

BEFORE THE  
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

WCC FILE NO. 0922072

|                               |   |                           |
|-------------------------------|---|---------------------------|
| Roger Kelley,                 | ) |                           |
|                               | ) |                           |
| Claimant,                     | ) |                           |
|                               | ) |                           |
| vs.                           | ) |                           |
|                               | ) | TRANSCRIPT OF PROCEEDINGS |
| The Kroger Company, Employer, | ) |                           |
| Self-Insured,                 | ) | August 14, 2012           |
|                               | ) |                           |
| Defendant.                    | ) |                           |
|                               | ) |                           |

This hearing was held before Commissioner Gene McCaskill, reported by Kimberly T. Power, Court Reporter and Notary Public in and for the State of South Carolina; said proceedings were held at the South Carolina Workers' Compensation Commission, 100 North Main Street, Anderson County Court House, Anderson, South Carolina, on Tuesday, August 14, 2012.

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WITNESS: MELONIE BRYSON

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1 THE COURT: Today's date is August 14, 2012.  
2 This is the case of Roger D. Kelley, deceased, vs. The  
3 Kroger Company. The Workers' Compensation Commission  
4 File Number is 0922072. The claimant is represented by  
5 Lola S. Richey and Robert L. Waldrep, Jr. The defendants  
6 are represented by M. Chad Abramson. The carrier is --  
7 they're self-insured?

8 MR. ABRAMSON: They are self-insured. The TBA  
9 is Sedgwick, Your Honor.

10 THE COURT: Sedgwick. All right. The average  
11 weekly wage and comp rate, are we in agreement on that?

12 MR. ABRAMSON: Yes, sir, Your Honor.

13 THE COURT: Average weekly wage is \$824.79.  
14 Comp rate is \$549.89. This is a denied case, I believe.

15 MR. ABRAMSON: That's correct, Your Honor.

16 THE COURT: This is a denied case. Are there  
17 any objections to jurisdiction, venue, or any APA  
18 submissions?

19 MS. RICHEY: There is one. There is a  
20 statement, an article, in the Defendant's APA on Page 250  
21 and 251. It's an article. I haven't had an -- it was  
22 basically an article looks like he got off the internet.  
23 I didn't have a chance to cross-examine these doctors.  
24 Again, we have the treating pathologist that actually did  
25 his autopsy. We have his deposition. But this -- this

1 appears to be an article on Page 250 and 251 that he got  
2 off the internet. Again, I have not had an opportunity  
3 to cross-examine these doctors. We don't even have the  
4 full -- full article. It just looks like an excerpt of  
5 an article he downloaded. I do have an objection to  
6 that. I will note my objections to Page 250 and 251 of  
7 the Defendant's APAs.

8 THE COURT: You want to speak to that, Chad?

9 MR. ABRAMSON: Yes, sir, Your Honor. This is  
10 simply information that's taken from two different Web  
11 sites, PDR Health Physician's Desk Reference talking  
12 about the risks of not taking cholesterol medication.  
13 Bottom line is there will be evidence presented in the  
14 medical records that you will review today that  
15 Mr. Kelley had not been taking his cholesterol medication  
16 three years prior to the heart attack. That's why we  
17 think it is relevant and gives you an explanation of the  
18 medical risks of not doing that. That's where we think  
19 it is relevant evidence, and we would ask that you allow  
20 it in.

21 As you know, this is an administrative  
22 proceeding. The rules of evidence are relaxed.  
23 Technically, they don't apply. So we would ask that you  
24 would be liberal and allow it to come in and give it  
25 whatever weight you would like. Same thing with Page

1 251. This is taken from the Mayo Clinic's Web site.  
2 Obviously a reputable clinic. It explains what a bundle  
3 branch block is. Clearly the medical evidence that you  
4 will review today, the APAs, demonstrate that he had a  
5 bundle branch block which is a pre-existing condition  
6 which made him more susceptible to have a heart attack.

7 So we would ask again that you allow these  
8 documents which were timely submitted to claimant's  
9 attorneys be allowed in evidence.

10 THE COURT: Ms. Richey, anything else?

11 MS. RICHEY: The only problem I have with that  
12 is if he's had the ample opportunity to take the  
13 deposition of Dr. Campbell, Dr. Loudermilk, also  
14 Cornerstone Family Practice which was his treating family  
15 doctors and treating orthopedic, the treating doctors  
16 that saw him as well as Dr. Woodard that was addressed at  
17 the deposition in June of this year. So, Your Honor,  
18 it's as if he pulls something off the Web site and it  
19 wasn't -- we don't have the full excerpt.

20 Again, we haven't had the opportunity to  
21 cross-examine this medical statement. I don't even say  
22 it's a medical statement because, again, it's not stated  
23 to a reasonable degree of medical certainty. It's  
24 basically something he just downloaded off of the  
25 internet. And no offense to the internet, but it's not

1 from a medical treatise. It would be different if it's  
2 from a treatise, but, again, it's something he got from  
3 the internet.

4 So, again, we've already got the deposition  
5 testimony of Dr. Woodard in this case. He is the  
6 pathologist. He had an opportunity to question him  
7 specifically about this whole blockage issue and the  
8 whole cholesterol issue. And for him to now come in and  
9 put these two articles that basically I haven't had an  
10 opportunity to cross-examine, I just don't think it's  
11 fair. And if you do allow it, I think it should be  
12 little, if any, weight given to that evidence given that  
13 we actually have the deposition, sworn testimony, of  
14 Dr. Woodard who is already addressing the very issues  
15 he's trying to put forth here.

16 MR. ABRAMSON: I would just say it's pretty  
17 benign. One is from the Mayo Clinic. I think that's a  
18 reputable Web site. All it is, is a definition of a  
19 bundle branch block. You may know what that is. I don't  
20 know if you have knowledge of that particular ailment.  
21 That's why it's submitted, just for your edification and  
22 for the entire Commission's edification and any appellate  
23 court, God forbid we go that far. Same thing with the  
24 article related to the risks of one not taking -- one who  
25 has elevated cholesterol not taking the medication.

1                   Again, the preponderance of the medical  
2 evidence demonstrates he had, A, a bundle branch block  
3 and, B, he wasn't taking his cholesterol medication.  
4 It's just for your edification. As a part of the record,  
5 we think it's harmless. Those questions were raised in  
6 Dr. Woodward's deposition. He's aware of it. So, again,  
7 I don't think it's prejudicial to the claimant. I'm not  
8 quite sure why they're so upset about it, but we would  
9 respectfully ask that you allow it into the record.

