP BETWEEN COMING INTO THE OFFICE  
12          AND HAVING A VIDEO.  I THINK I WAS TRACKING THAT IT  
13          WAS A VIDEO OR SOMETHING; I'M NOT SURE.  AND WE  
14          RECTIFIED THAT.  I THINK WE RESCHEDULED, SOMETHING OF  
15          THAT NATURE.  I'M NOT SURE.

16          Q.    OKAY.  BUT YOU DIDN'T SHOW UP IN JULY EITHER?

17          A.    AT THAT TIME I'M IN GEORGIA, AND I THINK I EXPRESSED  
18          THAT TO HER, THAT I WASN'T -- AS FAR AS GETTING TO  
19          SOUTH CAROLINA AND THE COMMUTE ITSELF, YEAH.

20          Q.    SHE NEVER REFUSED TO SEE YOU VIA TELEMEDICINE, DID  
21          SHE?

22          A.    NO, SHE DIDN'T.

23          Q.    AND WHEN YOU SAW HER IN AUGUST, YOU SAW HER VIA  
24          TELEMEDICINE, DIDN'T YOU?

25          A.    I'M NOT SURE.  IT'S A POSSIBILITY, BUT I'M THINKING I

1 DID. I'M NOT SURE.

2 Q. OKAY. AND THEN IN AUGUST WHEN YOU SAW HER, SHE GAVE  
3 YOU A NOTE TO STAY OUT FOR A MONTH, DIDN'T SHE?

4 A. I DON'T RECALL. DID YOU GET THIS FROM HER?

5 Q. YES.

6 A. OH, 'CAUSE I DON'T HAVE ANY RECORD OF THAT.

7 Q. OKAY. AND IN AUGUST, DID SHE ASK YOU TO COME BACK IN  
8 A MONTH, IN SEPTEMBER?

9 A. I DON'T RECALL THAT. I KNOW I SEEN HER, I THINK, IN  
10 OFFICE IN NOVEMBER. I THINK WE DID SEE EACH OTHER A  
11 FEW TIMES ON VIDEO, BUT...

12 Q. WOULD IT BE FAIR TO SAY THAT YOU DIDN'T FOLLOW UP  
13 WITH HER WHEN SHE ASKED YOU TO FOLLOW UP?

14 A. IT WOULD BE FAIR TO SAY THAT BECAUSE OF THE  
15 CIRCUMSTANCES SURROUNDING MY -- ME BEING DISPLACED  
16 AND NOT HAVING RESOURCES TO CONNECT WITH HER, THAT  
17 WOULD PROBABLY BE MORE SO RIGHT. I WASN'T AS  
18 CONSISTENT, BUT OTHER THAN THAT, IT WASN'T JUST ME  
19 JUST NOT CHOOSING TO SEE HER.

20 Q. AND WHEN YOU SAID YOU DIDN'T HAVE RESOURCES TO  
21 CONNECT WITH HER, DID YOU HAVE A PHONE TO CONNECT  
22 WITH HER VIA TELEMEDICINE?

23 A. I MEAN, YEAH, BUT I THINK SHE WANTED TO SEE ME IN  
24 OFFICE. SO THAT'S WHY I WASN'T ABLE TO SEE HER IN  
25 PERSON.

1 Q. AND DID YOU TELL HER ON NOVEMBER 9TH OF 2020 WHEN YOU  
2 SAW HER THAT YOU WERE DOING WELL WITH YOUR OWN COPING  
3 MECHANISMS AND WITHOUT MEDICATION AND YOU COULD  
4 CONTINUE WITHOUT MEDICATION?

5 A. I EXPRESSED TO HER ON MORE THAN ONE OCCASION HOW I  
6 FELT ABOUT THE MEDICINE. MY FAMILY, THEY WERE --  
7 THEY HAD SEVERAL RESERVATIONS ABOUT THE MEDICINE.  
8 THEY FELT LIKE IT DOES MESS WITH -- YOU KNOW,  
9 CHEMICALLY IT MESSES WITH YOUR BRAIN, AND THEY  
10 WEREN'T -- THEY WEREN'T HAPPY WITH THAT. THEY DIDN'T  
11 WANT ME TO TAKE THE MEDICINE. SO, IN WAYS THAT THEY  
12 COULD HELP, THEY DID. I EXPRESSED IT TO DR. HICKS  
13 THAT I WASN'T COMFORTABLE WITH IT BECAUSE I DIDN'T  
14 WANT TO BECOME, LIKE, DEPENDENT ON IT. YOU KNOW, I  
15 WANTED TO REALLY MITIGATE THROUGH THIS -- THESE  
16 CIRCUMSTANCES LIKE IN OTHER WAYS, AND SHE SAID THAT  
17 THERE WERE OTHER WAYS, AND SHE INTRODUCED ME TO  
18 ADAPTIVE MEDITATION AND, YOU KNOW, JUST ANOTHER WAY  
19 TO TRY TO GET THROUGH IT.

20 Q. OKAY. AND YOU FOUND ADAPTIVE MEDICATION TO BE A GOOD  
21 COPING MECHANISM FOR YOU, IS THAT RIGHT?

22 A. I DO IT SOMETIMES IN ADDITION TO WHAT MS. ANETTA  
23 HOPKINS GAVE ME, THE COLORING BOOK. I MEAN, IT'S  
24 JUST DIFFERENT STUFF, YOU KNOW, AND, YOU KNOW,  
25 DIFFERENT TRIGGERS I TRY TO AVOID. AND, LIKE, MY

1           PERSONAL SPACE IS BIG FOR ME, TOO, BUT ALL IN ALL  
2           IT'S MY KID, MY DOG. IT'S JUST DIFFERENT THINGS THAT  
3           KIND TO HELP ME KEEP FOCUSED REALLY.

4           Q.    AND THE LAST TIME YOU SAW MS. HOPKINS, THOUGH, WAS IN  
5           THE SUMMER OF 2020, IS THAT RIGHT?

6           A.    BEFORE I LEFT, I THINK, YES, SOMEWHERE OR ANOTHER.

7           Q.    AND DR. HICKS ASKED YOU TO FOLLOW UP WITH A COUNSELOR  
8           ON MULTIPLE OCCASIONS, DIDN'T SHE?

9           A.    RIGHT, BECAUSE SHE SAID -- I TOLD HER THAT I REACHED  
10          OUT TO MS. ANETTA HOPKINS, AND I TOLD HER THAT SHE  
11          WASN'T RESPONDING BACK TO ME WHEN I WOULD REACH OUT  
12          TO HER, WHETHER IT WAS LEAVING A VOICEMAIL OR A TEXT  
13          MESSAGE. I DON'T KNOW IF SHE WAS JUST THAT BUSY.  
14          AND THEN SHE ASSURED ME THAT THERE WERE OTHER  
15          PATIENTS OF HERS COMING BACK TO HER TELLING HER SOME  
16          SIMILAR THINGS ABOUT MS. HOPKINS NOT BEING AVAILABLE.

17          Q.    AND SO DR. HICKS ASKED YOU TO TRY A NEW COUNSELOR,  
18          DIDN'T SHE?

19          A.    SHE TOLD ME TO -- SHE SAID I COULD SEARCH FOR  
20          SOMETHING -- SOMEONE ELSE THAT'S GOING TO, YOU  
21          KNOW...

22          Q.    OKAY. BUT SINCE LAST SUMMER YOU DIDN'T SEARCH FOR  
23          ANYBODY UNTIL MORE RECENTLY WITH MS. GRAHAM; IS THAT  
24          CORRECT?

25          A.    WELL, I WAS TRYING TO GET THROUGH ON THE VICTIMS

1           ADVOCATE THROUGH FLORENCE, A VICTIMS ADVOCATE, AND I  
2           FOUND OUT THAT THEY WOULDN'T REIMBURSE, YOU KNOW, IF  
3           I -- 'CAUSE LIKE I SAID, MEDICAID WASN'T BEING USED  
4           IN GEORGIA BECAUSE THEY TOLD ME THEY DIDN'T ACCEPT  
5           IT. SO, AT THIS POINT THEY OFFERED REIMBURSEMENT,  
6           LIKE ME PAYING FOR THE COUNSELING TO CONTINUE, YOU  
7           KNOW, TREATMENT, AND THEN THEY COULD REIMBURSE.

8           Q.    BUT YOU'RE STILL GETTING MEDICAID IF YOU GO TO DR.  
9           HICKS, RIGHT, OR ANY PROVIDERS IN SOUTH CAROLINA?

10          A.    I HAVEN'T TRIED. I HAVEN'T -- I DON'T KNOW. I MIGHT  
11          INCUR CHARGES, BECAUSE, LIKE I SAID, I DON'T KNOW IF  
12          IT'S STILL ACTIVE. I HAVEN'T CHECKED. I HAVEN'T  
13          CHECKED IF THE MEDICAID IS STILL ACTIVE.

14          Q.    BUT YOU WENT TO DR. HICKS IN MARCH OF 2021. HOW DID  
15          YOU PAY FOR THAT, MARCH OF 2021?

16          A.    I'M ASSUMING THAT WAS UNDER MEDICAID AS WELL.

17          Q.    OKAY. AS FAR AS YOU KNOW, THOUGH, MEDICAID IS STILL  
18          PAYING FOR VISITS IN SOUTH CAROLINA, IS THAT RIGHT?

19          A.    AS FAR AS I KNOW. I'M NOT COMPLETELY SURE.

20          Q.    OKAY. AND I UNDERSTAND FROM YOUR EARLIER TESTIMONY  
21          THAT YOU WERE MOLESTED BY A FAMILY MEMBER ONE TIME  
22          WHEN YOU WERE ABOUT SEVEN OR EIGHT YEARS OLD; IS THAT  
23          CORRECT?

24          A.    YES. I WAS A LOT YOUNGER THAN MY KID.

25          Q.    AND YOU DIDN'T THEN AND YOU HAVEN'T TO THIS DAY

1 REPORTED THE MOLESTATION TO ANY POLICE OR  
2 GOVERNMENTAL AGENCY; IS THAT CORRECT?

3 A. I HAVEN'T, ONLY BECAUSE OF, LIKE, THE FEAR THAT -- I  
4 MEAN, I JUST -- LIKE I SAID, IT HAPPENED, AND I WAS  
5 TOLD I BETTER NOT SAYING ANYTHING, AND IT'S A LOT OF  
6 THINGS THAT GO THROUGH MY MIND. LIKE, YOU KNOW, I  
7 DON'T KNOW, WITH IT BEING SO LONG AGO, I DON'T KNOW.

8 Q. OKAY. AND YOU DIDN'T, AT THE TIME IT HAPPENED, AND  
9 HAD NOT LEADING UP TO THE CVS INCIDENT REPORTED THE  
10 MOLESTATION TO ANY MEDICAL PROVIDER, DID YOU?

11 A. NO. I JUST -- I MEAN, IT WAS -- IT WAS BROUGHT UP  
12 BECAUSE OF IT BEING IN THE PAST AND BEING TRIGGERED  
13 BY THE INCIDENT THAT HAPPENED IN DECEMBER.

14 Q. RIGHT. AND I UNDERSTAND THAT YOU BROUGHT IT UP AFTER  
15 THE CVS INCIDENT. BUT FROM THE TIME THAT IT HAPPENED  
16 UP UNTIL DECEMBER OF 2019, YOU DIDN'T MENTION IT TO  
17 ANY MEDICAL PROVIDER DURING THAT, YOU KNOW, 20-YEAR  
18 PERIOD OF TIME, DID YOU?

19 A. IT WASN'T ASKED. IT WAS, YOU KNOW -- I WASN'T ASKED  
20 ABOUT IT.

21 Q. OKAY. AND THEN AT THE TIME OF THE INCIDENT AND  
22 LEADING UP TO DECEMBER OF 2019, YOU HADN'T RECEIVED  
23 ANY MEDICAL TREATMENT OR PROFESSIONAL COUNSELING FOR  
24 THAT MOLESTATION, HAD YOU?

25 A. NO.

1 Q. NO?

2 A. NO. I MEAN, I HAD MY GRANDMOTHER, BUT SHE'S NO  
3 LONGER HERE, BUT, YOU KNOW, SOMEONE I CONFIDED IN AND  
4 TRUSTED.

5 Q. AND OTHER THAN YOUR GRANDMOTHER, WHO I KNOW HAS  
6 PASSED AWAY, DID YOU -- HAVE YOU TOLD ANY CURRENTLY  
7 LIVING FAMILY MEMBERS OR FRIENDS ABOUT THE  
8 MOLESTATION BEFORE DECEMBER 26TH, 2019?

9 A. I THINK I LASHED OUT AND SAID SOMETHING LIKE AFTER  
10 SHE PASSED. I THINK I LASHED OUT AND SAID SOMETHING  
11 TO MY MOM, AND I THINK IT HURT HER MORE THAN  
12 ANYTHING. YOU KNOW WHAT I MEAN? BUT...

13 Q. YEAH. BUT DID YOU TELL YOUR AUNT, THE ONE THAT YOU  
14 LIVE WITH NOW? DID YOU TELL HER?

15 A. YEAH. SHE -- SHE KNOWS. SHE KNOWS, AND MY  
16 GRANDMOTHER KNEW, AND I EXPRESSED IT TO THEM, YEAH.

17 Q. OKAY. AND YOU DIDN'T BRING YOUR AUNT TODAY OR ANY  
18 FAMILY MEMBERS OR FRIENDS THAT KNEW ABOUT IT TO  
19 TESTIFY ABOUT YOUR MOLESTATION, DID YOU?

20 A. NO, I DIDN'T BRING THEM WITH ME.

21 Q. OKAY. AND YOU DON'T HAVE ANY DOCUMENTS THAT PREDATE  
22 DECEMBER OF 2019 THAT CAN CONFIRM YOUR TESTIMONY  
23 ABOUT YOUR MOLESTATION, DO YOU?

24 A. NO. IT'S NOT ON ANY RECORD OTHER THAN, YOU KNOW...

25 Q. OKAY. AND THEN AT THE TIME OF THE INCIDENT, THE

1           CUSTOMER CONTACTED YOUR BODY WHILE YOU WERE  
2           VACUUMING; IS THAT CORRECT? YES?

3           A.    YES.

4           Q.    AND AFTER THE INCIDENT OCCURRED, YOU LOOKED AT HER,  
5           SMILED, AND CONTINUED TO VACUUM AS SHE CONTINUED TO  
6           WALK THROUGH THE ENTRYWAY; ISN'T THAT TRUE?

7           A.    I DIDN'T LOOK AT HER AND SMILE. IT WAS MORE OF LIKE,  
8           DID YOU REALLY JUST, LIKE, DO THIS? LIKE -- LIKE I  
9           SAID, IT WAS -- IT WAS A REALLY -- I CAN'T EVEN,  
10          LIKE, RECALL LIKE HOW -- IT WAS -- THE WAY IT  
11          HAPPENED, LIKE I SAY, I WAS -- IT WAS LIKE MAYBE A  
12          FORM OF SHOCK OR SOMETHING; I'M NOT SURE.

13          Q.    DO YOU KNOW FOR SURE THAT YOU DIDN'T SMILE, OR YOU  
14          DON'T KNOW EITHER WAY IF YOU SMILED OR NOT?

15          A.    MA'AM, I -- LIKE WHEN IT HAPPENED, LIKE I SAID, BOTH  
16          MY HANDS WERE NOT FREE. I HAD MY HAND ON THE VACUUM,  
17          I HAD ONE HAND ON THE DOOR, AND I'M LIKE BRACING THE  
18          DOOR. I MOVED OUT OF THE WAY SO SHE CAN PASS, 'CAUSE  
19          APPARENTLY THAT'S WHAT SHE -- I THOUGHT SHE WAS GOING  
20          TO DO, AND SHE DIDN'T. SHE FIRMLY GRIPPED MY REAR-  
21          END AND DID THIS NUMBER HERE AND LEFT OUT THE STORE.  
22          AND THEN, I MEAN, IT'S THIS KOOKY LAUGH THAT SHE DID,  
23          AND SHE LEFT. I DON'T EVEN KNOW -- I DIDN'T EVEN  
24          KNOW WHO SHE WAS.

25          Q.    OKAY. AND YOU CONTINUED TO VACUUM AFTER IT OCCURRED,

1 RIGHT?

2 A. LIKE I SAID, I WAS -- I WAS OBLIGATED TO CLOSE THE  
3 STORE. I COULDN'T JUST -- YOU KNOW, I -- NOTHING --  
4 I WORKED IN CUSTOMER SERVICE BEFORE EARLIER ON, AND  
5 I'VE NEVER EXPERIENCED ANYTHING OF THAT NATURE. SO,  
6 WHEN THAT HAPPENED, I WAS LIKE DID THIS REALLY -- YOU  
7 KNOW, I WAS -- I WAS KIND OF OUT OF IT, LIKE IT  
8 STARTLED -- IT REALLY STARTLED ME, AND I THINK I WAS  
9 SHOCKED, IN A STATE OF SHOCK.

10 Q. AND YOU CONTINUED TO RING UP CUSTOMERS THE REMAINDER  
11 OF THE EVENING UNTIL THE STORE CLOSED?

12 A. ALL I COULD THINK ABOUT WAS CLOSING THE STORE AND  
13 GETTING TO MY DAUGHTER WHERE THAT IS A SAFE HAVEN,  
14 AND I COULD REALLY KIND OF GET THROUGH MY THOUGHTS,  
15 LIKE WHAT JUST HAPPENED TO ME; YOU KNOW WHAT I MEAN?

16 Q. OKAY. SO YOU DID CONTINUE TO RING UP CUSTOMERS?

17 A. I -- I CLOSED THE STORE THAT NIGHT.

18 Q. OKAY. AND YOU DIDN'T CALL THE POLICE TO REPORT THE  
19 INCIDENT THAT EVENING?

20 A. I CALLED MY AUNT, AND SHE TOLD ME WHAT TO DO, AND I  
21 -- THE POLICE OFFICER CAME TO MY HOME.

22 Q. MULTIPLE DAYS LATER?

23 A. IT WAS LIKE -- I DON'T KNOW WHAT DAY IT WAS. IT WAS  
24 THE -- I THINK THE NEXT DAY I WORKED WITH MS. HANNA,  
25 I TOLD HER, AND, YOU KNOW, I GUESS I WAS JUST

1 SCRAMBLING. I'M NOT SURE WHAT THE PROCESS WAS, BUT I  
2 KNOW WHEN I SAW THE POLICE OFFICER, I WAS AT HOME AND  
3 HE CAME TO GET MY STATEMENT. HE SAID WHAT HE SAID AS  
4 FAR AS I SHOULD HAVE SMACKED HER, BUT I TOLD HIM I  
5 COULD NOT DO ANYTHING LIKE THAT BEING THAT I'M THE  
6 ONLY ONE HERE WITH MY KID.

7 Q. YOU DIDN'T CALL MS. HANNA THAT NIGHT TO TELL HER WHAT  
8 HAPPENED, RIGHT?

9 A. I DIDN'T. ME AND HER WORKED THE NEXT DAY, I THINK,  
10 OR WAS IT -- I'M NOT SURE. IT WAS -- IT MIGHT HAVE  
11 BEEN THAT SAME WEEK ME AND HER WORKED TOGETHER. I'M  
12 NOT SURE. IT WAS -- IT'S BEEN LIKE A YEAR OR SO.  
13 I'M NOT SURE.

14 Q. AND YOU DIDN'T BREAK DOWN AND CRY THAT EVENING AT THE  
15 STORE?

16 A. I TOLD HER WHAT HAD HAPPENED.

17 Q. NO, I'M TALKING -- I'M SORRY; THE NIGHT OF THE  
18 INCIDENT, AFTER IT ---

19 A. SHE WASN'T THERE THAT NIGHT. I WAS THERE BY MYSELF.

20 Q. RIGHT. I'M ASKING YOU, THE NIGHT THAT IT OCCURRED,  
21 YOU DIDN'T BREAK DOWN AND CRY AT THE STORE AFTER IT  
22 HAPPENED?

23 A. I WAS TRYING TO GET OUT OF THERE.

24 Q. OKAY. SO THE ANSWER IS NO?

25 A. THE ANSWER IS NO.

1 Q. OKAY. AND YOU DIDN'T GO BACK TO THE BACK OF THE  
2 STORE TO TALK TO THE PHARMACY STAFF ABOUT WHAT HAD  
3 JUST HAPPENED, DID YOU?