10                   THE COURT: Do you believe your client is  
11 prejudiced by it?

12                   MS. RICHEY: Well, I -- the fear is -- the  
13 only thing is, Your Honor, again, we don't have the full  
14 article. We only have excerpts or at least one page of  
15 it. I believe he's prejudiced by it just because I  
16 haven't had an opportunity to cross-examine -- I don't  
17 even know if it was written by a doctor, so...

18                   THE COURT: Well, if you feel that strongly  
19 about it, Ms. Richey, we're going to take it out.

20                   MR. ABRAMSON: Okay. Well, let me ask you  
21 this before you rule, if I may. Do you deny that he had  
22 a bundle branch block at the time of his heart attack?  
23 Do you deny that?

24                   MS. RICHEY: No. What I'm saying --

25                   MR. ABRAMSON: Do you deny that he was not

1 taking his cholesterol medication at the time of his  
2 heart attack?

3 MS. RICHEY: No. What I am going to state is  
4 we had an opportunity to take the deposition of  
5 Dr. Campbell. We also took the deposition of Dr. Woodard  
6 which is who examined him, who treated him, who could  
7 have given us good testimony about this. Not some  
8 internet article. No offense to the internet. But,  
9 again, it's an internet article. We don't even know if  
10 it's written by a doctor. We don't know who wrote it.

11 THE COURT: She feels very strong about it,  
12 she thinks it will prejudiced her client, and she makes  
13 good points. I understand where you're coming from. But  
14 given that she feels so strongly about it, we're going to  
15 take it out.

16 Chad, do you have any objections?

17 MR. ABRAMSON: Yeah. I mean, I object to them  
18 coming out. I mean, I --

19 THE COURT: I understand that. But I mean do  
20 you have any other objections to anything other than  
21 this?

22 MR. ABRAMSON: Well, I'm not going to waste  
23 your time with my objection to Eva Padget's testimony  
24 coming in. The deposition wasn't timely noticed. I told  
25 Lola that. If we're going to be nitpicky --

1 MS. RICHEY: That's why we pulled the 50.  
2 That's why we pulled the 50 last time so that he will  
3 have an opportunity. That's why we pulled it because we  
4 couldn't find --

5 MR. ABRAMSON: Listen, I'm not going to sit  
6 here and waste your time.

7 MS. RICHEY: Okay. Let's go.

8 MR. ABRAMSON: Let's go on the record because  
9 this is ridiculous.

10 MS. RICHEY: We're ready. We're ready.

11 MR. ABRAMSON: We've wasted enough time in  
12 this case. They haven't met their burden of proof.  
13 You'll see that when you review the medical records.

14 THE COURT: The Commission file becomes a part  
15 of the record with the exception of self-serving  
16 declarations and unstipulated medical reports.

17 Ms. Richey, how about state your client's  
18 position for the record, please.

19 MS. RICHEY: Yes, sir, Your Honor. May it  
20 please the Court. My name is Lola Richey. I'm here  
21 representing the interest of Roger Dale Kelley, Sr. who  
22 unfortunately died April 4, 2009 while loading bread pans  
23 there at Kroger bakery by the oven. The whole issue here  
24 today is whether or not his heart attack is a compensable  
25 injury under the Act. We believe under the Act,

1 particularly under 42 -- Section 42-9-35 as well as the  
2 appellate court opinions here in South Carolina of Holly  
3 vs. Owens Corning Fiberglas found on Page 281 and 283 of  
4 the Claimant's APAs, and Sweet vs. Marlboro Cotton Mills  
5 found at Page 284 and 285 of the Claimant's APAs, and  
6 also Dillingham vs. Yeargin Construction found at Page  
7 286 and 288 of the Claimant's APAs will prove that in  
8 this case Mr. Kelley worked in a very hot environment.  
9 He worked in a very heavy environment. And when we  
10 took -- and sometimes temperature readings by the  
11 defendant's case own testimony -- because we had asked  
12 them on numerous occasions would we have an opportunity  
13 to get a temperature reading in the plant. We were able  
14 to get one temperature reading that we got. It was taken  
15 May 1st of 2012, and the reading by the oven -- and this  
16 is looking at Page 181 of the Defendant's APAs. Right  
17 around the oven and the bread area where Mr. Kelley  
18 worked at, it was 88 degrees. That's with swamp coolers,  
19 fans, water. It was 88 degrees. And according to  
20 Dr. Brett H. Woodard, a treating pathologist who  
21 actually -- who actually did the autopsy of Mr. Kelley,  
22 he says that that is extremely hot.

23 And then we believe that -- because when you  
24 take -- and according basically -- I'll step back. We  
25 took the deposition of Dr. Brett H. Woodard, and he

1 stated in his deposition -- and I'm looking at Page 1 of  
2 our APAs. We took his deposition in June of 2012 and  
3 then we also did a follow-up question. We asked him,  
4 Doctor, after taking a look at the number of different  
5 reports, including the coronary -- your coroner's office  
6 investigation, the toxicology reports, the autopsy and  
7 other deposition, he stated on July 13th of 2012, he  
8 stated the combined effects of the temperature, the work,  
9 the load, as well as his underlying heart disease led to  
10 his death.

11 Your Honor, when we took doctor -- when we  
12 took Dr. Woodard's deposition, he stated on a number of  
13 different occasions that you have somebody that is doing  
14 a very heavy job like Mr. Woodard -- Mr. Kelley was  
15 doing, that that will cause the blood flow that should be  
16 going to the heart to have to go to other parts of his  
17 body, and I'm looking at Page 28 and 29 of the Claimant's  
18 APAs, that that will take away blood flow from the heart  
19 which will make the heart work faster.

20 And that's why he went on to state when we  
21 asked the doctor after we gave him a number of different  
22 items and we asked him to look at everything, that's why  
23 on Page 31 and 32 of the defendant's -- excuse me, of  
24 Dr. Woodard's deposition he stated to a reasonable degree  
25 of medical certainty that when you looked at the combined

1 effects of his work, the heat, and the type of job that  
2 he did as well as his underlying condition, that all  
3 combined to cause his death.

4 Your Honor, Mr. Kelley was -- I mean, he  
5 wasn't -- he didn't drink, he didn't smoke, he really  
6 didn't have -- he really didn't even have any significant  
7 health issues because looking at Page 122 of the  
8 Defendant's APAs, when asked about the -- as you can see  
9 from Page 122 of the Defendant's APAs, and this was taken  
10 in 2003 which when they go on the record they will say,  
11 well, he had high cholesterol and all kinds of other  
12 problems. But looking at their own evidence on Page 122,  
13 his heart was normal. His cardiac silhouette was normal.  
14 And that's Page 122.

15 On Page 134 of the Defendant's APAs when asked  
16 about his siblings, he still has four other brothers and  
17 sisters that are still living and they are all healthy  
18 and he does not drink, he does not smoke, and he doesn't  
19 use any illicit drugs. And that's Page 134 of the  
20 Defendant's APAs. And, again, they reference the normal  
21 cardiac silhouette. So his chest at that point was doing  
22 just fine.

23 And, plus, his blood pressure wasn't up  
24 because at Page 139 of the Defendant's APAs, his blood  
25 pressure was 110 over 80. So he didn't have any high

1 blood pressure. And according to Page 140 of the  
2 Defendant's APAs, he was at overall good health, low  
3 blood pressure.

4           So, you know, the fact is they're saying -- as  
5 we keep going on -- so he had no hypertension, he didn't  
6 smoke, he didn't drink. But what we do have somebody  
7 that will come in here and the parties in this case will  
8 testify that he worked in a very hot environment. Ms.  
9 Bryson who is going to be testifying shortly, she stated  
10 in her deposition on page -- as well as in the  
11 defendant's -- in the Claimant's APAs on Page 211 and 213  
12 of our APAs that Mr. Kelley worked -- he worked a very  
13 hard job, he worked a heavy job, and basically that heavy  
14 work that he did led -- because he ended up having  
15 several hernias because of that.

16           As far as the deposition transcript of  
17 Dr. Woodard, which is what we're going to be relying on  
18 pretty heavily, if you look at Page 69 of the Claimant's  
19 APAs which is Page 61, he was -- he was asked about that  
20 because we got the temperature reading in the plant which  
21 was about 81 degrees and basically if you look at Page 69  
22 of the APAs, that actually -- if you work in an  
23 environment which is what his temperature was at, I mean,  
24 the reading in the plant that we got was at least 88.  
25 And sometimes I think Melonie in her deposition --

1 Ms. Bryson will tell you it was even sometimes hotter  
2 than that, that it actually affected the blood and the  
3 blood flow. And that's what Dr. Woodard stated in his  
4 deposition, and that's on Page 69 of our APAs.

5 So, Your Honor, when you look at the entire  
6 record and when you take a look at all the evidence in  
7 this case, you will see that the evidence amply supports  
8 that Mr. Kelley's job contributed to his death. And  
9 that's just not our testimony. That's the testimony of  
10 the treating pathologist who states this as to a  
11 reasonable degree of medical certainty. He stated this  
12 in his deposition and he stated it again on July 13,  
13 2012. So, Your Honor, and that testimony is unrefuted.

14 The issue is -- that the defense is going to  
15 raise is, well, did the -- no, it wasn't just one thing  
16 that caused his death. It wasn't just -- it wasn't just  
17 the high cholesterol. It wasn't that one thing because  
18 Dr. Woodard will state that if he was working a sitdown  
19 job and he had high cholesterol, that may not have caused  
20 his death. But it was the combined effects of it. It  
21 was the high temperatures, it was the heavy work, and it  
22 was pre-existing. When you combine all that, that's why  
23 Dr. Woodard states to a reasonable degree of medical  
24 certainty that led to his demise.

25 THE COURT: Thank you. Mr. Abramson.

1 MR. ABRAMSON: Thank you, Commissioner. May  
2 it please the Commission. Again, with all due respect to  
3 Ms. Richey, I think that she is failing to understand  
4 what the law is in South Carolina when it comes to  
5 whether or not a heart attack claim is a compensable  
6 injury by accident under our existing law.

7 First of all, I believe I wrote down that  
8 Ms. Richey said that Mr. Kelley had, quote, no  
9 significant health issues. I think that's what she said,  
10 Commissioner. I don't want to waste any more time than  
11 we need to by asking the court reporter to, you know,  
12 read back what she said. But with all due respect, this  
13 is a man who had a significant pre-existing problem with  
14 his heart which is clearly outlined in the medical  
15 evidence that you will review today.

16 Beginning at Page 133 of the Defendant's APAs,  
17 this man was diagnosed under assessment on 2/6/03, he was  
18 diagnosed with hyperlipidemia. He was diagnosed with an  
19 incomplete right bundle branch block. A bundle branch  
20 block is a condition in which there is a delay or  
21 obstruction along the pathway that electrical impulses in  
22 the heart travel to make a heart beat. Okay. An EKG  
23 that was taken as far back as 2/6/03 indicates -- this is  
24 at Page 134 of the Defendant's APAs. The EKG shows a  
25 sinus rhythm with an incomplete right bundle branch

1 block. This is a pre-existing condition in the heart.  
2 So to represent that he had no significant health issues  
3 is simply not true.

4 Also at Page 134, it demonstrates,  
5 Commissioner, that the claimant's mother died at age 47  
6 because of a myocardial infarction. It's right there in  
7 the record. The claimant's father died at age 51 due to  
8 a myocardial infarction. That's a heart attack. The  
9 claimant was 54 when he died of a heart attack.

10 Furthermore, I think she mentioned that the  
11 claimant's siblings were in good health. Commissioner,  
12 at Page 139, with all due respect to Ms. Richey, it's in  
13 black and white. It says five siblings, all but one  
14 sister has heart problems. She tried to represent that  
15 this man didn't have a significant -- have significant  
16 pre-existing problems with his heart is just not  
17 factually accurate based on the clear evidence that you  
18 will find in the record today.

19 Again, if you look at doctor -- if you look at  
20 Page 165, the autopsy report, the cause of death, acute  
21 myocardial infarction due to atherosclerosis coronary  
22 artery disease. The man had pre-existing heart disease.  
23 He was within the course and scope of his employment when  
24 he suffered a heart attack. In order for the heart  
25 attack to be compensable under the existing law in South

1 Carolina, the claimant has to prove that he was -- he or  
2 she was engaged in unusual or extraordinary circumstances  
3 at the time that the heart attack occurred and the  
4 unusual or extraordinary circumstances led to the heart  
5 attack. I've briefed this for you. You can read the  
6 law. I'm not going to waste your time by citing the  
7 cases. They're spelled out in my detailed memorandum --  
8 two different memorandums of law that address the issue  
9 and differentiate the Holly case that Ms. Richey relies  
10 upon.