4 A. NO, BECAUSE THEY LEFT. AND, LIKE I SAID, I CLOSED  
5 THE STORE MYSELF THAT NIGHT.

6 Q. BUT THE PHARMACY STAFF WAS STILL IN THE BACK? YOU  
7 CAN'T BE THE ONLY ONE IN THE WHOLE STORE, CAN YOU?

8 A. I WAS UP THERE BY MYSELF, LIKE I SAID.

9 Q. RIGHT. BUT THERE WERE STILL PHARMACY STAFF IN THE  
10 BACK OF THE STORE, RIGHT?

11 A. I'M NOT SURE EXACTLY WHO WAS THERE. THERE WAS --  
12 THERE WERE STAFF, 'CAUSE, LIKE I SAID, SHE HAD JUST  
13 GOTTEN HER MEDICATION FILLED AND SHE WAS LEAVING THE  
14 STORE. AND I'M NOT SURE WHAT TIME THE PHARMACY STAFF  
15 LEFT, BUT I DID ASK THEM WHO WAS THAT LADY. I'M NOT  
16 SURE IF THAT WAS THE SAME NIGHT OR, YOU KNOW, THE  
17 NEXT NIGHT. I'M NOT SURE. BUT THAT'S HOW I FOUND  
18 OUT WHO SHE WAS, FROM THE PHARMACY STAFF.

19 Q. OKAY. AND ALTHOUGH YOU WERE VACUUMING AT THE TIME  
20 THE INCIDENT OCCURRED, YOU HAVE NO PROBLEM VACUUMING  
21 TODAY?

22 A. NO. I CAN VACUUM FINE.

23 Q. OKAY. AND YOU'RE ABLE TO TAKE CARE OF YOUR DAUGHTER,  
24 CLEAN YOUR HOUSE, DRIVE, AND DO NORMAL EVERYDAY  
25 ACTIVITIES?

1 A. I THINK -- WELL, SHE CAN CLEAN HERSELF, BUT SHE'S NOT  
2 AS DEPENDENT AS MOST KIDS, BUT, YEAH, I CAN -- I CAN  
3 DRIVE. I CAN CLEAN MY ROOM, OR WHATEVER.

4 Q. DID YOU SEE THE SURVEILLANCE WHAT WAS TAKEN OF YOU?

5 A. WHAT SURVEILLANCE? TALKING ABOUT WHEN SHE GRABBED  
6 ME?

7 Q. NO, THE SURVEILLANCE THAT WAS TAKEN OF YOU IN  
8 SAVANNAH.

9 A. NO.

10 Q. YOU HAVEN'T SEEN IT?

11 A. NO. SURVEILLANCE?

12 Q. OKAY. AND ISN'T IT TRUE THAT YOU BELIEVE THAT YOU  
13 CAN FUNCTION WITHOUT ANY HELP NOW AS LONG AS YOU HAVE  
14 TIME TO YOURSELF TO DO YOUR AFFIRMATIONS?

15 A. THAT IN ADDITION TO ---

16 Q. IS THAT A YES?

17 A. I'M FUNCTIONING. I STILL SEE THE COUNSELOR EVERY  
18 OTHER WEEK. LIKE I SAID, I DO -- DO MY DAILY  
19 AFFIRMATIONS AND MEDITATION.

20 Q. YOU STILL SEE BRENDA GRAHAM EVERY OTHER WEEK?

21 A. YES, I DO.

22 Q. SO, IS SHE -- HAS SHE ASKED YOU TO SIGN A RELEASE FOR  
23 HER RECORDS?

24 A. EXCUSE ME?

25 Q. HAS SHE ASKED YOU TO SIGN A RELEASE TO ALLOW US TO

1 GET HER RECORDS?

2 A. I THINK SHE MENTIONED SOMETHING ABOUT, I DON'T KNOW,  
3 I GUESS, YOUR FIRM CONTACTING HER, BUT I HADN'T  
4 GOTTEN BACK WITH HER, I GUESS, IN TIME FOR THIS, I'M  
5 ASSUMING. I HAD -- I HAD THE VIDEO CHAT WITH MR.  
6 SNIPES, AND I FELT LIKE THAT WAS INCONCLUSIVE BECAUSE  
7 HE WAS ASKING ME QUESTIONS, AND IT SEEMED LIKE HE  
8 DIDN'T HAVE ALL OF HIS DOCUMENTATION. HE WAS ASKING  
9 ME QUESTIONS THAT I FELT LIKE ---

10 Q. NOW, YOU SAID THAT YOU'VE BEEN TO MS. GRAHAM EVERY  
11 OTHER WEEK?

12 A. MM-HMM.

13 Q. YES?

14 A. MM-HMM.

15 Q. AND HOW MANY TIMES HAVE YOU BEEN TO HER?

16 A. WHEN I STARTED, I'M NOT SURE THE DATE OF THE FIRST  
17 DAY, BUT I HAVE IT ON MY PHONE, ACTUALLY. LET ME  
18 LOOK AT MY CALENDAR.

19 Q. BECAUSE YOU STARTED BEFORE OUR LAST DEPOSITION IN  
20 APRIL; IS THAT CORRECT?

21 A. I BELIEVE SO. OH, SHE HAS IT. I CAN'T REMEMBER THE  
22 FIRST DAY THAT HER AND I MET, BUT I HAVE AN  
23 APPOINTMENT WITH HER. I TRY TO SEE HER EVERY OTHER  
24 WEEK.

25 Q. AND WHEN WAS THE LAST TIME YOU'VE SEEN HER?

1           A.    I WANT TO SAY IT WAS -- IT WANT TO SAY IT WAS THE END  
2                    OF LAST MONTH.

3           Q.    OKAY.  AND DID YOU TELL DR. SNIPES THAT YOU DIDN'T  
4                    THINK YOU NEEDED PSYCHOLOGICAL COUNSELING FOR YOUR  
5                    WORK INCIDENT?

6           A.    I DON'T RECALL TELLING DR. SNIPES THAT.  HE -- HE WAS  
7                    ASKING ME A LOT OF QUESTIONS, AND HE ASKED ME ABOUT  
8                    RECORDS THAT HE SAID HE DIDN'T HAVE.  A LOT OF THE  
9                    TIMES DURING THAT VIDEO HE SAID HE DIDN'T HAVE THAT  
10                   RECORD, I DIDN'T HAVE THAT INFORMATION, WHEN I WAS  
11                   TALKING WITH HIM, AND I -- YOU KNOW, I THOUGHT THAT  
12                   MAYBE HE SHOULD HAVE HAD IT, BECAUSE, OF COURSE, YOU  
13                   GUYS APPOINTED HIM TO TALK TO ME.

14          Q.    WHAT RECORDS DID YOU THINK THAT HE DID NOT HAVE?

15          A.    I -- ON MORE THAN ONE OCCASION HE SAID THAT HE DIDN'T  
16                   HAVE THAT RECORD, THEY DIDN'T -- THEY DIDN'T, YOU  
17                   KNOW, GIVE ME THAT RECORD.

18          Q.    SPECIFICALLY, YOU'RE PROBABLY TALKING ABOUT LINDA  
19                   DAVIS' RECORDS, WHICH SHE HASN'T PRODUCED?

20          A.    I'M NOT SURE EXACTLY WHAT RECORDS.  I KNOW THAT THERE  
21                   WAS A FEW TIMES HE'D SAY THAT HE DIDN'T HAVE CERTAIN  
22                   RECORDS ON MY BEHALF, AND THEN HE WAS ASKING ME  
23                   QUESTIONS THAT I FELT HE SHOULD HAVE ALREADY KNOWN  
24                   BECAUSE, OF COURSE, YOU GUYS APPOINTED HIM.

25          Q.    OKAY.  I CAN TELL YOU I THAT I PRODUCED ALL THE

1 MEDICAL RECORDS THAT I HAD.

2 A. I'M NOT SURE. HE SAID ON MORE THAN ONE OCCASION ---

3 **BY MR. WUKELA:**

4 WITH THE EXCEPTION OF DR. HICKS' DEPOSITION.

5 **BY THE WITNESS:**

6 YEAH, I THINK ---

7 **BY MS. YARBROUGH:**

8 I PRODUCED THE MEDICAL RECORDS.

9 **WITNESS RESUMES:**

10 A. THE QUESTIONS HE WAS ASKING ME, I REALLY WASN'T  
11 CONFIDENT THAT HE KNEW EXACTLY WHAT WAS GOING ON FROM  
12 HOW HE WAS ASKING THE QUESTIONS.

13 **CROSS EXAMINATION RESUMED BY MS. YARBROUGH:**

14 Q. AND HE WAS THERE TO ASK YOU QUESTIONS TO FIGURE OUT  
15 WHAT WAS GOING ON, RIGHT?

16 A. I -- IT WAS A LITTLE SCATTERED TO ME. I DON'T THINK  
17 HE HAD ALL OF HIS DOCUMENTATION.

18 Q. IN YOUR DIRECT TESTIMONY, YOU TALKED ABOUT NOT BEING  
19 ABLE TO TRANSFER TO ANOTHER CVS. DID YOU ASK TO BE  
20 TRANSFERRED TO ANOTHER CVS STORE?

21 A. I DON'T RECALL ASKING THAT.

22 Q. OKAY. AND THEN WHEN YOU APPLIED FOR FINANCIAL  
23 ASSISTANCE THROUGH SOME KIND OF ONLINE GIVING FUND,  
24 DO YOU RECALL THAT?

25 A. OH, YEAH, I DID THAT.

1 Q. AND I'M LOOKING AT APA PAGES 66 AND 67.

2 A. IT WAS SOMETHING -- AN ORGANIZATION DURING THE, I  
3 GUESS, COVID RELIEF OR THROUGH THE SALVATION ARMY. I  
4 APPLIED, AND THEY ASSISTED ME WITH SOME BILLS.

5 Q. OKAY. AND YOU SAID THAT YOU NEEDED ASSISTANCE  
6 BECAUSE OF COVID?

7 A. YEAH. I MEAN, COVID AND BEING UNEMPLOYED.

8 Q. YOU DIDN'T SAY YOU NEEDED ASSISTANCE BECAUSE YOU HAD  
9 HAD A WORK INCIDENT, ANYTHING LIKE THAT, DID YOU?

10 A. I DON'T -- I DON'T RECALL THE EXACT, YOU KNOW,  
11 APPLICATION. I PUT THE APPLICATION IN BECAUSE IT WAS  
12 ON THE NEWS. I'M ASSUMING THAT THEY WERE ASSISTING,  
13 YOU KNOW, WITH HARDSHIPS OR SOMETHING OF THAT NATURE,  
14 AND I APPLIED.

15 **BY MS. YARBROUGH:**

16 OKAY. THAT'S ALL THE QUESTIONS I HAVE. THANK  
17 YOU.

18 **BY THE COMMISSIONER:**

19 ALL RIGHT. THANK YOU.

20 **BY MR. WUKELA:**

21 NOTHING FURTHER.

22 **BY THE COMMISSIONER:**

23 ALL RIGHT. THANK YOU. FOR THE RECORD, ARE  
24 THERE ANY OTHER WITNESSES FOR THE CLAIMANT?

25 **BY MR. WUKELA:**

1 NONE FROM THE CLAIMANT, COMMISSIONER.

2 **BY THE COMMISSIONER:**

3 ALL RIGHT. THANK YOU. MS. YARBROUGH, YOU MAY  
4 CALL YOUR FIRST WITNESS.

5 **BY MS. YARBROUGH:**

6 MS. ROBYN HANNA.

7 **BY THE COMMISSIONER:**

8 OKAY. MS. STEWART, YOU MAY HAVE A SEAT NEXT TO  
9 YOUR ATTORNEY.

10 **BY MS. STEWART:**

11 DO YOU WANT THIS BACK OR...?

12 **BY MS. YARBROUGH:**

13 YOU CAN JUST LEAVE IT THERE. THANK YOU.

14 **BY THE COMMISSIONER:**

15 ALL RIGHT. MADAM COURT REPORTER, PLEASE PLACE  
16 MS. HANNA UNDER OATH.

17 **BY MADAM COURT REPORTER:**

18 MA'AM, IF YOU WOULD RAISE YOUR RIGHT HAND,  
19 PLEASE.

20 \* \* \* \* \* \* \* \* \* \* \* \* \* \* \*

21 THE WITNESS WAS DULY SWORN TO TELL THE TRUTH, THE  
22 WHOLE TRUTH, AND NOTHING BUT THE TRUTH CONCERNING THE  
23 MATTER HEREIN:

24 **ROBYN HANNA,**

25 BEING FIRST DULY SWORN, TESTIFIED ON HER OATH AS

1 FOLLOWS:

2 **BY THE COMMISSIONER:**

3 ALL RIGHT. MS. YARBROUGH.

4 **DIRECT EXAMINATION BY MS. YARBROUGH.**

5 Q. MS. HANNA, WHERE ARE YOU EMPLOYED?

6 A. CVS PHARMACY AT EAST PALMETTO STREET IN FLORENCE.

7 Q. AND WHAT IS YOUR POSITION THERE?

8 A. I'M THE STORE MANAGER.

9 Q. AND WHAT ARE YOUR RESPONSIBILITIES IN THIS POSITION?

10 A. MAINTAINING THE STORE, SCHEDULING, CASHIERING, TRUCK,  
11 STOCKING, CUSTOMER ISSUES, ASSOCIATE ISSUES, ANYTHING  
12 THAT COMES UP.

13 Q. OKAY. AND WERE YOU TAKARA'S SUPERVISOR FROM WHEN SHE  
14 BEGAN HER EMPLOYMENT IN OCTOBER 2019 UNTIL SHE WENT  
15 ON A LEAVE OF ABSENCE ON MARCH 14TH, 2020?

16 A. I WAS.

17 Q. OKAY. AND SO, HOW LONG HAD SHE BEEN AN EMPLOYEE  
18 THERE BEFORE THE INCIDENT OCCURRED IN DECEMBER OF  
19 2019?

20 A. APPROXIMATELY THREE MONTHS OR LESS.

21 Q. OKAY. AND WHAT WAS TAKARA HIRED TO DO WHEN SHE  
22 STARTED THERE?

23 A. SHIFT SUPERVISOR.

24 Q. AND WAS SHE A TRAINEE IN THE POSITION?

25 A. YES.

1 Q. AND WHAT WERE THE RESPONSIBILITIES OF THIS POSITION?

2 A. OPENING AND CLOSING THE STORE, DAILY RESPONSIBILITIES  
3 OF OUR TASKS THAT WE HAVE TO DO, CASHIERING, WHATEVER  
4 -- WHATEVER THE NEED WAS AT THE TIME, ASSISTED  
5 CUSTOMERS, CUSTOMER NEEDS, CONTACTING ME WITH ANY  
6 ISSUES.

7 Q. AND WHEN YOU SAY CONTACTING YOU WITH ANY ISSUES, WAS  
8 THAT WHEN YOU WEREN'T THERE?

9 A. YES.

10 Q. AND ON DECEMBER 26TH, 2019, WHAT TIME WAS MS. STEWART  
11 SCHEDULED TO LEAVE THAT NIGHT?

12 A. NINE O'CLOCK, WHEN THE STORE CLOSED.

13 Q. AND IN THE LAST ONE HOUR OF THE WORK SHIFT, WHO WAS  
14 WITH HER IN THE STORE?

15 A. THE PHARMACY STAFF.

16 Q. AND WHAT ARE HER JOB DUTIES IN THIS LAST HOUR OF  
17 WORK?

18 A. CLEANING, CLEAN THE COUNTERS, CLEANING DOORS,  
19 VACUUMING, COUNTING THE MONEY, WHATEVER THE CLOSING  
20 NEEDS WERE FOR THAT EVENING, WAITING ON CUSTOMERS.

21 Q. AND WERE YOU PRESENT ON THE EVENING OF DECEMBER 26,  
22 2019, WORKING WITH MS. STEWART?

23 A. NO, I WAS NOT.

24 Q. AND WAS THERE ANYBODY MORE SENIOR THAN HER WORKING  
25 THE FRONT END OF THE STORE IN THE LAST HOUR WITH HER

1            THAT EVENING?

2            A.    NO, THERE WAS NOT.

3            Q.    OKAY.    SO IF SHE HAS AN ISSUE, WHAT IS SHE INSTRUCTED  
4            TO DO IF THERE IS NOBODY MORE SENIOR THERE WORKING  
5            WITH HER?

6            A.    SHE SHOULD HAVE CALLED ME.

7            Q.    OKAY.    AND SO, HOW DID SHE KNOW THAT SHE WAS SUPPOSED  
8            TO CALL YOU?

9            A.    WE HAD CONVERSATIONS IN THE PAST WHEN SHE HAD HAD  
10            ISSUES WITH SOME MONEY ISSUES, AND WHEN SHE WAS  
11            COUNTING AT NIGHT, THAT IF THE ISSUE ARISED THAT SHE  
12            WOULD NEED TO CALL ME SO I WOULDN'T BE BLINDSIDED BY  
13            IT.

14            Q.    OKAY.    AND ON DECEMBER 26TH, THAT EVENING, DID TAKARA  
15            STEWART CALL YOU ABOUT ANY ISSUES THAT EVENING?

16            A.    NO, SHE DID NOT.

17            Q.    SO, WHEN DID YOU FIRST LEARN OF THE INCIDENT ON  
18            DECEMBER 26TH, ABOUT THE DECEMBER 26TH INCIDENT?  
19            WHEN DID YOU FIRST LEARN ABOUT THAT?

20            A.    I THINK IT WAS THE NEXT TIME WE WORKED TOGETHER,  
21            WHICH WOULD HAVE BEEN IN THE NEXT COUPLE WEEKS.

22            Q.    OKAY.    SO, YOU WEREN'T TOLD IMMEDIATELY ABOUT IT?

23            A.    NO, MA'AM.

24            Q.    OKAY.    AND SO, WHAT WERE YOUR THOUGHTS ABOUT IT ONCE  
25            YOU LEARNED ABOUT IT?

1 A. I WAS SURPRISED, BUT I REALLY DIDN'T THINK IT WAS  
2 THAT BIG OF A DEAL.

3 Q. WHY DIDN'T YOU THINK IT WAS THAT BIG A DEAL?

4 A. BEING TOUCHED ON THE REAR, I MEAN, IT'S JUST NOT THAT  
5 BIG OF A DEAL TO ME, BUT...

6 Q. AT THE TIMING OF WHEN SHE TOLD YOU, DID THAT -- WAS  
7 THAT AN ISSUE FOR YOU?

8 A. IF -- SHE SHOULD HAVE COME TO ME WITH IT IF IT WAS --  
9 IF IT WAS THAT -- BOTHERING HER THAT BAD. YES, IT  
10 WAS SOMETHING THAT SHE SHOULD HAVE DONE.

11 Q. AND SO, WHEN SHE DID REPORT IT TO YOU, WHAT HAPPENED  
12 AT THAT POINT?

13 A. I ADVISED HER TO CALL THE ETHICS OR EITHER ADVISEMENT  
14 COUNSEL, ETHICS LINE OR ADVISEMENT COUNSEL.

15 Q. OKAY. AND HOW WAS HER DEMEANOR DURING YOUR FIRST  
16 CONVERSATION WITH HER ABOUT THE INCIDENT?

17 A. IT WAS JUST A NORMAL CONVERSATION THAT YOU WOULD HAVE  
18 WITH ANYBODY. SHE WASN'T FRANTIC. SHE WASN'T  
19 CRYING. SHE WASN'T -- SHE DIDN'T SEEM THAT UPSET  
20 ABOUT IT.

21 Q. OKAY. AND WAS THERE VIDEO SURVEILLANCE FOOTAGE OF  
22 THE AREA IN THE CVS STORE WHERE THE INCIDENT TOOK  
23 PLACE?

24 A. WHAT YOU COULD SEE OF THE INCIDENT, THE FRONT DOOR  
25 CAMERA CAUGHT.

1 Q. OKAY. AND DID YOU CAPTURE THAT FOOTAGE TO GIVE TO  
2 THE SHERIFF'S OFFICE?

3 A. YES, I DID AT THEIR REQUEST.

4 Q. AND DID YOU HAVE THE OPPORTUNITY TO REVIEW THAT  
5 SURVEILLANCE FOOTAGE?

6 A. YES, MA'AM.

7 Q. AND WHAT DID YOU OBSERVE?

8 **BY MR. WUKELA:**

9 OBJECTION. THAT'S EVIDENCE, YOUR HONOR. HER  
10 TESTIMONY ABOUT AN OPINION ABOUT A PIECE OF EVIDENCE  
11 IS NOT ADMISSIBLE.