11 The second theory that the claimant is trying  
12 to utilize today to try to prove that the heart attack is  
13 compensable was that he was exposed to excessive heat  
14 which led to the heart attack, i.e., some signs that he  
15 was -- had a heatstroke or heat exhaustion which led to  
16 the heart attack. Commissioner, if you look at  
17 Dr. Woodard's deposition transcript at Page 74, it states  
18 beginning at Line 8, quote, "But, again, you don't --  
19 you're -- this is just conjecture because you don't know  
20 what the temperature was inside the plant, correct?"  
21 Dr. Woodard says, "That's correct."

22 My next question, "The autopsy report that  
23 you've seen, is there anything in there that indicate  
24 that he died due to" -- and then the doctor interrupted  
25 me and his answer was, "He did not have," and my question

1 was, "Excessive heat exposure?" And the doctor states,  
2 this is his testimony, "He did not have a heatstroke or  
3 heat exhaustion. That was not a -- not an event that,  
4 you know, was in his demise. And obviously at least in  
5 looking at those pictures" -- and we'll show you today  
6 pictures inside the plant where he was working that are  
7 in our APAs that Ms. Bryson, the deceased's former  
8 supervisor, will testify. Looking at those pictures that  
9 we showed Dr. Woodard, it looks like this bakery is  
10 pretty open and he's working at night and it's  
11 actually -- if it was going turkey -- if I was going  
12 turkey hunting that day, I would want my long johns  
13 because you'd be a little chilly, et cetera, et cetera.

14 The doctor does not say to a reasonable degree  
15 of medical certainty that the heart attack was caused by,  
16 A, unusual or extraordinary circumstances within the  
17 course and scope of his employment or, B, exposure to  
18 excessive heat. He does say that the death was caused by  
19 atherosclerosis coronary artery disease. He does say  
20 that, you know, he was within the course and scope of  
21 employment, he was doing work that elevated his heart.  
22 That's not what the law requires in order for a heart  
23 attack to be compensable. If I died right now in the  
24 midst of this hearing, that wouldn't be compensable under  
25 our law. I'm not doing anything unusual or

1 extraordinary. I'm doing my regular job duties.

2 So the point is the preponderance of the  
3 evidence in this case clearly and unequivocally  
4 demonstrates that, A, he was not doing anything unusual  
5 or extraordinary at the time that he suffered the  
6 unfortunate heart attack that led to his demise and, B,  
7 there is no evidence to demonstrate that he was subjected  
8 to excessive heat on the day of his heart attack which  
9 led to that heart attack, which was the proximate cause  
10 of that heart attack. Therefore, we believe that the  
11 claimant has not met his burden of proof to demonstrate  
12 that he has sustained a compensable heart attack injury  
13 which would entitle him to benefits.

14 THE COURT: Anything else, Ms. Richey?

15 MS. RICHEY: Your Honor, again, if you look at  
16 Page 36 and 37 on the Claimant's APAs, which is Page 31  
17 and 32 of Dr. Woodard's deposition, "Okay. And this is  
18 your opinion to a reasonable degree of medical certainty  
19 after reviewing the Anderson County coroner's office  
20 death investigation, after reviewing a copy of the  
21 toxicology report and also a copy of the autopsy that you  
22 prepared at the request of the Anderson County office --  
23 Anderson coroner's office and also after reviewing the  
24 documents that have been presented here today, your  
25 opinion to a reasonable degree of medical certainty that

1 his job aggravated that underlying symptoms to cause his  
2 demise?"

3 That -- the answer: "The physical work  
4 required of him at the workplace aggravated his  
5 underlying symptoms and ultimately contributed and -- and  
6 contributed to the events leading to his death."

7 "Is that to a reasonable degree of medical  
8 certainty?"

9 "That's correct."

10 Your Honor, we have Section 42-9-35 that was  
11 passed by our fine General Assembly, that's the law in  
12 the State of South Carolina. That's 42-9-35. It may not  
13 have caused it, but that -- the combined effects of  
14 everything aggravated it, and this is what Dr. Woodard  
15 stated to a reasonable degree of medical certainty. I'm  
16 not making this stuff up.

17 So that's black and white. That's the law of  
18 the state. And I'm sure you're going -- you'll have an  
19 opportunity to give your rendition of the law later on.  
20 But that's -- that's the opinion of the treating  
21 pathologist that did the autopsy. He stated that to a  
22 reasonable degree of medical certainty. And this is just  
23 one place that he stated it. He stated it a number of  
24 different places in his deposition. I can go over the  
25 number of different places which I'm sure you will have

1 an opportunity to read, but this is just not one. So the  
2 fact that he's saying that it was not caused, no, the  
3 doctor stated that. It wasn't caused. But the combined  
4 effects of everything is what led to his death. Not just  
5 one thing, but the combined effects of it.

6 MR. ABRAMSON: I would just reiterate,  
7 Commissioner, with all due respect to Ms. Richey, that's  
8 not the law in South Carolina. If that was the case,  
9 anyone that was on the job doing their regular job duties  
10 that included any kind of physical exertion and then they  
11 suffered a heart attack, that would be a compensable  
12 injury and you would have heart attack cases left and  
13 right that would be in front of you. That -- she is  
14 wrong about what the law says in South Carolina. They've  
15 got to prove that the heart attack was caused by unusual  
16 or extraordinary circumstances or that the heart attack  
17 was caused by exposure to excessive heat, something  
18 unusual or extraordinary. That is not what we have here  
19 today.

20 So with all due respect to Ms. Richey, they  
21 have not met their burden of proof and I'll leave it to  
22 you to interpret the evidence that's put in front of you  
23 today and the applicable law. And I'll leave it at that.  
24 Thank you.

25 MS. RICHEY: And, again, we took the

1 deposition of Ms. Padget and she stated numerous times  
2 throughout her deposition, "It's hot in there. It's hot  
3 in there. It's hot in there." And even when Ms. Bryson  
4 comes in -- because we're going to talk to her about her  
5 deposition -- "It's hot in there. It was hot in there."  
6 And when we tried to get in there to get our own  
7 temperature reading, they wouldn't let us. But the  
8 reading we do have, their own reading says it was 88  
9 degrees in the area that he worked in. So it was hot in  
10 there and sometimes it even got hotter.

11 THE COURT: Anything else?

12 MR. ABRAMSON: It's a bakery. I mean, it was  
13 hot. We admit that. Again, they haven't met their  
14 burden to demonstrate that the heart attack was caused by  
15 exposure to excessive heat. So, again, I don't have  
16 anything else, Commissioner. If you're ready for  
17 testimony, I'll see if Ms. Bryson is available.

18 THE COURT: Anything else, Ms. Richey?

19 MS. RICHEY: Well, I just add -- I don't mean  
20 to belabor the point. We put this in our brief. But the  
21 case law here in South Carolina is very clear, most  
22 people that have a heart attack have underlying  
23 pre-existing heart conditions. That's what our appellate  
24 court notes. They said most of the people that have  
25 these heart conditions that we find compensable, most of

1       them have pre-existing problems. That's what we put in  
2       there in our memorandum. That's what we -- that's why we  
3       put the treatise in there. We want to let you read it.  
4       Most of them have it like Mr. Kelley, he had it.

5               But that's why -- and when this -- this  
6       indication about, well, everybody will come in here and  
7       have a heart attack, no, the statute is very clear and  
8       our General Assembly made it very clear, you better state  
9       to a reasonable degree of medical certainty, you better  
10      have medical certification. We've got it right here.  
11      We've got it in his deposition. We've got it in his  
12      statement. We've met our burden, Your Honor.

13              MR. ABRAMSON: I thought Ms. Richey said  
14      earlier, quote, No significant health issues before the  
15      heart attack occurred. So I'm kind of confused here.  
16      But, anyway, we'll move on and call our first witness if  
17      you're ready.

18              MS. RICHEY: Well, I'm just -- I'm sorry. I  
19      don't mean to belabor the point and I don't mean to --  
20      because we have his family doctor records here too and we  
21      have several records in here where it's normal heart,  
22      where Dr. Loudermilk looked at him. Just so you don't  
23      think I'm concocting this stuff and bringing it out of  
24      thin air, Page 152 of our APAs. When they looked at his  
25      medical history, looks like everything was all right.

1 Looks like everything was checking out fine. Page 156 of  
2 the APAs. Physical exam, normal, normal, normal.  
3 Cardiovascular chest, normal. Chest, abdomen, normal,  
4 normal. Page 156 of the APAs. And this report was in  
5 2006 -- June 15th of 2006. That's just one of many  
6 places in the APAs from the treating physicians that says  
7 that this man was just a hard worker. He was doing his  
8 job. He was going to work.

9 THE COURT: Anything else?

10 MR. ABRAMSON: No, sir, Your Honor. I've said  
11 enough. I just respectfully request that you please pay  
12 close exception -- or attention, rather, to my APAs which  
13 spell out the significant pre-existing problems with this  
14 gentleman's heart before his unfortunate heart attack.

15 THE COURT: Ms. Richey, do you have any  
16 witnesses?

17 MS. RICHEY: No, sir, Your Honor. We're going  
18 to be relying on our APAs and the deposition testimony.

19 THE COURT: And that's the claimant's case?

20 MS. RICHEY: Yes, Your Honor.

21 THE COURT: All right. Mr. Abramson, you have  
22 a witness?

23 MR. ABRAMSON: Yes, sir. The defendants would  
24 like to call Melonie Bryson to the stand.

25 THE COURT: I'm going to swear you in in a

1 minute. I've got a couple of requests for you. One of  
2 them is that the acoustics in this room are pretty good,  
3 so that's a good thing. But you will need to speak  
4 loudly enough so that the attorneys, this young lady who  
5 is making the record, and I can all hear you.

6 THE WITNESS: Sure.

7 THE COURT: Okay. And the other is if you are  
8 asked a yes or no question by any of the attorneys, to  
9 please answer with a yes or no.

10 THE WITNESS: Yes.

11 THE COURT: Uh-huh and unh-unh sometimes get  
12 misunderstood. And if you shake or not your head,  
13 especially in this configuration, she's going to have to  
14 turn to look and then she has to enter that into the  
15 record and that slows everything down. So yes or no  
16 question, please answer with yes or no.

17 (MELONIE BRYSON, being duly sworn to tell the  
18 whole truth and nothing but the truth, testified as  
19 follows:)

20 THE COURT: Please state and spell your full  
21 name for the record.

22 THE WITNESS: Melonie Marie Bryson.

23 M-E-L-O-N-I-E, B-R-Y-S-O-N.

24 THE COURT: All right. Mr. Abramson.

25 MR. ABRAMSON: Thank you, Commissioner.

DIRECT EXAMINATION

BY MR. ABRAMSON:

Q. Ms. Bryson, where are you employed?

A. Kroger Anderson bakery.

Q. And what is your position with the bakery?

A. Production supervisor.

Q. And how long have you worked there?

A. Twenty-one -- 21 years.

Q. And what was your relationship with Roger Kelley?

A. I was his supervisor.

Q. And how long did you supervise him?

A. Roughly five years, six years estimated.

Q. And were you working with him on April 4, 2009?

A. Yes.

Q. And what was Mr. Kelley's job title?

A. Oven operator.

Q. How long had he been employed with the Kroger bakery?

A. I believe since 1989.

Q. And how long had he been a roll oven operator?

A. Around 12 years.

Q. And what did his regular job duties as a roll oven operator require him to do on a daily basis?

1           A.     The oven loader basically helped load the  
2 oven. He pulled product racks. He changed recipes on  
3 the oven, set up the depanner for the product to come out  
4 of the pans, housekeeping. Anything that was asked  
5 mostly.

6           Q.     Where was Mr. Kelley in the bakery when his  
7 heart attack occurred?

8           A.     He was loading the oven.

9           MR. ABRAMSON: May I approach the witness,  
10 Your Honor?

11           THE COURT: Certainly.

12 BY MR. ABRAMSON:

13           Q.     I am -- I have some photographs from inside  
14 the plant which are contained in my APA submissions.

15           MR. ABRAMSON: Commissioner, it looks like  
16 it's Page 243.

17 BY MR. ABRAMSON:

18           Q.     In this first photograph, what is that a  
19 photograph of, Melonie?

20           A.     They are loading the oven.

21           Q.     The gentlemen that are in this picture, were  
22 they working in the same capacity as Mr. Kelley did?

23           A.     Yes.

24           Q.     So they would -- what would they -- physically  
25 what are they doing in this photograph?

1           A.     They basically unload the rack from the top  
2 down and feed onto this empty conveyor which transfers to  
3 the apron which then a rake comes in and pushes all the  
4 pans into the oven.

5           Q.     So when they are unloading these trays, where  
6 do they go? Can you explain in this photograph where the  
7 trays actually go and where the oven is located in this  
8 photograph?

9           A.     Sure. Basically as they are unloading the  
10 pans onto the empty conveyor, it comes around, turns and  
11 makes a T transfer to maybe three or four other conveyors  
12 before it hits this table top chain conveyor that has a  
13 huge rack that comes around and pushes the pans in which  
14 is a good, I don't know, 25, 30 feet away from where they  
15 are standing.