12 **BY THE COMMISSIONER:**

13 SUSTAINED.

14 **DIRECT EXAMINATION RESUMED BY MS. YARBROUGH:**

15 Q. FROM THE DAY OF THE INCIDENT -- EXCUSE ME, THE DAY  
16 AFTER THE INCIDENT, SO AROUND DECEMBER 27TH OF 2019,  
17 UNTIL THE BEGINNING OF MARCH OF 2020, WHICH IS MY  
18 UNDERSTANDING WHEN YOU WENT OUT ON LEAVE TO HELP YOUR  
19 HUSBAND, WHO WAS ON LEAVE, TELL ME ABOUT HER -- MS.  
20 STEWART'S ABILITY TO WORK AND HER WORK STATUS.

21 A. SHE WORKED HER SCHEDULE. SHE DID WHAT I ASKED. I  
22 DIDN'T REALLY SEE ANY ISSUES WITH HER WORK OTHER THAN  
23 SHE WAS LATE A BIT. SHE WOULD ALWAYS DO WHAT I ASKED  
24 HER TO DO.

25 Q. OKAY. SHE WORKED HER REGULAR SCHEDULE?

1 A. YES.

2 Q. DID SHE MISS TIME FROM WORK?

3 A. NOT THAT I RECALL.

4 Q. DID SHE MAKE ANY COMPLAINTS TO YOU ABOUT ANYTHING?

5 A. NOT THAT I RECALL.

6 Q. OKAY. DID SHE EXPRESS ANY CONCERNS ABOUT BEING  
7 SCARED OF RUNNING THE FRONT OF THE STORE BY HERSELF?

8 A. NOT THAT I RECALL.

9 Q. DID SHE CALL OUT OF WORK BECAUSE OF ANY TYPE OF  
10 PSYCHOLOGICAL STRESS, DEPRESSION, OR ANXIETY?

11 A. NO, MA'AM.

12 Q. OKAY. AND I UNDERSTAND THAT YOU DON'T WORK WITH HER  
13 AT THE SAME TIME ONE-ON-ONE EVERY DAY; IS THAT  
14 CORRECT?

15 A. YES, MA'AM.

16 Q. BUT YOU DO WORK WITH HER OCCASIONALLY AT THE SAME  
17 TIME?

18 A. YES, MA'AM.

19 Q. SO, ON THE DAYS THAT YOU DID WORK WITH HER DURING  
20 THAT TWO-AND-A-HALF MONTH PERIOD OF TIME, WHAT WERE  
21 YOUR OBSERVATIONS OF HER WHEN SHE WAS WORKING AT THE  
22 SAME TIME YOU WERE ACTUALLY WORKING WITH HER?

23 A. WELL, WHEN SHE'S WORKING WITH ME, SHE BASICALLY WOULD  
24 BE JUST CASHIER, ASSISTING CUSTOMERS ON THE FRONT IN,  
25 AND I NEVER SAW ANY ISSUES. SHE WOULD BE CORDIAL AND

1 ASSISTING THE CUSTOMERS, RINGING THEM UP. SHE WAS  
2 ALWAYS VERY PLEASANT WITH THEM.

3 Q. DID YOU OBSERVE HER CRYING OR SHOWING ANY SIGNS OF  
4 DISTRESS?

5 A. NO, MA'AM.

6 Q. AND THEN, TELL ME ABOUT THE CONVERSATION THAT YOU HAD  
7 WITH HER AROUND MARCH 13TH, 2020, RIGHT BEFORE SHE  
8 LEFT.

9 A. SHE WAS LATE FOR HER SHIFT COMING IN THAT DAY, AND I  
10 TRIED CONTACTING HER, AND SHE NEVER RESPONDED, AND  
11 SHE -- WHEN SHE FINALLY WALKED THROUGH THE DOOR, SHE  
12 WAS CRYING AND UPSET, AND THAT WAS WHEN ALL OF THE  
13 PANDEMIC STUFF HAD STARTED, AND I THOUGHT SHE GOT --  
14 I REALLY THOUGHT THAT'S WHY SHE WAS UPSET. BUT I  
15 TOOK HER UP TO MY OFFICE, AND WE HAD A LONG  
16 CONVERSATION.

17 Q. OKAY. ABOUT...?

18 A. WHY SHE WAS UPSET, WHAT SHE WAS FEELING. SHE SAID  
19 SHE WAS SCARED OF RETALIATION FROM BETH AND THE  
20 FAMILY.

21 Q. AND SHE WAS SCARED OF RETALIATION BECAUSE WHY?

22 A. THAT SHE HAD BROUGHT CHARGES AGAINST HER.

23 Q. OKAY. AND AT THAT POINT, DID SHE SAY THAT SHE DIDN'T  
24 FEEL LIKE SHE COULD WORK?

25 A. SHE WAS VERY SCARED AND -- OR, SHE STATED TO ME THAT

1 SHE WAS VERY SCARED. SHE WAS CRYING. SHE WAS UPSET.  
2 I DID, YOU KNOW, TELL HER THAT HER ONLY OPTION WOULD  
3 BE TO FILE FOR A LEAVE OF ABSENCE BECAUSE I COULD NOT  
4 GIVE HER THAT KIND OF TIME OFF. SHE WAS ONLY PART  
5 TIME, AND SHE DIDN'T HAVE ANY AVAILABLE TIME FOR HER.

6 Q. AND DID SHE EVER TURN IN A NOTE TO SUPPORT HER  
7 LEAVING WORK ON MARCH 14TH, 2020, ANY MEDICAL NOTE?

8 A. NOT TO ME, NO.

9 Q. OKAY. AND THERE WAS SOME QUESTION DURING DIRECT  
10 EXAMINATION OF HER ABOUT, YOU KNOW, CVS NOT OFFERING  
11 TO TRANSFER HER TO ANOTHER STORE. DID SHE EVER ASK  
12 YOU TO BE TRANSFERRED TO ANOTHER STORE?

13 A. THAT WAS THE LAST DAY I SAW HER, AND SHE NEVER ASKED  
14 ME ANYTHING ABOUT TRANSFERRING TO ANOTHER STORE.

15 **BY MS. YARBROUGH:**

16 THAT'S ALL THE QUESTIONS I HAVE. THANK YOU.

17 **BY THE COMMISSIONER:**

18 MR. WUKELA?

19 **BY MR. WUKELA:**

20 THANK YOU, COMMISSIONER.

21 **CROSS EXAMINATION BY MR. WUKELA:**

22 Q. SO THIS EVENT HAPPENED ON DECEMBER THE 26TH, THE DAY  
23 AFTER CHRISTMAS?

24 A. YES.

25 Q. A THURSDAY?

1 A. OKAY.

2 Q. I'M PRETTY SURE. I LOOKED IT UP.

3 A. OKAY.

4 Q. AND SHE CAME AND TALKED TO YOU THE FOLLOWING MONDAY,  
5 THE NEXT TIME Y'ALL SAW EACH OTHER, IS THAT RIGHT?

6 A. I'M -- I'M PRETTY SURE IT WAS THE NEXT TIME WE  
7 WORKED. DO I KNOW WHAT DATE OR TIME THAT WAS? NO.

8 Q. IN HER ETHICS POINT REPORT, WHICH WAS FILED ON  
9 JANUARY 16TH, SHE SAID SHE TALKED TO YOU ON DECEMBER  
10 THE 30TH, MONDAY. DOES THAT SOUND RIGHT?

11 A. IF YOU SAY SO. I -- LIKE I SAID, I CAN'T GIVE YOU  
12 THE DATE OR TIME, SO I ---

13 Q. OKAY. IT WOULD HAVE BEEN THE NEXT TIME YOU GUYS  
14 WORKED TOGETHER?

15 A. YES, AS I SAID ALREADY.

16 Q. OKAY. AND AT THAT POINT YOU TOLD HER TO FILL OUT  
17 THAT ETHICS POINT REPORT? THERE'S A PORTAL OR  
18 SOMETHING YOU ---

19 A. I TOLD HER TO CALL THE EITHER ETHICS LINE OR THE  
20 ADVISEMENT COUNSEL LINE.

21 Q. I SEE.

22 A. I CAN'T REMEMBER WHICH ONE IT WAS I TOLD HER.

23 Q. OKAY. AND THIS REPORT WAS FILED ON JANUARY 5TH, AND  
24 THEY CALLED IT ETHICS POINT.

25 A. OKAY.

1 Q. THAT'S THE CVS ETHICS PORTAL; IS THAT ---

2 A. OKAY.

3 Q. I'M ASKING.

4 A. YES.

5 Q. OKAY. OKAY. SO, AND THEN SHE CONTINUED TO WORK

6 AFTER THAT?

7 A. YES.

8 Q. AND DURING THAT TIME, YOU WERE OUT; YOU HAD SOME

9 FAMILY ISSUES, AND YOU WERE OUT FOR SEVERAL WEEKS?

10 A. YES.

11 Q. IN MARCH, I GUESS, IS THAT RIGHT?

12 A. YES. MY HUSBAND HAD SURGERY.

13 Q. OKAY. DURING THAT TIME, DID YOU GUYS -- DID YOU HAVE

14 ANY OCCASION -- BEFORE YOU WENT OUT BUT AFTER SHE

15 REPORTED IT, DID YOU HAVE ANY OCCASION TO TALK TO THE

16 POLICE?

17 A. BEFORE I WENT OUT? I DON'T THINK IT WAS BEFORE I

18 WENT OUT.

19 Q. AT SOME POINT YOU DID?

20 A. A DEPUTY CAME IN AND ASKED FOR THE SURVEILLANCE

21 VIDEO.

22 Q. I SEE. OKAY. AND THERE'S A REPORT BY A DEPUTY

23 THAT'S APA TWO THAT'S DATED JANUARY THE 14TH OF 2020.

24 A. OKAY.

25 Q. DOES THAT SOUNDS RIGHT? OKAY. FAIR ENOUGH. YOU

1 GAVE HIM THE SURVEILLANCE VIDEO?

2 A. I DID AT CORPORATE'S -- OKAY.

3 Q. OKAY. AND DID YOU TALK WITH HIM AS WELL? DID THE  
4 DEPUTY ASK YOU ANY QUESTIONS?

5 A. I DON'T REMEMBER ANY QUESTIONS.

6 Q. OKAY. IN THE REPORT, IT INDICATES THAT THE ASSAILANT  
7 WAS AN INDIVIDUAL BY THE NAME OF BETH ROLLINSON. DO  
8 YOU KNOW WHO BETH ROLLINSON IS?

9 A. I KNEW HER AS A CUSTOMER.

10 Q. OKAY. DO YOU KNOW WHERE THE SHERIFF'S DEPUTY GOT  
11 THAT CUSTOMER'S NAME?

12 A. HE TOLD ME THAT TAKARA HAD FILED IT.

13 Q. RIGHT. SHE FILED THE CHARGE, RIGHT, BUT I'M  
14 WONDERING WHO IDENTIFIED MS. ROLLINSON AS THE  
15 ASSAILANT; DO YOU KNOW?

16 A. HE MAY HAVE GOTTEN IT FROM THE VIDEO. I REALLY DON'T  
17 KNOW WHERE HE GOT THAT INFORMATION. I CAN'T RECALL  
18 HIM GIVING ME THAT INFORMATION.

19 Q. FAIR ENOUGH. OKAY. IN ANY EVENT, BETH ROLLINS IS A  
20 CUSTOMER WHO YOU ARE FAMILIAR WITH?

21 A. AS A CUSTOMER, YES.

22 Q. AT CVS?

23 A. YES.

24 Q. DID -- WAS MS. ROLLINSON PROHIBITED FROM RETURNING TO  
25 CVS?

- 1 A. I'M NOT AWARE OF ANY PROHIBITANCE [SIC]. I WASN'T --  
2 I DIDN'T TELL HER NOT TO COME BECAUSE I -- I DIDN'T  
3 SEE HER. FROM THE DATE THAT THE INCIDENT HAPPENED, I  
4 DIDN'T SEE HER FOR A VERY LONG TIME.
- 5 Q. HAS MS. ROLLINSON COME BACK INTO CVS SINCE THE  
6 INCIDENT?
- 7 A. YES. IN THE LAST FEW MONTHS, YES.
- 8 Q. AND CVS, YOU GUYS HAVE ALLOWED HER TO CONTINUE TO  
9 COME TO CVS; SHE'S NOT BEEN TOLD SHE CAN'T COME BACK  
10 THERE?
- 11 A. I WAS NEVER TOLD THAT SHE WAS PROHIBITED. I MEAN,  
12 BUT CORPORATE ---
- 13 Q. AND YOU NEVER TOLD HER?
- 14 A. CORPORATE MAY HAVE, BUT I NEVER DID, NO. BUT I NEVER  
15 SAW HER AFTER THAT FOR A LONG, LONG TIME. TAKARA WAS  
16 WAY LONG GONE BEFORE ---
- 17 Q. THE REASON I'M CURIOUS ---
- 18 A. --- SHE EVER CAME BACK.
- 19 Q. --- IS THIS IS A CUSTOMER WHO ONE OF YOUR EMPLOYEES  
20 SAYS ASSAULTED HER AND REPORTED IT TO THE POLICE  
21 DEPARTMENT, BUT CVS DIDN'T TELL THAT CUSTOMER THEY  
22 COULDN'T COME BACK IN?
- 23 A. I CAN'T TELL YOU THAT CVS DIDN'T TELL THEM THAT.
- 24 Q. YOU DIDN'T?
- 25 A. I DID NOT TELL HER THAT. I'M NOT CORPORATE, THOUGH.

1 Q. ARE YOU AWARE OF ANYBODY WHO TOLD HER?

2 A. ME? NO.

3 Q. AND SHE CONTINUES TO COME BACK IN?

4 A. SHE DOES NOW, YES.

5 Q. OKAY. LET'S GO BACK TO THIS MARCH 2020 MEETING WITH  
6 MS. STEWART. IF I UNDERSTOOD YOUR TESTIMONY, SHE WAS  
7 CRYING?

8 A. WHEN SHE CAME IN IN MARCH, ON THE LAST DAY I SAW HER,  
9 YES.

10 Q. AND SHE SEEMED GENUINELY UPSET?

11 A. SHE SEEMED GENUINELY UPSET, YES.

12 Q. AND SHE RELATED TO YOU THAT SHE HAD BEEN HAVING  
13 ANXIETY ATTACKS?

14 A. THAT'S WHAT SHE SAID.

15 Q. AND SHE RELATED TO YOU THAT SHE WAS FEARFUL OF  
16 RETALIATION BY MS. ROLLINSON OR SOMEBODY IN HER  
17 FAMILY?

18 A. THAT'S WHAT SHE SAID.

19 Q. AND SHE REVEALED TO YOU THAT SHE HAD HAD A SEXUAL  
20 ASSAULT IN THE PAST?

21 A. SHE SAID THAT, YES.

22 Q. AND MS. STEWART HAS TESTIFIED THAT YOU COMFORTED HER,  
23 THAT YOU WERE HELPFUL TO HER AND KIND TO HER AND  
24 CONSOLED HER.

25 A. YEAH. I WOULD DO THAT FOR ANYBODY.

1 Q. SURE.

2 A. THAT'S WHO I AM.

3 Q. YEAH. AND I -- ALL THIS ASIDE, I KNOW SHE

4 APPRECIATED THAT AND APPRECIATES THAT TO THIS DAY.

5 NOW, YOU TESTIFIED THAT YOU TOLD HER HER ONLY OPTION

6 WAS TO TAKE LEAVE?

7 A. YES.

8 Q. WHAT WAS SHE ASKING OF YOU? SHE WAS ASKING FOR TIME

9 OFF, AND YOU TOLD HER YOU COULDN'T GIVE HER THAT MUCH

10 TIME OFF BECAUSE SHE WAS PART-TIME EMPLOYEE?

11 A. SHE WAS A PART-TIME EMPLOYEE, YEAH. THEY DON'T GET

12 VACATION OR MEDICAL LEAVE OR ANYTHING LIKE THAT.

13 Q. OKAY. AND SO, YOU TOLD HER YOUR ONLY CHOICE IS TO

14 TAKE AN EXTENDED PERIOD OF LEAVE?

15 A. A LEAVE OF ABSENCE, YES.

16 Q. OKAY. AND DID YOU REFER HER TO A DOCTOR?

17 A. ME? NO.

18 Q. DID ANYBODY REFER HER TO A DOCTOR?

19 A. I DON'T KNOW.

20 Q. DID YOU TERMINATE HER?

21 A. NO.

22 Q. DID -- WAS SHE ULTIMATELY TERMINATED BY CORPORATE; DO

23 YOU KNOW?

24 A. AS FAR AS I KNOW, YES. SHE'S NOT IN MY SYSTEM

25 ANYMORE.

1 Q. SHE JUST DIDN'T -- SHE WASN'T ON YOUR LIST OF  
2 EMPLOYEES ANYMORE?

3 A. ANYMORE, NO.

4 Q. AND DID YOU EVER OFFER HER ANY WORK AT ANOTHER STORE  
5 OR UNDER ANY KIND OF ACCOMMODATED SCHEDULE OR  
6 ANYTHING LIKE THAT?

7 A. I WAS NOT AT LIBERTY TO DO THAT WHEN SHE'S ON A LEAVE  
8 OF ABSENCE.

9 Q. OKAY. YOU WERE AWARE THAT SHE -- WHEN SHE WAS STILL  
10 WORKING, THAT SHE WAS TALKING TO THE EMPLOYEE  
11 ASSISTANCE PROGRAM?

12 A. SHE TOLD ME WHEN SHE WAS IN MY OFFICE THAT DAY THAT  
13 SHE HAD SPOKEN TO A COUNSELOR.

14 Q. OKAY. AND I THINK YOU ALSO TESTIFIED THAT YOU WERE  
15 AWARE THAT HER LEAVE HAD BEEN -- SHE HAD BEEN GRANTED  
16 A LEAVE OF ABSENCE AFTER MARCH AND THAT THAT LEAVE  
17 HAD BEEN EXTENDED?

18 A. NO. I SAID THAT I KEPT GETTING THE THING SAYING THAT  
19 SHE HAD REQUESTED A LEAVE OF ABSENCE.

20 Q. OKAY. YOU WEREN'T AWARE THAT THAT LEAVE HAD BEEN  
21 EXTENDED?

22 A. I DON'T GET THAT. ALL I GET IS THINGS SAYING THAT  
23 SHE HAD REQUESTED A LEAVE -- AN EXTENSION ON HER  
24 LEAVE.

25 Q. AND YOU GOT A NOTIFICATION THAT SHE HAD A LEAVE OF

1 ABSENCE EXTENSION?

2 A. OKAY. AGAIN, I SAID THAT I GOT THE NOTIFICATION THAT  
3 SHE HAD REQUESTED A LEAVE OF ABSENCE. THAT'S ALL I  
4 GET.