16          Q.     So was this the area where Mr. Kelley was on  
17 the day that he suffered the heart attack?

18          A.     Yeah, it was in here. Yes.

19          Q.     Right in this area; is that right?

20          A.     Yes, sir.

21          Q.     So he was not adjacent to the oven; is that  
22 right? He wasn't right beside the oven; is that correct?

23          A.     No.

24          Q.     The next photograph demonstrates the bakery  
25 itself; is that right?

1 A. Yes. That's correct.

2 Q. In the area, again, where he was working?

3 A. Yes.

4 Q. Or where he would typically work as an oven  
5 operator?

6 A. Yes.

7 Q. And what is this thing projecting down from  
8 the ceiling in the photograph?

9 A. A fan.

10 Q. So would that fan be on --

11 A. Yes.

12 Q. -- most of the time?

13 A. Yes.

14 Q. All the time?

15 A. Most of the time. The second shift operators  
16 usually cut it off when they're done with production for  
17 the day.

18 Q. The next photograph, Photograph 3, what does  
19 this demonstrate?

20 A. That is, again, another section of the  
21 conveyor system that transfers the pans to the apron  
22 which then goes into the tunnel oven.

23 Q. So is the oven -- where is the oven in this  
24 photograph?

25 A. The big white thing.

1 Q. Where is it?

2 A. There. (Witness indicates.)

3 MR. ABRAMSON: Commissioner, can you see where  
4 she's pointing?

5 THE COURT: Uh-huh.

6 BY MR. ABRAMSON:

7 Q. So that's down the end of this conveyor; is  
8 that right?

9 A. Yes. That's, like I said, at least 25,  
10 30 feet.

11 Q. And this next photograph is just showing the  
12 bread going in?

13 A. Yes, the transfer conveyors.

14 Q. Now, Photograph 6, what is this large item  
15 hanging down?

16 A. That is what we call our swamp coolers or  
17 Bessamaire air cooler. It's another fan.

18 Q. It's just a fan that blows cool air?

19 A. Yes.

20 Q. So my question to you, Ms. Bryson, is, did  
21 Mr. Kelley work right beside the ovens as a typical part  
22 of his job duties? On a daily basis, how often would he  
23 be right beside the ovens?

24 A. You're talking at the in-feed side or the  
25 loading side?

1 Q. I'm talking about the loading side that you  
2 just demonstrated -- that was demonstrated in that  
3 photograph. How often would he be right there back the  
4 actual oven itself?

5 A. He would load about 95 percent of his time  
6 right there in that area.

7 Q. The area that was depicted in the photograph?

8 A. That is correct. Yes.

9 Q. At least -- you don't know the approximate --

10 A. No.

11 Q. -- feet from where he was to where the actual  
12 oven was, is that right, the mouth of the oven?

13 A. Correct. Yes.

14 Q. But it was at least 25, 30 feet?

15 A. I'm guessing it was that far.

16 Q. It could be farther away?

17 A. It could be further, yes.

18 Q. But the bottom line was on the day of his  
19 heart attack, he was not right beside the oven loading  
20 bread -- loading these pans right directly into the oven;  
21 is that right?

22 A. No, he was not.

23 Q. And what exactly was Mr. Kelley doing at the  
24 time that the heart attack occurred?

25 A. I believe he was proceeding to unload a rack,

1 load -- load the oven.

2 Q. Which was depicted by the --

3 A. Yes.

4 Q. -- two employees in the photograph; is that  
5 right?

6 A. Yes.

7 Q. That's where he was found when the heart  
8 attack occurred?

9 A. Yes.

10 Q. Was there anything unusual about that activity  
11 that he was doing?

12 A. No.

13 Q. Was that a part of his normal job duties?

14 A. Yes.

15 Q. So he was performing his regular job duties at  
16 the time that the heart attack occurred --

17 A. Yes.

18 Q. -- is that right?

19 A. Yes.

20 Q. Had Mr. Kelley been performing the same type  
21 job duties as a roll oven operator consistently since  
22 1997 up until the time of his heart attack?

23 A. Yes.

24 Q. Did his job duties differ any during that time  
25 period?

1 A. No.

2 Q. Now, as far as the production is concerned,  
3 was it typical that at certain times of the year  
4 production would increase?

5 A. Yes.

6 Q. And when did those time periods typically  
7 occur?

8 A. Usually before a holiday or around a holiday.

9 Q. Okay. And --

10 A. And we also have distributions throughout the  
11 year where a product goes on sale and they run an add in  
12 our sales paper.

13 Q. So during the 12 years Mr. Kelley worked as a  
14 roll oven operator, was he experienced in these periods  
15 of increased production periodically throughout the year?

16 A. Yes.

17 Q. So that wasn't unusual, was it?

18 A. No.

19 Q. Do you know what the temperature was inside  
20 the bakery and the area where Mr. Kelley was working at  
21 the time of his heart attack?

22 A. No.

23 Q. Was the plant -- did the plant keep any type  
24 of temperature readings as a regular part of the course  
25 of their business --

1 A. No.

2 Q. -- at the time of his death?

3 A. No.

4 Q. Based on your recollection that day on  
5 April 4th of 2009 when the heart attack occurred, was the  
6 temperature inside the plant unusually hot that day; do  
7 you remember?

8 A. I don't know. I don't recall.

9 Q. Let me ask you this, Ms. Bryson: Is the  
10 temperature outside the bakery, does that effect the  
11 temperature inside the bakery meaning --

12 A. Yes.

13 Q. -- meaning if it's 100 degrees outside, does  
14 that typically result in the bakery being hotter than,  
15 say, if it was 50 degrees outside?

16 A. Yes.

17 Q. And you know that based upon --

18 A. My years.

19 Q. -- having worked in the bakery for many years?

20 A. Yes.

21 MR. ABRAMSON: Commissioner, I would point out  
22 Defendant's APAs, Page 179. May I approach the witness,  
23 Your Honor?

24 THE COURT: Certainly.

25

1 BY MR. ABRAMSON:

2 Q. This is an excerpt from weathersource.com, and  
3 it demonstrates in Anderson, South Carolina what the  
4 temperature was on April 4th of 2009. Ms. Bryson, what  
5 does the max temperature read for that day?