5 Q. THEY HANDLE THAT FROM CORPORATE?

6 A. YES.

7 **BY MR. WUKELA:**

8 MS. HANNA, THAT'S ALL THE QUESTIONS I HAVE.

9 **BY THE COMMISSIONER:**

10 MS. YARBROUGH?

11 **BY MS. YARBROUGH:**

12 NO FURTHER QUESTIONS.

13 **BY THE COMMISSIONER:**

14 ALL RIGHT. THANK YOU.

15 **BY THE WITNESS:**

16 YOU'RE WELCOME.

17 **BY THE COMMISSIONER:**

18 ARE THERE ANY OTHER WITNESSES FOR THE  
19 DEFENDANTS?

20 **BY MS. YARBROUGH:**

21 I HAVE A SHORT WITNESS, THE SURVEILLANCE  
22 INVESTIGATOR.

23 **BY THE COMMISSIONER:**

24 OKAY. IS HE OUTSIDE, HE OR SHE?

25 **BY MS. YARBROUGH:**

1 YES, HE'S OUTSIDE.

2 (OFF THE RECORD)

3 **BY THE COMMISSIONER:**

4 WILL YOU PLEASE STATE YOUR FULL NAME FOR THE  
5 RECORD.

6 **BY THE WITNESS:**

7 EDWARD WILLIAM NELSON, JR.

8 **BY THE COMMISSIONER:**

9 OKAY. MADAM COURT REPORTER?

10 **BY MADAM COURT REPORTER:**

11 SIR, IF YOU WILL RAISE YOUR RIGHT HAND, PLEASE.

12 \* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \*

13 THE WITNESS WAS DULY SWORN TO TELL THE TRUTH, THE  
14 WHOLE TRUTH, AND NOTHING BUT THE TRUTH CONCERNING THE  
15 MATTER HEREIN:

16 **EDWARD WILLIAM NELSON, JR.,**

17 BEING FIRST DULY SWORN, TESTIFIED ON HIS OATH AS  
18 FOLLOWS:

19 **DIRECT EXAMINATION BY MS. YARBROUGH:**

20 Q. MR. NELSON, WHERE ARE YOU EMPLOYED?

21 A. COVENT BRIDGE.

22 Q. AND WHAT IS COVENT BRIDGE?

23 A. IT'S AN INVESTIGATIVE FIRM THAT PROVIDES  
24 INVESTIGATIVE SERVICES TO ITS CLIENTS UPON REQUEST.

25 Q. AND DID YOU CONDUCT SURVEILLANCE OF MS. STEWART?

1 A. YES, I DID.

2 Q. AND ARE YOU LICENSED IN SOUTH CAROLINA?

3 A. YES.

4 Q. AND ARE YOU LICENSED IN GEORGIA WHERE THE  
5 SURVEILLANCE WAS ACTUALLY CONDUCTED?

6 A. YES, MA'AM.

7 Q. AND DID YOU OBSERVE MS. STEWART, WHO IS SITTING OVER  
8 THERE IN THE ROOM TODAY?

9 A. YES, I DID.

10 Q. AND DID YOU CAPTURE VIDEO OF HER?

11 A. YES, MA'AM.

12 Q. AND THAT'S THE DOCUMENT YOU PRODUCED TO ME, WHICH WE  
13 PRODUCED TODAY AT THIS HEARING?

14 A. CORRECT.

15 Q. AND DID YOU SURVEIL MS. STEWART ON MARCH 13TH, 2021?

16 A. YES.

17 Q. AND DID YOU PICK HER UP FROM BORDEAUX LANE IN  
18 SAVANNAH?

19 A. THAT'S WHERE I LOCATED HER, CORRECT.

20 Q. OKAY. AND WHAT DID YOU OBSERVE HER DOING ON MARCH  
21 13TH, 2021 -- EXCUSE ME -- YEAH, 2021.

22 A. YES. FIRST EXITING A RESIDENCE, ENTERING A CAR, AND  
23 A YOUNG FEMALE ACCOMPANIED HER, AND SHE DROVE TO A  
24 GAS STATION, A MURPHY USA, PUMPED GAS, TALKED ON A  
25 CELL PHONE, THEN DROVE TO A CVS, AND WENT TO A

1 VACCINATION SITE, OUTDOOR, WITH A LITTLE SIDE PLACE  
2 ON THE OUTSIDE OF THE BUILDING, AND THEN FROM THERE  
3 TO A STAR CASTLE ARCADE, WHERE THE YOUNGER FEMALE WAS  
4 DROPPED OFF, AND THEN BACK TO HER RESIDENCE, AND THEN  
5 BACK TO THE ARCADE, AND TALKING WITH A PERSON OUTSIDE  
6 THE ARCADE, AND THEN BACK TO THE RESIDENCE.

7 Q. OKAY. AND YOU KEEP REFERRING TO THE BORDEAUX LANE  
8 ADDRESS AS THE RESIDENCE. DID IT LIKE THAT'S WHERE  
9 SHE WAS LIVING AT THE TIME?

10 **BY MR. WUKELA:**

11 NO, WAIT. YOUR HONOR, HERE WE GET INTO OPINION,  
12 AND THE VIDEO IS THE BEST EVIDENCE, OTHER THAN THE  
13 COMMENTARY. THE VIDEO IS THE BEST EVIDENCE.

14 **BY THE COMMISSIONER:**

15 YES, I AGREE. SUSTAINED. I DON'T THINK HE CAN  
16 TESTIFY TO THAT.

17 **DIRECT EXAMINATION RESUMED BY MS. YARBROUGH:**

18 Q. GOING TO SPECIFICALLY WHEN SHE GOT TO THE GAS  
19 STATION, WHAT DID YOU OBSERVE HER DOING WHILE SHE WAS  
20 PUMPING GAS?

21 A. TALKING ON A CELL PHONE, LAUGHING, HAND GESTURES,  
22 PUMPING GAS, EXITING AND ENTERING HER VEHICLE, AND  
23 THEN DRIVING TO THE PARK.

24 Q. WAS SHE SMILING WHILE SHE WAS LAUGHING WHILE SHE WAS  
25 TALKING ON THE PHONE?

1 A. YES.

2 Q. DID IT APPEAR THAT SHE WAS LOOKING AROUND HER,  
3 CHECKING HER SURROUNDINGS?

4 **BY MR. WUKELA:**

5 YOUR HONOR, THAT'S LEADING, AND IT'S ON THE  
6 VIDEO. SAME OBJECTION.

7 **BY THE COMMISSIONER:**

8 SUSTAINED.

9 **DIRECT EXAMINATION RESUMED BY MS. YARBROUGH:**

10 Q. WHAT WERE HER HEAD MOVEMENTS LIKE WHEN SHE WAS  
11 PUMPING GAS?

12 A. HER HEAD MOVEMENTS APPEARED UNRESTRICTED, MOVING FROM  
13 SIDE TO SIDE, USING THE PHONE, TALKING, LAUGHING,  
14 LOOKING AT THE GAS PUMP, PUTTING IT ON THE HANDLE  
15 BACK AND FORTH, AND ENTERING THE CAR.

16 Q. AS AN INVESTIGATOR, ARE YOU LOOKING FOR PEOPLE WHO  
17 IDENTIFY THAT YOU'RE WATCHING THEM?

18 A. OH, ABSOLUTELY.

19 Q. OKAY. AND IN THE COURSE OF SURVEILING HER, WHAT WERE  
20 YOUR IMPRESSIONS AT THAT TIME?

21 **BY MR. WUKELA:**

22 AGAIN, YOUR HONOR, WE'RE ASKING ABOUT OPINIONS.  
23 I'M NOT SURE WHAT OPINION SHE'S ASKING ABOUT, BUT  
24 IT'S CERTAINLY AN OPINION QUESTION.

25 **BY MS. YARBROUGH:**

1 HE CAN TESTIFY AS TO WHETHER HE THOUGHT HE WAS  
2 BEING IDENTIFIED OR NOT.

3 **BY THE COMMISSIONER:**

4 OKAY. I'LL LET YOU REPHRASE THE QUESTION  
5 BECAUSE THAT'S NOT WHAT YOU ASKED.

6 **DIRECT EXAMINATION RESUMED BY MS. YARBROUGH:**

7 Q. OKAY. DO YOU HAVE AN OPINION AS TO WHEN YOU WERE  
8 BEING -- WHEN YOU WERE SURVEILING HER WHETHER YOU  
9 WERE IDENTIFIED AS SURVEILING HER OR NOT?

10 A. I DO HAVE AN OPINION THAT I WAS NOT DETECTED.

11 Q. OKAY. WHEN SHE WAS AT THE STAR CASTLE FAMILY  
12 ENTERTAINMENT CENTER, CAN YOU TELL ME SPECIFICALLY  
13 WHAT YOU SAW HER DOING THERE?

14 A. EXITING, ENTERING HER VEHICLE, DROPPING OFF THE  
15 YOUNGER FEMALE, WALKING BACK TO HER CAR. SHE DROVE  
16 HOME AND THEN WENT BACK, AND THEN SHE APPEARED TO  
17 RECOGNIZE ANOTHER LADY. SHE ENGAGED CONVERSATION  
18 WITH HER. THEY KEPT A SOCIAL DISTANCE. SHE WAS  
19 MASKED, AND THEY INTERACTED. THEY TALKED FROM A  
20 DISTANCE OF ABOUT SIX FEET. SHE WALKED AROUND,  
21 LEANED AGAINST A POLE, AND THEN WENT BACK AND SAT IN  
22 HER CAR FOR A WHILE. I COULDN'T SEE WHAT WAS GOING  
23 ON IN THE CAR. AND THEN WENT HOME.

24 Q. AND WHAT YOU WERE ABLE TO OBSERVE WAS CAUGHT  
25 THROUGHOUT THE VIDEO SURVEILLANCE THAT YOU PRESENTED?

1 A. THAT IS CORRECT.

2 Q. AND THAT WAS ABOUT 55 MINUTES OF SURVEILLANCE?

3 A. CORRECT.

4 **BY MS. YARBROUGH:**

5 NO FURTHER QUESTIONS.

6 **BY THE COMMISSIONER:**

7 ALL RIGHT. THANK YOU. MR. WUKELA?

8 **BY MR. WUKELA:**

9 NOTHING FROM THE CLAIMANT, COMMISSIONER.

10 **BY THE COMMISSIONER:**

11 ALL RIGHT. THANK YOU, SIR. THANK YOU FOR BEING  
12 HERE. YOU ARE EXCUSED.

13 **BY MS. YARBROUGH:**

14 THAT'S ALL THE TESTIMONY WE HAVE.

15 **BY THE COMMISSIONER:**

16 ALL RIGHT. THANK YOU. FOR THE RECORD, I DO  
17 HAVE APA SUBMISSIONS FROM THE CLAIMANT, AND THOSE ARE  
18 APA NUMBERS 1 THROUGH 11, WHICH ARE PAGES -- HOLD ON  
19 A SECOND. FIRST, APA NUMBERS 1 THROUGH 8, WHICH ARE  
20 PAGES 1 THROUGH 36. AND THEN PURSUANT TO CLAIMANT'S  
21 REQUEST I WILL ADMIT THE DEPOSITION TRANSCRIPTS OF  
22 MS. TAKARA STEWART. I DO NOT BELIEVE WE REFERRED TO  
23 MS. HANNA'S DEPOSITION AT ALL THROUGHOUT THIS HEARING  
24 TODAY, SO THAT WILL BE EXCLUDED UNDER APA NUMBER 10.  
25 AND THEN I DO HAVE APA NUMBER 11, WHICH IS THE

1 DEPOSITION TRANSCRIPT OF DR. ASHLEY HICKS.

2 **BY MS. YARBROUGH:**

3 LET ME JUST CLARIFY, YOU SAID YOU WERE GOING TO  
4 ADMIT THE DEPOSITION OF THE CLAIMANT?

5 **BY THE COMMISSIONER:**

6 OF THE CLAIMANT, YES.

7 **BY MS. YARBROUGH:**

8 I DIDN'T SUBMIT THAT INTO EVIDENCE; I JUST HAD  
9 HER LOOK AT IT.

10 **BY MR. WUKELA:**

11 YOUR HONOR, WE WOULD CITE, IN SUPPORT OF YOUR  
12 RULING, SOUTH CAROLINA CIVIL PROCEDURE RULE 32, WHERE  
13 SHE WAS ASKED QUESTIONS ABOUT THE DEPOSITION, AND  
14 THAT RULE PROVIDES THAT IF THAT OCCURS THE CLAIMANT  
15 CAN REQUEST THE ENTIRE DEPOSITION BE ADMITTED.

16 **BY THE COMMISSIONER:**

17 PURSUANT TO THAT RULE, I WILL ADMIT IT. I WILL  
18 NOTE DEFENDANTS' OBJECTION FOR THE RECORD, AND THAT  
19 OBJECTION WILL BE PRESERVED FOR THE RECORD.

20 **BY MS. YARBROUGH:**

21 OKAY. AND THAT WAS THE JUNE 11TH -- THERE'S TWO  
22 DEPOSITIONS. SO, I GAVE YOU THE SEALED COPY OF BOTH  
23 OF THEM. SO, THE JUNE 11TH ONE WAS THIS ONE THAT YOU  
24 ARE ADMITTING, AND THEN THIS ONE HE WANTED TO  
25 PROFFER.

1 BY THE COMMISSIONER:

2 OKAY.

3 BY MR. WUKELA:

4 WAIT A SECOND. WHICH -- I'M SORRY. WHAT WERE  
5 THE TWO DATES?

6 BY MS. YARBROUGH:

7 JUNE 11TH ONE IS THE ONE THAT I REFERRED TO.

8 BY MR. WUKELA:

9 AND THAT'S THE ONE THAT I HAD OFFERED.

10 BY MS. YARBROUGH:

11 YOU DON'T WANT TO PROFFER ---

12 BY MR. WUKELA:

13 I HAVEN'T OFFERED THAT ONE. THAT'S THE LATER  
14 ONE? THAT WAS THE FOLLOW-UP DEPOSITION, RIGHT? THIS  
15 ONE IS 2021?

16 BY MS. YARBROUGH:

17 YES.

18 BY MR. WUKELA:

19 THAT ONE IS 2020?

20 BY MS. YARBROUGH:

21 SO YOU DON'T WANT TO PROFFER THIS ONE?

22 BY MR. WUKELA:

23 YES. I JUST PROFFERED THAT. THAT'S THE ONE YOU  
24 REFERRED TO.

25 BY THE COMMISSIONER:

1                   OKAY. SO THE JUNE 11TH, 2020, DEPOSITION OF THE  
2                   CLAIMANT, MS. TAKARA STEWART, WILL BE ADMITTED INTO  
3                   EVIDENCE AS CLAIMANT'S -- THIS IS ALREADY LISTED.

4                   **BY MS. YARBROUGH:**

5                   YES, IT IS.

6                   **BY THE COMMISSIONER:**

7                   AND SO, IT WILL BE ADMITTED INTO THE RECORD.  
8                   FOR THE DEFENDANTS I HAVE APA NUMBERS 12 AND 13,  
9                   WHICH ARE PAGES 37 THROUGH 55, AND THEN I HAVE  
10                  EXHIBITS "A" THROUGH "I," WHICH ARE PAGES 56 THROUGH  
11                  120, AND THEN THAT LAST EXHIBIT "I" WAS ADMITTED  
12                  DURING THE COURSE OF TODAY'S HEARING, AND SO IT IS  
13                  NOT -- IT DOES NOT HAVE PAGE NUMBERS, BUT IT WILL BE  
14                  EXHIBIT "I" ATTACHED TO THE BACK OF THE SUBMISSIONS.

15                  LASTLY, I ALSO HAVE THREE DVDs. I HAVE A  
16                  SURVEILLANCE DVD, AND I HAVE STORE CAMERAS FROM CVS,  
17                  ONE THROUGH THREE, AND THEN THE TAKARA STEWART, THE  
18                  ACTUAL ACCIDENT ON CVS PHARMACY'S DVD, WITH A NOTHING  
19                  THAT THE INCIDENT IS APPROXIMATELY EIGHT HOURS, 34  
20                  MINUTES AND 53 SECONDS.

21                  **BY MS. YARBROUGH:**

22                  IT'S EIGHT MINUTES IN.

23                  **BY THE COMMISSIONER:**

24                  EIGHT MINUTES.

25                  **BY MS. YARBROUGH:**

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YEAH.

**BY THE COMMISSIONER:**

EIGHT MINUTES, 34 SECONDS IN.

**BY MS. YARBROUGH:**

AND THOSE DVDS ARE REFERENCED AS EXHIBITS "G"  
AND "H."

**BY THE COMMISSIONER:**

OKAY.

**BY MS. YARBROUGH:**

YEAH.

**BY THE COMMISSIONER:**

VERY GOOD. ALL RIGHT. THANK YOU VERY MUCH.  
THAT CONCLUDES THIS MATTER.  
(THERE BEING NO FURTHER QUESTIONS, THIS HEARING WAS  
CONCLUDED AT THE HOUR OF 1:24 P.M.)

CERTIFICATE OF NOTARY PUBLIC  
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION  
COLUMBIA, SOUTH CAROLINA  
WCC FILE NO. 1923480

**EMPLOYEE/CLAIMANT: TAKARA STEWART**

**EMPLOYER: SOUTH CAROLINA CVS PHARMACY, LLC**

**CARRIER: XL INSURANCE AMERICA, INC.**

I, TIMMI A. PARRISH, A NOTARY PUBLIC FOR THE STATE OF SOUTH CAROLINA, DULY COMMISSIONED AND QUALIFIED AS SUCH, DO HEREBY CERTIFY THAT THE FOREGOING **110** PAGES REPRESENTS A TRUE AND ACCURATE TRANSCRIPT OF THE FOREGOING HEARING OF **TAKARA L. STEWART**, TAKEN ON THE 3RD DAY OF JUNE, 2021.

THAT THE WITNESS WAS DULY PLACED UNDER OATH AND ADMONISHED TO SPEAK THE WHOLE TRUTH. THAT THE ORAL HEARING WAS DULY TAKEN AND TRANSCRIBED AS TO THE QUESTIONS PROPOUNDED AND THE ANSWERS GIVEN.

THAT ALL THE OFFERED EXHIBITS, STIPULATIONS AND OBJECTIONS, IF ANY, INVOLVED IN THIS CASE ARE DULY ATTACHED OR INCLUDED HEREIN.

IN WITNESS WHEREOF, I HAVE SET MY HAND AND OFFICIAL SEAL THIS 5TH DAY OF JUNE, 2022.

*Timmi A. Parrish*

---

TIMMI A. PARRISH  
NOTARY PUBLIC FOR SOUTH CAROLINA  
MY COMMISSION EXPIRES: 05-29-2028

\*\* THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH MATERIAL IS REPRODUCED AS READ OR QUOTED BY THE SPEAKER.

STATE OF SOUTH CAROLINA  
BEFORE THE  
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION  
WCC No. 1923480

Takara L. Stewart, )  
 )  
 Claimant, )  
 )  
 v. )  
 )  
 SC CVS Pharmacy, LLC, )  
 )  
 Employer, )  
 )  
 and )  
 )  
 XL Insurance America, Inc, )  
 )  
 Carrier/Defendants. )  
 ----- )

**FULL COMMISSION HEARING**

\*\*\*\*\*

**Monday, May 8, 2023**  
2:56 p.m. - 3:16 p.m.

The Full Commission Hearing was heard before Commissioners Melody James, T. Scott Beck and Cynthia C. Dooley virtually via ZOOM on the 8th day of May, 2023, before Amber Scarborough, Court Reporter and Notary Public in and for the State of South Carolina.



**CREEL COURT REPORTING, INC.**  
1230 Richland Street / Columbia, SC 29201  
(803) 252-3445 / (800) 822-0896

**APPEARANCES**

**Michelle DeLuca Yarbrough, Esquire (virtually)**  
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Greenville, South Carolina 29601  
Attorney for the Appellant/Defendant

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Florence, South Carolina 29505  
Attorney for the Respondent/Claimant

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**EXHIBITS**

(There were no exhibits marked during the hearing.)

**STIPULATIONS**

It is stipulated and agreed that this deposition is being taken pursuant to the Administrative Procedures Act and the South Carolina Rules of Civil Procedure.



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**CALL TO ORDER:**

**COMMISSIONER DOOLEY:** Madame Court reporter, if you'll call the case.

**MADAME COURT REPORTER:** Today is May 8th, 2023. This is South Carolina Worker's Compensation Case Number 1923480. This is the case of Takara L. Stewart versus South Carolina CVS Pharmacy, LLC and XL Insurance America.

The Appellant is the Defendant, represented by Michelle DeLuca Yarbrough. The Respondent is represented by Stephen J. Wukela.

Each side is allowed ten minutes for oral argument and the Appellant three minutes in reply. You are requested to argue the grounds of exception and stay within the record.