6 A. Sixty-eight degrees.

7 Q. What's the mean temperature for that  
8 particular day?

9 A. Fifty-five degrees.

10 Q. And the minimum temperature?

11 A. Forty-one.

12 Q. Okay. So based upon this subjective data, do  
13 you have any reason to believe that the bakery would have  
14 been excessively hot on April 4th of 2009 based upon the  
15 information you've been presented with respect to what  
16 the temperature was in Anderson, South Carolina outside  
17 the plant that day?

18 A. No.

19 MR. ABRAMSON: And finally, Commissioner, I'm  
20 referencing Page 181 of the Defendant's APAs.

21 BY MR. ABRAMSON:

22 Q. It is true that your colleagues at Kroger  
23 bakery took a sample of the temperature readings inside  
24 the bakery on April -- on May 1, 2012; is that right?

25 A. Yes.

1 Q. Can you tell me what the temperature reading  
2 was on that particular day around the area where --  
3 depicted in the photographs that you were shown earlier  
4 where Mr. Kelley was working at the time that the heart  
5 attack occurred?

6 A. Yes. The oven area, 86 degrees.

7 Q. Under rolls; is that right?

8 A. That's correct.

9 Q. So it's not --

10 A. It wouldn't be muffins or bread or shipping  
11 under that heading. Rolls.

12 Q. So it was on May 1, 2012, at least at that  
13 time it was 86 degrees?

14 A. That's correct.

15 Q. When that temperature was tested?

16 A. Yes.

17 Q. But we don't know what the temperature was on  
18 April 4th of 2009, do we?

19 A. No, we do not.

20 MR. ABRAMSON: All right. Ms. Bryson, that's  
21 all the questions I have for you. Thank you for  
22 answering my questions.

23 THE COURT: Ms. Richey.

24 MS. RICHEY: Yes, sir, Your Honor. May I  
25 approach the witness?

1 THE COURT: Certainly.

2 MS. RICHEY: Thank you, Your Honor. May it  
3 please the Court.

4 CROSS-EXAMINATION

5 BY MS. RICHEY:

6 Q. Ms. Bryson, thank you for allowing us to talk  
7 with you this afternoon. I've just got a few questions  
8 for you just to make sure I understand this.

9 Do you remember mister -- do you remember  
10 Mr. Kelley?

11 A. I do.

12 Q. Do you remember what he looks like?

13 A. Yes.

14 Q. What kind of worker was Mr. Kelley?

15 A. He was a hard worker. He was responsible. He  
16 always came to work. I don't recall him one to be absent  
17 from work. Reliable.

18 Q. I think you testified to that in your  
19 deposition that he was a hard worker.

20 A. He was.

21 Q. And what type of job did he work?

22 A. He was the oven operator.

23 Q. And how did you classify that job? I think  
24 you classified it as a heavy job. Do you recall that --

25 A. Yes.

1 Q. -- in your deposition?

2 A. Heavy, yes.

3 Q. Why do you classify that as a heavy job? And  
4 I'm looking at Page 106 and 107 of the Claimant's APAs.  
5 Why did you classify that as a heavy job that Mr. Kelley  
6 worked?

7 A. Basically you have to pull the racks into  
8 position to where you can unload them and the racks are a  
9 little heavy.

10 Q. So he worked a very heavy job; is that  
11 correct? I think that's what your deposition testimony  
12 said.

13 A. Yes.

14 Q. And, now, can you recall -- this is also in  
15 the Claimant's APAs. Does this look like Mr. Kelley?  
16 Can you make it out?

17 A. Yes.

18 Q. That was Mr. Kelley?

19 A. Yes.

20 Q. Can you make out exactly where this was taken  
21 or where this was at? Can you recall or make that out?

22 MR. ABRAMSON: Which page is this?

23 MS. RICHEY: I'm sorry. It's in the back of  
24 our APAs. It's in the pictures. This would be 208 -- I  
25 mean, 238 and 239 of the Claimant's APAs.

1 MR. ABRAMSON: Thank you.

2 BY MS. RICHEY:

3 Q. Do you recall any of those?

4 A. I don't, but he's wearing gloves. So whatever  
5 he's handling, it's probably hot or dirty.

6 Q. Hot or dirty?

7 A. I'm not sure where the area. It's too dark.  
8 But it's near conveyors, of course.

9 Q. Okay. Is this -- is this the oven or a  
10 conveyor?

11 A. That's not the oven. The back side of our  
12 oven is -- you have a higher interface there and then you  
13 have a rake that comes around. So I don't think he would  
14 be standing that close. I can't say for sure.

15 Q. But this looks like this may be around the  
16 oven area?

17 A. Yeah. There's conveyor systems there. That  
18 looks like the cooler actually.

19 Q. All right. And do you recall -- when he died,  
20 do you remember how he died?

21 A. He collapsed and it was said that he had had a  
22 heart attack.

23 Q. Did he say how he had a heart attack? Do  
24 you -- I'm looking at Page 104 of the Claimant's APAs.  
25 Do you recall seeing something like this, an accident

1 report that stated how he died?

2 A. No, I've never seen this report.

3 Q. So were you in the area at the time of his  
4 death?

5 A. I was called to the area. I wasn't there when  
6 it happened, no.

7 Q. So you were in -- were you in the vicinity  
8 when it happened?

9 A. I can't say exactly where I was. When I was  
10 called to the area, I saw him on the floor.

11 Q. Did you see Mr. Kelley the day of his death?  
12 Did you see him before he died?

13 A. Yes, yes.

14 Q. Before he died?

15 A. Yes.

16 Q. What was he like that morning?

17 A. Normal.

18 Q. And do you know what's the schedule like? I'm  
19 assuming this is right around the Easter season; do you  
20 recall?

21 A. Yeah.

22 Q. Isn't -- aren't they required to work  
23 increased hours right around the holiday season like  
24 Easter?

25 A. Usually we do holiday products, the hours do

1 increase and during distribution times. Yes.

2 Q. And so isn't it true that right around the  
3 holiday season, he worked sometimes in excess of ten hour  
4 days, if not more?

5 A. I think we work either eights, tens, no more  
6 than 12 in one day.

7 Q. In this area, do you know how hot the oven is?  
8 If you don't remember, I can actually pull your  
9 deposition.

10 A. I believe it's 400 degrees in each zone. We  
11 have five zones.

12 Q. And so right around that oven area, I think  
13 you testified that the oven reaches about 400 degrees; is  
14 that correct?

15 A. Per zone.

16 Q. And then it's about 200 degrees when it comes  
17 out of the oven; is that correct?

18 A. Yes, the product is.

19 Q. The product?

20 A. Yes.

21 Q. So right around that area, the oven is 400  
22 degrees. And then when it comes out, the product is  
23 about 200 degrees; is that correct?

24 A. Yes.

25 Q. And do you recall how hot it gets sometimes in

1 that plant? If not, I'll show you pages of your  
2 deposition transcript. I think you said sometimes it can  
3 reach over 100 degrees?

4 A. Probably, yes, in the summertime like now.

5 Q. It can reach over 100 degrees?

6 A. It can get hot, yes.

7 Q. And I think it depends on the time of the  
8 year, but it can get hotter. I think you said it can get  
9 over 100 degrees in that plant. And didn't Mr. Kelley  
10 work in the hottest part of the plant?

11 A. The oven areas are pretty warm, yes.

12 Q. It's pretty hot?

13 A. Yeah.

14 Q. And so I think when we talked about this and I  
15 think when I asked you about this, just so that I can be  
16 clear, you said it's going to be hotter than normal. Do  
17 you recall that? I'm looking at Page 18 of your  
18 deposition.

19 A. Hotter than normal?

20 Q. One moment. I'll turn it to you so you can  
21 take a look at it.

22 MR. ABRAMSON: What line?

23 MS. RICHEY: I'm looking at Page 18, Line 1  
24 and looking at the bottom of Page 17. If you look at  
25 Line 23 and on to Page 18.

1 BY MS. RICHEY:

2 Q. "Yes, ma'am. But around the area where  
3 Mr. Kelley was at, in your opinion because he's not in  
4 the oven but -- but in a close proximity to the oven, is  
5 it going to be hotter than normal, than most employees?"  
6 I think you said sure.

7 A. Yeah.

8 Q. So he works in the hottest part of the plant,  
9 he works a heavy job. Is that your testimony?

10 A. That is my testimony, yes.

11 Q. And I think your testimony says that he would  
12 oftentimes work ten hours a day typically around high  
13 production time?

14 A. Eights, tens, or 12s, yes.

15 Q. And typically during increased work schedules  
16 and around holidays like that Easter time?

17 A. Yes.

18 Q. Is that correct?

19 A. Yes.

20 Q. Now, did you guys keep a log?

21 A. Of what?

22 Q. Of temperature?

23 A. No.

24 Q. Were you supposed to?

25 A. Not that I'm aware of.

1           Q.     I think when you were -- you were supposed  
2     to -- I'm looking at Page 188 of the Defendant's APAs.  
3     Were you supposed to have some type of permits around the  
4     area that was missing at the time of your OSHA  
5     inspection?

6           A.     That hot work permit.

7           Q.     Can you explain that?

8           A.     Yeah.  A hot work permit is basically a type  
9     of work that you have to do inside the oven.  So it's  
10    like a confined space-type ordeal.

11          Q.     So you didn't have any of those documents that  
12    OSHA says that you were supposed to have?

13          A.     We have a safety coordinator and we never have  
14    been required, that I'm aware of, to keep temperature  
15    readings inside the plant.  Now, like you -- we do have  
16    hot work permits that were done because any time someone  
17    goes into a space like that -- and hot work permits,  
18    basically if you're going to do some welding, things of  
19    that sort, I believe that's what that is, hot work  
20    permit.

21          Q.     Just so I'm clear about this and I just want  
22    to make sure I understand this from your deposition  
23    transcript, he worked in the hottest part of the plant;  
24    is that correct?

25          A.     Around -- in my opinion.  That's what I said.

1 He's next to ovens, so...

2 Q. He's next to the oven. That's correct.

3 A. But he's not actually loading into the oven.  
4 Like I say, he's still loading onto conveyors that's  
5 taking into the oven.

6 Q. Into the oven. And the oven is about 400  
7 degrees; is that correct?

8 A. Yes.

9 Q. And the products coming out of the oven is  
10 about 200 degrees; is that correct?

11 A. Yes.

12 Q. And he's working around -- particularly around  
13 this time that he died, he was working an increased  
14 production schedule; is that correct?

15 A. I don't know. I don't know what the hours  
16 were at that time.

17 Q. Did production go up around that time? You  
18 want me to turn to the page in your deposition?

19 A. Well, I think we took tonnage reports. So if  
20 production was up, yeah.

21 MS. RICHEY: I have no further questions, Your  
22 Honor.

23 THE COURT: Anything else?

24 MR. ABRAMSON: Just briefly, Your Honor.

25 REDIRECT EXAMINATION

1 BY MR. ABRAMSON:

2 Q. So, again, Ms. Bryson, it was not unusual for  
3 production to increase around the time that Mr. Kelley  
4 passed away; is that right?

5 A. Holidays and if we had higher hours at that  
6 time, no, it was not.

7 Q. And I believe the tonnage reports that we  
8 submitted into evidence that you've seen demonstrate that  
9 production levels increased and decreased throughout the  
10 year; is that right?

11 A. Yes.

12 Q. And that was the years prior to the year he  
13 passed away in which there were fluctuations with  
14 increases and decreases of the tonnage and production; is  
15 that right?

16 A. Yes.

17 Q. So Mr. Kelley was used to working around the  
18 holidays at increased production levels; is that right?

19 A. Yes.

20 Q. So it was not -- so he wasn't doing anything  
21 unusual or extraordinary at the time that the heart  
22 attack occurred; is that right?

23 A. No.

24 MR. ABRAMSON: I don't have anything else.

25 Thank you, Your Honor.

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THE COURT: Ms. Richey?

MS. RICHEY: I don't think I have anything else either, Your Honor.

THE COURT: All right. Thank you, ma'am. Any other witnesses?

MR. ABRAMSON: No, sir, Your Honor.

MS. RICHEY: No, Your Honor.

THE COURT: That concludes this hearing.

(The hearing was concluded.)

CERTIFICATE OF REPORTER

I, Kimberly T. Power, Court Reporter and Notary Public for the State of South Carolina at Large, do hereby certify:

That the foregoing transcript of proceedings was taken before me on the date and at the time and location stated on page 1 of this transcript; that the witness was duly sworn to testify to the truth, the whole truth, and nothing but the truth; that the testimony of the witness and all objections made at the time of the proceeding were recorded stenographically by me and were thereafter transcribed; that the foregoing transcript of proceedings as typed is a true, accurate and complete record of the testimony and of all objections made at the time to the best of my ability.

I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof.

Witness my hand, I have hereunto affixed my official seal this 26th day of September, 2012, at Richland County, South Carolina.

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Kimberly T. Power, Court Reporter  
Notary Public, State of South Carolina  
My Commission Expires: 07/22/2015

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