**COMMISSIONER DOOLEY:** All right, Ms. Yarbrough?

**APPELLANT/DEFENDANT'S POSITION:**

**MS. YARBROUGH:** May it please the Commission. I represent CVS Pharmacy. This case involves an incident which occurred on December 26th of 2019. A CVS employee was vacuuming near the store entrance with her back turned toward the store. She's a female employee. A customer, who was also a female, was leaving the store, walked past the Claimant, touched her, padded



1 her, bumped her, whatever you want to say, made  
2 this motion like that (indicating) to her rear  
3 and said "you've got a big 'ol butt" and  
4 continued walking through the exit door. The  
5 Claimant turned to the customer, you can look  
6 at the video, and my impression is she smiled,  
7 she continued to vacuum the floor. She  
8 performed her remaining job duties. Closed the  
9 store. Did not cry or appear upset on the  
10 cameras. Did not even stop what she's doing.  
11 She continued to vacuum. She did appear hurt  
12 on the camera. She did not alter her regular  
13 course of work. She did not call her  
14 supervisor or report any accident or speak with  
15 her co-workers about it that day. She made a  
16 report about it to police about ten days later.  
17 She told her supervisor a couple of weeks later  
18 and when she did that the supervisor said she  
19 wasn't crying or frantic. She didn't even seem  
20 very upset about it. She continued to work for  
21 about two and a half, three months without any  
22 problems, without showing any signs of stress,  
23 anxiety, depression, trauma, or psychological  
24 issues. And then once the customer was booked  
25 and then released for the incident that's when



1 the Claimant came in said she was concerned  
 2 about retaliation from the customer. She  
 3 decided at that point she couldn't work and  
 4 then she was concerned about the customer  
 5 coming into the store and retaliating against  
 6 her. At that date, it was about March 13th of  
 7 2020, she said that she had been molested as a  
 8 child and she was crying and upset at that  
 9 point. She didn't report any prior  
 10 molestations to any of her physicians. There  
 11 was -- or police. There was no documentation  
 12 of this. She testified that she told her  
 13 relatives about this, including her Aunt with  
 14 whom she was living at the time of the hearing.  
 15 However, she didn't bring her Aunt in to  
 16 testify or corroborate her testimony at the  
 17 hearing. She ---

18 **COMMISSIONER BECK:** Ms. Yarbrough, was there any  
 19 indication of any prior mental health,  
 20 counseling, treatment, anything of that nature?

21 **MS. YARBROUGH:** No, sir, there was not. She's  
 22 alleging a physical-mental, or a mental-mental  
 23 injury. I will point out that the Form 50s  
 24 never alleged a physical mental injury. She --  
 25 her Form 58 in hearing were the first times



1 that a physical-mental injury was alleged. I  
2 will tell you that there were no body parts  
3 alleged that were ever injured. More  
4 importantly, the Claimant testified under oath  
5 that she wasn't physically injured or hurt.  
6 She testified that she didn't report a physical  
7 injury to her physicians. Her physicians  
8 testified that the Claimant didn't report  
9 physical injury and she -- and the physician  
10 said she did not diagnose her with a physical  
11 injury. The inquiry should end right there  
12 since there's no physical injury. If the Court  
13 believes there's a physical injury the Claimant  
14 still has to produce requisite medical evidence  
15 under 42-1-160. In medically complex cases an  
16 employee shall establish the medical evidence  
17 that the injury arose in the course of  
18 employment. And, you know, the definition of  
19 medical evidence means expert opinion or  
20 testimony stated to a reasonable degree of  
21 medical certainty. This is not a statutory --  
22 excuse me -- this is not a courtesy or  
23 preferred language, it's just the statutory  
24 requirement established by our legislature. If  
25 the causation opinion is not clearly stated to



1 a reasonable degree of medical certainty the  
2 inquiry ends and the Claimant has not met her  
3 burden of proof. And in addition to 42-1-160,  
4 the 42-9-35 says this, in an accident -- if you  
5 have an accident which aggravated a pre-  
6 existing condition the statute says that the  
7 employee shall again establish by that medical  
8 evidence that either the injury aggravated the  
9 pre-existing condition or the pre-existing  
10 condition aggravated the injury. And again,  
11 you need to establish by an expert opinion  
12 stated to a reasonable degree of medical  
13 certainty. So, let's look at the actual  
14 evidence. And what I would like to do just to  
15 share my screen -- can y'all see my screen if  
16 I share it?

17 **COMMISSIONER DOOLEY:** Yes, I can.

18 **COMMISSIONER BECK:** Yes, we can.

19 **MS. YARBROUGH:** Okay. So I'm sharing my screen.  
20 This is the deposition transcript of the  
21 doctor. If you look at line eight it says "do  
22 you have an opinion to a reasonable degree of  
23 medical certainty as to whether this incident  
24 that she has described in the CVS would have  
25 aggravated a pre-existing condition?" "Yes, of



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1 course." And then you could go down to 16.  
2 "Okay, and do you have any opinions as to a  
3 reasonable degree of medical certainty as to  
4 whether the complaints that she made to you  
5 when she saw you were the result of that  
6 aggravation." The answer is "Yes, she is." He  
7 is asking her if she has an opinion and she  
8 says yes. She says she has an opinion but she  
9 never was asked what her opinion was so she  
10 doesn't express that opinion. If there is no  
11 opinion stated to a reasonable degree of  
12 medical certainty then you can't meet the  
13 burden of proof for causation statutorily  
14 required under the Act. Then let's look at  
15 other medical evidence. "Was there other  
16 medical evidence?" "Yes." Dr. Hicks who gave  
17 that testimony is a general practitioner. We  
18 had a -- a board certified psychiatrist  
19 evaluate her and he opined that she doesn't  
20 have post traumatic stress disorder. She has  
21 depression related to life stressors and not  
22 the work place incident. She doesn't have  
23 psychiatric issues related to the workplace  
24 incident. So, therefore, there's no physical-  
25 mental injury.



1           Now, let's quickly look at the mental-  
2           mental claim. We've already talked about the  
3           medical evidence and there's no causation, but  
4           we also have to look at extraordinary and  
5           unusual. Yes, a customer popping you on the  
6           butt is not something that occurs regularly at  
7           the CVS. It is definitely unusual. The Court  
8           in the 2007, I believe the case of *Hansson*  
9           *versus Scalice Builders* said where physical  
10          harm is lacking the Court should look initially  
11          for more in the way of extreme outrage as an  
12          occurrence that the mental disturbance claimed  
13          is not fictitious. There's no extreme outrage  
14          here. This was an isolated incident one second  
15          in length. The Claimant was smiling afterward  
16          in the video. She continues vacuuming like it  
17          didn't effect her. She continued to work and  
18          close the store that evening. There's no  
19          extreme outrage here. And, if you look at Dr.  
20          Hicks deposition transcript and the word index  
21          there's no words unusual and extraordinary even  
22          in the transcript so there can't be found in  
23          Dr. Hicks' deposition testimony a causation of  
24          opinion establishing that the unusual and  
25          extraordinary circumstances of the alleged



1 assault at work caused or aggravated the  
2 Claimant's alleged pre-existing post traumatic  
3 stress disorder condition. And also,  
4 Commission Taylor awarded four months of TTD  
5 benefits based on the compensability issue.  
6 Dr. Hicks initially said in her deposition  
7 testimony that she took her out of work for  
8 four months. But then later on in cross-  
9 examination after she was confronted by her  
10 testimony she agreed that she only took her out  
11 one month in May and one month in August. So,  
12 that -- her testimony changed and so there's no  
13 medical support for four months, only two  
14 months, and only if you find TTD benefits  
15 allowable. And then let's look at the medical  
16 benefits. There is a Dr. Hopkins that  
17 diagnosed with post traumatic stress disorder.  
18 I will tell you that Dr. Hopkins is a doctor of  
19 education and not a doctor of medicine. And  
20 then under 42-15-60 you have to have that  
21 medical, that magic language, reasonable degree  
22 of medical certainty. Dr. Hicks says she does  
23 need future medical treatment in terms of  
24 visits but not to a reasonable degree of  
25 medical certainty. We have the right to direct



1 medical treatment. She -- Taylor --  
2 Commissioner Taylor awarded Dr. Hicks to decide  
3 on her medical treatment. Dr. Hicks lives two  
4 and a half, or works two and a half hours away  
5 from where the Claimant lives, so that's  
6 unreasonable. And there's no good faith basis  
7 to allow Dr. Hicks instead of the Defendants to  
8 identify the medical treatment that she needs  
9 and to direct medical care.

10 In terms of the Claimant's credibility, it  
11 is all outlined in the brief. She has major  
12 credibility issues. It's easier to falsify  
13 mental injuries. Y'all are the ultimate fact-  
14 finder of credibility. She lied on her  
15 employment application. She lied in her  
16 deposition. With regard to law suits that she  
17 previously was involved in, she had judgments  
18 against her regarding evictions. She lied on  
19 her tenant agreements. She reported to doctors  
20 that she was living out of her car and she was  
21 homeless, but she agreed and under pressure and  
22 in her hearing she testified she never lived  
23 out of her car. Her doctors said there were no  
24 objective findings in her testimony, I'm mean,  
25 in her doctor visits. They were relying on her



1 subjective reports. And when she said I'm  
2 living out of my car because of this accident,  
3 but then later agrees in her hearing testimony  
4 that she never lived out of her car and she was  
5 never homeless. That's important information  
6 that needs to be addressed.

7 In regards to the motion to admit newly  
8 discovered evidence, this information was found  
9 right after the hearing about her living on  
10 Bordeaux Lane when she said she never lived  
11 there. I got her tenant records. As soon as  
12 I figured this out, based on Equifax reporting,  
13 it came out two days before the hearing and it  
14 says that she that was -- that she had been  
15 making forty-five hundred dollars a month  
16 working for the Department of Defense at the  
17 same time she was requesting temporary total  
18 disability benefits. And, if this case is  
19 found compensable we would ask that that  
20 information be allowed in the record so that we  
21 can cross-examine her on that and her working  
22 during the time that she was awarded temporary  
23 total disability benefits.

24 **COMMISSIONER DOOLEY:** Thank you, Ms. Yarbrough, and  
25 you will have three minutes to reply. Mr.



1 Wukela?

2 **MS. YARBROUGH:** Thank you.

3 **RESPONDENT/CLAIMANT'S POSITION:**

4 **MR. WUKELA:** Good afternoon. Please the Commission.  
5 I'll take the second issue first, the motion to  
6 admit newly discovered evidence. This case was  
7 tried on June the 3rd of 2021. The Defendants  
8 motion to admit newly discovered evidence cites  
9 their subpoena that was issued in June the 17th  
10 of 2022, and their reply and then the cited  
11 another subpoena to the same place that was on  
12 June the 7th, I believe, no, I'm sorry June the  
13 9th of 2021. Both of those were after the  
14 hearing. There's no explanation why these  
15 subpoenas couldn't have been issued prior to  
16 the hearing. They deal with a street address  
17 that the Defense examined the Claimant about at  
18 the hearing. Of course, is Commission aware  
19 that the rule requires reasonable diligence.  
20 They had a year from the first Form 50 to the  
21 hearing to conduct discovery. It also requires  
22 that the evidence be not of an impeaching  
23 nature. The Defense counsel has argued this  
24 goes to credibility and moreover it's hearsay  
25 and furthermore I'm not sure that this



1 application indeed says what the Defense argue  
2 it says. Of course, the Commissions read my  
3 brief, but it talks about the Employer being  
4 the Department of Defense and having worked for  
5 how long it says December of 2010 for forty-  
6 five hundred dollars. Incidentally, the  
7 Commission -- the Claimant would also argue  
8 this is quite strange that she was earning  
9 fifty-four thousand dollars a year working for  
10 the Department of Defense while she was also  
11 working a job in Florence CVS earning thirteen  
12 thousand dollars a year. And, if that's the  
13 case, the average weekly wage we would argue  
14 for that to be re-computed. As to the merits,  
15 Commission, as Commissioner Beck inquired this  
16 is not a lady who's had a long history of  
17 psychological treatment or problems. She  
18 testified that she was groped and sexually  
19 assaulted on the day of the accident and that  
20 more importantly that she was sexually abused  
21 when she was seven or eight as a child by a  
22 family member and that she was cautioned by her  
23 other family members at that time not to talk  
24 about it or disclose it. Dr. Hicks testified,  
25 which is pretty self-evident, that if one has



1 that sort of sexual abuse in their background  
2 when they're groped by a person or a customer  
3 who's in a CVS it's natural that that would  
4 cause that aggravation of that prior condition.  
5 Now, Defense argues that Dr. Hicks never said  
6 that to a reasonably degree of medical  
7 certainty. Well, the Commission can read that  
8 testimony and the testimony that follows it  
9 where it's pretty clear what Dr. Hicks is  
10 saying, but the Defense cites 42-1-160 as the  
11 requirement for a statement to a reasonable  
12 degree of medical certainty. As the Commission  
13 is aware that applied in medical complex cases  
14 involving MRIs or more complex tests. That  
15 doesn't apply here. In any event, it's not a  
16 ---

17 **COMMISSIONER JAMES:** Mr. Wukela, you said it doesn't  
18 apply. Well, down in the stress and mental  
19 injuries that are alleged to have been  
20 aggravated by work related physical -- okay,  
21 that says physical. All right. Go ahead.

22 **MR. WUKELA:** I'm sorry. Yeah, and I think you're  
23 right.

24 **COMMISSIONER JAMES:** It depends on which -- what  
25 we're talking about whether it's a physical-



1           mental or whether it's mental-mental as to  
2           certain portions of the statute.

3       **MR. WUKELA:** Yeah. But, Your Honor, the section I  
4           was specifically referring to was 40- -- 42-1-  
5           160 Sub E that establishes that requirement in  
6           medically complex cases. I agree that wouldn't  
7           apply in mental-mental cases and, of course, we  
8           argue, and I think the single Commissioner  
9           found, that being sexually groped by a customer  
10          is an extraordinary and unusual circumstance.  
11          But, even in a physical-mental case given that  
12          it didn't require highly scientific procedures  
13          such as MRIs, CAT scans, X-rays and similar  
14          diagnostic procedures, I don't think it would  
15          qualify as medical complex that requires a  
16          statement to a reasonable degree. But, Your  
17          Honor, I would argue beyond that. This is  
18          elevating the technical beyond the practical  
19          and the reasonable to a nth degree. It's clear  
20          what Dr. Hicks is testifying to in that  
21          testimony and it's obvious. It's also  
22          something that's pretty self-evident in common  
23          place understanding that if a person is abused  
24          sexually by a family member in their early  
25          years that an event that might seem not as



1 significant to Ms. Yarbrough or her clients  
2 might certainly seem more significant to  
3 someone in that posture particularly where  
4 they're scared of retaliation.

5 I'll just speak very quickly to the  
6 temporary total. Simply I refer you to APA 8  
7 page 36. The Family Medical Leave Act form is  
8 completed by Dr. Hicks and she sets the dates,  
9 but Commissioner, we're talking about forty-  
10 three hundred dollars in temporary total for a  
11 period of six months where the lady was earning  
12 a compensation rate of an average weekly wage  
13 of two hundred and fifty-eight dollars a week.  
14 She -- the Claimant sought a finding of  
15 compensability to be groped by a customer and  
16 I understand Ms. Yarbrough doesn't think it's  
17 significant. She goes to great lengths to  
18 testify about what she thinks the video shows  
19 to the extent she says she thinks the Claimant  
20 was smiling. I ask the Commission to look at  
21 the video themselves or to read the deposition  
22 testimony of Dr. Hicks who was shown the video  
23 and who said it was consistent with her  
24 opinions that when a person is sexually abused  
25 in their childhood and scared by their family



1 to not reveal it and then is groped at her  
2 workplace that she might have an aggravation of  
3 that pre-existing condition and be entitled to  
4 some treatment. Commission, that's my case.

5 **MS. DOOLEY:** All right. Thank you. Ms. Yarbrough,  
6 you have three minutes to reply.

7 **APPELLANT/DEFENDANT'S REPLY:**

8 **MS. YARBROUGH:** Thank you. In terms of medically  
9 complex cases, it talks about similar  
10 diagnostic techniques and when you diagnose  
11 post-traumatic stress disorder you have to use  
12 the DSM to determine whether they need that and  
13 so I would say it's a medical complex case in  
14 terms of diagnosing the post-traumatic stress  
15 disorder. But, you also have to look at 42-9-  
16 35 and in that statute it does require the  
17 medical evidence to be stated to a reasonable  
18 degree of medical certainty.

19 In terms of the prior sexually assault  
20 that the Claimant alleges, you have to look at  
21 her credibility and the fact the there's no  
22 documentation or proof or testimony from  
23 anybody that can collaborate that. And, that  
24 if it was such an extreme reaction because of  
25 her prior sexual assault you would have noticed



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1           it. You won't -- wouldn't have seen, but you  
2           would have noticed it in the first two and a  
3           half months before or immediately after the  
4           accident.

5           With regard to the newly discovered  
6           evidence, the reason why we didn't know about  
7           it from the time of the hearing -- the Form 50  
8           was filed to the time of the hearing was  
9           because she didn't include that information on  
10          her Form 50. She put a wrong address on her  
11          Form 50. She gave a wrong address on her -- in  
12          her deposition testimony. She lied about it  
13          and had every ability to testify truthfully  
14          about it. We took her deposition twice and she  
15          didn't provide that information to us. So,  
16          it's not our issue that we have to identify  
17          when a person is lying to determine what her  
18          current address is. Thankfully we just pulled  
19          a search up on Westlaw and figured it out where  
20          she was living and that's why we brought that  
21          information and asked her about it at the  
22          hearing. And from that information we did  
23          within a week of the hearing found who owned  
24          the property, found that it was a rental  
25          property, found the property manager and then



1 subpoenaed those documents within seven days of  
2 the hearing on June 9th, 2021, and once we had  
3 that information and got it, we brought it to  
4 the attention of Claimant's attorney that we  
5 wanted to submit a motion for newly discovered  
6 evidence and he requested that we wait until  
7 after Commissioner Taylor had issued her order  
8 which we did. Thank you.

9 **COMMISSIONER DOOLEY:** Thank you.

10 **(There being nothing further, the hearing concluded**  
11 **at 3:16 p.m.)**

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## Crossing the Line: The CVS Sexual Harassment Policy, Continued

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**Definition of Sexual Harassment (continued)** All colleagues are strictly forbidden to engage in any form of sexual harassment. All colleagues are expected to understand the company's policy on sexual harassment and to avoid any conduct, which could be viewed as sexual harassment by another individual or co-worker.

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**Responsibilities** All colleagues are expected to assure a work environment free of sexual harassment. In particular, managers and supervisors will be responsible for the application and communication of this policy within their work area. They are responsible for:

- A. encouraging colleagues to report any violations of this policy;
- B. making sure their Colleague Relations Manager is made aware of any inappropriate behavior in the workplace; and
- C. creating a work environment where sexual harassment is not permitted.

Colleagues are expected to cooperate fully with any ongoing investigation regarding a sexual harassment incident.

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**Dating Policy** Because consensual relationships between supervisor and their colleagues have the potential to create hostile working environments for both parties, the company strongly discourages managers and supervisors from dating subordinate colleagues. Such relationships tend to create favoritism (real or imagined), resentment and morale problems.

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*Continued on next page*

## **Crossing the Line: The CVS Sexual Harassment Policy, Continued**

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### **Dating Policy (continued)**

The company reserves the right to take affirmative steps towards minimizing potential problems created in these instances. For example, transfer or resignation options may be offered to either or both of the individuals involved.

At the conclusion of a sexual harassment investigation, the complainant and the alleged "harasser" shall be informed of the determination of the investigation. Where appropriate, the "harasser" and the "victim" may be offered counseling through the company's Colleague Assistance Program (EAP).

---

### **Procedures for Reporting & Investigating Sexual Harassment**

Colleagues are expected to report incidents of inappropriate behavior or sexual harassment as soon as possible after they occur.

Colleagues who believe they have been sexually harassed, regardless of whether the offensive act was committed by a supervisor, co-worker, vendor, visitor, or customer, should promptly notify their supervisor or their Colleague Relations Manager. If the colleague's supervisor is involved in the incident, the colleague should report the incident to their Colleague Relations Manager, or to the Colleague Relations Department at the Store Support Center.

Every claim of sexual harassment will be considered valid and treated seriously, no matter how trivial it may appear. All complaints of sexual harassment or inappropriate sexual conduct will be promptly and thoroughly investigated by the Colleague Relations Manager and/or by the respective department manager.

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*Continued on next page*

## **Crossing the Line: The CVS Sexual Harassment Policy, Continued**

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### **Procedures for Reporting & Investigating Sexual Harassment (continued)**

There shall be no retaliation for filing or pursuing a sexual harassment claim. To the extent possible, all complaints and related information will remain confidential, except to those individuals who need the information to investigate, educate or take action in response to the complaint.

Colleagues who believe they have been unjustly charged with sexual harassment can defend themselves verbally or in writing at any stage in the investigation.

---

### **Penalties for Violation of Sexual Harassment Policy**

If an investigation determines that an individual has engaged in conduct that constitutes sexual harassment or otherwise violates the CVS standards of behavior, necessary corrective discipline, up to and including discharge, will be taken by the company.

To ensure the consistency of application of this policy, the Colleague Relations Department should be consulted before any disciplinary actions are taken or any other remedies initiated.

---

### **Educating Colleagues Regarding Sexual Harassment**

The company makes education about sexual harassment a regular part of new colleague orientations, colleague training and supervisory/management development programs.

This policy also is summarized in a permanent bulletin board posting. Additional company- developed materials (video/pamphlet) are available at your work location for *Inappropriate Workplace Behaviors: Crossing the Line to Sexual Harassment*.

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# WUKELA LAW FIRM

---

Steve Wukela, Jr.  
Benjamin D. Moore  
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403 Second Loop Road  
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(843) 669-5634  
FAX (843) 669-5150

February 23, 2023

VIA EMAIL - takara.l.stewart@gmail.com

Ms. Takara Stewart  
108 E York Street, Suite 236  
Savannah, Georgia 31401

Re: Takara Stewart v. South Carolina CVS Pharmacy, LLC

Dear Ms. Stewart

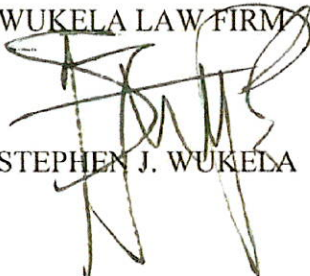
Enclosed, please find a copy of the Motion Order dated February 22, 2023, signed by Commissioner Aisha Taylor. As you will see in the Order, you are Ordered to "furnish any and all documentation pertaining to her 2020-2021 state and federal income tax returns, any documentation pertaining to any and all EIDL, PPP, and/or any other governmental or small business ASSOCIATION related applications for assistance, and compensation received as a result of those applications for the period 2020 to the present pursuant to SC Reg. 67-215".

As you will further see from the Order, all documents are required to be provided within 10 (ten) days from the date of the Order, which will be March 3, 2023.

You must provide all documents to me prior to Friday, March 3, 2023, so that I can provide them to the Defendants.

With kind regards, I am

Yours truly,

WUKELA LAW FIRM  
  
STEPHEN J. WUKELA

SJW:mrm

**CERTIFICATE OF SERVICE**

This is to certify the undersigned has this date served this order in the above entitled action upon all parties to this cause by sending an electronic copy hereof by electronic mail addressed to the attorney or attorneys for said parties or by depositing a copy hereof, postage paid, in the United States certified mail addressed to any unrepresented party.

February 23, 2023

By: Renee Smith, Administrative Assistant to Commissioner Taylor

**Order Served via Email 2-23-23:**

Michelle D. Yarbrough [myarbrough@gwblawfirm.com](mailto:myarbrough@gwblawfirm.com)

Stephen J. Wukela [stephen@wukelalaw.com](mailto:stephen@wukelalaw.com)



# The South Carolina Court of Appeals

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October 01, 2024

Takara Stewart  
108 E. York Street  
Suite 236  
Savannah GA 31401

Ms. Michelle Deluca Yarbrough, Esquire  
PO Box 10589  
Greenville SC 29603

Re: Takara Stewart v. SC CVS Pharmacy, LLC  
Appellate Case No. 2023-001264

Dear Counsel and Ms. Stewart:

Enclosed is the order of the Court. The respondent's initial brief and designation of matter are due within thirty days of the date of the order.

Very truly yours,

A handwritten signature in blue ink that reads "Catherine Harrison, deputy".

CLERK

**NOTICE OF APPEAL IN A CIVIL CASE  
THE STATE OF SOUTH CAROLINA**

In The Court of Appeals  
[In The Supreme Court]

---

**WORKERS COMPENSATION COMMISSION  
PANEL:**

Commissioner Cynthia C. Dooley, Chair

Commissioner T. Scott Beck

Commissioner Melody L. James

---

SCWCC File No.: 1923480

---

Takara L Stewart,

Claimant/Appellant,

v.

South Carolina CVS Pharmacy, L.L.C,  
Employer and

XL Insurance America Inc.,  
Carrier

Defendants/Respondents.

---

**NOTICE OF APPEAL**

---

Takara L. Stewart appeals the Workers Compensation Commission Appellate Panel order of Commissioner Cynthia C. Dooley; Chair, Commissioner T. Scott Beck and Commissioner Melody L. James for SCWCC File No., 1923480 dated July 10, 2023. Appellant received written notice of SCWCC File No., 1923480 appellate panel decision and order on July 27, 2023.

August 7, 2023



Takara L Stewart  
108 E York Street Suite 236  
Savannah, Georgia 31401  
(984) 215-1812  
Claimant/Appellant

**PROOF OF SERVICE OF A NOTICE OF APPEAL**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals  
[In The Supreme Court]

---

**WORKERS COMPENSATION COMMISSION PANEL:**

Commissioner Cynthia C. Dooley, Chair

Commissioner T. Scott Beck

Commissioner Melody L. James

---

SCWCC File No.: 1923480

---

Takara L Stewart

Claimant/Appellant,

v.

South Carolina CVS Pharmacy,  
L.L.C, Employer and

Defendants/Respondents.

XL Insurance America Inc.,  
Carrier

---

**PROOF OF SERVICE**

---

I certify that I have served the Notice of Appeal to employer South Carolina CVS Pharmacy, L.L.C and carrier XL Insurance America Inc., by depositing a copy of it in the United States Mail, postage prepaid, August 7, 2023, addressed to the attorney of record, Michelle D. Yarbrough, Post Office Box 10589, Greenville, South Carolina 29603 and email [myarbrough@gwblawfirm.com](mailto:myarbrough@gwblawfirm.com).

August 7, 2023



Takara L Stewart  
108 E York Street Suite 236  
Savannah, Georgia 31401  
(984) 215-1812  
Claimant/Appellant

**NOTICE OF APPEAL IN A CIVIL CASE  
THE STATE OF SOUTH CAROLINA**

In The Court of Appeals  
[In The Supreme Court]

---

**WORKERS COMPENSATION COMMISSION  
PANEL:**

Commissioner Cynthia C. Dooley, Chair

Commissioner T. Scott Beck

Commissioner Melody L. James

---

SCWCC File No.: 1923480

---

Takara L Stewart,

Claimant/Appellant,

v.

South Carolina CVS Pharmacy, L.L.C,  
Employer and

XL Insurance America Inc.,  
Carrier

Defendants/Respondents.

---

**NOTICE OF APPEAL PAYMENT**

---

Takara L. Stewart appeals the Workers Compensation Commission Appellate Panel order of Commissioner Cynthia C. Dooley; Chair, Commissioner T. Scott Beck and Commissioner Melody L. James for SCWCC File No., 1923480 dated July 10, 2023. Appellant received written notice of SCWCC File No., 1923480 appellate panel decision and order on July 27, 2023. Payment for Form 1 filing fee is attached in the form of a money order, in the amount of two-hundred and fifty dollars and zero cents. Serial number 28839254501.

August 7, 2023



Takara L Stewart  
108 E York Street Suite 236  
Savannah, Georgia 31401  
(984) 215-1812  
Claimant/Appellant

**South Carolina Workers' Compensation Commission**

1333 Main Street, Suite 500  
P.O. BOX 1715  
Columbia, SC 29202-1715  
803-737-5675



WCC File #: **1923480**

Carrier File #: \_\_\_\_\_

Carrier Code #: \_\_\_\_\_

Employer FEIN #: \_\_\_\_\_

Claimant's Name: Takara L Stewart SSN: 260610448

Employer's Name: CVS

Address: 108 E York Street Suite 236

Address: 3210 E Palmetto Street

City: Savannah State: GA Zip: 31401

City: Florence State: SC Zip: 29506

Home Phone: (984) 215- 1812 Work Phone: ( ) -

Carrier: XL Insurance America, Inc.

Preparer's Name: Takara L Stewart

Preparer's Phone #: ( ) -

**REQUEST TO WAIVE FILING FEE**

1. Are you presently employed?  Yes  No

a. If yes, state the name and address of your employer and wages below.

**Part-time dental assisting, currently no availability since the previous dental assignment.**

b. If no, where did you last work, when did you stop working, and what were your wages?

c. Is your spouse employed?  Yes  No **n/a** If yes, where? \_\_\_\_\_

What are your spouse's wages? \$

d. What is the total income of all working members of your household?

2. How many people are dependent on you for their support (include children and relatives)? 1

How much do you spend weekly for their support? \$250.00

3. List any money you have received in the past year other than that listed above and state from what source that money came (gift, inheritance, insurance, other).

A rough estimate, more or less, \$10,000.

4. Do you have a checking or savings account?  Yes  No

If yes, what is the balance in each account? Checking: \$ 0 Savings: \$ 0

5. Do you rent or own your home?  Rent  Own Rent or mortgage payment: \$ 1450.00

6. Do you own a car?  Yes  No Payments: \$ 375.00

7. List the names of your creditors and amount of debt.

Bankruptcy, capital one, orthodontia for daughter

To the best of my knowledge, the information above is true and accurate. I have made no attempt to misrepresent my financial condition. I request that the filing fee be waived.

Signature

08/07/2023

Date

For official use only.  Fee Waived  Waiver Rejected  Other Disposition

Chair, S.C. Workers' Compensation Commission

File this form with a Form 30, Application for Commission Review. Refer to R.67-701 through R.67-711 for additional information. File this form with a Form 50, 52, 54, Requests for Motions, Consents and Settlements. Refer to R.67-207, R.67-208, R.67-215, R.67-803 and R.67-805.

# WUKELA LAW FIRM

---

Steve Wukela, Jr.  
Benjamin D. Moore  
Christi B. McDaniel  
Stephen J. Wukela  
Patrick J. McLaughlin  
Pheobe A. Clark  
Frank C. Swaggard

403 Second Loop Road  
P.O. Box 13057  
Florence, SC 29504-3057

(843) 669-5634  
FAX (843) 669-5150

July 10, 2023

**Via Email and Regular Mail**

Ms. Takara Stewart  
108 E York Street, Suite 236  
Savannah, Georgia 31401

Re: Takara Stewart v. South Carolina CVS Pharmacy, LLC

Dear Ms. Stewart:

Find enclosed the Order of the Workers' Compensation Commission Appellate Panel, dated July 10, 2023. As you will recall, I no longer represent you and will not be appealing this Order. If you intend to appeal the Order, you must do so within 30 days, and therefore, I recommend you obtain other counsel immediately.

With kind regards, I am

Yours truly,

WUKELA LAW FIRM

STEPHEN J. WUKELA



SJW:mrm

Order Served via email:

Michelle D. Yarbrough Gallivan White & Boyd <a href="mailto:myarbrough@gwblawfirm.com">myarbrough@gwblawfirm.com</a>	Stephen J. Wukela Wukela Law Firm <a href="mailto:stephen@wukelalaw.com">stephen@wukelalaw.com</a>
----------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------

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 Eugenia Hollmon on July 10, 2023***



## The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

CATHERINE S. HARRISON  
CHIEF DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1220 SENATE STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

August 11, 2023

Mr. Stephen J. Wukela, Esquire  
PO Box 13057  
Florence SC 29504

Re: Takara Stewart v. SC CVS Pharmacy, LLC  
Appellate Case No. 2023-001264

Dear Counsel:

This Court has received a notice of appeal filed by your client, Takara Stewart, and the case has been assigned the appellate case number that appears above. Please use this number on all future correspondence relating to this matter. Pursuant to Rule 264, SCACR, the attorney in the court below shall remain counsel of record until withdrawal is approved. If you have already been relieved as counsel for the appellant, you will need to provide a copy of that order to the Court within ten days of the date of this letter. Otherwise, you will remain counsel of record until you file a motion to be relieved as counsel, and all future filings must be submitted by you. See *Miller v. State*, S.C. 347,347,697 S.E.2d 527, 527 (2010 ("Since there is no right to 'hybrid representation' that is partially pro se and partially by counsel, substantive documents, with the exception of motions to relieve counsel, filed pro se by a person represented by counsel are not to be accepted unless submitted by counsel.")).

All parties to this matter are advised that all filings must comply with the requirements of Rule 267 of the South Carolina Appellate Court Rules (SCACR). The SCACR are available online at [www.sccourts.org/courtreg](http://www.sccourts.org/courtreg). Additionally, any filings submitted by counsel admitted in South Carolina must include counsel's bar number.

The attention of the parties is directed to the order relating to the inclusion of personal data identifiers and other sensitive information in documents filed with the Supreme Court of South Carolina and the South Carolina Court of Appeals. The order can be found at [www.sccourts.org/courtOrders/displayOrder.cfm?orderNo=2014-04-15-02](http://www.sccourts.org/courtOrders/displayOrder.cfm?orderNo=2014-04-15-02). Please note that the responsibility for insuring that information is redacted or sealed as required by this order rests with counsel and the parties. This office will *not* review filings for redaction or to determine if materials should be sealed.

Very truly yours,

  
CLERK

cc: Takara Stewart  
Michelle Deluca Yarbrough, Esquire

**NOTICE OF APPEAL IN A CIVIL CASE  
THE STATE OF SOUTH CAROLINA**

In The Court of Appeals  
In The Supreme Court

---

**WORKERS COMPENSATION COMMISSION PANEL:**

Cynthia C. Dooley, Chair

T. Scott Beck

Melody L. James

---

Appellate Case No. 2023-001264

---

Takara L Stewart

Claimant/Appellant,

South Carolina CVS Pharmacy, LLC,  
Employer and

XL Insurance America Inc.,  
Carrier

Defendants/Respondents

---

**PROOF OF SERVICE**

I certify that I have requested a copy of the May 8, 2023, SWCC File No. 1923480 transcripts for the pending Appellate Case No. 2023-001264. A copy of this request has been served to employer South Carolina CVS Pharmacy, L.L.C and carrier XL Insurance America Inc., by depositing a copy of it in the United States Mail, postage prepaid, October 24, 2023, addressed to the attorney of record, Michelle D. Yarbrough, Post Office Box 10589, Greenville, South Carolina 29603 and email [myarbrough@gwblawfirm.com](mailto:myarbrough@gwblawfirm.com).

October 24, 2023



Takara L. Stewart  
108 E York Street  
Suite 236  
Savannah, Georgia 31401  
(984) 215-1812  
Pro Se

October 24, 2023

Creel Reporting, Inc.  
1230 Richland Street  
Columbia, South Carolina 29201

RE: Takara Stewart v. SC CVS Pharmacy, LLC  
Appellant, Case No. 2023-001264

Dear Creel Reporting, Inc.:

On May 8, 2023, the above case was tried before the Honorable Commission Panel comprised of Commissioners: T. Scott Beck, Melody L. James and Cynthia C. Dooley. My records indicate that you were the court reporter for this case.

I request that you provide me with a transcript of the proceedings. Please transcribe the entire record. I agree to pay the per page charge for this transcript as provided by Rule 607, SCACR.

Sincerely,



Takara Stewart  
108 E York Street Suite 236  
Savannah, Georgia 31401  
(984) 215-1812  
Pro Se

cc: Michelle Deluca Yarbrough, Esquire



# South Carolina Judicial Branch

## TRANSCRIPT REQUEST FORM

Pursuant to Rule 207 and 607 of the South Carolina Appellate Court Rules, the transcribed paper copy is the official record of court proceedings. You may request a transcript by completing this form and emailing it to the Court Reporter/Transcriptionist and to South Carolina Court Administration at [transcripts@sccourts.org](mailto:transcripts@sccourts.org). If WebEx or DCRP were used to capture the record, please indicate below and send the form to [transcripts@sccourts.org](mailto:transcripts@sccourts.org).

Requestor's Information			
<b>Full Name</b> Takara Latrice Stewart	<b>Law Firm/Agency</b> Pro Se	<b>Phone Number</b> (984) 215-1812	
<b>Email Address</b> takara.l.stewart@gmail.com		<b>Mailing Address</b> 108 E York Street Suite 236 Savannah, Georgia 31401	
Is the requestor a party in the case? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
If no, does the requestor represent a party? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, name of party			
Transcript Information			
<b>Docket Number</b> SCWCC #1923480	<b>Full Case Caption</b> (i.e. State v. John Doe or John Smith v. Jane Smith) Takara Stewart v. SC CVS Pharmacy, LLC		<b>Circuit</b> <input checked="" type="checkbox"/> <b>Family</b> <input type="checkbox"/>
<b>Date(s) of Proceeding</b> June 3, 2021; May 8, 2023	<b>County</b> Richland	<b>Appeal pending</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<b>Death Penalty</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Presiding Judge</b> Commission Panel		<b>Special Circumstances</b> n/a Is the hearing to be transcribed one of the following: <input type="checkbox"/> Termination of parental rights <input type="checkbox"/> Adoption <input type="checkbox"/> Any actions involving child custody/visitation.	
<b>Opposing Counsel(s)</b> (name and email address) Michelle Deluca Yarbrough, myarbrough@gwblawfirm.com		<b>Delivery Timeframe</b> (check Rule 607 for current page rates) <input type="checkbox"/> Quote <input type="checkbox"/> Rough Draft <input type="checkbox"/> Overnight delivery <input type="checkbox"/> Daily delivery <input checked="" type="checkbox"/> Expedited delivery (7 days) <b>Due on/before:</b> 10/26/2023 <input type="checkbox"/> Regular delivery (60 days)	
<b>Court Reporter(s)</b> Creel Reporting, Inc.	<input type="checkbox"/> WebEx <input type="checkbox"/> DCRP	<b>Delivery Method</b> (additional fees may apply) <input checked="" type="checkbox"/> PDF / Email <input type="checkbox"/> Hard Copy/Priority Mail (\$50 + shipping) <input checked="" type="checkbox"/> PDF & Hard Copy/Priority Mail (\$50 + shipping)	
<b>Portion of proceeding to be transcribed</b> <input checked="" type="checkbox"/> Entire hearing <input type="checkbox"/> Voir dire by juror <input type="checkbox"/> Jury selection <input type="checkbox"/> Plaintiff's opening statement <input type="checkbox"/> Defendant's opening statement <input type="checkbox"/> Plaintiff's closing arguments <input type="checkbox"/> Defendant's closing arguments <input type="checkbox"/> Entire direct examination <input type="checkbox"/> Entire cross examination <input type="checkbox"/> Entire redirect <input type="checkbox"/> Examination of witness (W) by attorney (A) W: _____ A: _____ <input type="checkbox"/> Ruling of the court		<b>Responsible Payor</b> <input checked="" type="checkbox"/> Private / Self <input type="checkbox"/> Court Appointed Counsel Appeals Attorney Email <input type="checkbox"/> Other	
<b>Next Hearing Date</b>			

Requestor's Signature: 

(Typed name will serve as signature)

Date: 10/24/2023

**NOTE:** Requests will be processed pursuant to Rule 207 and 607 of the SCACR. Rule 607(h) governs the fees for transcripts, which are not provided for free or at reduced rates to any party, regardless of indigent status. Please promptly submit your payment in the method of payment requested, in order for the transcript to be produced. In some cases, a deposit may be required before the transcript can be placed in the production queue. You may also request a quote before deciding to order. **If you need to cancel the transcript request for any reason, you are responsible for paying for the pages of the transcript that have already been completed at the time of the cancellation.**

If you are ordering a transcript pursuant to Rule 207(a)(1), SCACR, you must contemporaneously furnish all parties, the Office of Court Administration, and the clerk of the appellate court with copies of all correspondence with the court reporter or transcriptionist.



# The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

CATHERINE S. HARRISON  
CHIEF DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1220 SENATE STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

October 31, 2024

Takara Stewart  
108 E. York Street  
Suite 236  
Savannah GA 31401

Ms. Michelle Deluca Yarbrough, Esquire  
PO Box 10589  
Greenville SC 29603

Re: Takara Stewart v. SC CVS Pharmacy, LLC  
Appellate Case No. 2023-001264

Dear Counsel and Ms. Stewart:

Our records reflect the time is approaching to file the record on appeal and final briefs. The Supreme Court issued an order reducing the number of copies required in appellate matters. See *Re: Reduced Number of Copies Required in Appellate Matters* (S.C. Sup. Ct. Order dated August 25, 2021). As permitted by the order, the Court of Appeals has determined a need exists for one additional bound copy of the record on appeal and all final briefs. The additional copies must comply with any binding or cover color requirements specified by Rule 267 of the South Carolina Appellate Court Rules (SCACR).

Accordingly, each party must file an original record on appeal and/or final brief, in either electronic or unbound paper form, as well as one bound paper copy, at the time the record on appeal and final briefs are due to be served and filed in accordance with the SCACR.

Additionally, please review the following guidelines as you prepare your record on appeal and final briefs:

Pursuant to Rules 209, 210, and 267, SCACR, the record on appeal must include the following:

1. The correct case title (provided below) and caption as set forth in Rules 210(d) and 267, SCACR.
2. The name and contact information for all counsel representing the parties to the appeal. Please do not include names of counsel that have not previously made an appearance in this case.
3. A certificate of counsel, pursuant to Rule 210(g), SCACR.
4. A proof of service of the record on appeal, if one has not already been filed with this Court.
5. All matters designated by the parties pursuant to Rule 209, SCACR, in compliance with Rule 210(c) and (e), SCACR.
6. The binding for the copies of the record on appeal must be in compliance with Rule 267(d), SCACR.

Pursuant to Rules 211 and 267, SCACR, all final briefs must include the following:

1. The correct case title (provided below) and caption as set forth in Rules 210(d) and 267, SCACR.
2. The name and contact information for counsel filing the brief. If you are filing your final brief pro se, you must include your name and contact information on the cover of the brief.
3. The signature of the person filing the brief should be on the conclusion page.
4. A certificate of counsel for the final brief, pursuant to Rule 211, SCACR.
5. A proof of service of the final brief. Mail receipts will not be accepted in lieu of proper proof of service.
6. The binding for the copies of all final briefs must be in compliance with Rule 267(d), SCACR.

According to our records, the correct caption for this appeal should read as follows on the record on appeal and all final briefs:

Takara Stewart, Claimant, Appellant,

v.

South Carolina CVS Pharmacy, LLC, Employer, and XL Insurance America, Inc.,  
Carrier, Respondents.

We request large parcels such as bound paper copies of final briefs and the record on appeal be sent directly to the Court via the street address: 1220 Senate Street, Columbia, S.C. 29201. Thank you for your attention. If you have any questions, please do not hesitate to contact this office.

Very truly yours,

A handwritten signature in blue ink that reads "Catherine Hannison, deputy". The signature is written in a cursive style with a large initial 'C'.

CLERK

The State of South Carolina  
In The Court of Appeals  
In The Supreme Court

---

Appeal from the South Carolina  
Workers' Compensation Commission

Cynthia C. Dooley, Chair  
T. Scott Beck  
Melody L. James

---

WCC. No. 1923480

---

Appellate case No.: 2023-001264

---

Other Materials and Documents

---

VIII.

I. Appellate/Respondents Correspondence

**Stephen Wukela**

---

**From:** Michelle Yarbrough <myarbrough@gwbllawfirm.com>  
**Sent:** Tuesday, June 6, 2023 4:13 PM  
**To:** Stephen Wukela  
**Subject:** Takara Stewart - Settlement Offer (GWB-IMANMAIN-ED791965)

Stephen,

I hope you are doing well. To avoid the expense of preparing the Full Commission Order, CVS will pay \$1500.00 to the claimant to settle her case on a D/D clincher basis. I need to know her response by Thursday at noon before my associate begins preparing the order. Please acknowledge receipt of this email and also provide her response by Thursday, June 8<sup>th</sup> by noon. Much thanks,  
Michelle



GALLIVAN WHITE BOYD

*Complex experience for complex matters*

**Michelle DeLuca Yarbrough**  
Partner  
myarbrough@gwbllawfirm.com

**Gallivan, White & Boyd P.A.**  
55 Beattie Place | Suite 1200 | Greenville SC 29601  
864.271.3344 Direct | 864.271.9580 Main | 864.271.7502 Fax  
Mailing Post Office Box 10589 | Greenville SC 29603

vCard | vCard | Website

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RE: Takara Stewart v. SC CVS Pharmacy, LLC // 2023-001264 [GWB-IMANMAIN.FID791965]

Inbox X

Thu, Aug 31, 2023, 2:59 PM

 **Michelle Yarbrough** <[myarbrough@gwbfirm.com](mailto:myarbrough@gwbfirm.com)>  
to me

Takara,

Please call me on my cell phone when you have an opportunity. 864-313-6680.

Thank you,

Michelle Yarbrough

Michelle DeLuca Yarbrough  
Partner  
[myarbrough@gwbfirm.com](mailto:myarbrough@gwbfirm.com)

Gallivan, White & Boyd P.A.  
55 Beattie Place | Suite 1200 | Greenville SC 29601  
864-271-5349 Direct | 864-271-9580 Main | 864-271-7502 Fax  
Mailing Post Office Box 10589 | Greenville SC 29603

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RE: Takara Stewart v. SC CVS Pharmacy, LLC // 2023-001264 [GWB-IMANMAIN.FID791965] Inbox x

Tue, Sep 26, 2023, 9:30 AM

 **Michelle Yarbrough** <myarbrough@gwbawfirm.com>  
to me ▾

Takara,

I am writing to follow up on our phone conversation a few weeks ago. Did you have some time to think about what we discussed the cost of your future treatment?

Thank you,

Michelle

Michelle DeLuca Yarbrough  
Partner  
[myarbrough@gwbawfirm.com](mailto:myarbrough@gwbawfirm.com)

Gallivan, White & Boyd P.A.  
55 Beattie Place | Suite 1200 | Greenville SC 29601  
864 271 5349 Direct | 864 271 9580 Main | 864 271 7502 Fax  
Mailing Post Office Box 30589 | Greenville SC 29603

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Re: Takara Stewart v. SC CVS Pharmacy, LLC // 2023-001264 [GWB-IMANMAIN.FID791965]



Takara L Stewart <takara.l.stewart@gmail.com>  
to Michelle

Fri, Sep 29, 2023, 10:41AM



Good Morning,

I trust you're well! Per the anxiety and PTSD treatment referral submitted by Dr. Hicks, Dr. Beckum as her name has since changed, the estimate of prospective sessions for preferred treatment, complete symptom remission and confidence in skills maintenance to maintain gains are as follows:

- Phases of Treatment: 5-6
- \$120-175 per session
- 60-120 sessions | 60-90 minute sessions
- 10-20 sessions a month
- Treatment Estimate: \$21,000.00
- Length of treatment and costs are tentative and revisited throughout the course of treatment

Regards,

**Takara Stewart**  
Career Professional

---

t: (877) 430-4763      108 E York Street Suite  
m: (984) 215-1812      236 Savannah, GA 31401  
e: [takara.l.stewart@gmail.com](mailto:takara.l.stewart@gmail.com)      United States

RE: Takara Stewart v. SC CVS Pharmacy, LLC // 2023-001264 [GWB-IMANMAIN.FID791965]

Fri, Sep 29, 2023, 11:58 AM



Michelle Yarbrough [myarbrough@gwb.com](mailto:myarbrough@gwb.com)



to me

Hi Takara,

Thank you for your response. Do you have a document from Dr. Beckum confirming the below information?

Much thanks,

Michelle Yarbrough

Michelle DeLuca Yarbrough  
Partner  
[mduca@gwb.com](mailto:mduca@gwb.com)

Gallivan, White & Boyd P.A.  
55 Beattie Place | Suite 1200 | Greenville SC 29601  
864.271.5349 Direct | 864.221.9580 Main | 864.271.7502 Fax  
Marketing Post Office Box 10589 | Greenville SC 29603

3Card | Busset | Wabnitz

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RE: Takara Stewart v. SC CVS Pharmacy, LLC // 2023-001264 [GWB-IMANMAIN.FID791965] 

Tue, Oct 10, 2023, 9:37 AM 

 **Michelle Yarbrough** <[myarbrough@gwbllawfirm.com](mailto:myarbrough@gwbllawfirm.com)>  
to me, Michelle ▾

Takara,

I am writing to follow up on my below e-mail requesting documentation from Dr. Beckum. Can you please provide that documentation to me so I can address it with CVS?

Mich thanks,

Michelle Yarbrough

Michelle DeLuca Yarbrough  
Partner  
[myarbrough@gwbllawfirm.com](mailto:myarbrough@gwbllawfirm.com)

Gallivan, White & Boyd P.A.  
55 Beattie Place | Suite 1200 | Greenville SC 29601  
864 271 5349 Direct | 864 271 9530 Main | 864 271 7502 Fax  
Mailing Post Office Box 10589 | Greenville SC 29603

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On Tue, Oct 24, 2023 at 7:56 PM Michelle Yarbrough <[myarbrough@gwb-lawfirm.com](mailto:myarbrough@gwb-lawfirm.com)> wrote:

Hi Takara,

I saw your correspondence with the court regarding requesting the transcript. Were you able to obtain documentation regarding your future medical needs from Dr. Beckum to support the \$21K figure you provided? Please let me know either way.

Thank you,

Michelle Yarbrough

---

Michelle DeLuca Yarbrough

Partner

[myarbrough@gwb-lawfirm.com](mailto:myarbrough@gwb-lawfirm.com)

Gallivan, White & Boyd P.A.

55 Beattie Place | Suite 1200 | Greenville SC 29601

864 271 5349 Direct | [864 271 9580](tel:8642719580) Main | 864 271 7502 Fax

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From: Takara L Stewart <takara.l.stewart@gmail.com>  
Sent: Wednesday, October 25, 2023 11:39 AM  
To: Michelle Yarbrough <myarb@gbwblawfirm.com>  
Subject: Re: Takara Stewart v. SC CVS Pharmacy, LLC // 2023-001264 [GWB-IMANMAIN.FID791965]

**Warning – This email originated outside the GWB email system!**

Good Morning Michelle,

My apologies for the late response. My family experienced a recent loss. I trust this email finds you well. The documentation and or referral for treatment is attached below. Let me know if you need anything else. I have exhausted a few prospects for treatment in the Bluffton, SC area. All of which state that treatment is contingent upon sustainability which is achieved upon sustainability which is achieved upon adequately addressing the trauma. Each prospect prescribes treatment with a fee for service that starts at an estimate of \$150 per session.

My Best,

**Takara Stewart**  
Career Professional

---

t: (877) 430-4763 108 E York Street Suite  
m: (984) 215-1812 236 Savannah, GA 31401  
e: takara.l.stewart@gmail.com United States

On Wed, Oct 25, 2023 at 12:11 PM Michelle Yarbrough <[myarbrough@gwb-lawfirm.com](mailto:myarbrough@gwb-lawfirm.com)> wrote:  
Takara,

Sorry for your loss. Thank you for sending the referral from the doctor. Do you have any documentation of the amount of sessions you will need? At \$150/session, it will take 140 sessions to get you to \$21K. I am having a bit of difficulty evaluating it without a specific opinion. For example, if a doctor said you need to see a counselor/psychologist every 2 weeks for 1.5 years at \$150 per session, that would be \$5,400.00 total. If you needed to see him/her every 2 weeks for 2 years, that would be \$7,200.00 total. Do you have anything like that from your doctor? If not, was there anything you specifically used to determine the \$21K amount?

Thank you,  
Michelle

---

Michelle DeLuca Yarbrough  
Partner

[myarbrough@gwb-lawfirm.com](mailto:myarbrough@gwb-lawfirm.com)

Gallivan, White & Boyd P.A.

55 Beattie Place | Suite 1200 | Greenville SC 29601

864 271 5349 Direct | 864 271 9580 Main | 864 271 7502 Fax

**Mailing Post Office Box 10589 | Greenville SC 29603**

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Re: Takara Stewart v. SC CVS Pharmacy, LLC // 2023-001264 [GWB-IMANMAIN.FID791965] 



**Takara L. Stewart** <takara.l.stewart@gmail.com>  
to Michelle ▾

Oct 26, 2023, 2:59 PM



Hi Michelle,

Thank you, it has been a process. The previous email contained a fee basis estimate for treatment not an actual fee basis. Per the referral and through personal efforts of seeking treatment, I am told by the prospective doctor that there isn't a definitive number of sessions that could be recommended per the aggravated trauma, the sessions would be contingent upon sustainability and in sustainability retrospect, response time varies with each patient. The records request has been submitted. I will follow up accordingly.

My Best,

**Takara Stewart**  
Career Professional

---

t: (877) 430-4763 108 E York Street Suite  
m: (984) 215-1812 236 Savannah, GA 31401  
e: [takara.l.stewart@gmail.com](mailto:takara.l.stewart@gmail.com) United States

RE: Takara Stewart v. SC CVS Pharmacy, LLC // 2023-001264 [GWB-IMANMAIN,FID791965] Print

 **Michelle Yarborough** [myarbor@gwblawfirm.com](mailto:myarbor@gwblawfirm.com)

Wed, Nov 1, 2023, 3:33 PM 📧

Takara,

CVS will pay \$5,000 to settle your w/e claim on a full and final basis which includes a requirement to sign an employment release for \$100 and to keep the terms of the settlement confidential. Please let me know what you decide.

Thank you,  
Michelle

Michelle DiLuca Yarborough  
Partner  
[matt@gwblawfirm.com](mailto:matt@gwblawfirm.com)

Gallivan, White & Boyd P.A.  
55 Beattie Place | Suite 1200 | Greenville SC 29601  
864 271 5349 Direct | 864 271 9580 Main | 864 271 7502 Fax  
Mailing Post Office Box 10589 | Greenville SC 29603

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On Fri, Nov 10, 2023 at 4:42 PM Michelle Yarbrough <[myarbrough@gwblawfirm.com](mailto:myarbrough@gwblawfirm.com)> wrote:

Takara,

I am writing to follow up on my e-mail from November 1<sup>st</sup>. Can you please let me know your response?

Thank you,

Michelle

**Michelle DeLuca Yarbrough**  
Partner

[myarbrough@gwblawfirm.com](mailto:myarbrough@gwblawfirm.com)

**Gallivan, White & Boyd P.A.**

55 Beattie Place | Suite 1200 | Greenville SC 29601

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GALLIVAN WHITE BOYD



Re: Takara Stewart v. SC CVS Pharmacy, LLC // 2023-001264 [GWB-IMANMAIN.FID791965]



**Takara L. Stewart** <takara.l.stewart@gmail.com>  
to Michelle

Sun, Nov 12, 2023, 6:12 PM

The offer covers the time out of work. The offer is less than the initial offer of seven thousand dollars and more than the twenty-five hundred dollars on the second offer for a Workers Compensation litigation collective of three offers in the amount of fourteen thousand, five-hundred dollars. Disrespectful to say the least, this is not some get rich quick scheme. Contrary to your belief I am a victim tenfold even more now than I was before the CVS incident. To keep any settlement confidential it would have to be feasible in regards to how I suffered, to the extent I suffered and why wouldn't CVS offer additional medical and or "privacy compensation" for mitigating a more favorable outcome on behalf of what I suffered while providing a service to the CVS establishment. I witheld my composure under extreme pressures and inadvertently avoided any further liabilities as I successfully closed the store the night of the incident. I would much rather move on with my life but the offer does not ensure a positive probability of sustainability with five thousand dollars and for a lack of a better phrase, one hundred dollars to keep quiet. The order was "reversed" because of defense narration tactics to diminish what actually took place in regards to how I suffered then until this present day while negating to acknowledge the onward preset that persists because of this incident. If the customer exited the store as I intended for her to do then all of this would be null and void. To say I have had to combat some serious depression would be an understatement which ensued as a direct result of the disruption I was subjected to as a CVS employee. I suffered and subsequently my daughter and family suffered as they are directly impacted by those triggers, anxiety and depression; post traumatic stress disorder.

I have attached Dr. Garner's correspondence as agreed in regards to treatment. Treatment is required. With this offer, treatment doesn't even equate to a probable option. I desire treatment. The estimate provided was just that, an estimate. As confirmed within Dr. Garner's recommendation, treatment could be more as the number of sessions can not be predicted. Treatment is contingent upon my response to the treatment and the likelihood to sustain past treatment. I would be open to CVS providing an openness towards my wellness as it pertains to treatment rather than efforts to dismiss my wellness with the offer presented. Of all the offers presented, none of the offers included anything regarding my wellness yet compensation offered as demanded restitution to accept and remain quiet. This is an insurmountable loss that I will defend because to CVS I am just another employee. I assure you, I am not.

Please let me know if you have any further questions or concerns. Looking forward to your reply.

My Best,

**Takara Stewart**  
Career Professional

t: (877) 430-4763  
m: (984) 215-1812  
e: takara.l.stewart@gmail.com

108 E York Street Suite  
236 Savannah, GA 31401  
United States



Michelle Yarborough [myarborough@jgwlawfirm.com](mailto:myarborough@jgwlawfirm.com)

Mon, Nov 13, 2023, 11:17 AM



Takara,

The settlement offers at different times were based on the status of the case. A higher offer would have been made when we were in a losing position (i.e., lost at the first level) or when we had to incur legal fees to get the decision overturned (i.e., the appeal, briefing and argument to the Full Commission). The offers made at different times were never intended to be combined and I hope it was not explained to you that way by your last attorney.

If your hesitance to settle is the confidentiality provision, I can certainly discuss removing that with CVS. If you have a counter demand, a specific dollar amount you would like me to pass along to CVS, please let me know.

Michelle DeLack Yarborough  
Partner  
[mdeblack@jgwlawfirm.com](mailto:mdeblack@jgwlawfirm.com)

Gallivan, White & Boyd P.A.  
55 Beattie Place | Suite 1200 | Greenville SC 29601  
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Re: Takara Stewart v. SC CVS Pharmacy, LLC // 2023-001264 [GWB-IMANMAIN.FID791965]        



**Takara L Stewart** <takara.l.stewart@gmail.com>  
to Michelle ▾

Michelle,

Mon, Nov 13, 2023, 6:43 PM

Thanks for providing clarity on the purpose of the offers. The recap on the previously presented offers was just to illustrate the total of offers presented to date. I don't have a specific number to encapsulate all the responses that have since transpired because of this incident. I desire therapy which is critical to sustainability for myself and family. After committing to therapy, I can't foresee how many sessions I'd have to complete to accomplish the preferred sustainability goal. Therapy could be lifelong, i.e. post-traumatic stress disorder. I'd be open to CVS providing five thousand dollars to cover the time out of work in addition to providing eighty-five thousand dollars for treatment settling this almost four year W/C litigation on a full and final basis, releasing the employer of all liabilities and keeping the terms of the settlement confidential.

It doesn't completely erase the effects of being assaulted but the proposed counter demand would serve to mend the disruption the assault has had on me and my daughters' life, my career and or livelihood, promote the cessation of reliving the assault subsequently the repressed trauma with the open litigation, once and for all seek therapy for which I will be able to comfortably afford and really focus on an unrestricted healing.

Respectfully,

**Takara Stewart**

Career Professional

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t: (877) 430-4763 108 E York Street Suite  
m: (984) 215-1812 236 Savannah, GA 31401  
e: takara.l.stewart@gmail.com United States

**Linda Davis**  
+18436150840

SMS/MMS

Tuesday, January 28, 2020

This is Linda Davis, I returned to Dr today, have upper respiratory and pink eye infections, I am out of work rest of week. Please let me know when I could see you next week, thank you

9:00 PM

Wednesday, January 29, 2020

Please confirm you received this message

9:39 AM

Good Morning  
Next Thur @ 9a will work  
I hope you feel better

10:18 AM

Ok, Thursday, Feb 6 at 9:00, thank you

10:20 AM

Thursday, February 6, 2020

I am sorry, Takara, I still am not feeling well enough to work, I feel very bad about cancelling another appointment. I've been awake for a while now and am trying to get some sleep. Can I please reschedule one more time? I hope you are doing better.

4:16 AM

**Linda Davis**  
+18436150840

Good Morning!  
Tough week! I hope you feel better.

8:11 AM

Monday, February 10, 2020

Good Morning Linda!  
I trust you're feeling better. Thursday at 9a will work for me. Let me know if it works for you.

7:23 AM

Takara

I think that's good, I will be at my appointment book a little later and will let u know. Returning to work tomorrow finally!

10:07 AM

Wednesday, February 12, 2020

Is it possible to do 10 rather than 9 tomorrow?

11:36 AM

Good Morning!  
10a, ok.

11:40 AM

Ok, see u at 10!

6:03 PM

Thursday, February 20, 2020

Good Morning!

**Linda Davis**  
+18436150840

Thursday, February 20, 2020

Good Morning!  
Did you decide if yr schedule was open for today?

8:20 AM

Takara

No openings today, I'm sorry, unless I have cancellation. Going out of town for several days, next opening is next Thursday at 1:00. I'm sorry

8:40 AM

Monday, February 24, 2020

Good Afternoon!  
Thursday 27Feb @ 1pm is good. Thank you!

2:08 PM

Takara

Wednesday, February 26, 2020

Hi Takara, once again, circumstances have changed- can u come in at either 2 or 3 tomorrow instead of 1:00 please?

Other option is Friday at 3 or 5

10:41 AM

**Linda Davis**  
+18436150840

Tuesday, March 3, 2020

MUSC Rmdr: FAM MED FLORENCE PCPRIMARY CARE 03-05 @ 8:00am Arr @ 7:45am 843-679-4019 YES to confirm, NO to cancel. STOP to Opt-out. Msg&Data Rates May Apply

9:34 AM

Look who forgot she had a (6 month) appointment this Thursday morning!! I am so very sorry, it was made so long ago but I have to keep for refills on meds. Can u come in at 11?

9:57 AM

Good Afternoon!  
11a is fine

12:44 PM

TY!

1:06 PM

Tuesday, March 10, 2020

Good Afternoon,  
I apologize I'm just getting back to you ab meeting. I believe Thurs morning I'm free, I can confirm later if so, we ill tht work for you?

11:59 AM

Takara

**Linda Davis**  
+18436150840

Tuesday, March 10, 2020

Good Afternoon,  
I apologize I'm just getting back to you ab meeting. I believe Thurs morning I'm free, I can confirm later if so, we ill tht work for you?

11:59 AM

Takara

Would it be okay to skip this week and meet next week? If so, any morning except Wed is good.

12:15 PM

ok, np. I'll confirm a little later.  
Thank you!

12:16 PM

If u are sure, then we can do it next week. If you urgently need an appointment, please let me know.

12:38 PM

Good Evening Linda,  
Sorry to bother you, but is it crazy to think someone going to jail for something they did to you could create some form of retaliation on the perpetrators behalf. Even of its not the perpetrator, could be someone directly connected to the perpetrator.

**Linda Davis**  
+18436150840

Tue, Mar 10, 2020 9:13 PM

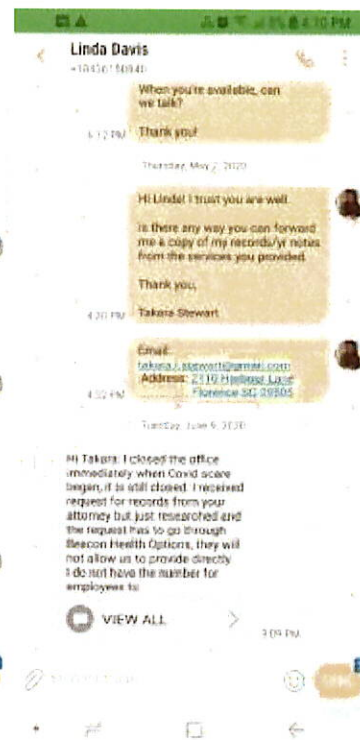
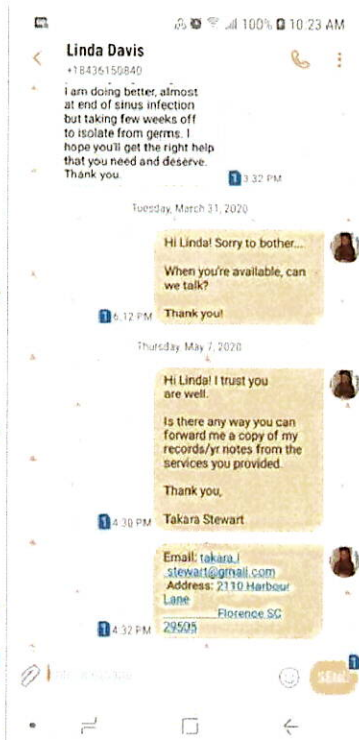
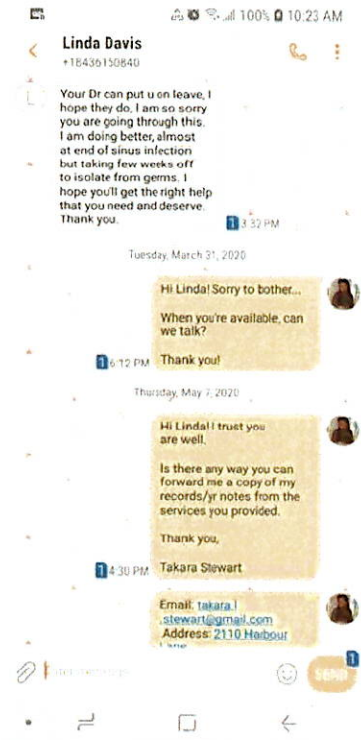
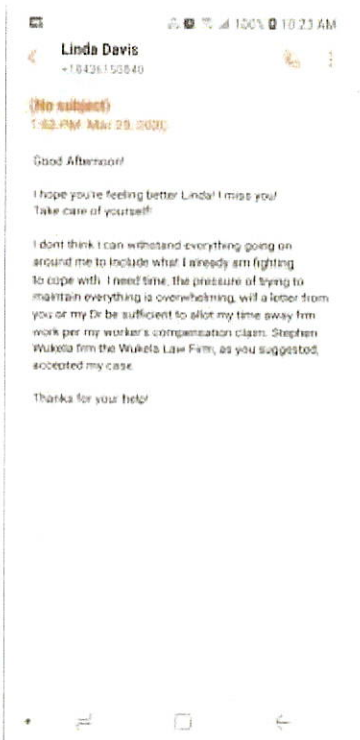
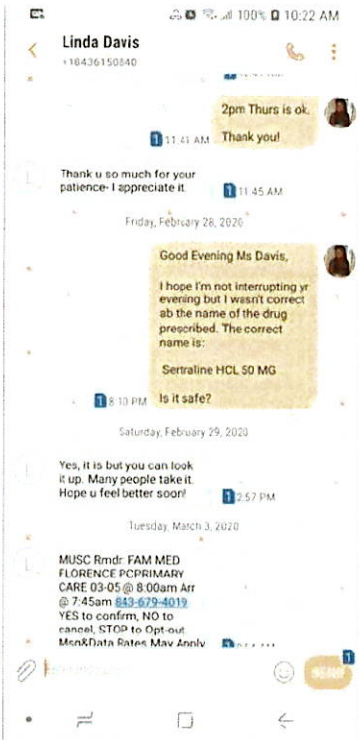
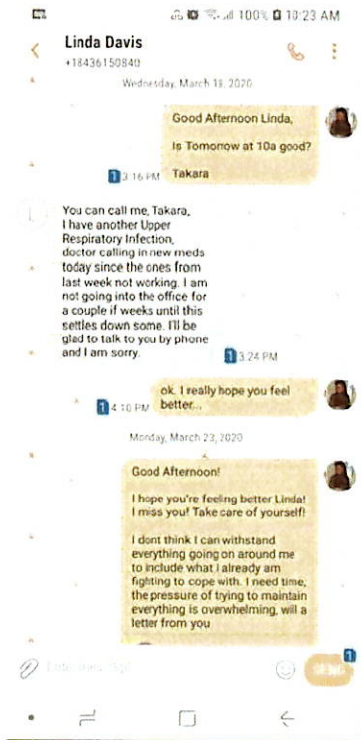
Good Evening Linda,

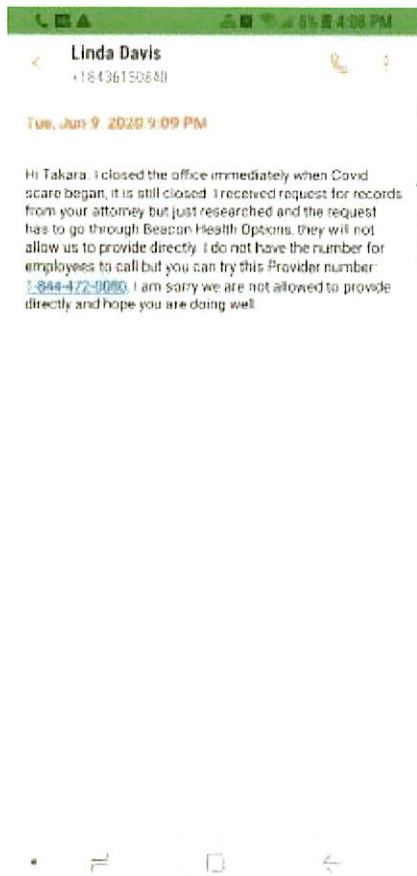
Sorry to bother you, but is it crazy to think someone going to jail for something they did to you could create some form of retaliation on the perpetrators behalf. Even of its not the perpetrator, could be someone directly connected to the perpetrator.

Maybe I'm just paranoid. I don't feel safe. Do you feel I'm just projecting unnecessary fear.

Just wanted to share how I'm feeling

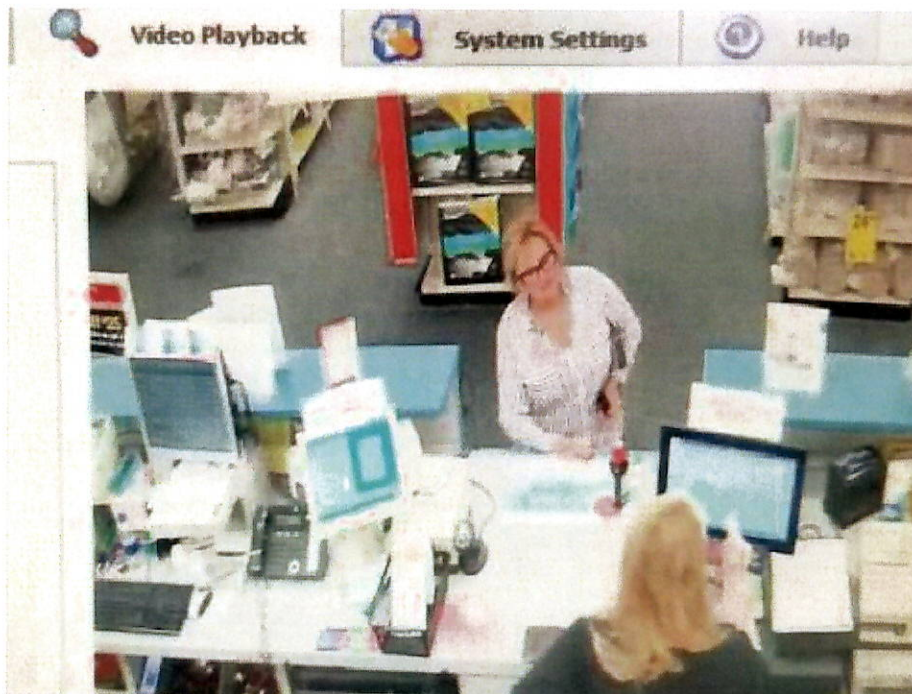
Takara





### III. Ad Rem Documents

#### i. Perpetrator





20200104\_140937 (1).mp4



20200104\_140702 (1).mp4

**ii. Self-Execution of Proposed Treatment**

Patient Name Stewart, Takara (MRN: 007281170)

Encounter Date: 06/21/2022

**Patient Demographics**

Patient Name	Legal	DOB	Address	Phone
Stewart, Takara (007281170)	Sex Female	11/22/1987	2110 Harbour Lane FLORENCE SC 29505	984-215-1812 (Home) 984-215-1812 (Mobile)

**Primary Visit Coverage**

Payer	Plan	Sponsor Code	Group Number	Group Name
MEDICAID MOLINA HEALTHCARE	MEDICAID MOLINA HEALTHCARE			

**Primary Visit Coverage Subscriber**

Subscriber ID	Subscriber Name	Subscriber SSN	Subscriber Address
1000094877	STEWART, TAKARA	xxx-xx-0448	2110 Harbour Lane FLORENCE, SC 29505

**Department**

Name	Address	Phone	Fax
MUSC Health West Florence Family Medicine	1925 Hoffmeyer Rd Florence SC 29501-4011	843-679-4214	843-679-4217

**Order**

Order Name	Priority
AMB REFERRAL TO PSYCHOLOGY	Routine

**Referral Details**

Referral Reason
Specialty Services Required

**Associated Diagnoses**

	ICD-10-CM	ICD-9-CM
Anxiety state - Primary	F41.1	300.00
PTSD (post-traumatic stress disorder)	F43.10	309.81

**Collection Information****Scheduling Instructions**

REASON FOR REFERRAL: Patient is a 34 y.o. female with anxiety/ ptsd

**Allergies:**Review of patient's allergies indicates:  
No Known Allergies**Order Questions****Authorizing Provider Information:**Authorizing Provider: Ashley Hicks, MD-NPI: 1033560545 - DEA: FH8916629  
Ordering Provider: Ashley Hicks, MD -

Stewart, Takara (007281170) DOB: 11/22/1987 Printed by Valonia Doz... Encounter Date: 06/21/2022

iii. Self-Pay Therapy

i. Brenda B Graham, PhD, RPT, CpastC, CACII, BCCC

*Fee Schedule for PhD/PsyD Level Services*

**INDIVIDUAL/PEDIATRIC SESSIONS:**

- Initial Session/Assessment      All Types: \$150.00-\$225.00
- Regular 45-minute (Pediatric) Session \$ 60.00 (Post Parental Involvement \$15.00)
- Regular 60-minute Session      \$75.00
- Court ordered Drug Screening/Assessments \$85.00 (Urine Screen \$15)
- Court Ordered Anger Management and/or Domestic Violence Screening/Assessment \$85.00
- Additional Assessments/Screenings/Tests \$55.50
- Extended 75-minute Session      \$85.00
- Extended 90-minute Session      \$150.00

\*\*\* Please note: Pediatric Play Therapy with therapy pets, toys, movies carry an additional charge of \$15 per session\*\*\*

NEW: Brief 30 min Session \$25.00

**GROUP FAMILY/COUPLES SESSIONS. \$250.00 90 MINUTES**

\*Telephone Consultation/Coordination (per 15 minutes) \$10.00/15 minutes  
\*Copy of Record\* (depending on size of chart) \$25.00/min each copy  
\*Treatment Report/Summary (per page) \$1.00/page  
\*Completion of External Paperwork \$25.00/(Paperwork available within 5 business days, no exceptions)

**Legal Proceedings \$200.00/Hour (\$600 must be paid up front prior to my appearance in court)**  
\* (this includes any preparation, transportation, consultations, and participation, attendance & testimony as expert witness at legal proceedings)

Late Cancellation (less than 5 hour\* notice) /Missed Appt fee of 75% scheduled service (No exceptions, Third occurrence will result in automatic dismissal from practice)

\*Other services, with related fees, may be available upon request

\*I acknowledge these fees and that a copy of said fees have been provided to me as well

7

**Pathway Counseling of Savannah, Inc.**  
**Brenda B. Graham, PhD, RPT, CpastC, CAC II, BCCC**  
6711 Forest Park Drive, Unit 6  
Savannah, Georgia 31406

### **INFORMED CONSENT**

**Counseling** is a cooperative venture between therapist and client and if the client is a child, the parent(s). All have responsibilities in the change process. I counsel children, families, individuals, and couples, and my services are available to all persons regardless of gender, race or religious affiliation. Due to the cooperative nature of therapy and counseling, no guarantee of a cure or positive resolution can be given.

I am a Registered Play Therapist (APT), Board Certified in Child and Adolescent Therapy (NCCA), Certified Addictions Counselor, Level II, Board Certified Christian Counselor/Therapist, (GCCA) Ga. #06048213, licensed with NCCA as Advanced Certification, Clinical Pastoral Counselor #GR74470), and a Certified Temperament Therapist (NCCA). As a professional mental health counselor I am required to participate in ongoing continuing education. This is not only to maintain my certifications, but to continue growth as a counselor and for the benefit of my clients. In addition to continuing education, I am committed to seeking consultation and supervision as needed.

Confidentiality is maintained on communication between the client and me. There are circumstances where, by law, information must be revealed. These instances are suspected or actual child abuse, the risk of imminent harm to self or others or the occurrence of such harm, disclosure of abuse, or criminal activity, and a court order to disclose information outside the scope of privileged communication.

My policy is as follows, when working with a child with issues resulting from parental divorce: My involvement with your child is to respond to your child's emotional needs and not to make recommendations or determinations regarding custody issues. Due to my heavy schedule, I do not testify in divorce proceedings, provide affidavits, or testify in court proceedings following divorce.

Should you need to cancel or reschedule an appointment, please call our office at least 24 hours ahead of the appointment time. If an appointment is missed, and appropriate contact has not been made, the missed appointment fee is \$85.00. If two appointments are missed, and no contact has been made, then your scheduled time is lost and will be renegotiated.



October 26, 2023

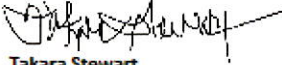
Cherryl Garner PHD, LPC  
6 Weymouth Circle  
Bluffton, SC 29910  
[dr Garner@mindingmasteryllc.com](mailto:dr Garner@mindingmasteryllc.com)  
[www.mindingmasteryllc.com](http://www.mindingmasteryllc.com)  
(843) 422-5186

Dr. Garner,

An initial therapy session for a Dr. Ashley Hicks MUSC referral of anxiety and PTSD was scheduled for October 9, 2023 at 9:30 a.m. was then rescheduled for October 10, 2023 at 9:45 a.m. at 6 Weymouth Circle Bluffton, South Carolina 29910. The session lasted for an hour at the cost of one hundred and fifty dollars and no cents (\$150.00). As per your request and continuity in treatment, this is a formal request for the medical assessment of the above mentioned session. Please provide the disposition based on the in person session, doctorial notes, and the United States medically necessary doctrine including but not limited to doctor recommendations for sustainability.

Thank you for your precise cooperation and promptness in supplying this records request.

Respectfully,



Takara Stewart  
108 E York Street  
Suite 236  
Savannah, Georgia 31401  
[trsrestewart@outlook.com](mailto:trsrestewart@outlook.com)  
(706) 244-5643



CHERRYL GARNER, PHD, LPC

Licensed Professional Counselor  
Clinical Hypnotherapist

6 Weymouth Circle  
Bluffton, SC 29910

www.mindingmasteryllc.com  
dr Garner@mindingmasteryllc.com  
(843)422-5186

Date: October 26, 2023  
To: Takara Stewart  
From: Cheryl Garner, PHD, LPC  
RE: Summary of 1-hour session done on October 10, 2023

A one-hour-long session was held on October 10, 2023, during which Ms. Stewart graphically described being assaulted as she was closing her workplace for the night. Ms. Stewart went to the pharmacist working with her, explained her anguish, and described the perpetrator. The pharmacist recognized her description and identified the perpetrator by name. Ms. Stewart discussed her anger at her workplace and her anger at being assaulted. Ms. Stewart explained that her body attracts sexual attention and that she has been sexually harassed all her life. Ms. Stewart added that her sexual assaults started at the age of 7 and she believes that she was being groomed sexually. Ms. Stewart stated that the anxiety and depression she has suffered all of her life began with those early childhood sexual assaults and that those early sexual assaults robbed her of her life, self-worth, and self-esteem, and she continues to feel deep humiliation and she feels dirty.

I explained to Ms. Stewart that the traumatic events of her life have been compounded and have left her with greater emotional struggles, with anxiety and depression—Post Traumatic Stress. Ms. Stewart was told that she needs to be counseled in order to work through the traumas she has suffered from childhood and onward into the present. Ms. Stewart was also told that given her life-long problems, I am unable to give her a timeline or estimate of the number of sessions she will need to work through what seem to be multiple emotional issues.

Ms. Stewart was told to find a therapist who would accommodate her time restrictions and give her the information that she and her lawyer need.

Thank you

A handwritten signature in black ink, appearing to read "Cheryl Garner", with "PHD, LPC" written in smaller letters below it.

### iii. Self-Pay Receipts

